

Inspector General

United States
Department of Defense



Report on FY 2006 DoD Purchases
Made Through the
Department of the Treasury

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Acronyms

ADA	Antideficiency Act
ARDEC	U.S. Army Armament Research, Development, and Engineering Center
COTR	Contracting Officer Technical Representative
DFARS	Defense Federal Acquisition Regulation Supplement
FAR	Federal Acquisition Regulation
FBMS	FedSource Business Management System
FS-9	FedSource 9
GAO	Government Accountability Office
IDIQ	Indefinite-Delivery, Indefinite-Quantity
IGCE	Independent Government Cost Estimate
IG	Inspector General
MIPR	Military Interdepartmental Purchase Request
OIG	Office of Inspector General
O&M	Operations and Maintenance
OPI	Olympic Precision, Inc.
PMI	Precision Manufacturing Initiative
PNM	Price Negotiation Memorandum
QASP	Quality Assurance Surveillance Plan
RFP	Request for Proposal
RDT&E	Research, Development, Test, and Evaluation
USD(C)	Under Secretary of Defense (Comptroller)
OUSD (P&R)	Office of the Under Secretary of Defense (Personnel and Readiness)



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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February 11, 2008

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

SUBJECT: Report on FY 2006 DoD Purchases Made Through the Department of
Treasury (Report No. D-2008-050)

We are providing this report for information and use. We considered management comments on a draft of this report in preparing the final report.

Comments on the draft of this report conformed to the requirements of DoD Directive 7650.3 and left no unresolved issues. Therefore, no additional comments are required.

We appreciate the courtesies extended to the staff. Questions should be directed to me 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.

By direction of the Deputy Inspector General for Auditing:

A handwritten signature in black ink, reading "Richard B. Jolliffe", is positioned below the text "By direction of the Deputy Inspector General for Auditing:". The signature is written in a cursive style.

Richard B. Jolliffe
Assistant Inspector General
Acquisition and Contract Management

cc: Inspector General, Department of the Treasury

Department of Defense Office of Inspector General

Report No. D-2008-050

(Project No. D2007-D000CF-0034.000)

February 11, 2008

FY 2006 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 planning, funding, and reviewing of purchases made through the Department of the Treasury's franchise activity, FedSource. The primary function of FedSource is to award and administer task orders on behalf of customer agencies for commonly required services.

Background. This report is one of a series of reports on DoD purchases made through non-DoD activities. For each covered non-Defense agency, Section 811 of Public Law 109-163, "National Defense Authorization Act for Fiscal Year 2006," requires the DoD Inspector General and the Inspector General of such non-DoD 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." The joint review was to determine whether the non-Defense agency was in compliance with DoD procurement policies, procedures, and internal controls. If the non-Defense agency was not compliant, a second review the following year was required. At the conclusion of our initial review, we jointly informed staffers working for the Senate Armed Services Committee that contracting and funding issues existed at FedSource resulting in noncompliance with DoD procurement policies.

To perform the audit, we and the Department of the Treasury, Office of the Inspector General jointly revisited FedSource. FedSource processed 26,344 contract actions consisting of task orders and modifications in FY 2006 amounting to \$404.1 million and received 4,533 military interdepartmental purchase requests totaling \$207.3 million to fund DoD requirements.

Results. DoD and FedSource contracting and program management officials improved the assisted acquisition contracting process and were generally compliant with Defense procurement requirements. We believe DoD should continue to use FedSource since it demonstrated significant improvements in competition, price reasonableness, and use of appropriated funds from our prior review. These areas weighed heavily in our overall evaluation to support the continued use of FedSource. Although issues were raised on interagency agreements, market research, and surveillance, DoD has primary responsibility to establish the interagency agreement and conduct market research to identify the most cost-effective method to fulfill its requirements. Surveillance affects both FedSource and DoD. FedSource had shown improvement, but not enough to avoid identifying issues again during this review. We noted areas where DoD and FedSource were not fully compliant again, but as previously stated, overall significant improvements occurred in a number of areas from the prior review. We reviewed 29 task orders initiated by 15 DoD activities awarded at 3 FedSource centers. We found that:

- twenty-nine (of 29) task orders valued at \$11.2 million had either an inadequate interagency agreement or no agreement;

- twenty-nine (of 29) task orders valued at \$11.2 million were not supported by documentation showing that market research was performed;
- ten (of 29) task orders valued at \$6.8 million contained inadequate or no documentation to support price reasonableness;
- four (of 29) task orders valued at \$2.3 million were awarded with no competition;
- twenty-nine (of 29) task orders valued at \$11.2 million had inadequate contract surveillance plans; and
- one (of 29) task order valued at \$323,971 was improperly funded, resulting in a potential Antideficiency Act violation.

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 DoD funds valued at \$3.9 million at FedSource that were expired or otherwise unavailable to support DoD operations. Material internal control weaknesses requiring DoD action are in market research, price reasonableness, and surveillance and were addressed in the Defense Inspector General Report No. D-2005-096, “DoD Purchases Made Through the General Services Administration,” July 29, 2005.

FedSource’s growth and business strategy have outpaced its ability to support customers with existing contracts. The size and complexity of FedSource’s activities require more robust business processes and systems to effectively manage them. The Department of the Treasury Division of Procurement Services was directed by the Administrative Resources Center’s Executive Director on January 19, 2007, to cancel all solicitations intended to result in follow-on contracts on behalf of FedSource. The cancellation eliminated the ability to award a follow-on contract to the current multiple-award contract used extensively by FedSource to issue task orders on behalf of DoD customers. As a result of these actions by the Department of the Treasury, FedSource support will end its large multiple-award contract on September 30, 2008. FedSource has not been issuing new task orders as of September 2007 and only was going to finish out options beyond this period. FedSource has notified DoD customers of this condition and provided them advance notice that future requirements will not be fulfilled. Overall, we believe DoD should continue to use FedSource until it can redirect its business elsewhere when FedSource no longer exists.

We made recommendations addressing interagency agreements, market research, and surveillance to the Under Secretary of Defense for Acquisition, Technology, and Logistics in DoD Inspector General Report No. D-2007-007, “FY 2005 DoD Purchases Made Through the General Services Administration,” October 30, 2006. Accordingly, we did not make the same recommendations again. In this report, we recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer oversee efforts by DoD to deobligate \$3.9 million in expired funds on FedSource’s accounting records as of May 2007. Recommendations regarding a potential funding violation will be included in another report “Summary Report on Potential Antideficiency Act Violations Resulting From DoD Purchases Made Through Non-DoD Agencies FY 2004 Through FY 2007,” to be issued in FY 2008. 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 recommendation contained in the report.)

Management Comments and Audit Response. The Deputy Chief Financial Officer, the Under Secretary of Defense (Comptroller)/Chief Financial Officer provided comments. The Deputy Chief Financial Officer concurred with the report and intends to review and deobligate valid amounts identified by the DoD Components. Also, the Deputy Chief Financial Officer will continue to obtain data from FedSource to assist in identifying and facilitating the return of expired or excess funding.

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Background

2006 National Defense Authorization Act. This audit was performed to meet requirements of 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.

