

**DHS Grants and Contracts
Awarded through Other
Than Full and Open
Competition Fiscal Year
2022**





OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

February 9, 2023

MEMORANDUM FOR: Paul Courtney
Chief Procurement Officer
Department of Homeland Security

FROM: Joseph V. Cuffari, Ph.D. **JOSEPH V CUFFARI** Digitally signed by
Inspector General JOSEPH V CUFFARI
Date: 2023.02.08
20:28:24 -07'00'

SUBJECT: *DHS Grants and Contracts Awarded through Other
Than Full and Open Competition Fiscal Year 2022*

For your action is our final report, *DHS Grants and Contracts Awarded through Other Than Full and Open Competition Fiscal Year 2022*. We contracted with Williams, Adley & Company-DC, LLP (Williams Adley) to perform this audit. Williams Adley is responsible for the attached report, dated January 31, 2023, and the conclusions expressed in it. Williams Adley's report contains no recommendations.

Consistent with our responsibility under the *Inspector General Act of 1978, as amended*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

If you have any questions, please call me at (202) 981-6000, or your staff may call Bruce Miller, Deputy Inspector General for Audits, at the same number.

Attachment



DHS OIG HIGHLIGHTS

DHS Grants and Contracts Awarded through Other Than Full and Open Competition Fiscal Year 2022

February 9, 2023

Why We Did This Audit

On March 15, 2022, Congress enacted Public Law 117-103, *Consolidated Appropriations Act, 2022*. According to Section 101(a), the Secretary of the Department of Homeland Security shall submit a report not later than October 15, 2022, to the DHS Office of Inspector General listing all grants and contracts awarded by any means other than full and open competition (OTFOC) during fiscal year 2022.

We contracted with Williams, Adley & Company-DC, LLC to review the OTFOC contracts and grants and assess DHS compliance with applicable laws, regulations, and departmental procedures.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

Williams, Adley & Company – DC, LLP (Williams Adley), under contract with the Department of Homeland Security Office of Inspector General, concluded that DHS complied with applicable statutes, regulations, and policies governing grants and contracts awarded by any means OTFOC in fiscal year 2022. During that year, DHS awarded 30 noncompetitive grants worth approximately \$31 million and 419 noncompetitive contracts worth approximately \$518 million through means OTFOC.

The independent auditors determined that DHS' Report on OTFOC for fiscal year 2022 as well as the information related to these grants and contracts in the Federal Procurement Data System – Next Generation and USASpending.gov were accurate. The auditors also found that DHS followed written policies and procedures and the requirements of the *Digital Accountability and Transparency Act of 2014* when awarding grants and contracts noncompetitively.

Williams Adley did not make any recommendations.



January 31, 2023

Joseph V. Cuffari, PH.D.
Inspector General
U.S. Department of Homeland Security
Office of Inspector General

Dear Mr. Cuffari:

Williams, Adley & Company-DC, LLP (Williams Adley) performed an audit of DHS's Report on Contracts and Grants Awarded through Other Than Full and Open Competition during fiscal year 2022. Williams Adley performed the audit under contract with the Department of Homeland Security (DHS), Office of Inspector General (OIG); specifically, in accordance with Task Order No. 70VT1522F00039, dated August 1, 2022. This report presents our audit results.

We conducted our audit in accordance with the applicable Government Auditing Standards, 2018 revision, Technical Update April 2021. The audit was a performance audit as defined by Chapter 8 of the Standards. As part of our guidance, we also utilized FAR 6.3 and 10 U.S.C. 2304(c).

We appreciate the opportunity to have conducted this audit. Should you have any questions, or if we can be of any further assistance, please contact me at (202) 371-1397.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leah Southers'.

Leah Southers, CPA, CISA, CGFM, CFE
Partner

Executive Summary

We completed a performance audit of the DHS's Report on Grants and Contracts Awarded by Any Means Other Than Full and Open Competition (OTFOC) During Fiscal Year 2022 (Department's Report). The audit included a review of approximately \$48 million in contracts and \$31 million in grants awarded by any means OTFOC.

