

**AUDIT OF THE FEDERAL AVIATION  
ADMINISTRATION'S  
RESULTS  
NATIONAL CONTRACTING SERVICE**

*Federal Aviation Administration*

*Report Number: FI-2006-072  
Date Issued: September 21, 2006*



# Memorandum

U.S. Department of  
Transportation

Office of the Secretary  
of Transportation  
Office of Inspector General

Subject: **ACTION:** Audit of the Federal Aviation  
Administration's RESULTS National Contracting  
Service  
Report No. FI-2006-072

Date: September 21, 2006

From: Rebecca C. Leng   
Assistant Inspector General for Financial and  
Information Technology Audits

Reply to  
Attn. of: JA-20

To: Federal Aviation Administrator

This report provides the findings of our audit of the RESULTS National Contracting Service procurement program, a contracting vehicle the Federal Aviation Administration (FAA) established to acquire support services.<sup>1</sup> We conducted this audit in response to requests from Congress.

In May 2005, the Chairman of the Senate Finance Committee sent a letter to the Office of Inspector General raising serious concerns about allegations of potential waste, fraud, and conflict of interest in a \$16-million contract between FAA's Military Operations Program (MILOPS) and Crown Consulting, Inc. The Chairman requested that we perform a detailed review of this contract, which was awarded through the RESULTS procurement program. Based on our preliminary results, Congress became concerned that other support services contracts could also be subject to similar problems.

In July 2005, the Chairman of the Senate Finance Committee and the Chairman of the Senate Governmental Affairs Committee's Subcommittee on Federal Financial Management, Government Information, and International Security requested that we perform a broader review of support services contracts awarded by FAA. Accordingly, we expanded our review to the entire RESULTS procurement

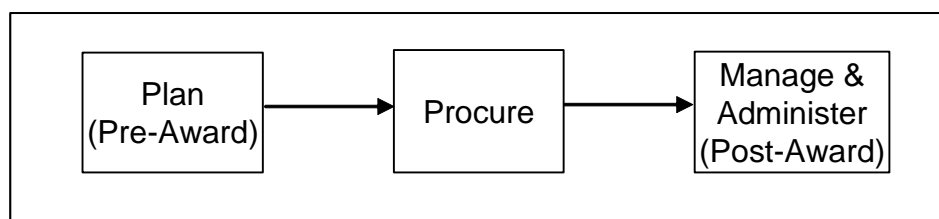
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<sup>1</sup> Support services are defined as contractual services that support or improve organizational policy development, decision-making, management and administration, program and/or project management and administration, or research and development activities. It can also mean furnishing professional advice or assistance to improve the effectiveness of Federal management processes or procedures, including those of an engineering and technical nature.

program, under which FAA awarded contracts with a total potential value of \$543 million for support services.

In the Department of Transportation’s fiscal year (FY) 1996 Appropriations Act, Congress provided FAA with broad authority to develop its own acquisition process without having to comply with Federal acquisition laws or regulations. The intent was to allow FAA to streamline its acquisition processes so that it could acquire goods, services, and systems in a more timely and cost-effective manner. To implement the reforms, FAA established its Acquisition Management System (AMS), a set of policies and guidance designed to address the unique needs of the Agency and to streamline all three acquisition life-cycle phases (see Figure 1). AMS allows procurement flexibility, but, to ensure that this flexibility is properly applied, it requires sound judgment on the part of FAA procurement officials. Accordingly, appropriate oversight by FAA executives is critical.

**Figure 1. Acquisition Life Cycle**



Source: Information Technology Resources Board

Under AMS, FAA uses a variety of contracting vehicles to acquire goods, systems, and support services. In FY 2005, FAA obligated about \$1 billion for support services using numerous contracts with individual companies and three multiple-award procurement programs—one of which was RESULTS. In total, FAA has awarded about \$2.2 billion in potential contract value and obligated a total of \$563 million under these three procurement programs since December 2000 (see Table 1 on the next page).

**Table 1. Use of Multiple-Award Procurement Programs To Acquire Support Services (dollars in millions)**

	<b>RESULTS</b>	<b>BITS II*</b>	<b>MASS*</b>	<b>Total</b>
Total amount awarded (potential contract value)	\$543	\$1,250	\$438	<b>\$2,231</b>
Total amount obligated	\$217	\$190	\$156	<b>\$563</b>

Source: FAA Procurement Offices. FAA procurement officials provided contract award data for BITS II and MASS as of November 2005 and updated the award data for RESULTS as of February 2006.

\* Broad Information Technology and Telecommunications Support Services II (BITS II) is managed at FAA Headquarters in Washington, DC, and Multiple Award Support Services (MASS) is managed at the William J. Hughes Technical Center, Atlantic City, New Jersey.

The RESULTS procurement program was created in 2002 at FAA's Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma. It was designed to provide FAA and other Government agencies with rapid, cost-effective, high-quality support services for a fee. Like its two companion umbrella contracting vehicles, RESULTS provided FAA with a range of support services using 142 pre-qualified vendors. Under RESULTS, 114 contracts were awarded with a total potential contract value of about \$543 million.

Our specific objectives were to determine (1) whether the RESULTS procurement program was structured to meet FAA's needs and (2) whether contracts awarded through RESULTS were properly managed. We conducted this performance audit from May 2005 through September 2006 in accordance with Generally Accepted Government Auditing Standards prescribed by the Comptroller General of the United States and performed tests we considered necessary to detect fraud. Details of our scope and methodology are presented in Exhibit A.

By August 2005, we had identified a range of contracting deficiencies associated with both the MILOPS contract and the RESULTS procurement program and made a series of recommendations to address them quickly at the Agency level. To her credit, the FAA Administrator took immediate action to strengthen oversight. In a memorandum dated August 11, 2005, the Administrator directed FAA managers to enhance controls over procurement activities by strengthening enforcement of competition, increasing financial oversight of major acquisition projects, and completing specified training for contracting and program officials. This report also addresses the status of FAA's implementation of those actions.

## RESULTS IN BRIEF

The RESULTS procurement program was not properly structured to meet FAA's needs for faster, cheaper, and better support services. FAA officials did not award contracts with sufficient competition or adequate price analysis, and deficiencies also existed in the administration of individual contracts.

When we informed FAA officials of our preliminary results, they enhanced controls over procurement activities by requiring the Deputy Administrator's approval for sole-source contract awards of \$1 million or more, establishing a financial oversight function in the Chief Financial Officer's (CFO) office, strengthening contracting officers' review of payment requests, and conducting Agencywide training on procurement and ethics. FAA deserves credit for taking these swift corrective actions. Nevertheless, given the weaknesses in the RESULTS program structure, we see the need to make additional recommendations. In particular, we are recommending that FAA dissolve RESULTS. FAA has agreed and is taking actions to dissolve this multiple-award program.

- **RESULTS Was Not Properly Structured To Meet FAA's Needs.** When FAA established RESULTS, it did not negotiate standard labor rates, and it did not specify labor categories or qualifications requirements for any of the 142 contractors who were eligible to receive contracts. As a result, FAA had to negotiate labor rates and qualifications individually for each contract.

The need to negotiate each contract individually negated most of the intended benefits of multiple-award vehicles by prolonging the contract award process, incurring higher costs, and providing only limited assurance that FAA received high-quality services. During FY 2005, it took an average of 5 months to award a support services contract, which was about twice as long as advertised by RESULTS. In addition, because of the absence of labor qualifications requirements, FAA not only had no assurance that it was obtaining the quality of services anticipated but also paid higher labor rates than those for which contractor staff were qualified.

The absence of labor qualifications requirements becomes particularly troublesome when combined with the "revolving door" hiring practice—FAA officials going to work for contractors shortly after leaving the Agency. One particular contractor paid finder's fees for recruiting FAA employees. About 21 percent of this contractor's staff were former employees of FAA. While this practice does not violate any Government regulations, it creates significant risks to FAA's ability to maintain arm's-length relationships with its contractors when negotiating contract terms or overseeing contractor performance. In October 2005, FAA modified AMS to require that

companies bidding on FAA contracts identify their employees who used to work for FAA or who have relatives working for FAA. However, FAA has not determined how this new information should be used when evaluating contractor proposals.

Our comparison of RESULTS labor costs with those in other FAA procurement programs indicates that FAA would incur \$24 million to \$44 million in higher costs if all option years in existing RESULTS contracts were exercised.<sup>2</sup> This does not include the cost impact of other contracting deficiencies, such as lack of competition, which we address below.

- **Contracts Were Awarded Without Sufficient Competition or Adequate Price Analysis.** The use of competition is the most effective way to ensure that the Government receives a fair price, but under RESULTS, only 24 percent of the 114 contracts benefited from competition.

In fact, half of the contracts were awarded without any competition. When we reviewed the required sole-source justifications, we found that most sole-source awards were made based only on management's preference for working with a known individual contractor, an unacceptable reason under AMS. In another 26 percent of the awards, the contract was open to competition, but only one contractor submitted a bid.

