

**DHS Has Refined Its Other  
than Full and Open  
Competition Reporting  
Processes**





**OFFICE OF INSPECTOR GENERAL**  
Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

April 26, 2023

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

Stacy Marcott  
Senior Official Performing the Duties of the Chief  
Financial Officer  
Department of Homeland Security

FROM: Joseph V. Cuffari, Ph.D.  
Inspector General

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JOSEPH V CUFFARI  
Date: 2023.04.26  
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SUBJECT: *DHS Has Refined Its Other than Full and Open  
Competition Reporting Processes*

For your action is our final report, *DHS Has Refined Its Other than Full and Open Competition Reporting Processes*. This 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 to our website for public dissemination.

Please call me with any questions, or your staff may call Bruce Miller, Deputy Inspector General for Audits, at (202) 981-6000.

Attachment



# DHS OIG HIGHLIGHTS

## *DHS Has Refined Its Other than Full and Open Competition Reporting Processes*

**April 26, 2023**

### **Why We Did This Audit**

The *Consolidated Appropriations Act, 2021*, required the Department of Homeland Security to submit a report to the Inspector General listing all contracts awarded by any means other than full and open competition (OTFOC) and noncompetitive grants awarded during fiscal years 2020 or 2021. We reviewed the report to assess DHS' compliance with applicable laws, regulations, and departmental procedures.

### **What We Recommend**

This report does not contain recommendations.

#### **For Further Information:**

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

### **What We Found**

Based on our evaluation of 18 sampled OTFOC contracts and 16 sampled noncompetitive grants awarded in FYs 2020 and 2021, we determined that DHS components complied with applicable guidance when awarding contracts and grants. DHS officials supported award decisions with the required planning, market research, and justification and approval documentation to ensure effective stewardship of taxpayer dollars.

We also determined that the Office of the Chief Procurement Officer and the Office of the Chief Financial Officer used appropriate controls to ensure data in contract and grant systems was accurate before making awards. Lastly, the Department followed policies and procedures to monitor and improve the quality of procurement data.

As a result, DHS components awarded contracts and grants totaling approximately \$174 million appropriately, with no instances of noncompliance. Additionally, DHS personnel had reasonable assurance that FY 2020 and FY 2021 OTFOC contract and noncompetitive grant data reported to the Secretary of Homeland Security was accurate and would be useful for future acquisition decisions.

### **DHS Response**

DHS chose not to submit management comments but provided technical comments, which we incorporated into this report as appropriate.



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### Background

Part 10 of the Federal Acquisition Regulation (FAR)<sup>1</sup> and the Department of Homeland Security *Homeland Security Acquisition Manual* (HSAM)<sup>2</sup> require DHS acquisition personnel to determine the most suitable approach for acquiring, distributing, and managing supplies and services to support the Department's mission. DHS' Office of the Chief Procurement Officer (OCPO) and Office of the Chief Financial Officer (OCFO) manage acquisitions and process financial awards to help ensure that DHS effectively and economically carries out its mission. OCPO oversees the Department's contracting process, while OCFO provides financial assistance policies, procedures, and internal controls to enable stewardship of Federal funds awarded through grants.

The *Competition in Contracting Act of 1984*<sup>3</sup> generally requires full and open competition in Federal contracting. Similarly, the *Federal Grant and Cooperative Agreement Act*<sup>4</sup> encourages competition in Federal grant programs. However, Federal laws and regulations recognize that full and open competition is not always feasible; in these cases, agencies may award other than full and open competition (OTFOC) contracts and noncompetitive grants.<sup>5</sup>

On December 27, 2020, Congress enacted the *Consolidated Appropriations Act, 2021*, Public Law 116-260.<sup>6</sup> According to Division F – Section 101 (a) of the Act, the Secretary of Homeland Security must submit a report to the DHS Inspector General listing all OTFOC contracts and noncompetitive grants awarded during fiscal years 2020 or 2021. (For brevity, OTFOC contracts and noncompetitive grants will be referred to as contracts and grants hereafter.) Division F – Section 101 (b) requires the Inspector General to review the report to assess departmental compliance with applicable laws and regulations and report the results to the Committees of Appropriations of the Senate and the House of Representatives.

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<sup>1</sup> FAR, FY 2019.

<sup>2</sup> HSAM Chapter 3010, Market Research, May 2021.

<sup>3</sup> *Competition in Contracting Act of 1984*, Public Law 98-369, July 18, 1984.

<sup>4</sup> *Federal Grant and Cooperative Agreement Act*, Public Law 95-224, February 3, 1978.

