REVIEW OF GSA FLEET'S MONITORING OF ALTERNATIVE FUEL VEHICLE SURCHARGE PAYMENTS

REPORT NUMBER A100188/Q/A/P11007

June 9, 2011

U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

Date: June 9, 2011

Reply to
Attn of: Audit Manager, Acquisition Programs Audit Office (JA-A)

Subject: Review of GSA Fleet's Monitoring of Alternative Fuel Vehicle Surcharge Payments
Report Number A100188/Q/A/P11007

To: Steven J. Kempf
Commissioner, Federal Acquisition Service (Q)

This report presents the results of the Review of the General Service Administration (GSA) Fleet's Monitoring of Alternative Fuel Vehicle (AFV) Surcharge Payments. Our report identified that GSA Fleet (Fleet) is monitoring monthly AFV surcharge payments; however, opportunities exist to improve Fleet's monitoring processes. Our review identified that Fleet's treatment of AFV surcharge payments places GSA at risk of not complying with federal regulations. In addition, we noted that Fleet's treatment of AFV surcharge payments collected from customer agencies exempt from Energy Policy Act's (EPACT) acquisition requirements does not meet the intended purpose of EPACT. Until improvements in these areas are made, Fleet remains at risk of violating federal regulations.

If you have any questions regarding this report, please contact me on (816) 926-8605.

Michelle L. Westrup
Audit Manager
Acquisition Programs Audit Office

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EXECUTIVE SUMMARY

Purpose

The objective of our review was to determine if the General Services Administration (GSA) Fleet appropriately monitors Alternative Fuel Vehicle (AFV) monthly surcharges collected from customer agencies. What actions should be taken if material weaknesses are identified within GSA Fleet's (Fleet) monitoring processes?

Results in Brief

Fleet is monitoring monthly AFV surcharge payments; however, opportunities exist to improve Fleet's monitoring processes.

All customer agencies leasing from Fleet had year-end balances (either positive or negative) resulting from their AFV surcharge payments in Fiscal Year (FY) 2010. Fleet carried these balances into the following fiscal year, earmarking the funds for specific agencies. This places GSA at risk of not complying with federal regulations.

In addition, Fleet reserves AFV surcharge payments collected from customer agencies exempt from Energy Policy Act's (EPACT) acquisition requirements (EPACT-exempt) for use by those specific customer agencies. These payments are then applied to those customer agencies' future AFV-associated leasing surcharges. This practice does not spread the cost of leasing AFVs across its entire federal fleet, as intended by the EPACT of 2005.

Recommendations

We recommend that the Commissioner of the Federal Acquisition Service:

1. Modify AFV surcharge payment monitoring practices to ensure compliance with federal regulations; and

2. Revise the current practice of allocating AFV surcharges paid by EPACT-exempt agencies to those specific agencies in an effort for these funds to benefit the entire AFV leasing program.

Management Comments

On May 31, 2011, the Commissioner of the Federal Acquisition Service concurred with the recommendations of the report. Management's written comments to the draft report are included in their entirety as Appendix B.

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INTRODUCTION

Background

The General Services Administration (GSA) Fleet is a comprehensive leasing program that provides vehicles to customer agencies and offers complete management support over the lifecycle of those vehicles. In Fiscal Year (FY) 2010, GSA Fleet (Fleet) leased 217,825 vehicles to 55 customer agencies, making it one of the largest non-tactical fleets in the United States Government.

Public Law 95-506 states that the Fleet program should recover all operating costs through fees assessed to customer agencies. These fees may include additional charges for the estimated replacement cost of vehicles, such as inflation. Once received, these additional funds are retained in the Replacement Cost Pricing (RCP) account. The RCP account is a capital reserve account in the Acquisition Services Fund (ASF) developed to cover the shortfall Fleet may experience in acquiring replacement vehicles. Funds in the RCP account are only available for the replacement of vehicles and are not available for operating expenses.

