



**Memorandum from the Office of the Inspector General**

May 23, 2017

Laura A. Green, BR 5A-C

**REQUEST FOR FINAL ACTION – AUDIT 2016-15408 – AUDIT OF NON-COMPETED CONTRACTS**

Attached is the subject final report for your review and final action. Your written comments, which addressed your management decision and actions planned or taken, have been included in the report. Please notify us when final action is complete. In accordance with the Inspector General Act of 1978, as amended, the Office of the Inspector General is required to report to Congress semiannually regarding audits that remain unresolved after 6 months from the date of report issuance.

If you have any questions or wish to discuss our findings, please contact Michael A. Driver, Audit Manager, at (423) 785-4813 or Rick C. Underwood, Director, Financial and Operational Audits, at (423) 785-4824. We appreciate the courtesy and cooperation received from your staff during the audit.

David P. Wheeler  
Assistant Inspector General  
(Audits and Evaluations)  
ET 3C-K

SLS:FAJ  
Attachment  
cc (Attachment):

TVA Board of Directors  
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OIG File No. 2016-15408



Office of the Inspector General

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# *Audit Report*

To the Vice President,  
Supply Chain

## **AUDIT OF NON-COMPETED CONTRACTS**

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Audit Team

Michael A. Driver  
Chasity W. Scantling  
Stephanie L. Simmons

Audit 2016-15408

May 23, 2017

## **ABBREVIATIONS**

PO	Purchase Order
SPP	Standard Programs and Processes
TVA	Tennessee Valley Authority

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- B. MEMORANDUM DATED MAY 15, 2017, FROM LAURA A. GREEN TO DAVID P. WHEELER



# Audit 2016-15408 – Audit of Non-Competed Contracts

## EXECUTIVE SUMMARY

### Why the OIG Did This Audit

The Tennessee Valley Authority (TVA) Act of 1933 and TVA Standard Programs and Processes 04.0, Management of the TVA Supply Chain Process, require that any contract action in excess of \$25,000 be competed unless the contract action on a noncompetitive basis is properly justified and approved. To ensure compliance with these requirements, we scheduled an audit to determine if TVA's non-competed contracts are (1) identified in TVA systems and (2) executed in accordance with TVA policies and procedures. Our audit included contracts that were active<sup>i</sup> and stand-alone purchase orders<sup>ii</sup> (PO) that were approved during the period June 1, 2014, through May 31, 2016, in TVA's contract management system, Maximo.

### What the OIG Found

We selected 69 non-competed contracts, 60 non-competed POs, and 39 competed contracts for testing. We reviewed the non-compete justifications and approvals where applicable and determined that, except for one \$50,000 contract, the non-competed contracts were executed in accordance with TVA policies and procedures. In addition, we found (1) identification and classification of non-competed contracts in TVA's Maximo system could be improved, and (2) improvements could be made in the maintenance and retention of contract file documents.

### What the OIG Recommends

We recommend TVA's Vice President, Supply Chain, take the following actions:

1. Correct misclassifications identified and verify current Supply Chain contracts and stand-alone purchase orders are appropriately classified.
2. Clarify and communicate the definitions of Maximo competition status classifications to all organizations using Maximo. This could include creating additional classifications for other types of contracts or those entries created only to facilitate payment on other procurements.

<sup>i</sup> Active contracts were those with a start date on or before May 31, 2016, and an end date on or after June 1, 2014.

<sup>ii</sup> Stand-alone POs are not associated with a contract. For the purposes of this audit, we considered a stand-alone PO to be equivalent to a procurement contract.



## Audit 2016-15408 – Audit of Non-Competed Contracts

### EXECUTIVE SUMMARY

3. Define the beginning date for retention periods in the Supply Chain records retention guidelines and communicate those to all TVA contract managers.
4. Reinforce the use of the contract checklist, specifically when contracts change contract managers, and consider strengthening the contract assessment checklist to ensure all documents with retention requirements are considered.

#### TVA Management's Comments

In response to our draft audit report, TVA management provided the actions they plan to take to address each of our recommendations. See Appendix B for TVA management's complete response.

