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**Report Recipients:**

H/Assistant Administrator for  
Procurement  
ARC/D/Director, Ames  
Research Center  
GSFC/100/Director, Goddard  
Space Flight Center  
MSFC/DA01/Director,  
Marshall Space Flight Center

## IMPROVING NASA OVERSIGHT OF PRIME CONTRACTORS' NONCOMPETITIVE SUBCONTRACTING

August 15, 2003

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**cc:**

JM/Director, Management  
Assessment Division  
ARC/MS200-9/Audit  
Liaison Representative  
GSFC/MS201/Audit  
Liaison Representative  
MSFC/RS40/Audit Liaison  
Representative

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National Aeronautics and  
Space Administration

## OFFICE OF INSPECTOR GENERAL

Released by: Original Signed by DAIGA, A. Lamoreaux for  
David M. Cushing, Assistant Inspector General for Auditing

## **Improving NASA Oversight of Prime Contractors' Noncompetitive Subcontracting**

We evaluated the adequacy of competition in subcontracting by three NASA prime contractors -- Orbital Sciences Corporation (Orbital); Computer Sciences Corporation (CSC); and TRW, Inc. We also considered NASA oversight of the contractors' performance. We found that noncompetitive subcontract awards at TRW, Inc. were adequately justified and limited our detailed analysis to Orbital and CSC. Competition in contracting is one of the overarching principles in Federal procurement because it is a means for keeping suppliers efficient and responsive.

We found that Orbital and CSC had awarded 10 (48 percent) of 21 noncompetitive subcontracts without adequately justifying the lack of competition. As a result, NASA had reduced assurance that Orbital and CSC obtained fair and reasonable pricing for the 10 noncompetitive subcontracts, which were valued at \$5.5 million. Further, based on our audits at 13 NASA prime contractors (including those in this audit), we found that 60 (54 percent) of 111 noncompetitive subcontracts reviewed, valued at \$11.6 million, were not justified in accordance with the contract and Federal procurement requirements. Details of our audit objectives, scope, and methodology are in Appendix B.

### ***Noncompetitive Subcontract Awards Lacked Adequate Justifications***

Orbital and CSC had not complied with the Federal Acquisition Regulation (FAR) requirements for justifying noncompetitive subcontracts in their NASA contracts or with company policies on competition in subcontracting that implemented the contractual requirements (see Appendix D for competition requirements).

- Four (40 percent) of the 10 noncompetitive subcontract awards lacked any documentation to support the company's claim that the lack of competition was justified. Orbital awarded the four subcontracts under two separate NASA contracts involving the Marshall Space Flight Center (Marshall) and Ames Research Center (Ames).
- Justifications for the remaining six subcontract awards did not contain adequate explanations to support the companies' claims that the noncompetitive awards were necessary. For example, three subcontracts named specific individuals to perform engineering support work, but the justifications lacked required explanations about how the individuals were uniquely qualified to perform the

work or that the anticipated costs were fair and reasonable. Orbital and CSC awarded the six subcontracts under two separate NASA contracts awarded by Marshall.

### ***NASA Oversight Can Be Improved***

NASA contracting officer (CO) oversight did not identify the contractors' inadequate justifications for noncompetitive subcontracting. COs can require contractors to obtain the COs' consent prior to subcontracting. Such consent was required for the CSC contract at Marshall and the Orbital contract at Ames. The CO for the Orbital contract at Marshall did not require prior consent before subcontracting.

NASA relies on the Defense Contract Management Agency (DCMA) to review contractors' controls over their purchasing process. The DCMA conducts contractor purchasing system reviews (CPSRs) periodically based on a risk assessment of a contractor's controls.

At the time of our audit, the most recent DCMA CPSRs at Orbital and CSC occurred February 1997 and September 2001, respectively. The DCMA had not included a detailed evaluation of noncompetitive subcontracting in either review. After our discussions with the DCMA, it initiated a CPSR of Orbital and included an evaluation of Orbital's subcontract awards. The DCMA found noncompetitive awards with inadequate justifications and, in some cases, no justifications. Further, the DCMA found that for 6 (50 percent) of 12 sampled noncompetitive subcontracts, a price analysis either had not been accomplished (3) or was inadequate (3).

