

---

# *Office of Inspector General*

# *Audit Report*

---

## **SOME DEFICIENCIES EXIST IN DOT'S ENFORCEMENT AND OVERSIGHT OF CERTIFICATION AND WARRANT AUTHORITY FOR ITS CONTRACTING OFFICERS**

*Department of Transportation*  
*Office of the Senior Procurement Executive*

*Report Number: ZA-2015-041*

*Date Issued: April 9, 2015*





# Memorandum

U.S. Department of  
Transportation

Office of the Secretary  
of Transportation  
Office of Inspector General

Subject: **ACTION:** Some Deficiencies Exist in DOT's  
Enforcement and Oversight of Certification and  
Warrant Authority for Its Contracting Officers  
Report No. ZA-2015-041

Date: April 9, 2015

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

Reply to  
Attn. of: JA-60

To: DOT Senior Procurement Executive

In fiscal year 2014, the Department of Transportation (DOT) obligated \$2 billion on contracts.<sup>1</sup> DOT's contracting officers (CO) are responsible for awarding and managing this significant portfolio of contracts, so it is important that they meet Federal and departmental qualifications and training requirements. According to DOT's Fiscal Year 2013 Acquisition Human Capital Plan, DOT's acquisition workforce development and hiring has not kept pace with the growing number of complex contracts the Department is required to award and administer. In addition, DOT projects that 22 percent of its acquisition workforce will be retirement-eligible in fiscal year 2015.<sup>2</sup>

The Office of Management and Budget's (OMB) Office of Federal Procurement Policy (OFPP) requires COs to be certified under the Federal Acquisition Certification in Contracting (FAC-C) program.<sup>3</sup> Specifically, COs must be FAC-C certified at an appropriate level to meet their warrant obligations (i.e., their authority to enter into contracts up to a certain value),<sup>4</sup> and agency Chief Acquisition Officers (CAO) are required to establish certification and warrant

---

<sup>1</sup> According to data from DOT's Office of Senior Procurement Executive. This amount excludes the Federal Aviation Administration, which we excluded from the scope of our review because the Agency is exempt from Federal acquisition laws and regulations.

<sup>2</sup> DOT's Acquisition Human Capital Plan, 2014.

<sup>3</sup> In April 2005, OFPP directed the Federal Acquisition Institute to develop a certification program for civilian contracting professionals. In January 2006, OFPP implemented the FAC-C program.

<sup>4</sup> Per OFPP policy, before October 1, 2014, this requirement applied only to COs who were issued new warrants on or after January 1, 2007. OFPP defines new CO warrants as the first warrant that an agency or department issues to an employee. This requirement does not apply to senior-level officials who delegate procurement authority or whose warrants are generally used to purchase emergency goods and services.

requirements for tying warrant levels to FAC-C certification levels based on agency needs. In addition, in 2013, OFPP called for agencies to increase the use of the Federal Acquisition Institute's Training Application System (FAITAS)—a Governmentwide acquisition workforce career management system—to collect and maintain standardized certification and warrant information. DOT established its Acquisition Workforce Development Program (AWF) policy in an effort to comply with OFPP requirements.

Given the importance of a well-trained and qualified acquisition workforce, we initiated this audit to (1) evaluate DOT's compliance with requirements for certifying and assigning warrant levels to its COs and (2) determine whether DOT has effective oversight policies and practices to ensure its COs meet applicable requirements.

We conducted this audit in accordance with generally accepted Government auditing standards. To perform this review, we analyzed the Department's and DOT Operating Administrations' policies and procedures regarding CO certification and warrants, as well as interviewed representatives from DOT's Office of the Senior Procurement Executive (OSPE) and the Operating Administrations' Chiefs of the Contracting Office (COCO) and Acquisition Career Managers (ACM). To determine if DOT's COs met requirements for their FAC-C certifications and warrant authorities, we tested a total of 63 COs<sup>5</sup> from a DOT-wide universe of 153 COs. We also tested 50 contracts to determine whether COs awarded contracts within their warrant authorities. We excluded the Federal Aviation Administration from the scope of our review because the Agency is exempt from Federal acquisition laws and regulations.<sup>6</sup> See exhibit A for further details on our scope and methodology.

---

<sup>5</sup> These COs represent the following 10 DOT Operating Administrations: the Federal Highway Administration (FHWA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), Maritime Administration (MARAD), National Highway Traffic Safety Administration (NHTSA), Office of the Secretary of Transportation (OST), Pipeline Hazardous Material Safety Administration (PHMSA), Research and Innovative Technology Administration (RITA/Volpe), and Saint Lawrence Seaway Development Corporation (SLSDC). These 63 COs represent 41 percent of our universe of DOT's 153 COs.

<sup>6</sup> In DOT's fiscal year 1996 Appropriations Act, Congress provided FAA with broad authority to develop its own acquisition process. FAA established its Acquisition Management System, a set of policies and guidance designed to address the unique needs of the Agency.

