

IG-01-040

**AUDIT
REPORT**

MULTIPLE-AWARD CONTRACTS

September 28, 2001



National Aeronautics and
Space Administration

OFFICE OF INSPECTOR GENERAL

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Acronyms

DOD	Department of Defense
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act
OFPP	Office of Federal Procurement Policy

W

September 28, 2001

TO: A/Administrator

FROM: W/Inspector General

SUBJECT: INFORMATION: Multiple-award Contracts
Assignment Number A-00-057-00
Report Number IG-01-040

The NASA Office of Inspector General has completed an audit of Multiple-award Contracts.¹ We found that NASA's use of multiple-award contracts complied with statutory requirements, but at two of six NASA Centers reviewed some orders were awarded that were not in accordance with Federal Acquisition Regulation (FAR) requirements. Specifically, the Johnson Space Center (Johnson) and Langley Research Center (Langley) contracting officers issued 51 (49 percent) of 104 sole-source orders without obtaining competition. Therefore, NASA had not received the benefits of competitive bids and may have paid more for goods and services than necessary.

Background

Multiple-award contracts allow NASA to procure services and supplies more quickly using streamlined acquisition procedures while having the advantage of competition for obtaining optimum prices. Multiple-award contracts are usually broad in scope and often have maximum values of millions of dollars.

The Federal Acquisition Streamlining Act of 1994 (FASA) authorizes agencies to enter into multiple-award task and delivery order contracts for procuring services and supplies.² FASA establishes a general preference for using multiple-award contracts and requires that the implementing FAR "establish a preference for awarding, to a maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property." FAR 16.5, "Indefinite-Delivery Contracts," incorporated the FASA guidelines.

¹ Multiple-award contracts occur when two or more contracts are awarded from one solicitation.

² FASA recognized that single-award contracts might be preferable in some cases.

Recommendations

We recommended that management review the propriety of multiple-award contract sole-source orders during the procurement management surveys and establish a specific competition goal for multiple-award contracts. We also recommended that the Johnson and Langley Center Directors direct contracting officers to fairly consider all contractors who submit bids for orders under multiple-award contracts. These recommendations will ensure that NASA is fairly considering all contractors when awarding multiple-award contract orders and will minimize the number of sole-source orders for multiple-award contracts.

Management's Response

Management concurred with the recommendations, provided an alternative approach for corrective actions at Langley, and provided general comments on our finding (see Appendix D). Management stated that the procurement management survey team would review multiple-award order documentation during surveys and place added emphasis on the review of sole-source order documentation. Additionally, management will encourage the maximum use of fair opportunity among multiple-award orders and will use a 90-percent rate of competition as an objective when assessing mission needs. Johnson has provided Center procurement personnel three briefings on multiple-award topics, and Langley has taken measures to strengthen the documentation of justifications related to sole-source selections.

Appropriate documentation of awards is a FAR requirement. However, management must also take actions to ensure that sole-source orders are limited to those circumstances specified in the FAR and that eligible contractors selected for multiple-award contracts are each fairly considered for orders.

[original signed by]

Roberta L. Gross

Enclosure

Final Report on Audit of Multiple-award Contracts

MULTIPLE-AWARD CONTRACTS

W

September 28, 2001

TO: H/Associate Administrator for Procurement

FROM: W/Assistant Inspector General for Audits

SUBJECT: Final Report on Audit of Multiple-award Contracts
Assignment Number A-00-057-00
Report Number IG-01-040

The subject final report is provided for your information and use. Please refer to the Executive Summary for the overall audit results. Our evaluation of your response is incorporated into the body of the report. The corrective actions planned for the recommendations are responsive. The recommendations are considered dispositioned and closed for reporting purposes.

If you have questions concerning the report, please contact Mr. Lorne A. Dear, Program Director, Procurement Audits, at (818) 354-5634; Mr. Tony A. Lawson, Audit Program Manager at (301) 286-6524; or Ms. Diane R. Choma, Auditor-in-Charge, at (301) 286-6443. We appreciate the courtesies extended to the audit staff. The final report distribution is in Appendix E.

[original signed by]

Alan J. Lamoreaux

Enclosure

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AB/Associate Deputy Administrator for Institutions

B/Acting Chief Financial Officer

B/Comptroller

BF/Director, Financial Management Division

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JM/Director, Management Assessment Division

ARC/Director, Ames Research Center

GSFC/Director, Goddard Space Flight Center

JSC/Acting Director, Lyndon B. Johnson Space Center

KSC/Director, John F. Kennedy Space Center

LaRC/Director, Langley Research Center

MSFC/Director, George C. Marshall Space Flight Center

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NASA Office of Inspector General

IG-01-040
A-00-057-00

September 28, 2001

Multiple-award Contracts

Executive Summary

Background. Multiple-award contracts allow the Government to procure services and supplies more quickly using streamlined acquisition procedures while using the advantage of competition to obtain optimum prices. Multiple-award contracts are usually broad in scope and often have maximum values of millions of dollars. However, the broad scope of these contracts may make it difficult to establish accurate pricing during the initial contract award process. Therefore, for the multiple awards process, selection of contractors should focus on technical ability.

The FASA authorizes agency heads to enter into multiple-award task and delivery order contracts for procuring services and supplies. FASA establishes a general preference for using multiple-award contracts and requires that the implementing FAR “establish a preference for awarding, to a maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property.” FASA also stipulates that contractors under multiple-award contracts be provided a “fair opportunity for consideration” for award of individual task and delivery orders (orders) costing more than \$2,500. FAR 16.5, “Indefinite-Delivery Contracts,” incorporated the FASA guidelines.