These decisions not to compete contracts under RESULTS had other consequences beyond denying the Agency fair and reasonable prices. Without competition to acquire best-priced services, the Government had to rely on other price analysis techniques to determine if proposed prices were fair and reasonable. However, based on our review of 11 sample contracts, the quality of the price analyses performed by FAA officials was not adequate to ensure reasonable prices in 9 of the 11. In one case, a proper price analysis would have shown that the contractor was charging \$51 more per hour than it charged for the same services under another FAA procurement vehicle. These deficiencies compromised the Government's ability to negotiate a fair price. They also led to higher costs, although the amount cannot be quantified.

- **Deficiencies Also Existed in the Administration of Individual Contracts.** These included cases in which deliverables were not clearly defined and performance problems were not addressed. For example, acceptance criteria, which need to be specified so the Government can determine whether a contractor is performing satisfactorily, were absent in 10 of the 11 contracts

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<sup>2</sup> We reviewed 11 judgmentally sampled contracts that make up about \$242 million of the \$543 million (about 45 percent) awarded under RESULTS.

we sampled. The lack of acceptance criteria makes it difficult to evaluate the quality of services provided and to take action if performance problems arise.

Further, payments for support services were sometimes made without proper review and approval by a contracting officer, and there were multiple instances of payments exceeding the contract ceiling amount. FAA officials also used inappropriate contract types that provided no incentive for vendor performance and allowed work to be performed beyond the contract scope without written authorization. Finally, except for one instance, FAA did not request any contract audits to identify excessive or unallowable charges, even though it had previously agreed to obtain such audits.<sup>3</sup>

These deficiencies resulted not only in higher procurement costs but also in quality problems with services delivered. According to FAA officials, this occurred in an environment where the contracting officers were required to oversee a large number of contracts, resulting in inadequate oversight. Within 2 months of when contracting officers began reviewing payment requests in response to the Administrator's August 2005 direction, nearly \$1 million in questionable expenditures were identified.

- **FAA Enhanced Controls Over Procurement, but Follow-Through Is Needed.** The Administrator's August 11, 2005 memorandum directed Agency personnel to enhance FAA-wide procurement of support services on two fronts. First, it called for two initiatives at the executive level: Deputy Administrator review and approval of sole-source contract awards of \$1 million and above and the establishment of a financial oversight function in the CFO office to review and approve acquisitions valued at \$10 million and above. Second, the memorandum directed Agency acquisition personnel to adhere to AMS for procurement of support services. The memorandum addressed numerous AMS requirements, including ensuring that statements of work and independent cost estimates are prepared by the Government, not contractors; comparing rates and capabilities from multiple sources when acquiring services; ensuring that detailed and supported invoices are reviewed and approved by contracting officers; and ensuring that labor categories are accurate and reflect the work being done.

FAA has made good progress in implementing these executive-level initiatives: sole-source contracts \$1 million and above are now awarded only after Deputy Administrator review and approval, and the CFO is reviewing and approving the awarding of contracts valued at \$10 million and above.

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<sup>3</sup> As a corrective action to resolve a material weakness regarding not properly administering closeout and payment of cost-reimbursable contracts, FAA issued a policy requiring audits of all cost-reimbursable contracts valued at \$100 million and above and 15 percent of those contracts valued at less than \$100 million, including time-and-materials and labor-hour contracts.

However, the CFO's reviews can be strengthened. For example, although the CFO's reviews look for evidence of independent Government cost estimates, these reviews do not check whether price analyses were sufficient to ensure the reasonableness of contractor-proposed pricing. According to the Administrator's August 11<sup>th</sup> memorandum, "...an independent cadre of personnel with significant acquisition and financial controls experience" is assisting the CFO in doing the review. FAA needs to make this review more substantive rather than performing only a checklist-based compliance review.

Regarding the Administrator's direction to adhere to AMS requirements, progress has been made in some areas, most notably in contracting officers' reviews of payment requests. However, FAA has not implemented an Agencywide oversight process to ensure that procurement officials are following AMS requirements consistently. Establishing Agencywide oversight, preferably under the Office of the Acquisition Executive, is critical because FAA has delegated contract/procurement authority to various Headquarters, regional, and field offices. During the audit, some procurement offices have taken initiatives to strengthen their oversight.<sup>4</sup> While this is a step in the right direction, it is not a substitute for an Agencywide program. FAA's August 2005 internal review of multiple-award programs also recommended development of an oversight program. FAA has not yet implemented this important recommendation.

Overall, RESULTS suffered from an inappropriate program design that prevented it from meeting FAA's goal of faster, better, and cheaper acquisition of support services. This happened because Aeronautical Center procurement officials underestimated the length of time required to establish and obtain full approval for a comprehensive multiple-award program. As a result, FAA paid higher costs than reasonable for support services and could not be sure of the quality of services provided. FAA deserves credit for quickly taking several corrective actions for its procurements Agencywide. However, the inherent problems with the program's structure and management require that RESULTS be dissolved. We are also recommending that the CFO Office conduct more substantive reviews of contracts valued at \$10 million and above and that the Acquisition Executive's office conduct Agencywide oversight to ensure that all procurement officials are following AMS requirements consistently when acquiring services.

FAA officials informed us that they have taken steps toward dissolving the RESULTS procurement program. First, they stopped awarding new contracts, discontinued the RESULTS program website, and terminated 12 contracts this year. Second, FAA will recompete all remaining RESULTS contracts, with the

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<sup>4</sup> In recent months, the Office of the Assistant Administrator for Regions and Center Operations has started to review regional offices' compliance with AMS.



exception of five, at the end of their current performance (option) periods. FAA has decided to allow program officials to exercise all options under those five contracts because they either have unique requirements or were properly competed.

FAA's actions to dissolve the RESULTS program are reasonable. However, we are concerned that FAA plans to replace discontinued RESULTS support services with stand-alone contracts to be managed by either Headquarters or Aeronautical Center contracting officers. This is not an efficient use of resources because each replacement contract will still have to be individually negotiated. Instead, FAA should consider using other existing multiple-award programs, such as the General Services Administration's (GSA) Governmentwide Awards Contracts (GWACs) to acquire replacement services. These procurement programs already have built-in controls, such as centrally defined labor categories and qualifications and pre-competed labor rates, which not only streamline the contract award process but also help ensure reasonable prices.

On August 7, 2006, we issued FAA a draft of our report. In addition to dissolving the RESULTS procurement program, we recommended that the Acquisition Executive seek approval from the Joint Resources Committee for any new FAA-specific, multiple-award procurement programs; develop guidance describing how the information concerning former FAA employees working for contractors should be used when evaluating contract proposals; and establish oversight processes to evaluate all FAA procurement offices. Also, we recommended that the CFO implement procedures to assess the quality of financial work performed by procurement and contracting staff.

On September 15, 2006, FAA provided us with its formal response, which is contained in its entirety in the Appendix. Management generally concurred with our findings and recommendations and is taking corrective actions that, when fully implemented, will address the problems discussed in this report. All the corrective actions are scheduled to be completed by February 5, 2007.

A complete discussion of Agency comments and our response can be found starting on page 21.

## **FINDINGS**

### **RESULTS Was Not Properly Structured To Meet FAA's Needs**

RESULTS was not structured in a way that allowed FAA to leverage its buying power and obtain best value for its customers. It did not establish pre-negotiated labor rates or standard staffing qualifications as part of its structure. Defining labor rates and qualifications is key to streamlining the procurement process,

obtaining competitive prices, and ensuring that similar services are of consistent quality and carry similar charges. Instead, customers had to define labor requirements, and contracting staff had to negotiate labor rates for each individual contract—a time-consuming and expensive process that resulted not only in variations in the quality of labor provided but also in higher costs. Problems were compounded because few contracting staff were assigned to award and administer the contracts. We estimate that FAA could overpay for support services under RESULTS between \$24 million and \$44 million due to these structural defects in the procurement program.

The establishment of RESULTS occurred at the time of a major reorganization of the Aeronautical Center's Logistics Center. Aeronautical Center procurement officials initially intended to create a comprehensive multiple-award program with pre-established labor categories and rates for RESULTS. However, they underestimated the length of time required to establish and obtain full approval for such a program. Subsequently, a business decision was made to simplify the design for RESULTS as a basic ordering agreement, with a list of qualified vendors but without pre-established labor rates and qualifications. While this allowed the program to be quickly approved for supporting National Airspace System operations, it eventually prevented the Center from meeting the goals for providing faster, cheaper, and quicker contract awards.

#### *Labor Rates Were Not Pre-Established With Contractors Qualified To Serve the Program*

The RESULTS program was not structured to use pre-negotiated or pre-competed labor rates when awarding individual contracts. Unlike other multiple-award programs, such as GSA's GWACs or FAA's BITS II (Broad Information Technology and Telecommunications Support Services II) or MASS (Multiple Award Support Services) procurement programs, labor rates under RESULTS were not competed or negotiated in advance among the firms that were qualified to perform in the program. Pre-establishing rates in this manner would have streamlined the award process and allowed FAA to leverage its buying power up front by obtaining competitive labor rates from all of the participating vendors and passing them on to customers without further need for individual labor-rate negotiations. For instance, FAA's BITS II procurement program pre-established the labor rates for all contracts awarded to its vendors.

