AUDIT REPORT **IG-05-022**

SOLE-SOURCE PURCHASE ORDERS UNDER SIMPLIFIED ACQUISITION PROCEDURES

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National Aeronautics and Space Administration

OFFICE OF INSPECTOR GENERAL

Released by: Evelyn R. Klemstine

Evelyn R. Klemstine
Assistant Inspector General for Auditing

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Executive Summary

The NASA Office of Inspector General conducted an audit to determine whether NASA effectively managed awards of sole-source purchase orders under simplified acquisition procedures. The specific audit objectives were to determine whether:

- Proposed sole-source purchase orders were synopsized as required and the Agency properly dispositioned any challenges received in response to the synopses.

- Justifications for sole-source purchases were adequately documented, supported, and properly reviewed and approved by the appropriate NASA officials prior to award of the purchase orders.

We performed audit work at Dryden Flight Research Center (Dryden), Kennedy Space Center (Kennedy), and Langley Research Center (Langley). Details on our audit scope and methodology are in Appendix A. Statistical information for the purchase order actions reviewed is in Appendix B.

Background. This audit is the third in a series designed to assess NASA's overall competitive contracting posture. We conducted this audit because competition in Federal contracting under simplified acquisition procedures is a proven and effective means of acquiring supplies and services and generally results in lower prices and improved quality. Competition can also provide innovative, commercial solutions that meet NASA's needs.

Simplified acquisition procedures are used for making purchases of supplies or services that do not exceed $100,000. Under a Government-wide pilot program, contracting officers may now use simplified procedures for the acquisition of commercial items for amounts greater than $100,000, but not exceeding $5 million. During fiscal years 2002 and 2003, NASA spent $3.9 billion and $4.4 billion, respectively, through noncompetitive contract awards. Included in those amounts approximately $54.3 million and $55.6 million were procured on a sole-source basis using simplified acquisition procedures.

Results. Management of sole-source purchase orders under simplified acquisition procedures at the Centers reviewed was generally effective. The majority of proposed sole-source purchase order actions that we reviewed at Dryden, Kennedy, and Langley were synopsized in accordance with Federal Acquisition Regulation (FAR) requirements. No challenges were received in response to those synopses. Also, justifications were

generally documented, supported, and properly reviewed and approved by the appropriate NASA officials prior to award of the purchase orders. However, we found two areas that need improvement—synopses of sole-source purchase order actions and justifications of sole-source actions under the simplified acquisition pilot program.

Of the 141 actions that we reviewed, 16 actions (11 percent) totaling $2.2 million were not synopsized as the Federal Acquisition Regulation (FAR) requires. That condition occurred at two of the three Centers (Dryden and Kennedy) because some contracting officers at those Centers either overlooked the requirement to publish a synopsis or improperly applied one of the synopsis exceptions authorized under the FAR. Another factor contributing to the condition at Dryden and Kennedy was that there were no reviews by higher level officials, because the contracting officer is the sole approving official for simplified acquisition synopses at those Centers. Not publishing a synopsis notice restricts competition. As a result, the Government may miss out on the benefits of competition and may pay higher prices for goods and services. (Finding A)

We also found that Dryden did not follow FAR requirements when preparing written justifications for several sole-source purchase orders awarded under the simplified acquisition pilot program. Of the 27 actions reviewed at Dryden, 12 were awarded under the pilot program. Of those 12 actions, 8 (67 percent) totaling $2.5 million did not have sufficient justifications. Failure to prepare sufficient sole-source justifications may reduce competition and result in the Government paying higher prices. (Finding B)

Summary of Recommendations. We recommend that Dryden and Kennedy adopt a more rigorous review and approval process (that is, a higher level of review beyond the contracting officer) that would ensure all proposed sole-source acquisitions using simplified acquisition procedures are properly synopsized as the FAR requires. We also recommend that Dryden management ensure that sole-source purchase order actions under the pilot program are justified in writing as the FAR and NASA FAR Supplement require.

Management Comments. Management at Dryden concurred with our recommendations and has taken or is taking corrective actions. Management at Kennedy partially concurred with our recommendation. While they agree with the intent of the recommendation, they believe that adopting a more rigorous review and approval process for proposed sole-source synopses would be unduly burdensome. Instead, Kennedy management agreed to have the NASA procurement survey team increase its emphasis in this area during future reviews at the Center. If the review teams find repeated problems in this area, they will then implement the recommended action of adopting a more rigorous review and approval process. The complete text of management's response is in Appendix D.

Audit Response. NASA's comments are responsive and no additional comments are requested.

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Acronyms Used in the Report

FAR	Federal Acquisition Regulation
NFS	NASA FAR Supplement

SOLE-SOURCE PURCHASE ORDERS UNDER SIMPLIFIED ACQUISITION PROCEDURES

Objectives

Our overall objective was to determine whether NASA effectively managed awards of sole-source purchase orders under simplified acquisition procedures. Specifically, we determined whether:

- Proposed sole-source purchase orders were synopsized as required and the Agency properly dispositioned any challenges received in response to the synopses.

- Justifications for sole-source purchases were adequately documented, supported, and properly reviewed and approved by the appropriate NASA officials prior to award of the purchase orders.

Background

Competition in Federal contracting under simplified acquisition procedures is a proven and effective means of acquiring supplies and services and generally results in lower prices and improved quality. Competition can also provide innovative, commercial solutions to meet NASA's needs. Federal regulations require that agencies provide for full and open competition to the maximum extent practicable in fulfilling the government's requirements. The Federal Acquisition Regulation (FAR) sets forth policies and procedures to ensure compliance with these principles.