## **BACKGROUND**

The Tennessee Valley Authority (TVA) Act of 1933 and TVA Standard Programs and Processes (SPP) 04.0, Management of the TVA Supply Chain Process, require that any contract action in excess of \$25,000 be competed unless the contract action on a noncompetitive basis is properly justified and approved.<sup>1</sup> The term “contract” refers to any agreement with others comprising legal commitments by or with TVA. This includes master contracts, general contracts, and stand-alone purchase orders<sup>2</sup> (PO). TVA's intent is to provide for competition for the purchase of all products and services whenever practicable. TVA-SPP-04.010, Justification and Approval for Non-Competed Contract Actions, describes the process for obtaining approval for exceptions to the competition requirement. The use of alternative payment methods, such as the use of a purchasing card, does not change requirements for competition.

Acceptable justifications for a non-competed contract action according to TVA policy include (1) General Services Administration procurements, (2) small dollar procurements (\$25,000 or less), (3) software maintenance agreements proprietary to the developer, (4) memberships and subscriptions, (5) sole source procurements, (6) supplemental procurements, and (7) emergency procurements. Sole source, supplemental, and emergency procurements require the completion of TVA form 17388, TVA form 17388-S, or the electronic equivalent to document justifications and approvals for these types of contract actions and are defined in TVA-SPP-04.010 as shown in Table 1.

<p><b>Sole Source Procurements</b> – Procurements where only one supplier has the knowledge, expertise, experience, and capability to provide a product or perform a given service. Any other alternative would result in significant additional financial or operational risk. Examples of sole source procurements include local fire and utility service, extremely specialized technical services, and products or services based on proprietary technologies where no functional equivalent is available.</p>
<p><b>Supplemental Procurements</b> – Procurement of materials, equipment, parts, or services which, because of a particular circumstance, are considered to be available from only one source which can satisfy agency requirements. For example, supplies may be deemed to be available only from the original source in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment, including major components, where the award to another source would like result in a substantial duplication of cost to TVA or unacceptable delays.</p>
<p><b>Emergency Procurements</b> – Procurements where competition is not possible because immediate delivery or performance is required to protect property, life or the environment from damage, or to mitigate severe financial impact to TVA or TVA customers. Emergency procurements can be caused by events such as extreme weather, natural or man-made disasters, actual or potential equipment failure and threats to TVA facilities, employees, or the environment. Every effort shall be made to ensure that lack of proper planning does not create an emergency.</p>

**Table 1**

<sup>1</sup> This procedure does not apply to contracts for purchase or sale of power; the acquisition, disposal, or transportation of fossil fuel; the disposal of fossil operation by-products; the acquisition or disposal of real property; the sale of services, loan agreements, and cooperative agreements.

<sup>2</sup> Stand-alone POs are not associated with a contract. For the purposes of this audit, we considered a stand-alone PO to be equivalent to a procurement contract.

Contracts and POs are managed in TVA's Maximo system. As summarized in Table 2, Maximo showed TVA had 769 active non-competed contracts identified as requiring justification and approval and 2,597 competed contracts during the period June 1, 2014, through May 31, 2016. Maximo also showed TVA had 1,076 non-competed, stand-alone POs identified as requiring justification and approval and 4,038 competed POs approved during the period.

<b>Summary of Active Contracts and Approved POs in Maximo June 1, 2014 – May 31, 2016*</b>				
<b>Contract Classification</b>	<b>Approved Contract Amount</b>	<b>Number of Contracts</b>	<b>Approved PO Amount</b>	<b>Number of POs</b>
<b>Competed</b>	\$ 70,575,145,255	2,597	\$ 429,927,326	4,038
<b>Non-Competed</b>				
<b>Sole Source**</b>	47,768,154,977	560	2,352,575	45
<b>Supplemental**</b>	3,895,595,887	200	1,231,381,693	492
<b>Emergency</b>	18,960,540	9	48,748,651	539
<b>Subtotal</b>	<u>\$ 51,682,711,404</u>	<u>769</u>	<u>\$ 1,282,482,919</u>	<u>1,076</u>
* The table includes only contracts with a status of approved, closed, or expired and POs with a status of approved, closed, or paid.				
** Maximo showed the approved contract amount was \$999,999,999 for 41 sole source contracts and 1 supplemental contract.				

Table 2

For information pertaining to our objectives, scope, and methodology, see Appendix A.

## **FINDINGS**

In summary, we determined non-competed contracts are executed in accordance with TVA policies and procedures. However, identification and classification of non-competed contracts in TVA's Maximo system could be improved. We also noted improvements could be made in the maintenance and retention of contract file documents. The following provides a discussion of each finding.