## RESULTS IN BRIEF

DOT does not fully comply with CO certification and warrant requirements. Under DOT's AWF policy, COs must maintain their FAC-C certifications at an appropriate level for their warrant authorities by completing 80 CLPs every 2 years. Our review determined that 48 (76 percent) of the 63 COs we reviewed complied with certification and warrant requirements. However, we identified 15 COs (24 percent) from FMCSA, FRA, MARAD, NHTSA, PHMSA, and OST who did not fully comply. First, we found five COs lacking appropriate FAC-C certifications for their warrant authorities—including two COs with unlimited warrants who are responsible for managing their Operating Administrations' acquisition workforce and one CO lacking both a warrant and a FAC-C certification. These 5 COs approved 163 contract actions and obligated over \$21 million without being appropriately certified to do so. Second, we identified 10 COs with expired FAC-C certifications whose warrants should have been revoked or modified. These COs approved over 3,000 contract actions and obligated over \$731 million. The issues we identified are attributable to the Department's insufficient enforcement of FAC-C certification and warrant requirements. COs that do not fully comply with these requirements may not be trained and qualified to effectively award and administer the Department's significant portfolio of contracts.

While the Department's AWF policies align with Federal requirements, a few policy areas are unclear or do not reflect current practices, and some Operating Administrations do not always enforce these policies. For example, DOT policies contain conflicting information on whether it is optional or mandatory to revoke warrants for COs who do not complete required CLPs. In addition, DOT's policies have not been updated to include OFPP's new requirement for agencies to collect CO certification and warrant information electronically through FAITAS.<sup>7</sup> Although most COs comply with certification and warrant requirements, we found that some Operating Administrations do not always enforce these requirements or address instances of noncompliance—particularly in the following areas: (1) revoking or modifying warrants when COs' certifications expire, (2) issuing warrants only to certified COs, (3) regularly reviewing warrants to validate their continued need, (4) ensuring that warrants contain all required information, and (5) verifying whether COs submitted accurate and complete certification and warrant data to FAITAS. The Operating Administrations' lack of enforcement is due in part to an organizational culture that not does prioritize certification and focuses instead on issuing warrants so that COs can begin awarding and

---

<sup>7</sup> In September 2013, OFPP mandated that civilian agencies use FAITAS to manage their acquisition workforce, effective October 1, 2014. Prior to FAITAS, the Acquisition Career Management Information System was the system of records for the FAC-C program. DOT implemented FAITAS in March 2013 but has not established formal policies or procedures for its use.

administering contracts. OSPE also lacks a clear policy for enforcing Operating Administrations' compliance with CO certification and warrant requirements. Failure to enforce Federal and departmental certification and warrant requirements creates risks that DOT's complex, high-dollar acquisitions may be awarded and administered by COs who lack the appropriate training and experience.

We are making recommendations to improve DOT's oversight of warrant and certification practices.

## **BACKGROUND**

The Federal Acquisition Regulation (FAR) establishes requirements for granting and terminating CO appointments. According to the FAR, COs may sign contracts binding the Government only to the extent of the authority delegated to them. In addition, appointing authorities must provide clear written instructions regarding the limits of CO authority.<sup>8</sup>

The FAC-C program establishes three certification levels (I, II, and III)—each with specific education, training, and work experience requirements. COs must maintain their FAC-C certifications by completing 80 continuous learning points (CLPs) every 2 years to ensure that the workforce stays current on Federal contracting laws, regulations, policies, and processes.<sup>9</sup> DOT's Senior Procurement Executive's strategy to strengthen the skills and capabilities of its acquisition staff includes a focus on the FAC-C certification program.

As part of its AWF policy, DOT's Contracting Officer Warrant Program establishes the Department's CO warrant standards and incorporates OFPP's FAC-C requirements. DOT's three warrant levels, which authorize COs to award contracts up to a certain dollar value, align with the three FAC-C certification levels. For example, DOT's level I warrant requires a FAC-C level I certification. DOT implemented FAITAS in March 2013 and implemented additional features in January 2014, including a module to approve, track, and report on CO warrants. Table 1 summarizes the roles and responsibilities of key DOT personnel, as related to FAC-C certifications and CO warrants.

---

<sup>8</sup> FAR 1.603 and 1.602-1(a).

<sup>9</sup> According to OMB guidance, CLPs may be earned through (1) job-related formal or informal training activities; (2) participating in professional organizations and events, and obtaining professional licenses or certifications; (3) publishing articles related to acquisition; and (4) participating in experiential activities, such as rotational and developmental assignments or mentoring (but excludes performance of assigned work responsibilities).

