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# *Office of Inspector General*

# *Audit Report*

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## **OPPORTUNITIES EXIST FOR FAA TO STRENGTHEN ITS AWARD AND OVERSIGHT OF eFAST PROCUREMENTS**

*Federal Aviation Administration*

*Report Number: ZA2017046*

*Date Issued: May 8, 2017*





# Memorandum

U.S. Department of  
Transportation

Office of Inspector General

Subject: **ACTION**: Opportunities Exist for FAA To  
Strengthen Its Award and Oversight of eFAST  
Procurements  
Federal Aviation Administration  
Report No. ZA2017046

Date: May 8, 2017

From: Mary Kay Langan-Feirson  
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Procurement Audits

Reply to: JA-60  
Attn. of:

To: Federal Aviation Administrator

In 2009, the Federal Aviation Administration (FAA) developed a small business procurement vehicle known as the Electronic FAA Accelerated and Simplified Tasks (eFAST). As FAA's preferred vehicle for small business procurements, eFAST offers a broad range of professional and support services that are categorized into the following eight functional areas: (1) Air Transportation Support, (2) Business Administration and Management, (3) Research and Development, (4) Computer/Information Systems Development, (5) Computer Systems Support, (6) Documentation and Training, (7) Engineering Services, and (8) Maintenance and Repair.

FAA promotes eFAST as a secured Web-based bidding and contract administration tool that streamlines the procurement process for its stakeholders. Despite being tailored to FAA's unique procurement standards,<sup>1</sup> eFAST was initially available for use by all Federal agencies.<sup>2</sup> However, FAA decided several years ago to limit eFAST to only FAA, as it found the reimbursable agreement process with outside agencies too cumbersome. FAA has not ruled out re-opening eFAST to outside agencies in the future.

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<sup>1</sup> In DOT's fiscal year 1996 Appropriations Act (Public Law 104-50, November 15, 1995), Congress provided FAA with broad authority to develop its own acquisition system and exempt the Agency from most Federal acquisition laws and regulations. FAA established its Acquisition Management System (AMS), a unique set of policies and guidance designed to address Agency needs.

<sup>2</sup> FAA's eFAST master ordering agreement specifies that use by non-FAA agencies is "on a limited basis and when in the best interest of the Government."

As of the end of our audit, more than 520 small businesses have been prequalified and hold master ordering agreements (MOAs) under eFAST to potentially provide prime contractor services in one or more of the functional areas. The total maximum value of these eFAST agreements is \$7.4 billion over a 15-year period.<sup>3</sup> Given the significant Federal dollars involved, the objectives of this self-initiated audit were to evaluate FAA's processes for (1) awarding and (2) overseeing eFAST procurements.

To conduct our audit, we selected a statistical sample from a universe of 337 eFAST procurements awarded in fiscal years 2012 through 2015.<sup>4</sup> Our sample included 40 procurements valued at over \$677 million and allowed us to project funds that could have been put to better use. To verify compliance, we reviewed the contract files for our sample procurements using a standardized checklist of almost 100 Agency-specific procurement requirements. In addition, we surveyed the contracting officers (CO) and contracting officer representatives (COR) associated with each of the 40 procurements.<sup>5</sup> Our work was conducted between May 2016 and February 2017 in accordance with generally accepted Government auditing standards. Exhibit A contains further details on our scope and methodology.

## RESULTS IN BRIEF

While FAA's eFAST award process includes positive aspects—such as an organized procurement file system and detailed price analyses—improvement is needed in certain areas. Specifically, FAA does not consistently apply its Acquisition Management System (AMS) requirement to verify prospective contractor eligibility when making most eFAST awards. As a result, we found that 7 of our 40 sample eFAST procurements—totaling over \$67 million—had been awarded as 8(a)<sup>6</sup> set-asides to firms whose 8(a) eligibility had expired. Based on this finding, we estimate that \$314 million or 17.3 percent of the \$1.8 billion value of eFAST procurements in our universe represent funds that could have been put to better use by awarding those dollars to firms whose small/disadvantaged eligibility status was verified at the time of procurement award.<sup>7</sup> This occurred because FAA incorrectly interpreted the MOA as a contract, although that

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<sup>3</sup> The 15-year period goes to September 30, 2024.

<sup>4</sup> Only 2 of the 337 eFAST procurements involved agencies other than FAA.

<sup>5</sup> The CO survey responses represent 38 of our 40 sample procurements, and the COR survey responses represent 33 procurements. All 40 procurements are not represented in the surveys, because some COs and CORs no longer work at DOT, and 1 CO and 4 CORs did not respond to the surveys.

<sup>6</sup> The 8(a) status is part of a business development program administered by the Small Business Administration and makes the firm eligible for a broad range of assistance—such as financial and procurement assistance, mentoring, and training—in order to help them compete in the general marketplace. An 8(a) firm must be owned and controlled at least 51 percent by socially and economically disadvantaged individuals.

<sup>7</sup> Our \$314 million estimate has a precision of +/- \$197 million at the 90-percent confidence level.

interpretation is contrary to AMS and Governmentwide policy and guidance. In addition, the majority of FAA's eFAST procurements involved two high-risk award strategies—selecting time and material (T&M) contract type and awarding noncompetitively. Yet FAA did not comply with Agency requirements for justifying the use of the high-risk T&M type for 32 of 38 T&M procurements in our sample and may not be taking full advantage of its eFAST vehicle to compete more procurements among prequalified small and disadvantaged businesses. Finally, FAA does not use performance-based contracting methods for its eFAST procurements, even though eFAST and Agency-wide policies say such methods are preferred and should be used to the maximum extent practicable for support-service procurements.

While good practices exist among officials overseeing eFAST procurements—for instance, some CORs examining contractors' invoices and status reports—several factors limit the overall effectiveness of this oversight. Some of the factors include CORs who lack specific procurement expertise or proper certifications and infrequent communication between COs and CORs. For example, although the Office of Federal Procurement Policy (OFPP) recognizes that close communication between the CO and COR is imperative for achieving procurement objectives, the post-award COs for 25 of our sample eFAST procurements said they did not meet with their CORs to discuss the procurements. Furthermore, FAA's documentation does not demonstrate adequate oversight of eFAST procurements. This includes no documented oversight plans, inadequately defined acceptance criteria, and insufficient evidence of actual oversight that did occur. For example, none of the 40 procurements in our sample had any form of a documented oversight plan, although 38 were T&M type—which both FAA and the Federal procurement arena recognize as requiring diligent oversight to safeguard taxpayer funds given its high-risk nature. These limiting factors occurred in part because FAA did not institute adequate processes for overseeing eFAST procurements.

## BACKGROUND

Currently, any FAA Program Office can submit a request to use eFAST to fulfill a small business procurement need.<sup>8</sup> Once the Program Office does so, the eFAST office will support the procurement from start to finish, charging a service fee ranging from 1 to 3 percent of the award value.<sup>9</sup> Both the pre-award and post-award COs will be staffed in the eFAST program office.<sup>10</sup> However, if the

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<sup>8</sup> The eFAST procurement request process is carried out through FAA's eFAST Knowledge Services Network workspace (a secure online contract management tool).

<sup>9</sup> The fee percentage is determined based on the level of resources and complexity of the procurement.

<sup>10</sup> The pre-award CO is responsible for the procurement from inception through 30 days after the award is signed, at which point the post-award CO takes over until the procurement is closed out.

customer Program Office is located in a region away from Headquarters—e.g., FAA’s Technical Center in Atlantic City, NJ—it can opt to use its own CO instead and manage the procurement at the regional location. No matter where the customer Program Office is located, the CO will delegate a staff member from the customer Program Office to serve as the COR, who is analogous to the Government’s project/task manager for that procurement.

The eFAST program office, located in Washington, DC, is made up of both Federal and contractor staff. There are 10 Federal employees, including a branch manager, 6 COs, 2 contract specialists, and 1 COR.<sup>11</sup> There are also 33 support contractor positions—not all of which are currently filled—including contract specialists, technical liaisons, invoice review specialists, and résumé specialists. Although the eFAST office employees’ salaries are allocated from appropriated funds, the eFAST program itself is funded by the service fees it charges.