Overall, we determined that the Department's Report was accurate, and that information related to these grants and contracts recorded in the Federal Procurement Data System – Next Generation (FPDS-NG)¹ and in USAspending.gov² is accurate. DHS also followed written policies and procedures when awarding grants and contracts noncompetitively. This report contains no recommendations.

Background

According to the Competition in Contracting Act of 1984, with limited exceptions, contracting officers are required to promote and provide for full and open competition in soliciting offers and awarding Federal Government contracts. The Federal Acquisition Regulation (FAR) codifies uniform policies for acquiring supplies and services by executive agencies and requires Federal agencies to collect and report data to the FPDS-NG.

The Government uses the data in the FPDS-NG to measure and assess the impact of Federal procurement on the Nation's economy; the system includes information on funds obligated and the extent of competition. The Office of Federal Procurement Policy requires Federal agencies to certify annually that the contract and grant data entered into the FPDS-NG is accurate and complete.

On September 26, 2006, the Congress enacted P.L. 109–282, *Federal Funding Accountability and Transparency Act of 2006* (FFATA). Section 2 of the law required the Office of Management and Budget (OMB) to ensure the existence and operation of a single searchable website for all Federal contracts and grants. FFATA requires that entries be updated not later than 30 days after the award of any Federal award requiring a posting. The transparency

¹ Federal agencies use FPDS-NG to report all contract actions, including modifications, using appropriated funds for contracts whose estimated value is at or above \$10,000. The General Services Administration (GSA) administers FPDS-NG.

² USAspending.gov is the official source for spending data for the United States Federal Government. Its mission is to show the American public what the Federal government spends every year and how it spends the funding. Users can follow the funding from Congressional appropriations to Federal agencies, down to local communities and businesses.

requirements set in place by FFATA were later expanded through the passage of the *Digital Accountability and Transparency Act of 2014*,³ which establishes Federal standards for financial data and a new reporting process for agencies to improve data quality, transparency, and accountability.

FPDS-NG data is used to populate contract data in USAspending.gov, which is a searchable database of information on Federal contracts and other Government assistance such as grants and cooperative agreements. The contract information used to populate USAspending.gov is automatically extracted from the FPDS-NG by the U.S. Department of Treasury.⁴

March 15, 2022, Congress enacted Public Law 117-103, Consolidated Appropriations Act, 2022. According to Section 101 (a) of the law, the Secretary of Homeland Security shall submit a report not later than October 15, 2022, to the Inspector General of the Department of Homeland Security a listing of all grants and contracts awarded by any means other than full and open competition during fiscal years 2021 or 2022. Section 101 (b) requires the Inspector General to review the report required by subsection (a) to assess Departmental compliance with applicable laws and regulations and report the results of that review to the Committees on Appropriations of the Senate and the House of Representatives not later than February 15, 2023. DHS OIG contracted with Williams Adley to perform the audit of fiscal year 2022.

According to Federal Acquisition Regulations (FAR) 6.301, executive agencies (with exceptions) may authorize, under certain conditions, contracting without providing for full and open competition. Contracting without providing for full and open competition or full and open competition after exclusion of sources is a violation of statute, unless permitted by one of the exceptions in FAR Section 6.302. For example, contracts awarded through other than full and open competition is permitted when:

- only one responsible source and no other supplies or services will satisfy agency requirements;
- the need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals;
- it is necessary to award the contract to a particular source or sources in order to: (1) maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization; (2) establish or maintain

³ Public Law 113-101

⁴ The U.S. Department of Treasury utilizes a system called the DATA Act Broker to extract data from FPDS-NG, and other systems, for inclusion in USAspending.gov.

an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center; or (3) to acquire the services of an expert or neutral person for any current or anticipated litigation or dispute;

- precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization;
- a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source;
- the disclosure of the agency's needs would compromise the national security; or
- the agency head determines that it is not in the public interest in the particular acquisition concerned.