### **COMPLIANCE WITH TVA POLICIES AND MISCLASSIFICATIONS**

We selected 69 non-competed contracts, 60 non-competed POs, and 39 competed contracts for testing. We reviewed the non-compete justifications and approvals where applicable and determined that, except for one \$50,000 contract, the non-competed contracts were executed in accordance with TVA policies and procedures.

The one exception noted was a contract for pest control services at a TVA plant that was increased from \$25,000 to \$50,000 in the contract's first year. TVA's contract manager was unable to locate a justification and approval for the non-competed contract when it exceeded the \$25,000 small purchase threshold. The contract should have been reclassified to a different classification once the value exceeded \$25,000.

We also found 15 contracts and 1 PO were misclassified. The items identified included the following:

- One small purchase contract with a total approved amount of \$1 million that exceeded the \$25,000 competition threshold. The contract was for a long-term lease of (1) land area to be used for a building location, storage, and parking and (2) a building to be constructed on the land area. The initial term was 5 years and rent was \$7,532 per month. The contract should not have been classified as a small purchase. Since the contract was for the lease of real property, it was not subject to TVA's competition requirements.
- Eight membership and subscription contracts with a total approved amount of \$9.2 million misclassified as supplemental, small purchase, non-competed emergency, and sole source procurements.
- Four competed contracts with a total approved amount of \$15.3 million misclassified as non-competed emergency and sole source procurements.
- One sole source contract with an approved amount of \$9.1 million misclassified as a non-competed emergency procurement.
- Two supplemental procurements, consisting of 1 contract and 1 PO, with an approved amount of \$5.2 million misclassified as non-competed emergency procurements.

We also noted other types of procurements, such as leases of real property, fuel purchases, TVA services, and items that appear to be power purchase agreements, classified as sole source procurements. Contract managers stated in order to facilitate payment on these and other type of purchases, a contract number is created in Maximo even though an actual contract may not exist. These procurements may be initiated and managed by TVA organizations outside of Supply Chain. Since the procurements noted above do not fit the definition of their classifications, a more appropriate classification in Maximo may be necessary.

Additionally, certain contracts entered in Maximo appeared to contain placeholder contract totals rather than actual contract amounts. Misclassified contracts and the inclusion of other types of procurements misstate the number and amount of non-competed contracts at TVA. Supply Chain management acknowledged that they have the capability to add additional classifications in Maximo that could be used to more appropriately classify these non-Supply Chain uses of the Maximo system.

## DOCUMENT RETENTION

We randomly selected a sample of 39 contracts classified as competed to verify the classification was appropriate. We requested evidence of competition in the form of requests for proposals and the bids received. We were able to verify the competition status was appropriate for 30 contracts.<sup>3</sup> However, we were unable to verify the competition status for 9 contracts as the requested documentation could not be provided.

According to TVA's retention requirements, successful bids and proposals should be retained for 30 years and unsuccessful bids and proposals should be retained for 2 years. However, the current retention requirements did not specify the beginning date for those retention periods. Therefore, it was not possible to determine if the missing documents were within the retention period. Under the previous requirements, the retention period would have begun as of the final contract payment date. Contract managers and Supply Chain management were unsure of the retention period for these documents.

We also noted many of the contracts included in the sample had changed contract managers over the life of the contract. Contract managers mentioned during the audit that contract handoffs between contract managers often do not include a review of the contract file for completeness. Contract files may include documentation in multiple formats and locations (such as hardcopy documents, electronic documents stored on desktop hard drives or network shared drives, and electronic documents stored in TVA and other systems). Supply Chain management stated that a contract assessment checklist should be completed for contract files to ensure compliance with TVA policies. This checklist should also be completed when a contract is handed off, but time constraints or the unavailability of the previous contract manager may affect checklist completion. Supply Chain management also stated that file reviews are periodically conducted to assess contract files.

The lack of definitive retention guidelines for these documents (along with employee misunderstanding) contributes to the risk TVA may not be retaining the appropriate records for the required time frame. Additionally, contract handoffs and the multiple formats of contract documents increases the risk contract documents could be misplaced.

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<sup>3</sup> One contract entry was for the purchase of fossil fuel and was therefore exempt from competition requirements.

## **RECOMMENDATIONS**

We recommend TVA's Vice President, Supply Chain, take the following actions:

1. Correct misclassifications identified and verify current Supply Chain contracts and stand-alone POs are appropriately classified.

**TVA Management's Comments** – TVA management stated Supply Chain will self-assess 10-20 percent of contracts on an annual basis to ensure classifications are accurate and will also ask leadership to verify, through the contract approval process, that appropriate classifications are selected when new contracts are awarded. See Appendix B for TVA management's complete response.