**Table 1. Summary of Roles and Responsibilities of Key DOT Personnel Related to FAC-C Certifications and CO Warrants**

<b>Office of the Senior Procurement Executive (OSPE)</b>	
<b>Position</b>	<b>Roles and Responsibilities</b>
Senior Procurement Executive (SPE)/ Chief Acquisition Officer (CAO)	<ul style="list-style-type: none"> <li>• Establish mandatory warrant and training requirements.</li> <li>• Ensure uniform implementation of DOT's AWF policies and procedures.</li> <li>• Delegate authorities as appropriate to effectively administer the AWF program.</li> </ul>
Acquisition Career Manager (ACM)	<ul style="list-style-type: none"> <li>• Administer the Department's certification program.</li> <li>• Develop and maintain policies and procedures for workforce management consistent with OFPP.</li> <li>• Coordinate with Operating Administrations to maintain accurate and consistent departmentwide acquisition workforce data.</li> </ul>
<b>Operating Administrations</b>	
<b>Position</b>	<b>Roles and Responsibilities</b>
Head of the Contracting Activity (HCA)/Operating Administration CAO	<ul style="list-style-type: none"> <li>• Ensure acquisition workforce has the necessary competencies, training, and certifications; and ensure employees complete CLP requirements.</li> <li>• Ensure implementation of the Department's and Operating Administrations' AWF policies and procedures.</li> <li>• Grant and terminate the appointment of COs; may also delegate CO appointment authority to COCOs.</li> <li>• If COs' certifications expire, revoke or modify warrants through timely issuance of written notifications, including the effective date and sufficient instruction to ensure no unauthorized obligations are made.</li> </ul>
Chief of the Contracting Office (COCO)	<ul style="list-style-type: none"> <li>• Grant CO warrants by (1) evaluating the CO's acquisition experience, training, and evidence of certification; and (2) ensuring warrants include warrant number, authority, and applicable restrictions.</li> <li>• Revoke or modify warrants in writing if CO's FAC-C certification expires.</li> <li>• Review warrants to determine if COs remain qualified and to verify COs' continued need for warrants.</li> </ul>
Acquisition Workforce Supervisors	<ul style="list-style-type: none"> <li>• Ensure employees meet CLP requirements.</li> <li>• Ensure that COs meet certification requirements appropriate for warrant level.</li> </ul>
Contracting Officers (CO)	<ul style="list-style-type: none"> <li>• Obtain appropriate FAC-C certifications to maintain their warrant authorities.</li> <li>• Maintain FAC-C certifications by completing 80 CLPs every 2 years, or certifications will expire.</li> <li>• Ensure that education, training, and skills are accurately reflected in personnel files and in the acquisition workforce tracking system.</li> </ul>

Source: OIG analysis of DOT's AWF policy.

Although we have not previously conducted a departmentwide audit of CO certification and warrant practices, our prior audits identified weaknesses in related areas. For example, our 2011 audit report on OST's acquisition function

identified an unqualified CO who was issued an unlimited warrant.<sup>10</sup> Since 2009, we have reported in our Top Management Challenges reports that DOT needs to do more to ensure its acquisition workforce is adequately trained and has the needed skills to support its mission.<sup>11</sup>

## **DOT DOES NOT FULLY COMPLY WITH CONTRACTING OFFICER CERTIFICATION AND WARRANT REQUIREMENTS**

Our review determined that 48 (76 percent) of the 63 COs we reviewed complied with certification and warrant requirements. However, we identified 15 COs from FMCSA, FRA, MARAD, NHTSA, PHMSA, and OST who did not comply with one or more requirements. Specifically, we found 5 COs lacking appropriate FAC-C certifications for their warrant authorities and 10 COs with expired FAC-C certifications. COs that do not fully comply with FAC-C certification requirements may not be trained and qualified to effectively award and administer the Department's significant portfolio of contracts.

### **Most COs Were FAC-C Certified at an Appropriate Level for Their Warrant Authorities**

When nominating an employee for a CO appointment, a supervisor must ensure that the employee meets the appropriate FAC-C certification requirements for the proposed warrant authority. For example, OMB and DOT policies require COs with unlimited warrant authorities to have FAC-C level III certifications. Based on our review of 63 COs, we found that most COs (58) had appropriate FAC-C certifications for their warrant authorities (see table 2).

**Table 2. COs With Appropriate FAC-C Certification Levels for Their Warrant Authorities**

FHWA	FMCSA	FRA	FTA	MARAD	NHTSA	OST	PHMSA	RITA/ Volpe	SLSDC	TOTAL
15 / 15	3 / 3	6 / 7	4 / 4	7 / 8	7 / 10	6 / 6	1 / 1	8 / 8	1 / 1	58 / 63

Source: OIG analysis of documentation for FAC-C certifications and warrants for 63 COs from 10 DOT Operating Administrations

<sup>10</sup> *Weaknesses in the Office of the Secretary's Acquisition Function Limits its Capacity to Support DOT's Mission* (OIG Report Number ZA-2011-119), May 25, 2011.