Simplified acquisition procedures are used for making purchases of supplies or services that do not exceed $100,000. Also, under a Government-wide pilot program (FAR Subpart 13.5), contracting officers may now use simplified procedures for the acquisition of commercial items for amounts greater than $100,000, but not exceeding $5 million. During fiscal years 2002 and 2003, NASA spent $3.9 billion and $4.4 billion, respectively, through noncompetitive contract awards. Included in those amounts, approximately $54.3 million and $55.6 million, respectively, of supplies and services were procured on a sole-source basis using simplified acquisition procedures.

Findings

A. Some Sole-Source Purchase Order Actions Were Not Synopsized

The majority of proposed sole-source purchase order actions that we reviewed at Dryden Flight Research Center (Dryden), Kennedy Space Center (Kennedy), and Langley Research Center (Langley) were synopsized in accordance with FAR requirements. No challenges were received in response to those synopses. However, of the 141 actions reviewed, 16 (11 percent) totaling approximately $2.2 million were not synopsized. That condition occurred at two of the three Centers (Dryden and Kennedy) because some contracting officers at those Centers either overlooked the requirement to publish a synopsis or improperly applied one of the synopsis exceptions authorized under FAR 5.202. Another factor contributing to the condition at Dryden and Kennedy was that there were no reviews by higher level officials, because the contracting officer is the sole approving official for simplified acquisition synopses at those Centers.[1] By not posting synopses when required, the Government may have unnecessarily precluded competition and, as a result, paid higher prices for goods and services.

Guidance for Synopses

FAR requirements for synopsizing proposed purchase order actions are as follows:

- FAR 5.101(a)(1), "Methods of Disseminating Information," requires that the contracting officer synopsize proposed purchase order actions expected to exceed $25,000.

- FAR 5.207, "Preparation and Transmittal of Synopsis," paragraph (c), requires that the contracting officer prepare a clear and concise description of the supplies/services required. Further, in synopses for noncompetitive contract actions, subparagraph (c)(14) requires the contracting officer to identify the intended source and insert a statement for the reason justifying the lack of competition.

- FAR 13.105(a), "Synopsis and Posting Requirements," requires that the contracting officer comply with FAR 5.101 unless one of the specific exceptions addressed in FAR 5.202 applies (for example, urgency or national security).

See Appendix C for additional competition and synopsis requirements.

To ensure that sole-source purchase order actions are competed to the maximum extent practicable, a clear and concise description of the supplies or services must be prepared and publicized. Synopsizing, which promotes competition, allows a prospective offeror

[1]All 72 of the Langley purchase order actions we reviewed were properly synopsized as required. Langley requires a Team Lead or Branch Head to approve sole-source purchase order synopses and actions over $25,000.

to make an informed business decision as to whether a copy of the solicitation should be requested from the Government for potentially submitting an offer. According to the FAR, the primary purpose of a synopsis notice is to improve industry's access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities. If a required synopsis is not posted for a particular action, the contracting officer must document why the synopsis was not prepared, including a citation of which synopsis exception under FAR Subpart 5.202 applied.

Some Synopses Not Posted at Dryden and Kennedy

At Langley, all purchase order actions reviewed were synopsized; however, at Dryden and Kennedy some actions were not synopsized and had no documentation explaining whether any authorized synopsis exceptions applied. That condition occurred because some contracting officers at those Centers either overlooked the requirement to publish a synopsis or improperly applied one of the synopsis exceptions authorized under FAR 5.202. Another factor contributing to the condition at Dryden and Kennedy was that there were no reviews by higher level officials, because the contracting officer is the sole approving official for simplified acquisition synopses at those Centers. Table 1 summarizes, by Center, the number and dollar value of purchase order actions reviewed, as well as the number and dollar value of actions not synopsized.

Table 1. Purchase Order Actions With No Synopsis

Installation	Actions Reviewed	Value of Actions Reviewed	Actions Not Synopsized and No Exception	Value of Actions Not Synopsized and No Exception
Dryden	27	$4,839,000	8	$1,010,000
Kennedy	42	8,240,000	8	1,184,000
Langley	72	12,172,000	0	0
Total	**141**	**$25,251,000**	**16**	**$2,194,000**

Actions With No Synopsis

At Dryden, eight purchase order actions with a total value of $1 million were not synopsized and had no documentation explaining whether any of the authorized synopsis exceptions applied. For example, one purchase order lacking a required synopsis was valued at $500,000 for miscellaneous video, fiber optic, and telemetry transmission and reception equipment. The contracting officer did not prepare a synopsis for that purchase order, citing as a justification the need for continuity of management services. However, follow-on work (continuity of services) is not one of the seven authorized exceptions under FAR 5.202. Another Dryden purchase order lacking a synopsis was valued at $241,000 for management consulting services. The contracting officer did not prepare a synopsis because the proposed action resulted from the acceptance of an unsolicited proposal. However, the unsolicited proposal was not for a unique and innovative research concept, which is required to qualify as a valid basis for a synopsis exception under FAR 5.202. The remaining six Dryden purchase order actions were not synopsized

because the contracting officers either overlooked the requirement to publish a synopsis or improperly applied one of the synopsis exceptions authorized under FAR 5.202

At Kennedy, eight purchase order actions with a total value of $1.2 million were not synopsized and had no documentation explaining whether any of the authorized synopsis exceptions applied. For example, one purchase order lacking a required synopsis was valued at $819,000 for engineering and technical support services. The contracting officer stated that the action was not synopsized because Kennedy initially intended to procure the services from an eligible small disadvantaged business using the authority of section 8(a) of the Small Business Act (a valid synopsis exception under FAR 5.202). However, Kennedy ultimately elected not to acquire the services as an 8(a) procurement, but did not publish the required synopsis.

