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Acronyms

ADA	Antideficiency Act
ARC	Administrative Resources Center
BMS	Business Management System
BPA	Blanket Purchase Agreement
COTR	Contracting Officer Technical Representative
DFARS	Defense Federal Acquisition Regulation Supplement
FAR	Federal Acquisition Regulation
FMR	Financial Management Regulation
GAO	Government Accountability Office
IGCE	Independent Government Cost Estimate
IG	Inspector General
JPra	Joint Personnel Recovery Agency
MILCON	Military Construction
MIPR	Military Interdepartmental Purchase Request
NAVFAC	Naval Facilities Engineering Command
OIG	Office of Inspector General
O&M	Operation and Maintenance
QASP	Quality Assurance Surveillance Plan
RDT&E	Research, Development, Test, and Evaluation
USD(C)/CFO	Under Secretary of Defense (Comptroller)/ Chief Financial Office



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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December 8, 2006

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,
TECHNOLOGY, AND LOGISTICS
UNDER SECRETARY OF DEFENSE
(COMPTROLLER)/CHIEF FINANCIAL OFFICER

SUBJECT: Report on FY 2005 DoD Purchases Made Through the Department of the
Treasury (Report No. D2007-032)

We are providing this report for your information and use. The Under Secretary of Defense (Comptroller)/Chief Financial Officer provided comments to each recommendation. Although not requested, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Managing Director of the Treasury Franchise Fund provided comments. We considered management comments on the draft of this report when preparing the final report. The complete text of the comments is in the Management Comments section of the report.

The Under Secretary of Defense (Comptroller)/Chief Financial Officer comments conformed to the requirements of DoD Directive 7650.3; therefore, additional comments are not required.

We appreciate the courtesies extended to the staff. Questions should be directed to Mr. Richard B. Jolliffe at (703) 604-9201 (DSN 664-9201) or Mr. Terry L. McKinney at (703) 604-9288 (DSN 664-9288). See Appendix E for the report distribution. The audit team members are listed inside the back cover.

A handwritten signature in black ink that reads "Mary L. Ugone".

Mary L. Ugone
Deputy Inspector General
for Auditing

cc: Inspector General, Department of the Treasury

Department of Defense Office of Inspector General

Report No. D2007-032

December 8, 2006

(Project No. D2005-D000CF-0275.000)

FY 2005 DoD Purchases Made Through the Department of the Treasury

Executive Summary

Who Should Read This Report and Why? DoD contracting officials, program managers, and financial managers should read this report because it discusses numerous problems concerning planning, funding, and reviewing purchases made through the Department of the Treasury entity called FedSource. This report also discusses 21 potential Antideficiency Act violations.

Background. This report is one of a series of reports on DoD purchases made through non-DoD activities. Section 811 of Public Law 109-163, "Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2006," requires for each covered non-Defense agency, the Inspector General of the Department of Defense and the Inspector General of such non-Defense agency to jointly review "procurement policies, procedures, and internal controls of such non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such non-defense agency." This report covers DoD purchases made through the Department of the Treasury. The Department of the Treasury Office of the Inspector General will issue a separate report to its department.

To perform the audit we jointly examined the Department of the Treasury contracting entity, FedSource, which processed 19,709 contract actions consisting of task orders and modifications in FY 2005 amounting to approximately \$405.1 million. FedSource received 9,199 Military Interdepartmental Purchase Requests totaling \$405.8 million in FY 2005 to fund DoD requirements. The primary function of FedSource is to award and administer task orders on behalf of customer agencies for commonly required services. FedSource provides integrated contract and financial administration services to over 2,500 Federal customers.

Results. DoD and Department of the Treasury FedSource management and contracting officials did not comply with appropriations law, the Federal Acquisition Regulation, and Defense procurement regulations when making purchases through FedSource. We reviewed 61 task orders valued at approximately \$37.8 million at 3 FedSource Centers. The requirements and funding for these orders were initiated by 10 DoD activities. We found the following.

- Fifty-one (of 61) task orders valued at \$34.6 million had either an inadequate interagency agreement or no agreement.
- Sixty-one (of 61) task orders valued at \$37.8 million were not supported by documentation showing that market research was performed.

- Fifty-two (of 61) task orders valued at \$36.3 million contained either inadequate or no documentation to support price reasonableness.
- Forty-one (of 61) task orders valued at \$32.6 million were awarded with inadequate or no competition.
- Fifty-eight (of 61) task orders valued at \$37.4 million had inadequate contract surveillance plans.
- Twenty-one (of 61) task orders valued at \$24.8 million were improperly funded resulting in potential Antideficiency Act violations.

As a result, DoD activities did not obtain the most cost-effective goods and services to meet valid operational requirements in compliance with laws and regulations. We also found \$19.6 million in DoD funds at FedSource that are expired or otherwise unavailable to support DoD operations. The DoD internal controls were not adequate. We identified a material internal control weakness in the administration of DoD purchases through a non-Defense agency.

Recommendations addressing interagency agreements, market research, price reasonableness, and surveillance to the Under Secretary of Defense for Acquisition, Technology, and Logistics are included in our report D-2007-007 dated October 30, 2006, "FY 2005 DoD Purchases Made Through the General Services Administration." We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer oversee efforts by DoD activities to deobligate \$19.6 million in expired funds that are currently on FedSource's accounting records. The Under Secretary of Defense (Comptroller)/Chief Financial Officer should also work with the Department of the Treasury to develop a reporting mechanism to identify and monitor Military Interdepartmental Purchase Request balances at FedSource. Specifically, recurring reports should be obtained from the Department of the Treasury that identify Military Interdepartmental Purchase Requests, uncommitted fund balances, amounts obligated, amounts expended, expired funds, and service fees charged. Recommendations to the Under Secretary of Defense (Comptroller)/ Chief Financial Officer to initiate preliminary reviews regarding potential Antideficiency Act violations listed in Appendix D are in the draft audit report, "Potential Antideficiency Act Violations on DoD Purchases Made Through Non-DoD Agencies." Recommendations to the Department of the Treasury are included in a report being prepared by the Department of the Treasury Inspector General. (See the Finding section of the report for the recommendations contained in this report).

Management Comments and Audit Response. The Acting Deputy Chief Financial Officer concurred with our recommendations stating the office is working with the Department of Treasury to identify and facilitate the return of expired or excess funding. In addition, the Acting Deputy stated his office will be working with the Department of the Treasury to provide recurring reports to enhance the monitoring and timely deobligations of expired or excess funding. We also received comments from the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Managing Director of the Treasury Franchise Fund that generally concurred with our recommendations. A discussion of management comments is in the Finding section of the report and the complete text is in the Management Comments section.

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Background

This audit was performed in accordance with Public Law 109-163, “National Defense Authorization Act for Fiscal Year 2006,” January 6, 2006, which states in Section 811:

(a) INSPECTOR GENERAL REVIEWS AND DETERMINATIONS. — (1) IN GENERAL.—For each covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of such non-defense agency shall, not later than March 15, 2006, jointly—

(A) review—

(i) the procurement policies, procedures, and internal controls of such non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such non-defense agency; and

(ii) the administration of those policies, procedures, and internal controls; and

(B) determine in writing whether—

(i) such non-defense agency is compliant with defense procurement requirements;

(ii) such non-defense agency is not compliant with defense procurement requirements, but has a program or initiative to significantly improve compliance with defense procurement requirements; or

(iii) neither of the conclusions stated in clauses (i) and (ii) is correct in the case of such non-defense agency.

Section 811 states that the Department of the Treasury is one of the covered non-Defense agencies to be reviewed. Separate audit reports will address DoD purchases made through the other covered non-Defense agencies—the Department of the Interior, General Services Administration, and the National Aeronautics and Space Administration.

To comply with the FY 2006 Defense Authorization Act, the DoD Office of Inspector General (OIG) and the Department of the Treasury Inspector General (IG) reviewed contract actions made by the Department of the Treasury on behalf of DoD. In FY 2005, FedSource processed 19,709 contract actions consisting of task order contracts and modifications valued at \$405.1 million. FedSource received 9,199 DoD Military Interdepartmental Purchase Requests (MIPR) valued at \$405.8 million in FY 2005. We selected 61 task order contracts valued at approximately \$37.8 million for review. We visited three FedSource Centers

and the Department of the Treasury, Bureau of the Public Debt, Administrative Resources Center.

Treasury Franchise Fund. The Government Management Reform Act of 1994 authorizes the establishment of the Treasury Franchise Fund Pilot Program. In 2004, Public Law 108-447, “Consolidated Appropriations Act, 2005,” section 219 and section 101(f) of the Department of the Treasury Appropriations Act permanently establish the Treasury Franchise Fund. The Department of the Treasury Appropriations Act provides specific statutory requirements for the Treasury Franchise Fund and the use of Non-Economy Act Orders. The Treasury Franchise Fund is an entrepreneurial Governmental enterprise established to provide common administrative support services on a competitive and fully cost-reimbursable basis to other components within Treasury and to outside agencies. The Treasury Franchise Fund offers a variety of services including accounting, travel, procurement, human resources, project support, digital copiers/document automation, professional development training and consulting, and customer satisfaction measurement. The Treasury Franchise Fund mission is to operate in a businesslike manner by creating and maintaining a business relationship and environment that promotes customer participation and satisfaction through delivery of quality performance, teamwork, and continuous improvement, both in service delivery and economic benefit.

The Treasury Franchise Fund is made up of four individual Franchise Business Activities including the Administrative Resource Center, FedSource, Treasury Agency Services, and the Federal Consulting Group. FedSource is the principle business activity that handles contracts for DoD. These business activities are required to recover their full costs of doing business and are allowed to retain up to four percent of their total annual income. To cover costs, the Franchise Business Activity charges fees for its services. Congress anticipated that the franchise funds would be able to provide common administrative services more efficiently than Federal agencies’ own personnel. The original operating principles for franchise funds included offering services on a fully competitive basis, using a comprehensive set of performance measures to assess the quality of franchise fund services, and establishing cost and performance benchmarks against their competitors (other Government organizations providing the same types of services). The Treasury Franchise Fund vision is to become the preeminent administrative service provider in the Federal Government by energizing a shared-services business model that can offer marketplace success in the Government administrative support arena.

Administrative Resources Center. The Administrative Resources Center (ARC) is an office within the United States Department of the Treasury, Bureau of the Public Debt located in Parkersburg, West Virginia. The ARC is one of the four activities making up the Treasury Franchise Fund. The ARC Procurement Division, a division within the ARC, provides acquisition support through awards and administration of high-dollar complex service and supply contracts. The ARC Procurement Division awarded the multiple-award contracts, single-award contracts, blanket purchase agreements (BPA), and small business contracts for FedSource. The ARC maintains these contracts and the FedSource Centers place task orders against these contract vehicles to fulfill their customer needs.

FedSource. As mentioned above, FedSource is one of the four Departments of the Treasury Franchise Fund businesses. FedSource consists of seven operations centers located in San Antonio, Baltimore, Chicago, Cincinnati, St. Louis, Seattle, and Los Angeles. The FedSource, Baltimore, St. Louis, and Los Angeles offices are acquisition centers with ability to issue, negotiate, and award task orders. The primary function of FedSource is to award and administer task orders on behalf of customer agencies for commonly required goods and services. FedSource provides integrated contract and financial administration services to over 2,500 Federal customers. FedSource's intent is to influence its buying power through its marketplace presence to obtain pricing that would otherwise be unavailable to agencies purchasing these services on their own. The stated goal of FedSource is to provide an intelligent, alternative source for the effective delivery of administrative support services. In addition, FedSource provides surge capability to meet the customer's mission needs. The overall FedSource mission is to influence commercial and industry best practices to offer innovation in Government-to-Government procurement and contract administration for Federal managers.

FedSource Initiatives. FedSource developed policies and procedures for refining its process to review requirements and to issue and administer contracts. A Government Accountability Office (GAO) report, "Interagency Contracting: Franchise Funds Provide Convenience, but Value to DoD is Not Demonstrated," July 2005, contributed to the contract changes undertaken by FedSource. GAO reported that FedSource did not ensure competition took place before awarding its contracts and did not document price analyses. In addition, task orders were being awarded by personnel who were not warranted contracting officers. FedSource transitioned to warranted contracting officers (Defense Acquisition Workforce Improvement Act [DAWIA] certified) to issue all task orders effective July 2005.

FedSource initiatives began prior to our review to address GAO issues. FedSource process changes resulted in standardization of acquisition functions. FedSource responded promptly by evaluating and subsequently terminating the FedSource Center in Beaufort, South Carolina, when it determined that the contracting procedures at Beaufort were deficient. Beaufort's workload was distributed to the other centers to finalize.

FedSource realigned its organization to avoid duplication of services and to reduce administrative support costs. For example, the FedSource Los Angeles Center has the primary responsibility for fulfilling customer construction requirements. FedSource developed policies to cover contract areas such as interagency acquisitions, independent Government cost estimates, and quality assurance surveillance plans (QASP). Although a positive step, the procedures need approval signatures and dates to establish a baseline for their implementation. FedSource standardized the customer request form, ordering procedures for multiple-award contracts, and statements of work for task orders to ensure contracting data support the procurement. FedSource's plan to consolidate multiple task order awards into projects will improve tracking of customer projects. Prior to October 2004, each FedSource Center maintained its own cost data records and had no way to access and share information timely between the offices. However, FedSource since implemented the Business Management

System (BMS) that standardized financial management and serves as a tool that increases the capability to manage customer funds and improve appropriation fund and expenditure reporting. As indicated, FedSource management implemented actions to strengthen the acquisition process and improve procedures to fulfill customer's requirements; additional contract process improvements should continue to fully address conditions identified during the review.