## **THE eFAST PROGRAM COULD BE ENHANCED BY IMPLEMENTING IMPROVED AWARD PROCESSES**

FAA took the noteworthy initiative to establish the eFAST vehicle as a means for promoting procurement opportunities to small and disadvantaged businesses. While its eFAST award process includes positive aspects—such as an organized procurement file system and detailed price analyses—improvement is needed in certain areas. FAA does not consistently apply its AMS requirement to verify prospective contractor eligibility when awarding most eFAST procurements. In addition, the majority of FAA’s eFAST procurements involved two high-risk award strategies—selecting T&M contract type and awarding noncompetitively. Finally, FAA does not use performance-based contracting methods for its eFAST procurements, even though program-specific and Agency policies say such methods should be used for support-service procurements, such as eFAST, to the maximum extent practicable.

### **FAA Does Not Consistently Verify Contractor Eligibility Prior To Making eFAST Awards**

When making individual eFAST awards, FAA does not consistently verify the prospective contractor’s small/disadvantaged eligibility status. AMS requires FAA to award procurements only to contractors determined to be responsible, which involves verifying that they are qualified and eligible before the award is made. However, under eFAST requirements, FAA is only required to verify small/disadvantaged eligibility before qualifying businesses to participate in the

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<sup>11</sup> This COR only oversees those contractors supporting the overall eFAST program, not individual Program Office procurements.

eFAST program—through execution of an MOA—or when exercising an MOA’s option period. There is no requirement to re-verify a firm’s eligibility prior to awarding an individual eFAST procurement under the MOA, although that is when actual services are ordered and funds are obligated.<sup>12</sup> Given that the eFAST MOA’s base period and option period each usually span 5 years, FAA is allowing significant time to pass without verifying if any changes have occurred in the MOA holder’s small/disadvantaged eligibility status.

As a result, we found that 7 of the 40 eFAST procurements in our sample—totaling over \$67 million—had been awarded to MOA holders whose 8(a) eligibility had expired (see table 1).<sup>13</sup> For example, in August 2014, FAA noncompetitively awarded a \$3.5 million eFAST procurement to Betis Group, Inc., for a range of laboratory technical support services, although Betis’ 8(a) eligibility had expired in August 2009, 5 years earlier. Based on our finding, we estimate that \$314 million or 17.3 percent of the \$1.8 billion value of eFAST procurements in our universe represent funds that could have been put to better use by awarding those dollars to firms whose small/disadvantaged eligibility status was verified at the time of the individual procurement award.

**Table 1. 8(a) eFAST Procurements Awarded to Ineligible Contractors**

Contractor Name	Procurement		8(a) Eligibility Expiration	Time Between 8(a) Expiration and Award Date
	Award Amount	Award Date		
1 Betis Group, Inc.	\$3,497,019	8/29/2014	8/29/2009	5 years
2 Concept Solutions Inc.	\$20,863,352	7/27/2012	10/21/2011	9 months
3 DigitaliBiz Inc.	\$12,693,784	5/21/2015	3/25/2014	1 year, 2 months
4 DigitaliBiz Inc.	\$19,399,055	9/24/2014	3/25/2014	6 months
5 Concept Solutions Inc.	\$9,013,525	9/19/2012	10/21/2011	11 months
6 Betis Group Inc.	\$1,380,186	4/27/2012	8/29/2009	2 years, 8 months
7 PruTech Solutions Inc.	\$399,515	3/4/2012	6/8/2010	1 year, 9 months
<b>Total</b>	<b>\$67,246,436</b>			

Source: OIG analysis of 40 sample eFAST procurements.

According to eFAST officials, an MOA is a contract, and that is what determines when they should verify contractor eligibility. As such, the eFAST office—in concurrence with FAA’s legal division and Small Business Development Office—

<sup>12</sup> One exception to this process is that FAA requires the prospective contractor’s disadvantaged status to be verified again when it awards a Service-Disabled Veteran-Owned Small Business (SDVOSB) eFAST procurement. However, according to FAA data, only 15 percent of eFAST procurements made in fiscal years 2012 through 2015 were identified as such.

<sup>13</sup> A firm graduates from the Small Business Administration’s 8(a) Business Development Program after 9 years, unless that period is shortened due to termination, early graduation, or voluntary graduation.

included language in the agreement that stated if a business holds an active 8(a) certification at the time of the MOA execution, it will retain that eligible status throughout the MOA's base period, regardless of whether its 8(a) eligibility expires during that time. Furthermore, it will not be re-verified until an option period is exercised. Even so, we found that although one firm's 8(a) eligibility had expired during its MOA base period, FAA still awarded it a nearly \$13 million 8(a) procurement approximately 8 months after the base period ended (see table 2, row 3). FAA explained this was acceptable because they re-verified the firm's 8(a) status when they exercised the option period during eFAST's open season in September 2013. This allowed just over a year to elapse between the re-verification and the start of the option's performance period, during which time the firm lost its 8(a) eligibility. FAA also awarded two procurements totaling almost \$5 million to one eFAST contractor whose eligibility expired just 3 days after the MOA base period began (see table 2, rows 1 and 3).

**Table 2. eFAST Contractors Whose 8(a) Eligibility Expired During the MOA Base Period**

Contractor Name	Procurement		8(a) Eligibility Expiration	MOA Base Period	
	Award Amount	Award Date		Start Date	End Date
Betis Group, Inc.	\$3,497,019	8/29/2014	8/29/2009	8/26/09	9/30/14
DigitaliBiz Inc.	\$12,693,784	5/21/2015	3/25/2014	8/26/09	9/30/14
Betis Group Inc.	\$1,380,186	4/27/2012	8/29/2009	8/26/09	9/30/14

Source: OIG analysis of 40 sample eFAST procurements.

FAA's interpretation that an MOA is a contract is contrary to AMS and Governmentwide procurement policy and guidance. The eFAST MOA is awarded as a Blanket Purchase Agreement (BPA) with a fixed-ceiling labor rate. According to AMS,<sup>14</sup> a BPA is not a contract but an understanding between FAA and a vendor that allows the Agency to place future orders more quickly by identifying the terms and conditions that apply to any future orders. AMS explicitly states that FAA is not obligated to place and a vendor does not have to accept any orders under the BPA, and an enforceable contract exists only when FAA places *and* a vendor accepts an order under the BPA. Similarly, the eFAST MOA does not guarantee work, obligate funds, or contain a specific statement of work, but simply recognizes that a firm has been prequalified to participate in the eFAST program and may respond to eFAST "contract opportunities." Furthermore, the MOA itself states that "contracts issued under the MOA will have the terms and conditions stipulated in the MOA...specific services will be identified and ordered at the

<sup>14</sup> AMS's description of a BPA mirrors Federal procurement policy.

contract level.” eFAST officials have acknowledged that the language of the MOA is confusing and needs to be clarified.

Regardless of FAA’s legal interpretation of the MOA, allowing 5 years to pass before re-verifying a firm’s 8(a) eligibility is not a best practice. Moreover, this practice may result in unintended outcomes contrary to small business, 8(a), and other program eligibility rules. Although FAA does not follow the Federal Acquisition Regulation (FAR), when AMS lacks guidance—as in this case—we frequently look to the FAR as a benchmark. For example, the FAR’s Small Business Administration contracting policy states that once a firm’s 8(a) eligibility expires under a basic ordering agreement—in this case, the MOA—new orders are not accepted as 8(a) under that agreement.<sup>15</sup> Since verifying a firm’s 8(a) status only takes a few minutes, it does not seem unreasonable to require FAA to do so more frequently. This, in turn, would help ensure eFAST procurements are awarded to legitimate 8(a) or small business firms. In addition, as FAA has deemed over 35 percent (185 of the 523) of eFAST MOA holders to be 8(a) eligible,<sup>16</sup> the Agency has plenty of options to ensure a legitimate 8(a) firm is given the opportunity to gain a foothold in Government contracting, a stated intention of the 8(a) program.

### **Most FAA eFAST Procurements Involve High-Risk Award Strategies**

In 2009, the same year eFAST was developed, the President issued a directive to improve Government acquisitions. One step required agencies to reduce the use of high-risk procurement strategies—including T&M contract type and noncompetitive awards—as they carry significant risks of overspending. Most eFAST procurements involved these two allowable but high-risk strategies. Yet FAA generally did not justify the decision to use T&M type and may have missed opportunities to compete more eFAST procurements among prequalified small and disadvantaged businesses.