(2) ACTIONS FOLLOWING CERTAIN DETERMINATIONS.—If the Inspectors General determine under paragraph (1) that the conclusion stated in clause (ii) or (iii) of subparagraph (B) of that paragraph is correct in the case of a covered non-defense agency, such Inspectors General shall, not later than June 15, 2007, jointly—

(A) conduct a second review, as described in subparagraph (A) of that paragraph, regarding such non-defense agency’s procurement of property or services on behalf of the Department of Defense in fiscal year 2006; and

(B) determine in writing whether such non-defense agency is or is not compliant with defense procurement requirements. • • • • •

(d) LIMITATIONS ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE. —

(1) LIMITATION DURING REVIEW PERIOD. —After March 15, 2006, and before June 16, 2007, no official of the Department of Defense may, except as provided in subsection (e)

or (f), order, purchase, or otherwise procure property or services in an amount in excess of \$100,000 through a covered non-defense agency for which a determination described in paragraph (1) (B) (iii) of subsection (a) has been made under that subsection.

(2) LIMITATION AFTER REVIEW PERIOD. —After June 15, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of \$100,000 through a covered non-defense agency that, having been subject to review under this section, has not been determined under this section as being compliant with defense procurement requirements.

Section 811 states that the Department of the Treasury (Treasury) is one of the covered non-Defense agencies to be reviewed. Specifically, section 811 of the Act, “Internal Controls for Procurements on Behalf of the Department of Defense,” requires the DoD Office of Inspector General (OIG) and the Treasury OIG to conduct a second review on the procurement policies, procedures, and internal controls of the Department of the Treasury that are applicable to the procurement of property and services on behalf of DoD by the Department of the Treasury. Furthermore, the act requires that the review also encompass the administration of those policies, procedures, and internal controls.

To comply with the FY 2006 Defense Authorization Act, the DoD OIG and Treasury OIG reviewed FY 2006 contract actions made by FedSource on behalf of DoD. In FY 2006, FedSource issued 26,344 contract actions for all customers representing \$404.1 million. FedSource issued 12,354 contract actions on behalf of DoD in FY 2006 totaling \$165.6 million.

The DoD OIG and Treasury OIG judgmentally selected 57 basic task orders valued at \$24.1 million issued between July 1 and September 30, 2006, from 3 of FedSource’s 6 centers. During this period, FedSource processed 251 task orders valued at \$35.6 million. Including modifications, a total of 330 contract actions were issued by the 3 FedSource centers totaling approximately \$38.5 million. We selected 29 contract actions valued at \$11.2 million for review and the Treasury auditors reviewed 28 contract actions valued at \$12.9 million. Of the 29 contract actions we selected for review, we visited 4 FedSource centers, the Department of the Treasury, Bureau of the Public Debt, Administrative Resources Center, and selected DoD installations.

Treasury Franchise Fund. The Government Management Reform Act of 1994 authorized the establishment of the Franchise Fund Pilot Program. In 2004, Public Law 108-447, section 219 and section 101(f) of the Treasury Department Appropriations Act, permanently established the franchise fund. 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 operates 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: the Administrative Resource Center, FedSource, Treasury Agency Services, and the Federal Consulting Group. The Treasury Franchise Fund offers services to customers for accounting, travel, procurement, human resources, project support, digital

copiers/document automation, professional development, training, and consulting. These business activities are required to recover their full costs of doing business and are allowed to retain up to 4 percent of their total annual income. To cover their costs, the franchise business activities charge fees for their services. A Government Accountability Office (GAO) report, (number 05-456, July 2005) on interagency contracting, titled “Franchise Funds Provide Convenience, but Value to DoD is Not Demonstrated,” provides that Congress anticipated 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).

FedSource. FedSource consists of six operation centers located in San Antonio, Baltimore, Cincinnati, St. Louis, Seattle, and Los Angeles. 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 more than 2,500 Federal customers. FedSource can leverage 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 seeks to provide services on a fully competed basis and provide surge capability to meet the customer’s mission needs. The overall FedSource mission is to leverage commercial and industry best practices to offer innovation in Government-to-Government procurement and contract administration for Federal managers. DoD customers represented about 40 percent of the total FedSource business conducted in FY 2006.

FedSource Improvements Since Prior Audits. FedSource responded to many recommendations made during prior audits by the DoD Inspector General (IG) and the Treasury IG. FedSource significantly improved its procurement practices covering competition and appropriate use of funds. Competition improved through implementation of Section 803 to ensure fair opportunity is provided on most DoD requirements filled through task orders. Routine buys were eliminated that had previously impeded competition among all potential bidders. The number of potential Antideficiency Act (ADA) violations dropped from 21 reported in our prior review to only 1 potential violation in this report. Further, FedSource developed a procedure to address funding to ensure the proper appropriation and fiscal year are accurately cited on DoD funding documents received. Improvements occurred in price reasonableness whereby FedSource increased the sources considered for determining fair and reasonable pricing. FedSource still needs to improve documentation on the negotiation process in the price negotiation memorandum (PNM). Also, further improvements are needed regarding quality assurance surveillance plans (QASP) and surveillance. Overall, FedSource demonstrated progress on contractual and funding areas although there are areas for continued improvement.

Further, the Bureau of the Public Debt administers the multiple-award contracts on behalf of FedSource to use for issuing task orders. The Bureau of the Public Debt will not issue a new multiple-award contract set to replace the existing one known as the FedSource 9 (FS-9) multiple-award contract. The FS-9 consists of nine contractors that are all eligible

to compete on requests for proposals (RFP) that fall within the contract scope of work. The FS-9 will not be available to DoD customers after September 30, 2008. As a result, DoD customers have been notified that they will have to obtain alternative contracting sources to fulfill future requirements.

Objectives

The objective of the audit was to review DoD purchases made through the Department of the Treasury in FY 2006. Specifically, we examined the policies, procedures, and internal controls to determine whether there was a legitimate need for DoD to use Treasury, whether DoD clearly defined requirements, whether Treasury and DoD properly used and tracked funds, and whether Treasury complied with Defense procurement requirements. We also examined how Treasury accepts and fulfills DoD requirements. See Appendix A for a discussion of the scope and methodology. See Appendix B for prior coverage related to the objective.

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 always comply with regulations and statutes. Specifically, we identified material internal control weaknesses on market research because the most cost-effective contracting method to fulfill DoD requirements was not documented. We identified a material internal control weakness with price reasonableness because inadequate analyses and support existed for task order award prices. Lastly, we identified material internal control weakness with surveillance because of DoD's and FedSource's failure to establish sound oversight plans to monitor contractor performance. Implementing the recommendations contained in previously issued reports from our series of audits related to interagency contracts should improve contracting procedures for task orders awarded using non-DoD contracts. Also, the fact that FedSource operations are being curtailed in September 2008 will eliminate the problems noted. 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.

DoD Use of FedSource Services

DoD and the Department of the Treasury FedSource management and contracting officials did not always comply with the Federal Acquisition Regulation (FAR) and DoD procurement regulations when making purchases through FedSource. We reviewed 29 task orders valued at \$11.2 million awarded by FedSource contracting officers on behalf of DoD activities. Of 29 task orders reviewed, we determined:

- twenty-nine (of 29) valued at \$11.2 million had either no interagency agreement or an interagency agreement that lacked specific details;
- twenty-nine (of 29) valued at \$11.2 million contained either inadequate or no documentation of market research;
- ten (of 29) valued at \$6.8 million contained either inadequate or no documentation to support price reasonableness;
- four (of 29) valued at \$2.3 million had inadequate competition;
- twenty-nine (of 29) valued at \$11.2 million had inadequate contract surveillance plans; and
- one (of 29) valued at \$323,971 was improperly funded, resulting in a potential Antideficiency Act violation.