<sup>5</sup> FAR 6.3 - Other Than Full and Open Competition. 41 USC 3304: Use of Noncompetitive Procedures.

<sup>6</sup> *Consolidated Appropriations Act*, Public Law 116-260, December 27, 2020.



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Table 1 contains descriptions of various Federal laws and regulations and departmental guidance that direct the acquisition of contracts and grants.

**Table 1. Key Guidance for Contract and Grant Awards**

Guidance	Description
<i>Consolidated Appropriations Act, 2021, Public Law 116-260</i>	Requires DHS to submit a report of FY 2020 or FY 2021 contracts and grants to the DHS Secretary for DHS Office of Inspector General assessment of compliance with laws and regulations.
FAR	Provides regulatory guidance for all executive agencies when acquiring supplies and services with appropriated funds.
Homeland Security Acquisition Regulation (HSAR) <sup>7</sup>	Issued by OCPO to establish uniform DHS-wide acquisition policies and procedures that implement and supplement the FAR; differs from the FAR by addressing only the most common OTFOC authorities used by DHS.
HSAM	Issued by OCPO to establish uniform DHS-wide acquisition policies and procedures that implement and supplement the FAR and HSAR; addresses only the most common OTFOC authorities used by DHS.
Financial Management Policy Manual, <sup>8</sup> Chapter 6	Provides guidance for OCFO's Financial Assistance Policy and Oversight (FAPO) office and DHS program and financial assistance offices; includes information found in the OCFO Notice of Funding Opportunity (NOFO) User Guide. <sup>9</sup>
NOFO SharePoint Application <sup>10</sup>	Managed by OCFO's FAPO office to allow public submission of grant applications for award.
Justification and Approval for OTFOC Guide <sup>11</sup>	Published by OCPO as guidance for preparing and processing a justification and approval for contracts in compliance with FAR Subpart 6.3 requirements.

Source: DHS OIG

In our prior audit,<sup>12</sup> we reported that OCPO and OCFO did not have adequate written procedures to generate reports of contracts and grants. We recommended that OCPO improve and OCFO develop written procedures for

<sup>7</sup> HSAR, May 2, 2021.

<sup>8</sup> DHS Financial Management Policy Manual, September 15, 2021.

<sup>9</sup> NOFO FAPO User Guide, October 1, 2021.

<sup>10</sup> [https://cfo-policy.dhs.gov/fapo/NOFO/\\_layouts/15/start.aspx#/SitePages/NOFOLinks.aspx](https://cfo-policy.dhs.gov/fapo/NOFO/_layouts/15/start.aspx#/SitePages/NOFOLinks.aspx).

<sup>11</sup> Justification and Approval for OTFOC Guide, July 2021.

<sup>12</sup> *DHS Grants and Contracts Awarded through Other Than Full and Open Competition FY 2018 and 2019*, OIG-21-17, September 17, 2018.



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generating the required reports. The statuses of these recommendations have been changed from “unresolved and open” to “resolved and closed.”

Our objective was to evaluate the Department’s report listing all OTFOC contracts and noncompetitive grants awarded in FYs 2020 and 2021 to assess DHS’ compliance with applicable laws, regulations, and departmental procedures.

### Results of Audit

Based on our evaluation of 18 sampled contracts and 16 sampled grants from FYs 2020 and 2021, we determined that DHS components complied with applicable guidance when awarding contracts and grants. DHS officials supported award decisions with the required planning, market research, and justification and approval documentation to ensure effective stewardship of taxpayer dollars. We also determined that OCPO and OCFO used appropriate controls to ensure data in contract and grant systems was accurate before making awards. For example, the systems had controls that immediately identified data entry errors and prompted system users to correct the errors before submitting information. Lastly, the Department followed policies and procedures to monitor and improve the quality of procurement data.

#### **DHS Complied with Applicable Guidance and Maintained Consistent and Accurate Records of its Contracts and Grants**

Based on our sample, DHS complied with all regulations and policies and applied appropriate controls and data validation when awarding contracts and grants in FYs 2020 and 2021.

#### **DHS Awarded Contracts and Grants in Compliance with Federal Regulations and Departmental Policies**

In FYs 2020 and 2021, DHS awarded a total of 840 contracts valued at approximately \$11 billion. Additionally, the Department awarded 124 grants with an approximate value of \$59 million during this same period. As shown in Table 2, we selected a judgmental sample of 18 contracts and 16 grants for analysis; these sampled contracts and grants had a total value of approximately \$174 million.