2. Clarify and communicate the definitions of Maximo competition status classifications to all organizations using Maximo. This could include creating additional classifications for other types of contracts or those entries created only to facilitate payment on other procurements.

**TVA Management's Comments** – TVA management stated Sourcing will work with Operations Support to evaluate the (ten) competition status classifications and determine opportunities to streamline/eliminate redundancies where possible. Sourcing will collaborate with other organizations that use Maximo to come up with competition status classifications for their contracts. See Appendix B for TVA management's complete response.

3. Define the beginning date for retention periods in the Supply Chain records retention guidelines and communicate those to all TVA contract managers.

**TVA Management's Comments** – TVA management stated the Supply Chain Strategy and Analytics team will work with Records Management to ensure the retention guidelines are clear. Training will be given to the Sourcing team regarding the guidelines. See Appendix B for TVA management's complete response.

4. Reinforce the use of the contract checklist, specifically when contracts change contract managers, and consider strengthening the contract assessment checklist to ensure all documents with retention requirements are considered.

**TVA Management's Comments** – TVA management stated Sourcing leadership will ensure all Sourcing managers and contract managers understand and reinforce the use of the contract checklist. See Appendix B for TVA management's complete response.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

Our objectives were to determine if non-competed contracts are (1) identified in Tennessee Valley Authority (TVA) systems and (2) executed in accordance with TVA policies and procedures. The scope of the audit included non-competed contracts that were active and stand-alone purchase orders (PO) that were approved during the period June 1, 2014, through May 31, 2016. By defining our audit population in this manner, we were able to identify all contracts and POs that may have had activity during this time frame.

To achieve our audit objectives, we:

- Reviewed the following TVA policies and procedures to identify non-competed contract requirements.
  - Standard Programs and Processes (SPP) 04.0, Management of the TVA Supply Chain Process
  - SPP 04.002, Procurement of Products and Services
  - SPP 04.010, Justification and Approval for Non-Competed Contract Actions
  - SPP 04.001.01, Review and Approval of Contract Actions
- Obtained data from TVA's Maximo system for contracts with a start date on or before May 31, 2016, and an end date on or after June 1, 2014; and POs that were approved between June 1, 2014, and May 31, 2016, to determine the population of contracts and POs during the audit period.
- Selected a nonstatistical random sample of 39 contracts from 769 non-competed contracts and a nonstatistical random sample of 39 POs from 1,076 non-competed POs to determine if TVA's policies and procedures were followed. Since this was a judgmental sample, the results of the sample cannot be projected to the population.<sup>1</sup>
- Selected additional judgmental samples of non-competed contracts and POs as shown in Table 1 on the following page to determine if TVA policies and procedures were followed. Since these were judgmental samples, the results of the samples cannot be projected to the population.

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<sup>1</sup> For the nonstatistical random sample selections, we used a random number generator to select the contracts and stand-alone POs.

Category	Population		Sample	
	No. of Items	Approved Amount	No. of Items	Approved Amount
<b>Contracts</b>				
Potentially Split Under \$25,000*	27	\$2,044,475,992	2	\$34,000
Emergency With Term Over 1 Year	8	22,080,000	6	16,980,000
Blank Competition Status <sup>†</sup>	1	---	1	---
Revised Over \$25,000	7	316,140	3	148,300
Revised Over \$100,000	8	14,863,591	3	489,026
Committed Amount Exceeds Approved*	42	5,186,419,257	7	173,349,076
Large Increases Within 1 Year	29	50,590,970	8	14,421,324
<b>POs</b>				
Potentially Split Under \$25,000	27	339,819	14	211,767
Blank Competition Status	1	1,448	1	1,448
Revised Over \$25,000	5	72,999	2	44,999
Revised Over \$100,000	12	518,116	2	177,325
Large Increases Within 1 Year	9	53,321,324	2	1,699,000
*Maximo showed the approved contract amount was \$999,999,999 for 2 contracts in Potentially Split Under \$25,000 and 4 contracts in Committed Amount Exceeds Approved.				
<sup>†</sup> Contract No. 10125 had no approved amount shown in Maximo.				