Other examples of Kennedy purchase orders lacking required synopses were: (1) an order valued at $50,000 for international medical services and (2) an order valued at $28,000 for management consulting services. Kennedy procurement officials stated that those actions were not synopsized as required because of inadvertent oversights by the respective contracting officers. The remaining five Kennedy purchase order actions were not synopsized because the contracting officers improperly applied one of the synopsis exceptions authorized under FAR 5.202. For each of those five actions, the contracting officer was the sole approving official.

Competition in Federal contracting, including the use of simplified acquisition procedures, is a proven and effective means of acquiring supplies and services and generally results in lower prices and improved quality. Publicizing contract actions can increase competition, broaden industry participation in meeting Government requirements, and assist small business concerns in obtaining contracting opportunities. However, by not posting synopses when required, the Government may have unnecessarily precluded competition. As a result, the Government may have missed out on potential benefits such as improved level of service and lower market-tested pricing.

Recommendations for Corrective Action

1. **The Procurement Officer at Dryden should adopt a more rigorous review and approval process (that is, a higher level of review beyond the contracting officer) in order to ensure all proposed sole-source acquisitions using simplified acquisition procedures are properly synopsized as required by the FAR.**

Management's Response. Management at Dryden concurred with our recommendation. On May 4, 2005, the Dryden Procurement Officer issued a memorandum to the Dryden Acquisition Management Office staff immediately implementing a requirement that synopses for all proposed contract actions be approved by the procurement analyst (Dryden's Acquisition Management Office's review officer) in addition to the contracting officer. Dryden is in the process of formally revising Dryden Organizational Procedure

DOP-A-003, "Review and Execution of Procurement Documents." The formal revision to DOP-A-003 is expected to be completed by July 8, 2005.

Evaluation of Management's Response. Management's actions are responsive to the recommendation. We consider the recommendation closed for reporting purposes. However, Dryden Organizational Procedure DOP-A-003 has not yet been finalized and we will follow up to ensure that it is formally issued.

2. **The Procurement Officer at Kennedy should adopt a more rigorous review and approval process (that is, a higher level of review beyond the contracting officer) in order to ensure all proposed sole-source acquisitions using simplified acquisition procedures are properly synopsized as required by the FAR.**

Management's Response. Kennedy management partially concurred with the recommendation. Kennedy management agreed with the instances of concern cited in the audit report, but stated that they were isolated instances and not indicative of a systemic problem. Kennedy management agreed with the intent of the recommendation, but stated that adopting a more rigorous review and approval process for proposed sole-source synopses would be unduly burdensome. Instead, Kennedy management proposed that NASA procurement survey teams increase their emphasis in this area during future reviews at the Center. If the review teams find repeated problems in this area, management will then implement the recommended action of adopting a more rigorous review and approval process.

Evaluation of Management's Response. Management's proposed actions are responsive to the recommendation. We consider the recommendation closed for reporting purposes.

B. Deficient Justifications for Some Sole-Source Purchase Order Actions

Of the 141 purchase order actions reviewed at the three Centers, 129 (91 percent) were reasonable and were properly justified in writing in accordance with FAR and NASA FAR Supplement (NFS) requirements. The justifications were generally documented, supported, and properly reviewed and approved by the appropriate NASA officials prior to award of the purchase orders. However, we found justifications at Dryden for some sole-source purchase order actions under the simplified acquisition pilot program (FAR Subpart 13.5) that were deficient. FAR Subpart 13.5, "Test Program for Certain Commercial Items," authorizes the use of simplified procedures for the acquisition of supplies and services in amounts greater than $100,000 but not exceeding $5 million.

Of the 27 actions reviewed at Dryden, 12 were awarded under the pilot program. Of those 12 actions, 8 (67 percent) totaling $2.5 million were not supported by sufficient justifications in accordance with the FAR and NFS. The Dryden Procurement Officer stated that those problems occurred because the contracting officers did not provide sufficient oversight to the technical representatives to ensure justifications were prepared in accordance with the regulations. Another factor contributing to the condition at Dryden was that there were no reviews by higher level officials, because the contracting officer is the sole approving official for most simplified acquisitions at the Center. Failure to prepare sufficient sole-source justifications may preclude competition and result in the Government paying higher prices for goods and services.

Guidance for Written Justifications

When a requirement is determined to be available from only one source, the procurement office, in collaboration with the responsible technical program office, must make a written justification for the proposed noncompetitive acquisition. The justification must contain sufficient facts and rationale supporting determination that the required goods and services are available from only one source. The contracting officer must certify that to the best of his or her knowledge the justification is accurate and complete. Also, technical program personnel must certify the supporting data provided to the contracting officer as a basis for the justification. Finally, approvals by additional NASA officials (other than the contracting officer) may be necessary depending on the dollar value of the acquisition and individual Center policies.[2]

FAR 13.106-3(b)(3) requires that for actions under $100,000 contract file documentation should include a statement explaining the absence of competition if only one source is solicited. (See Appendix C for competition requirements.)

[2]The thresholds for such approvals and justifications are cited in FAR 6.304, "Approval of the Justification," NFS 1806.304-70 "Approval of NASA Justifications," and individual Center policies.

For actions over $100,000 under the pilot program, FAR 13.501(a)(1) requires that the contracting officer prepare a more rigorous written justification using the format provided in FAR 6.303-2. To ensure that sole-source purchase order actions are proper, the justification must clearly demonstrate that the sole-source action is necessary and appropriate. FAR 6.303-2 includes 12 specific areas that must be addressed in a justification before the Agency may proceed with a proposed sole-source procurement. (See Appendix C for justification content requirements.)