Objectives

Our overall audit objective was to review DoD procedures for purchases made through Department of the Treasury-assisted acquisitions. Specifically, we examined the policies, procedures, and internal controls to determine whether there was a legitimate need for DoD to use the Department of the Treasury, whether DoD clearly defined requirements, whether the Department of the Treasury and DoD properly used and tracked funds, and whether the Department of the Treasury complied with Defense procurement requirements. We also examined how the Department of the Treasury accepts and fulfills the DoD requirements. See Appendix A for a discussion of the scope and methodology. See Appendix B for prior coverage related to the objectives.

Review of Internal Controls

At the sites visited, we identified material internal control weaknesses as defined by DoD Instruction 5010.40, "Managers' Internal Control (MIC) Program Procedures," January 4, 2006. DoD organizations are required to ensure the acquisition strategy is in the best interest of the Government. The sites we visited encountered problems while implementing and executing policy. Furthermore, contracting, financial, and accounting officials did not comply with regulations and statutes. DoD organizations should incorporate the regulations and statutes associated with contracting and funding. Contracting, financial, and accounting officials should have the necessary training and knowledge to properly execute the orders. Implementing the recommendations in this report should improve contracting procedures for orders awarded using non-DoD contracts. We are making no recommendations related to funding problems because DoD IG audit report, "Potential Antideficiency Act Violations on DoD Purchases Made Through Non-DoD Agencies," due out in FY 2007, contains recommendations that should correct the material funding weaknesses identified in this report. A copy of these reports will be provided to the senior official responsible for internal controls in the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer (OUSD(C)/CFO).

DoD Use of FedSource Services

DoD and the Department of the Treasury FedSource management and contracting officials did not comply with appropriations law, the Federal Acquisition Regulation (FAR), and DoD procurement regulations when making purchases through FedSource. We reviewed 61 task orders valued at approximately \$37.8 million awarded by FedSource contracting officers on behalf of DoD activities. Of 61 task orders reviewed we determined the following.

- Fifty-one (of 61) valued at \$ 34.6 million had either no interagency agreement or an interagency agreement that lacked specific details;
- Sixty-one (of 61) valued at \$37.8 million contained either inadequate or no documentation of market research;
- Fifty-two (of 61) valued at \$36.3 million contained either inadequate or no documentation to support price reasonableness;
- Forty-one (of 61) valued at \$32.6 million had either inadequate or no competition;
- Fifty-eight (of 61) valued at \$37.4 million had inadequate contract surveillance plans; and
- Twenty-one (of 61) valued at \$24.8 million were improperly funded resulting in potential Antideficiency Act violations.

These conditions occurred because of a lack of planning and lack of oversight coordination between FedSource and DoD. Also, both DoD and FedSource personnel were unclear on the availability and use of funds transferred by DoD to FedSource using MIPRs. Mismanagement and lack of oversight of the funds transferred to FedSource over the last 4 years resulted in the expiration or unavailability of DoD funds. Near the end of our audit, Treasury accounting records showed \$19.6 million in expired DoD funds that should be returned to DoD. Further, DoD organizations making purchases through FedSource had no assurance that FedSource based purchases on best value practices. Although both DoD and FedSource were taking initiatives to improve the contracting process, additional improvements are needed.

Contracting Criteria

Acquisition Planning. FAR Subpart 7.102(b), “Policy,” states that agencies shall perform acquisition planning and conduct market research for all acquisitions in order to promote and provide for acquisition of commercial items or to meet agency needs, and to allow for full and open competition to the maximum extent possible, with regard to the nature of the supplies or services to be acquired. This

planning shall integrate the efforts of all personnel responsible for significant aspects of the acquisition. FAR Part 10, “Market Research,” prescribes the policies and procedures for conducting market research to arrive at the most suitable approach to acquiring, distributing, and supporting supplies and services. Agencies must use the results of market research to determine the sources capable of satisfying the agency’s requirements. FAR Subpart 7.105, “Contents of Written Acquisition Plans,” requires organizations to consider acquisition alternatives and prospective sources of supplies and services that will meet their needs. These actions should be conducted early in the procurement planning process.

Defense Federal Acquisition Regulation Supplement Criteria. Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 217.7802, “Policy,” implements guidance and policy to comply with the Acting Under Secretary for Acquisition, Technology, and Logistics and the Principal Deputy Under Secretary of Defense (Comptroller) in the October 29, 2004, memorandum, “Proper Use of Non-DoD Contracts,” (the DoD October 29, 2004, Memorandum) which introduces controls to ensure that non-DoD contracts are the best method to satisfy DoD requirements. The DFARS states that:

Departments and agencies shall establish and maintain procedures for reviewing and approving orders placed for supplies and services under non-DoD contracts, whether through direct acquisition or assisted acquisition, when the amount of the order exceeds the simplified acquisition threshold. These procedures shall include—

- (a) Evaluating whether using a non-DoD contract for the acquisition is in the best interest of DoD. ...
- (b) Determining that the tasks to be accomplished or supplies to be provided are within the scope of the contract to be used;
- (c) Reviewing funding to ensure that it is used in accordance with appropriation limitations;
- (d) Providing unique terms, conditions, and requirements to the assisting agency for incorporation into the order or contract as appropriate to comply with all applicable DoD-unique statutes, regulations, directives, and other requirements; and
- (e) Collecting and reporting data on the use of assisted acquisition for analysis.

Interagency Agreements. Section 1535, title 31, United States Code (31 U.S.C. 1535), prescribes the policy for an agency or major organizational unit within the agency to place orders within the agency or another organization for goods or services, if:

- amounts are available;
- the head of the ordering agency or unit decides the order is in the best interest of the United States Government;
- the official or unit to fill the order is able to provide or get by contract the ordered goods or services; and

-
- the agency official decides the goods or services cannot be contracted as conveniently or as cheaply by a commercial enterprise.

These orders are Economy Act orders and authorize agencies to enter into mutual agreements to obtain supplies or services by an interagency acquisition. Economy Act orders apply when other specific statutory authority does not exist. FedSource has its own independent statutory authority and orders placed under their authority are not required to reference the Economy Act to purchase from them.

DoD Policy on Interagency Agreements. DoD Instruction 4000.19, “Interservice and Intragovernmental Support,” August 9, 1995, implements policies, procedures, and responsibilities for intragovernmental support as a result of agreements among Federal Government activities. DoD organizations may enter into interagency agreements with non-DoD Federal activities:

- when funding is available to pay for the support,
- the agreement is in the best interest of the Government,
- the supplying activity is able to provide the support,
- the support cannot be provided as conveniently or economically by a commercial enterprise, and
- the agreement does not conflict with any other agency’s authority.

Determinations must be approved by the head of the major organizational unit ordering the support and must be attached to the agreement.

The DoD Deputy Chief Financial Officer issued a March 24, 2005, memorandum, “Proper Use of Interagency Agreements for Non-Department of Defense Contracts Under Authorities Other Than the Economy Act” (the DoD March 24, 2005, Memorandum). This memorandum, in conjunction with the DoD October 29, 2004, Memorandum, establishes DoD policy on assisted acquisitions to ensure that interagency agreements (under other than the Economy Act) for non-DoD contracts are used in accordance with existing laws and DoD policy. To save Government resources, the DoD March 24, 2005, Memorandum directs the following actions.

- For services ordered through an interagency agreement, funds provided to the servicing agency that have expired must be deobligated and returned from the servicing agency unless the request for services was made during the period of availability of the funds; the order was specific, definite, and certain, with specificity similar to contractual orders; and severable services were ordered with a period of performance that does not exceed 1 year.
- For goods ordered through an interagency agreement, funds provided to the servicing agency that have expired must be deobligated and

returned from the servicing agency unless the request for goods was made during the period of availability of the funds and was for goods that, solely because of delivery, production lead time, or unforeseen delays, could not be delivered within the period of availability of those funds.

The Army, Navy, and Air Force issued supplemental guidance, "Proper Use of Non-DoD Contracts." The services implemented guidance and policy to comply with the DoD October 29, 2004, Memorandum. The Army guidance was approved on July 12, 2005, which was beyond the January 1, 2005, deadline. The Air Force and Navy issued policy on December 6, 2004, and December 20, 2004, respectively. All Military Department memorandums were effective on or after January 1, 2005.

Subsequent to the DoD OIG fulfillment of the congressionally mandated reporting deadline of March 15, 2006, the Under Secretary of Defense (Comptroller) issued a memorandum on March 27, 2006, "Proper Use of Interagency Agreements with Non-Department of Defense Entities Under Authorities Other Than the Economy Act" (the DoD March 27, 2006, Memorandum). This memorandum contains guidance issued because of violations of policies and existing regulations on non-DoD purchases. DoD Components are to perform the following corrective actions and failure to complete actions may result in revocation of authority to transfer funds to non-DoD entities executing interagency agreements.

- Review all interagency agreements, close out all completed agreements, and coordinate with the outside entity to return all funds remaining on completed agreements no later than June 30, 2006.
- Funds provided to a servicing agency for services or goods where the funds are past their period of availability ("expired funds") shall be deobligated no later than June 30, 2006.
- All future interagency agreement funding documents for severable services shall state that funds are available for services for a period not to exceed 1 year from the date of obligation and acceptance of this order.
- The interagency agreement will include the statement "I certify that the goods acquired under this agreement are legitimate, specific requirements representing a bona fide need of the fiscal year in which these funds are obligated."
- Include a specific attestation on the triannual review certification that all existing interagency agreements are consistent with DoD policy.
- Provide a report on the amount reviewed and deobligated no later than July 15, 2006.

Competition. FAR Subparts 6.101(a) and (b), "Policy," state that contracting officers shall promote and provide full and open competition in soliciting offers

and awarding Government contracts. Part (b) states that contracting officers shall provide full and open competition through use of the competitive procedures that are best suited to the circumstances of the contract actions.

FAR Subpart 16.505, "Ordering," provides procedures for orders under multiple-award contracts including regulations for fair opportunity and decision documentation for orders.

Fair Opportunity. DFARS Subpart 216.5, "Indefinite Delivery Contracts," requires that each purchase of products or services by or for DoD in excess of \$100,000 under a multiple-award contract shall provide all awardees a fair opportunity to perform the statement of the work. DFARS also provides a waiver from this requirement under certain circumstances. For orders exceeding \$2,500 and issued under multiple-delivery order or multiple-task order contracts, the FAR requires the contracting officer to provide each awardee a fair opportunity to be considered for award. The following are exceptions to the fair opportunity process.

- The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.
- Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.
- The order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.
- It is necessary to place an order to satisfy a minimum guarantee.

Price Reasonableness Determination. FAR Subpart 12.209, "Determination of Price Reasonableness," states that contracting officers must determine price reasonableness and FAR Subpart 13.106-3, "Award and Documentation," states that contracting officers must determine that the proposed price is fair and reasonable. In addition, the contracting officer is responsible for documenting the price reasonableness determination in the price negotiation memorandum.

Surveillance Requirements. FAR Subpart 46.103, "Contracting Officer Responsibilities," provides that contracting offices are responsible for receiving a QASP from the requesting activity when contracting for services. FAR Subpart 46.103 states:

Contracting offices are responsible for receiving from the activity responsible for technical requirements any specifications for inspection, testing, and other contract quality requirements essential to ensure the integrity of the supplies or services (the activity responsible for technical requirements is responsible for prescribing contract quality requirements, such as inspection and testing requirements or, for service contracts, a quality assurance surveillance plan).

FAR Subpart 37.6, “Performance-Based Acquisition,” prescribes the QASP requirements for performance-based services contracts. The FAR requires agencies to develop QASPs when acquiring services that contain measurable inspection and acceptance criteria corresponding to the performance standards contained in the statement of work.

Funding Criteria

Bona Fide Needs Rule. The bona fide needs rule is codified in 31 U.S.C. 1502(a). A fiscal year appropriation may be obligated only to meet a legitimate, or bona fide, need arising in, or in some cases arising prior to, but continuing to exist in the fiscal year for which the appropriation was made.

The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

Purpose Statute. The purpose statute codified in 31 U.S.C. 1301(a) states that appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law. The implementation of this statute requires that an appropriation be used only for its intended purpose. The statute prohibits charging funds to the wrong appropriation.

Antideficiency Act. The Antideficiency Act (ADA) is codified in a number of sections of title 31 of the United States Code. The purpose of these statutory provisions, known collectively as the ADA, is to enforce the constitutional budgetary powers entrusted to Congress with respect to the purpose, time, and amount of expenditures made by the Federal Government. Violations of other laws may trigger violations of ADA provisions (for example, the “bona fide needs rule,” 31 U.S.C. 1502[a]).

DoD Financial Management Regulation Guidance. The DoD Appropriation Act of FY 2005 defines the use of each appropriation and sets specific timelines for use of the appropriations. However, the DoD Financial Management Regulation (FMR), volume 2A, chapter 1, provides guidelines on most commonly used DoD appropriations for determining the correct appropriation to use when planning acquisitions.

Expenses and Investments. All costs are classified as either an expense or an investment. Expenses are costs of resources consumed in operating and maintaining the DoD and typically have an approved threshold limit of \$250,000 for expense and investment determinations. Investments are costs to acquire capital assets, such as real property and equipment, and have a cost higher than the currently approved dollar threshold of \$250,000 for expense and investment determinations. Costs budgeted in the Operation and Maintenance (O&M) appropriations are considered expenses. Costs budgeted in the Procurement

appropriations are considered investments. Costs budgeted in the Research, Development, Test, and Evaluation (RDT&E) appropriations include both expenses and investments.

O&M Appropriations. Expenses incurred in continuing operations and current services are budgeted in the O&M appropriations. Modernization costs under \$250,000 are considered expenses, as are one-time projects, such as development of planning documents and studies. O&M funds are available for obligation for 1 year.