As part of its oversight duties, the NASA Headquarters Office of Procurement conducts surveys on a 3-year cycle at NASA installations to address various procurement topics, including organization, pre-award, post-award, and pricing.

Objectives. The overall objective of the audit was to evaluate NASA’s management of multiple-award contracts.³ The specific objectives were to determine whether NASA’s (1) use of multiple-award contracts was consistent with statutory and regulatory requirements and was in the best interest of the Government and (2) management controls over the use of multiple-award contracts were adequate.

Appendix A contains further details on the audit objectives, scope, and methodology.

³ The audit covered multiple-award contracts at Ames Research Center (Ames), Goddard Space Flight Center (Goddard), Lyndon B. Johnson Space Center (Johnson), John F. Kennedy Space Center (Kennedy), Langley Research Center (Langley), and George C. Marshall Space Center (Marshall).

Results of Audit. NASA’s management of multiple-award contracts can be improved. Although NASA’s use of multiple-award contracts was consistent with statutory requirements, some orders awarded under these contracts were not in accordance with FAR requirements and were not in the best interest of the Government. Specifically, at Johnson and Langley, contracting officers issued 51 (49 percent) of 104 sole-source orders without obtaining adequate competition. As a result, the Agency did not receive the benefits of competitive bids and may be paying more for goods and services than necessary.

Recommendations. NASA should direct Center procurement officials to consider all contractors for each order under multiple-award contracts, include the review of multiple-award contracts in the procurement management surveys, and establish a competition goal for multiple-award contracts.

Management’s Response. Management concurred with all the recommendations and plans to or has implemented the recommended actions. Management stated that the sole-source orders were valid but lacked proper documentation. However, management also agreed that the majority of orders cited in the report were not subjected to the fair opportunity process because they represented effort that was initiated, but not completed, in prior contracts.

Evaluation of Management’s Response. We consider management’s planned or implemented actions responsive to the recommendations. Management stated that the majority of orders were not subjected to the fair opportunity process because they represented effort that was begun, but not completed, on prior contracts. FAR 16.505 allows contracting officers to award sole-source orders to a single contractor under four exceptions, including:

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 [**not a prior contract**], provided that all awardees were given a fair opportunity to be considered for the original order.

Management must do more than appropriately document contract files on sole-source decisions for individual orders. To meet the intent of the FASA and the FAR, management must provide an opportunity to fairly consider all contractors for orders issued under multiple-award contracts. The FASA encourages agencies to “take continuous advantage of the benefits of competition after contract award,” such as through the use of competitive orders. The FASA further states the “continuing advantage of the competitive forces” will result in lower prices, better quality, and improved contractor performance in satisfying customer requirements. The FAR states that contracting officers must avoid situations in which contractors specialize in one or a few areas within a statement of work, thus creating the likelihood that orders in those areas will be awarded on a sole-source basis (such as the follow-on orders we questioned). Our response to management’s general comments is in the recommendations section of the report.

Introduction

Multiple-award contracts are one vehicle agencies use to procure services or supplies with indefinite deliveries and quantities. Two or more contractors compete for orders issued under the contracts,⁴ and each contractor is generally provided a fair opportunity to compete for the orders as required by the FAR.

The FAR states that contracting officers must avoid situations in which contractors specialize exclusively in one or a few areas within the statement of work, thus creating the likelihood that orders in those areas will be awarded on a sole-source basis. Contracting officers must provide each contractor a fair opportunity to be considered unless the orders qualify for an exception as prescribed by the FAR.

The Department of Defense (DOD) Office of Inspector General found significant problems with task orders for services including orders awarded (1) without regard to price and (2) on a sole-source basis without providing other contractors a fair opportunity to be considered.⁵ In testimony before the Subcommittee on Readiness and Management Support of the Senate Committee on the Armed Services on Defense Acquisition, the DOD Deputy Inspector General stated, “Multiple-award contracts are excellent tools for avoiding duplicative solicitations and accelerating the contracting process. Their advantages are degraded, however, if the individual task and delivery orders are inappropriately sole-sourced or poorly priced.”

⁴ Task-order contracts do not have a specific quantity of services other than the minimum and maximum quantities specified in dollars. Delivery-order contracts do not have a specific quantity of supplies other than the minimum and maximum quantities specified in number of units. These contracts provide for the issuance of orders for the performance of tasks or delivery of supplies during the period of the contract. Specific requirements for goods or services are met through orders issued in accordance with the terms and conditions set forth in the respective contracts.

⁵ The problems DOD identified are discussed in its report, “DOD Use of Multiple Award Task Order Contracts,” Report Number 99-116, April 2, 1999.

Finding and Recommendations

Consideration of Contractors for Multiple-award Contracts

Contracting officers at Johnson and Langley issued 51 (49 percent) of 104 sole-source orders without obtaining adequate competition as required by the FAR.⁶ Of the 51 sole-source orders, 48 orders did not qualify for the FAR exceptions to the general requirement for competition of awards under multiple-award contracts: 41 orders were a continuation of work performed under prior contracts and 7 orders were follow-ons to previous orders. Also, three orders had no sole-source justifications available in the contract files. As a result, NASA did not receive the benefits of competitive bids and may be paying more for goods and services than necessary.