Similar problems were also noted by the Treasury OIG during its review of 28 task orders. These conditions occurred because of a lack of planning and lack of oversight coordination between FedSource and DoD. Although significant improvements occurred in competition, price reasonableness, and use of appropriated funds from our prior review, issues reported again on interagency agreements, market research, and surveillance warrant attention. The lack of complete and current interagency agreements limits accountability and responsibility over non-DoD procurements. Further, as a result of a lack of contract alternative analyses, DoD organizations may not be achieving the most cost-effective method to acquire goods and services. Also, for issues raised on surveillance, DoD may not be receiving the level of performance it contracted for under the terms of the task order.

Interagency Contracting

The procurements made by non-DoD agencies on behalf of DoD customers encompass many actions from the initial requirement to contract completion. Initial planning includes defining the requirement in a statement of work, establishing deliverables and a cost estimate, followed by determining the most cost-effective method to fulfill the order for either goods or services. An interagency agreement is to assist with providing terms for conducting business

between the DoD customer and FedSource. DoD transfers appropriated funds to FedSource that are to be used by FedSource to award a task order to fulfill one or more DoD requirements. These funds are accepted on a reimbursable basis by FedSource which is responsible for ensuring that competition occurs and the customer obtains a fair and reasonable price. FedSource is to ensure that the best value is attained on the award. After award, surveillance should then be conducted to ensure that the contractor performed in accordance with the contract.

Acquisition Criteria

Acquisition Planning. FAR Subpart 7.102(a), “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 the agency’s 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, (DoD October 29, 2004, Memorandum) that 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 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 agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and
- the head of the agency decides the ordered 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 its authority are not required to reference the Economy Act to purchase from them.

Competition. FAR Subparts 6.101(a) , “Policy,” states “that contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts.” FAR Subpart 6.101(b) states that “contracting officers shall provide for full and open competition through use of the competitive procedure(s) ... that are best suited to the circumstances of the contract action.” FAR Subpart 16.505, “Ordering,” provides procedures for orders placed 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 \$3,000 and issued under a multiple-delivery order or a multiple-task order, FAR 16.505, “Ordering,” 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 15.402, “Pricing Policy,” states that contracting officers must determine price reasonableness and FAR Subpart 15.406-3, “Documenting the Negotiation,” states that contracting officers must document that the price is fair and reasonable 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 service 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

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 Planning

DoD auditors conducted reviews of 15 DoD organizations that sent funds to the Department of the Treasury using Military Interdepartmental Purchase Requests (MIPR) for the purchases of goods and services. We found during the second review that organizations:

- did not perform adequate market research to determine the most efficient and economical way to fulfill the requirement;
- did not implement detailed interagency agreements with FedSource;
- needed improvement related to price reasonableness and competition, although progress had been made in these areas from our prior review; and
- continued to have inadequate contract surveillance, although FedSource had a standardized guide for addressing the QASP and provided additional training.

Acquisition Planning. 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 included a 3 to 8 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 29 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 the DoD contracting offices ability to timely fill 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 on 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 for which the task is required.

MIPR Description. We identified 3 of 29 task orders valued at approximately \$1.1 million that had MIPRs that lacked a specific detailed description of the requirement. A detailed description is required to adequately support a bona fide need for the use of funds. Further, no obligation should occur on funds that do not have a bona fide need. Defense Finance Accounting Service Regulation 37-1, chapter 8 on obligating documentation, provides that the signed MIPR acceptance, Form 448-2, represents an obligation of funds. The obligation of funds requires documentary evidence and that the description be specific, definite, and certain. The MIPR is used to obligate funds that will support contractual work for goods or services. The MIPR description needs to be detailed or reference the statement of work to adequately support a bona fide need for the requirement.

Period of Performance. DoD activities did not consistently include the period of performance on the MIPRs, as required by DFARS Procedures, Guidance, and Information 253.208-1, "DD Form 448, Military Interdepartmental Purchase Request." We identified 3 of 29 task orders that contained MIPRs without the period of performance. DFARS Procedures, Guidance, and Information 253.208-1 requires delivery schedule data on the MIPR. The DoD ordering activity must clearly state the required time of delivery or performance on each MIPR, taking into consideration the normal administrative lead time of a particular good. Further, the delivery and performance schedule must be realistic. An unrealistic performance schedule can result in under or excess funding of a project.

DoD Activities Failed to Follow Interagency Contracting Guidance.

DoD activities continued to violate the joint guidance issued by the Under Secretary of Defense (Comptroller) (USD[C]) and the Under Secretary of Defense of Defense for Acquisition, Technology, and Logistics on October 29, 2004, and additional guidance issued by the Deputy Chief Financial Officer on March 24, 2005, (DoD March 24, 2005, Memorandum) regarding the use and control of DoD funds under interagency agreements. As a result, the USD(C) issued a memorandum “Proper Use of Interagency Agreements with Non-Department of Defense Entities Under Authorities Other Than the Economy Act,” on March 27, 2006. Additional documentation requirements were required by the USD(C) to fund all future interagency agreements (See Appendix D). Funding documents for severable services must state the following:

These funds are available for services for a period not to exceed one year from the date of obligation and acceptance of this order. All unobligated funds shall be returned to the ordering activity no later than one year after the acceptance of the order or upon completion of the order, which ever is earlier.

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.

The MIPRs issued by DoD activities have been used as agreements to obligate funds and support individual task order projects contracted through FedSource. In all 29 task orders reviewed, MIPRs were consistently used over interagency agreements to fund and initiate the project with FedSource. Of 15 DoD activities visited, 11 issued MIPRs (equates to 23 task orders) that failed to include one or both of the required USD(C) annotations. DoD activities have not implemented USD(C) guidance even when the service develops its own implementing guidance for conducting non-DoD procurements. For task orders issued by FedSource on behalf of the DoD activities, MIPRs were issued without annotations by the Army. Given the attention and numerous policies issued over the past 3 years on non-DoD procurements, the significant lack of compliance is a concern. The annotations are to ensure funds are issued with a bona fide need and that excess funds will be returned when no longer needed. Further, this language is important to ensure certifying officials are cognizant on the use of the funds being sent to a non-DoD activity. Despite our prior review, DoD activities are not complying with guidance such as including certifications to support use of a non-DoD activity. Each Military Department should designate an accountable official for distributing policy to the program management, contracting, and resource management offices and should ensure the fund-certifying official implements the guidance.

MIPRs Lack Military Department Guidance. The Office of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology issued a memorandum titled “Proper Use of Non-Department of Defense (Non-DoD) Contracts,” July 12, 2005. This memorandum fulfilled the requirements mandated by the DoD October 29, 2004, Memorandum, directing each Military Department to develop its own procedures for reviewing and approving the use of

non-DoD contracts. The Army guidance required the fund authorizing official to annotate on the MIPR the following statement:

This requirement has been processed in accordance with Section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) and the Army Policy memorandum on Proper Use of Non-Department of Defense Contracts, dated July 12, 2005.

U.S. Army activities issued MIPRs without the statement required by Army policy covering non-DoD procurements. Of the 16 task orders reviewed that were initiated by 7 Army activities, only 1 task order issued by Fort Hood contained the required statement on 1 of the 2 MIPRs used to fund the task order. The omission of the required statement on the Army MIPR funding documents shows that issuing guidance does not guarantee it will be followed.