We found that CO analyses performed in response to Orbital and CSC requests for consent to subcontract were inadequate. The contract files, for example, did not show that the COs evaluated whether the individuals were technically qualified, a lack of competition was properly justified, or the contractor performed adequate price analyses or comparisons for the required work. The FAR states that COs should be particularly careful and thorough in their analysis when subcontracts are proposed for award on a noncompetitive basis. Further, for two of the six subcontracts with inadequate justifications, the NASA COs' actions directly contributed to the noncompetitive awards.

- On a \$736,700 subcontract, a Marshall CO, citing program requirements, directed CSC to purchase services from a specific vendor. The CO did not obtain approval from the Center Procurement Officer and Competition Advocate as required by the NASA FAR Supplement.
- On a \$3.1 million subcontract, a Marshall CO gave CSC such short notice (about 3 weeks) of a new contract requirement that CSC had no choice but to select the existing subcontractor noncompetitively. The CO told us that the NASA program office did not give the CO adequate notice of the requirements to allow for the

subcontract to be competed. The justification did not discuss the extent and nature of the harm to the Government if the procurement was competed and did not include an analysis of costs.

***Recommendations, Management's Response, and Evaluation of Management's Response***

**1. The Assistant Administrator for Procurement should request that the DCMA include a detailed analysis of noncompetitive subcontracting when performing CPSRs at NASA prime contractors.**

**Management's Response.** Concur. DCMA will be requested to include a detailed analysis of noncompetitive subcontracting when performing CPSRs at NASA prime contractors via letter. The letter will be issued by October 31, 2003.

**The Director, Marshall Space Flight Center, should:**

**2. Direct the Center Procurement Officer to ensure that COs require Orbital and CSC to comply with FAR requirements in their NASA contracts.**

**Management's Response.** Concur. The Procurement Officer, via letter, will advise the COs to require Orbital and CSC to comply with FAR requirements in their NASA contracts. The letter will be issued by October 31, 2003.

**3. Direct the Center Procurement Officer to ensure that COs properly perform adequate analyses of contractor requests prior to approving consents to subcontract. Where appropriate, the analyses should include obtaining concurrences and approvals from the Center Procurement Officer and Competition Advocate, respectively.**

**Management's Response.** Concur. The Procurement Officer, via letter, will advise the COs to properly perform adequate analyses of contractor requests prior to approving consents to subcontract. Where appropriate, the analyses should include obtaining proper concurrences and approvals from the center Procurement Officer and competition advocate, respectively. The letter will be issued by October 31, 2003.

**4. Direct the Center program offices to inform all of their program managers of the need to make the applicable COs aware at the earliest opportunity of any upcoming procurement requirements.**

**Management's Response.** Concur. The Center program offices/program managers currently provide the COs with their annual Acquisition Forecast Requirements. However, the Center Director or his designee will issue correspondence to program offices advising of the need to make Contracting Officers aware of upcoming

requirements that are not in the forecast. The correspondence will be issued by October 31, 2003.

**5. The Director, Ames Research Center, should direct the Center Procurement Officer to ensure that COs require Orbital to comply with FAR requirements in its NASA contract and to perform adequate analyses of contractor requests for consent prior to consenting to subcontract.**

**Management's Response.** Concur. The Procurement Officer will advise the COs to require Orbital to comply with FAR requirements in its NASA contracts and to perform adequate analyses of contractor requests for consent prior to consenting to subcontract. The advisory will be issued by October 31, 2003.

**Evaluation of Management's Response.** Management's planned actions are responsive to the intent of the recommendations. The recommendations are resolved but will remain undispositioned and open for reporting purposes until the corrective actions are completed.

### *Appendices*

Details related to the disposition and closure of the recommendations are in Appendix A. Among the other appendices, note Appendix C, which identifies and discusses the specific noncompetitive subcontracts at Orbital and CSC, and Appendices E and F, which summarize the series of audits that, in total, identify a systemic problem of inadequately justified noncompetitive procurements by NASA prime contractors.