Further, pre-established labor rates could be used as a starting point to obtain more favorable prices. Additional discounts or incentives could have been negotiated from already-competitive prices by allowing additional price competition among the qualified vendors, as FAA is currently achieving under its MASS procurement program.

Instead, labor rates under RESULTS had to be individually negotiated from scratch for each contract. This not only required customers to define their labor requirements with sufficient detail to generate valid and responsive proposals, it required contracting officers to evaluate individual submissions of proposed labor costs, in addition to other proposed costs. As a result, each contract award was the product of time-consuming individual negotiations for customized labor rates, and the Agency was not positioned to take advantage of the best possible value for the services it acquired.

We compared the rates being paid for 11 contracts against the rates for similar labor categories in FAA's other 2 multiple-award vehicles for support services. We concluded that FAA will overpay between \$12 million<sup>5</sup> and \$22 million<sup>6</sup> for these 11 contracts if all the option years under these contracts are exercised. The 11 contracts were judgmentally selected for review and are associated with about half the contract values awarded under RESULTS—about \$242 million. Because we did not select a random sample, we are unable to statistically project the total amount of overpayment. However, if the same error rate exists on the remaining 103 RESULTS contracts, overpayments would range from about \$24 million to about \$44 million.

#### *Labor Qualifications Were Neither Specified at the RESULTS Program Level nor Properly Defined in Individual Contracts*

Unlike in other procurement programs, such as GSA's Multiple Award Schedule and GWACs and FAA's BITS II and MASS, labor categories and qualifications requirements were not specified as part of the RESULTS structure. Predefining labor categories and qualifications makes it easier to compare prices for similar categories and to readily determine best value. It also helps ensure that a common basis exists for all vendors to submit competing labor rates. Pre-defined labor categories and qualifications allow consistent labor quality to be acquired by establishing minimum criteria for the expertise required to perform the work, which provides a measure of assurance that the Government obtains the services it anticipates under the contract (see an example in Exhibit B). However, RESULTS did not incorporate standard qualifications for labor categories—in fact, there were no standard labor categories in the program. Instead, requirements for labor, including categories and qualifications, were to be defined by the customer in each contract. This resulted in variations in the qualifications for similar labor types or categories, inadequately defined categories and qualifications, or no qualifications at all.

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<sup>5</sup> An overpayment of \$12 million was computed by comparing contractor rates to the rates negotiated for similar labor categories with the same contractor on another vehicle.

<sup>6</sup> An overpayment of about \$22 million was computed by comparing contractor rates to the average rates paid for all contractors on another contract vehicle.

Without standard qualifications or definitions for labor categories at either the program or contract level, prices varied considerably from contract to contract for the same type of labor. For example, 128 labor categories were required on the 11 contracts we reviewed, but only 35 of those were specified as deliverable in a contract, and only 28 of those were adequately defined (see Exhibit C); the other 7 were listed but not defined (see Exhibit D).

Finally, a significant number of contracts—about 87 percent—awarded under RESULTS were on a time-and-materials basis. Because these contracts predominantly provide for labor hours, defining labor categories and qualifications requirements becomes critical to ensuring consistent quality and billing for services. Despite its significance, a centralized listing of labor categories was not established at the program level, and labor categories and qualifications were not adequately defined individually for the 11 contracts we reviewed.

### *Labor Rates Were Higher Than Those for Which Staff Were Qualified or Tasked To Perform*

The lack of properly defined labor categories and qualifications compromised, to a large degree, assurance that FAA obtained the intended quality of support services. It also allowed potentially unqualified contract employees to perform work under RESULTS contracts. Some contractor staff did not meet the expected<sup>7</sup> qualifications for positions billed. For example, an employee on 1 of the 11 contracts we reviewed was originally billed as an administrative assistant at an hourly rate of \$35, but after only 4 months of work—and with no proof of additional qualifications—she was billed as an analyst at an hourly rate of \$71. In another instance, an FAA executive's spouse was billed on one RESULTS contract as an information engineer, even though she lacked the training and experience necessary to qualify for that labor category. Information engineers perform duties such as designing and implementing systems using various software languages, tools, and database management systems. This employee nevertheless billed 1,367 hours (at \$63 per hour—more than \$86,000 in total) to the contract for processing time-and-attendance records.

This becomes particularly troublesome when combined with the “revolving door” practice. Contractor personnel in 3 of the contracts sampled included former FAA employees who were 6 months or less separated from FAA employment. One contractor paid its staff finder's fees for recruiting FAA employees. About 21 percent of people working for this contractor are former employees of FAA. While this practice does not violate any Government regulations, it creates significant risk to FAA's ability to maintain arm's-length relationships with its

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<sup>7</sup> Broad Information Technology and Telecommunications Support Services I—the predecessor procurement program to BITS II—was used as the reference to identify expected labor qualifications in instances where RESULTS contract labor qualifications were not adequately defined.

contractors when negotiating contract terms or overseeing contractor performance. In October 2005, FAA modified AMS to require that companies bidding on FAA contracts identify their employees who used to work for FAA or have relatives working for FAA. However, FAA has not determined how this new information should be used when evaluating contractor proposals.

### **Contracts Were Awarded Without Sufficient Competition or Adequate Price Analysis**

The lack of pre-established labor rates, categories, and qualifications required strong compensating controls, such as competition and high-quality price analysis, to ensure that the Government obtained the best value possible for the services being acquired. Competition among vendors is the preferred method to ensure that prices are fair and reasonable; price analysis also provides a reliable basis for determining whether prices are reasonable. However, RESULTS procurement officials did not encourage competition among the 142 vendors, nor did they ensure that reliable price analyses were performed to properly evaluate proposed costs.

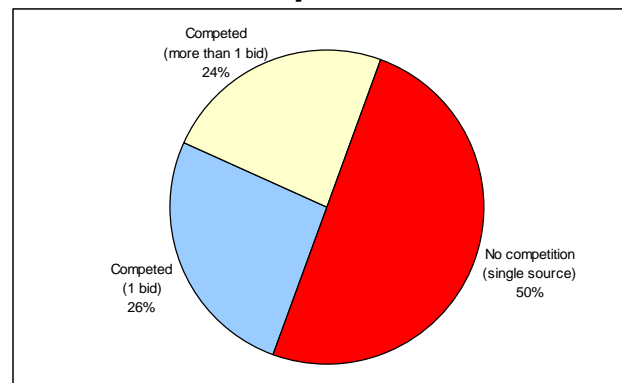
#### *Competition Was Not Enforced for RESULTS Contracts*

Competition is recognized as the most effective way to obtain best value, yet FAA focused on customer satisfaction, which placed a priority on awarding contracts to incumbent contractors, instead of on the Agency's preferred approach—using competition whenever possible to obtain fair and reasonable prices.

Our review of 11 sample contracts showed that, effectively, none of them benefited from sufficient competition. Of the 11 contracts, 8 were awarded without any competition (i.e., were sole-source) and 3 were competed, but the solicitations resulted in only 1 bid each.

This trend was RESULTS-wide. Of the 114 contracts awarded, half were sole-sourced and half were competed; of the half that were competed, however, 30 (26 percent) resulted in only 1 bid (see Figure 2). In effect, 87 of 114 contracts (76 percent)—more than three-quarters of all awards—were not effectively competed. Only 27 contracts (24 percent) benefited from competition. In addition, of the 142 vendors that pre-qualified under RESULTS for FAA work, only 40—less than a

**Figure 2. RESULTS-Wide Competition**



Source: FAA

third—actually obtained contracts, further pointing to inadequate competition under the procurement program. Sole-sourcing accounted for about \$247 million out of \$543 million RESULTS contracts.

FAA's acquisition policy does allow it to contract with a sole source when in the best interests of the Agency, but sole-sourcing must be justified by a well-documented rationale that must be more than a mere statement of fact. However, of the eight sole-sourced contracts we reviewed, only one had adequate justification. For example, sole-sourcing one contract was justified by a market survey of RESULTS vendors that showed that no other vendor had the combined background, experience, and knowledge to adequately perform the required services. Yet no support was provided to demonstrate that the market survey was actually conducted or to show exactly how the selected contractor was the only pre-qualified vendor capable of performing the required task—collecting and processing data from air carriers. Overall, the justifications for sole-source awards were little more than unsupported statements, yet contracting officers and procurement attorneys allowed them to be used to support sole-source awards.