Engagement Objective

We conducted a performance audit to assess DHS's compliance with applicable statutes, regulations, and policies governing grants and contracts awarded by OTFOC during fiscal year 2022. Specifically, our objectives were to:

- Determine the accuracy of the Department's annual report detailing all grants and contracts awarded by OTFOC;
- Ensure that all grants and contracts awarded by OTFOC were properly recorded into the FPDS-NG;
- Ensure that all grants and contracts awarded by OTFOC were properly included in the USAspending.gov;
- Confirm the existence and use of processes to compare and report the accuracy of spending information against the official record of agency accounts at quarterly intervals;
- Ensure all agency contracts awarded by any means OTFOC were in full compliance with the following FAR Sections:
 - FAR 6.301 - Policy
 - FAR 6.302 - Circumstances Permitting OTFOC
 - FAR 6.303 - Justifications
 - FAR 6.304 - Approval of the Justification; and
- Ensure all U.S. Coast Guard contracts awarded by OTFOC complied with 10 U.S.C. 2304(c).

Scope

We audited the Department's Report for the period October 1, 2021 to September 30, 2022.

Criteria

The following criteria are applicable to this audit:

- Generally Accepted Government Auditing Standards, issued by the Comptroller General of the United States, 2018 Revision, Technical Update April 2021 (GAO-21-368G)
- FAR 6.301 - Policy
- FAR 6.302 - Circumstances Permitting Other Than Full and Open Competition
- FAR 6.303 - Justifications
- FAR 6.304 - Approval of the Justification
- 10 U.S.C. 2304(c) - For U.S. Coast Guard Contracts
- Public Law 117-103
- Homeland Security Acquisition Regulation
- Homeland Security Acquisition Manual

Methodology

To achieve our audit objectives, we performed the following:

- Reviewed DHS and component policies, procedures, and other guidance to gain an understanding of their processes and controls in place regarding awarding grants and contracts by OTFOC.
- Assessed the adequacy of DHS's process for certifying FPDS-NG data quality in accordance with the Office of Management and Budget Memorandum – *Improving Federal Procurement Data Quality – Guidance for Annual Verification and Validation*, reviewed DHS' Annual Certification of FPDS-NG Data Quality for fiscal year 2022, and performed inquiries of any discrepancies noted.
- Compared key data elements between the Department's list and list of contracts in the FPDS-NG to determine completeness and accuracy.
- Compared the Department's list to USAspending.gov data.
- Selected statistically-valid, random samples of contracts awarded by OTFOC. We selected 45 sample items with a total dollar value of \$48 million. We reviewed supporting documentation provided by DHS, as described in the Results of Audit section. We reviewed contract and procurement files to determine whether the grants and contracts sampled complied with FAR and 10 U.S.C. 2304(c) guidance on OTFOC procurements, as applicable.
- Tested 30 grants awarded by OTFOC, with a total dollar value of \$31 million. We reviewed the Department's justification for OTFOC and compared key data elements from the Department's Report to USAspending.gov.

We conducted this performance audit in accordance with generally accepted government auditing standards between October 18, 2022 and January 31, 2023. 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.

Audit Results

During fiscal year 2022 DHS awarded 419 new contracts, obligating \$518 million to noncompetitively procure goods and services. DHS also awarded \$31 million in noncompetitive grants.

As required by P.L. 117-103, Section 101(a), we reviewed DHS's fiscal year 2022 noncompetitive contracts listing to assess Departmental compliance with applicable laws, regulations, and Departmental procedures. We found that the Department's Report was accurate and Departmental procedures were followed in the issuance of OTFOC grants and contracts.

DHS Certifications

We reviewed DHS's annual certification of FPDS-NG data quality submitted for fiscal year 2022 and compared the Department's Report to the list of noncompetitive contracts awarded. DHS certified that 96.4% of reportable contract actions awarded during fiscal year 2022 were entered into the FPDS-NG accurately. Additionally, DHS certified that 98.3% of actions reported were within appropriate timeframes and in accordance with applicable guidelines. We also reviewed DHS's DATA Act certifications during fiscal year 2022. On all four of DHS's quarterly fiscal year 2022 DATA certifications, the Senior Accountable Official certified that internal controls support the reliability and validity of DHS's account-level and award-level data reported for display on USASpending.gov.