Two energy-related statutes enacted in 1992 and 2005 have also impacted Fleet's operations. The Energy Policy Act (EPACT) of 1992 established several energy management goals, including setting requirements for the acquisition of alternative-fuel vehicles (AFVs) by Federal agencies. To further encourage the acquisition of AFVs, Congress implemented the EPACT of 2005, which requires Fleet to spread the additional expense of acquiring AFVs across its entire federal fleet.

To comply with the EPACT of 2005, Fleet charges an incremental cost[1] to the customer agencies in the year an AFV is acquired. This incremental cost is assessed as an AFV surcharge. The surcharge is calculated by dividing a customer agency's total incremental cost by the total number of vehicles in the agency's inventory. This result is then divided by an eight or nine month period[2] to reach the agency's monthly surcharge amount per vehicle.

[1] The incremental cost is the additional cost of AFVs over the cost of comparable gasoline vehicles.

[2] The surcharge is determined over a period less than one year to ensure Fleet is able to recover the entire incremental cost before the end of the first year due to the unpredictability of future AFV replacement costs.

Because the EPACT of 2005 requires Fleet to spread the cost of AFVs across the entire federal fleet, Fleet also charges a minimum surcharge of $4 per month per vehicle to agencies that are not required to acquire AFVs (EPACT-exempt), and thus do not incur incremental costs. All AFV surcharge payments are placed into the RCP account.

Fleet monitors all monthly AFV surcharge payments, as well as the outstanding incremental cost due, by customer agency.[3] If a customer agency pays more or less than required, the customer agency's balance is carried over to the next fiscal year.[4]

[3] The practice of monitoring AFV surcharge payments by agency is internal to Fleet. Other GSA offices view this information on an aggregate level.

[4] Although Fleet monitors AFV surcharge payments by customer agency, we understand that Fleet is solely mandated to break even at the program level, not at the agency level.

RESULTS OF REVIEW

Fleet is monitoring monthly AFV surcharge payments; however, opportunities exist to improve Fleet's monitoring processes. Fleet's monitoring should be modified to ensure compliance with federal regulations.

All customer agencies leasing from Fleet had year-end balances (either positive or negative) resulting from their AFV surcharge payments in FY 2010. Fleet carried these balances into the following fiscal year, earmarking the funds for specific agencies. This places GSA at risk of not complying with federal regulations.

In addition, Fleet reserves AFV surcharge payments collected from EPACT-exempt agencies for use by those specific customer agencies. These payments are then applied to those customer agencies' future AFV-associated leasing surcharges. This practice does not spread the cost of leasing AFVs across its entire federal fleet, as intended by the EPACT of 2005.

Modified AFV Surcharge Monitoring Could Ensure Compliance with Federal Regulations

Under Fleet's current practices, if a customer agency pays more or less than their incurred annual incremental cost, the customer agency's positive or negative balance is carried over to the next fiscal year.[5] For customer agencies with a positive balance, the funds are available for that customer agency's use in following fiscal years. For customer agencies with a negative balance, that agency's debt is added to the amount owed in the next fiscal year. If Fleet continues its current monitoring practices of earmarking agencies' balances for their use in future fiscal years, it may be putting GSA at risk of violating federal regulations.

In some cases, the amount that is carried over from one fiscal year into the next is substantial, may be carried over for multiple fiscal years, or both as outlined in the following example. In one case, a customer agency carried over a positive balance from FY 2009 into FY 2010. In FY 2010, this agency owed approximately $1.9 million to cover its annual incremental costs (already taking into account its positive FY 2009 carryover balance). However, the agency paid over $4.4 million in FY 2010, more than

[5] This includes EPACT-exempt agencies' required minimum AFV surcharge payments. As these agencies owe $0 in incremental costs, all payments are in excess of those owed and contribute to a positive balance.

double what was required. As a result, Fleet carried over the resulting balance of $2.5 million, which was attributed to that particular customer agency for use in FY 2011.