The underlying reason that contracts were sole-sourced is that RESULTS' customers preferred the work to remain with incumbent contractors. Contracting staff members did not discourage this practice because they were more focused on customer satisfaction in order to obtain the service fee. Oversight of the contracting process was lax as well: procurement attorneys at the Aeronautical Center were overly permissive in allowing sole-sourcing in half of the procurements. When the over-reliance on sole-sourcing was brought to the attention of FAA Headquarters officials, the Administrator implemented a corrective procedure to enforce competition. She directed contracting officials to follow AMS guidance to engage in competition and the Deputy Administrator to review and approve all Agency procurements for support services of \$1 million or more when fewer than three bids are received.

#### *Price Analyses Were Inadequate To Ensure Fair and Reasonable Costs*

Normally, adequate competition establishes price reasonableness. However, due to the lack of competition under RESULTS, FAA had to rely on other price analysis techniques to determine whether proposed contract costs (for labor rates, overhead, and profit) were fair and reasonable. The techniques used by FAA included comparing rates proposed by the contractor with independent Government cost estimates and then using the results as the Government's basis for negotiating a final contract price. They also included comparisons of proposed costs for similar work under other procurement programs. Although price

analyses were performed for 9 of the 11 contracts we reviewed, none of them were adequate.<sup>8</sup>

FAA's independent Government cost estimates were either unreliable or invalid, compromising the Government's negotiating position from the start. Independent Government cost estimates are considered to be a valid standard for comparison if they are based on realistic analysis that accounts for past purchase prices and analysis of similar work; they are deemed reliable to determine price reasonableness if they account for information sources and techniques used.

However, the Agency's independent Government cost estimates we reviewed often used questionable sources and did not describe price analysis techniques used to arrive at the cost estimates. The sources of the rates used were often not documented, so it was not possible to determine what rates were compared or if the comparison was valid. Further, the cost estimates were often not dated, making it difficult to determine how current the rates used in the comparisons actually were or how current the cost estimate was relative to proposed prices. In addition, none of the Agency's cost estimates we reviewed was signed, so we could not determine who developed them or whether they had been reviewed. In one instance, the cost estimate was not valid because it was prepared by the contractor to whom the contract was awarded. None of the estimates described the approach used to produce the estimate.

In addition, these cost estimates sometimes appeared to be ignored: in two instances, proposed labor rates were significantly higher than the Agency's cost estimates but were nevertheless accepted. According to a contracting officer familiar with one of these instances, the proposed labor rates for the contract were within 15 percent of the Agency's cost estimate and were therefore acceptable as proposed; however, we could not find any policy allowing this practice in FAA's Pricing Handbook. In this case, the Agency's cost estimate allowed significant variance for individual labor categories. For example, the contract allowed the president of the company to bill for services at the rate of over \$300 per hour, when the Agency's cost estimate for this work allowed only \$150 per hour. As a result, FAA has paid more than \$87,000 over its own estimate for this work.

Price analysis can also be performed by comparing proposed costs with prices established for similar work already negotiated in other FAA procurement vehicles or published under other Government procurement programs,<sup>9</sup> such as GSA's GWACs or Multiple Award Schedule. However, for seven of eight contracts,

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<sup>8</sup> We focused on nine contracts awarded on a time-and-materials basis because in cost-reimbursable contracts, which include time-and-material contracts, FAA bears the burden for performance and the responsibility for any cost overruns.

<sup>9</sup> FAA's procurement policy states that comparison of proposed prices to prior or existing contract prices for the same or similar services is an acceptable method of performing price analysis.

comparisons did not consider the lower rates already negotiated with the same contractor on FAA's other multiple-award programs and on GSA schedules. On one contract, an hourly rate of \$180 was approved for a program manager, but the rate for the same position, pre-established under FAA's BITS II program, was \$129 per hour. Proposed labor rates were not compared in six of eight contracts with rates for the same contractor and labor categories published on GSA's multiple-award schedule, which could have yielded additional insight into the fairness of prices proposed under RESULTS.

FAA can also request cost and pricing data from contractors to ensure that negotiated prices are fair and reasonable.<sup>10</sup> However, except for one instance, FAA did not request such information for any of the contracts we reviewed, relying instead on its limited independent Government cost estimates.

### **Deficiencies Were Found in the Management and Administration of Individual Contracts**

Problems with the RESULTS structure and lack of sufficient competition and reasonable rates were compounded by deficiencies in managing and administering individual contracts. RESULTS contracting staff members were supposed to provide the technical support to ensure that requirements were properly defined and that appropriate contractual terms were obtained. However, RESULTS was rushed into implementation before it could be adequately staffed to handle the volume of contracts being awarded and maintained at the Aeronautical Center. As a result, the program did not establish effective control over its contract administration functions.

Overworked staff and turnover, along with an emphasis on customer service that allowed customers to dictate preferred terms and an automated billing system that bypassed contracting officers, contributed to ineffective controls over contract payment and monitoring. These problems, in turn, resulted in instances of payments made without contracting officers' approval and contract ceiling overruns, inability to measure contractor performance, unsuitable contract types, work performed outside specified statements of work, and missed opportunities to recover unallowable costs through contract audits. FAA was unable to terminate one contract for poor performance because the contract had no clear performance requirements. In addition, there was insufficient oversight to effectively monitor and detect shortcomings, and no corrective action was taken until our audit revealed the impact of those shortcomings.

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<sup>10</sup> Cost and pricing data should be requested only when the contracting officer does not have reasonable assurance that the costs or prices are fair and reasonable based on price analysis or other means of evaluation, if the contracting officer determines that the level of competition does not support a determination of price reasonableness, or if the contractor's price cannot otherwise be determined.



### *Payments Were Made Without Contracting Officers' Approval and Contract Ceilings Were Exceeded*

The payment process under RESULTS allowed approval of invoices by poorly trained program officials who validated invoices and then submitted the validated invoices for payment using an automated system that bypassed contracting officer review. As a result, improper payments were made in two instances and in one of these instances, payments exceeded the contract ceiling. For example, the lack of contracting officer oversight allowed payments under one contract to exceed the contract ceiling by over \$3 million. Fourteen of 81 time-and-materials contracts (17 percent) awarded under RESULTS have exceeded their ceiling costs by a total of \$17 million. More than \$32,000 was improperly paid to a contractor on just one invoice that had been approved for payment without the contracting officer's knowledge.

After we pointed out this problem to FAA, the Agency required invoices to be reviewed and authorized for payment by contracting officers. FAA halted almost \$1 million in payments within 2 months of implementing the new review requirement.

### *Deliverables Were Not Defined and, in One Case, Performance Problems Were Not Addressed*

Instead of providing assistance to customers by clearly defining deliverables and ensuring that adequate performance measurement was included as recommended in AMS, RESULTS contracting staff allowed contracts to be awarded without these critical components. Six of the 11 contracts we reviewed lacked well-defined deliverables and milestones; acceptance criteria were missing in 10 contracts and were poorly defined in 1. For example, the deliverables for one contract required providing training services, but neither the number of people to be trained nor the numbers of classes was specified.

Another contract specified an acceptance criterion for software development as testing *complete* instead of also specifying that the completed testing be *successful*. In addition, over 100 known software failures, discovered in early testing of the system, were never adequately addressed, nor was their resolution tracked or monitored as part of routine contract management. The software failed FAA testing; was deemed immature, unusable, and unsafe; and was never deployed. In addition, the contractor stopped maintaining a database but continued to issue performance reports claiming that the work had been completed. FAA was unable to terminate the contract for cause because the acceptance criteria in the contract were too weak to hold the contractor accountable for the poor performance.

### *Unsuitable Contract Types Were Used*

Four of the 11 contracts we reviewed involved software development work and were paid on a time-and-materials basis, a contracting approach that accommodates a lack of defined requirements and offers contractors little incentive to control costs or complete work on time. Specific warnings have been sounded against the use of time-and-materials contracts for software development work, cautioning that these contracts may not be appropriate for software development because the Government only obtains best effort as opposed to a product.<sup>11</sup> Time-and-materials contracts do not make efficient or successful performance a condition of payment and complicate the process of making sound quality-price tradeoffs and of determining best value based on hourly rates. In addition, this type of contract requires intensive Government monitoring to provide reasonable assurance that effective cost controls are being used.

The contractor on one time-and-materials-based contract continued to be paid for work performed after the contract ceiling was exceeded, even though the software product being developed repeatedly failed testing. Use of cost-plus-fixed-fee line items for the detailed task of developing software would have provided FAA with better control over costs and performance. Other types of contracts and line items could also have been considered in the contracts reviewed; for example, fixed-price contracts or line items could have been considered for certain engineering services, including preparation of reports.

Despite the risk to the Government, 81 of 114 contracts awarded under RESULTS—87 percent—were of the time-and-materials variety, referred to by FAA’s own acquisition policy as a type of contract where the Government bears the greatest risk for controlling costs. In this type of contract, the contractor is guaranteed a profit regardless of cost overruns. The preponderance of time-and-materials awards exposed the Government to unacceptable and unnecessary levels of risk.