<sup>11</sup> OIG Reports, *Top Management Challenges*, Nov. 16, 2009; Nov. 15, 2010; Nov. 15, 2011.

However, we identified five COs—from FRA, MARAD, and NHTSA—who did not have supporting documentation showing they were FAC-C certified. Specifically, a CO from FRA lacked FAC-C certification but had a \$100,000 warrant authority. According to FRA, this CO was issued a warrant for a 2-year term for contract close-out purposes. Given the short term and the CO's 35 years of experience, FRA officials stated it was not prudent to renew certification. Yet, the warrant does not restrict authority to close-out work; instead, it authorizes contract actions up to \$100,000.

In addition, a CO from MARAD lacked FAC-C certification but had unlimited warrant authority. This CO holds a leadership position and is responsible for managing and monitoring MARAD's acquisition workforce. According to MARAD, the CO was previously certified by the Department of Defense. However, the CO lacks current FAC-C certification.

At NHTSA, we identified three COs lacking FAC-C certifications:

- One CO lacked FAC-C certification but had unlimited warrant authority. This CO holds a leadership position and is responsible for managing and monitoring NHTSA's acquisition workforce. Although NHTSA provided evidence that the CO completed adequate training, the Agency was unable to provide documentation of FAC-C certification or explain the CO's lack of certification.
- Another CO, who left DOT in March 2013, lacked evidence of FAC-C certification but had a \$550,000 warrant authority.
- One CO lacked evidence of both FAC-C certification and warrant authority.

Moreover, NHTSA did not follow DOT policy for maintaining a tracking system for its warrant and certification data.

While lacking the appropriate FAC-C certifications, the 5 COs we identified from FRA, MARAD, and NHTSA approved 163 contract actions and obligated over \$21 million (see table 3).

**Table 3. Number and Dollar Value of Contract Actions Awarded by COs Lacking Documentation of FAC-C Certifications**

CO's Operating Administration	Documented FAC-C Certification	Documented Warrant Authority	Number of Contract Actions <sup>a</sup>	Dollars Obligated (rounded to the nearest thousand)
FRA	None	\$100,000	74	\$32,000
MARAD	None	Unlimited	16	\$2,220,000
NHTSA	None	Unlimited	60	\$18,741,000
NHTSA	None	\$550,000	5	\$427,000
NHTSA	None	None	8	\$372,000
<b>TOTAL</b>			<b>163</b>	<b>\$21,792,000</b>

<sup>a</sup> Contract actions include contracts, task orders, blanket purchase agreements, interagency agreements, purchase orders, and modifications that increased the dollar value of contracts or task orders.

Source: OIG analysis of documentation for FAC-C certifications and warrants for 63 COs from 10 DOT Operating Administrations, as well as Operating Administrations' contract data.

### Most COs Complied With Continuous Learning Requirements To Maintain Their FAC-C Certifications

According to DOT's AWF policy, COs are required to complete 80 CLPs every 2 years to maintain their certifications and warrants. FAC-C certifications will expire if this requirement is not met, and warrants must be revoked or modified in writing if FAC-C certification is not maintained. Based on our review of 63 COs, 48 completed the required CLPs to maintain their FAC-C certifications (see table 4).

**Table 4. COs Who Completed Required CLPs To Maintain FAC-C Certifications**

FHWA	FMCSA	FRA	FTA	MARAD	NHTSA	OST	PHMSA	RITA/Volpe	SLSDC	TOTAL
15 / 15	2 / 3	6 / 7	4 / 4	2 / 8	5 / 10	5 / 6	0 / 1	8 / 8	1 / 1	48 / 63

Source: OIG analysis of FAITAS records for 63 COs from 10 DOT Operating Administrations

We found that 10 COs (from FMCSA, MARAD, NHTSA, OST, and PHMSA) did not maintain their FAC-C certifications and allowed them to expire—for periods ranging from 2 to 7 years. In addition, 5 COs from FRA, MARAD, and NHTSA lacked evidence of a FAC-C certification, as previously discussed. These 10 COs approved 3,255 contract actions, with total obligations over \$731 million (see table 5).

**Table 5. Number and Dollar Value of Contract Actions Awarded by COs Who Did Not Complete Required CLPs**

CO's Operating Administration	FAC-C Certification Level	Warrant Level	Number of Years CLP Requirements Not Met	Number of Contract Actions	Dollars Obligated (rounded to the nearest thousand)
FMCSA	III	Unlimited	6 <sup>a</sup>	647	\$192,290,000
MARAD	III	Unlimited	7	3	\$20,000 <sup>b</sup>
MARAD	III	Unlimited	7	195	\$32,779,000
MARAD	III	Unlimited	3 <sup>a</sup>	148	\$72,862,000
MARAD	III	Unlimited	4	128	\$23,611,000
MARAD	II	\$1,000,000	2	308	\$20,582,000
NHTSA	III	\$250,000	4 <sup>a</sup>	1	\$0 <sup>c</sup>
NHTSA	III	Unlimited	2	177	\$89,332,000
PHMSA	III	Unlimited	2	1,203	\$104,343,000
OST	III	Unlimited	7	445	\$196,080,000
<b>TOTALS:</b>				<b>3,255</b>	<b>\$731,899,000</b>

<sup>a</sup> These COs still had not completed all requirements for recertification, as of September 2014 (FMCSA and NHTSA) and May 2014 (MARAD).