**T&M Type Procurements.** FAA awarded 286 of the 337 eFAST procurements (85 percent) issued in fiscal years 2012 through 2015 as T&M type,<sup>17</sup> for a combined valued of almost \$1.7 billion (91 percent of the total universe value). Given that eFAST procurements are used mainly for professional support services, T&M type does appear to be an appropriate choice. However, T&M type procurements are considered the hardest to manage as they provide no positive profit incentive for the contractor to control costs and require almost constant surveillance by the Government.

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<sup>15</sup> FAR 19.804-5.

<sup>16</sup> FAA’s reporting that 185 of the 523 MOA holder are 8(a) eligible is as of December 2016.

<sup>17</sup> This includes 3 labor-hour procurements, which vary from T&M procurements only in that materials are not supplied by the contractor, and 11 T&M/firm-fixed-price hybrid procurements.

Due to this risk, FAA’s AMS requires COs to document a justification for selecting a T&M procurement and address four required elements focused on suitability, schedule and cost, market research, and risk.<sup>18</sup> However, the justifications for 32 of the 38 T&M type eFAST procurements in our sample did not comply with this Agency requirement. Specifically, 3 did not document any justification, and the remaining 29 had justifications that were missing 1 or more of the 4 required elements (see table 3).

**Table 3. FAA’s Compliance with AMS Requirement for Justifying T&M Type Procurements**

No Required Justification	1 element missing	2 elements missing	3 elements missing	Compliant Justification
3 / 38	6 / 38	10 / 38	13 / 38	6 / 38

Source: OIG analysis of the contract files for the 38 T&M type procurements in the sample of 40 eFAST procurements.

FAA eFAST officials told us that they believe only two of the four required elements are important and relevant for T&M type eFAST procurements, specifically, (1) why no other contract type is suitable and (2) why it is not possible to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. The officials explained that the required element about transitioning from T&M to a less risky type was not applicable because T&M is the appropriate vehicle, given that eFAST procurements are really “body-shop contracts.”

They also explained that the final element regarding market research was not relevant for eFAST procurements because FAA only applies the AMS requirement for market research<sup>19</sup> at the contract level. Therefore, as FAA interprets the eFAST MOAs to be contracts, Agency officials conduct market research when the MOA is established. Per FAA’s own AMS, however, the purpose of market research, among other things, is to develop a procurement strategy, determine competition levels and contractor capabilities, get comments on requirements, and obtain pricing information. Yet, at the eFAST MOA level, the Agency does not define a specific statement of work, establish requirement(s), or commit funds, so it is unclear how market research at this level would provide any of the intended benefits. Without doing market research at the eFAST procurement level, FAA may not get the information it needs to determine the appropriate procurement

<sup>18</sup> According to AMS, a justification for selecting a T&M type must include (1) why no other contract type is suitable, (2) why it is not possible to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of confidence, (3) the market research conducted, and (4) how the requirement has been structured to allow for a contract type with less risk (such as fixed price) in future procurements.

<sup>19</sup> Although AMS discusses both “market research” and “market analysis,” different sections use one or both terms, and AMS makes no clear distinction between the two. Therefore, our use of market research includes market analysis.

strategy and pricing. Moreover, FAA has not established a process for verifying that justifications were documented for T&M type eFAST procurements and that they address the four required elements.

**Noncompetitive.** The Government Accountability Office recognizes competition as a cornerstone of the Federal acquisition system and a critical tool for achieving the best possible return. The benefits of competition are well established and include saving money, improving contractor performance, and promoting accountability for results. However, AMS, like the FAR, allows individual 8(a) procurements to be noncompetitively awarded without justification, when the anticipated total value of the procurement (including all options) is \$4 million or below.<sup>20</sup> While FAR uses this same \$4 million noncompetitive ceiling for Service-Disabled Veteran-Owned Small Business (SDVOSB) procurements, AMS does not set a ceiling for these procurements, stating that noncompetitive SDVOSB procurements can be awarded “when appropriate”<sup>21</sup> (see table 4).

**Table 4. Federal and FAA Procurement Policy on Noncompetitive Ceilings for 8(a) and SDVOSB Awards**

Type of Award	FAR Ceiling	AMS Ceiling
8(a) noncompetitive	\$4 million or below	\$4 million or below
SDVOSB noncompetitive	\$4 million or below	“When appropriate”

Source: OIG analysis of FAR 19.805-1, 19.1406 and AMS 3.6.1.3.5, 3.6.1.3.6.

FAA used noncompetitive award practices for 217 of the 337 eFAST procurements (64 percent) it issued in fiscal years 2012 through 2015, with a total value of over \$598 million.<sup>22</sup> Specific to the 8(a) and SDVOSB procurements:

- FAA awarded 159 noncompetitive 8(a) procurements with a total award value of approximately \$312 million. According to the universe data FAA provided, the total award value for 3 of these 159 noncompetitive 8(a) procurements—1 awarded in 2012 and the other 2 awarded in 2015—exceeded the \$4 million ceiling by over \$4.4 million, \$129,000, and \$75,000, respectively.<sup>23</sup> However, FAA was able to provide support to show that for two of these procurements,

<sup>20</sup> This ceiling is \$6.5 million or below for procurements assigned manufacturing North American Industry Classification System codes.

<sup>21</sup> FAA’s Acquisition Policy Manager explained this means the CO has discretion to determine whether a noncompetitive SDVOSB award is in FAA’s best interests, considering such factors as whether the contract price is fair and reasonable.

<sup>22</sup> Although noncompetitive awards represent most of the 337 eFAST procurements in our universe, the 110 competitive awards represented the majority of the universe’s \$1.8 billion dollar value at a total of \$1.2 billion.

<sup>23</sup> When an 8(a) procurement’s anticipated value exceeds \$4 million, it may be awarded noncompetitively only if (1) there is no reasonable expectation that at least two or more 8(a) sources will submit offers that are in the Government’s best interests in terms of quality, price, and/or delivery or (2) the award will be made to a concern owned by an Indian tribe or an Alaska Native corporation.

the actual total value at the time of initial award was below \$4 million, and that the award value increased through subsequent modifications. For the third procurement above the \$4 million threshold, FAA admitted this was a mistake and provided support to show they modified the total award value to \$3,997,327 within 3 months of the initial award.

- FAA awarded 48 noncompetitive SDVOSB procurements with a total award value of approximately \$255 million.
- Overall, FAA competitively awarded only 19 8(a) and 3 SDVOSB eFAST procurements, totaling approximately \$275 million.

With the exception of the one noncompetitive 8(a) award that exceeded the threshold, FAA is not violating its own policy in making these noncompetitive awards. However, it is unclear why the Agency does not take advantage of its eFAST vehicle to compete more of these procurements. FAA expended considerable effort to put in place an extensive ordering vehicle for prequalified small businesses. This type of ordering arrangement is usually established to expedite orders and permit competition between prequalified vendors as a way of maximizing value. Yet, because FAA chose to award these procurements noncompetitively, up to 184 8(a) and 69 SDVOSB prequalified, eFAST-eligible firms were not offered an opportunity to compete for these requirements.<sup>24</sup>

The eFAST Branch Manager acknowledged that when he assumed his position about 2 years ago, he noticed the large number of noncompetitive awards and has since begun to address this by instructing Program Offices to compete their eFAST procurements when possible.<sup>25</sup> He noted that he will at times experience resistance from the Program Offices, as they want to continue using their existing contractors or view the competitive procurement process as requiring more time and effort—something we have reported in past audits.<sup>26</sup> He also stipulated that he believes he has no control over noncompetitive eFAST procurements managed by COs outside of the eFAST office—such as a CO located in FAA’s Technical Center in Atlantic City, NJ. During this audit, the Branch Manager reaffirmed the eFAST office’s commitment to reducing the number of noncompetitive awards and demonstrated the current process for electronically tracking and assessing the number of noncompetitive eFAST awards. Specifically, he showed us that on

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<sup>24</sup> These numbers of 8(a) and SDVOSB eFAST eligible firms represent the status of eFAST MOA holders as reported by FAA on its eFAST Web site as of December 2016.

<sup>25</sup> Since our audit universe represents eFAST awards made in fiscal years 2012 through 2015, the eFAST office’s recent efforts to cut down on noncompetitive awards is not fully recognized in our sample or universe data.