Sole-Source Justification Deficiencies at Dryden

We found no systemic justification deficiencies at either Kennedy or Langley. However, we found at Dryden several justifications for purchase order actions awarded under the simplified acquisition pilot program that were deficient. Table 2 summarizes, by Center, the number and dollar value of purchase order actions reviewed as well as the number and dollar value with insufficient justifications.

Table 2. Purchase Order Actions With Deficient Justifications

Installation	Actions Reviewed	Actions Over $100,000 With Insufficient Justifications	Value of Actions Over $100,000 With Insufficient Justifications
Dryden	27	8	$2,547,000
Kennedy	42	1	155,000
Langley	72	1	147,000
Total	**141**	**10**	**$2,849,000**

Of the 27 Dryden justifications reviewed, 8 justifications (30 percent) had insufficient content. Examples of three Dryden justifications with material content deficiencies are described below.

- A purchase order valued at $750,000 for Pacific Video Products Advanced Electro-Optical Systems did not include three of the seven substantive justification elements. Specifically, the justification did not include a description of three elements: (1) efforts made to ensure that offers were solicited from as many potential sources as is practicable; (2) any market research conducted; and (3) the sources, if any, that expressed, in writing, an interest in the acquisition.

- A purchase order valued at $500,000 for repair, design, fabrication, modification, and integration support of the NASA Dryden Research/Support/Platform Aircraft. Specifically, the justification did not include a description of five elements: (1) the proposed contractor's unique qualifications; (2) efforts made to ensure that offers were solicited from as many potential sources as is practicable; (3) any market research conducted; (4) other facts supporting the use of other than full and open competition; and (5) the sources, if any, that expressed, in writing, an interest in the acquisition.

- A purchase order valued at $102,000 for technical support of the Building Automation System. Specifically, the justification did not include a description of three elements: (1) efforts made to ensure that offers were solicited from as many potential sources as is practicable; (2) any market research conducted; and (3) the sources, if any, that expressed, in writing, an interest in the acquisition.

The Procurement Officer at Dryden stated that the justification deficiencies occurred because the contracting officers did not provide sufficient oversight to the technical representatives to ensure justifications were prepared in accordance with the regulations. Failure to ensure that sufficient sole-source justifications exist may reduce competition and result in the Government paying higher prices for goods and services.

Recommendation for Corrective Action

3. **The Procurement Officer at Dryden should implement a more rigorous review and approval process (that is, a higher level of review beyond the contracting officer) under the pilot program to ensure that Dryden contracting officers adhere to pilot program requirements under FAR 13.5 for justifying sole-source purchase orders over $100,000.**

Management's Response. Management concurred, and the Dryden Acquisition Management Office has implemented Dryden Organizational Procedure DOP-A-005, "Noncompetitive Procurement Documentation," and a desk guide for writing justifications for other than full and open competition. A special staff meeting was devoted to a training effort for the contracting officers to emphasize the need to comply with all the requirements stated in FAR Part 6 and NFS Part 6. Additionally, on June 29, 2005, the Dryden Procurement Officer issued a memorandum to the Dryden Acquisition Management Office staff immediately implementing a requirement that all justifications over $100,000 be reviewed by the procurement analyst. Dryden is in the process of formally revising Dryden Organizational Procedure DOP-A-003, "Review and Execution of Procurement Documents," to reflect this policy change. The formal revision to DOP-A-003 is expected to be completed by July 8, 2005.

Evaluation of Management's Response. Management's actions are responsive to the recommendation. We consider the recommendation closed for reporting purposes. However, Dryden Organizational Procedure DOP-A-003 has not yet been finalized and we will follow up to ensure that it is formally issued.

Appendix A. Scope and Methodology

Scope

We performed the review at three NASA Centers: Dryden Flight Research Center (Dryden), Kennedy Space Center (Kennedy), and Langley Research Center (Langley). For our review, we chose the top three Centers (those with the most simplified acquisition purchase orders and highest dollar value) that were not reviewed in one of the two previous competition in contracting audits.[3] At the three Centers, we intended to review all purchase orders awarded under simplified acquisition procedures that were active in fiscal year 2003. Our overall universe consisted of two sets of data for each Center: (1) purchase orders $25,000 to $100,000, and (2) purchase orders $100,000 to $5 million awarded under the pilot program. As of April 2004, the number of actions and their values for the Centers were:

Center	Number of Actions	Value of Actions
Ames Research Center	16	$ 2,049,000
Dryden Flight Research Center	**29**	**5,439,000**
Glenn Research Center	75	6,122,000
Goddard Space Flight Center	81	5,876,000
Headquarters	22	5,598,000
Johnson Space Center	38	3,595,000
Kennedy Space Center	**44**	**8,366,000**
Langley Research Center	**78**	**12,659,000**
Marshall Space Flight Center	41	5,472,000
Stennis Space Center	5	405,000
Total	**429**	**$ 55,581,000**

The three locations we reviewed awarded 151 (35 percent) of the total number of purchase order actions and $26 million (48 percent) of the total dollars of NASA purchase order actions during the time frame in our sample. We initially intended to review all 151 of the purchase order actions. However, during site visits, we determined that 10 actions were miscoded by the contracting officers. After eliminating those actions from our sample, we ultimately reviewed a total of 141 purchase order actions that used simplified acquisition procedures. The total actions we reviewed included 27 actions at Dryden, 42 actions at Kennedy, and 72 actions at Langley.