<sup>b</sup> The three actions include two blanket purchase agreements with a potential total value of \$5 million each.

<sup>c</sup> A maximum up to \$2 million can be placed on this award.

Source: OIG analysis of documentation for FAC-C certifications and warrants for 63 COs from 10 DOT Operating Administrations, as well as Operating Administrations' contract data.

MARAD, NHTSA, and PHMSA could not locate supporting documentation for some COs who they claimed had, in fact, earned the CLPs needed to maintain their FAC-C certifications. Under DOT's AWF policy, each Operating Administration is responsible for maintaining a centralized tracking system to collect and maintain records for COs, including the warrant authority, certification level, and number of CLPs earned. In some cases, the Operating Administrations explained that they lacked records because the CO had left the Agency; in other cases, Operating Administrations did not maintain such documentation in a centralized tracking system, as DOT policy requires. Without such documentation, there is no evidence to show whether COs completed the required CLPs.

Moreover, FHWA and FTA could not initially provide official records showing that three COs—one from FHWA and two from FTA—had completed required CLPs. However, both Operating Administrations subsequently located copies of training certificates from training vendors and the COs to show that the COs had completed their CLPs. FTA officials stated they took these steps because they did not have the official records for these COs.

OST and MARAD have taken some actions to address the CLP deficiencies we identified. In March 2014, OST terminated a CO's warrant after we informed officials that the CO had not completed required CLPs. This CO has since been recertified in July 2014. In addition, as a result of our review, two COs from MARAD completed required training in 2014, which allowed MARAD to re-certify them in accordance with their warrants.

### **Most COs Adhered to Their Warrant Authorities When Awarding Contracts**

According to the FAR, COs may sign contracts that bind the Government only to the extent of the authority delegated to them and shall receive from their appointing authority clear written instructions regarding the limits of their authority.<sup>12</sup> Based on our review of 50 contract files, we found most COs adhered to their warrant authorities when awarding contracts. Specifically, we identified 48 contracts that were awarded within their COs' warrant authorities.

However, two contracts were awarded by NHTSA COs who did not comply with Federal or DOT warrant policies. Specifically, one contract (potentially valued at \$4.1 million) was awarded by a CO lacking evidence of both a warrant and FAC-C certification.<sup>13</sup> For the other contract, the CO did not obtain supervisory review prior to award—despite a limitation in the CO's warrant requiring such review for procurements over \$250,000. Although the contract's award value exceeded this threshold by \$3,000, the CO's supervisor did not review the contract until the day after award. These instances of noncompliance are attributable to the Department's insufficient enforcement of certification and warrant requirements.

### **SOME DOT POLICIES FOR CONTRACTING OFFICER CERTIFICATION AND WARRANT OVERSIGHT ARE UNCLEAR, OUTDATED, OR NOT FULLY ENFORCED**

While the Department's AWF policies align with Federal requirements, a few policy areas are unclear or do not reflect current practices. In addition, most COs comply with Federal and departmental FAC-C and warrant requirements, but some Operating Administrations do not sufficiently enforce these requirements or address instances of noncompliance.

---

<sup>12</sup> FAR 1.602-1(a).

<sup>13</sup> In addition to our review of the 50 contract files, we determined that this CO signed 7 other contracts potentially valued at \$27 million.

## **Some of DOT's CO Certification and Warrant Policies Are Unclear or Outdated**

Our review determined that the Department's policies, which provide the basis for DOT's oversight of CO certifications and warrants, align with Federal requirements. However, we identified a few policy areas that were unclear or do not reflect current practices. For example:

- The DOT policies contain conflicting information on consequences for COs who do not complete required CLPs. According to DOT's AWF policy,<sup>14</sup> COs whose FAC-C certifications expire because of insufficient CLPs “must have” their warrants revoked (mandatory); however, another DOT policy states COs “should have” their warrants revoked (optional).<sup>15</sup>
- DOT's AWF policy also states that if a warrant is revoked or modified, written notification—including the effective date and sufficient instruction to prevent unauthorized obligations—must be provided to the employee in a timely manner. However, the policy does not specify a length of time for the notification to be considered timely.
- DOT's policies have not been updated to reflect the Department's new requirement to collect FAC-C certification and warrant information electronically through FAITAS. During our review, OSPE officials stated that they are in the process of revising the Department's policies to incorporate FAITAS requirements, but they have not established a target date to complete the process. According to FHWA, MARAD, and RITA/Volpe officials, OSPE's delay has also delayed the Operating Administrations from updating their own policies.
- Although DOT's AWF policy defines the role of the Department's Acquisition Career Manager, who works in OSPE,<sup>16</sup> it does not establish the role of the ACM at the Operating Administration level (sometimes referred to as a Bureau Career Manager). Operating Administrations' COCOs and ACMs stated that the role is a collateral duty, and the responsibilities are defined informally via email and other correspondence. However, OMB Circular A-123 states that clearly defined roles and responsibilities for each stakeholder in the acquisition