FAR Requirements for Multiple-award Contracts

FAR 16.5, “Indefinite-Delivery Contracts,” establishes a preference for making multiple awards of indefinite-delivery, indefinite-quantity contracts under a single solicitation for the same or similar supplies or services. FAR 16.505, “Ordering,” states that contracting officers must provide each contractor a fair opportunity to be considered for each order exceeding \$2,500 issued under multiple task-order contracts or multiple delivery-order contracts. Contracting officers must also document in the contract file the rationale for award and price of each order. However, FAR 16.505 allows contracting officers to award sole-source orders to a single contractor under the following exceptions:

- 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 [emphasis added].
- An order is necessary to satisfy a minimum guarantee.

Sole-Source Orders Reviewed

⁶ In addition, Ames awarded one order as a logical follow-on to a previous sole-source order awarded to meet the contract minimum. Because the order represented only 1 (less than 10 percent) out of 15 orders reviewed at Ames, we did not include the order in the finding above.

At Langley, we reviewed 7 solicitations and 90 sole-source orders. At Johnson, we reviewed 3 solicitations and 14 sole-source orders. The 51 questionable sole-source orders are shown below:

Questionable Sole-Source Orders

NASA Center	Number of Questionable Sole-Source Orders (a)	Number of Sole-Source Orders Reviewed (b)	Percent (a/b)
Johnson	11	14	79
Langley	40	90	44
Totals	51	104	49

See Appendixes B and C for the Langley and Johnson sole-source orders that were not awarded in accordance with the FAR.

Consideration of Contractor Experience

Sole-Source Justifications. At Langley, contracting personnel relied exclusively on the general guidance of the FAR regarding sole-source awards and excluded contractors from competing for orders because they had not previously performed the requested service. Sole-source justifications stated that the orders were to complete work started under expiring contracts or that unnecessary delays would occur if awards were made to a contractor that had not previously performed the related task or service.

Similarly, at Johnson, contracts awarded under one of the three solicitations reviewed was a consolidation of existing contracts, and other contractors had prior experience related to the orders. Sole-source justifications stated that the orders were being issued as sole-source to sustain work already in progress but not completed in the expiring contract.

Langley Contracting Officers Disputed Sole-Source Justifications. Contracting officers may exercise broad discretion in awarding orders and should consider such factors as past performance, quality of deliverables, cost control, price or cost, or other relevant factors. For three awards at Langley, the contracting officers disputed the sole-source justifications⁷ submitted by the technical officers that inappropriately involved a FAR exception. By questioning the justifications, the contracting officers reversed the decision to sole-source the orders. These challenges support the need to actively evaluate all sole-source justifications to determine whether orders could be competitively awarded.

⁷ FAR 16.505 requires the contracting officer to document in the contract file the rationale for placement and price of each order. Contracting officers make the final award determination, but receive input from technical representatives in the program/project offices.

Fair Opportunity for Consideration. The advantages of multiple-award contracts were degraded because Johnson and Langley awarded the orders on a sole-source basis. Only in rare circumstances should a contractor receive a sole-source order that meets the FAR exceptions to awarding competitive orders. The contractors were not given a fair opportunity to be considered for the 48 sole-source orders. As a result, NASA did not receive the benefits of competitive bids, which contribute to fair and reasonable prices, and may have paid more than necessary to receive the services or supplies.

Competition Goal for Multiple-award Contracting

To promote competition, the Office of Federal Procurement Policy (OFPP) established performance guidelines for three Federal agencies⁸ to obtain competition on 90 percent of orders costing more than \$2,500.⁹ For the 662 orders we reviewed at 6 Centers, NASA competed 81 percent of their orders. While this shows commitment to competition, NASA's percentage of competitive awards could be increased if it implemented the OFPP performance guidelines. NASA can further ensure that Centers are complying with the performance guidelines and properly applying FAR guidance by reviewing sole-source orders under multiple-award contracts during the procurement management surveys. NASA Headquarters Office of Procurement conducts procurement management surveys on a 3-year cycle at NASA installations to determine whether the procurement process is accomplishing program requirements in the most advantageous and appropriate manner.

Recommendations, Management's Response, and Evaluation of Response

The Associate Administrator for Procurement should:

- 1. Review the propriety of sole-source orders under multiple-award contracts during the procurement management surveys.**

Management's Response. Concur. The Office of Procurement's management survey team will continue to review multiple-award order documentation during surveys and place an added emphasis on the review of sole-source order documentation. See Appendix D for the complete text of management's comments.

Evaluation of Response. Management's comments are responsive to the recommendation. We consider the recommendation dispositioned and closed for reporting purposes.

⁸ This performance guideline was established in 1996 for the Department of Transportation, the National Institutes of Health, and the Defense Information Systems Agency.

⁹ The OFPP guideline was identified in the General Accounting Office report GAO/NSIAD 98-215, "Acquisition Reform: Multiple-award Contracting at Six Federal Organizations," September 1998.

2. Establish a specific competition goal (percentage of orders competed) similar to OFPP's goal for multiple-award contracts.

Management's Response. Concur. Management will encourage the maximum use of fair opportunity among multiple-award orders where appropriate. Management will also encourage the Centers to utilize, as an objective, a 90-percent rate of competition among multiple-award orders (see Appendix D).

Evaluation of Response. Management's comments are responsive to the recommendation. We consider the recommendation dispositioned and closed for reporting purposes.

3. The Director, Johnson Space Center should direct contracting officers to fairly consider all contractors who submit bids for each order under multiple-award contracts as required by FAR.

Management's Response. Concur. In conjunction with Recommendation 1, Johnson has held several briefings for Center procurement personnel addressing multiple-award topics.

Evaluation of Response. The actions taken by management are responsive to the recommendation. We consider the recommendation dispositioned and closed for reporting purposes.

