



Report in Brief

November 19, 2020

Background

To fulfill its mission, the United States Patent and Trademark Office (USPTO) relies on multiple information technology (IT) systems that support nearly all of its operations. USPTO has long acknowledged its aging IT infrastructure as a challenge. Additionally, USPTO has identified an ongoing need for IT contractors to provide software development and integration services for its commercial and customized software and database applications.

In October 2011, USPTO awarded a competitive 5-year Software Development and Integration–Next Generation (SDI-NG) contract with a ceiling value of \$236 million to 10 contractors. USPTO did not solicit and award a follow-on contract by the time the SDI-NG contract expired in 2016. In order to prevent a lapse in services, USPTO noncompetitively awarded a 2-year bridge contract (SDI-NG Bridge) with a \$480 million ceiling to eight vendors from the SDI-NG contract. Since its award in September 2016, USPTO extended the SDI-NG Bridge multiple times to allow USPTO to plan a follow-on contract.

Why We Did This Review

Our audit objective was to determine whether USPTO provided adequate oversight of SDI-NG contracts. To address this objective, we specifically assessed whether USPTO provided adequate oversight of (1) the acquisition planning process and (2) vendor performance.

UNITED STATES PATENT AND TRADEMARK OFFICE

USPTO Should Improve Acquisition Planning and Vendor Performance Management to Prevent Schedule Delays and Unnecessary Costs Related to the SDI-NG Contract

OIG-21-010-A

WHAT WE FOUND

Overall, we found that USPTO did not provide adequate oversight of the SDI-NG Bridge. Specifically, we found the following:

- I. USPTO did not timely plan and compete a follow-on SDI-NG contract.
- II. USPTO did not adequately document and use vendor performance information.

WHAT WE RECOMMEND

We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office direct the Director of the Office of Procurement to do the following:

1. Strengthen requirements for documentation of significant decisions and changes to milestones for key procurement actions, such as submission of procurement request package and release of solicitation.
2. Establish specific conditions and justifications that govern the use of alternative competition methods in the *Patent and Trademark Acquisition Guidelines (PTAG)*.
3. Develop policies and procedures to restrict the use of bridge contracts, including: adequate justification for use and length of bridge contracts, management review and approval of contract and extensions, and planned actions to award a follow-on contract.
4. Revise *PTAG* to consider past performance when awarding task orders under SDI-NG Bridge and follow-on contracts.
5. Revise the Acquisition File Documentation form to document consideration of vendor performance prior to exercise of option periods.
6. Revise the Contractor Performance Assessment Rating System policy to ensure that it complies with requirements of the Federal Acquisition Regulation (FAR).

We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office direct the Chief Information Officer to do the following:

7. Modify policies, procedures, and related staff training materials on vendor performance monitoring to clarify the purpose and requirements for each of USPTO's performance monitoring tools.
8. Ensure vendor performance monitoring tools are able to document and report vendor performance information in accordance with USPTO policies and the FAR.
9. Develop a comprehensive vendor performance evaluation report that aggregates vendor performance information from Vendor Management Division tools and other sources as appropriate.