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### **Acronyms Used in the Report**

CO	Contracting Officer
CPSR	Contractor Purchasing System Review
CSC	Computer Sciences Corporation
DCMA	Defense Contract Management Agency
FAR	Federal Acquisition Regulation

## Appendix A. Status of Recommendations

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Recommendation No.	Resolved	Unresolved	Open/ECD*	Closed
1.	X		10/31/03	
2.	X		10/31/03	
3.	X		10/31/03	
4.	X		10/31/03	
5.	X		10/31/03	

\* ECD - Estimated Completion Date

## **Appendix B. Objectives, Scope, and Methodology**

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### **Objectives**

The overall objective was to evaluate the adequacy of NASA oversight of selected prime contractors' management of subcontracts. Specifically, we determined whether:

- contractors' management of their subcontracts resulted in adequate competition in subcontracting and
- NASA contracting officer involvement in the subcontract process was adequate.

### **Scope and Methodology**

The initial scope for the audit was to select three contracts from among NASA's top contractors. We eliminated from selection those contractors dealing with the International Space Station and Space Shuttle effort due to other significant audit coverage of both programs. We selected for review one cost-type contract each at Computer Sciences Corporation (CSC); Orbital Sciences Corporation (Orbital); and TRW, Inc.

We selected two additional cost-type contracts, one contract each at CSC and Orbital, with contract expiration dates in and beyond fiscal year 2003. The selection criteria for the two additional contracts included the dollar value and time remaining on the contract award. In total, we reviewed 21 noncompetitive subcontracts valued at \$13,453,700.

We examined contractor policies and procedures, subcontract awards, related task orders, statements of work, justifications for noncompetitive procurements, and file correspondence. We also reviewed contractor purchasing system reviews (CPSRs) performed by the Defense Contract Management Agency for CSC and Orbital. In addition, we discussed procurement practices with contractor representatives and NASA contracting officers. We also reviewed contract file documentation pertaining to consent to subcontract requests, contracting officer analyses, and actual consent forms.



## Appendix B

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The four contracts reviewed at CSC and Orbital, contract number, dollar value as of June 30, 2002, and explanation of the services under each contract follow:

Computer Sciences Corporation, Federal Sector	NAS 2-00014	\$ 33,921,100
Computer Sciences Corporation, Applied Technology	NAS 8-60000	1,159,796,200
Orbital Sciences Corporation, Technical Services	NAS 2-97068	29,774,100
Orbital Sciences Corporation, Launch Systems Group	NAS 8-01102	<u>18,976,000</u>
	<b>Total</b>	<b><u>\$1,242,467,400</u></b>

- Computer Sciences Corporation, Federal Sector, provides technical research and development for the Air Traffic Management Concepts and Automation Technologies at Ames Research Center (Ames).
- Computer Sciences Corporation, Applied Technology, provides personnel and services to support the Program Information Systems Mission Services contract at Marshall Space Flight Center (Marshall).
- Orbital Sciences Corporation, Technical Services, provides scientific, engineering, and technical services for the Earth Science, Space Science, and Space Projects Divisions within the Space Directorate at Ames.
- Orbital Sciences Corporation, Launch Systems Group, provides the design, build, and launch services for the Demonstration of Autonomous Rendezvous Technology Flight Demonstration for Marshall.

### Use of Computer-Generated Data

We used computer-generated data from the NASA Acquisition Information System on-line query tool to generate our universe of contracts. We relied on the results of a recent NASA Office of Inspector General review<sup>1</sup> for the testing of the system. Nothing came to our attention to cause us to question the validity of the specific data elements relied on in this audit.

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<sup>1</sup>The Assistant Inspector General for Inspections and Assessments report, "Review of NASA's Procurement Management System On-line Query Tool," G-02-006, dated February 3, 2003.

## **Appendix B**

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### **Management Controls Reviewed**

We reviewed management controls over the award of noncompetitive subcontracts by CSC and Orbital. We determined that management could improve its controls over such noncompetitive procurements (see the finding on page 1).

### **Audit Field Work**

We performed audit work from March 2002 through February 2003 at Ames, Goddard Space Flight Center, and Marshall. We also visited contractor offices at CSC; Orbital; and TRW, Inc. We performed the audit in accordance with generally accepted government auditing standards.

## Appendix C. Noncompetitive Subcontracts With Inadequate Justifications

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The noncompetitive subcontracts with inadequate justifications are shown below. Further discussion of the questioned subcontracts follows the list.