We question the business practice of earmarking excess payments for particular agencies. Although these funds are appropriately placed into the RCP account for the replacement of vehicles in future years, the funds are made available for specific agencies' use. This allows customer agencies to continually over-obligate incremental surcharge payments, creating the opportunity for agencies to park funds with Fleet.

As the Government Accountability Office explains:

> parking [of funds] usually occurs when an agency transfers fixed-year funds to a revolving or franchise fund in the mistaken belief that, by doing so, the funds lose their fixed-year character and remain available indefinitely. However, an agency may not extend the availability of its appropriations by transferring them to another agency.

To further complicate matters, multiple agencies are using appropriated, fixed-year funds to pay their AFV surcharges. If a customer agency pays its AFV surcharges with appropriated, fixed-year funds, these funds expire in the ASF on the same date they would have expired had the agency retained the funds.[6] If this payment is supported by a written, binding agreement between the agencies and GSA incurs an obligation against these expired funds, GSA is in violation of the bona fide needs rule.[7] This statute states that appropriated funds are "…available only for expenses properly incurred during the period of availability."

Furthermore, if a customer agency with a binding, written agreement paid a future year's or previous year's AFV surcharge payments out of current-year funds, they are likely in violation of the Anti-Deficiency Act.[8] This Act provides that "…an officer or employee of the United States Government...may not...make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation [or] involve [the] government in a contract or obligation for the payment of money before the appropriation is made unless authorized by law."

Fleet management stated that they carry funds into future fiscal years for customer agencies because returning excess funds at the end of the fiscal year is not useful to the customer agency. If funds were returned at the end of the fiscal year, they would ultimately go back to the Treasury, no longer available for use by the customer agency.

[6] The funds will expire for the particular agency's use, not for GSA's use.

[7] The bona fide needs rule has a statutory basis in Section 1502(a), Title 31, United States Code.

[8] References to the Anti-Deficiency Act within this report are specifically to Section 1341(a), Title 31, United States Code. However, the Anti-Deficiency Act is comprised of multiple sections of Title 31, United States Code.

In addition, in most cases, the amount of carryover is minimal compared to the average amount spent through Fleet. Although we realize the importance of customer satisfaction,[9] good business practice and compliance with federal regulation should not be compromised in return.

Modifying Fleet's AFV surcharge payment monitoring practices could assist in ensuring that customer agencies do not take advantage of the Fleet program by parking funds in the RCP account. This also protects GSA and customer agencies from violating federal regulations.

Recommendation

We recommend that the Commissioner of the Federal Acquisition Service:

1. Modify AFV surcharge payment monitoring practices to ensure compliance with federal regulations.

EPACT-Exempt Agencies' AFV Surcharge Payments Should Benefit the Entire Leasing Program

Fleet's method of handling the minimum AFV surcharges paid by EPACT-exempt agencies is not as intended by the EPACT of 2005. Fleet allocates EPACT-exempt agency payments directly back to those agencies. Instead, these payments should be collected to relieve the financial burden of AFV acquisitions across the entire federal fleet, not that of specific agencies.

In order to promote AFV utilization, the EPACT of 2005 requires that the financial burden associated with the purchase of AFVs be spread across the entire federal fleet. Therefore, all agencies leasing vehicles from Fleet are required to pay AFV surcharges, even if the agency is not currently leasing AFVs. For EPACT-exempt agencies, Fleet charges a monthly $4 minimum AFV surcharge per each leased vehicle. These funds are placed in the RCP account. However, rather than making these funds available to all agencies leasing AFVs, Fleet separately tracks the amount paid by each customer agency. These funds are then made available to cover incremental costs of the paying customer agency if the agency leases AFVs in the future.

Since FY 2007, EPACT-exempt agencies have paid $200,563 in these AFV surcharges. During this time period, customer agencies' annual minimum AFV surcharge payments ranged from a few dollars to over $70,000. As a result of Fleet's current method of handling these payments, EPACT-exempt agencies could avoid paying any incremental costs associated with AFVs during the fiscal year of acquisition. This practice allows EPACT-exempt agencies to earmark funds for future use when they should be used by

[9] Fleet routinely meets or exceeds its annual external customer satisfaction goal.