### *Contractors Performed Work Outside of the Specified Statement of Work*

Over half a million dollars in costs were billed to one contract for performing time-and-attendance services and supporting a budget conference. However, these services were never specified in the contract’s statement of work. Although the contract called for services related to administering a specific project, FAA program officers gave verbal instructions to the contractor to add seemingly unrelated tasks, such as supporting an FAA budget conference in Las Vegas, Nevada, for another program office and performing time-and-attendance functions for other FAA staff offices. These verbal requests were not documented in modifications to the contract, nor were approvals sought from the contracting

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<sup>11</sup> “Justify Time-and-Materials Contracts, OFPP says,” *Government Computer News* 23, no. 15 (June 21, 2004).

officer, because program officials believed that these services were covered under the contract, despite the fact that they were not specified.

When RESULTS was first established, contracting staff believed that the full range of potential RESULTS services were readily available for use in each individual contract, regardless of whether those services were documented in specific statements of work. Allowing the contractor to perform these potential services that exceeded those required in the statements of work contributed to cost overruns in one of the contracts reviewed. FAA recently revised its initial position and agreed that services should be limited to the specified statements of work in individual contracts. It is unclear what additional costs have been incurred as a result of work performed outside the specified statement of work in the contracts up until this time.

### *Required Contract Audits Were Not Obtained for Contracts Awarded Under RESULTS*

Ten of the 11 contracts we reviewed did not receive post-award audits, resulting in missed opportunities for recovering potentially excessive or unallowable contract costs. According to AMS, audits are required for all cost-reimbursable contracts valued at \$100 million and above and 15 percent of those contracts valued at less than \$100 million, including time-and-materials and labor-hour contracts. The Defense Contract Audit Agency's (DCAA) and our detailed review of one contract in our sample identified excessive contract charges, including charges for lease payments and executive compensation. Conducting post-award audits has proved to be a cost-effective control mechanism: DCAA audits, on average, have saved about eight times more funds than they cost.<sup>12</sup> FAA lacked procedures at both the program office and the Aeronautical Center to ensure that sufficient numbers of contracts were set aside for audits and that funds were set aside at the program level for obtaining them.

### **FAA Enhanced Procurement Controls but Follow-Through Is Needed**

During our audit, FAA took several initiatives to enhance control over procurement activities and over the RESULTS program in particular. The Administrator's August 11, 2005 memorandum (see Exhibit E) issued directives to the Agency to enhance FAA-wide procurement of support services on two fronts. First, it called for two initiatives at the executive level: Deputy Administrator review and approval of sole-source contract awards valued at \$1 million and above and establishment of a financial oversight function in the office of the CFO to review and approve all support services contracts valued at \$10 million and above. Second, the memorandum directed Agency acquisition officials to adhere to

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<sup>12</sup> During the last 5 years, the Department of Transportation has realized over \$123 million in cost savings by investing \$15 million in contract audits.

FAA's AMS guidelines for procurement of all support services and specifically addressed numerous requirements, including ensuring that statements of work and independent cost estimates are prepared by the Government, not contractors; comparing rates and capabilities from multiple sources when acquiring services; ensuring that detailed and supported invoices are reviewed and approved; and ensuring that labor categories are accurate and reflect the work being done. However, more needs to be done on both fronts to reap the full benefit of the Administrator's directive.

### *Progress Made in Implementing Executive Initiatives*

FAA has made good progress in implementing the executive-level initiatives. Sole-source contracts valued at \$1 million and above are now awarded only after the Deputy Administrator's review and approval. In addition, FAA developed and conducted updated ethics and procurement training for all Agency procurement staff. Also, the CFO's office developed a comprehensive checklist and started reviewing contracts valued at \$10 million and above in October 2005.

The CFO is still in the process of building this capability. We reviewed three procurements that were approved by the office of the CFO. We found the reviews to be compliance-oriented only, with a focus on verifying the existence of key documents, such as independent Government cost estimates. The team's reviews would be improved if they included more substantive reviews of the quality of the financial-related work performed by requesting officials. FAA is still in the process of staffing its team, defining responsibilities, and developing review procedures.

### *Oversight Mechanism To Ensure Adherence to AMS Is Not in Place*

FAA's acquisition policy provides the tools to accommodate the Agency's need for rapid, cost-effective, high-quality (faster, cheaper, better) services, but these tools were not used effectively in RESULTS. The Administrator's memorandum of August 11, 2005, and an attached memorandum from FAA's Acquisition Executive dated May 25, 2005, emphasized that acquisition policy was not always followed when acquiring support services. Although our audit found that RESULTS contracting officers made progress in implementing AMS requirements for contracting officers' reviews of payment requests, it also revealed many instances in which FAA program and contracting officials departed from AMS guidelines. For example, we found insufficient comparisons of rates and capabilities among multiple sources to determine price reasonableness and that labor categories were not accurately defined to reflect work being done. Given this condition, more action is needed—in addition to re-emphasizing adherence to AMS—to ensure that procurement officials comply with AMS.

FAA needs to implement an effective oversight mechanism to ensure that AMS is being followed. FAA's Acquisition Executive function, in addition to assisting with investment and budget decisions, is primarily limited to managing AMS policy. The responsibility for enforcing implementation of AMS policy and guidelines is left to individual procurement offices. However, we found a lack of oversight procedures to ensure adherence to AMS at the Aeronautical Center. An internal review by FAA also identified the need for an oversight mechanism for enforcing compliance with AMS. In August 2005, an internal report on FAA's multiple-award contracting vehicles recommended the development of an independent oversight program. This independent program has not been implemented. Without such a program, it is unclear to us how FAA will be able to detect instances of departure from AMS and prevent deficiencies like those identified in RESULTS from recurring.

FAA has taken steps to dissolve the RESULTS procurement program. First, they stopped awarding new contracts, discontinued the RESULTS program website, and terminated 12 contracts this year. Second, FAA will recompetete all remaining RESULTS contracts, with the exception of five, at the end of their current performance (option) periods. FAA has decided to allow program officials to exercise all options under those five contracts because they either have unique requirements or were properly competed.

FAA's actions to dissolve the RESULTS program are reasonable. However, we are concerned that FAA plans to replace discontinued RESULTS support services with stand-alone contracts to be managed by either Headquarters or Aeronautical Center contracting officers. This is not an efficient use of resources because each replacement contract will still have to be individually negotiated. Instead, FAA should consider using other existing multiple-award programs, such as the GSA's GWACs to acquire replacement services. These procurement programs already have built-in controls, such as centrally defined labor categories and qualifications and pre-competed labor rates, which not only streamline the contract award process but also help ensure reasonable prices.

## **RECOMMENDATIONS**

We recommend that the FAA Administrator direct the Acquisition Executive to:

1. (a) Ensure that existing multiple-award procurement programs established by either FAA or other Federal agencies are used to acquire support services discontinued under the RESULTS program; (b) ensure that the Acquisition Executive's written approval is obtained for stand-alone contract awards to acquire such replacement services; and (c) report to the Administrator on the status of replacement contract awards in 6 months.

2. Provide sufficient justification to the Joint Resources Committee—FAA’s Investment Review Board—for approval before establishing any new FAA-specific, multiple-award procurement programs.
3. Develop guidance describing how the information concerning former FAA employees working for contractors should be used when evaluating contract proposals.
4. Develop oversight mechanisms to ensure that AMS requirements are consistently implemented by all FAA procurement offices, and that adequate progress is made in implementing the instructions in the Administrator’s August 11, 2005 memorandum.
5. Conduct periodic reviews of contracting activities at all FAA procurement offices.

We recommend that the FAA Administrator direct the Chief Financial Officer to:

6. Revise the procedures for reviewing and approving contracts valued at \$10 million and above to ensure that the quality of financial work performed by procurement and contracting staff is assessed, price analysis is properly conducted, and justification for not obtaining a pre-award audit is adequately documented.

## **AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

A draft of this report was issued to the FAA Deputy Administrator, the Assistant Administrator for Financial Services/CFO, and the Vice President of Acquisition & Business Services for comments on August 7, 2006. We considered their comments in preparing the final report. FAA’s Assistant Administrator for Financial Services/CFO responded on September 15, 2006, and generally concurred with our recommendations. The response is summarized below.

**Recommendation 1:** FAA partially concurred. FAA will use existing multiple-award programs to acquire support services discontinued under RESULTS and obtain the Acquisition Executive’s written approval for any stand-alone contract awards. FAA agreed to provide a procurement strategy for any remaining replacement contracts to its Acquisition Executive by September 30, 2006, for review and approval. Also, any replacement contract, or interim contract until a replacement can be awarded, for support services on a single-source basis and with an estimated value of \$1 million or above must be reviewed and approved by the Deputy Administrator; proposed procurements for information technology valued over \$250,000 must be reviewed and approved by FAA’s Chief

Information Officer, and proposed procurements with an estimated value of \$10 million or above must be reviewed and approved by the CFO. According to FAA, some replacement contracts have been awarded and with positive results. For example, the NEXGEN support services contract was recompleted in FY 2006 and resulted in approximately 45 percent savings (\$20 million) over a 5-year period.