<u>Subcontract Number</u>	<u>Subcontractor Name</u>	<u>Subcontract Dollar Value</u>	<u>Justification</u>	
			<u>None</u>	<u>Inadequate</u>
<b><u>Orbital Subcontracts (Marshall)</u></b>				
LSG0106-04	Kinetx	\$172,800		X
LSG0111-11	Emergent Space Technologies	3,300		X
LSG0203-03	Emergent Space Technologies	17,500		X
P.O. 129924	Surrey Satellite	360,000	X	
SC03122	MirandaWorks, Inc.	38,400	X	
SC03143	MirandaWorks, Inc.	19,200	X	
<b><u>Orbital Subcontract (Ames) (Note 1)</u></b>				
SC03009	Rose Engineering	167,500	X (Note 2)	
<b><u>CSC Subcontracts (Marshall) (Note 1)</u></b>				
116002	Madison Research Corporation	932,500		X (Note 2)
120429	Logistics Engineering & Env.	3,071,700		X (Note 3)
121196	Allied Technology Group, Inc.	736,700		X (Note 3)
<b>Total</b>		<b><u>\$5,519,600</u></b>	<b><u>4</u></b>	<b><u>6</u></b>

Note 1. The prime contracts required contracting officer consent before contractors awarded subcontracts.

Note 2. The contracting officers' analyses were inadequate to support the consent to subcontract.

Note 3. NASA actions directly contributed to the noncompetitive subcontract award.

**Orbital Subcontracts.** Orbital's support was inadequate for 7 of the 17 noncompetitive subcontracts reviewed. Orbital did not comply with the Federal Acquisition Regulation (FAR) requirements in its NASA contract and company policy to adequately justify noncompetitive procurements. The seven subcontracts were for engineering support services. Four of the seven subcontracts lacked any justification to support the

noncompetitive subcontracts. The remaining three noncompetitive subcontracts named individuals to perform engineering support work, but the justifications lacked explanations as to why the individuals were uniquely qualified to perform the work. The explanations are required by the FAR section in the Orbital contract and by company policy. In addition, the three subcontracts did not comply with the FAR contract clause requiring that justifications include a determination that the anticipated costs are fair and reasonable.

**CSC Subcontracts.** CSC's support was inadequate for three of four noncompetitive subcontracts reviewed. The subcontracts were for computer services and a document repository. CSC's justifications for the three subcontracts did not comply with the FAR contract clause requiring justifications to include a determination that the anticipated costs are fair and reasonable or with CSC's own policy for justifying noncompetitive procurements. Further, the NASA CO approved one subcontract (i.e., 116002) that cited an unusual and compelling urgency but lacked a supporting rationale on the extent and nature of the harm to the Government if the subcontract was competed. For the two remaining subcontracts, the NASA CO's actions directly contributed to CSC's subcontracting on a noncompetitive basis. Details follow:

- **Allied Technical Group, Inc. (ATG).** One subcontract for \$736,700 involved ATG managing the NASA Automated System and Incident Response Capability (NASIRC). ATG managed the NASIRC under a Goddard Space Flight Center (Goddard) contract that expired on August 31, 2001. The Goddard procurement office issued solicitation number 630-0001 on December 20, 2000, to determine whether other parties were interested in competing for a follow-on contract. A Goddard contract specialist told us that 10 companies expressed an interest in bidding on the contract.

On March 9, 2001, NASA program managers from Goddard and Marshall met to transfer the NASIRC effort from the Goddard contract to an existing Program Information Systems Mission Services contract at Marshall. On June 21, 2001, a Marshall CO directed CSC, the prime contractor on the Marshall contract, to subcontract with ATG for the NASIRC effort. CSC's noncompetitive justification referenced ATG as the only vendor with the experience to coordinate security incidents NASA-wide. The justification lacked a determination that the anticipated cost was fair and reasonable. The Marshall CO approved the subcontract consent form, but did not obtain the required concurrence or approval by the Center Procurement Officer or

## Appendix C

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Competition Advocate, respectively. NASA FAR Supplement 1806.304-70<sup>2</sup> required Center Procurement Officer concurrence and Competition Advocate approval of the noncompetitive award.

