

STATEMENT OF REGINA O'BRIEN
PRINCIPAL DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITING
GENERAL SERVICES ADMINISTRATION
TO
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY
MANAGEMENT
U.S. HOUSE OF REPRESENTATIVES
JULY 15, 2009



Testimony on GSA National Broker Contracts

I am pleased to appear here today to discuss the General Services Administration's (GSA) National Broker Contracts. We are currently working on an audit report in this area. In my testimony I will briefly summarize our major observations to date. These focus on three areas: (1) whether anticipated savings from using brokers were realized; (2) contract utilization; and (3) issues that need to be addressed as GSA prepares to replace these contracts that expire March 31, 2010.

Background

Leasing is critical to GSA's ability to satisfy tenant housing needs, and lease space now comprises 51 percent of GSA's real property portfolio. From April, 2005, the start of National Broker Contract, through the 40-month period ended July 31, 2008, the brokers had negotiated a total of 711 lease awards.

Assessing the Current National Broker Contracts

Cost Savings

In 2003, GSA presented a business case in support of commission-based, national broker contracts. It argued that in addition to providing critical support to a thinly stretched in-house staff, the incentives created by the commission-based compensation would actually lower the cost of acquiring lease space. This cost savings was to be accomplished through: (1) an offset to rent as a result of the brokers turning over a portion of their commission to the government (referred to as a commission credit), (2) reduced rental rates attributable to the brokers' superior market knowledge and expertise, and (3) lower overhead in the form of reduced administrative and personnel costs.

The audit found that while some of the data for these areas are quantifiable, others are more ambiguous. First, the commission credits are quantifiable. Through July 2008, commission credits totaled \$44 million or about 1.3 percent of the value of the leases brokers negotiated. Secondly, as to whether brokers obtain more favorable rental rates than in-house staff, the limited number of broker transactions at the time of our audit and imprecise market data precluded a definitive answer. However, the audit did find that, at best, the data can support that brokers are achieving results similar to GSA's Realty Specialists. Lastly, as to lower administration and personnel costs, our analysis indicates that contract administration is resource intensive, and that the number of Realty Specialists actually increased over the first three years of the contract by 11 percent.

Utilization

The GSA business case also envisioned movement towards an almost completely outsourced lease acquisition process. This is not occurring.

GSA's goal was to give 50 percent of the expiring lease workload to the brokers in the first year culminating in 90 percent by the end of the contracts. GSA reports that it reached the 79 percent mark in FY 2008. We found a significantly lower usage, closer to 33 percent. The point here is not the exact number but why different views of the workload can occur and what this means for future efforts.

Over the course of the contracts, GSA changed the basis on which it measures utilization. It now excludes about half of its expiring leases from the universe of broker tasks because either leases are not likely to yield a commission (non-commissionable) or are otherwise not suitable as a broker task. Even if brokers were tasked with 100 percent of commissionable work, a substantial workload remains.

Issues to be Addressed

I would like to highlight four areas that GSA should address as it moves forward to the next generation of broker contracts.

First, there needs to be a clearer expectation of the work to be performed under the contract. The brokers expressed to us that the post award work exceeds usual and customary practices for commission-based commercial services. In further refining broker tasks, consideration should be given to what is expected in performing these post award services.

Second, while the contracts provide lease acquisition services, they also interject new risks to be managed. Foremost among these risks is improper disclosure of procurement sensitive data. GSA has taken many steps to prevent such disclosure. A key control is that GSA requires both the broker company and individual broker employees to notify it in writing for each task order whether any conflicts of interest exist. The audit found that while the majority of organizational forms were provided to GSA (92 percent), only 65 percent of the individual forms were provided.

Third, the broker performance evaluation process is complex and cannot provide results in time to facilitate performance-based tasking. While the projects are evaluated at different points of the acquisition process, key performance indicators are not available until the end of the procurement which frequently takes over a year. The evaluation of the brokers' negotiated rental rate, compliance with subcontracting plans and customer satisfaction are, by necessity, done at the end. Further, a sufficient pool of task orders is needed to compare performance among brokers and this was not available until several years into the contract period.

Finally, the eLease system, GSA's electronic leasing application, needs to better support workflow and analysis. A few of the criticisms noted during the audit were that: there were delays in the brokers getting access; report generation capabilities were not functional; and eLease does not interact with other GSA systems. GSA continues to make improvements to eLease but what the audit found was that not all information is put into the system and the paper file is still the official file.

Thank you for your attention and I ask that my statement be made part of the record. I would also be pleased to respond to questions from the Subcommittee.