RDT&E Appropriations. Research, development, test, and evaluation requirements, including designing prototypes and processes, should be budgeted in the RDT&E appropriations. In general, all developmental activities included in bringing a program to its objective system are to be budgeted in RDT&E. RDT&E funds are available for obligation for 2 years.

Minor Construction. FMR volume 2B, chapter 6 states that an unspecified military construction (MILCON) project not costing more than \$750,000 may be funded from appropriations available for operations and maintenance. Minor construction projects costing more than \$750,000 may not be performed unless 10 U.S.C. 2805 requirements are met.

Antideficiency Act Violations. FMR volume 14, chapter 3 states that the DoD IG may advise in a report that a potential violation may have occurred. Generally, the audit report will include a recommendation to investigate the potential violation. Within 10 business days of receipt of a draft report alleging a potential violation, the OUSD(C)/CFO, the Assistant Secretary for Financial Management of a Military Department, or the Comptroller of a Defense agency or DoD Field Activity, as applicable, shall request that a preliminary review of the potential Antideficiency Act violation be initiated within the next 30 days. The DoD Component shall supply the status of the preliminary review or formal investigation as requested by the applicable organization. Generally, the existence of a potential violation shall be established during the preliminary review and before a formal investigation begins. The purpose of the formal investigation is to determine the relevant facts and circumstances concerning the potential violation and whether the violation occurred, what caused it, what are the appropriate corrective actions and lessons learned, and who has responsibility for the violation.

DoD Planning

DoD auditors visited 10 DoD organizations that sent funds to the Department of the Treasury using MIPRs for the purchases of goods and services. We found that the organizations did not perform market research to determine the most efficient and economical way to fulfill the requirement, enter into detailed interagency agreements with FedSource, evaluate price reasonableness, or emphasize competition and surveillance.

Acquisition Planning. Of the 61 task orders reviewed, none contained documentation that alternative methods were considered to satisfy the

requirements. DoD organizations should have documented their decisions to contract through a non-DoD activity such as FedSource during the acquisition planning phase. FAR Subpart 7.102(b) requires agencies to perform acquisition planning and conduct market research for all acquisitions to ensure the Government meets its needs in the most effective, economical, and timely manner. Assisted acquisitions such as those done by FedSource usually include a two to six percent surcharge that must be considered in deciding whether the acquisition should be performed by a DoD activity or by a non-DoD contracting office.

Market Research. None of the 61 task orders reviewed had documentation that market research was performed. Market research is defined as collecting and analyzing information about capabilities within the market to satisfy agency needs. Personnel who formulate requirements at DoD activities consistently failed to perform market research on purchases through FedSource. FAR Part 10 requires that agencies use the results of market research to determine sources capable of satisfying the agency's requirements. The DoD October 29, 2004, Memorandum requires the Military Departments and Defense agencies to evaluate whether using a non-DoD contract for the procurement of supplies and services is in the best interest of DoD. Factors considered are ability to satisfy requirements, schedule, cost effectiveness (taking into account discounts and fees), and contract administration that includes oversight. DoD program officials confirmed that they did not seek other acquisition alternatives because of concerns with DoD contracting office timely fulfilling orders within the fiscal year of the funds. Numerous DoD activities did not document the contracting alternatives available before using assisted acquisitions. Potential savings can be realized by contracting within DoD versus procuring through non-DoD activities and incurring fees by the non-DoD activity when the requirement is placed on contract and, in some instances, additional fees when the initial non-DoD activity requests another non-DoD activity to make the award for it. DoD activities need to document their rationale and basis for the procurement method used.

Military Interdepartmental Purchase Requests. DoD activities used MIPRs as the primary document to order goods or services from other DoD Components, as well as other Government agencies. MIPRs are prepared on a DD Form 448, Military Interdepartmental Purchase Requests. The ordering organization completing the MIPR should include a description of the supplies or services requested, unit price, total price, period of performance, and fund cite. The MIPRs can be accepted as either a reimbursable or direct cite; DoD MIPRs were accepted as reimbursable by FedSource. For a reimbursable order, the ordering organization should record an obligation at the time of acceptance. A MIPR description that is definite, certain, and specific is essential to support the bona fide need of the procurement. Funds should not be obligated without a detailed description that allows for a complete understanding of the use of the funds. A statement of work should be provided with the MIPR or, at a minimum, referenced on the MIPR to ensure the basis for the purchase is supported by a specific requirement. Additionally, the period of performance on the MIPR for services provides a time frame that the task is required. During FY 2005, DoD sent 9,199 MIPRs for orders to FedSource with a total value of about \$405.1 million.

MIPR Description. We reviewed 61 task orders that comprised 110 MIPRs valued at approximately \$37.3 million. Of the 110 MIPRs reviewed, 25 lacked a specific detailed description of the requirement. For example, Walter Reed Medical Center submitted 3 MIPRS consisting of MIPR5AWRA20051 for \$706,300 dated September 20, 2005; MIPR5AWRA2005 for \$4,878 dated October 17, 2005; and 5AWRA2006 for \$1.08 million dated September 23, 2005, to the FedSource Center in Baltimore to acquire the services for 350 contracted positions. The Walter Reed Medical Center MIPRs contained a broad description of the services and were not specific as required by 31 U.S.C. 1501. Further, the MIPRs omitted any reference to the statement of work containing the scope of work and what specific work was required.

In another example, U.S. Army Human Resources Command forwarded seven MIPRs valued at \$6.0 million to fund four task orders processed by the FedSource St. Louis Center. Two MIPRs cited FY 2004 O&M Funds and five cited FY 2005 O&M funds. The MIPRs were used to acquire the services of administrative personnel to clear up a backlog, perform data input, and file veterans military records into a permanent archive. Project Falling Timber was listed on the MIPR description but no further detail was provided. From the information on the MIPR, almost any work remotely relating to the project could have qualified. The vague description did not provide a clear and complete understanding on the use of the MIPR funds. Further, the MIPRs omitted any reference to the statement of work containing the purpose and detailed requirements. The MIPR did not present a specific, definite, and certain description of the requirement.

Period of Performance. DoD activities did not consistently include the period of performance on the MIPRs, as required by DFARS. DFARS 253.208-1 requires that delivery schedule data be included in the MIPR. The requiring department must clearly state the required time of delivery or performance on each MIPR, and ensure the normal administrative lead time for goods is considered. In addition, the delivery and performance schedules on MIPRs must be realistic. We identified 27 of 110 MIPRs that did not provide a period of performance on the MIPR.

Interagency Agreements. For the DoD activities visited, 51 of 61 task orders (valued at \$34.6 million) were issued without an interagency agreement or with an agreement that was inadequate. The agreements did not identify the responsible management officials overseeing the procurement and financial management for the task order. Further, the agreements omitted the billing and disbursement process details and plans for post-award audits as required by DoD Instruction 4000.19, "Interservice and Intergovernmental Support," August 19, 1995. The DoD March 24, 2005, Memorandum prescribes that all interagency agreements shall be reviewed to determine whether they are complete. The Under Secretary of Defense (Comptroller) issued a September 25, 2003, memorandum, "Fiscal Principals and Interagency Agreements," which requires every order under an interagency agreement to be based upon a legitimate, specific, and adequately documented requirement representing a bona fide need in the year in which the order is made. DoD activities that lacked an interagency agreement for the task order purchase relied upon a MIPR to support the procurement, but many contained insufficient detailed descriptions of goods or services to be acquired.

An interagency agreement completed in accordance with DoD Instruction 4000.19 will assist all parties in ensuring that the procurement is executed smoothly.

Competition

Contracting officers are to provide for full and open competition through the use of competitive procedures in order to fulfill the Government's requirement efficiently. Of the 61 purchases reviewed, 41 were awarded either without adequate competition or without any competition. FedSource contracting officers did not consistently provide fair opportunity for task orders issued against multiple-award contracts and issued awards based on customer-preferred sources. The FedSource multiple-award contracts were not utilized to their fullest extent to optimize competition because FedSource acquisition centers were not permitted to seek proposals from all multiple-award contracts. Competition was restricted. Although FedSource made improvements to increase competition, it did not provide fair opportunity on purchases deemed to be "routine buys." Further improvements to the FedSource contracting procedures on routine buys should continue to improve its ability to ensure full and open competition.

Fair Opportunity. DFARS Subpart 216.5, "Indefinite-Delivery Contracts," implements Section 803 of the National Defense Authorization Act for FY 2002 that requires each procurement for products and services for DoD in excess of \$100,000 under a multiple-award contract to be made on a competitive basis (unless a contracting officer provides a justification for determination or the requirement is waived). The term "competitive basis," with respect to multiple-award contracts, means procedures require fair notice to be provided to all contractors offering such products or services and to afford contractors a fair opportunity to make an offer and have that offer fully and fairly considered by the official making the procurement. FAR Subpart 16.505, "Ordering," directs contracting officers to provide awardees fair opportunity to be considered for orders exceeding \$2,500 under multiple-delivery or task order contracts. The FAR also requires contracting officers to document the rationale for contract award selection and price determination for each task order issued under a multiple-award contract. Treasury task order contracts for DoD lacked fair opportunity because of improper contracting practices, automatic award of routine buys to the same contractor on an annual basis, and fulfillment of DoD-preferred sources to accomplish the requirement.

FedSource, Los Angeles awarded task order LOS0008119 valued at \$738,013 to renovate Building 453 at Fort McCoy Army Base. The building renovation was not adequately competed since FedSource selected a contractor that marketed his business to FedSource. A FedSource post-award conference memorandum dated May 15, 2002, showed that business generated and brought to FedSource by a particular vendor would be awarded the work. The determination and finding indicated that Adecco Technical Company was entitled to the contract award since it recruited the business and brought it to FedSource. In addition, the determination and finding stated that award was based on fair consideration and best value. Adecco was awarded the contract, but there was no evidence of other

contractor proposals. The multiple-award contract provided for three contractors to compete under TPD-02-C-0020 through TPD-02-C-0022 but its use was negated. FedSource terminated this contracting practice on July 12, 2004, and orders related to construction currently go through FedSource, Los Angeles and the Administrative Resource Center. Fair opportunity and best value did not occur; we commend FedSource for correcting this contracting problem.

Routine and Complex Determination. Prior to contract award, FedSource made a determination on whether the requirement was routine or complex. Routine work was awarded to the multiple-award contractor generally having the lowest markup. Fair opportunity or consideration was not given to other multiple-award contractors who might have offered promotional pricing. Routine task orders were for work that was being performed without special recruitment, retention, management, or other technical factors. If not routine, a purchase was categorized as complex, which was a technical purchase that required a proposal for evaluation. In FY 2005, FedSource issued 2,201 routine buys from 2 multiple-award contracts, 2 single-award contracts and 7 BPAs. Routine buys were required to consider competitive contractor prices annually at the time an option can be exercised; however, this was not done. Instead, routine buys were awarded based primarily on markup and overhead rate differences among the multiple-award contractors. For most routine task orders the labor rates and the labor hours were provided to the contractors. Accordingly, the only variable was the markup and overhead rates. For routine purchases the vendor with the lowest markup and overhead rate when the contracts were awarded received the task order award. This process gave no consideration to promotions or reductions in price that the different contractors may have offered. For example, task order STL001272, valued at \$74,405, was awarded for a Word Processor Team Lead I under project Falling Timber at the U.S. Army Human Resources Command. The purchase, a routine buy, was awarded to the contractor, Kelly Services, Inc., based on having the lowest markup. Under the multiple-award contract consisting of five vendors, Kelly had the lowest markup and, therefore, could receive all awards. Competition was inhibited by relying on the markup as the main determining factor for award. FedSource officials stated they plan to compete routine buys in the future based on our discussion and will require complete contracting pricing for routine buys to improve the ability to meet competition requirements.

Blanket Purchase Agreements Not Competed. A BPA is a simple method of filling anticipated repetitive needs for supplies or services with qualified sources. BPAs are established when there is a broad class of supplies or services that are routinely purchased, but the exact items, quantities, and delivery requirements are not known in advance and may vary considerably. FedSource uses 11 BPAs primarily for services. The FAR requires contracting officers to solicit offers from as many potential sources as is practicable when not providing for full and open competition. Contracting officers are required to promote competition to the maximum extent possible to obtain supplies and services from whatever offer is the most advantageous to the Government, considering the administrative cost of the purchase. BPAs limit competition, but some competition can be achieved if fair opportunity is given to all BPA contractors within a group. Better contract vehicles are available to increase competition and ensure best value. FedSource personnel indicated that they do not plan to reissue BPAs that are expiring, but

the same contractors and personnel were selected in subsequent contract vehicles to continue work. Although we commend FedSource for minimizing use of BPAs in the future because they limit competition, action is needed to preclude awards of future task order contract awards to preferred sources from expiring BPAs.

Preferred Sources. DoD agencies occasionally requested specific individuals to fulfill DoD customer requirements and FedSource awarded task order contracts to the requested contractor. As an example, FedSource issued task order 11504 on behalf of the Naval Facilities and Engineering Command (NAVFAC) to TKC Communications Company, on October 18, 2005, for \$52,140 for administrative support services. The services were initially awarded on BPA 4002 to Briel Worldwide Company, on September 30, 2004. The request for proposal for administrative services required in FY 2005 stated the preferred subcontractor under TKC Communications Company will be Briel Worldwide. A preferred source that worked for Briel Worldwide under BPA 4002 was specifically named to fulfill task order 119504 in a NAVFAC e-mail to FedSource, a customer quote, and an e-mail from the FedSource Contracting Officer Technical Representative (COTR) to NAVFAC on September 8, 2005. The price negotiation memorandum lacked coverage on the contract negotiation but should have reported the contract award process undertaken. The series of actions clearly demonstrates that NAVFAC wanted and obtained a specific individual to fulfill administrative services. DoD preferred sources limit competition and the ability to obtain best value for services acquired.