Noncompetitive Contracts Reported in Fiscal Year 2022

During fiscal year 2022, DHS awarded 419 contracts by OTFOC, with a total obligated amount of \$518,116,826. From these contracts, we selected a statistically valid, random sample of 45 contracts with a total obligated amount of \$48,439,943. We reviewed supporting documentation for these contracts, such as the contract, the justification and approval form, market research, and evidence of a review process to determine if proper procedures were followed and that DHS had proper justification for awarding the contracts noncompetitively. We also compared key data elements (such as contracting agency, Procurement Instrument Identifier, description of contract, extent

competed, and amount obligated) from the Department's Report to the data recorded in the FPDS-NG to ensure that samples were properly reported in FPDS-NG. We noted no exceptions.

Table 1: Noncompetitive Contracts Awarded in Fiscal Year 2022 by Component

Component	No. of Contracts	Obligated Amount
U.S. Coast Guard	163	\$71,037,225
U.S. Customs and Border Protection	87	\$174,833,187
U.S. Immigration and Customs Enforcement	23	\$26,294,565
Transportation Security Administration	22	\$66,227,897
Federal Emergency Management Agency	34	\$53,332,265
Office of Procurement Operations	34	\$54,978,185
U.S. Citizenship and Immigration Services	16	\$51,583,548
U.S. Secret Service	34	\$16,628,301
Federal Law Enforcement Training Centers	6	\$3,201,653
Total	419	\$518,116,826

Source: DHS Chief Procurement Office and Office of the Chief Financial Officer

Noncompetitive Grants Reported in Fiscal Year 2022

During fiscal year 2022, DHS issued 30 noncompetitive grants totaling \$31,085,003.⁵ All of the grants reported pertain to DHS's Homeland Security BioWatch Program grant program⁶ administered by DHS's Countering Weapons of Mass Destruction (CWMD) office. We compared the Department's listing for all 30 grants with key data elements recorded in USAspending.gov. We found that the Department's listing of OTFOC grants agreed with USAspending.gov without exception. We also reviewed the Department's Notice of Funding Opportunity related to the Homeland Security BioWatch Program grants to validate the Department's inclusion in the Department's Report and noted no exceptions.

Conclusion

Based on our audit of the Department's Report for fiscal year 2022, we conclude that DHS complied with applicable statutes, regulations, and policies governing grants and contracts awarded by OTFOC. We also conclude that

⁵ For the purposes of this report, DHS defines full and open competition related to grants as "a selection process that is open to the broadest class of applicants permitted by a program's authorizing statute that uses selection criteria that are consistent with any statutorily established requirements". See Appendix A for more information.

⁶ Assistance Listing Number 97.091

DHS followed written policies and procedures when awarding grants and contracts noncompetitively.

Appendix A- Report of Grants and Contracts Awarded by Any Means Other than Full and Open Competition during Fiscal Year 2022

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

MEMORANDUM FOR: Joseph V. Cuffari
Inspector General

FROM: “For” Stacy Marcott
Acting Chief Financial Officer

JEFFREY M BOBICH
Digitally signed by
JEFFREY M BOBICH
Date: 2022.11.01
15:01:01 -04'00'

SUBJECT: Report of Grants and Contracts Awarded by Any Means Other than Full and Open Competition during Fiscal Year 2022

The attached file constitutes the Department of Homeland Security (DHS), Office of Chief Financial Officer’s (OCFO) report to the Department’s Inspector General listing of all grants awarded by any means other than full and open competition (OTFOC) during fiscal year (FY) 2022.

Grants

Public Law 117-103 Division F, Section 101(a) requires the reporting of "all grants and contracts awarded by any means other than full and open competition during the fiscal year funded by this Act or the prior fiscal year" to the DHS Office of the Inspector General. The ambiguity of the phrase "awarded by any means other than full and open competition" as it pertains to grants had been a topic of discussion during audits performed by the Inspector General to assess DHS compliance with applicable laws and regulations.