- **Logistics Engineering & Environmental Support Services (LESCO).** One subcontract for \$3,071,700 involved LESCO managing NASA’s central documentation repository. On March 8, 2001, the NASA CO requested from CSC a not-to-exceed estimate after the CO was notified by the program office responsible for the repository that the operation of the repository needed to be transferred to another NASA contract and that the repository needed to be fully operational by April 1, 2001. Although the NASA CO did not specify the subcontractor to be selected, the short time frame necessitated the selection of the incumbent subcontractor, LESCO, in order to meet the new contract requirement. The CSC Contracts Manager told us that CSC could not compete the subcontract because of the short time between the NASA notice about the new requirement and the date the repository had to be fully operational. The CSC manager stated the only option was to noncompetitively award the subcontract to the company that was already performing the work. The CSC noncompetitive justification cited an “unusual and compelling urgency” in procuring these services but lacked the supporting rationale on the extent and nature of the harm to the Government if the procurement was competed. The NASA CO approved the subcontract consent form without further analysis or approvals from Center management.

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<sup>2</sup> NASA FAR Supplement 1806.304-70 required Center Procurement Officer concurrence and Center or Headquarters Competition Advocate approval of justifications for noncompetitive procurements of more than \$500,000 when NASA directed a prime contractor to subcontract on a noncompetitive basis.

## **Appendix D. Competition Requirements**

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The NASA contracting officers (COs) for Computer Sciences Corporation (CSC) and Orbital Sciences Corporation (Orbital) had incorporated the Federal Acquisition Regulation (FAR) clauses for competition in subcontracting in all the NASA contracts and for seeking CO consent before subcontracting into two of the contracts. A summary of the FAR clauses and requirements follows.

- **FAR Subpart 6.303-2, “Content.”** This section requires justifications for noncompetitive procurements to contain sufficient facts and rationale to justify not providing full and open competition.
- **FAR 52.244-5, “Competition in Subcontracting.”** This clause requires the contractor to select subcontractors on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.
- **FAR 52.244-2, “Subcontracts.”** This clause requires the contractor to seek consent to subcontract and provide information to the CO reasonably in advance of placing any subcontract.

The FAR provides guidance to the COs in reviewing contractors’ requests for consent to subcontract.

- **FAR 44.202-2, “Considerations,”** paragraph (a), requires the CO responsible for consent to, at a minimum, review the request and supporting data and consider 13 areas including, in part, the following:
  - is the selection of the particular supplies, equipment, or services technically justified?
  - was adequate price competition obtained or its absence properly justified?
  - has the contractor performed adequate cost or price analysis or price comparisons and obtained accurate, complete, and current cost or pricing data, including any required certifications?

Paragraph (b) states that particularly careful and thorough consideration under paragraph (a) above is necessary when...

- the prime contractor’s purchasing system or performance is inadequate, and
- subcontracts are proposed for award on a noncompetitive basis.

**NASA Requirements and Guidance.** The NASA FAR Supplement and other NASA guidance assist COs in performing their oversight duties. The NASA FAR Supplement Part 1844, “Subcontracting Policies and Procedures,” requires NASA COs to retain consent to subcontract authority unless delegation is approved in writing by the Procurement Officer. NASA COs for the CSC contract at the Marshall Space Flight

## Appendix D

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Center (Marshall) and the Orbital contract at Ames Research Center (Ames) retained the authority to grant consent to subcontract. A NASA Self-Assessment Guide,<sup>3</sup> addresses subcontract consent files and states the contract file should contain information showing the consents requested, an analysis, and actual consents granted. The Guide also states that contractors should support consent requests with adequate information and that evidence of adequate CO analysis should exist.

NASA FAR Supplement 1806.303-170, “Sole-source purchases by contractors,” states that:

The requirements of FAR Part 6 and NFS Part 1806 apply if NASA directs a prime contractor (by specifications, drawings, parts lists, or otherwise) to purchase items on a sole-source basis. Accordingly, procurement officers shall take necessary actions to ensure that such sole-source acquisitions are properly justified.

Furthermore, NASA FAR Supplement 1806.304-70, “Approval of NASA justifications,” states that:

Concurrences and approvals for justifications of contract actions conducted in accordance with FAR Subparts 6.2 and 6.3 shall be obtained as follows:

(a) For proposed contracts over \$500,000 but not exceeding \$10,000,000 –

- (1) Concurring official: Procurement Officer
- (2) Approving official: Center or Headquarters Competition Advocate.