We reviewed pertinent Federal, Agency, and Center-specific laws, policies, and procedures pertaining to contracting without full and open competition. For each purchase order action sampled, we reviewed pertinent contract file documentation,

[3]The two previous audits completed in the competition in contracting series are (1) IG-04-007, "Review of Sole-Source and Limited Competition Contract Actions Citing 'Unusual and Compelling Urgency,'" issued January 8, 2004), and (2) IG-05-017, "Audit of Sole-Source and Limited Competition Contract Actions Citing 'Only One Responsible Source,'" issued May 13, 2005.

including the justification and synopsis. We interviewed contracting officers and other procurement officials for the selected purchase order actions.

Methodology

Synopses. For Finding A, our review focused on whether the proposed sole-source purchase orders were sufficiently synopsized as required and whether any challenges were properly dispositioned. Specifically, we reviewed:

- any applicable synopsis exceptions;
- reasonableness of response times specified by the contracting officers;
- dispositions of any challenges received; and
- adequacy of descriptive detail in the synopsis.

Justifications. For Finding B, our review focused on the more substantive required elements of the justification that are critical for supporting a decision to award noncompetitively, such as whether the justification included a:

- description of the action being approved;
- description of the supplies or services required to meet the Agency's needs;
- demonstration of the proposed contractor's unique qualifications;
- description of efforts made to solicit from other sources, including whether a synopsis of the proposed action was published;
- description and result of the market research conducted;
- list of sources that expressed an interest in the acquisition; and
- statement of other facts that support the decision to restrict competition, such as an explanation of why technical data packages, specifications, engineering descriptions, statements of work, or purchase descriptions suitable for full and open competition have not been developed or are not available.

We did not focus on the required justification elements that were less substantive such as whether the justification specifically identified the Agency and the contracting activity, specifically identified the document as a "Justification," or identified the specific

statutory authority (for example, "section 2304(c)(1), title 10, United States Code") for the action. While important, those elements do not demonstrate the propriety of the sole-source action. Therefore, while some of the justifications we reviewed were deficient in addressing the elements, we did not consider them to be material deficiencies for purposes of this audit.

Use of Computer-Processed Data

To identify the universe of purchase order actions at the three Centers, we used the computer-processed data from the NASA Procurement Management System maintained at NASA Headquarters. We compared the purchase order numbers and dollar values from the system-processed list for the purchase order actions using the simplified acquisition procedures against the contract file. Nothing came to our attention that caused us to question the validity of the NASA Procurement Management System computer-processed data. We determined that the data was sufficiently reliable for the purposes of this report.

Management Controls

We reviewed management controls over the award of the noncompetitive purchase order actions at the three Centers. We determined that generally management controls were adequate, but improvements could be made at each of the three Centers (see the findings in the main body of the report). Implementing the recommendations in this report will help strengthen management controls.

Audit Work

We performed audit work from July 2004 through March 2005 in accordance with generally accepted government auditing standards.

Appendix B. Purchase Order Actions Reviewed

The sole-source purchase orders awarded under simplified acquisition procedures that we reviewed at Dryden, Kennedy, and Langley are listed below.

NASA Center	Purchase Order Number	Value	Actions Not Synopsized and No Exception	Actions With Insufficient Justifications
Dryden	E4137D	$75,000	X	
	E4171D	76,000	X	
	E5271D	67,000		
	E5555D	34,000		
	E5658D	31,000	X	
	E5732D	30,000	X	
	E5757D	31,000		
	E5763D	30,000	X	
	E5878D	50,000		
	E5885D	48,000		
	E5901D	32,000		
	E5937D	73,000		
	E5939D	45,000		
	E5978D	27,000	X	
	E6046D	28,000		
	E3848D	102,000		X
	E4107D	503,000		
	E4850D	203,000		X
	E5189D	241,000	X	X
	E5383D	500,000	X	X
	E5548D	101,000		X
	E5557D	750,000		X
	E5586D	150,000		X
	E5645D	500,000		X
	E5765D	500,000		
	E5858D	500,000		
	E6052D	112,000		
Subtotal	27	$4,839,000	8	8

NASA Center	Purchase Order Number	Value	Actions Not Synopsized and No Exception	Actions With Insufficient Justifications
Kennedy	CC89875B	$50,000	X	
	CC90297B	31,000		
	CC90347B	63,000		
	CC90475B	70,000		
	CC90534B	88,000		
	CC90682B	27,000		
	CC90736B	36,000		
	CC90749B	98,000	X	
	CC90777B	29,000		
	CC90792B	71,000	X	
	CC90817B	100,000		
	CC90819B	30,000		
	CC91207B	28,000	X	
	CC91558B	86,000		
	CC91635B	49,000	X	
	CC91640B	49,000		
	CC91648B	50,000		
	CC91649B	33,000		
	CC91669B	28,000		
	CC91671B	29,000		
	CC91726B	70,000		
	CC91727B	70,000		
	CC91733B	50,000		
	CC91759B	65,000		
	CC91764B	60,000		
	CC91794B	84,000		
	CC91931B	28,000	X	
	CC91932B	41,000	X	
	CC91962B	39,000		
	CC85773B	409,000		
	CC86801B	327,000		
	CC90243B	155,000		X
	CC90254B	819,000	X	
	CC90340B	501,000		
	CC90511B	157,000		
	CC90520B	2,364,000		
	CC90766B	141,000		
	CC90787B	108,000		
	CC90810B	129,000		
	CC90839B	180,000		
	CC91808B	145,000		
	NAS10-03036	1,253,000		
Subtotal	42	$8,240,000	8	1