Fleet to benefit the entire AFV leasing program. Fleet should discontinue the practice of reserving these payments for specific agencies and instead allow the funds to be utilized by the entire federal fleet as originally intended by the EPACT of 2005.

Recommendation

We recommend that the Commissioner of the Federal Acquisition Service:

2. Revise the current practice of allocating AFV surcharges paid by EPACT-exempt agencies to those specific agencies in an effort for these funds to benefit the entire AFV leasing program.

CONCLUSION

We identified opportunities to improve Fleet's monitoring of each customer agency's AFV surcharge payments. Specifically, in order to ensure agencies are in compliance with federal regulations, Fleet should modify AFV surcharge payment monitoring practices. Additionally, to benefit the entire AFV leasing program, Fleet should revise the current practice of allocating AFV surcharges paid by EPACT-exempt agencies to those specific agencies.

MANAGEMENT COMMENTS

On May 31, 2011, the Commissioner of the Federal Acquisition Service concurred with the recommendations of the report. Management's written comments to the draft report are included in their entirety as Appendix B.

INTERNAL CONTROLS

This review was limited in scope in order to answer the objective of this review. Thus, our assessment and evaluation of internal controls was restricted to those issues identified in the Results of Review section of this report.

APPENDIXES

APPENDIX A

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our review was to determine if the General Services Administration (GSA) Fleet appropriately monitors Alternative Fuel Vehicle (AFV) monthly surcharges collected from customer agencies. What actions should be taken if material weaknesses are identified within GSA Fleet's (Fleet) monitoring processes?

In order to accomplish this objective, we:

- Examined and reviewed relevant GSA Office of Inspector General and General Accountability Office audit reports;
- Reviewed federal policy governing the Acquisition Services Fund (ASF), the Replacement Cost Pricing account, and agency AFV acquisition;
- Analyzed Fleet's AFV surcharge tracking records from Fiscal Year (FY) 2007-2010 and compared a sample of 2010 records with Fleet's Acquisition Management Program to confirm the accuracy of the data;
- Exported 2010 vehicle data from the Federal Acquisition Service's Universal Report Specifying Application to develop a random sample of customer agencies. The sample served as a basis for examining the type and availability of funds agencies use to pay their monthly AFV surcharge;
- Examined federal statutes regarding appropriated funds and fiscal law;
- Interviewed Fleet management to obtain an understanding of internal policies, business practices, and organizational structure;
- Contacted a representative from GSA's Office of Finance to discuss appropriations law and the ASF, and
- Attended Fleet's FY 2011 National Customer Meeting.

We conducted our review between July 2010 and December 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives.

APPENDIX B

MANAGEMENT COMMENTS

GSA

GSA Federal Acquisition Service

MAY 31 2011

MEMORANDUM FOR KENNETH L. CROMPTON
DEPUTY ASSISTANT INSPECTOR GENERAL
FOR ACQUISITION AUDITS (JA-A)

FROM: STEVEN J. KEMPF
COMMISSIONER
FEDERAL ACQUISITION SERVICE (Q)

SUBJECT: GSA Draft Report, "Review of GSA Fleet's Monitoring of Alternative Fuel Vehicle Surcharge Payments" (A100188)

The Federal Acquisition Service (FAS) appreciates the efforts of the Office of the Inspector General to evaluate the Alternative Fuel Vehicle Surcharge payments. We have reviewed the draft report and agree with the findings. We will begin creating action plans to address the two recommendations. Thank you for the opportunity to comment.

Please call me at (703) 605-5400 if you have any questions. Your staff may contact Wayne Williams at (703) 605-2177 or Wayne.Williams@gsa.gov.

cc: Michelle Westrup (JA-A)

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APPENDIX C

REPORT DISTRIBUTION

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