**Contractor’s Acquisition Policies and Procedures.** NASA relies on contractors to incorporate FAR and NASA FAR Supplement requirements identified in their contracts into company policies and procedures and to follow those company policies and procedures. However, FAR requirements do not necessarily bind the prime contractor to use the same criteria as the CO in competing subcontracts and documenting noncompetitive procurements. Therefore, company policies vary, and it is the responsibility of the Defense Contract Management Agency (DCMA) contractor purchasing system review (CPSR) teams to determine the adequacy of documentation to support noncompetitive procurements. In the absence of a CPSR, NASA COs are responsible for granting contractors consent to subcontract and for being aware of company policies related to competition and documenting noncompetitive procurements.

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<sup>3</sup> The Self-Assessment Guide is intended for use by Center procurement staff in support of annual Center internal procurement reviews and is accessible through NASA’s Procurement Library Web site.

COs are required by FAR Part 44 to analyze contractor requests to award subcontracts before granting consent. Therefore, NASA COs performing this analysis rely on contractors to develop competition policies that reasonably reflect FAR requirements and to follow those policies. Company policies and procedures for obtaining competition were similar for CSC and Orbital, with CSC using the phrase “full and open competition” while Orbital used the phrase “whenever possible.” Both contractors specifically required their buyers to obtain at least two responsive and responsible bids.



## Appendix E. Noncompetitive Subcontract Awards at 13 NASA Contractors

### Audit Reports Covering Noncompetitive Procurements in Past 3 Years

<u>Audit Report</u>	<u>Number of Contractors</u>	<u>Contract Number (s)</u>	<u>Number of Subcontracts Reviewed</u>	<u>Noncompetitive Procurements (a)</u>	<u>Value of (a) (\$000)</u>	<u>Inadequate Justifications (b)</u>	<u>Value of (b) (\$000)</u>
"Improving NASA Oversight of Prime Contractors' Noncompetitive Subcontracting," Assignment Number A-02-011-00 (current report)	3	5 contracts	70	25	\$15,910.7	10	\$ 5,519.6
"NASA Contracts for Professional, Administrative, and Management Support Services," Report Number IG-03-003, October 16, 2002	5	5 contracts	22	13	1,257.6	13	1,257.6
"Lockheed Martin Space Operations' Use of Professional & Consultant Services," Report Number IG-02-013, March 26, 2002	1	NAS9-19100 NAS9-98100	7	16	20,842.8	16	1,020.0
"Thiokol's Use of Professional and Consultant Services" Report Number IG-01-019, March 30, 2001	1	NAS8-30490 NAS8-38100 NAS8-97238	47	13	1,437.6	7	1,330.8
"United Space Alliance's Use of Professional and Consultant Services" Report Number IG-01-012, March 16, 2001	1	NAS9-20000	9	9	1,908.2	7	1,809.7
"Raytheon Subcontract Management" Report Number IG-00-002, December 21, 1999	1	NAS9-18181	32	17	6,900.0	4	399.3
"Allied Signal Subcontract Management" Report Number IG-99-042, September 16, 1999	1	NAS9-95682	31	18	1,600.0	3	257.7
<b>Total</b>	<b><u>13</u></b>	<b><u>18</u></b>	<b><u>218</u></b>	<b><u>111</u></b>	<b><u>\$49,856.9</u></b>	<b><u>60</u></b>	<b><u>\$11,594.7</u></b>

**Percentage of Inadequate Justifications of Sole-source Procurements (60/111)**

**54.1%**

## **Appendix F. Summary of Prior Audits**

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**NASA Office of Inspector General Reviews.** The NASA Office of Inspector General has issued six reports dealing with noncompetitive procurements. For copies of those reports, visit <http://www.hq.nasa.gov/office/oig/hq/issuedaudits.html>. Details follow.