Appendix B

NASA Center	Purchase Order Number	Value	Actions Not Synopsized and No Exception	Actions With Insufficient Justifications
Langley	L11042	53,000		
	L14299	56,000		
	L16377	39,000		
	L16516	75,000		
	L17398	67,000		X
	L17415	28,000		
	L17748	100,000		
	L17811	48,000		
	L17883	61,000		
	L17999	29,000		
	L18007	80,000		
	L18010	34,000		
	L18031	33,000		
	L18061	57,000		
	L18071	32,000		
	L18142	38,000		
	L18147	47,000		
	L18237	69,000		
	L18354	25,000		
	L18357	25,000		
	L18382	28,000		
	L18388	42,000		
	L18406	29,000		
	L18439	34,000		
	L18460	39,000		
	L18468	56,000		
	L18488	49,000		
	L18502	29,000		
	L18678	35,000		
	L18716	90,000		
	L71187D	26,000		
	L71259D	100,000		X
	L71308D	60,000		
	L71344D	50,000		
	L71440D	84,000		
	L71459D	100,000		
	L71529D	43,000		
	L71530D	48,000		
	L71534D	45,000		
	L71536D	58,000		
	L71537D	60,000		
	L71538D	95,000		
	L71615D	50,000		
	L71736D	44,000		
	L71738D	30,000		
	L71744D	40,000		
	L71772D	39,000		

NASA Center	Purchase Order Number	Value	Actions Not Synopsized and No Exceptions	Actions With Insufficient Justifications
Langley	L71787D	25,000		
(continued)	L71791D	30,000		
	L71795D	40,000		
	L71807D	100,000		
	L71957D	32,000		
	L71994D	50,000		
	L72001D	28,000		
	L72007D	92,000		
	L72170D	47,000		
	L72183D	97,000		
	L72505D	50,000		
	L72506D	33,000		
	L72509D	92,000		
	L16890	359,000		
	L70882D	331,000		
	L71113D	688,000		
	L71188D	242,000		
	L71192D	154,000		
	L71270D	171,000		
	L71519D	124,000		
	L71525D	147,000		X
	L71527D	134,000		
	L71543D	1,055,000		
	L71545D	652,000		
	L71684D	5,000,000		
Subtotal	72	$12,172,000	0	3
Total	141	$25,251,000	16	12

Appendix C. Competition and Synopsis Requirements

The FAR addresses simplified acquisition procedure competition and synopsis requirements. The requirements are summarized below.

FAR Part 13, "Simplified Acquisition Procedures"

- FAR 13.105 requires the contracting officer to comply with the public display and synopsis requirements unless an exception in 5.202 applies.

FAR Part 13, "Simplified Acquisition Procedures" provides uniform policies for simplified acquisition procedures. Specifically, FAR 13.106-1, "Soliciting Competition," Section (b) entitled, "Soliciting from a Single Source" states:

- For purchases not exceeding the simplified acquisition threshold, contracting officers may solicit from one source if the contracting officer determines that the circumstances of the contract action deem only one source reasonably available (examples given, urgency, exclusive licensing agreements, or industrial mobilization).

- For sole-source acquisitions of commercial items in excess of the simplified acquisition threshold conducted pursuant to Subpart 13.5, "Test Program for Certain Commercial Items," the requirements at 13.501(a), "Sole Source Acquisitions," apply.

FAR 13.106-3(b)(3), "Award and Documentation, Special Situations," requires that contracting officers include additional statements in the justification as follows:

- Explaining the absence of competition if only one source is solicited and the acquisition does not exceed the simplified acquisition threshold (does not apply to an acquisition of utility services available from only one source); or

- Supporting the award decision if other than price-related factors were considered in selecting the supplier.

FAR 13.501(a), "Sole Source Acquisitions," requires that contracting officers conduct sole-source acquisitions, only if the need to do so is justified in writing and approved at appropriate levels pursuant to FAR 13.501(a)(2). When conducting sole-source acquisitions, a sole-source justification is required using the format at FAR 6.303-2, modified to reflect an acquisition under the authority of the test program for commercial items (section 4202 of the Clinger-Cohen Act of 1996) or the authority of the Services Acquisition Reform Act of 2003 (Title XIV of Public Law 108-136) as implemented at FAR 12.102(f)(1).

FAR Part 5.207, "Preparation and Transmittal of Synopses"

FAR Part 5.207(a), "Content," states that each synopsis transmitted to the Government-wide point of entry must address the following data elements, as applicable:

(1) Action Code
(2) Date
(3) Year
(4) Government Printing Office (GPO) Billing Account Code
(5) Contracting Office Zip Code
(6) Classification Code
(7) Contracting Office Address
(8) Subject
(9) Proposed Solicitation Number
(10) Opening and Closing Response Date
(11) Contact Point or Contracting Officer
(12) Contract Award and Solicitation Number
(13) Contract Award Dollar Amount
(14) Contract Line Item Number
(15) Contract Award Date
(16) Contractor
(17) Description
(18) Place of Contract Performance
(19) Set-Aside Status

FAR Part 5.207(c), "General Format for "Description," requires that contracting officers prepare a clear and concise description of the supplies or services that is not unnecessarily restrictive of competition and will allow a prospective offeror to make an informed business judgment as to whether a copy of the solicitation should be requested.

FAR 6.303-1, "Requirements"

(a) A contracting officer shall not commence negotiations for a sole-source contract, commence negotiations for a contract resulting from an unsolicited proposal, or award any other contract without providing for full and open competition unless the contracting officer--

(1) justifies, if required in 6.302, the use of such actions in writing;

(2) certifies the accuracy and completeness of the justification; and

(3) obtains the approval required by 6.304.

(b) Technical and requirements personnel are responsible for providing and certifying as accurate and complete necessary data to support their recommendation for other than full and open competition.