Interagency Agreements. We found 6 of 15 DoD activities reviewed did not have an interagency agreement with FedSource comprising 8 of the 29 task orders, valued at \$5.2 million. The remaining 9 DoD activities, comprising 21 of the 29 task orders, had interagency agreements but the agreements were inadequate because they were not specific to the purchases. 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 as required by DoD Instruction 4000.19, "Intraservice and Intragovernmental Support," August 9, 1995. Although the Treasury Franchise Fund is under a separate authority, the application of the DoD policy provides valuable elements for a sound interagency agreement with which DoD and FedSource can conduct interagency contracting. The DoD March 24, 2005, Memorandum prescribes that all interagency agreements shall be reviewed to determine whether they are complete. The USD(C) 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

Although fair opportunity increased during the second review, we identified four task orders valued at \$2.3 million where fair opportunity was not provided. Three of the four task orders were FasTrac orders and the fourth resulted in a suggested source that appeared to be the contractor of choice.

FasTrac Contracting and Competition. The contracting procedures used by FedSource for the FasTrac program were not in compliance with the FAR. In

addition, FedSource did not provide all contractors under the FS-9 multiple-award contract a fair opportunity to compete for the FasTrac program, as required by Section 803 of the FY 2002 National Defense Authorization Act. The FS-9 consists of nine contractors representing contract numbers TPD-04-C-0013 through TPD-04-C-0021, and each were to have a fair opportunity to bid on task orders.

Contracting Method. The FS-9 contracts are each an indefinite-delivery, indefinite-quantity (IDIQ) contract. An IDIQ contract is not an agreement such as a blanket purchase agreement. Under IDIQ contracting procedures, the base contract establishes the terms and conditions for the supplies and services to be provided, and contains the FAR contract clauses applicable to future task or delivery orders. According to FAR Part 16.505, orders placed under IDIQ contracts must include the date of the order, contract number, contract item number and description, quantity, unit price, delivery schedule, and place of performance. FedSource originally set up the FasTrac program by issuing a task order to Amer Technology, Inc., one of the FS-9 contractors on February 10, 2005. This task order was not in compliance with the FAR because it did not contain specific quantities, delivery dates, prices, and other information required by the FAR. The FasTrac task order was basically an IDIQ task order with all future FasTrac orders awarded on a sole-source basis to Amer Technology, Inc. When a customer submitted a request for specific FasTrac requirements, FedSource negotiated a task order with Amer Technology, Inc., to fill the requirement. In effect, a task order was issued against the initial FasTrac task order. According to the Office of Management and Budget's "Best Practices for Multiple Award Task and Delivery Order Contracting, Interim Edition," February 19, 1999, agencies should not award large, undefined task orders in an effort to expedite the award only to issue subsequent sole-source work orders. In February 2006, prior to exercising the first option year on the FasTrac program, FedSource officials contemplated using a blanket purchase agreement as a more appropriate contract vehicle for FasTrac, but did not have sufficient time to review and re-award the contract. The FasTrac program is not in compliance with the FAR and FedSource should use a more appropriate contracting method prior to awarding the final contract option in February 2008.

FasTrac Competition. FedSource did not compete the FasTrac program in order to comply with Section 803 of the FY 2002 National Defense Authorization Act that required that all of the FS-9 contractors be given fair opportunity to compete on all DoD orders. The FS-9 contract was broken into tiers: tier 1 had two contractors (Amer Technology, Inc., and Quantell), which were both small businesses, and the remaining seven contractors comprised tier 2. When FedSource received a customer requirement (DoD included), it sent the request for proposal to the tier 1 contractors, regardless of dollar value. If a proposal was received, it was awarded to one of the tier 1 contractors. If a proposal was not received, the solicitation would be opened to all of the FS-9 contractors. In order to comply with provisions of Section 803 of the FY 2002 National Defense Authorization Act, FedSource issued a modification to all of the FS-9 contracts. The modification required that all nine awardees be given fair opportunity to compete on all DoD orders in excess of \$100,000. This required FedSource to re-compete all of the DoD task orders greater than \$100,000 that were solicited to only the tier 1 contractors. Although the task orders issued

under the FasTrac program exceeded \$100,000, and the program was only available to the tier 1 contractors, it was never recompeted. As stated above, FedSource should determine the most appropriate contract vehicle for the FasTrac program and compete the program to comply with Section 803 and ensure that DoD receives the best service at the most reasonable price.

Suggested Source Limited Competition. FedSource issued task order number BAL119922 on September 27, 2006, for \$1.8 million on behalf of the U.S. Army Armament Research, Development, and Engineering Center (ARDEC) for the Precision Manufacturing Initiative (PMI) project. This is a research and development effort encompassing studies and analyses for developing improved manufacturing technologies. FedSource issued a request for proposal (RFP) to the FS-9 multiple-award contractors on Thursday, July 27, 2006, with a response deadline of Wednesday, August 2, 2006, amounting to 5 working days. This was a very short response time for a technically complex research and engineering project. On August 2, 2006, one of the FS-9 contractors requested an extension on the RFP due date because of the complexity of the project but was denied. Amer Technology, Inc., was the only contractor that bid and provided a thorough, completed proposal on July 28, 2006, one day after the RFP was issued. Amer Technology, Inc., planned to use two subcontractors, Tiburon Associates and Olympic Precision, Inc. (OPI), to fulfill the project requirements. FedSource officials stated they were not aware of an effort to use a suggested source; however, the MIPR received by FedSource cited OPI as the intended recipient of the funds. We believe that only an appearance of competition exists since contracting and funding actions support a suggested source, OPI, to fulfill the PMI project. This is based on the following factors:

- the RFP was issued with limited time to respond;
- a contractor response indicated that funds were earmarked;
- Amer Technology, Inc., was the only bid submitted and provided a thorough, completed proposal 1 day after the RFP was issued; and
- the MIPR certified by ARDEC and accepted by FedSource reports OPI as the intended recipient of the funds for the PMI project.

The actions taken limited competition and ensured an award to the intended recipient, OPI, as a subcontractor through FedSource's Amer Technology, Inc., contract.

DoD Missed Contracting Opportunity on PMI. Prior to using FedSource, ARDEC had identified three viable sources back in January 2006 that could have competed for the project. ARDEC contracting errors labeling the RFP description resulted in the solicitation being retracted and a missed opportunity for competition. ARDEC did not try to reissue an RFP thereafter and instead issued a MIPR to transfer funds over to FedSource to fulfill its requirement. The project manager cited too much time would be lost in the process of redoing the solicitation. Both ARDEC and FedSource records indicate no consideration given for the three contractors identified by ARDEC to compete for the PMI project. The ARDEC contracting actions fell short of achieving competition but

there was insufficient effort on ARDEC's part to ensure competition would occur among those designated contractors identified as technically capable of fulfilling the requirements on the PMI project. Suggested sources will limit competition and ability to achieve the best value for the DoD customer. DoD should ensure that competition is used in every opportunity possible to obtain best price and value.

Price Reasonableness

The contracting officer is responsible for evaluating the reasonableness of the prices offered in contractors' proposals. According to FAR Subpart 15.4, "Contract Pricing," cost or pricing data is not required if the contracting officer determines the price is fair and reasonable based on adequate competition. The FAR defines adequate competition as two or more responsible offerors, competing independently and submitting priced offers that satisfy the Government's requirement. In the absence of competition, the contracting officer must use other means to demonstrate price reasonableness such as historical cost data, independent cost estimates, market research, or comparison to competitive price lists for similar items. Of the 29 task orders reviewed, we determined that 10 task orders valued at \$6.8 million did not have evidence of price reasonableness based on our review of supporting documentation in the task order files. Contracting officers are required, at a minimum, to document price reasonableness of supplies and services in the price negotiation memorandum (PNM). We reviewed the PNM for the 29 task orders and identified 12 task orders that the PNM did not adequately document that the negotiated price was fair and reasonable (there were 2 instances where we determined the price was fair and reasonable but it was not documented in the PNM). In addition, 16 of the purchases did not have adequate independent Government cost estimates (IGCE).