A status report will be provided to the Administrator every 6 months starting February 5, 2007, until all replacement contracts are awarded.

**OIG Response:** FAA's planned actions meet the intent of our recommendation.

**Recommendation 2:** FAA partially concurred. FAA agreed that for mission needs of sufficient size, complexity, or broad applicability where part of the solution is to establish a new FAA-specific, multiple-award procurement program, the Joint Resources Committee will review and determine whether to approve that solution. The estimated value of RESULTS and its use across FAA's lines of business, for example, would be the type of mission need requiring the Committee's approval. However, for mission needs of smaller size or complexity or for qualified vendors lists intended to be used across the Agency the FAA's Acquisition Executive will review and determine whether a new FAA-specific, multiple-award procurement program should be used. FAA will also require sufficient justification be provided to FAA's Acquisition Executive for his approval prior to establishing any new FAA-specific, multiple-award procurement programs. FAA will amend its AMS guidance by January 31, 2007, to include these changes.

**OIG Response:** FAA's planned actions meet the intent of our recommendation.

**Recommendation 3:** FAA concurred. FAA acquisition personnel have been trained in how to use information concerning former FAA employees working for contractors when evaluating contract proposals. FAA will formally incorporate that guidance into FAA's AMS by January 31, 2007.

**OIG Response:** FAA's planned action meets the intent of our recommendation.

**Recommendation 4:** FAA concurred. Currently, procurement oversight mechanisms are in place for FAA's regions and centers, as well as its Headquarters office, but there is some variation in the mechanisms used. For example, the Assistant Administrator for Regions and Center Operations instituted a formal Procurement Evaluation Program to conduct triennial reviews of the regions and Aeronautical Center post-award contracting beginning in May 2006. This is a thorough review of the entire contract file to ensure compliance with the policies and guidelines in the AMS. FAA will develop a nationwide, uniform

mechanism for such oversight under FAA's Acquisition Executive and incorporate this procedure into the AMS by January 31, 2007.

**OIG Response:** FAA's response describes specific oversight mechanisms that were put into place and planned actions in detail. Although this response does not specifically address ensuring the implementation of all AMS requirements and all of the Administrator's August 11, 2005 memorandum instructions, the proposed oversight procedures meet the intent of our recommendation.

**Recommendation 5:** FAA concurred. As with the response to Recommendation 4, FAA has programs for periodic reviews of contracting activities at all FAA procurement offices, but there is some variation in how, by whom, and how often these reviews are conducted. FAA will develop a uniform program for periodic reviews at all FAA procurement offices and incorporate this program into FAA's AMS by December 31, 2006. FAA's Acquisition Executive will have the oversight responsibility to ensure that these reviews are properly conducted and to direct any corrective actions that might be needed.

**OIG Response:** FAA's planned action meets the intent of our recommendation.

**Recommendation 6:** FAA partially concurred. FAA's CFO has revised his procedures for reviewing and approving proposed procurements valued at \$10 million and above to ensure that the proposed investment of FAA's resources is appropriate and that the acquisition program has adequate financial controls. FAA also concurred that the quality of the financial work performed by contracting staff should be assessed, including assuring that price analysis is properly conducted and justification for not obtaining a pre-award audit is adequately documented. However, FAA stated that oversight of the contracting staff should be included as part of the Acquisition Executive's oversight and periodic reviews, described above.

**OIG Response:** FAA's planned actions meet the intent of our recommendation.

## **ACTIONS REQUIRED**

We appreciate the courtesies and cooperation of FAA Headquarters and Mike Monroney Aeronautical Center representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-1496 or Terry Letko, Program Director, at (202) 366-9917.

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cc: Assistant Secretary for Budget and Programs/CFO, Department of  
Transportation  
Senior Procurement Executive, Department of Transportation  
Assistant Administrator for Financial Services/CFO, FAA  
Assistant Administrator for Region/Center Operations, FAA  
Vice President of Acquisition & Business Services, FAA  
Director, Mike Monroney Aeronautical Center, FAA  
Martin Gertel, M-1  
Anthony Williams, ABU-100

## EXHIBIT A. SCOPE AND METHODOLOGY

In addressing our objectives, we analyzed contracts, invoices, and accounting records to determine percentages of contracts awarded and reviewed provisions of RESULTS to determine the process for awarding contracts and negotiating rates for products and services. We also reviewed AMS procurement policies and guidance regarding contract requirements and the roles and responsibilities of contracting officers, and reviewed the Memorandum of Understanding between the FAA Logistics Center and Office of Acquisition Services.

Table 2 shows the 11 contracts awarded under RESULTS that we analyzed in detail, with their values and amounts awarded as of February 2006.

**Table 2. The 11 RESULTS Contracts Reviewed in Detail**

Procurement	Potential Value (\$ in millions)	Amount Obligated (\$ in millions)
MILOPS	\$ 7	\$15
NEXGEN	42	4
National Airspace System Defense Plan	5	2
ATS LAN Support	29	11
NIRMA IT Support	25	9
ASI IT Support Service	29	9
Comm., WX, Flight/IRM Service	6	2
System of Airports Reports	5	3
SMS Implementation	5	2
PDARS Support No. 1	2	2
PDARS Support No. 2	87	6
<b>Total</b>	<b>\$242</b>	<b>\$65</b>

Source: FAA

MILOPS: Military Operations Program

NEXGEN: Next Generation Aviation Transportation System

ATS LAN: Air Traffic Services Local Area Network

NIRMA IT: National Information Resource Management Augmentation Information Technology

ASI IT: Office of Security and Investigations Information Technology

Comm., WX, Flight/IRM Service: Flight Services and Weather Systems Engineering Support

SMS: Safety Management Systems Implementation

PDARS: Performance Data Analysis and Reporting System

We reported the PDARS Support procurements as being associated with one initial contract in our draft report but clarified that a second contract was awarded after our July 2005 field visit to the Aeronautical Center. We decided to report each contract separately in the final report to clearly reflect that the audit included

a detailed review of both PDARS Support contracts. We amended the final report throughout to reflect the 11 contracts reviewed.

We did not rely on automated databases as part of our audit. FAA provided a listing of contracts, and we used multiple criteria to select 11 contracts for review. We validated the amount obligated for those 11 contracts.

- We selected three contracts from each of the two vendors with the largest number of contract awards to review for preferences when awarding these contracts, if any. One of these six contracts was a troubled contract that the Senate Finance Committee requested we review.
- We selected most contracts with high award values because these contracts generally have higher risk and commensurately more workload for the program and contracting staff.
- We included a number of sole-source awards to gain an understanding of the high occurrence of sole-source awards under the program.
- We ensured that each contract selected was funded by a different program office. This helped us to ascertain that any problems identified would not be isolated to particular programs. An exception being the PDARS Support procurement, for which two awards were made to support the effort. FAA initially identified that all PDARS support would occur under one contract.
- We selected contractors that were qualified on more than one multiple-award program. This allowed us to compare practices for awarding contracts with other multiple-award procurement programs.

We conducted interviews with contracting officers in Oklahoma City and their technical representatives in Washington, DC, to determine whether they had adequate training, experience, and warrant authority. We also interviewed FAA's Federal Acquisition Executive in Washington, DC, and the manager of the Office of Acquisition Services, FAA's RESULTS Program Manager, and the Director of the Office of Acquisition Services, all at FAA's Mike Monroney Aeronautical Center in Oklahoma City.

We reviewed contract files at the Aeronautical Center and applicable documentation to determine whether contracts were properly awarded; requirements, deliverables, and acceptance criteria were well defined; and whether sole-source justifications and price analysis were adequately performed.

## **Exhibit A. Scope and Methodology**

Throughout the review, we worked closely with investigators reviewing allegations furnished by the Senate Finance Committee on one contract, and we extended our audit procedures to test whether illegal acts might have occurred. We performed this audit between May 2005 and September 2006, in accordance with Generally Accepted Government Auditing Standards prescribed by the Comptroller General of the United States and performed tests we considered necessary to detect fraud.

## **EXHIBIT B. EXAMPLE OF A BITS II STANDARDIZED LABOR CATEGORY DEFINITION**

This definition comes from Broad Information and Technology Services II (BITS II) Labor Categories

### 01 Program Manager

**Functions:** Acts as the overall lead, manager and administrator for the contract effort. Serves as the primary interface and point of contact with government program authorities and representatives on technical and program/project issues. Supervises program/project operations by developing procedures, planning and directing execution of the technical, programming, maintenance and administrative support effort and monitoring and reporting progress. Manages acquisition and employment of program/project resources. Manages and controls financial and administrative aspects of the program/project with respect to contract requirements. As a result of the above functions, a Secret clearance is required for the position.