---

<sup>14</sup> According to DOT's AWF Policy, a FAC-C certification will expire if the 80 CL points are not earned every 2 years. The Head of the Contracting Authority, or other appropriate appointing official (e.g. COCO), must revoke or modify a warrant if this condition is not met.

<sup>15</sup> Under DOT's Acquisition Policy DOT DASH 2013-02, COs whose FAC-C certifications have expired should have their warrants revoked.

<sup>16</sup> The Department ACM's responsibilities include managing the overall acquisition workforce, identifying departmentwide training requirements, developing workforce development strategies, and administering DOT's certification program.

process are critical to effective leadership.<sup>17</sup> When we brought this issue to OSPE's attention, OSPE officials stated that the AWF policy will be revised to identify the role and responsibility of the Operating Administrations' ACMs.

- DOT policy also grants Operating Administrations the authority to implement their own warranting procedures based on their unique acquisition programs and the necessity to supplement departmental policy. Of the 10 Operating Administrations we reviewed, 6 (FHWA, FRA, MARAD, OST, PHMSA, and RITA/Volpe) have supplemental warranting and certification policies. Although OSPE relies on the Operating Administrations to implement and enforce DOT's CO certification and warrant policies, OSPE is responsible for ensuring that these policies are uniformly implemented across the Department. However, OSPE does not have a policy that requires periodic reviews of the Operating Administrations' supplemental policies, and Operating Administration personnel told us that OSPE had not reviewed their supplemental policies.

### **DOT Does Not Provide Sufficient Operating Administration Oversight To Enforce CO Certification and Warrant Policies or Address Instances of Noncompliance**

OSPE is responsible for providing oversight for the Department's Contracting Officer Warrant Program.<sup>18</sup> However, OSPE relies on Operating Administrations to enforce CO certification and warrant policies and lacks a clear policy for enforcing Operating Administrations' compliance with CO certification and warrant requirements. Our review determined that some Operating Administrations—particularly MARAD and NHTSA—do not effectively enforce DOT's CO certification and warrant policies or address instances of noncompliance. Specifically, we identified instances of noncompliance in the following areas:

**Ensuring that warrants are only issued to COs with appropriate FAC-C certifications.** We identified four cases in which Operating Administrations—NHTSA (2), FRA (1), MARAD (1)—issued warrants to uncertified COs, and one case in which a NHTSA CO lacked evidence of both a warrant and certification.

**Revoking or modifying warrants when COs' certifications expired.** We identified 10 cases in which Operating Administrations—MARAD (5), FMCSA (1), NHTSA (2), OST (1), PHMSA (1)—failed to revoke or modify warrants for COs whose certifications expired. For example, officials at MARAD stated that

---

<sup>17</sup> OMB Memorandum, Conducting Acquisition Assessments under OMB Circular A-123, May 21, 2008.

<sup>18</sup> As part of its AWF policy, DOT's Contracting Officer Warrant Program establishes the Department's CO warrant standards and incorporates OFPP's FAC-C certification requirements.

they verbally directed COs not to award contracts when their certifications expired—rather than issuing the directive in writing, as required by DOT policy.

**Regularly reviewing warrants to determine if COs remain qualified to perform their duties and to validate the continued need for warrants.** Per DOT policy, level I and II warrants must be reviewed at least annually, and level III warrants should be reviewed at least every 2 years. While the COCOs stated they validate the continued need for warrants on an informal basis, we found no documentation to show the reviews were conducted according to DOT’s policy.

**Ensuring that warrants contain all required information needed to determine the limits of a CO’s warrant authority.** DOT policy requires that when COCOs issue CO warrants, the warrants must contain the following: (1) a warrant number, (2) the dollar threshold of warrant authority, and (3) any applicable restrictions—including whether the warrant authority applies to the total value of the acquisition or a single contract action. Our review of 63 COs determined that only 16 warrants<sup>19</sup> indicated whether the CO’s warrant authority applied to a single contract action or the total contract value. Additionally, 4 of 9 NHTSA warrants were unnumbered.