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**Table 2. Total and Sampled FY 2020 and 2021 Contracts and Grants Awarded**

<b>FY</b>	<b>Total Contracts (# and value)</b>	<b>Sampled Contracts (# and value)</b>	<b>Total Grants (# and value)</b>	<b>Sampled Grants (# and value)</b>
2020	489 (\$8.4 billion)	9 (\$120.4 million)	67 (\$27.3 million)	8 (\$4.1 million)
2021	351 (\$2.9 billion)	9 (\$43.6 million)	57 (\$31.8 million)	8 (\$5.6 million)
Total	840 (\$11.3 billion)	18 (\$164 million)	124 (\$59.1 million)	16 (\$9.7 million)

Source: DHS OIG calculations based on documents provided by DHS

Based on our evaluation of the 18 sampled contracts and 16 sampled grants, we determined that components complied with applicable Federal regulations and departmental policies when soliciting and awarding contracts and grants.<sup>13</sup> For the contracts and grants we evaluated, DHS acquisition personnel ensured contract files and grant packages included all relevant documentation as required by guidance. This documentation included acquisition plans, market research, justification and approval documents, and NOFOs. We reviewed these documents and found DHS officials appropriately supported award decisions and ensured effective stewardship of taxpayer dollars. We did not find any indication of fraud or instances of systemic noncompliance with any laws or regulations.

### **OCPO and OCFO Used Appropriate Controls to Ensure System Data Was Accurate and Matched Acquisition Documents**

Office of Management and Budget (OMB) Circular No. A-123, *Management’s Responsibility for Enterprise Risk Management and Internal Control*,<sup>14</sup> defines management’s responsibility for internal control in Federal agencies. By interviewing OCPO and OCFO staff and observing system demonstrations, we determined that the contract and grant systems DHS uses include appropriate controls — mainly in the form of dropdown menus — that identify data input errors made by users. Further, OCPO and OCFO staff act as a second line of

<sup>13</sup> We did not identify contract compliance issues in our statistically valid sample of contracts and grants for this audit. However, in a separate inspection, DHS OIG did identify compliance issues related to a 2021 sole source contract for hoteling services that was not included in our sample. In the inspection report, we made four recommendations, including that U.S. Immigration and Customs Enforcement should ensure “appropriate contract processes and policies are followed, including the use of sole source contracting...” (See *ICE Spent Funds on Unused Beds, Missed Detention Standards while Housing Migrant Families in Hotels*, OIG-22-37, April 12, 2022.)

<sup>14</sup> *Management’s Responsibility for Enterprise Risk Management and Internal Control*, OMB Circular No. A-123, July 15, 2016.



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defense to supplement system controls and identify any data errors a system may not have flagged.

As shown in Table 3, DHS uses multiple systems that are managed by other Federal agencies to track and report on contract and grant awards.

**Table 3. Key Contract and Grant Systems**

System	Description
Federal Procurement Data System–Next Generation (FPDS-NG)	<ul style="list-style-type: none"> <li>Managed by the General Services Administration.</li> <li>Collects information about Government contracts valued at \$10,000 or more.</li> <li>Federal agencies must certify annually that the data entered in FPDS-NG is accurate and complete.<sup>15</sup></li> </ul>
Grants.gov	<ul style="list-style-type: none"> <li>Managed by the Department of Health and Human Services.</li> <li>Users can search and apply for grant and discretionary opportunities.</li> </ul>
System for Award Management (SAM.gov)	<ul style="list-style-type: none"> <li>Managed by the General Services Administration.</li> <li>Repository for Federal Government trading partners' business information in support of contract and grant awards and electronic payment processes.</li> <li>Provides detailed descriptions of Federal assistance listings available to various levels of government.</li> </ul>
USAspending.gov	<ul style="list-style-type: none"> <li>Managed by the Department of the Treasury.</li> <li>Serves as a single searchable website for all Federal contracts and grants.</li> <li>Includes FPDS-NG and grant procurement data reported by Federal financial assistance officers.</li> <li>Federal agencies must provide annual assurance of the quality of financial data within the site.<sup>16</sup></li> </ul>

Source: DHS OIG

### OCPO Properly Verified and Validated Contracts for Data Accuracy and Integrity

Based on our evaluation of DHS' annual verification and validation reports for FYs 2020 and 2021, we determined that DHS had a data accuracy rate of approximately 98 percent for FY 2020 and 97 percent for FY 2021, exceeding the 95 percent confidence level required by OMB's May 2011 *Improving Federal Procurement Data Quality – Guidance for Annual Verification and Validation* memorandum. DHS achieved a high data accuracy rate each year because its components followed policies, procedures, and internal controls to

<sup>15</sup> FAR Subpart 4.604c, *Contract Reporting Responsibilities*, January 2022.