The Office of the Chief Financial Officer’s Financial Assistance Police and Oversight Division (FAPO) consulted with the DHS Office of General Counsel (OGC) and Components to define *competition* for the annual OTFOC report. To prepare this OTFOC report for grants, full and open competition has been defined as:

A selection process that is open to the broadest class of applicants permitted by a program’s authorizing statute that uses selection criteria that are consistent with any statutorily established requirements.

Following OIG 21-17 Recommendation 2, FAPO developed written procedures for generating the required report to sufficiently identify, review, and validate non-competitive grant award information. FAPO followed the standard operating procedure that created a consistent methodology to identify, review, and validate reportable awards for the annual OTFOC report.

The table below summarizes the attached grants data. (See Attachment A: OTFOC Grants Data 97.091)

Grants and Contracts Awarded by Any Means Other Than Full and Open Competition
Page 2

Component	FY 2021 (as of 11/12/21)	FY 2022 (as of 10/18/22)
	Total Amount	Total Amount
Countering Weapons of Mass Destruction (CWMD) 97.091: Biowatch	\$31,773,723	\$31,085,003

The Grants and Financial Assistance Division (GFAD) of DHS Office of the Chief Procurement Officer (OCPO) is the source of the CWMD information. Please direct any follow-up inquiries to Ms. Marsha Mathis, Marsha.Mathis@hq.dhs.gov, (202) 447-5950.

Contracts

Data on contracts awarded by DHS by any means other than full and open competition during FY 2022 comes from the Federal Procurement Data System-Next Generation database. Please direct any contract inquiries to Ms. Pamela Campbell, Pamela.Campbell@hq.dhs.gov, (202) 447-5255.

Attachment:

- A. OTFOC Grants Data 97.091

Appendix B – Attachment to the Department’s Report – Fiscal Year 2022 Data

Award Number	Federal Award Amount	Date Funds Awarded	Fiscal Year
2006ST091000001	\$1,682,838	05/23/2022	2022
2014OH091000031	\$1,072,949	05/23/2022	2022
2006ST091000007	\$438,376	05/01/2022	2022
2016OH091000034	\$353,193	05/23/2022	2022
2006ST091000013	\$2,100,000	05/23/2022	2022
2006ST091000016	\$196,521	05/01/2022	2022
2006ST091000008	\$477,478	05/01/2022	2022
2006ST091000026	\$2,694,448	06/01/2022	2022
2006ST091000015	\$354,358	05/01/2022	2022
2006ST091000009	\$4,325,356	06/01/2022	2022
2006ST091000017	\$636,564	05/01/2022	2022
2013OH091000030	\$1,277,096	05/23/2022	2022
2006ST091000012	\$429,064	05/01/2022	2022
2006ST091000024	\$1,964,023	05/23/2022	2022
2006ST091000006	\$511,124	05/01/2022	2022
2006ST091000018	\$486,549	05/01/2022	2022
2006ST091000025	\$1,280,509	05/23/2022	2022
2011OH091000028	\$1,649,499	05/23/2022	2022
2012OH091000029	\$620,491	06/01/2022	2022
2006ST091000004	\$416,406	05/01/2022	2022
2006ST091000010	\$1,454,157	05/23/2022	2022
2006ST091000003	\$677,877	05/01/2022	2022
2015OH091000032	\$372,000	06/01/2022	2022
2006ST091000019	\$597,646	05/01/2022	2022
2006ST091000022	\$429,198	05/01/2022	2022
2006ST091000014	\$276,422	05/01/2022	2022
2006ST091000020	\$345,151	05/23/2022	2022
2006ST091000002	\$1,396,611	05/23/2022	2022
2006ST091000023	\$250,000	05/23/2022	2022
2015OH091000033	\$2,319,099	05/23/2022	2022
\$31,085,003			