**Qualifications:** A Master's Degree in Computer Science, Mathematics, Engineering, Statistics or Business Administration from an accredited college or university and eight (8) years of management and supervisory experience including performance in each of the foregoing functions with respect to technical programs/projects or a Bachelor's Degree in Computer Science, Mathematics, Statistics, Engineering, Operations Research or Business Management from an accredited college or university and twelve (12) years of management and supervisory experience including performance in each of the foregoing functions with respect to technical programs/projects.

## **EXHIBIT C. EXAMPLE OF A RESULTS LABOR CATEGORY DEFINITION**

This example of a definition of a labor category comes from the RESULTS contract: Contractor's Proposal for Screening Information Request # DTFAAC-04-R-00114

Program Manager. Responsible for management, business, and technical aspects of project. Manages and supervises project personnel. Reviews and approves all deliverables prior to submission. Maintains close liaison with FAA personnel. Monitors and reports on contract and task progress relative to technical, schedule, and financial matters. Bachelor's degree and 10 years related experience required for position.

## **EXHIBIT D. EXAMPLE OF INADEQUATELY DEFINED LABOR CATEGORIES IN RESULTS CONTRACTS**

This list of inadequately defined labor categories comes from the RESULTS contract: Contractor's Technical Proposal # DTFAAC03F03343

- Senior Consultant
- Database Manager
- Applications Programmer
- Information Engineer
- Senior Programmer
- Programmer
- Computer Security Specialist

**EXHIBIT E. FAA ADMINISTRATOR'S MEMORANDUM OF  
AUGUST 11, 2005, REGARDING PROCUREMENT REFORM**



**Federal Aviation  
Administration**

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**Memorandum**<sup>13</sup>

Date: August 11, 2005  
 To: Management Team  
 From: Marion C. Blakey, Administrator  
 Subject: Financial oversight of FAA service contracts

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Every year the FAA uses outside companies to provide more than \$1.3 billion in services -- on top of the monies spent to acquire equipment, off-the-shelf software, hardware and other products that we need to run the National Airspace System. These services contracts range from software development agreements to consulting agreements on areas where the FAA lacks internal expertise to maintenance contracts on non-FAA equipment. Many of the actual procurements for services are done under one of three "umbrella" agreements (administered by the Technical Center, the Aeronautical Center, and headquarters) under which companies are either pre-qualified or have competed to be eligible for selection.

These umbrella agreements, when administered correctly, can be very helpful. They are designed to allow us to get the job done expeditiously for the taxpayers and to cut down on unnecessary bureaucratic review. But it is also important to emphasize that *we must always get the job done right* – which means adhering to the highest possible ethical standards and being responsible stewards of the taxpayers' money. Indeed, Secretary Mineta has made it repeatedly clear that observing these standards of procurement integrity is a cornerstone of DOT's mission, and as recently as June the Secretary issued an order that will help each modal administration to ensure that its contractors strictly comply with their obligations to us.

As you know, the agency faces some very difficult financial choices ahead. I've previously made the point that we now have more work to do – from moving lots of smaller jets through the air traffic system to certifying new air carriers, aircraft and

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<sup>13</sup> The original memorandum was unsigned.



technologies – with fewer resources and a declining Aviation Trust Fund. In this environment, we simply must control our expenses, one of the largest of which is our services contracts, and we must also ensure that every taxpayer dollar is spent wisely, effectively, and properly. That means we have to look on a more fundamental level at the financial and contractual controls we have in place to avoid unnecessary, improper, or avoidable expenditures on outside services.

For the last several months, prompted by some specific examples of potential waste under the umbrella agreements brought to my attention by the Inspector General, a team of individuals under the direction of Dennis DeGaetano, our Acquisition Executive, has been scrutinizing our approach to support services agreements. They are making substantial progress. And although their work is ongoing, I've made some decisions on initial steps we must take *now* to better control our spending in this arena and to guarantee that safeguards against waste, fraud and abuse are observed:

- First, we will be amending our procurement policies to require competitive bidding on *all* support service contracts with a total value of \$1 million or more. Sole source contracts for such requirements will not be permitted -- unless the Deputy Administrator has approved making an award on this basis. I am also asking the Deputy Administrator to review any proposed support services contract award where fewer than three bids were received in the competition. Statements of work in proposed sole source solicitations will also be held to a higher standard, as our policy will require that we be very specific about the kind of work we are looking to buy. These new rules will apply not only to the contracts themselves but also to task, delivery and work orders under any of the umbrella agreements, as well as to modifications expanding the scope of a support services contract.
- Second, the agency's Chief Financial Officer will be exercising greater oversight and fiscal control over all agency procurements, including support services agreements as well as other types of agreements. Before the agency issues any procurement request for products or services costing \$10 million or more, we will require written authorization from the CFO. We will also establish within the CFO's newly created Financial Controls division an independent cadre of personnel with significant acquisition and financial controls experience. This team, assisted by procurement attorneys, will advise the CFO in his reviews of proposed acquisitions of goods and services.
- Third, I am directing our Acquisition Executive, in conjunction with the Chief Counsel's office and our Human Resources office, to institute mandatory in-depth training on procurement integrity for all FAA *program officials*, as well as all contracting officers, to be completed within six months. This training will supplement our required ethics courses. We'll also require periodic recurrent training, so that we stay up to speed on this highly important topic.

Finally, I am distributing to the entire agency a memo provided by Dennis earlier this year on support services contracts. I want to emphasize a few points from that memo, highlight some of our existing requirements, and alert you to a few new ones:

- The entire service team (including contracting officers, technical representatives, attorneys, program officials) should ensure that there is a good business case for the services being acquired . . . that they don't overlap or duplicate services being acquired elsewhere in the agency . . . that the FAA has the expertise to monitor the contractor's performance . . . and that we have a solid, well documented rationale for selecting the contractor.
- Statements of Work, Independent Government Cost Estimates, and Market Surveys must always be prepared by the *Government*, not the contractors who will perform the work.
- Except when approved by the head of the line of business and Acquisition Executive, the agency may not enter into personal services contracts. And under no circumstances may contractors be used to perform inherently governmental duties, like budgeting for FAA programs.
- When acquiring services from a multiple award schedule or acquisition program, the procedures for competing task orders, or comparing rates and capabilities from multiple sources must be fairly and strictly followed.
- Contractors must supply detailed invoices that support with specificity and orderliness, the services rendered and amounts billed. Going forward, Contracting Officers must review and approve all invoices submitted to FAA under FAA contracts other than as provided for under the Government purchase card program.
- Labor categories must be accurate and must honestly reflect the work being done. For example, a time and attendance clerk may not be billed to the government as an "information engineer," because doing so inflates the costs to the taxpayers.
- Contract ceilings must be reasonably related to the amount of work anticipated to be ordered and, in no instance, should exceed 10% of funding required to support the work reasonably anticipated.

In the next few weeks, more detailed memoranda outlining the policies will be coming. Some of these will require changes in the way we do business, but I am convinced these moves are necessary. I'll be looking for your support as we work through these important changes.

Marion C. Blakey

**EXHIBIT F. MAJOR CONTRIBUTORS TO THIS REPORT**

Terrence J. Letko	Program Director
Leonard F. Meade	Project Manager
Joanne Adam	Project Manager
Heidi E. Leinneweber	Senior Management and Program Analyst
Adam Schentzel	Senior Auditor
Michael P. Fruitman	Communications Adviser
Lawrence Heller	Senior Auditor
Timothy Roberts	Senior Auditor
Stacie A. Seaborne	Management and Program Analyst
Keyanna Frazier	Auditor
Narja Hylton	Auditor
Kathleen Huycke	Writer/Editor

## APPENDIX. MANAGEMENT COMMENTS



# Federal Aviation Administration

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## Memorandum

Date: September 15, 2006

To: Assistant Inspector General for Financial and Information Technology Audits

From: FAA Assistant Administrator for Financial Services/Chief Financial Officer  


Prepared by: Anthony Williams, x79000

Subject: OIG Draft Report: Audit of the Federal Aviation Administration's RESULTS National Contracting Service

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In the subject draft report dated August 7, 2006, the Federal Aviation Administration (FAA) was requested to provide written comments on that report.

As an initial observation, in March 2006 FAA dissolved both of the Results Qualified Vendors Lists, and FAA's liabilities under the contracts awarded under Results is limited. In addition, FAA made a number of changes over the life of the Results program that we believe would have further reduced the possibility of overpayments.

Some of those changes made, prior to or during the OIG audit included:

- Additional staffing was assigned to the program to -ensure the effective management of assigned workload and compliance with AMS and other management policies.
- A lead contracting officer was established to monitor actions of lower-level contracting officers.
- Required coordination with the Mike Monroney Aeronautical Center Counsel was mandated as required by the AMS when it was discovered such reviews were not accomplished by the original contracting officer on earlier contracts.
- Quality of contracting actions improved when financial and legal controls were put in place. Contract services were limited to the scope defined in specific statements of work, labor categories and qualifications were defined and specified in contracts, and price verifications were performed and analyses documented in award decision documents.
- Basic ordering agreement (BOA) orders were discontinued and stand-alone solicitations/contracts used.
- Competitive procurements were strongly encouraged, and the trend toward competition for Results contracts improved steadily from FY02 (37% of contracts) to FY06 (100% of contracts through February 2006).
- Innovative electronic tools and templates were developed to assist requisitioners in developing procurement documentation, to ensure severability and traceability of funding

transactions in real-time account summaries, and to accomplish electronic submission and review of vendor invoices which ensured Prompt Payment Act requirements were met.