Multiple-Award Contracts. FedSource Centers were limited to using certain multiple-award contracts to fulfill customer orders instead of vetting customer requirements among all available FedSource multiple-award contracts. The Department of the Treasury Administrative Resources Center, established seven multiple-award contracts for FedSource to award task order contracts to fulfill customer requirements. The ARC establishes multiple-award contracts, single-award contracts, and small business contracts, and FedSource prepares or initiates the task order contracts issued off these overarching contracts. The FedSource St. Louis Center primarily used multiple-award contracts TPD-03-C-0001 through TPD-03-C-0005 with a maximum contract value of \$700 million, consisting of five contractors that provide support services. FedSource, St. Louis was generally not permitted to use multiple-award contracts TPD-04-C-0013 through TPD-04-C-0021, with a maximum contract value of \$600 million consisting of nine contractors that also provide operational support services. This multiple-award contract was designated for the FedSource San Antonio Center and was not available to the FedSource St. Louis Center. Likewise, the multiple-award contract used by St. Louis was not used by the San Antonio Center even though all contractors provided the same category of services. Additional opportunity to increase competition and obtain best value is limited by the FedSource restrictive use of the multiple-award contracts. FAR requires contracting officers to promote full and open competition in soliciting offers and awarding Government contracts. Opening the multiple-award contracts to all FedSource acquisitions of products and services will provide a larger universe of contractors that might be interested in the work.

Contract Options Underutilized. FedSource issued modifications to task order contracts to add additional funds and extend the period of performance

beyond 12 months for a severable service versus exercising contract options. FedSource did not issue contract options on an annual basis although task orders included provisions to exercise options. The Joint Personnel Recovery Agency (JPRA) extended task order number 1916, issued October 26, 2004, beyond 1 year to February 28, 2006, without exercising an option contract. JPRA should consider exercising an option contract on an annual basis to allow consideration of other sources to ensure best value is obtained. The use of options would provide some assurance that the current contract situation is still the best value for the Government. Further, the exercise of an option on an annual basis assists in ensuring that the proper year of funds is applied for the proper performance period. Otherwise, funds incrementally added under contract modifications can result in appropriated funds being used beyond 12 months for a severable service task order contract or used to perform work in the wrong fiscal year.

Price Reasonableness

According to FAR Subpart 15.403, "Obtaining Cost or Pricing Data," contracting officers are responsible for obtaining adequate information to evaluate price reasonableness. Of the 61 purchases reviewed, 52 were valued at \$36.3 million and did not have adequate evidence of price reasonableness. Contracting officers are required, at a minimum, to document price reasonableness for pricing supplies and services. We identified 40 purchases that did not include price negotiation memorandums documenting price reasonableness. Independent Government Cost Estimates (IGCE) were not developed or adequate on 54 task orders reviewed. Salary.com, GSA Advantage, and wage determination rates were used as primary price reasonableness determining factors on several task orders, but these alone are insufficient to support fair and reasonable pricing.

Price Negotiation Memorandums. The price negotiation memorandum should provide support for pricing on the task order; however, FedSource did not regularly include price comparisons with other contractors, historical data, or consideration of contractdirectory.gov as other sources to support price reasonableness determinations. For example, FedSource issued task order STL001972 against BPA 8530, for \$51,514, on December 15, 2004, for the JPRA to fulfill the purchase for an Analyst III to review and test communication systems. The contract file did not contain a price negotiation memorandum, price comparisons, historical cost data, or a summary of the contractor's proposal and basis for profit and fee. Also, no IGCE was available to support pricing and no price comparison was considered against another BPA available for price comparison.

Task orders we reviewed that were issued by FedSource, Beaufort had no price negotiation memorandums in contract files. For example, FedSource awarded task order STL002275, for \$428,400, for the Headquarters of the U.S. Air Force, Manpower and Personnel Youth Fitness Marketing project. The task order was awarded under BPA 1804 to Professional Services Unlimited, Inc. The contract file did not contain a price negotiation memorandum to support the basis for fair and reasonable pricing. FedSource officials acknowledged that incomplete contract file records occurred at FedSource, Beaufort and FedSource terminated the contracting function at Beaufort. In addition, FedSource has since

implemented improvements to improve contract file maintenance FedSource-wide. Currently, FedSource requires a task order contract file to contain a checklist of required data, which includes a price negotiation memorandum and IGCE to support price reasonableness. See “FedSource Initiatives” on page 19 of the GAO report, “Interagency Contracting-Franchise Funds Provide Convenience, but Value to DoD is Not Demonstrated,” for action taken by FedSource.

Independent Government Cost Estimate. When performing price analysis to determine fair and reasonable price, an IGCE should be used. Of the 61 task orders reviewed, 54 task orders valued at approximately \$36.9 million, had IGCEs that were inadequate or not available. For example, the contracting officer for the Office of the Under Secretary of Defense for Personnel and Readiness task order LOS014553, valued at \$14 million, did not document how a fair and reasonable price was determined. The contract file did not include an IGCE or price negotiation memorandum to document historical cost data or current cost comparisons on similar items.

FedSource Pricing Factors. Salary.com, GSA Advantage, and wage determination rates were used by FedSource for determining price reasonableness. Salary.com is an Internet industry source for labor rates upon which FedSource relied to support that task orders were priced fairly and reasonably. Salary.com alone is not sufficient to support price reasonableness but was used regularly to serve as cost estimate comparison. For example, FedSource issued task order BAL 015420 on behalf of Walter Reed Army Medical Command for \$57,946 for a Medical Supply Technician. The IGCE relied solely on Salary.com. FAR Part 15.404-1(b), “Price Analysis,” states that when performing price analysis to determine a fair and reasonable price, the contractor should compare proposed prices received in response to the solicitation, and compare previously proposed Government contracts with commercial prices, competitive published price lists, IGCEs, and prices obtained through market research. Wage determination documents were in the contract file but the price negotiation memorandum did not include how they were used for pricing.

Contractor Surveillance

Surveillance is vital to ensure successful contractor performance. Contract surveillance should start at the beginning of the contract and continue through the length of the contract to ensure the contractor performs all required services. FAR Subpart 46.4, “Government Contract Quality Assurance,” prescribes that a QASP should be prepared in conjunction with preparation of the statement of work and should specify all work requiring surveillance and the method of surveillance. DoD officials prepared statements of work citing deliverables that were broad and general and not conducive to aiding surveillance. FedSource did not regularly use the QASP to measure and monitor task order contract performance. A QASP is useful to clarify what is expected from the contractor and reduce the confusion that exists in interagency contracting arrangements.

Incomplete Surveillance Plan. For 61 task order contracts, 58 QASPs were incomplete or unavailable. The QASP was incomplete because of either a lack of

approval signatures or no measurable criteria established to measure performance. The QASP is needed to clearly identify roles and responsibilities for the contractor and DoD and FedSource officials. The QASP should also contain clear, discrete performance metrics for measuring progress. DoD requiring officials were unable to identify specific COTR surveillance steps performed. For the most part, the QASPs included in the task orders reviewed were merely a list of deliverable items. Several DoD program managers stated that they relied solely on FedSource to oversee contract surveillance or did not rely on them at all. For example, Naval Facilities Engineering Command task order BAL119500 for archeological conservation and preservation of historical sites included an incomplete QASP. The QASP lacked a FedSource COTR approval signature, specific and measurable deliverables, and no schedule for reviews. In some instances, surveillance was conducted on an exception basis for task orders. In these cases, FedSource would not actively monitor the task order unless a problem arose and was reported by a DoD activity. DoD could not be assured it was receiving the best quality items or services without an approved and complete QASP. In addition, DoD may have accepted substandard goods on delivery by paying for services and items not received, or may have gotten substandard performance from the contractor.

Contracting Officer Technical Representative. FedSource officials stated that they assigned COTRs for each of the task order contracts reviewed via COTR designation letters maintained in the multiple-award, single-award, or Small Business Administration contracts. Although we found this to be the case, designated COTRs were responsible for numerous contracts. Also, there was a five- to seven-page list of surveillance duties to be performed on each contract. We felt that it was unrealistic to expect one person to complete the long list of assigned tasks. In addition, the COTRs were unable to accurately state when the surveillance duties were last accomplished or provide any support for the duties listed in the designation letters.

Although FedSource maintains COTR letters, the list of responsibilities were not tailored to meet the specific level of effort required for surveillance on an individual purchase. For example, FedSource issued task order STL00115 to purchase word processor services on behalf of the U.S. Army Human Resources Command. The COTR was designated on the multiple-award contract number TPD-03-C-0003. However, FedSource did not tailor the COTR responsibilities to the task order or designate measurable performance goals. The COTR did not document evaluation results on the task order performance and a replacement COTR was not designated in the QASP when the original COTR departed the command.

Use of Government Funds

We reviewed 61 task order contracts valued at about \$37.8 million, representing approximately 10 percent of the total value of task orders issued by FedSource in FY 2005. The 61 task orders reviewed comprised 57 purchases funded using O&M funds and 4 purchases funded with RDT&E funds. DoD activities are responsible for designating the correct type of appropriation and year of funds for each purchase on a MIPR or interagency agreement for non-DoD procurements.

Preliminary acquisition planning involving a qualified contracting officer and early communication with FedSource can prevent the improper use of Government funds, prevent future potential Antideficiency Act violations, and prevent the loss of DoD funds. This will ensure that DoD purchases made through FedSource and other non-DoD activities are in the best interest of DoD and that DoD receives the best value acquisitions.

Use of Government Funds. The wrong type of appropriations occurred in purchases whereby O&M appropriated funds or RDT&E appropriated funds were not applied correctly for the work performed. Also, the use of the wrong appropriation can occur when purchases funded by O&M exceed certain dollar thresholds. Bona fide need problems resulted when goods and services were purchased for a need unrelated to the period of time the appropriation was available for use. The GAO Appropriations Law, volume I, chapter 5, "Availability of Appropriation: Time," provides that annual appropriations are available to meet bona fide needs of the fiscal year for which they were appropriated. A common application of the rule is that an appropriation is not available for needs of a future year.

Wrong Appropriations. Nine of 61 purchases used the wrong type of appropriation to fund the procurements. We identified purchases where DoD designated RDT&E funds versus O&M, or O&M versus the MILCON appropriation or splitting projects to avoid exceeding O&M monetary limits to use MILCON funds.

As an example, Fort McCoy Director of Support Services sent two MIPRs valued at \$786,745 to FedSource, Los Angeles for renovation of Building 453 on task order LOS008119. The renovation of Building 453 was planned to change its function from being a barracks to being a visitor officer quarter at Fort McCoy Army Base. Building 453 was reconfigured and improvements made that supported new construction, with improvements including new bathrooms, fixtures, counters, tubs, and closets. A facilities engineering work request established on September 17, 2003, provided that Building 453 will include individual rooms with private baths; however, this represents new improvement and additional components not in the original building configuration. Army Pamphlet 420-11, dated October 7, 1994, "Project Definition and Work Classification," provides that a repair will cover facility restoration to a condition that fulfills its designated purpose. Repairs are not to cover major upgrades. Army Regulation 420-10, "Management of Installation Directorates of Public Works," dated April 15, 1997, provides that additional quantities beyond what existed is construction. Army Regulation 415-15, "Army Military Construction Program Development and Execution," Section 2-3, dated September 9, 1998, states that functional conversions must be done as construction. The improvements required to change the barracks to a visitor officer quarters results in construction versus repair. Fort McCoy management believed that the building was solely for repair and was not limited to the \$750,000 threshold established for minor construction. Defense Support Services personnel at Fort McCoy exceeded the minor construction \$750,000 dollar threshold by sending MIPR3MDFE00085 on September 24, 2003, for \$784,252, and an amendment for \$2,493 on July 12, 2004, to FedSource. The total cost of \$786,745 used O&M funds. Although the task order contract was awarded by FedSource on

July 22, 2004, for \$735,214, the amount did not include the FedSource fee. The entire \$786,745 was billed for Building 453 renovation. The planning for both buildings was in 2003. The request for MILCON funds should have occurred in 2003 also. Therefore, Defense Support Services at Fort McCoy used an incorrect appropriation.

In another example, the JPRA acquired administrative services from FedSource. Both RDT&E and O&M funds were used to fund the services, under task order contract STL001373. FedSource initially issued the task order contract, STL001373, on June 7, 2004, for \$33,972, to obtain a management assistant to support the Joint Experimentation and Interoperability Directorate within JPRA. The statement of work for the task order specified that a management assistant should be contracted to perform administrative and technical support, provide graphics and illustration support, maintain project plans and assessment schedules, and provide document and conduct file management support. These tasks should be funded with O&M funds. The JPRA issued four MIPRs to FedSource to fund this purchase, of which three MIPRs cited RDT&E funds and one cited O&M funds. The first RDT&E MIPR is NMIPR049208779 for \$117,000, issued on June 3, 2004. The addition of MIPR NMIPR049208779 Amendment 1 totals \$392,798, of which \$79,017 in RDT&E funds was allocated to STL001373. MIPR F1AF214294G001 for \$192,000 was issued on March 11, 2005, of which \$46,937 in RDT&E funds was allocated to the task order. The total of \$127,407 allocated from the three MIPRs designated with RDT&E appropriated funds should have used O&M funds, not RDT&E funds. O&M funds should have been used to fund the entire task order contract. Therefore, JPRA used an incorrect appropriation.