<sup>16</sup> OMB Memorandum, *Improving Data Quality for USAspending.gov*, June 2013.



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monitor and improve procurement data quality. The OMB memorandum also requires agencies to certify they have policies, procedures, and internal controls in place to monitor and improve procurement data quality. According to the FPDS-NG verification and validation standard operating procedures, OCPO provides samples of contracts to components quarterly, in compliance with the OMB memorandum. Components then review the sampled contracts, comparing physical contract documents to the information in FPDS-NG and recording the results for each of 25 data elements per sample.

### Conclusion

The contracts and grants we sampled were solicited and awarded in compliance with Federal regulations and departmental policies. OCPO and OCFO were able to identify and correct errors that could have caused contracts or grants to be incorrectly awarded. As a result, sampled components awarded approximately \$174 million appropriately with no instances of noncompliance. Additionally, DHS personnel had reasonable assurance that FY 2020 and 2021 contract and grant data reported to the Secretary of Homeland Security was accurate and would be useful for future acquisition decisions.

### Management Comments and OIG Analysis

DHS chose not to submit management comments. However, DHS provided technical comments on February 17, 2023, and we incorporated the comments into this report where appropriate.

### Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

We conducted this audit pursuant to the requirements of Public Law 116-260, *Consolidated Appropriations Act, 2021*, Division F, Title I, §§ 101(a) and 101(b). The objective of this audit was to evaluate DHS' report listing all OTFOC contracts and noncompetitive grants awarded in FYs 2020 and 2021 to assess Department compliance with applicable laws, regulations, and departmental procedures.



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To accomplish our audit objective, we:

- researched applicable laws and regulations to obtain an understanding of the statutory authorities permitting the award of contracts and grants without full and open competition;
- interviewed contract and grant officials from OCPO, OCFO, and the Federal Emergency Management Agency and United States Coast Guard financial assistance offices to understand the Department's procedures for awarding and reporting contracts and grants;
- assessed the completeness and accuracy of the Department's report by obtaining and analyzing DHS' contract and grant award data reported to FPDS-NG, Grants.gov, SAM.gov, and USAspending.gov for FYs 2020 and 2021 and comparing our results to the information in the Department's report;
- selected a judgmental sample of 18 contracts (9 from FY 2020 and 9 from FY 2021) from the Coast Guard, U.S. Customs and Border Protection, the Federal Emergency Management Agency, U.S. Immigration and Customs Enforcement, OCPO, the United States Secret Service, and the Transportation Security Agency with a total approximate value of \$164 million from a list of 840 awarded contracts totaling approximately \$11.3 billion;
- selected a judgmental sample of 16 grants associated with the BioWatch program (8 from FY 2020 and 8 from FY 2021) with a total approximate value of \$9.7 million from a list of 124 awarded grants totaling approximately \$59.1 million;
- reviewed supporting documentation for the sampled contracts, including copies of the contracts, acquisition plans, market research reports, justification and approval documents, and evidence of a review process to assess departmental compliance with laws and regulations;
- reviewed supporting documentation for the sampled grants, including assistance listings, NOFOs, grant awards, and evidence of a review process to assess departmental compliance with laws and regulations; and
- tested the reliability of computer-processed data obtained from the systems listed in Table 3 by comparing key data elements to source



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contract and grant files and determining if the data was sufficiently reliable for the purposes of our audit.

Although it was not necessary to generate the grant report to answer our audit objective, we did attempt to recreate OCFO's report as a data reliability measure. We initially encountered difficulties because OCFO's instructions detailed the requirements and frequency for generating the report but did not outline the processes for doing so. We suggested that OCFO update its written procedures to include comprehensive, step-by-step instructions for generating the report. After continued discussions, OCFO updated its standard operating procedures at the end of the fieldwork phase of this audit. We concurred with the action.

We conducted this performance audit between January 2022 and November 2022 pursuant to the *Inspector General Act of 1978, as amended*, and according to 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.

The Office of Audits major contributors to this report are Tarsha Cary, Director; Charles Twitty, Audit Manager; Danny Urquijo, Audit Manager; Jeffrey Threet, Auditor-in-Charge; James Diaz, Program Analyst; Maria Romstedt, Communications Analyst; and W. Mitchell Chaine, Independent Referencer.



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**Appendix A**  
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