FAA concurs with most of your recommendations concerning using the most appropriate and efficient means to replace the Results contracts, requiring approval before any new FAA-specific multiple-award procurement programs are initiated, and developing additional guidance, oversight mechanisms and periodic reviews, but disagrees with some of the specific elements of these recommendations. Specifically:

OIG Recommendation 1: Ensure that existing multiple-award programs established by either FAA or other Federal agencies are used to acquire support services discontinued under the Results program and that the Acquisition Executive's written approval is obtained for any standalone contract awards. Report to the Administrator on the status of replacement contracts in six months.

FAA Response: FAA partially concurs with this recommendation. Each reprourement of a Results contract should be performed with proper acquisition planning in accordance with FAA's Acquisition Management System. The procurement strategy and contract type should be established based on the requirement to be reprocured. To predetermine the contract vehicle to be used without appropriate planning could lead to poorly conceived acquisitions. As part of this planning, other multiple-award programs, such as GSA, BITS, or MASS will be considered, and used when they represent FAA's best interest for each individual contract requirement. For example, FAA has often found that it can improve upon the GSA schedule prices when it uses the schedule contracts as a starting point for a FAA competition.

Some replacement contracts have been awarded and with positive results. For example, the NEXGEN support services (renamed as NGATS) contract was recompeted in FY 2006 and resulted in approximately 45% savings over a 5 year period, shown as below:

	<u>Potential Value</u>
NEXGEN* - Original Results Competition	\$42M
NGATS* - Recompetition	\$22M

\*Next Generation Air Transportation System (NGATS)

We will provide the proposed procurement strategy for any remaining replacement contracts to FAA's Acquisition Executive by September 30, for his review and approval. Also, any replacement contract, or interim contract until a replacement can be awarded, for support services on a single source basis and with an estimated value of \$1 million or more must be reviewed and approved by the Deputy Administrator; proposed procurements for information technology valued over \$250,000 must be reviewed and approved by FAA's Chief Information Officer, and proposed procurements with an estimated value of \$10 million or more must be reviewed and approved by the Chief Financial Officer.

## **Appendix. Management Comments**

A status report will be provided to the Administrator starting February 5, 2007, until all replacement contracts are awarded.

Recommendation 2: Provide sufficient justification to the Joint Resources Committee - FAA's Investment Review Board - for approval before establishing any new FAA-specific, multiple award procurement programs.

FAA Response: FAA partially concurs with this recommendation. FAA concurs that for mission needs of sufficient size, complexity, or broad applicability across FAA's lines of business to require JRC approval, and part of the solution is to establish a new FAA-specific, multiple award procurement program, the JRC will review and determine whether to approve that solution. The estimated value of Results and its use across FAA's lines of business, for example, would be the type of mission need requiring JRC approval. For mission needs of smaller size or complexity, or for qualified vendors lists intended to be used across the agency, the FAA's Acquisition Executive will review and determine whether a new FAA-specific, multiple award procurement program should be used. FAA will also require sufficient justification be provided to FAA's Acquisition Executive for his approval prior to establishing any new FAA-specific, multiple award procurement programs. The Chief of the Contracting Office will review and approve any proposed small, limited in scope procurement programs involving multiple blanket purchase agreements. FAA will amend its Acquisition Management System guidance by January 31, 2007 to include these changes.

Recommendation 3: Develop guidance describing how information concerning former FAA employees working for contractors should be used when evaluating contract proposals.

FAA response: Concur. FAA acquisition personnel have already been trained in how to use information concerning former FAA employees, but we will formally incorporate that guidance into FAA's Acquisition Management System by January 31, 2007.

Recommendation 4: Develop oversight mechanisms to ensure that AMS requirements are consistently implemented by all FAA procurement offices, and that adequate progress is made in implementing the instructions in the Administrator's August 11, 2005, memorandum.

FAA Response: FAA concurs. Currently such oversight mechanisms are in place for FAA's regions and centers, as well as its headquarters office, but there is some variation between the mechanisms used.

The Assistant Administrator for Regions and Center Operations (ARC-I) instituted a formal Procurement Evaluation Program (PEP) to conduct triennial reviews of the regions and Aeronautical Center post-award contracting beginning in May 2006. This is a thorough review of the entire contract file to ensure compliance with the policies and guidelines in the Acquisition Management System (AMS). The Aeronautical Center has also established a full-time procurement analyst position to conduct internal quality reviews of pre-solicitation, pre-award, and post-award contract documents for compliance with AMS policies and guidelines, in addition to the legal and financial reviews which have always been in place.

## **Appendix. Management Comments**

In FY05, the Office of Regions and Center Operations (ARC) developed and implemented a contract universal file checklist which assists in AMS compliance during the pre-award, award and post award phases of contract administration. Also in FY05, all regional and center contracting officers completed a requisite 80 hours of refresher training.

In FY06, ARC developed and implemented enhanced guidance on the development of Independent Government Cost Estimates as an ARC business plan target and best practice. The development and implementation of a contracting officer's representative (COR) guidebook was completed as another ARC business plan initiative. AMS has been updated to include both of these best practices.

On April 17, 2006, ARC-1 issued policies and procedures (to regional and center contracting offices) outlining required contract administration actions resolving potential deficiencies in our contract management practices. The ARC Procurement Evaluation Program will test compliance of these policies and procedures.

In addition, the Office of Acquisition Policy and Contracting developed a support services review checklist for Contracting Officer's use. Recently, the Office of Acquisition Policy and Contracting established a contract oversight function for Headquarters, to perform tasks such as tracking DCAA audits and disposition of audit findings, reviewing single source support services justifications (from throughout the agency), managing FAA's Quality Review Board, and conducting reviews of contractor personnel qualifications.

FAA will develop a nationwide, uniform mechanism for such oversight under FAA's Acquisition Executive and incorporate this procedure into FAA's Acquisition Management System by January 31, 2007.

Recommendation 5: Conduct periodic reviews of contracting activities at all FAA procurement offices.

FAA Response: Concur. As with the response to the above recommendation, FAA currently has programs for periodic reviews of contracting activities at all FAA procurement offices, but there is some variation in how these reviews are conducted, by whom they are conducted and how often they are conducted. FAA will develop a uniform program for periodic reviews at all FAA procurement offices and incorporate this program into FAA's Acquisition Management System by December 31, 2006. FAA's Acquisition Executive will have the oversight responsibility to ensure that these reviews are properly conducted, and to direct any corrective actions that might be needed.

Recommendation 6: Direct FAA's Chief Financial Officer to revise the procedures for reviewing and approving contracts valued at \$10 million and above to ensure that the quality of financial work performed by procurement and contracting staff is assessed, price analysis is properly conducted, and justification for not obtaining a pre-award audit is adequately documented.

FAA Response: FAA partially concurs. FAA's Chief Financial Officer has revised his procedures for reviewing and approving proposed procurements valued at \$10 million and above

to ensure that the proposed investment of FAA's resources is appropriate and that the acquisition program has adequate financial controls. In addition the Chief Financial Officer will conduct periodic reviews to determine whether the financial controls used were in fact adequate. FAA also concurs that the quality of the financial work performed by contracting staff should be assessed, including assuring that price analysis is properly conducted and justification for not obtaining a pre-award audit is adequately documented. FAA disagrees, however, that this work should be performed by the Chief Financial Officer. FAA's Acquisition Executive will include as part of the oversight and periodic reviews described above, and supported by the Chief Financial Officer's staff, reviews of the quality of the financial work performed by contracting staff.

At the time of your audit, the CFO had only reviewed three business cases. Since that time, the CFO has received 48 requests for approval and revised the policy resulting in much more in depth assessments focusing on the quality of the business case, statement of work, and independent Government cost estimates. Specifically:

The business case is evaluated to determine:

- If the contract type is suited for the proposed work effort,
- What benefits the FAA could obtain by the procurement of the proposed service or asset,
- What alternatives were considered?
- Whether contracts exist that could provide the service, and
- What type of competition is planned?

The statement of work is being evaluated for:

- Well-defined deliverables
- Reasonable milestone dates,
- Acceptance criteria for deliverables. and
- What cost and performance monitoring procedures are planned?

The independent government cost estimates are examined to verify:

- That they are dated and prepared by government employees,
- That a narrative summarizes the assumptions and methodology used in preparing the IGCE,
- That the estimates are based on reasonable assumptions and supportable evidence, and
- That rate comparisons are performed when appropriate.