4. The Director, Langley Research Center should direct contracting officers to appropriately document all facts, including judgments and assumptions for conclusions as to best value when implementing FAR guidance for justifying sole-source selections under multiple-award contracts.

Management's Response. Concur. In conjunction with Recommendation 1, Langley has taken measures to strengthen documentation of justifications related to multiple-award contract sole-source order selections.

Evaluation of Response. The actions taken by management are responsive to the recommendation. We consider the recommendation dispositioned and closed for reporting purposes.

Langley's decision to appropriately document all facts regarding sole-source selections is required by FAR 16.505(b)(4). However, even if orders we identified as questionable were appropriately documented as to the selection rationale, we would still have taken exception to those orders that were follow-on orders to previous contracts. Both Johnson and Langley identified the following additional factors, which contributed to the issuance of sole-source orders for the contracts they reviewed.

- The period of performance was expiring under the previous contracts; however, the effort involved was not completed.
- The effort required under the orders was consistent with the scope of the new contracts.
- The effort required was technically complex, and competition of the orders would have disrupted critical program milestones.
- The selected contractors were the only responsible sources able to continue and complete the effort without major impacts to the program.

We agree that complexity and impact to program schedules may be valid exceptions to the multiple-award process. The Agency’s rationale¹⁰ for issuing the work as sole-source orders indicates that these contracts were probably not suitable candidates for multiple-award contracts in accordance with FAR Sections 16.504(c)(1)(ii)(A) and 16.504(c)(1)(ii)(B).

- FAR 16.504(c)(1)(ii)(A) states:

The contracting officer must avoid situations in which awardees specialize exclusively in one or a few areas within the statement of work, thus creating the likelihood that orders in those areas will be awarded on a sole-source basis. . . .

- FAR 16.504(c)(1)(ii)(B) states:

The contracting officer must not use the multiple-award approach if . . . only one contractor is capable of providing performance at the level of quality required because the supplies or services are unique or highly specialized.

Management conducted its own analysis of two of the contracts we had reviewed. The two contracts involved issuing sole-source orders as a way to accomplish previous contract efforts, which is not consistent with the multiple-award approach identified in the FAR. The more fitting instrument may have been a separate follow-on contract to complete the effort.

Further, management responded stated that “subject(ing) these orders to the fair opportunity process would have potentially amounted to meaningless competitions, since the initial contractor would have had an unfair competitive advantage.” This statement contradicts the FAR, which requires that all contractors be given a fair opportunity to compete on individual orders under the multiple-award contracts.

¹⁰ The rationale was that the work was a continuation of previously incomplete efforts under separate contracts and that the contractors were the “only responsible sources able to continue and complete the effort.”

Appendix A. Objectives, Scope, and Methodology

Objectives

The overall objective of the audit was to evaluate NASA's management of multiple-award contracts. The specific objectives were to determine whether NASA's (1) use of multiple-award contracts was consistent with statutory and regulatory requirements and was in the best interest of the Government and (2) management controls over the use of multiple-award contracts were adequate.

Scope and Methodology

We limited our review to indefinite delivery/indefinite quantity contracts at the NASA Centers visited. We relied on the individual NASA Centers to provide data on their open and active universe of multiple-award indefinite delivery/indefinite quantity contracts.

During the audit, we:

- Reviewed open and active NASA multiple-award indefinite delivery/indefinite quantity contracts as of September 2000 at Goddard, Johnson, and Langley and as of December 2000 at Ames, Kennedy, and Marshall.
- Reviewed multiple-award indefinite delivery/indefinite quantity contract orders to determine whether they were competed or issued on a sole-source basis, all contractors were given a fair opportunity to compete, preferred contractors were not used, awards to other than the lowest bidder were justified, and price was an award consideration.
- Interviewed contracting officers and contracting officer's technical representatives, as necessary.

Appendix A

At the six Centers visited, we completed a 100-percent review of open multiple-award indefinite delivery/indefinite quantity contracts shown below.

Universe of Multiple-award Contracts and Orders

Center	A. Number of Contracts Reviewed	B. Number of Orders Reviewed	C. Number of Sole-Source Orders ¹	D. Number of Sole-Source Orders Questioned ²
Ames	14	88	15	1
Goddard	20	91	13	0
Johnson	17	59	14	11
Kennedy	11	33	9	0
Langley	27	366	90	40
Marshall	<u>6</u>	<u>25</u>	<u>0</u>	<u>0</u>
TOTALS	<u>95</u>	<u>662</u>	<u>141</u>	<u>52</u>
Award Values		<u>\$352,871,955</u>	<u>\$139,843,690</u>	<u>\$8,677,950</u>

¹The “Number of Sole-Source Orders” is included in Column B, “Number of Orders Reviewed.”

²The “Number of Sole-Source Orders Questioned” is included in Column C, “Number of Sole-Source Orders.”

Management Controls Reviewed

We reviewed management controls over the use of multiple-award indefinite delivery/indefinite quantity contracts. The documents we used to evaluate management controls were:

- FAR 16.5, “Indefinite-Delivery Contracts,” 1996 through 2000
- NASA FAR Supplement 1816.5, “Indefinite-Delivery Contracts”
- Office of Federal Procurement Policy, “Best Practices for Multiple Award Task and Delivery Order Contracting,” July 1997
- Procurement Information Circular, “Delivery Order and Task Order Contracts,” April 28, 1998

- NASA Procurement Management Survey Reports
 - Ames, August 2-13, 1999
 - Goddard, November 30 through December 10, 1998
 - Johnson, February 28 through March 10, 2000
 - Kennedy, May 10-21, 1999
 - Langley, October 11-20, 2000
 - Marshall, June 15-27, 1998

Audit Field Work

We conducted field work from September 2000 through May 2001 at Ames, Goddard, Johnson, Kennedy, Langley, and Marshall. We performed the audit in accordance with generally accepted government auditing standards.