Price Negotiation Memorandums. The PNM should provide support for task order pricing. However, FedSource did not always adequately document IGCEs, results of technical evaluations, or other information to support price reasonableness determinations. For example, task order LOS015717, dated September 28, 2006, was awarded for \$2.9 million to supply local area network support to the Norfolk Naval Shipyard. Three bids were received for \$334,359; \$579,917; and \$2,952,635. Two IGCEs were prepared, one based on comparison to a Government position, and one based on a market survey. The estimated costs were \$1,387,948 and \$1,298,354 respectively. The IGCE was dated November 6, 2006, which was more than a month after the task order was issued. The award was made to the contractor that bid \$2.9 million based on best value. The PNM did not provide adequate justification as to why the price was considered fair and reasonable nor was there any detail supporting the results of the technical evaluation. FedSource personnel stated the award was made to the high bidder based on the technical evaluation and that FedSource determined that the other contractors' proposals did not satisfy the statement of work. However, there was no documentation supporting the technical evaluation ratings either in the PNM or the task order file.

Independent Government Cost Estimates. We reviewed the IGCEs for the 29 task orders received and identified 16 as inadequate. Fourteen of the 16 task orders were dated after the contractors' proposal, with 1 dated more than a month after the task order was issued. In addition, 6 of the 14 IGCEs that were dated after the proposal contained pricing data identical to the winning contractor's proposal. For an IGCE to be useful in determining price reasonableness, it needs to be prepared before a contractor's proposal is received using the most reliable data available.

Historical Cost. FAR Part 15.402(a) requires the contracting officers to purchase supplies and services from responsible sources at fair and reasonable prices. In establishing the reasonableness of the offered prices, the contracting officer must not obtain more information than is necessary. Some methods used in determining price reasonableness are competitive bids, comparison of the proposed price with prices found reasonable on previous purchases (historical cost), current price list, comparison with similar items in a related industry, and comparison to an IGCE. We identified task orders that lacked adequate competitive proposals resulting in only one bid. In these instances, historical cost was not used to assist in making a fair and reasonable price determination. For example, Patterson Army Health Clinic task order number BAL119847 issued on July 3, 2006, for \$15,814, was incrementally funded, but the agreed-upon price was \$50,425 for the base year. The task order base year hourly rate was established at \$31.18 for an administrative support position. The IGCE did not adequately support the labor rate and since this was a re-competed task, the prior year labor rate could have been considered but was not. Without competitive bids, historical cost data should have been researched and considered for determining a fair and reasonable price on the award.

FasTrac Task Orders Lack Price Reasonableness Support. Three of the 10 task orders that did not have evidence of price reasonableness were awarded under the FasTrac program. All three of the FasTrac orders we reviewed had inadequate PNMs and IGCEs. The FasTrac program was developed to provide Federal agencies with a wide variety of electronic learning programs, products, and services at pre-negotiated discount prices. The program was managed by FedSource Los Angeles through a task order with Amer Technology, Inc.

FedSource did not follow its internal procedures for processing FasTrac task orders. The FasTrac standard operating procedure dated August 28, 2006, states that an IGCE will be prepared based on the published FasTrac prices. The standard operating procedure also states that a copy of the appropriate page from the FasTrac pricing schedule will be included with the IGCE so the contracting officer can use it in reviewing the contractor's proposal. Prices in the contractor's proposal should always be at or below the FasTrac pricing schedule. Occasionally, a proposal will include a price for a product or service not included in the FasTrac pricing schedule. When this occurs, the pricing of the item should be discussed with the vendor to determine whether it is fair and reasonable. The standard operating procedure also states that the ICGE should be documented in the PNM and compared to the proposed price to document that the proposal prices are in compliance with the FasTrac pricing schedule. We reviewed three FasTrac task orders and found that the IGCE for each order was dated after the contractor's proposal, the Government estimate was identical to the contractor's

proposal, and the PNM did not document that the price was fair and reasonable and in accordance with the FedSource pricing schedule. Examples of noncompliance with the FasTrac standard operating procedure include:

- **Task Order LOS015695.** This task order, dated September 25, 2006, was for the development of a language transcription training tool. The task order was a time-and-materials contract for technical and software support. The task order included five job positions budgeted for a total of 1,822 hours. The contractor's proposal was dated August 29, 2006, and priced at \$186,709. The IGCE was dated August 31, 2006, and was also priced at \$186,709, and the task order was awarded on September 25, 2006, at the same price. Amer Technology, Inc., used Science Applications International Corporation as the subcontractor on this task order. We reviewed the FasTrac pricing schedule for Science Applications International Corporation and found two of the positions (program manager and program cost analyst) were not included in the FasTrac pricing schedule. The other three positions were priced at an hourly rate below the rate in the FasTrac pricing schedule. Per the FasTrac standard operating procedure, the IGCE should have been prepared using the FasTrac pricing schedule and compared with the contractor's proposal in the PNM. In addition, there is no evidence in the PNM or the task order file that FedSource contacted the contractor regarding the two positions not included in the pricing schedule. In addition, there was no evidence that FedSource reviewed the proposed labor hours for reasonableness and a copy of the page containing the Science Applications International Corporation prices in the FasTrac pricing schedule was not included with the IGCE as required by the FasTrac standard operating procedure.
- **Task Order LOS015690.** This task order, dated September 20, 2006, was a fixed-price task order for five software applications to support distance learning. The contractor's proposal was dated August 31, 2006, and priced at \$122,751. The IGCE and the task order award were both dated September 20, 2006, and both priced at \$122,751. The IGCE did not include or reference the appropriate page from the FasTrac pricing schedule. We attempted to compare the proposal prices with the FasTrac pricing schedule but were unable to find the pricing for the five software applications on the pricing schedule. In addition, we asked the FedSource customer service representative who prepared the IGCE to provide us with the support used to prepare the IGCE and verify the proposal pricing. The service representative was not able to produce the pricing scheduling for the five applications.

FedSource personnel responsible for reviewing FasTrac proposals need to improve their procedures for reviewing proposals and preparing documentation that shows the price paid is in accordance with the pre-negotiated FasTrac pricing schedule.

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 quality assurance surveillance plan (QASP) should be prepared in conjunction with preparation of the statement of work and should specify all work requiring surveillance and the methods of surveillance. DoD officials frequently prepared inadequate statements of work citing deliverables that were broad and general. A QASP is useful to clarify what is expected from the contractor and reduce the confusion that exists in interagency contracting arrangements. FedSource did not regularly use the QASP to measure and monitor task order performance because it relied upon the DoD customer to provide oversight.

Incomplete Surveillance Plan. Each of the 29 task orders we reviewed had inadequate QASPs. The QASPs were inadequate for several reasons. Some had no signature approval, others were undated, others designated no responsible official for conducting surveillance, while others cited broad and general deliverables that limited the ability to measure performance. A thorough QASP should clearly identify roles and responsibilities and contain clear and specific performance metrics to measure contractor progress. DoD requirement officials could not identify specific contracting officer technical representative (COTR) surveillance steps performed. Several DoD project officers stated that they did not rely solely on FedSource to perform contract surveillance. In some instances, FedSource conducted surveillance on an exception basis for task orders. FedSource did not actively monitor the task order unless a problem arose and was reported by a DoD activity. As a result, DoD could not be assured it was receiving the best quality items or services without an approved and complete QASP. In addition, DoD may be at risk for receiving substandard performance.