<sup>26</sup> *Audit of the Federal Aviation Administration’s RESULTS National Contracting Service* (OIG Report FI-2006-072), September 21, 2006; and *FAA Lacks Adequate Controls To Accurately Track and Award Its Sole-Source Contracts* (OIG Report ZA-2016-065), May 9, 2016. OIG reports are available on our Web site at <http://oig.dot.gov>.

FAA's eFAST Knowledge Services Network workspace, eFAST officials monitor the number of noncompetitive awards by year, count, and dollars.

### **FAA Does Not Use Performance-Based Contracting Methods To Award eFAST Procurements**

For over 2 decades, OFPP and the Office of Management and Budget (OMB) have guided agencies to increase their use of performance-based contracting to better ensure that contractors provide quality results. Performance-based contracting methods are designed to ensure that contractors are given the freedom to determine how to meet the Government's performance objectives, that appropriate performance quality levels are achieved, and that payment is made only for services that meet these levels.

As such, FAA's AMS policy states performance-based contracting is the preferred method for obtaining services and should be used when appropriate. Furthermore, the eFAST MOA states that, pursuant to AMS, performance-based contracting methods will be applied to contracts issued under this MOA to the maximum extent practicable. However, none of the 40 eFAST procurements in our sample used these methods.

This is not the first time we have reported on FAA's lack of utilizing performance-based methods on service contracts. For example, in 2012 we reported that FAA did not use such methods when awarding support-service task orders under a different procurement vehicle—Systems Engineering (SE) 2020.<sup>27</sup> During that audit, FAA initially stated that SE-2020 support-service orders did not lend themselves to performance-based methods, but later agreed to our recommendation to use these methods on SE-2020 orders and adequately train staff to develop and monitor such awards. In 2002, we recommended that FAA implement performance-based service contracting to improve its service contract management and use performance-based methods for a support contract involving the National Airspace System (NAS)—which FAA agreed to do.<sup>28</sup>

According to eFAST officials, their office has considered utilizing performance-based contracting methods at the outset of each procurement. However, in discussions with the Program Offices, it was determined that these techniques do not satisfy the requirement for a variety of reasons. Specifically, FAA stated that performance-based methods are not possible for the vast majority of eFAST procurements since they are for professional support services and involve the

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<sup>27</sup> *FAA's Contracting Practices Are Insufficient To Effectively Manage Its Systems Engineering 2020 Contracts* (OIG Report ZA-2012-082), March 28, 2012.

<sup>28</sup> *Support Contracts: Cost Controls Over the NAS Implementation Support Contract Need Significant Strengthening* (OIG Report AV-2003-002), November 15, 2002.

monitoring of labor hours. However, AMS states that service contracts should incorporate performance-based contracting methods to help ensure contractors provide timely, cost-effective, and quality performance. Furthermore, eFAST officials told us that the Program Office contract staff—including the CORs—are inexperienced with such techniques and, therefore, “stick to what they know.” This indicates that FAA may need to provide Agency-wide training on how to use performance-based methods.

While we recognize performance-based methods are not always possible, these methods should be easy to utilize for procurements under certain eFAST functional areas, such as business administration and management, computer systems support, and maintenance and repair. Given that OMB reports that performance-based service contracting increases cost savings, decreases the level of contract administration, and increases contractor accountability, FAA may be missing out on these benefits by not using such methods.

## **VARIOUS FACTORS LIMIT FAA’S OVERSIGHT OF eFAST PROCUREMENTS**

While good practices exist among officials overseeing eFAST procurements—for instance, some CORs examining contractors’ invoices and status reports—several factors limit the overall effectiveness of this oversight. These factors include a CO-assignment structure that inhibits diligent procurement administration, CORs who lack specific procurement expertise or proper certifications, and infrequent communication between COs and CORs. Additionally, FAA’s documentation often does not demonstrate adequate oversight of eFAST procurements, including a lack of documented oversight plans, inadequately defined acceptance criteria, and insufficient evidence of actual oversight that did occur.

### **COs’ and CORs’ Ability To Oversee eFAST Procurements Is Challenged By Several Key Shortfalls**

#### *CO Assignment Structure Does Not Promote Diligent Administration of eFAST Procurements*

COs are the binding authority for the Government, as they are warranted by their respective agencies to issue legal contracts between the Federal Government and the contracting entity. COs are responsible for ensuring performance of all actions necessary for effective contracting, ensuring compliance with contract terms, and safeguarding the interests of the United States. FAA’s acquisition policy states that COs are responsible for administering contracts covered by AMS (which includes all eFAST procurements).

Under FAA's current assignment structure, different COs are used for pre-award and post-award administration of eFAST procurements. Although this practice is not unique to FAA, the eFAST post-award COs appear to lack full awareness of the procurements they administer. This lack of "cradle-to-grave" knowledge of the procurement, which hinders the COs' ability to fulfill their responsibilities with due diligence, is evidenced by our survey results<sup>29</sup>:

- When asked if performance-based contracting methods had been utilized, post-award COs responded "unknown" for 16 of 28 sample procurements.
- When asked if an oversight plan had been developed, post-award COs responded "unknown" for 31 of 35 sample procurements.
- When asked if acceptance criteria had been defined, post-award COs responded "unknown" for 29 of 35 sample procurements.
- When asked if controls or methods were put in place to encourage cost-effective and efficient contractor performance for those sample procurements that were T&M type, post-award COs responded "N/A" for 25 of the 34 sample procurements that were in fact T&M type.

eFAST officials stated that their post-award COs are very knowledgeable about the procurements, and therefore, they may have misunderstood the survey questions or thought they did not need to answer certain questions because they pertained to the pre-award process. However, in our transmission of the survey to individual COs, we included eFAST officials and told the COs they could contact us directly with questions or concerns; as a result, we spoke with several via phone and email.

Compounding our concerns over the post-award COs' lack of complete knowledge of the eFAST procurement, FAA asks COs to sign eFAST contractual documents about which they have little or no knowledge. For example:

- A CO who signed an eFAST procurement for NAS laboratory support services valued at approximately \$9.4 million told us his entire involvement in the procurement was "more or less 48 hours" and that he was just asked to sign the award document due to a conflict of interest on the part of another acquisition official.

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<sup>29</sup> The response rate to our questions varied among the 11 post-award COs surveyed, representing 38 of our 40 sample procurements. Of the two sample procurements not represented, we did not survey the COs as they were no longer employed at DOT or did not respond to our survey. Furthermore, COs did not always answer all the question(s); therefore, our total sample procurement count varied based on the survey question discussed.

- COs associated with 7 of our 38 sample procurements said they could not answer the questions in our survey because they had never been the COs for the identified procurements. However, we saw their signatures on documents, such as modification awards, in the associated procurement files. For example, one CO stated she had not worked on a \$9.9 million eFAST procurement to provide support services to FAA’s Air Traffic Organizational Effectiveness Group. However, she had signed three modifications under this procurement, including one that issued three work orders totaling almost \$3.3 million.

eFAST officials again expressed they believe that their COs have full knowledge and awareness of their procurements. However, they clarified that they only have control over the COs located in the eFAST office, and since the survey included COs located outside the eFAST office, they could not fully address this issue. However, COs from the eFAST office represented 6 of the 7 procurements referenced in the 7 out of 38 example mentioned directly above.

### *CORs Delegated to eFAST Procurements Lack Expertise or Proper Certifications*

For each eFAST procurement, the CO delegates a COR—nominated by the Program Office—to act as its representative and perform specified procurement oversight and administration duties, such as monitoring contractor performance and accepting the procured goods and services. According to AMS, the Program Office should ensure that the COR has qualifications and expertise appropriate for the nature of the procurement and the delegated duties. Furthermore, FAA’s COR Handbook states that when the CO and COR are not co-located—as is the case with most eFAST procurements—the COR may need more in-depth knowledge of procurement policy and procedures than when the CO is onsite.

However, some of the CORs delegated to eFAST procurement did not have specific procurement experience in or knowledge of the services being procured prior to being nominated. Furthermore, some did not know answers to basic questions about their eFAST procurements that had a direct impact on their ability to fulfill their oversight responsibilities, as illustrated by the following examples<sup>30</sup>:

- When asked if they had experience or knowledge of the services being procured prior to being delegated, CORs responded “no” for 9 of our 33 sample procurements.