Appendix B. Langley Sole-Source Orders

The Langley Research Center (Langley) awarded 366 orders under 27 contracts. Langley awarded 90 orders as sole-source orders and completed justifications for 40 (44 percent) of the 90 orders that did not meet the intent of the Federal Acquisition Regulation. The 40 orders are shown below:

Contract	Contractor	Task/Delivery Order	Award Value	Sole-Source Justification
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Solicitation 1-064-GH.2755, Reliance Consolidated Models (three contracts awarded)				
NAS1-97030	Advanced Technologies, Inc.	L186R	\$3,580	Follow-on to Delivery Order L166R that was sole sourced
NAS1-97031	Dynamic Engineering, Inc.	L054R	\$14,921	Follow-on to work started under NAS1-19451
NAS1-97031	Dynamic Engineering, Inc.	L057R	\$71,114	Follow-on to work started under NAS1-19451
NAS1-97031	Dynamic Engineering, Inc.	L077R	\$45,366	Follow-on to work started under NAS1-19351
NAS1-97031	Dynamic Engineering, Inc.	L085R	\$14,986	Contractor designed and fabricated two previous models
NAS1-97031	Dynamic Engineering, Inc.	L095R	\$662,686	Follow-on to work started under NAS1-19451
NAS1-97031	Dynamic Engineering, Inc.	L131R	\$15,053	Follow-on to Delivery Order L057R that was sole sourced
NAS1-97031	Dynamic Engineering, Inc.	L174R	\$12,593	Follow-on to work started under NAS1-19151 and completed under Delivery Orders L057R and L095R
NAS1-97031	Dynamic Engineering, Inc.	L179R	\$4,628	Contractor completed the design and fabrication under NAS1-19451
NAS1-97031	Dynamic Engineering, Inc.	L221R	\$51,145	Follow-on to Delivery Order L131R that was sole sourced
NAS1-97032	Micro Craft, Inc.	L056R	\$396,661	Follow-on to work started under NAS2-13471
NAS1-97032	Micro Craft, Inc.	L061R	\$488,399	Follow-on to work started under NAS2-13471
NAS1-97032	Micro Craft, Inc.	L064R	\$41,467	Follow-on to work started under NAS1-19452
NAS1-97032	Micro Craft, Inc.	L069R	\$217,165	Follow-on to Delivery Order L056R that was sole sourced
NAS1-97032	Micro Craft, Inc.	L075R	\$38,757	Follow-on to work started under NAS1-19452
NAS1-97032	Micro Craft, Inc.	L091R	\$11,494	Follow-on to work started under NAS1-19452
NAS1-97032	Micro Craft, Inc.	L176R	\$23,531	Follow-on to Delivery Order L130R that was sole sourced because of contractor's unique capabilities

Appendix B

Contract	Contractor	Task/Delivery Order	Award Value	Sole-Source Justification
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Solicitation 1-132-DS.1159, Materials and Structures Technology for Aerospace Vehicles (three contracts awarded)				
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NAS1-99070	Boeing Commercial Airplane Group	3	\$272,658	Follow-on to work started under NAS1-20014
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Solicitation 1-064-GGH.1684, Systems Engineering for Research Facility Integrated Systems (three contracts awarded)				
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NAS1-98090	Aero Systems Engineering	1003	\$77,707	Contractor is providing the same equipment and software for other system interfaces
NAS1-98090	Aero Systems Engineering	1006	\$249,842	Contractor is providing the same equipment and software for other system models
NAS1-98090	Aero Systems Engineering	1007	\$135,910	Follow-on to work started under NAS1-20001
NAS1-98090	Aero Systems Engineering	1008	\$238,366	Contractor is providing hardware and software under NAS1-20001
NAS1-98090	Aero Systems Engineering	1009	\$9,954	Contractor developed the original software
NAS1-98090	Aero Systems Engineering	1010	\$25,633	Follow-on to Delivery Order 1008 that was sole sourced
NAS1-98090	Aero Systems Engineering	1011	\$44,584	Follow-on to work completed under a previous contract
NAS1-98090	Aero Systems Engineering	1013	\$34,156	Follow-on to work completed under a previous contract
NAS1-98091	DynCorp Information and Engineering Technology	1004	\$42,217	Contractor possesses previous relevant experience
NAS1-98091	DynCorp Information and Engineering Technology	1005	\$33,740	Contractor has another contract for work at the tunnel

Solicitation 1-063-DIG.1129, Flight Critical Systems Research (four contracts awarded)				
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NAS1-00108	Rannoch Corporation	1001	\$267,858	Follow-on to work started under NAS1-99127
NAS1-00108	Rannoch Corporation	1002	\$237,584	Follow-on to work started under NAS1-19214
NAS1-00108	Rannoch Corporation	1003	\$23,497	Follow-on to work previously performed