Plan Lacks Reporting Schedule Between DoD and FedSource. The QASP should include the method of surveillance, level of surveillance, acceptable quality levels, and inspection procedures that identify what will be checked. FedSource QASPs generally captured these factors using its standardized QASP that reported deliverables, performance standards, acceptance criteria, and method for review. In addition, the plan included a section to document evaluations conducted on surveillance, but we found the QASPs lacked a schedule for DoD to report to FedSource or vice versa. Since the interagency agreements do not address a schedule for surveillance and coordination between FedSource and the DoD customer, the QASP should incorporate a schedule for performance monitoring that reflects the degree of complexity for each task order.

For example, Naval Air Warfare Center task order BAL119914, dated September 26, 2006, for technical support, contained a surveillance plan signed by representatives from DoD and FedSource but the plan did not provide a schedule covering FedSource responsibilities on the project. Further, no schedule existed distinguishing either FedSource or DoD oversight and reporting. Although the plan provides that weekly reviews will be performed by the project officer for selected deliverables, no written evaluations were available to demonstrate progress. Also, the DoD project officer believed that the frequency of reporting was unrealistic and would not actually occur on a weekly basis. The FedSource project officer guidelines stipulate that surveillance documentation will be provided by the DoD project officer to the COTR, when requested. Since FedSource is primarily responsible for contract administration, FedSource should

establish a schedule to review and document the DoD customer results in the QASP. Since the work to be performed is not located at the Naval Air Warfare Center, a schedule with responsible officials monitoring the work is essential. Omission of a schedule can lead to a lack of coordination between the DoD customer and FedSource resulting in failure to conduct evaluations or poor and untimely reporting of problems. Untimely reporting of performance problems can result in cost overruns and delays in receiving services. An accurate schedule, as part of an overall surveillance plan, can improve contract administration and assure responsiveness to customers.

QASP Deliverables Progress Unmeasurable. The QASP includes deliverables and performance standards but task orders were issued without measurable metrics to determine progress on a project. For example, ARDEC issued task order BAL119922, dated September 27, 2006, for the precision manufacturing initiative. A task execution plan listed as a deliverable on the QASP did not contain a submittal date. The QASP was incomplete as a result of reporting a deliverable without a delivery date. The task execution plan was to contain all the scheduled activities on the project to be managed for compliance. Further, it was to contain the Amer Technology, Inc., quality plan that would report on the subcontractor performance against task objectives. The QASP should have contained a delivery date for the task execution plan given its importance in reporting schedule, cost management, and milestones for each subtask. A task execution plan provided during our review was incomplete. The QASP remaining deliverables are not designed to provide the ability to monitor task order progress. The task execution plan was serving a similar role as a QASP by containing scheduled milestone date for tasks. The QASP alone did not contain the research, development, test, & evaluation (RDTE) tasks and scheduled milestone completion dates. Without a definite early delivery date established for the deliverable task execution plan, DoD cannot ensure it is being serviced properly and receiving services within cost and schedule.

Surveillance Responsibilities Unclear. Responsibilities over surveillance on DoD projects was unclear between DoD and FedSource. The QASP did not distinguish between DoD and FedSource responsibility and the COTR designation letter was not tailored to the specific purchase. FedSource officials stated that they assigned COTRs for each of the task orders reviewed using COTR designation letters. 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 contend that it was unrealistic to expect one person to complete the long list of assigned tasks. Designation letters should specify the extent and limitations of the COTR authority to act on behalf of the contracting officer. The letters should also be realistic in specifying the scope of the COTR's responsibilities.

A FedSource ordering guide provides guidance on the roles and responsibilities for FedSource and the customer agency. Within the guide and referenced on each QASP is the FedSource project officer guideline. The guide provides for the DoD customer to conduct surveillance but FedSource did not reduce its fee when the DoD customer conducted contract administration duties. DFARS 201.6, "Contracting Authority and Responsibilities," states that the contracting officer should manage the award and administration of contracts. Code of Federal

Regulations subpart 2801.70, “Contracting Officer’s Technical Representative,” provides that the contracting officer may appoint individuals selected by the program office to act as an authorized representative in the monitoring and administration of contracts. To assist in administrative duties, contracting officers are authorized to designate qualified personnel as the contracting officer representative. FedSource designated a COTR for task orders reviewed but the role for the DoD customer compared with the COTR over surveillance is not clear.

FedSource surveillance procedures provide for DoD to perform surveillance duties and place accountability for problems with the DoD customer while FedSource retains responsibility for contract administration. There are unclear lines of responsibility over surveillance because of inconsistent designation of responsibilities between DoD and FedSource. Specifically, the QASPs did not clearly specify responsible surveillance officials and in some instances, omitted reporting those individuals providing oversight and reporting. Also, confusion exists because the project officer guidelines provide for the DoD customer to be responsible for surveillance while the FedSource COTR designation letter identifies a FedSource official responsible for surveillance. Additionally, the COTR designation letter was not tailored for specific DoD purchases. For example, the 88th Regional Readiness Command, Fort Snelling, Minnesota, task order LOS015691, dated September 22, 2006, for roof repair on Building 139 at Fort Sheridan, Illinois, had an incomplete QASP. The QASP did not identify all the pertinent FedSource and DoD management officials monitoring performance on the contract and did not include numerous reports available for monitoring progress. Although safety was a significant factor for this repair project and FedSource provided an onsite project manager over quality control, that individual was not identified in the QASP. Additionally, the roof replacement on Fort Sheridan would occur in Illinois, not in Minnesota, home of the 88th Regional Readiness Command. As a result, this construction project had an inadequate QASP that had an unclear designation of responsibilities for contract administration and surveillance.

Use of Government Funds

The 29 task orders reviewed comprised 26 purchases funded using operations and maintenance (O&M) funds, 2 purchases funded with research, development, test, and evaluation (RDT&E) funds, and 1 purchase funded using Defense working capital 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.

Potential Funding Violation. One of 29 purchases used the wrong type of appropriation to fund the procurements. The National Security Agency funded

\$350,000 on MIPR number H98230-E806-0032 that was prepared on August 25, 2006, for FedSource to use in award of task order SAN008995 on behalf of the National Security Agency. The task order was issued on September 15, 2006, for \$323,971, and was for development of a computer-based training tutorial package to support its counterterrorism training curriculum. The project was funded with O&M appropriated funds that were available for information technology efforts up to \$250,000. O&M funds are generally budgeted to operate and maintain organizations and current services. Beyond this threshold, procurement appropriated funds are used to acquire and deploy a complete system with a cost of \$250,000 or more. The funds then are considered used for investment versus expense. Further, design and development of 12 Web-based instructional tutorials supports use of the RDT&E appropriation. We believe this project should have been funded with procurement or RDT&E appropriated funds and therefore, the National Security Agency used an incorrect appropriation. This situation will be included in an overall report addressing potential funding violations and that report will include appropriate recommendations.