Bona Fide Need. We identified 16 of 61 purchases that did not meet the bona fide needs rule. For example, March Air Reserve Base, 452nd Civil Engineers forwarded MIPR NG466443040031 dated September 30, 2004, for approximately \$3.0 million to FedSource, Los Angeles on task order LOS014181. The MIPR funds were to provide repair services on a runway and taxiway with a period of performance from December 1, 2004, to November 30, 2005. FedSource accepted the MIPR on September 30, 2004. MIPR NG466443040031, amendment 1 was used to deobligate approximately \$1.5 million, thereby leaving approximately \$1.5 million to complete the taxiway repairs. FedSource, Los Angeles did not award a contract until April 4, 2005, or 6 months after MIPR acceptance. This use of FY 2004 funds to meet a FY 2005 requirement does not show a bona fide need for the repair or services in FY 2004. A potential Antideficiency Act violation exists.

In another example, Headquarters Air Force Installation and Logistics Services forwarded MIPR NMIPR049209876 for \$1.9 million on September 22, 2004, to FedSource, St. Louis for a Public Awareness Campaign and Family Child Care conference on task order STL002274. FedSource, St. Louis awarded the contract with a period of performance from September 22, 2004, through September 23, 2005. The Air Force MIPR cited FY 2004 O&M funds. However, the 2005 Family Child Care conference to support families of deployed Air National Guard and Air Force Reserve members was scheduled for July 25–27, 2005. The FY 2004 O&M funds expired on September 30, 2004, and should not have been used for services performed in FY 2005. In addition, modification

number 3 was issued to extend the contract period beyond 12 months from the date of contract award to January 6, 2006. This was at no increased cost to the Government; however, existing FY 2004 funds may have been used to fulfill work performed during the extended period. The use of FY 2004 funds to fulfill a FY 2005 requirement violates the bona fide needs rule. A potential Antideficiency Act violation exists.

See Appendix D for a complete description of each of the 21 potential Antideficiency Act violations.

Audit Fund Tracking. DoD did not consistently track funds sent to FedSource by MIPRs and interagency agreements. No central database within DoD exists to track MIPR funds. Each DoD activity utilized its own system or service standard accounting system to track the unliquidated obligation balances, but the MIPR funds could not be tied to the task order contract actions. Difficulty exists in tracking MIPR funds because the funds may be used to support multiple projects. DoD activities relied on FedSource for task order contract financial obligation and expenditure reporting. FedSource utilizes a database known as the Business Management System (BMS), brought online in October 2004, to standardize its fund and cost tracking across all the FedSource centers. Prior to its implementation, each FedSource Center maintained its own system for task order fund tracking and therefore, was more fragmented and decentralized. The BMS provided capability to report funds remaining at FedSource beyond their period of availability. FedSource BMS task order contract fund reporting is available on the DoD funds remaining at FedSource beyond their period of availability. The FedSource BMS identified that DoD is able to recoup \$19.6 million in expired funds that were sent to FedSource from FY 2002 through FY 2005. Increased DoD vigilance to follow up on the unliquidated obligated fund balance can ensure funds are used for other purposes prior to their expiration.

Conclusion

DoD officials must perform acquisition planning and establish interagency agreements with FedSource before purchasing goods and services. Based on the task orders examined, the audit identified numerous problems related to lack of market research, scant support of price reasonableness, inadequate competition, and absence of contract surveillance. Further, 21 potential Antideficiency Act violations were identified for preliminary investigation by the applicable DoD Components.

Management Comments on the Finding and Audit Response

Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics Comments. The Director, Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics provided comments. The Director concurred with the report and is working closely with the Department of Treasury to ensure that interagency

acquisitions conducted on behalf of DoD by the Department of the Treasury are proper and comply with statute, policy, and regulation.

Treasury Franchise Fund Comments. The Director of the Treasury Franchise Fund provided comments; the Director generally concurred with the report and is working with DoD to ensure the audit recommendations are implemented. The Treasury Franchise Fund Director agreed with the findings on areas of DoD Planning, Competition, Price Reasonableness, Contractor Surveillance, and Use of Government Funds. The Treasury Franchise Fund Director nonconcurred on multiple-award contracts issue areas. The Director said that the Administrative Resource Center awarded multiple-award contracts from a single solicitation; however, other offices, not known as FedSource at the time, also awarded multiple-award contracts. The Treasury Franchise Fund Director stated a single solicitation was awarded on a competitive basis when a notice was provided to all awardees under the multiple-award contracts.

Audit Response. The Treasury Franchise Fund Director generally concurred and is currently working with DoD to ensure the audit recommendations are implemented to further strengthen the acquisition process and make certain the processes will be deemed compliant. The Treasury Franchise Fund Director nonconcurred regarding FedSource Centers limits to using certain multiple-award contracts to fulfill customer orders instead of vetting customer requirements among all available FedSource multiple-award contracts. However, the Treasury Franchise Fund Director stated FedSource has undergone a re-organization and contracts are being established that will be utilized by all FedSource offices.

Recommendations and Management Comments

We are not making recommendations to the Under Secretary of Defense for Acquisition, Technology, and Logistics regarding the various acquisitions and contracting issues because such recommendations are included in our report D-2007-007 dated October 30, 2006, "FY 2005 DoD Purchases Made Through the General Services Administration." Also, no recommendations are in the report to the Under Secretary of Defense (Comptroller)/Chief Financial Officer regarding the potential Antideficiency Act violations because the recommendations are addressed in our report "Potential Antideficiency Act Violations on DoD Purchases Made Through Non-DoD Agencies," due out in FY 2007.

1. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer:

a. Deobligate \$19.6 million in expired DoD funds in the possession of the Department of the Treasury.

Management Comments. The Acting Deputy Chief Financial Officer concurred and is working with the Department of the Treasury to identify and return expired and excess funds. The action is expected to be completed in November 2006.

b. Work with the Department of the Treasury to readily identify and monitor funds sent to the Department of the Treasury by Military

Interdepartmental Purchase Requests. The ultimate goal should be to obtain recurring reports from FedSource that identify Military Interdepartmental Purchase Requests, uncommitted fund balances, amounts obligated, amounts expended, expired funds, and service fees charged.

Management Comments. The Acting Deputy concurred and is working the Department of the Treasury to deobligate the expired funds specified by November 2006 and to obtain recurring reports on funding. The recurring reports are expected to be received by December 2006.

Audit Response. The comments are responsive.

Appendix A. Scope and Methodology

Scope. This audit was a joint review between the DoD OIG and Department of the Treasury OIG. The “Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2006” requires the DoD IG and the Department of the Treasury IG to review procurement policies, procedures, and internal controls applicable to the procurement of products and services on behalf of DoD to determine whether they are adequate. The team reviewed purchases to ensure that funding rules and appropriation law applicable to DoD funds were followed, and that the FAR and DFARS procedures are followed by Department of the Treasury FedSource. As a result, we reviewed 61 task orders valued at \$37.8 million at 10 DoD sites. The 10 sites comprise 20 percent of the total dollar value for task orders issued in FY 2005. The FedSource, Beaufort Center, which FedSource closed due to significant contractual deficiencies, accounted for \$26.1 million of the task orders reviewed. We selected 10 DoD organizations with high dollar value task orders. We visited:

- 1) U.S. Army Fort McCoy;
- 2) U.S. Army Human Resources Command;
- 3) Walter Reed Army Medical Center;
- 4) Naval Facilities Engineering Command Southwest;
- 5) Naval Facilities Engineering Command;
- 6) Headquarters United States Air Force, Deputy Chief of Staff, Manpower and Personnel;
- 7) U.S. Air Force Joint Personnel Recovery Agency;
- 8) 452nd Civil Engineers, Air Force Reserve Command at March Air Reserve Base;
- 9) Office of the Under Secretary of Defense for Personnel and Readiness; and
- 10) Washington Headquarters Service.

Work Performed. For each site, we judgmentally selected task orders from DoD activities with either high dollar values or high volume of task orders issued from fourth quarter FY 2005. The contract actions included new task orders and modifications to basic task orders. Although all contract actions reviewed were initiated in FY 2005, we did review orders awarded in FYs 2003 and 2004 in order to understand how modifications related to the basic contracts. We reviewed documentation maintained by the contracting organizations to support purchases made through FedSource. The purchase documents reviewed were MIPRs and acceptances, statements of work, cost proposals, sole-source letters, contract award documents, interagency agreements, customer request forms, COTR letters, determination and finding documents, task orders, surveillance plans, price negotiation memorandums, task order modifications, requests for proposals, IGCEs, orders for supplies and services, and miscellaneous correspondence. We interviewed program managers, finance officials, resource managers, analysts, directors, resource advisors, and COTRs covering purchase

requirements and acquisition, types of funds used, competition, fair and reasonable price determination, and the monitoring of contracts. Our audit covered five major areas.

- We determined whether DoD requiring organizations had internal controls for defining requirements and planning acquisitions for purchases awarded by FedSource. For each task order reviewed, we determined whether there was a bona fide need, whether the requirement was defined, and whether acquisition planning was performed.
- The second area determined whether DoD organizations used the correct type of funds to fund the purchase awarded by FedSource. For each task order reviewed, we determined whether the organization had written procedures for issuing MIPRs, whether the organization was able to match MIPRs to corresponding contract actions, whether the purchase was funded with the correct appropriation, and whether the franchise fund was used for its intended purpose.
- The audit determined whether the Department of the Treasury adequately competed DoD purchases according to the FAR and DFARS.
- An analysis was made to determine whether the Department of the Treasury contracting officers adequately documented that the price paid for DoD purchases was fair and reasonable. For each task order reviewed, we determined whether the contracting officer adequately documented and supported the price paid.
- Lastly, we determined whether the Department of the Treasury and DoD established procedures for monitoring contractors' performance. For each task order reviewed, we determined whether the contracting officer designated a COR to monitor the contractor's performance and whether the Department of the Treasury had contract surveillance guidelines.

We performed this audit from July 2005 through June 2006 in accordance with generally accepted government auditing standards.

Use of Computer-Processed Data. FedSource provided a list comprising the universe of FY 2005 DoD purchases made through the Department of the Treasury against the Treasury Franchise Fund. From the list, we judgmentally selected high-value task orders for review. In FY 2005, FedSource issued 19,709 task orders for DoD valued at \$405,126,583. In FY 2005, FedSource received 9,199 DoD MIPRs valued at \$405,881,692. We visited three FedSource Regional Centers responsible for task order contract award and administration (Baltimore, St. Louis, and Los Angeles). We also visited the Bureau of the Public Debt, Administrative Resource Center in Parkersburg, West Virginia, to review overarching contracts such as multiple-award contracts, BPAs, single-award contracts, and Small Business Administration contracts used to issue task orders.

Appendix B. Prior Coverage

During the last 5 years, GAO, DoD IG, Army, and Air Force have issued 16 reports discussing Military Interdepartmental Purchase Requests or the Department of the Treasury Franchise Fund. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>. Unrestricted Army reports can be accessed at <http://www.hqda.army.mil>. Unrestricted Air Force reports can be accessed at <http://www.afaa.hq.af.mil>.

GAO

GAO Report No GAO-06-996, “Interagency Contracting: Improved Guidance, Planning, and Oversight Would Enable the Department of Homeland Security to Address Risks,” September 2006

GAO Report No. GAO-05-456, “Interagency Contracting: Franchise Funds Provide Convenience, but Value to DOD is Not Demonstrated,” July 2005

GAO Report No. GAO-05-274, “Contract Management: Opportunities to Improve Surveillance on Department of Defense Service Contracts,” March 2005

GAO Report No. GAO-05-207, “High-Risk Series: An Update,” January 2005

GAO Report No. GAO-03-1069, “Budget Issues: Franchise Fund Pilot Review,” August 2003

GAO Report No. GAO-02-734, “Contract Management: Interagency Contract Program Fees Need More Oversight,” July 2002

DoD IG

DoD IG Report No. D-2007-023, “FY 2005 DoD Purchases Made Through the National Aeronautics and Space Administration,” November 13, 2006

DoD IG Report No. D-2007-007, “FY 2005 DoD Purchases Made Through the General Services Administration,” October 30, 2006

DoD IG Report No. D-2005-096, “DoD Purchases Through the General Services Administration,” July 29, 2005

DoD IG Report No. D-2003-090, “Use and Control of Military Interdepartmental Purchase Requests at the Air Force Pentagon Communications Agency,” May 13, 2003

DoD IG Report No. D-2002-110, "Policies and Procedures for Military Interdepartmental Purchase Requests at Washington Headquarters Services," June 19, 2002

DoD IG Report No. D-2002-109, "Army Claims Service Military Interdepartmental Purchase Requests," June 19, 2002

Army

Army Report No. A-2004-0244-FFB, "Information Technology Agency Contract Management," May 25, 2004

Army Report No. A-2002-0536-IMU, "Military Interdepartmental Purchase Requests, Logistics Assistance Group Europe," August 21, 2002

Air Force

Air Force Report No. F2005-0006-FBP000, "General Services Administration Military Interdepartmental Purchase Request, 353d Special Operations Group, Kadena AB, Japan," November 10, 2004

Air Force Report No. F2004-0046-FBP000, "General Services Administration Military Interdepartmental Purchase Request, 390h Intelligence Squadron, Kadena AB, Japan," August 11, 2004