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<sup>30</sup> The response rate to our questions varied among the 34 CORs, representing 33 of our 40 sample procurements. Of the seven sample procurements not represented, we did not survey the CORs as they were no longer employed at DOT or did not respond to our survey. Furthermore, CORs did not always answer all the question(s); therefore, our total sample procurement count varied based on the survey question discussed.

- When asked if performance-based contracting techniques had been utilized, CORs responded “unknown” for 14 of 31 sample procurements.
- When asked if an oversight plan had been developed, CORs responded “unknown” for 15 of 31 sample procurements.
- When asked if acceptance criteria had been defined, CORs responded “unknown” for 8 of 31 sample procurements.

In addition, some of the CORs delegated to eFAST procurements were not properly certified. FAA requirements for CORs align with Federal acquisition certification programs in that the employee must be certified and maintain this certification by meeting specified training requirements every 2 years. Yet we found numerous instances where certifications of active CORs had lapsed or were not documented, as illustrated by the following examples:

- The CORs delegated to 9 of our 40 sample eFAST procurements—which totaled over \$127 million—allowed their certification to lapse yet still remained the CORs for these procurements. For example, the certification of a COR responsible for overseeing an approximately \$18 million eFAST procurement to provide IT infrastructure support services expired in March 2016, although he was still acting as the COR in September 2016—when last verified during our audit—and the procurement’s performance period does not end until August 2019.
- We were unable to validate the certifications of 9 CORs—representing an additional 10 of our sample procurements totaling over \$74 million—as their certificates were not in the procurement files, and the CORs did not provide them, despite our repeated requests.<sup>31</sup>

eFAST officials emphasized that it is the Program Offices’ duty to nominate experienced, knowledgeable, and properly certified CORs. They also said that while the eFAST COs do not track the CORs’ certifications, they would take action if they saw CORs who were “in over their heads.” While FAA did accept our finding that certification was not in the procurement files, they believed that was representative of only a “very small percentage” of all eFAST procurements awarded. However, based on our findings that for 10 sample procurements we were unable to validate the CORs’ certifications in either the procurement files or directly from the CORs, we can project that we would be unable to do so for 76 of 337 eFAST procurements in the universe (23 percent).<sup>32</sup>

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<sup>31</sup> Four of the CORs could not be contacted during the audit, as they were no longer employed at DOT.

<sup>32</sup> Our estimate of 76 has a precision of +/-43 (+/-12.8 percent of the universe) at the 90-percent confidence level.

### *CO and COR Communication on Many eFAST Procurements Is Infrequent*

OFPP's Best Practices for Contract Administration states that a partnership between the COR and CO is essential to establishing and achieving contract objectives, because these two officials are responsible for ensuring that the contracting process is successful. The COR functions as the "eyes and ears" of the CO, so it is imperative that they stay in close communication. FAA's COR Delegation Memorandum even lists one of the COR responsibilities as maintaining direct communication with the CO. Because COs and CORs for eFAST procurements are in different FAA offices and locations, good communication is even more critical.

However, CO-to-COR communication on many eFAST procurements appears to have been infrequent. Specifically, when post-award COs were asked if they meet (i.e., phone, in-person, emails, etc.) with their CORs to discuss the procurements, they responded "no" for 25 of the 35 procurements in our sample and "N/A" for 1 procurement in our sample. For example, the post-award CO in the two cases highlighted below did not meet with the CORs during their 2- and 3-year timespans as COs for the procurements.<sup>33</sup> Had they done so, it might have helped avoid or mitigate the significant delays and cost overruns experienced by both projects. Specifically:

- FAA awarded a \$3.6 million eFAST procurement on behalf of another DOT agency in March 2012 for the design, development, implementation, and initial support of the agency's grant and program reporting platform. This procurement was extended over 1 year from its original period of performance end date and went almost \$6 million over budget, ending with a total cost of \$9.2 million.
- FAA awarded a \$4.3 million eFAST procurement in September 2012 on behalf of the same DOT agency for a vast array of support services—including resolving software and infrastructure issues—for the new National Transit Database, a "mission-critical" program. This procurement was extended several months and ended almost \$1 million over budget with a total cost of \$5.1 million.

Furthermore, the infrequent communication between eFAST COs and CORs is exemplified by inconsistent survey responses about the same procurements. For example:

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<sup>33</sup> We could not survey the COR who oversaw both of these awards, as he no longer works at DOT.

- The pre-award CO for a \$117 million eFAST procurement responded “yes” when asked if acceptance criteria had been developed for the procurement. However, the post-award CO and the COR responded “unknown” to the same question. Furthermore, when asked if the CO and COR met to discuss the procurement, the pre-award CO said “yes, daily,” the post-award CO said “no,” and the COR said “yes, weekly.”
- The pre-award CO for a \$55 million eFAST procurement responded “yes” when asked if the award was a T&M type and whether controls were put in place to encourage efficient contractor performance. However, the post-award CO responded “N/A” to this question, indicating an unawareness that the procurement was T&M type, and both CORs answered “no.” When asked if the CO and CORs met to discuss the procurement, the pre-award CO said “yes, daily,” the post-award CO said “no,” and both CORs said “yes, as needed” or “yes, a few times per week.”

eFAST officials stated that they believe their COs and CORs are in constant communication—via phone or in person—as they witness these interactions every day. They also stated that they believe the COs and CORs must have misinterpreted the survey question. However, our question and sub-question were simply worded “Did you meet with COR to discuss the procurement? What means of communication did you use (i.e., phone, in-person, emails, etc.)?” (See exhibit C for the full CO and COR surveys.) Furthermore, as stated earlier, we included eFAST officials in the emails that distributed the surveys to the COs and CORs, so that they would be fully aware of the questions.

### **FAA’s Documentation Does Not Demonstrate Adequate Oversight of eFAST Procurements**

**Lack of Oversight Plans.** OFPP’s Best Practices for Contract Administration states that a quality assurance surveillance plan is critical, as it provides CORs with a systematic structured method for evaluating contractor services. In addition, FAA specifically requires CORs to develop a work plan that identifies how contract performance will be monitored and documented<sup>34</sup> and may also ask them to develop a surveillance plan that outlines the steps the Agency will take to ensure the services received are consistent with contract quality requirements and received in a timely manner.

However, none of our 40 sample procurements had any form of a documented oversight plan, e.g., a COR work plan, surveillance plan, or quality assurance plan,

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<sup>34</sup> According to FAA’s COR Handbook, the COR work plan should include specific tasks and milestones for oversight functions, such as monitoring the contractor and receiving, inspecting, and accepting work.

etc. This includes the 38 T&M type procurements that AMS specifically requires FAA personnel to closely monitor given that this high-risk type vehicle provides a contractor with little incentive to control costs or efficiently use labor. In addition, there was a turnover of CORs for eight of our sample procurements in which a documented oversight plan may have helped ensure consistent, reliable, and tailored oversight to mitigate specific procurement risks.

FAA officials told us that oversight plans are not done primarily due to the sheer volume of eFAST procurements and because these procurements are not major acquisitions. Furthermore, they stated the CORs are inexperienced and probably could not put together an oversight plan. Yet an oversight plan tailored to the procurement's specific risks is especially critical given FAA's prolific use of high-risk type T&M contracts for its eFAST support service procurements. Such a plan would outline the functions the COR should perform to determine whether a contractor fulfilled the contract obligations pertaining to quality and quantity—including acceptance of deliverables and validation that the contractor hours billed were consistent and reasonable for the effort provided.

**Inadequately Defined Acceptance Criteria.** Acceptance criteria specify the requirements that must be demonstrably met before the procurer of supplies and services will determine them acceptable. Per AMS, once a Government representative determines the deliverables—i.e., supplies or services—are acceptable, that determination constitutes an acknowledgment that they conform to applicable contract requirements and is binding on the Government. FAA's COR delegation and eFAST Memorandum of Understanding (MOU)<sup>35</sup> assign the COR and Program Office the responsibility for receiving, inspecting, and rejecting or accepting services procured through eFAST in a timely manner.