Appendix B

Contract	Contractor	Task/Delivery Order	Award Value	Sole-Source Justification
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Solicitation 1-109-DF.1336, Research and Noise Control for Aircraft and Space Transportation Vehicles (nine contracts awarded)				
NAS1-00087	Georgia Technical Applied Research Corp.	A001	\$82,750	Follow-on to work completed under NAS2-14307
NAS1-00088	Lockheed Martin Corporation	A001	\$96,032	Follow-on to work started in previous fiscal years
NAS1-00088	Lockheed Martin Corporation	A002	\$91,248	Follow-on to work started in previous fiscal years
NAS1-00091	Bell Helicopter, Textron	004	\$72,723	Follow-on to work started under NAS1-20094
NAS1-00091	Bell Helicopter, Textron	005	\$276,868	Follow-on to ongoing work and contractor is the original manufacturer
NAS1-00092	Boeing Advanced Rotorcraft Company	002	\$68,500	Follow-on to work started under a previous task
NAS1-00092	Boeing Advanced Rotorcraft Company	004	\$224,783	Follow-on to work started under NAS1-20094
NAS1-00094	Wyle Laboratories	D001	\$88,407	Follow-on to work started in previous fiscal years

Solicitation 1-056-DSK.1149, Development and Application of Next Generation Structural Analysis and Design Technologies (three contracts awarded)				
NAS1-98024	MRJ Technology Solutions	103	\$57,279	No justification

Langley Total Award Value			\$4,865,842	
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Appendix C. Johnson Sole-Source Orders

The Johnson Space Center (Johnson) awarded 61 orders¹¹ under 17 contracts. Johnson awarded 14 orders as sole-source orders and completed justifications for 11 (79 percent) of the 14 orders that did not meet the FAR requirements. The 11 orders are shown below:

Contract	Contractor	Task/Delivery Order	Award Value	Sole-Source Justification
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Solicitation 9-BE-13-09-7-28P, Extravehicular Activity (six contracts awarded)				
NAS9-98013	Oceaneering Space Systems	901	\$1,287,459	Follow-on to work started under NAS9-19194
NAS9-98013	Oceaneering Space Systems	902	\$209,471	Follow-on to work started under NAS9-19194
NAS9-98013	Oceaneering Space Systems	903	\$105,315	Follow-on to work started under NAS9-19194
NAS9-98013	Oceaneering Space Systems	904	\$1,305,579	Follow-on to work started under NAS9-19194
NAS9-98013	Oceaneering Space Systems	905	\$217,080	No justification
NAS9-98013	Oceaneering Space Systems	906	\$134,888	Follow-on to work started under NAS9-19194
NAS9-98013	Oceaneering Space Systems	907	\$129,807	Follow-on to work started under NAS9-19194
NAS9-98013	Oceaneering Space Systems	908	\$50,348	Follow-on to the effort under previous contract NAS9-19194
NAS9-98013	Oceaneering Space Systems	909	\$9,240	No justification
NAS9-98013	Oceaneering Space Systems	911	\$88,055	Follow-on to work started under NAS9-19194
NAS9-98013	Oceaneering Space Systems	918	\$150,000	Follow-on to work started under NAS9-19194

Johnson Total Award Value		<u>\$3,687,242</u>	
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¹¹ We reviewed 59 of the 61 orders. Files were not available for two orders.

Appendix D. Management's Response

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



Reply to Attn of HK

SEP. 18 2001

TO: W/Assistant Inspector General for Auditing
FROM: HK/Director, Contract Management Division
SUBJECT: Code H Response to OIG Draft Audit Report on Multiple Award
Contracts Assignment Number A-00-057-00

Enclosed is our response to the subject report dated August 9, 2001.

Please call Yolande Harden at 202-358-1279 or Jack Horvath at 202-358-0456 if you have any questions or need further coordination on this matter.


Scott Thompson

Enclosure

HEADQUARTERS OFFICE OF PROCUREMENT RESPONSE TO
OFFICE OF INSPECTOR GENERAL (OIG) DRAFT REPORT
ASSIGNMENT NUMBER A-00-057-00 DATED AUGUST 9, 2001
MULTIPLE AWARD CONTRACTS

DATE: SEP. 18 2001

ENCLOSURE

Appendix D

The narrative response is provided as follows:

GENERAL COMMENT:

The Office of Procurement is committed to providing fair opportunity to all awardees to receive orders under multiple award contracts in accordance with FAR 16.5 and NFS 1816.5. The FAR does however allow Contracting Officers broad discretion in developing appropriate order placement procedures. Further, the competition requirements contained in FAR Part 6, do not apply to the ordering process.

FAR 16.505(b)(2) provides exceptions to the fair opportunity process. The complex nature of certain agency requirements may at times, require that orders be issued on a sole source basis. We randomly reviewed some of the sole source orders questioned in the report to better understand the basis for the findings.

Langley

We reviewed one of the contracts (NAS 1-98090) addressed in the audit, which contained 8 sole source orders questioned in the report. The majority of these orders involved effort, which was initiated under a previous contract (NAS 1-20001 for the engineering design, development, installation and testing of Facility Automation Systems). This contract was awarded as the result of a competition. Our review revealed several factors, which contributed to the issuance of sole source orders under the new contract (NAS 1-98090):

- The period of performance under the previous contract (NAS 1-20001) expired April 1998, however the effort involved was not completed
- The effort involved was technically complex, involved the use of specialized software
- Disruption of the effort would have caused negative impacts to the wind tunnel and instrumented tire test vehicle programs
- The effort required under the orders was consistent with the scope of the new contract (NAS 1-98090)
- The selected contractor was the only responsible source able to continue and complete the effort without major impacts to the program

The non-competitive issuance of one order questioned required the upgrade of source code, which was previously created and implemented by the contractor under NAS 1-20001. This effort would have been difficult to compete since source code data is almost always proprietary.