Appendix C. Purchases' Deficiencies

DoD Activity	Purchase	No Market Research	Inadequate or No Interagency Agreement	Inadequate Competition	Fund Issues	Inadequate Price Reasonableness	Inadequate or No Surveillance Plan
Army							
1) Fort McCoy	1) Repair Young's Landing Runway	•	Inadequate			•	None
	2) Renovation of Main Gate/Construction Inspection Building with Canopy	•	Inadequate	•	1	•	None
	3) Maintenance Building Construction	•	Inadequate	•	1	•	None
	4) Renovation Building 453	•	Inadequate	•	1	•	None
	5) Renovation Building 454	•	Inadequate	•	1	•	None
	6) Tent Frames	•	Inadequate	•		•	Inadequate
2) Human Resources Command	7) Word Processor Shift Lead	•	Inadequate	•		•	Inadequate
	8) Word Processor I Team Lead	•	Inadequate	•		•	Inadequate
	9) Word Processor Team Lead	•	Inadequate	•		•	Inadequate
	10) Word Processor I Shift Lead	•	Inadequate	•		•	Inadequate
3) Walter Reed Army Medical Center	11) Radiology Instructor	•	Inadequate	•		•	Inadequate
	12) Computer Programmer with Ad Hoc	•	Inadequate	•		•	Inadequate
	13) Computer Programmer IV	•	Inadequate	•		•	Inadequate
	14) Technical Writer	•	Inadequate	•			
	15) Computer Programmer IV	•	Inadequate	•		•	None
	16) Technical Writer	•	Inadequate	•		•	Inadequate
	17) Word Processor III	•	Inadequate	•			Inadequate
	18) Supply Technician	•	Inadequate	•		•	None

DoD Activity	Purchase	No Market Research	Inadequate or No Interagency Agreement	Inadequate Competition	Fund Issues	Inadequate Price Reasonableness	Inadequate or No Surveillance Plan
	19) General Clerk	•	Inadequate	•			Inadequate
	20) Administrative Assistant	•	Inadequate	•			None
Navy							
4) Naval Facilities and Engineering Command Southwest	21) Design and Acquisition Support	•	Inadequate		2	•	Inadequate
	22) Underground Vaults Repair	•	Inadequate		2	•	None
	23) Transportation Relocation	•	Inadequate		2	•	Inadequate
	24) Asbestos Abatement and Removal	•	Inadequate	•		•	None
	25) Utilities, Engineering, and Planning Support	•	Inadequate		2		Inadequate
	26) Valve Replacement	•	Inadequate		2	•	Inadequate
5) Naval Facilities and Engineering Command	27) Program Support	•	Inadequate	•		•	Inadequate
	28) Architecture Services	•	Inadequate	•		•	Inadequate
	29) Administrative Support	•	Inadequate	•		•	Inadequate
	30) Administrative Support	•	Inadequate	•		•	None
	31) Information Technology Services	•	Inadequate			•	Inadequate
	32) Administrative Support	•	Inadequate	•		•	Inadequate
	33) Engineering Services	•	Inadequate			•	Inadequate
	34) Logistics Support	•	Inadequate	•		•	None
	35) Senior Information Technology Technician	•	Inadequate	•		•	None
	36) Contract Administration I	•	Inadequate			•	Inadequate

DoD Activity	Purchase	No Market Research	Inadequate or No Interagency Agreement	Inadequate Competition	Fund Issues	Inadequate Price Reasonableness	Inadequate or No Surveillance Plan
Air Force							
6) Headquarters United States Air Force Manpower and Personnel	37) Community Center Training	•	Inadequate				Inadequate
	38) Entertainment	•	Inadequate	•	2	•	None
	39) Family Child Care Public Awareness Campaign	•	Inadequate	•	2	•	Inadequate
	40) Youth Fitness Marketing	•	Inadequate	•		•	None
	41) Youth Fitness Activities and Kits	•	Inadequate	•	2	•	
	42) Boys and Girls Club of America	•	Inadequate	•	2	•	None
	43) Construction Validation Study	•	Inadequate	•		•	None
7) Joint Personnel Recovery Agency	44) Analyst IV	•	Inadequate		2	•	None
	45) Technician II	•	Inadequate		1	•	None
	46) Analyst III	•	Inadequate		1, 2	•	None
	47) Analyst III	•	Inadequate		1, 2	•	None
	48) Analyst III	•	Inadequate		1, 2	•	None
Defense Agency							
8) 452nd Civil Engineers	49) Taxiway Widening at March Air Force Base	•	None		1, 2	•	None
9) Office of the Under Secretary for Personnel and	50) Community and Family Policy	•	None	•	2	•	None

DoD Activity	Purchase	No Market Research	Inadequate or No Interagency Agreement	Inadequate Competition	Fund Issues	Inadequate Price Reasonableness	Inadequate or No Surveillance Plan
Readiness							
	51) Victim Advocacy Program	•	None	•		•	None
10) Washington Headquarters Service	52) Administrative Support	•		•		•	None
	53) Administrative Program Support	•		•		•	None
	54) Human Resources Professional Support	•		•		•	
	55) Lead Contractor Supervisor	•					Inadequate
	56) Security Analyst	•					Inadequate
	57) Personnel Security Analyst	•					Inadequate
	58) Human Resources Professional Support	•		•		•	None
	59) Applications Consultant	•			2	•	Inadequate
	60) Personnel Processing Assistant	•		•		•	None
	61) Administrative Personnel Assistant	•		•		•	None
Total 10 DoD Activities Visited	Total 61 DoD Purchases Reviewed	61 No Market Research	3 No Agreement 48 Inadequate	41 Inadequate Competition	16 No Bona Fide Need 9 Incorrect Approp.	52 No Price Reasonableness	30 No Surveillance/ 28 Inadequate Surveillance

1 Incorrect Appropriation

2 No Bona Fide Need

Appendix D. Potential Antideficiency Act Violations

We identified the following 21 potential Antideficiency Act violations. Recommendations to the Under Secretary of Defense (Comptroller)/ Chief Financial Officer to initiate preliminary reviews regarding those potential violations are in the draft audit report, "Potential Antideficiency Act Violations on DoD Purchases Made Through Non-DoD Agencies."

Office of the Under Secretary of Defense for Personnel and Readiness

1. **Counseling Services (Task Order LOS014553).** The Office of the Under Secretary of Defense for Personnel and Readiness, Quality of Life Office issued MIPR DERM40092A329V for \$19,000,000 on July 28, 2004, using FY 2004 O&M funds for counseling services in support of families as a result of the Global War on Terrorism and Iraqi Freedom. FedSource accepted the MIPR on July 30, 2004. The FedSource, Beaufort office issued task order contract number BEA002178 for \$18,357,487 on August 5, 2004. Task order BEA002178 was cancelled on December 16, 2004, leaving a \$14,990,411 fund balance. Task order BEA002638 was issued for \$14,483,489 on March 29, 2005, to continue the counseling services. The task order contract period of performance was March 14, 2005, through December 31, 2005. The FY 2004 funds were applied to reissue a task order in FY 2005. The FY 2004 funds were put on the reissued task order contract almost 8 months after the funds were accepted by FedSource, Beaufort, and almost 6 months into FY 2006. The contract period of performance extends past 12 months from the MIPR acceptance date. Further, the elapsed 8 months from MIPR fund acceptance to the BEA00238 task order contract award is an unreasonable time and therefore, no bona fide need exists.

Air Force 452nd Air Mobility Wing

2. **Taxiway Repair (Task Order LOS014181).** The March Air Reserve Base, 452nd Civil Engineers issued MIPR NG466443040031 for \$2,997,000 to purchase taxiway widening and a runway repair at the March Air Reserve Base on September 30, 2004, using FY 2004 O&M funds, which expired on September 30, 2004. The MIPR was accepted on September 30, 2004. FedSource issued task order contract number LOS014181 for \$1,188,042 on April 4, 2005, with a period of performance from December 1, 2004, through November 30, 2005. A contract has not been established for the runway. Use of FY 2004 funds to satisfy FY 2005 requirements does not meet the intent of the bona fide needs rule. In addition, use of O&M funds was improper for funding the

runway and taxiway. The Air Force Reserve Command, Chief, Civil Engineering, 452nd Mission Support Group approved funding for the two airfield projects and specifically approved \$2,000,000 for the runway repair and \$997,000 for the taxiway repair. The airfield projects should have been addressed as one project. Funding separately gives the appearance of splitting projects to avoid use of MILCON appropriated funds. The work contracted for on the task order was major construction and exceeds the \$750,000 threshold for minor military construction; therefore, the MILCON appropriations should have been used. The 452nd Civil Engineers used the incorrect appropriation.

Joint Personnel Recovery Agency

3. **Management Assistant (Task Order STL001373).** The JPra acquired services from FedSource. Both RDT&E and O&M funds were used to fund the services, under the task order contract STL001373. FedSource initially issued the task order contract STL001373 for \$33,972 on June 7, 2004, to obtain a management assistant to support the Joint Experimentation and Interoperability Directorate within the JPra. The statement of work for the task order specified that a management assistant should be contracted to perform administrative and technical support, provide graphics and illustration support, maintain project plans and assessment schedules, and provide document and conduct file management support. These tasks should be funded with O&M funds. The JPra issued four MIPRs to FedSource to fund this purchase of which three MIPRs cited RDT&E funds and one cited O&M funds. The first RDT&E MIPR is MIPR F1AF21494G001 for \$192,000 issued on March 11, 2005. The next two RDT&E MIPRs are MIPR NMIPR049208779 and its amendment 1, totaling \$392,798, of which \$79,017 in RDT&E funds was allocated to task order contract STL001373. The total of \$125,954, allocated from the three MIPRs designated with RDT&E appropriated funds, should have used O&M funds, not RDT&E funds. O&M funds should have been used to fund the entire task order contract. Therefore, JPra used an incorrect appropriation.
4. **Analyst III for Urban Operations Project Support (Task Order STL001916).** JPra acquired professional services through FedSource for an analyst to conduct RD&TE tasks consisting of assessment operations project support experimentation, concept development, field testing, and research capabilities in the marketplace to fulfill program needs. JPra issued five MIPRs to fund the purchase, represented by four RDT&E MIPRs and one O&M MIPR. JPra allocated \$201,040 from four RDT&E MIPRs to partially fund the purchase. FedSource issued the basic task order contract STL001916 for \$78,568 on October 26, 2004, using RDT&E funds with a period of performance from November 1, 2004, through February 28, 2005. Contract modifications were used to extend the period of performance, but no modification was issued exercising an option period. JPra issued MIPR F1A215273G0001 for \$178,000 on September 30, 2005, using FY 2005 O&M funds, of which

\$48,747 applied to the contract, even though the work was for RDT&E on urban operations project support. This MIPR funded award number 2, modification 2. The analyst worked on the task order the entire period of performance and the work remained the same for the entire task order. Task order contract STL001916, modification 6 for \$47,863, issued November 1, 2005, was used to fund award number 2, modification 2, for \$48,747, and this contract action extended the period of performance through February 26, 2006. This resulted in use of FY 2005 funds for FY 2006 work. Use of FY 2005 O&M funds to satisfy requirements in FY 2006 does not meet the intent of the bona fide needs rule. Additionally, the task order contract is for RDT&E work and use of O&M funds was inappropriate for the task order; RDT&E funds should have been used to continue work on the project. Therefore, JPRA used an incorrect appropriation.

5. **Analyst IV for Project Support (Task Order STL001457).** JPRA acquired services for program management support, which required an analyst to provide technical guidance on concept technical demonstrations, develop management plans for projects, maintain financial records and provide project management functions. The NMIPR049208724 issued on May 5, 2004, for \$196,980, did not contain a description or include a reference to a statement of work to provide a description that was specific, definite, and certain. Since no interagency agreement or a MIPR with a description exists to support the requirement, JPRA has a potential bona fide need violation.
6. **Analyst III (Task Order STL001972).** JPRA used task order contract STL001972 for an analyst to perform RDT&E on the future combat survivor evader locator project. The statement of work provides that an analyst will provide subject matter expertise in development and integration of combat survivor evader locator capabilities to include RDT&E for future combat survivor evader locator capabilities. The project scope of work comprises RDT&E work. However, JPRA funded the project with both RDT&E and O&M funds. The first four of the five MIPRs issued to support task order contract STL001972 were issued with RDT&E funds. The initial task order contract STL001972 for \$51,414 was issued on December 15, 2004, for an analyst assigned to work on combat survivor evader locator project support. JPRA sent MIPR F1AF215273G001 for \$178,000 on September 30, 2005, using FY 2005 O&M funds, and allocated \$49,849 to task order STL001972 to extend of the period of performance through February 2006. The analyst scope of work remained the same throughout the task order and should have continued to be funded with RDT&E funds. Therefore, JPRA used an incorrect appropriation. Additionally, FY 2005 funds were used to support work to be performed in FY 2006. Partial funds from MIPR F1AF215273G0001 were allocated to the task order to fund task order modification 2, issued on November 1, 2005. The contract modification was used to increase funds on the contract in the amount of \$48,945 and extend the period of performance to February 28, 2006. Use of FY 2005 O&M funds to satisfy a FY 2006 requirement does not meet the intent of the bona fide needs rule.

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7. **Analyst (Task Order STL001374).** JPRA issued MIPR MIPR215273G001 for \$178,000 on September 30, 2005, using FY 2005 O&M funds to purchase an analyst for the Advanced Survivor Technology project. JPRA also issued MIPRF1AF215068G001 and amendments 1 and 2 to fund \$71,485 on task STL001374 with O&M funds. The statement of work states that project support will focus primarily on the JPRA RDT&E future Advanced Survivor Technology capabilities. The task order contract scope of work is RDT&E. RDT&E funds should have been used instead of O&M funds. Therefore, JPRA used an incorrect appropriation. In addition, FY 2005 funds were used to support work that was clearly to be performed in FY 2006. The basic task order contract was issued on June 7, 2004, for \$64,907, with a period of performance from June 5, 2004, through September 30, 2004. MIPRF1AF215273G001, issued on September 30, 2005, allocated \$73,627 to task order STL001374, and funded part of task order contract award number 3, modification 2, for \$34,868, on November 1, 2005. This contract action extended the period of performance through January 31, 2006. Use of FY 2005 O&M funds to satisfy a FY 2006 requirement does not meet the intent of the bona fide needs rule.

