



U.S. Department of
Transportation
Office of the Secretary
of Transportation
Office of Inspector General

Memorandum

Subject: INFORMATION: Audit Announcement—
Review of DOT's Compliance with Federal
Procurement Provisions Regarding the Use of
Cost-reimbursement Contracts
Project No. 12Z3003Z000

Date: July 26, 2012

From: Mary Kay Langan-Feirson
Assistant Inspector General for Acquisition and
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Reply to
Attn of: JA-60

To: DOT Senior Procurement Executive

In fiscal year 2010, the U.S. Department of Transportation (DOT) obligated \$1.49 billion (27 percent of all contract awards) for cost-reimbursement contracts. These types of contracts can help agencies obtain critical research, achieve leading-edge innovation, and fulfill other needs where there is considerable uncertainty about the resources necessary to achieve the Government's objectives.¹ However, this contract type carries a significant risk of overspending because it shifts cost risk away from the contractor to the Government.

In March 4, 2009, the President issued a Memorandum on Government Contracting directing Federal agencies to reduce their use of high-risk contracts—such as cost-reimbursement contracts—and save \$40 billion in contracting annually through better acquisition practices by fiscal year 2011. The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 aligns with the President's goal of reducing high-risk contracting. Specifically, the Act requires revisions to the Federal Acquisition Regulation (FAR) to address the use and management of cost-reimbursement contracts.² It also requires each Office of Inspector General to review its agency's compliance with these revisions to the

¹ According to the FAR, cost-reimbursement contracts are suitable for use only when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.

² Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, 122 Stat. 4549.

FAR, within one year of the FAR revisions being published, and to include the results in its next semiannual report.

Given these legislative requirements, our audit objective is to determine whether DOT and its Operating Administrations complied with the FAR revisions that address: (1) appropriate use of cost-reimbursement contracts, (2) acquisition planning to support the selection of cost-reimbursement contracts, and (3) acquisition resources necessary to award and manage cost-reimbursement contracts.³ Our review will include all DOT Operating Administrations except the Federal Aviation Administration (FAA) because acquisition reforms exempt the Agency from the FAR and procurement laws and regulations.⁴

We will contact your audit liaison to schedule an entrance conference. If you have any questions or need additional information, please contact Terrence Letko, Program Director, at 202-366-1478, or Ann Wright, Project Manager, at 202-366-1433.

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³ "Proper Use and Management of Cost-Reimbursement Contracts": Interim Rule, 76 Fed. Reg. 14547, (March 16, 2011); Final Rule, 77 Fed. Reg. 12925-01 (March 2, 2012).

⁴ In DOT's fiscal year 1996 Appropriations Act, Congress provided FAA with broad authority to develop its own acquisition process, which relieved the Agency from Federal acquisition laws or regulations. FAA established its Acquisition Management System, a set of policies and guidance designed to address the unique needs of the Agency.