Our review of the circumstances surrounding the placement of these orders was that the decisions were in fact, in the best interests of the Government, but the rationale utilized in the file documentation may have been inappropriate. It appears that more appropriate rationale in these circumstances is reflected in the FAR 16.505(b)(2)(i) or (ii) exceptions.

Johnson

The 11 directed orders questioned in the report were all issued under the same contract NAS 9-98013 for the development and delivery of EVA/EVR tools in support of the International Space Station (ISS) and the Space Shuttle Program (SSP). Our review of 5 of the orders questioned revealed that in each case, the effort required under the orders was initiated under a

previous contract (NAS 9-19194 for the development and delivery of ISS tools). Several factors contributed to the issuance of directed orders under the new contract (NAS 9-98013):

- The period of performance was expiring under the previous contract (NAS 9-19194) however the effort involved was not completed
- The effort required under the orders was consistent with the scope of the new contract (NAS-98013)
- The effort required was of such a complex nature and program criticality that competition of the orders would have resulted in the disruption of critical program milestones
- The selected contractor was the only responsible source able to continue and complete the effort without major impacts to the program

The award of a separate contract for completion of the effort may have been an alternative to issuing the directed orders. However, the decision was made by Johnson procurement and technical management to place the requirements under the NAS-98013 contract because it was the most logical fit.

Our summary review of the circumstances surrounding the placement of these orders was that the sole source decisions were in fact, in the best interests of the Government, but the rationale utilized in the file documentation may have been inappropriate. It appears that more appropriate rationale in these circumstances is reflected in the FAR 16.505(b)(2)(i) or (ii) exceptions. It should be further noted that of the 41 orders issued under contract NAS-98013 to date, the orders questioned in the report were issued early in the contract period of performance.

Our review revealed that the majority of orders cited in the report were not subjected to the fair opportunity process because they represented effort that was begun, but not completed, on prior contracts. To subject these orders to the fair opportunity process would have potentially amounted to meaningless competitions, since the initial contractor would have had an unfair competitive advantage due to their prior work. This would also have resulted in unnecessary proposal expenses for the other competing contractors. We expect that these transition issues (resulting from moving from single award environments to multiple award contracting) will be minimized in the future as follow-on contracts are also multiple award instruments. It should also be noted that all of the multiple award contracts cited were competitively awarded contracts and all orders placed against these contracts benefited from the original competitive process.

Finally, we believe the wording of recommendations 3 and 4 is confusing and should be revised. This resulted in Langley's non-concurrence with recommendation 4 and the suggested rewording.

OIG RECOMMENDATION 1:

The Associate Administrator for Procurement should review the propriety of sole source orders under multiple award contracts during the procurement management surveys.

CODE H RESPONSE TO RECOMMENDATION 1: CONCUR

The Code H procurement management survey team currently reviews multiple award order file documentation on a routine basis. This activity is evidenced by the issuance of PIC 00-24 dated October 31, 2000, which provides additional guidance (initial guidance was provided via PIC 98-7 dated April 28,

Appendix D

1998) on ordering procedures and Contracting Officer responsibilities bases on survey results. We will continue to review multiple award order documentation during the surveys and place an added emphasis on the review of sole source order documentation. Based on this action, Code H considers this recommendation closed.

OIG RECOMMENDATION 2:

The Associate Administrator for Procurement should establish a specific competition goal (percentage of orders competed) similar to OFPP's goal for multiple award contracts.

CODE H RESPONSE TO RECOMMENDATION 2: CONCUR

The report statistic that 81% of the multiple award orders issued at the Centers reviewed were competed is clear evidence that the Office of Procurement is committed to providing a fair opportunity to all awardees under multiple award contracts. It is our understanding that the 90% goal established by OFPP in 1996 was a remedial action taken to promote competition among orders at agencies that were possibly achieving significantly lower levels of competition than NASA. Similar remedial action was not necessary at NASA.

We continue to encourage the maximum use of fair opportunity among multiple award orders where appropriate. We will encourage the Centers to utilize as an objective a 90% rate of competition among multiple award orders when assessing mission needs.

We will assess the level of competition among orders during the regularly scheduled procurement management surveys. We will not establish any additional reporting requirements at this time to measure achievement of this objective. Further, we will continue to provide guidance to procurement personnel regarding ordering procedures and Contracting Officer responsibilities under multiple award contracts as necessary. Contracting Officers will continue to issue orders in accordance with the FAR 16.505 Ordering procedures. Based on these actions, Code H considers this recommendation closed.

OIG RECOMMENDATION 3:

The Director, Johnson Space Center, should direct Contracting Officers to fairly consider all contractors who submit bids for each order under multiple award contracts as required by the FAR.

JSC RESPONSE TO RECOMMENDATION 3: CONCUR

While it is normal practice for Contracting Officers to give fair consideration to all contractors who submit bids, the JSC Procurement Officer has agreed to emphasize the requirements of FAR Part 16.5. JSC conducts monthly Procurement Forums as continuing education for all procurement personnel. Three sessions have already addressed this topic. Briefings entitled Overview of Multiple Award Contracting, Task/Delivery Orders, and Executing Delivery Orders were held March 2000, May 2001, and June 2001, respectively. All briefing materials are available on-line for future reference. With this action, and the fact that the procurement management surveys will now include a review of sole source orders under multiple award contracts as discussed under Recommendation No. 1, JSC considers this recommendation closed.

OIG RECOMMENDATION 4:

The Director, Langley Research Center, should direct Contracting Officers to fairly consider all contractors who submit bids for each order under multiple award contracts as required by the FAR.