Directorate of Support Services—Fort McCoy Army Base

8. **Construction of Main Gate Canopy and Inspection Building (Task Order LOS008200).** The Directorate of Support Services at Fort McCoy sent FedSource seven MIPRs, totaling \$987,846, using FY 2003 Army Reserve O&M funds to construct a canopy and vehicle inspection building at the main gate. The basic contract in the amount of \$896,930 was for the canopy and the inspection building. The canopy and inspection building were initially funded by MIPR3MDTMSNPY for \$268,629 and MIPR3VEHNISP01 for \$665,703, both issued on September 30, 2003. The amount obligated on the main gate totaled \$987,935, which exceeds the limit of \$750,000 using O&M funds for minor construction; therefore, MILCON appropriated funds should have been cited. The Directorate of Support Services used an incorrect appropriation.
9. **Renovation of Building 454 (Task Order LOS013032).** Fort McCoy Army Base, Directorate of Support Services building renovation exceeded the \$750,000 limit using O&M funds for minor construction. MIPR MIPR4MDFE00107 for \$813,767 was issued September 17, 2004, using FY 2004 Army Reserve O&M funds. The MIPR was for renovation of Building 454 into basic officer quarters, including improvements such as additional bathrooms to include all new components. FedSource issued the basic task order contract number LOS013032 for \$762,883 on September 28, 2004. The building improvements support categorizing this project as new construction. The total amount obligated for the building, \$820,355, exceeds the \$750,000 limit use of O&M funds for minor construction. In addition, a second building (453) was being renovated with the same requirements and purpose. See purchase number 10. As a result, Buildings 454 and 453 should have been combined as one

project and used MILCON funds instead of O&M funds. The combined cost of the work on the two buildings was \$1,639,122. The project was split to avoid the long approval process necessary to obtain MILCON funds. Therefore, Directorate of Support Services at Fort McCoy used incorrect appropriations.

10. **Renovation of Building 453 (Task Order LOS008119).** Building 453 was being renovated from a barracks into a visitor officer quarters at Fort McCoy. The Building 453 layout was reconfigured and improvements made that supports new construction, including new bathrooms, fixtures, counters, tubs, and closets. Improvements resulted in construction versus repair. Defense Support Services personnel at Fort McCoy exceeded the minor construction \$750,000 threshold by sending MIPR3MDFE00085 for \$784,252 on September 24, 2003, and an amendment for \$2,493 on July 12, 2004, to FedSource. The total cost of \$786,746 uses O&M funds. Although the task order contract was awarded by FedSource on October 2, 2003, for \$735,214, the amount did not include the FedSource fee. The planning for both buildings was in 2003 and requests for MILCON funds should have occurred then. Therefore, Directorate of Support Services at Fort McCoy used an incorrect appropriation.
11. **Construction of Maintenance Buildings (Task Order LOS007993).** Directorate of Support Services personnel at Fort McCoy did not combine task order LOS007993 for \$684,639 and task order LOS007994 for \$684,639 that were both issued by FedSource on September 12, 2003, to construct four new metal prefabricated maintenance buildings. The total contract cost for the two task orders was \$1,369,278. Each of the two task orders was for the construction of two maintenance buildings; however, bid proposal data established provision for bidding up to four buildings. Therefore, one task order contract should have been issued versus splitting the project. Issuing two separate task orders resulted in keeping the contract award below the \$750,000 MILCON threshold. The combined contract for the two task order contracts exceeded the \$750,000 O&M minor MILCON threshold. MIPR MIPR3MDFE00078 for \$730,304 was issued September 9, 2003, and amendment 1 for \$8,331 was issued on December 29, 2004, for a total of \$738,635 to fund two maintenance buildings under task order contract LOS007993. Task order LOS007994 for two other buildings was funded with MIPR3MDFE00079 for \$730,304, issued on September 9, 2003. All buildings were built by the same contractor. Splitting of construction projects appears to have occurred to circumvent the cost limitation of \$750,000 for minor construction. Therefore, the Directorate of Support Services at Fort McCoy used an incorrect appropriation.

Headquarters, Air Force Deputy Chief of Staff, Manpower and Personnel

12. **Family Child Care Public Awareness Campaign and Family Child Care Conference (Task Order STL002274).** The Headquarters, Air Force Installation and Logistics Service is now the Headquarters, Deputy Chief of Staff, Manpower and Personnel. The Headquarters, Deputy Chief of Staff, Manpower and Personnel issued MIPR NMIPR049209876, for \$1,900,000 on September 13, 2004, using FY 2004 O&M funds, which expired on September 30, 2004. The task order for \$1,027,640 was awarded on September 22, 2004. The Headquarters purchased a Comprehensive Public Awareness Campaign to heighten awareness among current and potential customers of the Extended Duty Child Care, Mildly Ill, Missile Care, Air National Guard and Air Force Reserve Home Community Care, Returning Home Care, and Family Child Care Subsidy programs. The funds were also for the 2005 Family Child Care Conference to support families of deployed Air National Guard and Air Force Reserve members, tentatively scheduled for July 25–27, 2005. Additionally, FedSource issued modification 3 on September 19, 2005, for a “no increased cost to the Government” extension until January 31, 2006, effective September 21, 2005. The contract was extended for a period beyond the 12-month contract period from the task order award date. Use of FY 2004 O&M funds to satisfy FY 2005 requirements does not meet the intent of the bona fide needs rule.
13. **Boys and Girls Club of America (Task Order STL002277).** The Headquarters, Air Force Deputy Chief of Staff, Manpower and Personnel issued MIPR NMIPR049209729 for \$500,000 on August 16, 2004, using FY 2004 O&M funds, which expired September 30, 2004. The Headquarters purchased national affiliation fees for Boys and Girls Club of America for all participating Air Force youth centers for 2005 and for the annual national conference. FY 2004 funds were used to prepay FY 2005 fees and conference costs and the statement of work provided that conference costs would be incurred in 2005. The task order for \$484,500 was awarded on September 27, 2004. Use of FY 2004 O&M funds to satisfy FY 2005 requirements does not meet the intent of the bona fide needs rule.
14. **Youth Fitness Activities and Kits (Task Order STL002276).** The Headquarters, Air Force Deputy Chief of Staff, Manpower and Personnel issued MIPR NMIPR049209876, for \$1,900,000 on September 13, 2004, using FY 2004 funds, and allocated \$80,000 to task order STL002276. The MIPR funds expired on September 30, 2004. The MIPR funds were for professional services through FedSource for youth fitness activities and kits. FedSource awarded task order STL002276 for \$82,620 on September 22, 2005, with a period of performance from September 23, 2004, through September 22, 2005. However, the activity packets and sport kits were not received in FY 2004. Receipt of goods after the DoD appropriation expired could not be justified because of delivery time, production lead-time, or unforeseen delays. Use of FY 2004 O&M funds

to satisfy a FY 2005 requirement does not meet the intent of the bona fide needs rule.

15. **Entertainment (Task Order STL002433).** The Headquarters, Air Force Deputy Chief of Staff, Manpower and Personnel acquired professional services through FedSource to purchase entertainment services, using MIPR NMIPR049209768 for \$260,000, issued August 24, 2004, and amendment 1 for \$200,000, issued September 9, 2004. They used FY 2004 O&M funds, which expired on September 30, 2004. FedSource issued task order contract STL002433 for \$19,959 on September 8, 2004, to obtain quality, live, professional entertainment for the period from September 1, 2004, through September 1, 2005. The period of performance for the first task, Waking Norman, was scheduled to begin on October 21, 2004, and end November 11, 2004. Use of FY 2004 O&M funds to satisfy FY 2005 requirements does not meet the intent of the bona fide needs rule.

Naval Facilities Engineering Command, Southwest

16. **Transportation Relocation (Task Order LOS013626).** The Naval Base Ventura County Public Works is now the Naval Facilities Engineering Command (NAVFAC), Southwest. NAVFAC Southwest acquired professional services through FedSource for the relocation of the heavy-duty truck hoist support. NAVFAC Southwest issued four MIPRs totaling \$248,000 in September 2004, using FY 2004 O&M funds to obtain services and deliverables through the performance of the relocation of the heavy-duty truck hoist. The MIPRs were accepted in September 2004. FY 2004 O&M funds partially funded a contract awarded on January 8, 2005, for \$177,155. Use of FY 2004 O&M funds to satisfy FY 2005 requirements does not meet the intent of the bona fide needs rule.
17. **Valve Replacement (Task Order LOS014128).** NAVFAC Southwest acquired professional services through FedSource using MIPR N6923204MPX8141 for \$95,000, issued on May 17, 2004. This was used to purchase water valve replacement support in the housing area at Naval Base Ventura County, Point Mugu, California. FedSource issued task order contract LOS014128 for \$81,056 on March 25, 2005. Approximately 10 months lapsed between MIPR acceptance and contract award. Therefore, use of FY 2004 O&M funds to satisfy FY 2005 requirement does not meet the intent of the bona fide needs rule.
18. **Design and Acquisition Support (Task Order LOS013101).** NAVFAC Southwest acquired professional services through FedSource for Design and Acquisition Support. NAVFAC Southwest issued MIPR N6923204MPU8222 for \$227,939 and amendment 1 for \$9,876 on September 17, 2004. The basic MIPR was accepted on September 22, 2004. The MIPRs cited FY 2004 O&M funds, which expired on September 30, 2004. Task order LOS13101 was awarded on September 30, 2004, for design, acquisition, engineering, program development, and database management support services. The task order

award specified the period of performance to begin on September 30, 2004, and continue through November 30, 2005, 2 months beyond the 12-month contract performance limitation. In addition, FedSource Los Angeles issued modification 1 on November 23, 2005, for a “no increased cost to the Government” extension until February 28, 2006, effective November 30, 2005. The task order exceeded the contract period of 12 months for a severable contract. FY 2004 funds may have been used for the extension. Use of FY 2004 O&M funds to satisfy a FY 2006 requirement does not meet the intent of the bona fide needs rule.

19. **Repair Underground Vaults in Parking Apron (Task Order LOS013406).** NAVFAC Southwest purchased services through FedSource to repair underground vaults in the parking apron. NAVFAC Southwest issued MIPR MIPRN6923204MPX8223 for \$177,000 on September 28, 2004, citing FY 2004 funds. FedSource accepted the MIPR on September 28, 2004. However, the task order was not awarded until November 18, 2004, approximately 2 months after MIPR acceptance. Use of FY 2004 O&M funds to satisfy FY 2005 requirement does not meet the intent of the bona fide needs rule.
20. **Utilities, Engineering, and Planning Support (Task Order LOS013139).** NAVFAC Southwest purchased services through FedSource to provide management and engineering support services to satisfy the overall operational objectives of the NAVFAC Southwest Utilities and Planning Division. NAVFAC Southwest issued MIPRs N6923204MPX8195 for \$135,000 and N6923204MPX8196 for \$31,000 on September 17, 2004, citing FY 2004 O&M funds. FedSource accepted the MIPRs on September 22 and September 23, 2004. Task order LOS013139 was awarded on October 4, 2004, for \$578,850. Also, NAVFAC issued MIPR N6923204MPX8206 for \$153,000 and MIPR N6923204MP27139 for \$20,000 on September 29, 2004, citing FY 2004 O&M funds. Use of FY 2004 O&M funds to satisfy FY 2005 requirements does not meet the intent of the bona fide needs rule.

Washington Headquarters Service

21. **Applications Consultant (Task Order BAL118884).** The Washington Headquarters Service purchased services through FedSource for an applications consultant. Washington Headquarters Services issued Interagency Agreement DHIA 40362 for \$13,000, citing FY 2004 funds. The Interagency Agreement was accepted on September 29, 2004, in FY 2004, but the task order contract for \$11,944 was awarded on October 27, 2004. Use of FY 2004 O&M funds to satisfy FY 2005 requirement does not meet the intent of the bona fide needs rule.

Appendix E. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition, Technology, and Logistics
 Director, Acquisition Resources and Analysis
 Director, Program Analysis and Evaluation
 Director, Defense Procurement and Acquisition Policy
Under Secretary of Defense (Comptroller)/Chief Financial Officer
 Deputy Chief Financial Officer
 Deputy Comptroller (Program/Budget)
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Commander, Naval Facilities Engineering Command

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Commander, 452nd Civil Engineers, Air Force Reserve Command at March Air Reserve
 Base

Combatant Commands

Inspector General, U.S. Joint Forces Command

Other Defense Organizations

Washington Headquarters Service

Non-Defense Federal Organizations

Bureau of the Public Debt, Department of the Treasury
FedSource, Department of the Treasury
Inspector General, Department of the Treasury
Office of Management and Budget

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Homeland Security and Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Committee on Government Reform
House Subcommittee on Government Management, Finance, and Accountability
Committee on Government Reform
House Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform

Office of the Under Secretary Acquisition, Technology, and Logistics Comments



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

OCT 31 2006

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL ACQUISITION AND
CONTRACT MANAGEMENT, DODIG

THROUGH: DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS *7/23/06*

SUBJECT: Report on FY 2005 DoD Purchases Made Through the Department of
Treasury (Project No. D2005-D000CF-0275.000)

The Department wishes to thank you for providing the draft FY 2005 report on DoD Purchases Made Through the Department of Treasury (Project No. D2005-D000CF-0275.000). While there were no specific recommendations made to the Under Secretary of Defense for Acquisition, Technology, and Logistics, I want you to know that the Department of Treasury and DoD are working closely to ensure that interagency acquisitions conducted on behalf of DoD by the Department of Treasury are proper and comply with statute, policy and regulation.