However, for the 40 eFAST procurements in our sample, FAA did not develop adequately defined acceptance criteria that would allow a Government representative to determine acceptability and ensure FAA's need had been met. Specifically, the files for 6 of our 40 sample eFAST procurements did not document any acceptance criteria. Furthermore, the acceptance criteria for each of the remaining 34 procurements was generated from a standardized template using boilerplate language such as "Due Date: As Required;" "Acceptance Criteria: Documentation is accurate and complete, submitted on time, in the approved format, and delivered by the COR-approved deadline;" and "COR Approval." For example:

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<sup>35</sup> An eFAST MOU is a signed agreement between the eFAST team and the customer Program Office, detailing the parties' responsibilities for each procurement.

- An almost \$12 million eFAST procurement to provide support services to FAA’s Fire Safety Branch—which is responsible for conducting research, testing, and standards development for all aspects of aircraft fire safety—lacked documented acceptance criteria.
- The statement of work for a \$28 million eFAST procurement to provide support services to FAA’s automated safety analysis capabilities lists two pages of deliverables that all have the same boilerplate-language acceptance criteria: “are submitted on time and in the COR approved format;” “meet all requirements as described in the task descriptions.”
- The statement of work for a \$69 million eFAST procurement to consolidate existing support service contracts for NAS safety lists eight pages of deliverables tied to the following acceptance criteria: “submitted on time [which is defined as ‘when required by the COR’]” and “deliverables are prepared in accordance with COR direction and statement of work sections 2.2, 2.4, 2.5, and 5.3.” However, none of those sections exist anywhere in the statement of work,

eFAST officials acknowledged there is room for improvement in this area. They told us they try to develop good acceptance criteria to mitigate the high risk associated with T&M type awards for eFAST procurements, but acknowledged that they also streamline work as much as possible due to eFAST’s high volume and fast pace.

**Insufficient Evidence of Actual Oversight.** In addition to the absence of an oversight plan, FAA has little documented evidence of actual oversight taking place for eFAST procurements.<sup>36</sup> According to AMS, the organization administering the procurement should document the complete history of the transaction. The Agency’s COR Handbook further clarifies that the procurement’s administration file should include records of inspection, contractor reports, and other data deliverables, if applicable. However:

- The files for only 12 of our 40 sample procurements included monthly contractor status reports—the main deliverables FAA uses to track work completed and compare against invoices submitted for payment.
- Although the eFAST MOU requires each Program Office to document its evaluations of the monthly status reports, none of our 40 sample procurements had such evaluations documented in their files.

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<sup>36</sup> At the beginning of the audit, the eFAST office told us that CORs kept oversight files separate from the contract files. We asked that both COR and contract files be provided for our review. Our file review results reflect what we received.

- While the files for 30 of the 40 sample procurements included emails in which the COR or CO accepted invoices, they lacked documentation to show how either official verified the invoice for payment, i.e., what they inspected to determine the charges were legitimate.
- Only 6 of the 40 sample procurements documented COR certification of satisfactory contract performance prior to invoice payment.

Overall, FAA does not appear to enforce a systematic process for maintaining eFAST procurement oversight documentation—such as requiring the COR to utilize the official procurement files. For example, when we asked the CORs delegated to our 40 sample procurements where they kept monthly reports and other deliverables, we got a vast variety of answers, including “unknown,” “at my cubicle,” “email folder,” “printed in a binder,” and “electronic share[d] drive.” However, eFAST officials told us they are currently developing and will soon implement a centralized electronic folder to store contractor deliverables and COR/Program office comments. This folder will be accessible to both eFAST COs and CORs and considered part of the official procurement file. While a positive development, it is important to note that this new folder system is being developed approximately 8 years after the Agency first initiated eFAST.

The survey responses we received indicate that some CORs are employing effective oversight practices for eFAST procurements, even though those practices are not documented in the procurement files. Specifically, the CORs who provided descriptions of their oversight practices—representing 26 of our 40 sample procurements—told us they were conducting contractor monitoring, such as examining invoices and monthly status reports to identify discrepancies between billed labor hours and contractor performance; monitoring labor categories’ burn rates (usually on a monthly basis) to compare actual costs and hours worked with what was originally planned; and meeting biweekly with Government and contractor stakeholders to discuss procurement issues.

## **CONCLUSION**

Given the billions of Agency funds that may be obligated against eFAST, it is important that FAA award and oversee procurements under this vehicle with great diligence. We acknowledge that FAA has successfully created a procurement vehicle to promote contracting opportunities for small and disadvantaged businesses, as well as help the Agency achieve—and usually exceed—its socioeconomic goals. However, FAA needs to take steps to better ensure its eFAST award and oversight processes achieve successful procurement outcomes that maximize Agency funds. Until FAA does this, Agency funds and initiatives—

including those intended to support the safety of the National Airspace System—may be at risk.

## **RECOMMENDATIONS**

We recommend that the Federal Aviation Administrator:

1. Develop and implement a process to require contracting officers to re-verify and document a firm's small/disadvantaged eligibility prior to awarding each individual procurement awarded under an eFAST master ordering agreement. Implementation of this recommendation could put \$314 million in funds to better use by awarding those dollars to firms whose small/disadvantaged eligibility status was verified at the time of individual procurement award.
2. Develop and implement a process to periodically verify that justifications required by AMS section T3.2.4.A.6(c) are documented for each time and material type procurement awarded under an eFAST master ordering agreement, and that the justification addresses each of the four elements required (including explanations for why any of the individual elements were not addressed).
3. Strengthen guidance on utilizing performance-based contracting methods in service contracting, and train contracting and program staff how to use these methods in procurements awarded under an eFAST master ordering agreement.
4. Develop and implement a process to periodically verify that eFAST contracting officers are tracking contracting officer representatives' certifications and documenting them in the procurement files.
5. Develop and implement a process to promote regular communication between eFAST contracting officers and contracting officer representatives during the period of performance for procurements awarded under an eFAST master ordering agreement.
6. Develop and implement a process to promote contracting officer representatives to document and follow oversight plans for procurements awarded under an eFAST master ordering agreement, tailoring each plan to the procurement's unique risks and circumstances.
7. Develop and implement a process requiring contracting officer representatives to determine and document how they will validate that statement of work acceptance criteria have been met for each procurement awarded under an eFAST master ordering agreement.

8. Develop and implement a process requiring contracting officer representatives to maintain documented evidence of oversight for each procurement awarded under an eFAST master ordering agreement in either the official procurement files on FAA's eFAST Knowledge Services Network workspace, or in a format that is also accessible at any time to the eFAST office.

## **AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

We provided a copy of our draft report to FAA on March 7, 2017, and received its response on April 21, 2017, which is included as appendix A in this report. FAA concurred with recommendations 2 through 8 and proposed appropriate actions and completion dates. Therefore, we consider recommendations 2 through 8 as resolved but open pending completion of the planned actions.

FAA partially concurred with recommendation 1, agreeing that the applicability of small business standards to the eFAST MOA is not clearly established in AMS but disagreeing that it needs to develop a process to re-verify a firm's eligibility prior to individual awards under multiple awards. FAA's proposed alternative action is to revise AMS policy and guidance to clearly establish that the eFAST MOA is equivalent to a contract, an action they assert would make its process consistent with the way the General Service Administration (GSA) manages its Federal Supply Schedule contracts, and that would not require re-verification of eligibility because this determination would be made at the time of an individual procurement award.

However, it is unclear from FAA's response how they are planning to revise AMS to establish the eFAST MOAs as contracts. Under the Federal Supply Schedule, GSA awards indefinite-delivery indefinite-quantity contracts, which provide a minimum guarantee and are clearly defined by both Federal and FAA procurement policies as contracts. In contrast, the eFAST MOA is structured as a basic ordering agreement and issued as a Blanket Purchase Agreement, both of which offer no minimum guarantees and are clearly defined as "not a contract" in both Federal and FAA procurement policy. While Federal procurement policy allows an 8(a) contractor awarded an indefinite-delivery contract to continue to accept new orders under the contract even if its 8(a) eligibility ends, it does not allow the same treatments for ordering agreements. Since FAA awards the eFAST MOAs as agreements and not contracts, the Agency's management of them is not consistent with how GSA manages the Federal Supply Schedule contracts. In order to convert the over 500 eFAST MOAs to contracts, the Agency would have to provide consideration, such as a minimum guarantee, in those MOAs in addition to proposed modifications to policy and guidance. Only such actions would make the MOAs contracts comparable to GSA's Federal Supply Schedule. Therefore,

we consider recommendation 1 open and unresolved until we receive more details on FAA's proposed alternative action.