LaRC RESPONSE TO RECOMMENDATION 4: NONCONCUR as written

LaRC disagrees with the recommendation because it suggests that all contractors may not have been fairly considered. That assertion is not accurate and not supported by the related OIG finding. The finding focuses on documentation of justifications. Contracting Officers have broad discretion as they consider past performance, quality of deliverables, cost control, price or cost, or other relevant factors when making awards. The issue raised as the basis for the above referenced recommendation results from a finding of inadequate, and/or undocumented interactions, judgments and assumptions contributing to the best value conclusion. Lack of adequate and complete documentation may result in selection considerations being questioned. However, the conclusion of unfair consideration cannot be drawn.

LaRC recommends that the Recommendation be reworded as follows:

OIG RECOMMENDATION 4:

The Director, Langley Research Center, should direct Contracting Officers to appropriately document all facts, including judgments and assumptions for conclusions as to best value when implementing FAR guidance for justifying sole source selections under multiple award contracts.

LaRC RESPONSE TO RECOMMENDATION 4: CONCUR

LaRC has taken measures to strengthen the documentation of justifications related to sole source selections under multiple award contracts. The LaRC Procurement Officer directed Contracting Officers and Procurement Managers during staff meetings on May 15 and in subsequent meetings in June and July 2001, to appropriately document relevant facts when implementing FAR guidelines related to sole source selections under multiple award contracts. With these actions, the additional review by LaRC's Independent Reviewer, and the fact that the Procurement Management Survey Team will include a review of sole source orders under multiple award contracts as discussed under Recommendation 1, LaRC considers this recommendation closed.

Appendix E. Report Distribution

National Aeronautics and Space Administration (NASA) Headquarters

A/Administrator
AI/Associate Deputy Administrator
AA/Chief of Staff
AB/Associate Deputy Administrator for Institutions
B/Acting Chief Financial Officer
B/Comptroller
BF/Director, Financial Management Division
G/General Counsel
H/Associate Administrator for Procurement
HK/Director, Contract Management Division
HS/Director, Program Operations Division
J/Associate Administrator for Management Systems
JM/Director, Management Assessment Division
L/Acting Associate Administrator for Legislative Affairs
M/Associate Administrator for Space Flight
R/Associate Administrator for Aerospace Technology
Y/Associate Administrator for Earth Science

NASA Centers

Director, Ames Research Center
Director, Goddard Space Flight Center
Acting Director, Lyndon B. Johnson Space Center
Director, John F. Kennedy Space Center
 Chief Counsel, John F. Kennedy Space Center
Director, Langley Research Center
Director, George C. Marshall Space Flight Center

Non-NASA Federal Organizations and Individuals

Assistant to the President for Science and Technology Policy
Deputy Associate Director, Energy and Science Division, Office of Management and Budget
Branch Chief, Science and Space Programs Branch, Energy and Science Division, Office of Management and Budget
Managing Director, Acquisition and Sourcing Management Team, General Accounting Office
Senior Professional Staff Member, Senate Subcommittee on Science, Technology, and

Space

Chairman and Ranking Minority Member – Congressional Committees and Subcommittees

Senate Committee on Appropriations

Senate Subcommittee on VA, HUD, and Independent Agencies

Senate Committee on Commerce, Science, and Transportation

Senate Subcommittee on Science, Technology, and Space

Senate Committee on Governmental Affairs

House Committee on Appropriations

House Subcommittee on VA, HUD, and Independent Agencies

House Committee on Government Reform and Oversight

House Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations

House Subcommittee on National Security, Veterans Affairs, and International Relations

House Subcommittee on Technology and Procurement Policy

House Committee on Science

House Subcommittee on Space and Aeronautics, Committee on Science

Congressional Member

Honorable Pete Sessions, U.S. House of Representatives

NASA Assistant Inspector General for Auditing Reader Survey

The NASA Office of Inspector General has a continuing interest in improving the usefulness of our reports. We wish to make our reports responsive to our customers' interests, consistent with our statutory responsibility. Could you help us by completing our reader survey? For your convenience, the questionnaire can be completed electronically through our homepage at <http://www.hq.nasa.gov/office/oig/hq/audits.html> or can be mailed to the Assistant Inspector General for Auditing; NASA Headquarters, Code W, Washington, DC 20546-0001.

Report Title: Multiple-award Contracts

Report Number: _____ **Report Date:** _____

Circle the appropriate rating for the following statements.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	N/A
1. The report was clear, readable, and logically organized.	5	4	3	2	1	N/A
2. The report was concise and to the point.	5	4	3	2	1	N/A
3. We effectively communicated the audit objectives, scope, and methodology.	5	4	3	2	1	N/A
4. The report contained sufficient information to support the finding(s) in a balanced and objective manner.	5	4	3	2	1	N/A

Overall, how would you rate the report?

Excellent	Fair
Very Good	Poor
Good	

If you have any additional comments or wish to elaborate on any of the above responses, please write them here. Use additional paper if necessary. _____

How did you use the report? _____

How could we improve our report? _____

How would you identify yourself? (Select one)

- | | |
|---------------------|--|
| Congressional Staff | Media |
| NASA Employee | Public Interest |
| Private Citizen | Other: _____ |
| Government: _____ | Federal: _____ State: _____ Local: _____ |

May we contact you about your comments?

Yes: _____ **No:** _____

Name: _____

Telephone: _____

Thank you for your cooperation in completing this survey.

Major Contributors to the Report

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Tony A. Lawson, Program Manager

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Amy L. Larkin, Auditor

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Joseph F. Kroener, Procurement Analyst

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