The Department recently responded to other audit reports ("FY 2005 DoD Purchases Made Through the General Services Administration" and "FY 2005 DoD Purchases Made Through the National Aeronautics and Space Administration") regarding interagency acquisition. We welcome your comments and look forward to our continued collaborative relationship in this subject area. Should you have any questions my point of contact is Mike Canales and he can be reached at (703) 695-8571 or michael.canales@osd.mil.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy



Office of the Under Secretary of Defense (Comptroller)/ Chief Financial Officer Comments



COMPTROLLER

OFFICE OF THE UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

OCT - 3 2006

MEMORANDUM FOR PROGRAM DIRECTOR, DEFENSE FINANCIAL AUDITING
SERVICE, OFFICE OF INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE

SUBJECT: Draft Audit Report, "FY 2005 DoD Purchases Made Through the
Department of the Treasury," (Project No. D2005-D000CF-0275.000)

This memo is in response to the subject September 6, 2006, draft report provided to this office for review and comment. Our response to each of the audit report recommendations directed to the Under Secretary of Defense (Comptroller)/Chief Financial Officer is at Attachment 1.

We appreciate the opportunity to respond to your draft audit report and look forward to resolving the cited issues. My point of contact is Ms. Kathryn Gillis. She can be contacted by telephone at 703-697-6875 or e-mail at Kathryn.gillis@osd.mil.

A handwritten signature in black ink, appearing to read "Robert McNamara".

Robert McNamara
Acting Deputy Chief Financial Officer

Attachments:
As stated

cc:
ODGC(F)
USD(AT&L)
DFAS

Attachment 1
Response to Draft Audit Report Recommendations

Office of the Inspector General (OIG), Department of Defense (DoD)
"FY 2005 DoD Purchases Made Through the Department of the Treasury"
OIG Project No. D2005-D000CF-0275.000

OIG Recommendation 1a. Deobligate \$19.6 million in expired DoD funds in the possession of the Department of the Treasury.

OSD Response. Concur. We are working with the Department of the Treasury to identify and facilitate the return of expired or excess funding. This action is expected to be completed by November 2006. In addition, we have directed all components to review interagency agreements and coordinate the return of excess funds with the outside agency. To date, deobligations of \$251.3 million have been identified.

OIG Recommendation 1b. Work with the Department of the Treasury to readily identify and monitor funds sent to the Department of the Treasury by Military Interdepartmental Purchase Requests. The ultimate goal should be to obtain recurring reports from FedSource that identify Military Interdepartmental Purchase Requests, uncommitted fund balances, amounts obligated, amounts expended, expired funds, and service fees charged.

OSD Response. Concur. We are working with the Department of the Treasury to provide recurring reports that would assist with the monitoring and timely deobligation of expired or excess funding. Recurring reports are expected to be received by December 2006.

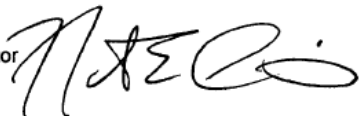
Managing Director, Treasury Franchise Fund Comments



DEPARTMENT OF THE TREASURY TREASURY FRANCHISE FUND

October 6, 2006

MEMORANDUM FOR: Richard B. Jolliffe, Assistant Inspector General, Acquisition
and Contract Management

FROM: Martin Davis, Managing Director
Treasury Franchise Fund 

SUBJECT: FY 05 DoD Purchases Made Through the
Department of the Treasury
Project No. D2005-D000CF-0275.000
September 2, 2006

Thank you for the opportunity to comment on the draft report, "FY 05 DoD Purchases Made Through the Department of the Treasury." Although we were not required to respond, we wanted to share our perspective on the various issues presented in the report. This will provide a basis for discussions in the follow-up audit that is to begin shortly.

FedSource is committed to serving DoD interests by providing the highest quality goods and services through contract vehicles that are compliant with laws, regulations, and administrative policies and procedures. We share your concern that DOD receive the best value for the dollar, and that business is conducted with integrity, honesty, and a high standard of ethics while maintaining public trust. Our goal is to allow DoD to focus its acquisition workforce on its core missions. FedSource can offer DOD the combined buying power of its government customers to pass along savings. FedSource can accomplish this while still meeting the goals for use of small businesses.

We appreciate the positive recognition in the report of the efforts that FedSource has undertaken to strengthen its acquisition process. We are currently working with DOD to ensure the audit recommendations are implemented to further strengthen our acquisition relationship and make certain that our processes will be deemed compliant in the follow-up audit.

Technical comments to the general content of the report are contained in Attachment 1.

Attachment 1

DoD Planning

- **Market Research (p12) Concur.** FedSource market research is done at the overarching contract level in the acquisition planning stages. Market research is also a factor when exercising any options on task orders (T.O.) issued by FedSource. We recognize DOD is required to conduct market research prior to using a non-DOD contract based on guidance issued 10/29/04, titled "Proper Use of Non-DOD Contracts". FedSource issued Acquisition Policy Memo entitled "Interagency Acquisitions" dated July 5, 2005 which requires our employees to ensure all internal DOD reviews/approvals required prior to placing an order with FedSource have been completed.
- **Interagency Agreements (p 13) Concur** FedSource requires an Interagency Agreement with all customers prior to commencement of services. FedSource agrees that the Customer Agencies should always include signatures from the responsible management officials within that agency. On August 16, 2004, FedSource implemented Management Policy Memo: 04-02, which identifies that only the Chief Operating Officers or Deputy, Chief Operating Officers are authorized to review and approve Interagency Agreements. Although FedSource does not require financial detail on the Interagency Agreement, FedSource does require this information on the Military Interdepartmental Purchase Request (funding document) which is required prior to commencement of services.

DODI 4000.19, subsection 4.4 states, "The requirements of this subsection do not apply to orders for supplies and services authorized by statutory authority other than reference (e)", which is the Economy Act. Since FedSource has specific statutory authority, it appears we are not subject to the requirements of this instruction. Nevertheless, FedSource is working with DoD to develop a final Interagency Agreement that meets DoD requirements based on a draft Interagency Agreement which has been developed in coordination with the Administrative Resource Center (ARC) Office of General Counsel.

Until the revised Interagency Agreement has been finalized, FedSource is implementing procedures to ensure that the MIPR(s) fully addresses the overall services that are being requested and/or references the Statement of Work which will clearly provide the detailed descriptions of goods or services that are being requested. This will ensure all required information to do business with DoD activities is validated and provided prior to commencement of the requested services.

Competition

- **Fair Opportunity (p 14) Partial Concur.** Based on the ordering procedures in the multiple award contracts, fair notice was provided to all awardees if complex in nature by issuing a request for proposal (RFP). "Award justification" information was included in the T.O. file. See discussion of routine orders below. FedSource discontinued the practice of awarding orders to contractors that

marketed their FedSource contract on July 12, 2004.

- **Routine and Complex Determination (p 15) Concur.** We have changed our current process on existing contracts to discontinue using the "routine" ordering procedure. Our future FedSource-wide contracts will require competition on all task orders through the use of an RFP.
- **Blanket Purchase Agreements, Not Competed (p15) Partial Concur.** Several open market BPAs that were used by the FedSource Beaufort office did have problems with competition. Those BPAs have been closed, as has the Beaufort office. FedSource does plan to use BPAs as one of our tools to meet customer needs. All actions to establish the Blanket Purchase Agreements (BPA's) will be accomplished in accordance with (IAW) the procedures outlined in the Federal Acquisition Regulation (FAR) Part 8.4. Orders will be competed among all awardees. Efforts are currently underway to competitively award various types of service contracts to minimize the use of BPA's.
- **Preferred Sources (p16) Concur.** FedSource is currently in the process of providing updated guidance to all FedSource offices, customers and contractors relating to "suggested sources". We support DOD's efforts in educating their personnel regarding these practices.
- **Multiple-Award Contracts (p 16) Non concur.** The Administrative Resource Center awarded multiple award contracts from a single solicitation for FedSource based on the FedSource organizational structure at that time. Not all FedSource offices were known as "FedSource" at the time the different multiple award contracts were awarded and there were offices that operated independently of each other. Therefore, based on the multiple award contracts that were established for the different offices, competition was obtained from those awardees. Moreover, with a single solicitation resulting in multiple award contracts, compliance with Section 803 "on a competitive basis" is achieved if notice is provided to all awardees under the multiple award contracts. FedSource has undergone a re-organization and contracts are being established that will be utilized by all FedSource offices.
- **Contract Options Underutilized (p17) Concur.** With the hiring of FedSource Contracting Officers, they are responsible for the issuance of Task Orders and to ensure the incorporation of any option periods are executed IAW FAR Part 17.2.

Price Reasonableness

- **Price Negotiation Memorandums (p 17) Concur.** In July, 2005 FedSource developed a price negotiation memorandum (PNM) template outlining areas to address for a price reasonableness determination. Since that time revisions have been made to the template to further improve documentation of the Task Order (TO) file. These findings occurred on orders awarded prior to July of 2005. It is to be noted contractdirectory.gov has been functionally suspended since February 1, 2006 until further notice.
- **Independent Government Cost Estimates (IGCE) (p 17) Concur.** The IGCE

should be prepared as part of the initial request for services received from DOD. FedSource developed a Procedure Memo in July 2005 with specific instructions on how to assist customers in developing the IGCE. These findings occurred on orders awarded prior to July 2005.

- **FedSource Pricing Factors (p 18) Concur.** Salary.com has historically been the source of comparison. IAW FAR 15.404-1(b), the Government may use various techniques and procedures to ensure the price is fair and reasonable. Currently we are competing task orders among all awardees under our multiple award contracts. This same competition will take place under the contracts to be awarded in early FY07. Comparison of proposed prices received in response to the RFP will establish price reasonableness since adequate price competition is anticipated. This is one of the most preferred techniques to establish price reasonableness based on FAR 15.404.

Contractor Surveillance

- **Incomplete Surveillance Plan (p 19) Concur.** During the past year, FedSource focused its efforts on developing and refining Quality Assurance Plans (QASP) with our customers for Performance Based Contracts. A QASP currently exist for every FedSource Performance Based Task Order.
- **Contracting Officer Technical Representative (p 19) Concur.** FedSource recognized a need to revise our COTR Delegation of Authority letters, as well as, the need to identify our Customer Agency's responsibilities. The draft delegations of authority and customer roles are being reviewed by the Administrative Resource Center (ARC). Once the letters are approved, ARC will issue revised delegation to FedSource COTRs and FedSource will issue guidance to our customer agencies.

Although the surveillance of our task orders is completed at the customer level, FedSource continues to refine the process to ensure clear, concise performance metrics are in place. FedSource is developing a plan to assist the DoD activities with surveillance of their orders by contacting the DoD activities on a routine basis to perform surveillance as defined in the QASP. The FedSource team members will document the Task Order files with findings and report any yellow or red findings to the Contractor for corrective action.

Use of Government Funds

- **Wrong Appropriation (p 20) Concur** FedSource will work with DOD to develop procedures for performing a "reasonableness check" of Bona Fide need on each MIPR. This procedure will result in FedSource referring any unusual circumstances to DOD for clarification.
- **Bona Fide Need Partial (p 21) Partial Concur** Dates alone do not determine bona fide need violations. They can shed light on possible problems but more research is needed to make a bona fide need determination. There are multiple examples that use dates to determine bona fide need violations. When the

actual work is accomplished is a component of determining whether a bona fide need existed but there are numerous reasons why work may begin much later than the original obligation date outside of there not being a bona fide need.

- March Air Reserve Base Example: It is an assumption to say there was no bona fide need for taxiway repairs on September 20, 2004 (date of MIPR – DOD obligation) just because the FedSource task order (Treasury obligation) was not initiated until April 4, 2005. If the taxiway was in bad condition, then the bona fide need existed for the obligation created on September 20, 2004. If the MIPR had been signed on October 1, 2004 using FY 2005 funds there would be no greater bona fide need than 11 days prior to that date. Nothing changed on the runway in 11 days.
- Headquarters Air Force Example: If the original DOD obligation made on September 22, 2004 was for a Public Awareness Campaign, which included a Family Child Care Conference, the fact that the conference was scheduled for the following fiscal year does not negate the existence of a bona fide need. If the conference was separate from and not part of the larger Public Awareness Campaign then a bona fide need violation would exist.
- 12 month Rule: There is no clear federal guidance on how the Federal Streamlining Act 12-month rule should be interpreted (12 months of service from the task order date or 12 months of obligation period from the signed MIPR). DOD, GSA, FedSource, and others have different opinions. Until clear guidance is issued, it is not clear whether a violation exists.
- Split Funding – No response

Recommendations

- **Deobligations (p 23)** In an effort to assist DoD activities in tracking unliquidated obligation balances, FedSource is in the process of developing procedures to notify DoD activities of all expired funding balances on a quarterly basis. Currently, FedSource's Business Management System (FBMS) already identifies all Expired Funding Documents with Open Balances. As of September 30, 2006, FedSource has implemented an automated process to notify each DoD activity, on a quarterly basis, of any expired remaining balances. This process will also include a completed system generated DD-448. Immediately upon issuance of this notification to the DoD activity, FedSource will de-obligate any of its funds that are no longer required on open Task Orders.

FedSource has notified each DoD activity of their portion of the \$19.6 million and has worked with DOD to already deobligate all but approximately \$1 million. Efforts continue on the remaining funds. FedSource has also de-obligated the unused funds on its Task Orders.

- **Monitoring Funds (p 23)** In an effort to assist our customers, FedSource

created an automated usage report (Task Order Burn Report) that identifies the amount funded on each task order, what has been expensed to the activity, and the balance remaining. In order to assist DoD activities with monitoring their uncommitted fund balances, a Combined Funding Report was developed that tracks each committed task order against the Military Interdepartmental Purchase Request fund line.

The Reporting Suite has the flexibility for enhancements to provide additional data as requested by each DoD activity. The Reporting Suite is currently being tested and will be available for all FedSource offices by the end of October 2006.

Team Members

The Department of Defense Office of the Deputy Inspector General for Auditing, Acquisition and Contract Management prepared this report. Personnel of the Department of Defense Office of Inspector General who contributed to the report are listed below.

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Inspector General Department of Defense