Audit Fund Tracking. As stated in our prior report, DoD did not consistently track funds sent to FedSource by MIPRs. 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 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 financial obligation and expenditure reporting. FedSource utilizes a database known as the FedSource Business Management System (FBMS), 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 FBMS provided capability to report funds remaining at FedSource beyond their period of availability. FedSource FBMS task order fund reporting is available on the DoD funds remaining at FedSource beyond their period of availability. The FedSource FBMS identified that DoD should recoup \$3.9 million in expired funds that were sent to FedSource in FY 2006 (as of May 2007). DoD activities should follow up on their unliquidated obligated fund balance during the period of availability to ensure funds are used for other purposes prior to their expiration.

Conclusion

Our second review has shown significant improvements in competition and use of appropriated funds with measured improvement in price reasonableness. We still identified areas to address but FedSource actions on competition resulted in increased fair opportunity for potential bidders. Also, FedSource issued guidance to assist in making the correct use of appropriated funds. Surveillance continues to need attention, as addressed in our first review, although some steps were taken to demonstrate action. For example, FedSource has conducted training and all task order files are now contained in a QASP. We did identify one potential funding violation but this represents a fraction of the occurrences from our first review. A lack of compliance with USD(C) and Military Department guidance

for making purchases through non-DoD activities continues. Overall, we believe DoD should continue to use FedSource until it can redirect its business elsewhere when FedSource no longer exists.

Management Comments on the Finding and Audit Response

Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer Comments. The Deputy Chief Financial Officer, the Under Secretary of Defense (Comptroller)/Chief Financial Officer provided comments. The Deputy Chief Financial Officer concurred with the report and intends to review and deobligate valid amounts identified by the DoD Components. Also, the Deputy Chief Financial Officer will continue to obtain data from FedSource to assist in identifying and facilitating the return of expired or excess funding.

Audit Response. The comments are responsive. The Deputy Chief Financial Officer concurred and intends to review and deobligate valid amounts identified by the DoD Components.

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. Actions needed to correct the problems noted were recommended in DoD IG Report No. D-2007-007, "FY 2005 DoD Purchases Made Through the General Services Administration," October 30, 2006. Also, recommendations to the Under Secretary of Defense (Comptroller)/Chief Financial Officer regarding the potential Antideficiency Act violation are addressed in our report "Summary Report on Potential Antideficiency Act Violations Resulting From DoD Purchases Made Through Non-DoD Agencies FY 2004 Through FY 2007," due out in FY 2008.

We recommend that the Under Secretary of Defense Comptroller)/Chief Financial Officer deobligate \$3.9 million in expired DoD funds in the possession of the Department of the Treasury.

Management Comments. The Deputy Chief Financial Officer concurred and intends to review and deobligate valid amounts identified by the DoD Components.

Audit Response. Management comments were responsive to the recommendations.

Appendix A. Scope and Methodology

We performed this audit from October 2006 through July 2007 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This audit was a joint review between the DoD OIG and the Department of the Treasury OIG. The “National Defense Authorization Act for Fiscal Year 2006” requires the DoD OIG and the Department of the Treasury OIG to review whether procurement policies, procedures, and internal controls applicable to the procurement of products and services on behalf of the DoD 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 the Department of the Treasury, FedSource. We reviewed 29 task orders valued at \$11.2 million at 15 DoD sites. We selected 15 organizations with high dollar value task orders. We reviewed task orders from the following sites:

- 1) Patterson Army Health Clinic;
- 2) U.S. Army Armament Research, Development, and Engineering Center;
- 3) U.S. Army Claims;
- 4) Brooke Army Medical Center;
- 5) Army Medical Department Center and School;
- 6) 88th Regional Readiness Command;
- 7) Fort Hood;
- 8) Norfolk Naval Shipyard;
- 9) Naval Education and Training Command;
- 10) Naval Air Warfare Center;
- 11) Naval Medical Clinic–Quantico;
- 12) Naval Hospital–Corpus Christi;
- 13) National Security Agency;
- 14) David Grant Medical Center; and
- 15) Office of the Under Secretary of Defense for Personnel and Readiness.

For each site, we judgmentally selected task orders from FY 2006 between July 1 and September 30, 2006. The contract actions included new task orders and modifications to basic task orders. 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, contract award documents, interagency agreements, customer request forms, COTR letters, determination and finding documents, task orders,

surveillance plans, PNMs, task order modifications, requests for proposals, IGCEs, orders for supplies and services, and miscellaneous correspondence. We interviewed DoD program managers, finance officials, resource managers, FedSource acquisition management officials, contracting officers, and COTRs covering purchase requirements and acquisition, types of funds used, competition, fair and reasonable price determination, and surveillance. 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.
- We analyzed 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 COTR to monitor the contractor's performance and whether the Department of the Treasury had contract surveillance guidelines.

We visited three FedSource Regional Centers responsible for task order award and administration (Baltimore, San Antonio, and Los Angeles) and the FedSource Acquisition Center in St. Louis. We also visited the Bureau of the Public Debt, Administrative Resource Center in Parkersburg, West Virginia, to review the multiple-award contracts used for issuing task orders, blanket purchase agreements, and small business administration contracts used to issue task orders conducted.

Use of Computer-Processed Data. FedSource provided a list comprising the universe of FY 2006 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 and activities with considerable procurements. In FY 2006, FedSource issued 26,344 contract actions for all

customers representing \$404.1 million. FedSource issued 12,354 contract actions on behalf of DoD in FY 2006 totaling \$165.6 million. FedSource has \$3.9 million in expired FY 2006 funds to be returned to DoD. In FY 2006 (between July 1 and September 30, 2006) the 5 FedSource centers processed 251 contract actions valued at \$35.6 million. DoD OIG and Treasury OIG judgmentally selected 57 basic task orders valued at \$24.1 million. The selection was made from three of the FedSource centers. During the same period, FedSource issued 79 modifications valued at \$2.9 million. In total, 330 contract actions were issued by FedSource from July 1 through September 30, 2006, totaling approximately \$38.5 million. We selected 29 contract actions valued at \$11.2 million for review.

Government Accountability Office High-Risk Areas. GAO has identified several high-risk areas in DoD. This report provides coverage of the high-risk areas “DoD Contract Management” and “Management of Interagency Contracting.”

Appendix B. Prior Coverage

During the last 5 years, GAO, DoD IG, Army, and Air Force have issued 24 reports relating to interagency contracting and military interdepartmental purchase requests. Specifically, GAO and DoD IG have issued reports related to 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-07-310, “High-Risk Series: An Update,” January 2007

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, “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-2008-036, “FY 2006 DoD Purchases Made Through the U.S. Department of Veterans,” December 20, 2007

DoD IG Report No. D-2008-022, “FY 2006 DoD Purchases Made Through the National Institutes of Health,” November 15, 2007

DoD IG Report No. D-2007-044, “FY 2005 DoD Purchases Made Through the Department of the Interior,” January 16, 2007

DoD IG Report No. D-2007-042, "Potential Antideficiency Act Violations on DoD Purchases Made Through Non-DoD Agencies," January 2, 2007

DoD IG Report No. D-2007-032, "Report on FY 2005 DoD Purchases Made Through the Department of the Treasury," December 8, 2006

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-2006-029, "Report of Potential Antideficiency Act Violations Identified During the Audit of the Acquisition of the Pacific Mobile Emergency Radio System," November 23, 2005

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

DoD IG Report No. D-2005-003, "DoD Antideficiency Act Reporting and Disciplinary Process," October 14, 2004