Furthermore, Agency officials disagree with our finding that \$314 million could be put to better use, saying that this suggests that FAA did not conduct business in a cost-effective or efficient manner. However, we stated \$314 million of funds could be put to better use because those funds represented eFAST procurements that were intended to go to 8(a) firms—and therefore likely counted toward the Agency's achievement of its annual 8(a) goals—but instead were awarded to firms that were no longer 8(a) eligible. These funds would have been put to better use had they been awarded to eligible 8(a) firms as intended.

## **ACTIONS REQUIRED**

We consider recommendation 1 open and unresolved and ask the Agency to reconsider its position. In addition, we request that FAA provide us with the additional information detailed above regarding its specific action plan for this recommendation within 30 days of the date of this report in accordance with DOT Order 8000.1C. We consider recommendations 2 through 8 as resolved but open pending completion of the planned actions.

We appreciate the courtesies and cooperation of FAA representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-5225 or Darren Murphy, Program Director, at (206) 255-1929.

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cc: The Secretary  
DOT Audit Liaison, M-1  
FAA Audit Liaison, AAE-100

## **EXHIBIT A. SCOPE AND METHODOLOGY**

We conducted our work from May 2016 through March 2017 in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives to evaluate FAA's processes for (1) awarding and (2) overseeing eFAST procurements.

To address our audit objectives, we selected a sample from FAA's universe of eFAST procurements awarded from fiscal year 2012 through fiscal year 2015. This universe contained 337 eFAST procurements valued at over \$1.8 billion. We stratified these 337 procurements into 8 strata based on procurement type, dollar value, and contractor name. Stratum sample sizes were computed proportionately based on number of procurements. We selected all procurements (census) from 5 strata, and a sample of procurements from the remaining 3 strata with probability proportional to size with replacement where size was the award value amount for a total of 40 procurements valued at approximately \$677 million. Our IT Specialist independently accessed FAA's internal database—eFAST Knowledge Sharing Network workspace—where he validated the completeness of the universe FAA submitted to us and also the accuracy of relevant information for our sample of 40 procurements. We considered the slight differences he found reasonable due to the fact that the Knowledge Sharing Network workspace files are active and our universe was created from those files at a set time.

Based on our analysis of various eFAST and FAA procurement documentation—such as (1) the eFAST MOA, (2) eFAST program standard operating procedures, (3) AMS policies and guidance, and (4) FAA's COR Handbook—we developed a standardized checklist of nearly 100 Agency procurement-related requirements, including things like documenting T&M type justifications, conducting price/cost analysis, and verifying prospective contractor eligibility. We then used this checklist to review the contract files for our 40 sample eFAST procurements to evaluate FAA's compliance with the requirements. Our sample design allowed us to estimate the amount of funds that could have been put to better use and the number of procurements for which COR certifications could not be validated in either the procurement files or directly from the CORs with a precision of +/-11 percent and +/-43 procurements respectively, at a 90-percent confidence level.

To further evaluate FAA's award and oversight processes, we then identified a list of 23 COs and 45 CORs to survey using the contents of the contract files of all 40 sample procurements—i.e., the COR delegation memorandums and the CO signature on documents such as the award and modifications. (Eight procurements

### **Exhibit A. Scope and Methodology**

had more than one COR, and 39 procurements had more than one CO. In particular, one CO was associated with over 20 of our sample procurements.) FAA then validated our lists of COs and CORs and identified six COs and seven CORs who were not available to be surveyed because they were no longer employed by FAA or on extended leave. Using the Federal Personnel and Payroll System, we were able to independently validate that five of the COs and six of the CORs were not employed by FAA. Based on this list, we sent surveys to all 17 COs ( $23-6=17$ ) and all 38 CORs ( $45-7=38$ ) who were associated with our sample procurements. We received responses from 16 COs (representing 38 of our sample procurements) and 34 CORs (representing 33 of our sample procurements) for a response rate of 94 percent and 90 percent respectively. Based on these high response rates, we feel confident that our results are representative. We also interviewed eFAST program officials at FAA Headquarters in Washington, DC, throughout the audit.

**EXHIBIT B. MAJOR CONTRIBUTORS TO THIS REPORT**

<b><u>Name</u></b>	<b><u>Title</u></b>
Darren Murphy	Program Director
Jill Cottonaro	Project Manager
Stacie Seaborne	Senior Analyst
Andrew James	Senior Analyst
Petra Swartzlander	Senior Statistician
William Savage	IT Specialist
Fritz Swartzbaugh	Legal Counsel
Jane Lusaka	Writer-Editor

## EXHIBIT C. CO and COR Surveys

CO Name:		John Doe			
Identified eFAST Procurement Number and Contractor:		ABC Corporation - DTFXXX##X-#####-####			
Identified eFAST Procurement Award Date:		MM/DD/YY			
	Questions	Response Instructions	FAA Response	Copies of Documents Required with Response Submission	FAA Additional Comments (optional)
1	What is your official title?				
2	How long have you been a CO?	Year(s) + Month(s)			
3	What FAA Office are you currently employed in?				
4	What FAA Office were you employed in when acting as CO for this procurement?				
5	What FAC-C Level certification do you currently hold?	Level 1, 2, or 3		Submit copy of current certificate	
6	What FAC-C Level certification did you hold when appointed CO for this procurement?	Level 1, 2, or 3			
7	Identify the timeframe you served as CO for this procurement.	Start Date: (mm/dd/yy)			
		End Date: (mm/dd/yy)			
8	How many other procurements were you serving as the CO for during this timeframe?	#			
9	What percentage of your overall responsibilities did this eFAST CO role represent during this timeframe?	Percentage ranging from 1%-100%	%		
10	What was your primary responsibility as the CO for this procurement?	Brief Narrative			
11	Did you fill out an Agreement Regarding Conflict of Interest at the time of your assignment as a CO for this procurement?	Y or N		Submit copy of ARCOI	
12	Did you fill out an Agreement regarding Non-Disclosure of Information at the time of your assignment as a CO for this procurement?	Y or N		Submit copy of ANDOI	
13	Did you play a role in planning this procurement?	Y or N			
14	Was the planning documented?	Y, N, or Unknown		Submit copy of the planning doc - i.e. an Acquisition Plan or FAA's Procurement Planning Template	
15	How did you determine the number of days to be allotted between the date the SIR was issued and the date proposals were due?	List factors in the comment box			

16	Did you play a role in the award of this procurement?	Y or N			
17	Did you verify the potential contractor's small/disadvantage status at the time of award?	Y, N, or N/A			
	If yes, please explain how.	Brief Narrative		Submit any documentation that supports this verification	
18	Were performance based contracting techniques employed for this procurement?	Y, N, or Unknown			
	If yes, please explain how.	Brief Narrative			
	If not, were performance based contracting techniques considered?	Y, N, or Unknown			
19	Was an oversight plan developed for this procurement?	Y, N, or Unknown		Submit copy of oversight plan	
	If yes, who created this plan?	List person/titles			
20	For this procurement, what percentage of the oversight responsibility did the following officials provide of its entire POP:				
	CO	The percentages should equal 100% when added together	%		
	COR		%		
	Contractor's Project Manager		%		
	Other (please identify who in comment box)		%		
100% Oversight Effort	100%				
21	Were acceptance standards/criteria defined for this procurement? (If so, please submit copy of acceptance criteria.)	Y, N, or Unknown		Submit copy of acceptance criteria	
	If yes, who developed the acceptance standards/criteria?	Identify name/title			
22	If this was a T&M or T&M-hybrid type procurement, were controls or methods put in place to encourage cost-effective and efficient methods in performing the work?	Y, N, or N/A			
	If yes, please give a specific example.	Brief Narrative			
23	Did you meet with COR to discuss the procurement?	Y or N			
	What means of communication did you use?	i.e., phone, in-person, emails, etc			
	How frequently?	i.e., monthly, weekly, bi-weekly, etc			