Table 1

- Potentially Split Under \$25,000 – Selected 2 contracts totaling \$34,000 and 14 POs totaling \$211,767 that had the potential of being a split contract or PO. Our sample selection was based on the likelihood the contract/PO could have been split based on the timing, similar vendor, and contract descriptions.
- Emergency Non-Competed With Contract Term Over 1 Year – Selected 6 contracts totaling \$16,980,000 where the length of the contract exceeded 1 year and the classification was an emergency non-competed contract. Our sample selection was based on the potential for an extended contract classified as emergency to have been misclassified.
- Blank Competition Status – Selected one contract with no approved amount and 1 PO totaling \$1,448 with blank competition statuses to determine if the entries in the system were non-competed contracts/POs.
- Revised Over \$25,000 – Selected 3 contracts totaling \$148,300 and 2 POs totaling \$44,999 that were originally issued under \$25,000 and later revised over \$25,000. Our sample was based on the potential for contracts/POs revised over the competition threshold to not have the required non-competed justification and approval.
- Revised Over \$100,000 – Selected 3 contracts totaling \$489,026 and 2 POs totaling \$177,325 that were revised over \$100,000. Our sample was based on the potential for contracts revised over \$100,000 to not have the additional levels of approval required.
- Committed Amount Exceeds Approved Amount – Selected 7 contracts totaling \$173,349,076 where the committed amount exceeded the approved amount that indicated the amount TVA had paid may exceed the amount approved. Our sample was based on contract amount, vendor description, and contract descriptions.

- Large Increases Within 1 Year – Selected 8 contracts totaling \$14,421,324 and 2 POs totaling \$1,699,000 where the approved amount increased within the first year. Our sample was based on percentage of increase, days between origination and revision, and vendor description.
- Selected a nonstatistical, random sample of 39 contracts from 2,597 competed contracts to determine if any non-competed contracts were misclassified as competed. Since this was a judgmental sample, the results of the sample cannot be projected to the population.
- Reviewed contracts and POs, TVA forms 17388 and 17388-S (or the electronic equivalent), and interviewed contract managers and Supply Chain management to determine if TVA policies and procedures were followed in the issuance of selected contracts and POs.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

May 15, 2017

David P. Wheeler, ET 3C-K

**RESPONSE TO REQUEST FOR COMMENTS - DRAFT AUDIT 2016-15408 - AUDIT OF NON-COMPETED CONTRACTS**

Reference: Memorandum from you to me dated April 18, 2017

This letter is in response to the subject request for comment regarding OIG's Audit Report 2016-15408. OIG makes several recommendations to which we provide the following comments:

**Correct misclassifications identified and verify current Supply Chain contacts and stand-alone Purchase Orders are appropriately classified:**

As a result of the audit, 15 contracts and 1 purchase order were misclassified out of a population of 168. Supply Chain will self-assess 10-20 percent of contracts on an annual basis to ensure classifications are accurate and will also ask leadership to verify, through the contract approval process, that appropriate classifications are selected when new contracts are awarded.

**Clarify and communicate the definitions of Maximo competition status classifications to all organizations using Maximo. This could include creating additional classifications for other types of contracts or those entries created only to facilitate payment on other procurements:**

Sourcing will work with Operations Support to evaluate the (ten) competition status classifications and determine opportunities to streamline/ eliminate redundancies where possible.

Sourcing will collaborate with other organizations that use Maximo to come up with competition status classifications for their contracts. Also, Standard Programs and Processes Documents (SPPs) will be updated and will note that Supply Chain needs to be contacted in order for new classification statuses to be created.

**Determine the beginning date for retention periods in the records retention guidelines and communicate those to all TVA Contract Managers (CMs):**

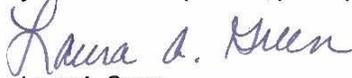
The Supply Chain Strategy and Analytics team will work with Records Management to ensure the retention guidelines are clear. Training will be given to the Sourcing team regarding the guidelines. Also, Sourcing will strengthen the process for CMs leaving the organization to ensure pertinent contracts are properly retained prior to them leaving.

David P. Wheeler  
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**Reinforce the use of the contract checklist, specifically when contracts change contract managers, and consider strengthening the contract assessment checklist to ensure all documents with retention requirements are considered:**

Sourcing leadership will ensure all Sourcing managers and CMs understand and reinforce the use of the contract checklist. This information is documented in the on-boarding process for new CM/Associates and in Supply Chain SPPs. This will be included next FY in the quarterly assessment criteria, Buyer's Guide, and CM/Associate training.

Please accept this correspondence as our management decision on the OIG's audit findings. If you have further questions, you may contact G. Allan Trotter at (423) 751-2913.



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