(c) Justifications required by paragraph (a) of this section may be made on an individual or class basis. Any justification for contracts awarded under the authority of 6.302-7 shall only be made on an individual basis. Whenever a justification is made and approved on a class basis, the contracting officer must ensure that each contract action taken pursuant to the authority of the class justification and approval is within the scope of the class justification and approval and shall document the contract file for each contract action accordingly.

(d) If the authority of 6.302-3(a)(2)(i) or 6.302-7 is being cited as a basis for not providing for full and open competition in an acquisition that would otherwise be subject to the Trade Agreements Act, the contracting officer must forward a copy of the justification, in accordance with agency procedures, to the agency's point of contact with the Office of the United States Trade Representative.

(e) The justifications for contracts awarded under the authority cited in 6.302-2 may be prepared and approved within a reasonable time after contract award when preparation and approval prior to award would unreasonably delay the acquisitions.

FAR 6.303-2, "Content"

(a) Each justification shall contain sufficient facts and rationale to justify the use of the specific authority cited. As a minimum, each justification shall include the following information:

(1) Identification of the agency and the contracting activity, and specific identification of the document as a "justification for other than full and open competition."

(2) Nature and/or description of the action being approved.

(3) A description of the supplies or services required to meet the agency's needs (including the estimated value).

(4) An identification of the statutory authority permitting other than full and open competition.

(5) A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.

(6) A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable, including whether a notice was or will be publicized as required by Subpart 5.2 and, if not, which exception under FAR 5.202 applies.

(7) A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.

(8) A description of the market research conducted and the results or a statement of the reason market research was not conducted.

(9) Any other facts supporting the use of other than full and open competition, such as:

(i) Explanation of why technical data packages, specifications, engineering descriptions, statements of work, or purchase descriptions suitable for full and open competition have not been developed or are not available.

(ii) When 6.302-1 is cited for follow-on acquisitions as described in 6.302-1(a)(2)(ii), an estimate of the cost to the Government that would be duplicated and how the estimate was derived.

(iii) When 6.302-2 is cited, data, estimated cost, or other rationale as to the extent and nature of the harm to the Government.

(10) A listing of the sources, if any, that expressed, in writing, an interest in the acquisition.

(11) A statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required.

(12) Contracting officer certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.

(b) Each justification shall include evidence that any supporting data that is the responsibility of technical or requirements personnel (for example, verifying the Government's minimum needs or schedule requirements or other rationale for other than full and open competition) and which form a basis for the justification have been certified as complete and accurate by the technical or requirements personnel.

Appendix D. Management's Response

National Aeronautics and
Space Administration
Headquarters
Washington, DC 20546-0001

June 6, 2005

Reply to Attn of:

Deputy Chief Acquisition Officer/Assistant Administrator for Procurement

TO: W/Assistant Inspector General for Auditing

FROM: HK/Director, Contract Management Division

SUBJECT: Agency Response to OIG Draft Audit Report of Sole-Source Purchase Orders Under Simplified Acquisition Procedures

Enclosed is our response to the subject draft audit report dated May 4, 2005.

Please call Lou Becker at 202-358-4593 if you have any questions or need further coordination on this matter.

James A. Balinskas

Enclosure

Recommendation 1:
The Procurement Officer at Dryden should adopt a more rigorous review and approval Process (that is, a higher level of review beyond the contracting officer) in order to ensure all proposed sole-source acquisitions using simplified acquisition procedures are properly synopsized as required by the FAR.

Response:
Concur. Current review procedures at DFRC, as stated in Dryden Organizational Procedure DOP-A-003 requires a Synopsis for non-commercial items to be approved by the Procurement Analyst (Dryden's Acquisition Management Office's (AMO) review officer) or Procurement Officer prior to proceeding with the procurement action.

This approval extends to commercial item purchases as well. The non-commercial review/approval policy for a synopsis of proposed contract actions will be extended to include all proposed contract actions (commercial and noncommercial) to be approved by the AMO Procurement Analyst.

On May 4, 2005 the Procurement Officer issued a formal letter implementing the policy described in the previous paragraph. (enclosure 1, hard copy only)

Based on the actions taken, request this recommendation be considered closed.

Recommendation 2:
The Procurement Officer at Kennedy should adopt a more rigorous review and approval Process (that is, a higher level of review beyond the contracting officer) in order to ensure all proposed sole-source acquisitions using simplified acquisition procedures are properly synopsized as required by the FAR.

Response:
Partial Concurrence. Although the Procurement office at KSC concurs with the intent of the initial recommendation, they believe the specific action requested is unnecessarily burdensome. The instances of concern cited in the audit report have been fully reviewed by the procurement officer, and were determined to be isolated instances, not indicative of a systemic problem. On future surveys, the HQ survey team will place increased emphasis on reviews of proposed sole-source acquisitions using simplified acquisition procedures to ensure they are properly synopsized as required by the FAR. If the team sees repeated issues concerning the synopses, they will recommend the procurement officer adopt a more rigorous review and approval process (beyond the contracting officer).

Based on the actions taken, request this recommendation be considered closed.

Recommendation 3:
The Procurement Officer at Dryden should implement a more rigorous review and

approval process (that is, a higher level of review beyond the contracting officer) under the pilot program to ensure that Dryden contracting officers adhere to pilot program requirements under FAR 13.5 for justifying sole-source purchase orders over $100,000.

Response:
Concur. Current review levels for justifications (pilot program or otherwise) are in accordance with FAR and NASA FAR Supplement regulations. In addition to the above, the Dryden AMO has implemented DOP-A-005, titled "Noncompetitive Procurement Documentation," and a desk guide to writing justifications for other than full and open competition (JOFOC) stating the content that should be in a justification. (enclosure 2, hard copy only) *

A special staff meeting was devoted to a training effort to emphasize to the contracting officers the need to comply with all of the requirements stated in FAR Part 6 and NFS Part 6. Presentation material is attached.