Exhibit C. CO and COR Surveys

24	Did you meet with contractor's project manager to discuss the procurement?	Y or N			
	What means of communication did you use?	i.e., phone, in-person, emails, etc			
	How frequently?	i.e., monthly, weekly, bi-weekly, etc.			
25	Did this procurement exceed its original budget?	Y, N, or Unknown			
	Enter Original Cost estimate and Final/Revised Cost.	Original cost estimate: (\$)	\$		
		Final /Revised cost: (\$)	\$		
	What was the reason(s) for exceeding the budget?	Brief Narrative			
26	Did this procurement exceed its original schedule milestones?	Y, N, or Unknown			
	Enter the Original Period of Performance (POP) End Date and the Final/Revised POP End Date	Original POP end date: (dd/mm/yy)			
		Final/Revised POP end date: (dd/mm/yy)			
What were the reason(s) the deadlines needed to be extended?	Brief Narrative				

	COR Name:	Jane Doe			
	Identified eFAST Procurement Number and Contractor:	ABC Inc - DTFXXX##X-#####-####			
	Identified eFAST Procurement Award Date:	MM/DD/YY			
	Questions	Response Instructions	FAA Response	Copies of Documents Required with Response Submission	FAA Additional Comments (optional)
1	What is your official title?				
2	How long have you been a COR?				
3	What FAA Office are you currently employed in?				
4	What FAA Office were you employed in when acting as COR for this procurement?	Year(s) + Month(s)			
5	What FAC-COR Level certification do you currently hold?	Level 1, 2, or 3		Submit copy of current certificate	
6	What FAC-COR Level certification did you hold when appointed COR for this procurement?	Level 1, 2, or 3			
7	Identify the timeframe you served as COR for this procurement.	Start Date: (mm/dd/yy)			
		End Date: (mm/dd/yy)			
8	How many other procurements did you service as the COR for during this timeframe?	#			
9	What percentage of your overall responsibilities did this eFAST COR role represent during this timeframe?	Percentage ranging from 1%-100%	%		
10	What was your primary responsibility as the COR for this procurement?	Brief Narrative			
11	Did you fill out an Agreement Regarding Conflict of Interest at the time of your assignment as a COR for this procurement?	Y or N		Submit copy of ARCOI	
12	Did you fill out an Agreement regarding Non-Disclosure of Information at the time of your assignment as a COR for this procurement?	Y or N		Submit copy of ANDOI	
13	Did you have experience/knowledge with the services provided in this procurement prior to your delegation as the COR?	Y or N			
14	Did you play a role in the award of this procurement?	Y or N			
15	Were performance based contracting techniques employed for this procurement?	Y, N, or Unknown			
	If yes, please explain how.	Brief Narrative			
	If not, were performance based contracting techniques considered?	Y, N, or Unknown			

Exhibit C. CO and COR Surveys

16	Was an oversight plan developed for this procurement?	Y, N, or Unknown		Submit copy of oversight plan	
	If yes, who created this plan?	List person/titles			
	If yes, has this plan been revised or adapted through the contract period of performance?	Y, N, or Unknown			
17	For this procurement, what percentage of the oversight responsibility did the following officials provide of its entire POP:				
	CO	The percentages should equal 100% when added together	%		
	COR		%		
	Contractor's Project Manager		%		
	Other (please identify who in comment box)		%		
100% Oversight Effort	100%				
18	Were acceptance standards/criteria defined for this procurement? (If so, please submit copy of acceptance criteria.)	Y, N, or Unknown		Submit copy of acceptance criteria	
	If yes, who developed the acceptance standards/criteria?	Identify name/title			
19	Did the oversight plan utilized for this procurement have specifically defined processes for the following areas:				
	Verifying the qualifications for contractor personnel filling specific labor categories;	Y or N			
	Monitoring work progress and milestones;	Y or N			
	Keeping the procurement on budget and preventing cost overruns;	Y or N			
	Verifying contractor staff are being utilized efficiently;	Y or N			
	Verifying labor hours charged reflect actual hours worked;	Y or N			
	Approving invoices for payment;	Y or N			
Determining quality assurance of the services performed.	Y or N				
20	If this was a T&M or T&M-hybrid type procurement, were controls or methods put in place to encourage cost-effective and efficient methods in performing the work?	Y, N, or N/A			
	If yes, please give a specific example.	Brief Narrative			
21	Did you document your oversight for this procurement in a file or centralized location?	Y or N		Submit any templates, tracking, or other example of documentation of your oversight used	
	If yes, where are these documents located?	Identify location			
22	Who was responsible for formally accepting the deliverables?	Identify person/title			
23	Did you formally sign off on the contractor's monthly reports when they were submitted?	Y or N		Submit an example if applicable	

**Exhibit C. CO and COR Surveys**

24	Did you formally sign off on the deliverables when they were submitted?	Y or N		Submit an example if applicable	
25	Where did the deliverables and monthly reports get filed after they were submitted?	Identify location			
26	Did you provide feedback on the contractor performance?	Y or N			
	If yes, how is this documented?	Brief Narrative			
27	If yes, how often was this done?	i.e., weekly, monthly, only at procurement end			
	Did you meet with CO to discuss the procurement?	Y or N			
27	What means of communication did you use?	i.e., phone, in-person, emails, etc			
	How frequently?	i.e., monthly, weekly, bi-weekly, etc			
28	Did you meet with contractor's project manager to discuss the procurement?	Y or N			
	What means of communication do you use?	i.e., phone, in-person, emails, etc			
29	How frequently?	i.e., monthly, weekly, bi-weekly, etc.			
	Did this procurement exceed its original budget?	Y, N, or Unknown			
	Enter Original Cost estimate and Final/Revised Cost.	Original cost estimate: (\$)	\$		
Final /Revised cost: (\$)		\$			
	What was the reason(s) for exceeding the budget?	Brief Narrative			
30	Did this procurement exceed its original schedule milestones?	Y, N, or Unknown			
	Enter the Original Period of Performance (POP) End Date and the Final/Revised POP End Date	Original POP end date: (dd/mm/yy)			
		Final/Revised POP end date: (dd/mm/yy)			
	What were the reason(s) the deadlines needed to be extended?	Brief Narrative			

**Exhibit C. CO and COR Surveys**

## APPENDIX A. AGENCY COMMENTS



# Federal Aviation Administration

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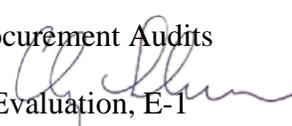


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## Memorandum

Date: April 21, 2017

To: Mary Kay Langan-Feirson  
Assistant Inspector General for Acquisition and Procurement Audits

From: H. Clayton Foushee, Director, Office of Audit and Evaluation, E-1 

Subject: Federal Aviation Administration's (FAA) Response to Office of Inspector General (OIG) Draft Report: FAA's Award and Oversight of eFAST Procurements

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The FAA is committed to acquisition cost efficiency and small business utilization as reflected in the Electronic FAA Accelerated and Simplified Tasks (eFAST) program. The eFast program utilizes the benefits of the Agency's Acquisition Management System (AMS) and increases efficiency through the use of technology. For six consecutive years, eFAST has been a critical element of FAA meeting or exceeding its small business goals to include awarding over \$1.5 billion to small businesses.

Based on our review of the draft report, the Agency concurs with recommendations 2 through 8, as written. We plan to implement recommendations 2, 4, and 5 by August 31, 2017 and recommendations 3, 6, 7, and 8 by November 30, 2017.

FAA partially concurs with recommendation 1. We agree that the applicability of small business standards to the master ordering agreements (MOA) is not clearly established and we plan to revise the AMS Policy and Guidance to clearly establish that the eFAST MOA is equivalent to a contract by July 31, 2017. This revision to the AMS Policy and Guidance is consistent with the Federal Supply Schedules managed by the General Services Administration, multi-agency contracts, which allows 8(a) contractors to accept new task/delivery orders under the contract without recertification. We do not agree to develop a process to re-verify a firm's small/disadvantaged eligibility prior to individual orders under multiple-awards because FAA makes this determination at the time of the initial MOA award. Further, we disagree with the OIG's assertion that \$314 million could have been utilized more effectively by verifying a company's 8(a) status at the time of an individual procurement award. The OIG's recommendation infers that FAA did not conduct business in a cost effective or efficient manner. Yet, the OIG determined that all eFast awards were fair and reasonable and nowhere did the OIG cite in its draft report that eFAST awards failed to meet FAA's mission or resulted in a waste of government

funds. As a result, FAA does not agree that \$314 million could be put to better use by implementing the recommendation.

We appreciate this opportunity to comment on the OIG draft report. Please contact H. Clayton Foushee at (202) 267-9000 if you have any questions or require additional information about these comments.