Appendix C – Attachment to the Department’s Report – Fiscal Year 2021 Data⁷

Award Number	Federal Award Amount	Date Funds Awarded	Fiscal Year
2006ST091000019	\$37,247	02/15/2021	2021
2006ST091000018	\$25,204	02/15/2021	2021
2006ST091000024	\$68,936	02/15/2021	2021
2012OH091000029	\$594,230	05/03/2021	2021
2013OH091000030	\$114,910	02/15/2021	2021
2006ST091000024	\$1,915,890	05/13/2021	2021
2006ST091000019	\$635,363	04/30/2021	2021
2016OH091000034	\$353,193	05/03/2021	2021
2006ST091000013	\$2,083,000	05/13/2021	2021
2006ST091000002	\$1,415,032	05/13/2021	2021
2006ST091000018	\$466,258	04/30/2021	2021
2006ST091000003	\$677,877	04/30/2021	2021
2006ST091000010	\$207,183	02/15/2021	2021
2006ST091000007	\$469,467	04/30/2021	2021
2014OH091000031	\$98,808	02/15/2021	2021
2006ST091000012	-	02/10/2021	2021
2006ST091000022	\$443,252	04/30/2021	2021
2012OH091000029	-	02/10/2021	2021
2015OH091000033	\$2,648,986	05/13/2021	2021
2013OH091000030	\$1,261,233	05/13/2021	2021
2006ST091000020	\$324,690	05/03/2021	2021
2006ST091000008	\$70,159	02/15/2021	2021
2006ST091000001	\$1,678,696	05/13/2021	2021
2006ST091000009	\$4,212,913	05/13/2021	2021
2006ST091000006	-	02/10/2021	2021
2006ST091000015	\$337,611	04/30/2021	2021
2006ST091000014	-	02/10/2021	2021
2006ST091000014	\$268,485	04/30/2021	2021
2006ST091000017	\$664,559	04/30/2021	2021
2006ST091000015	\$27,426	02/15/2021	2021
2011OH091000028	\$1,450,288	05/13/2021	2021
2006ST091000016	\$179,853	04/30/2021	2021
2006ST091000026	\$2,606,866	05/13/2021	2021
2006ST091000025	\$1,284,035	05/13/2021	2021
2006ST091000010	\$788,114	04/30/2021	2021

⁷ Although 2021 OTFOC data was provided as an attachment to the Department’s report, it was not within the scope of this audit and therefore we did not conduct any audit procedures on 2021 data. The 2021 data is presented for illustrative purposes only.

Award Number	Federal Award Amount	Date Funds Awarded	Fiscal Year
2006ST091000023	-	02/10/2021	2021
2006ST091000004	\$416,406	04/30/2021	2021
2006ST091000006	\$544,833	04/30/2021	2021
2015OH091000032	\$335,411	05/03/2021	2021
2014OH091000031	\$1,034,483	05/13/2021	2021
2006ST091000023	\$252,100	05/03/2021	2021
2015OH091000033	\$140,972	02/15/2021	2021
2016OH091000034	-	01/12/2021	2021
2006ST091000014	-	01/12/2021	2021
2006ST091000017	-	01/12/2021	2021
2006ST091000022	\$31,189	02/15/2021	2021
2006ST091000016	-	02/10/2021	2021
2006ST091000003	\$146,843	02/15/2021	2021
2015OH091000032	-	02/10/2021	2021
2006ST091000017	-	02/10/2021	2021
2006ST091000008	\$432,472	04/30/2021	2021
2006ST091000025	\$100,349	02/15/2021	2021
2006ST091000001	-	02/09/2021	2021
2006ST091000002	\$214,500	02/15/2021	2021
2006ST091000012	\$434,739	04/30/2021	2021
2006ST091000001	\$270,899	02/26/2021	2021
2006ST091000007	\$8,763	02/15/2021	2021
\$31,773,723			

Please note: This report includes all transactions in fiscal year 2021 for 97.091. There were 30 grants awarded. Some awards had multiple transactions.



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Department of Homeland Security

Appendix D Report Distribution

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