**“NASA Contracts for Professional, Administrative, and Management Support Services,” Report Number IG-03-003, October 16, 2002.** NASA can improve its award and management of support services contracts. For 3 of the 5 support services contracts reviewed, contractors did not obtain adequate competition for 13 (59 percent) of 22 subcontracts awarded and did not adequately justify the lack of competition for the 13 awards. As a result, NASA has reduced assurance that the selected subcontractors offered fair and reasonable prices for the 13 subcontracts valued at about \$1.3 million. Also, NASA did not maximize opportunities to facilitate the use of fixed-price contracting for routine administrative services with reasonably definite requirements. As a result, NASA assumed more risk than necessary because the use of cost-type contracts rather than fixed-price contracts can minimize the contractor’s incentive to control costs and perform effectively. In addition, cost-type contracts can be more costly and burdensome for NASA to administer due to more stringent contract reporting and review requirements. We recommended that NASA contracting officers (COs) require contractors to develop and to improve upon company policies for documenting the rationale for noncompetitive subcontract awards and to follow policies for competing subcontracts and documenting noncompetitive procurements. We also recommended that COs thoroughly document their analysis and approval of contractor requests for consent to subcontract and that contract files include contractor consent requests. We further recommended that the NASA COs collect sufficient historical workload data for routine administrative services to allow for expanded use of fixed-price contracting in future awards when data and circumstances indicate fixed-price contracting is appropriate.

**“Lockheed Martin Space Operations’ Use of Professional and Consultant Services,” Report Number IG-02-013, March 26, 2002.** NASA can improve its controls over the contractor’s use of professional and consultant services. Further, the contractor’s management controls did not ensure compliance with Federal Acquisition Regulation (FAR) requirements. For two of seven professional and consultant service subcontracts reviewed, Lockheed Martin Space Operations officials had not properly justified noncompetitive procurements. We recommended that the COs for the two contracts in question coordinate with the administrative contracting officer (ACO) to require the contractor to follow its established procedures by preparing written justifications for future noncompetitive procurements.

**“Thiokol’s Use of Professional and Consultant Services,” Report Number IG-01-019, March 30, 2001.** NASA’s controls over Thiokol Propulsion’s (Thiokol’s) use of professional and consultant services can be improved. For 7 of the 13 professional

## Appendix F

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and consultant services subcontracts we reviewed, Thiokol buyers did not follow company policy requiring adequate justifications for noncompetitive procurements when dealing with former Thiokol employees or prior subcontractors. Also, Defense Contract Management Agency (DCMA) purchasing system and surveillance reviews and Defense Contract Audit Agency (DCAA) audits of incurred costs did not include professional and consultant service subcontracts due to the relatively low-dollar value of these subcontracts and no consideration of the inherent risk. Further, the DCMA consent to subcontract review excludes professional and consultant services subcontracts because the subcontracts do not meet the threshold dollar value for the review. We recommended that the NASA CO: (1) direct Thiokol to ensure contractor personnel submit timely and acceptable justifications for noncompetitive procurements, (2) request the DCAA to include professional and consultant service costs in samples selected for future incurred cost audits, (3) request the DCMA ACO to include professional and consultant services subcontracts as part of DCMA's surveillance reviews, and (4) request the DCMA ACO to include in oversight reviews the allocation of professional and consultant services costs that are charged as indirect costs.

**“United Space Alliance’s Use of Professional and Consultant Services,” Report Number IG-01-012, March 16, 2001.** For seven of nine professional and consultant services subcontracts we reviewed, United Space Alliance (USA) officials did not prepare acceptable justifications for noncompetitive procurements. USA procedures did not sufficiently implement FAR requirements for USA personnel to prepare acceptable acquisition justifications for noncompetitive procurements. As a result, NASA had reduced assurance that the contractor obtained the best source and price for the noncompetitive procurements. We recommended the NASA ACO implement procedures that comply with the FAR requirements for the acceptable preparation of acquisition justifications for noncompetitive procurements. We also recommended that the DCMA ACO establish a process that includes USA's monthly report of professional and consultant services subcontracts in the semiannual surveillance reviews.