DoD IG Report No. D-2004-084, "Antideficiency Act Investigation of the Research, Development, Test and Evaluation, Defense-Wide Appropriation Account 97 FY 1989/1990 0400," May 28, 2004

DoD IG Report No. D-2004-015, "Contract for Professional, Administrative, and Management Support Services," October 30, 2003

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

Treasury IG

Treasury IG Report No. OIG-08-002, "Acquisitions: Although Weaknesses Still Exist, the Treasury Franchise Fund Improved Compliance with DoD Procurement Requirements," October 29, 2007

Treasury IG Report No. OIG-07-026, "Acquisitions: Treasury Franchise Fund Needs to Improve Compliance with Department of Defense Procurement Requirements," January 16, 2007

Appendix C. Purchases' Deficiencies

DoD Activity	Task Order Number	Purchase	No Market Research	Inadequate or No Interagency Agreement	Inadequate Competition	Inadequate Price Reasonableness	Inadequate Surveillance Plan
ARMY							
1) Patterson Health Clinic	BAL119897	1) Medical Records Technician	•	•		•	•
	BAL119900	2) Medical Records Technician	•	•		•	•
2) ARDEC	BAL119847	3) Computer Operator III	•	•		•	•
	BAL119922	4) Precision Manufacturing Initiative	•	•	•	•	•
3) U.S. Army Claims	BAL119985	5) Administrative Support	•	•		•	•
4) Brooks Army Medical Center	SAN009006	6) General Clerk II	•	•		•	•
	SAN009004	7) Administrative Services	•	•		•	•
	SAN009003	8) Administrative Services	•	•		•	•
	SAN009005	9) Administrative Support	•	•		•	•
	SAN009009	10) Administrative Support	•	•		•	•
	SAN009010	11) Administrative Support	•	•		•	•
5) Army Medical Dept. and School	SAN008982	12) Senior Program Manager	•	•		•	•
6) 88 th Regional Readiness Command	LOS015642	13) Remodeling and Installation	•	•		•	•
	LOS015628	14) Roof Repair	•	•		•	•
	LOS015691	15) Building 139 Roof Replacement	•	•		•	•

DoD Activity	Task Order Number	Purchase	No Market Research	Inadequate or No Interagency Agreement	Inadequate Competition	Inadequate Price Reasonableness	Inadequate Surveillance Plan
7) Fort Hood	LOS015626	16) Maintenance Service	•	•			•
NAVY							
8) Norfolk Naval Shipyard	LOS015717	17) Network Support	•	•		•	•
9) Naval Education and Training	LOS015720	18) Courseware Development	•	•	•	•	•
10) Naval Air Warfare Center	BAL119914	19) Systems Analysts	•	•			•
11) Naval Medical Clinic-Quantico	BAL119937	20) Administrative Support	•	•			•
	BAL119941	21) Administrative Support	•	•			•
12) Naval Hospital Corpus Christi	SAN009024	22) General Clerk III, IV	•	•			•
AIR FORCE							
13) Travis Air Force Base	SAN008989	23) Radiation Therapists	•	•			•
	SAN008990	24) Cancer Registered Nurse	•	•			•
	SAN008993	25) Surgical Technologists	•	•			•
OFFICE OF THE SECRETARY OF DEFENSE							
14) Under Secretary of Defense (Personnel and Readiness)	LOS015724	26) Development Risk Assessment	•	•			•

DoD Activity	Task Order Number	Purchase	No Market Research	Inadequate or No Interagency Agreement	Inadequate Competition	Inadequate Price Reasonableness	Inadequate Surveillance Plan
DEFENSE AGENCY							
15) National Security Agency	SAN008995	27) Counterterror Training Tools	•	•			•
	LOS015690	28) Software	•	•	•	•	•
	LOS015695	29) E-Learning Tool Development	•	•	•	•	•
Total 15 DoD Activities Visited		Total 29 DoD Purchases Reviewed	29 No Market Research	6 No Agreement 23 Inadequate	4 Inadequate Competition	10 No Price Reasonableness	29 Inadequate Surveillance Plan

Appendix D. Regulations

Guidance on Interagency Agreements

DoD Policy on Interagency Agreements. 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” (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 IG 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” (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; failure to complete these 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.

Guidance on Use of Appropriated Funds

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, 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.

Antideficiency Act Violations. Financial Management Regulation 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 Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, 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.

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, Defense Procurement and Acquisition Policy
Under Secretary of Defense (Comptroller)/Chief Financial Officer
 Deputy Chief Financial Officer
 Deputy Comptroller (Program/Budget)
Under Secretary of Defense for Personnel and Readiness
 Director, Program Analysis and Evaluation

Department of the Army

Assistant Secretary of the Army (Financial Management and Comptroller)
Army Inspector General
Auditor General, Department of the Army
Commander, U.S. Army Criminal Investigations Command
Commander, U.S. Army Fort Hood
Commander, U.S. Army Patterson Health Clinic
Commander, U.S. Army Brooke Army Medical Center
Commander, U.S. Army Medical Department Center and School
Commander, U.S. Army Eighty-Eighth Regional Readiness Command
Commander, U.S. Army Claims Services, OTJAG
Director, U.S. Army Armament Research, Development and Engineering Center

Department of the Navy

Assistant Secretary of the Navy (Manpower and Reserve Affairs)
Naval Inspector General
Auditor General, Department of the Navy
Commander, Naval Health Clinic Quantico
Commander, Naval Education and Training Command Dam Neck
Commander, Norfolk Naval Shipyard
Commander, Naval Air Warfare Center
Commander, Naval Hospital Corpus Christi

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, Department of the Air Force
Commander, Headquarters United States Air Force, Deputy Chief of Staff, Manpower
and Personnel
Commander, David Grant Medical Center

Combatant Commands

Inspector General, U.S. Joint Forces Command

Other Defense Organizations

Director, Defense Finance and Accounting Service
Director, Defense Logistics Agency

Non-Defense Federal Organization

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

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 Oversight and Government Reform
House Subcommittee on Government Management, Organization, and Procurement,
Committee on Oversight and Government Reform
House Subcommittee on National Security and Foreign Affairs,
Committee on Oversight and Government Reform

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



COMPTROLLER

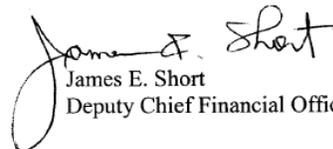
OFFICE OF THE UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

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

SUBJECT: Draft Audit Report, "FY 2006 DoD Purchases Made Through the
Department of the Treasury," (Project No. D2007-D000CF-0034.000)

This memo is in response to the subject November 21, 2007, draft report provided to this office for review and comment. Our response to the audit report recommendation 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.


James E. Short
Deputy Chief Financial Officer

Attachments:
As stated

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

Attachment 1
Response to Draft Audit Report Recommendations

Office of the Inspector General (OIG), Department of Defense (DoD)
"FY 2006 DoD Purchases Made Through the Department of the Treasury"
OIG Project No. D2007-D000CF-0034.000

OIG Recommendation 1a. We recommend that the Under Secretary of Defense Comptroller/Chief Financial Officer deobligate \$3.9 million in expired DoD funds in the possession of the Department of the Treasury.

OSD Response. Concur with the intent to review and deobligate valid amounts identified by the DoD Components. To date, DoD Components reviewed data provided by FedSource and deobligated \$704.4 thousand. We will continue to obtain data from FedSource to assist in identifying and facilitating the return of expired or excess funding.

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.

Richard B. Jolliffe
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Inspector General Department of Defense