**Verifying whether COs submitted accurate and complete certification and warrant data to FAITAS.** DOT policy requires Operating Administrations to maintain accurate data on COs’ FAC-C certification and warrants. Although the FAITAS records for 56 of 63 COs we reviewed contained accurate data, we identified 7 COs with discrepancies in their FAITAS records. Specifically, two FHWA COs did not enter their CLPs in FAITAS and were, therefore, listed as uncertified.<sup>20</sup> In addition, we identified five retired COs—FHWA (1), MARAD (2), RITA/Volpe (1) and FTA (1)—who were listed in FAITAS as still having active warrants. We verified that FHWA and RITA/Volpe have updated their COs’ FAITAS records; however, MARAD and FTA have not updated the COs’ records.

These instances of noncompliance are due in part to an organizational culture that not does prioritize FAC-C certification. For example, some Operating Administration representatives stated that they prioritize issuing warrants—so that COs can begin awarding and administering contracts—rather than ensuring compliance with CLP requirements. In addition, some Operating Administration personnel questioned whether certification training was worth the time taken from employees’ jobs. OSPE’s and the Operating Administrations’ failure to enforce

---

<sup>19</sup> These include 2 of 15 CO warrants from FHWA, 1 of 3 warrants from FMCSA, 5 of 6 warrants from OST, and all 8 warrants from RITA/Volpe.

<sup>20</sup> According to FHWA, one CO did not enter CLPs in FAITAS, and the other CO began employment at DOT shortly after the Department began requiring CLPs to be entered into FAITAS and has subsequently updated his records.

Federal and departmental certification and warrant requirements creates risks that DOT's complex, high-dollar acquisitions may be awarded and administered by COs who lack the appropriate training and experience.

## **CONCLUSION**

A well-trained workforce is critical to improve DOT's ability to meet mission needs and be effective stewards of taxpayer dollars. While DOT largely complied with CO certification and warrant requirements and established policies that align with Federal requirements, the instances of noncompliance we identified point to opportunities for DOT to improve its enforcement of CO certification and warrant requirements. Up-to-date policies—along with stronger controls and oversight—for compliance with CO certification and warrant requirements will help DOT ensure that its COs are properly qualified to award and administer the Department's significant portfolio of contracts.

## **RECOMMENDATIONS**

We recommend that the Office of the Senior Procurement Executive take the following actions:

1. Address the cases of noncompliance with CO certification and warrant requirements at FMCSA, FRA, MARAD, and NHTSA, as noted in this report. In each case, the Operating Administrations should ensure that (a) CO warrants are issued in compliance with Federal and departmental requirements and (b) COs obtain and maintain their FAC-C certifications.
2. Update departmental policies to (a) clearly require immediate revocation or modification of warrants upon expiration of FAC-C certifications and (b) define the role of the Operating Administrations' ACMs.
3. Update departmental policies to require OSPE to conduct periodic reviews of Operating Administrations' compliance with DOT's AWF policy and to correct deficiencies identified during these reviews as necessary.
4. Direct the Heads of Contracting Activity at each Operating Administration to: (a) develop and implement, oversight procedures to ensure compliance with DOT's AWF policy including procedures for annual reviews of level I and II CO warrants and reviews of level III warrants at least every 2 years to determine if COs remain qualified to perform their duties and there is a continued need for warrants and (b) report to OSPE on their oversight procedures.

5. Direct the Heads of Contracting Activity at each Operating Administration to (a) review CO warrants to ensure they include required elements and restrictions specified in DOT's AWF policy, (b) address any instances of noncompliance, and (c) report their planned and implemented corrective actions to OSPE within established timeframes.
6. Correct the FAITAS data inaccuracies noted in this report at FTA and MARAD.
7. Update departmental policies to require Operating Administrations monitor FAITAS data to ensure that CO warrant and certification data are current, complete, and accurate.

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

We provided a draft of this report to the Department's Office of the Senior Procurement Executive on February 26, 2015. The Department's response, dated March 27, 2015, is included as an appendix to this report. The Department concurred with all seven of our recommendations and agreed to implement each recommendation as written by December 31, 2015. Accordingly, we consider all recommendations resolved but open pending completion of the planned actions.

We appreciate the courtesies and cooperation of Department of Transportation representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-5225 or Tony Wysocki, Program Director, at (202) 493-0223.

#

cc: DOT Audit Liaison, M-1  
FHWA Audit Liaison, HCFM  
FMCSA Audit Liaison, MCPRS  
FRA Audit Liaison, RAD-41  
FTA Audit Liaison, TBP-30  
MARAD Audit Liaison, MAR-392  
NHTSA Audit Liaison, NPO-330  
PHMSA Audit Liaison, PH-4  
RITA/VOLPE Audit Liaison, RTC-1  
SLSDC Audit Liaison

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

We conducted this audit between February 2014 and February 2015 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit objectives were to (1) evaluate DOT's compliance with requirements for certifying and assigning warrant levels to its COs; and (2) determine whether DOT has effective oversight policies and practices to ensure its COs meet the applicable requirements.