**“Allied Signal Subcontract Management,” Report Number IG-99-042, September 16, 1999, and “Raytheon Subcontract Management,” Report Number IG-00-002, December 21, 1999.** Purchasing department buyers for the two contractors did not maintain documentation to support justifications for noncompetitive procurements. The contractors' purchasing policies did not require contractor personnel to keep supporting documentation. Additionally, Government oversight reviews of the contractors' procurement systems did not include examinations of supporting documentation for noncompetitive procurements. As a result, NASA had reduced assurance that contractors maximized competition. In response to our recommendations, NASA management instructed the contractors to maintain adequate documentation in support of noncompetitive procurements. NASA management also took actions to include reviews of supporting documentation in future reviews of the contractors' purchasing systems.

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## Appendix G. Management's Response

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



July 16, 2003

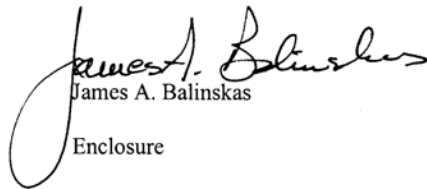
Reply to Attn of:

HK

TO: W/Assistant Inspector General for Inspections & Assessments  
FROM: HK/Director, Contract Management Division  
SUBJECT: Agency Response to OIG Draft Report on Improving NASA Oversight  
of Prime Contractors' Noncompetitive Subcontracting, Assignment No.  
A-02-011-00

Enclosed is our response to the subject draft report dated June 25, 2003.

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

  
James A. Balinskas  
Enclosure

## Appendix G

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**Recommendation 1:** The Assistant Administrator for Procurement should request that the DCMA include a detailed analysis of noncompetitive subcontracting when performing CPSRs at NASA prime contractors.

**Response:** Concur. DCMA will be requested to include a detailed analysis of noncompetitive subcontracting when performing CPSRs at NASA prime contractors via letter. The letter will be issued by October 31, 2003.

**Recommendation 2:** The Director, Marshall Space Flight Center, should direct the Center Procurement Officer to ensure that the COs require Orbital and CSC to comply with FAR requirements in their NASA contracts.

**Response:** Concur. The Procurement Officer, via letter, will advise the COs to require Orbital and CSC to comply with FAR requirements in their NASA Contracts. The letter will be issued by October 31, 2003.

**Recommendation 3:** The Director, Marshall Space Flight Center should direct the Center Procurement Officer to ensure that COs properly perform adequate analyses of contractor requests prior to approving consents to subcontract. Where appropriate, the analyses should include obtaining proper concurrences and approvals from the Center Procurement Officer and Competition Advocate, respectively.

**Response:** Concur. The Procurement Officer, via letter, will advise the COs to properly perform adequate analyses of contractor requests prior to approving consents to subcontract. Where appropriate, the analyses should include obtaining proper concurrences and approvals from the center Procurement Officer and competition advocate, respectively. The letter will be issued by October 31, 2003.

**Recommendation 4:** The Director, Marshall Space Flight Center, should direct the Center program offices to inform all of their program managers of the need to make the applicable COs aware at the earliest opportunity of any upcoming procurement requirements.

**Response:** Concur. The Center program offices/program managers currently provide the COs with their annual Acquisition Forecast Requirements. However, the Center Director or his designee will issue correspondence to program offices advising of the need to make Contracting Officers aware of upcoming requirements that are not in the forecast. The correspondence will be issued by October 31, 2003.

**Recommendation 5:** The Director, Ames Research Center, should direct the Center Procurement Officer to ensure that COs require Orbital to comply with FAR requirements in its NASA contract and to perform adequate analyses of contractor requests for consent prior to consenting to subcontract.

**Response:** Concur. The Procurement Officer will advise the COs to require Orbital to comply with FAR requirements in its NASA contracts and to perform adequate analyses of contractor requests for consent prior to consenting to subcontract. The advisory will be issued by October 31, 2003.

## **Appendix H. Report Distribution**

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**Report Title:** Improving NASA Oversight of Prime Contractors' Noncompetitive Subcontracting, IG-03-024, dated August XX, 2003

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*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
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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***  
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***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.*** \_\_\_\_\_

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*How did you use the report?* \_\_\_\_\_

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*How could we improve our report?* \_\_\_\_\_

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## **Major Contributors to the Report**

Joe Kroener, Director, Office of Audits (OA) Procurement

Lorne Dear, Associate Director, OA Procurement

Patrick Iler, Project Manager

Kenneth Wood, Lead Auditor

Mary Anderson, Auditor

Diane Frazier, Procurement Analyst