Based on the actions taken, request this recommendation be considered closed.

*Omitted because of length. Copies can be provided upon request.

National Aeronautics and
Space Administration
Dryden Flight Research Center
P.O. Box 273
Edwards, CA 93523-0273

Reply to Attn. of: A

May 4, 2005

TO: A/Acquisition Management Office Staff

FROM: A/Chief, Acquisition Management Office

SUBJECT: DOP-A-003, Review and Execution of Procurement Documents

REF: OIG Discussion Draft A-04-039-00

A finding mentioned in the referenced discussion draft recommends, "The Procurement Officer at Dryden should adopt a more rigorous review and approval process (that is, a higher level of review beyond the contracting officer) for synopses prior to issuance in order to ensure all proposed sole-source acquisitions using simplified acquisition procedures are properly synopsized as required by FAR."

DFRC concurred with this recommendation and as a result, stated the following change would be implemented: "The non-commercial review/approval policy for a synopsis of proposed contract actions will be extended to include all proposed contract actions (commercial and non-commercial) to be approved by the AMO Procurement Analyst." This has been discussed in our staff meeting on April 6, 2005.

Pending formal revision to DOP-A-003, this letter is issued to implement the recommendation noted in the preceding paragraph. Formal revision to the DOP will be forthcoming with a scheduled completion date of May 31, 2005. If you have any questions regarding this change, contact Brian G. Bowman at ext. 3329.

R. H. Davis

R. H. Davis

National Aeronautics and
Space Administration
Dryden Flight Research Center
P.O. Box 273
Edwards, CA 93523-0273

Reply to Attn of A

June 29, 2005

TO: A/Acquisition Management Office Staff

FROM: A/Chief, Acquisition Management Office

SUBJECT: DOP-A-003, Review and Execution of Procurement Documents

REF: OIG Discussion Draft A-04-039-00

A finding mentioned in the referenced discussion draft recommends, "The Procurement Officer at Dryden should implement a more rigorous review and approval process (that is, a higher level of review beyond the contracting officer) for justifications under the pilot program to ensure that Dryden contracting officers adhere to pilot program requirements under FAR 13.5 for justifying sole-source purchase orders over $100,000."

DFRC concurred with this recommendation and as a result has performed two actions. First, DFRC provided formal JOFOC training to our acquisition staff on June 1, 2005. The training materials used were previously provided. Secondly, DFRC changed the review and approval requirement in our Dryden Operating Procedure (DOP) A-003. The revised DOP-A-003 now requires Procurement Analyst (PA) review fro all JOFOCs over $100,000. In addition, the Center's Legal Office is added as reviewer for all JOFOCs over $100,000.

Pending formal revision to DOP-A-003, this letter is issued to immediately implement the recommendation noted in the preceding paragraph. Formal revision to the DOP will be forthcoming with a scheduled completion date of July 8, 2005. If you have any questions regarding this change, contact Brian G. Bowman at ext. 3329.

R. H. Davis

Appendix E. Report Distribution

NASA

Administrator
Deputy Administrator
Chief of Staff
Assistant Administrator for Procurement
General Counsel
Director, Management Systems Division
  Audit Liaison Team Lead
Director, Goddard Space Flight Center
  Procurement Officer (GSFC/200)
  Goddard Audit Liaison Representative (GSFC/201)
Director, John F. Kennedy Space Center
  Procurement Officer (JSC/BA)
  Kennedy Audit Liaison Representative (JSC/BD)
Director, John C. Stennis Space Center
  Procurement Officer (SSC/DA00)
  Stennis Audit Liaison Representative (SSC/BA10)

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Office of Management and Budget
  Deputy Associate Director, Energy and Science Division
    Branch Chief, Science and Space Programs Branch
Government Accountability Office

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
  Senate Subcommittee on Commerce, Justice, and Science
Senate Committee on Commerce, Science, and Transportation
  Senate Subcommittee on Science and Space
Senate Committee on Homeland Security and Governmental Affairs
House Committee on Appropriations
  House Subcommittee on Science, State, Justice, and Commerce
House Committee on Government Reform
  House Subcommittee on Government Management, Finance, and Accountability
House Committee on Science
House Subcommittee on Space and Aeronautics

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Comments on This Report

In order to help us improve the quality of our products, if you wish to comment on the quality or usefulness of this report, please send you comments to Ms. Jacqueline White, Director of the Quality Control Division, at Jacqueline.White@nasa.gov or call (202) 358-0203.

Suggestions for Future Audits

To suggest ideas for or to request future audits, contact the Assistant Inspector General for Auditing. Ideas and requests can also be mailed to:

Assistant Inspector General for Auditing
NASA Headquarters
Washington, DC 20546-0001

NASA Hotline

To report fraud, waste, abuse, or mismanagement, contact the NASA OIG Hotline at (800) 424-9183, (800) 535-8134 (TDD), or at www.hq.nasa.gov/office/oig/hq/hotline.html#form; or write to the NASA Inspector General, P.O. Box 23089, L'Enfant Plaza Station, Washington, DC 20026. The identity of each writer and caller can be kept confidential, upon request, to the extent permitted by law.

Major Contributors to the Report

Joseph Kroener, Director, Procurement Audits

Diane Choma, Project Manager

Lydia Lin, Audit Team Leader

Ellis Lee, Auditor

Steve Siu, Auditor

Camille Thurston, Procurement Analyst

Iris Purcarey, Program Assistant