To conduct our work, we assessed compliance with OFPP and departmental policies for obtaining and maintaining FAC-C certifications and issuing warrants. We reviewed a total of 63 COs that we selected using 2 statistical samples, as well as a risk-based selection. We excluded the Federal Aviation Administration from the scope of our review because the Agency is exempt from Federal acquisition laws and regulations.<sup>21</sup>

- First, we selected a statistical sample of 35 COs from a universe of 153 COs listed in DOT's FAITAS as of February 2, 2014. We stratified the universe of COs by warrant authority and selected a stratified sample of COs: 10 from FHWA, 2 from FMCSA, 3 from FRA, 2 from FTA, 7 from MARAD, 4 from NHTSA, 3 from OST, and 4 from RITA/VOLPE.
- Second, we selected 41 contracts from a universe (stratified by Operating Administration) of 3,723 contracts, task orders, and interagency agreements (valued at \$9,968,182,880), which were awarded by the universe of 153 COs from the first sample. To identify the universe of contract actions, we used Operating Administrations' self-reported contract data from October 2012 to April 2014. The 41 contracts, task orders, and interagency agreements we selected from this universe were approved by COs.
- Third, we selected nine contracts, which were approved by five COs, that we identified through interviews or risk factors indicating that the contracts would potentially exceed the COs' warrant authorities.

---

<sup>21</sup> In DOT's fiscal year 1996 Appropriations Act, Congress provided FAA with broad authority to develop its own acquisition process. FAA established its Acquisition Management System, a set of policies and guidance designed to address the unique needs of the Agency.

We performed various tests to ensure the data we used in this audit were sufficiently reliable for our audit. To test the reliability and completeness of the Operating Administrations' self-reported PRISM and/or FPDS contract data, we compared the contract/task order number data field in PRISM and/or FPDS to the contract/task order numbers in our sampled contract files. We found that the numbers in the contract files matched those identified in our sample and determined that was sufficiently reliable for the purposes of our audit. We also compared the FAC-C certification field in FAITAS to the FAC-C certificates and CO warrants we reviewed during our fieldwork. FAITAS is DOT's official recordkeeping system, and we deemed it sufficiently reliable for the purposes of this audit because the information on the FAC-C certificates and warrants matched those sampled from FAITAS.

We evaluated the 63 COs' compliance with OFPP and departmental requirements for obtaining and maintaining FAC-C certifications and warrants. We also determined whether DOT's COs approved the 50 sample contract actions within their warrant authority levels and were FAC-C certified at the time of approval.

We also reviewed OMB and DOT policies and procedures; reviewed Federal regulations (such as OMB's Policy Letter 05-01, FAR 1.6, and OFPP's FAC-C requirements); reviewed DOT's AWF policy; conducted contract file reviews; interviewed agency officials to identify their practices for obtaining, maintaining, and ensuring compliance with CO certifications and warrant requirements; and tested DOT's and the Operating Administrations' internal controls for ensuring compliance with these requirements.

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

<b><u>Name</u></b>	<b><u>Title</u></b>
Tony Wysocki	Program Director
Aisha Evans	Project Manager
Dana Short	Project Manager
Angela Hailes	Senior Analyst
Katy Novicky	Senior Analyst
Meredith Howell	Senior Analyst
Petra Swartzlander	Senior Statistician
Amy Berks	Senior Counsel
Christina Lee	Writer-Editor

## APPENDIX. AGENCY COMMENTS



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

# Memorandum

Subject: **INFORMATION:** Some Deficiencies Exist in  
DOT's Enforcement and Oversight of Certification  
and Warrant Authority for its Contracting Officers

Date: **MAR 27 2015**

From: Keith Washington *Keith Washington*  
Acting, Assistant Secretary for Administration

Reply to  
Attn. of: M-61

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

The U.S. Department of Transportation has made significant progress in the development and management of its acquisition workforce. These advancements include the successful deployment of the Federal Acquisition Institute's Training Application System (FAITAS). This deployment includes modules used to manage the Federal Acquisition Certification applications, track continuous learning, and most recently the contracting warrant application and tracking module. The deployment of these new tools provide the Operating Administrations (OA) a range of new technology-based tools to support the management of their acquisition workforce programs, including automated monitoring tools to help track compliance with key aspects of Federal, Departmental, and OA level acquisition workforce policies. These new tools also provide the Office of the Senior Procurement Executive (OSPE) Department-wide visibility, not previously available, to support the OAs as they develop and manage their acquisition workforce to meet their mission specific needs.

OSPE was already in the process of implementing many of these actions, prior to the issuance of the report. Based upon our review of the Draft Report, we agree to implement each of the OIG recommendations, as written. We plan to complete action on each recommendation by December 31, 2015.

We appreciate this opportunity to review the OIG Draft Report. Please contact Jeffrey Thomas, Associate Director for Policy Oversight and Business Strategies, at (202) 366-4226 with any questions regarding this response.