

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION



# **Procurement Management Survey Report**

**AMES RESEARCH CENTER**

March 3 - 14, 2008

**OFFICE OF PROCUREMENT  
HEADQUARTERS**

**WASHINGTON, D.C.**

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## **PREFACE**

The NASA Headquarters Office of Procurement conducted the procurement management survey at the Ames Research Center (Ames) under the authority of NASA Procedures and Guidelines 1000.3, The NASA Organization. The survey was conducted from March 3 - 14, 2008. The report contains the survey strengths, weaknesses, and considerations.

An exit briefing was held on March 14, 2008, to discuss the survey findings.

This report serves as a basis, in part, for fulfilling internal control requirements in accordance with the Federal Managers Financial Integrity Act of 1982 (P.L. 97-255).

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### **SUMMARY**

# SECTION I

## OVERVIEW

The Ames Acquisition Division is providing meaningful support to their technical and program customers.

The Procurement Management Survey consists of two primary components: 1) interviews with technical, procurement, legal, and Center executive personnel regarding the effectiveness of the acquisition division and 2) compliance reviews that consist of a review of contracting actions focused on adherence to procurement statutes, regulations, and procedures. The primary emphasis of the compliance portion of the survey is on systemic procurement processes rather than individual file anomalies. Current procurement innovations, both Agency-wide and Center specific, are also reviewed.

The results of both the interviews and compliance reviews are compiled into narrative summaries with strengths, weaknesses, and areas of consideration identified as appropriate. Strengths are generally defined as best practices utilized in support of the procurement system. Weaknesses are defined as problems, typically systemic, that require corrective actions. Considerations are defined as issues that 1) if not corrected could turn into a problem or problems that are not necessarily systemic but should be corrected or 2) would result in better business practices if corrected.

To promote the exchange of successful lessons learned and innovative procurement methodologies between Centers, the team sought to identify Ames processes or initiatives that may be beneficial to other Centers and conversely sought to identify suggested approaches utilized by other Centers that may be beneficial to Ames.

The exit conference at the conclusion of the survey typically consists of a direct exchange of observations and ideas between the participants. To emphasize Center ownership of the resolution of any identified weaknesses or considerations, the survey follow-up process will focus on actions or initiatives undertaken by the Center to address survey findings. At an appropriate interval (approximately six months after this report is issued) the Ames Procurement Officer will brief the Assistant Administrator for Procurement and the survey team leader on Center achievements in these areas.

## **1. Survey Team Membership**

Below is a list of team members and the areas reviewed:

**Ron Backes**, Survey Program Manager: Organizational Structure and Staffing, Personnel Interviews (Legal, 1102, COTR, and Executive), 1102 Career Training and Development, Self-Assessment Program, CMM

**Joseph Bell**, KSC: Deviations and Waivers, Synopsis of Contract Award, Contracts for Administrative and Clerical Support, Construction and A&E Service Contracts

**Patrick Flynn**, HQ: COTR Training and Delegation, Market Research, Subcontract Consent, Environmental Issues

**Don Moses**, HQ: DCAA Audit Follow-Up, Master Buy Plan Actions, HSPD-12 Compliance, Competition under Multiple Award and IDIQ contracts, Exercise of Options

**Brad Poston**, HQ: Metrics Review and Documentation, Internal Policies and Procedures, Acquisition Planning

**Tom Russell**, GSFC: Undefined Contract Actions, Closeout/Unliquidated Obligations, Justification for Other Than Full and Open, Competition, Contractor Performance Evaluations NF-1680, Interagency Agreements, Financial Management Reporting - NF-533s

**Rebecca Wilkinson**, JPL/NMO: Contract Type Selection, Award Fee and Incentive Fee Administration, Grants and Cooperative Agreements, Purchase Card Program, Personnel Interviews (Legal, 1102, COTR, and Executive)

**Cheryll Williams**, JPL/NMO: Pre- and Post-Negotiation Memoranda, Cost/Price Analysis and NF-634 Structured Fee Approach, Technical Evaluations

**David Grove**, OSBP: Small Business Programs

In addition, the NASA Office of Safety and Mission Assurance participated in the Ames Procurement Survey in the following areas:

**Chuck Halloway**, Honeywell: Contract Administration and Surveillance

**Maurice Paulson**, Honeywell: Contractor Safety Requirements

**Ray Hill**, Honeywell: Government Furnished Property

## **2. Survey Support**

The survey could not have been accomplished successfully without the support of the following individuals:

**Jill Willard**, Ames Point of Contact

**Sue King**, Ames Point of Contact

## SECTION II

# ORGANIZATION - MANAGEMENT

### 1. Organizational Structure and Staffing

The Ames Acquisition Division reorganized on April 1, 2007, in an effort to provide a leaner management structure to focus resources on production. The Division consists of three branches: the Acquisition Business and Operations Branch, the Programs and Projects Branch, and the Mission Support Branch. The Acquisition Business and Operations Branch is responsible for:

- division policy;
- requirements;
- procurement business systems;
- reporting;
- self-assessment and internal controls;
- small business coordination;
- purchase card management;
- training;
- cost and pricing and external audit tracking;
- Freedom of Information Act requests;
- contract closeout;
- Source Evaluation Board facilities and operations; and
- travel

The Mission Support Branch is responsible for:

- institutional support;
- facility operations; and
- on-site Research and Development

The Programs and Projects Branch is responsible for:

- Ames Programs and Projects;
- Aeronautics;
- rotorcraft research and development;
- small spacecraft;
- grants and cooperative agreement administration; and
- Center specific awards, such as NASA Astrobiology

The Acquisition Division was reorganized in April 2007. Three operational branches were consolidated into two. Workload is now assigned by function, and branch chiefs are responsible for working with customers to develop acquisition strategies. The reorganization was done to rebalance workload, to standardize the group lead role across the division, and to use small teams



led by senior contract specialists. This approach ensures that junior personnel are effectively coached and mentored. The approach also facilitates effective workload management, quality control, and back up of capabilities across the organization. The structure provides flexibility for developmental rotations to enhance the depth of experience across the organization. The reorganized structure incorporates a procurement control unit through which PRs are submitted to the Acquisition Division. This single point of entry for PR submission enhances the quality of documents submitted to the Acquisition Division.

The Acquisition Division consists of 53 employees. The staff includes 45 Full Time Permanent employees, one Term employee, two Federal Career Interns, and five COOP students. This represents a reduction of four Full Time Permanent employees since the previous survey in 2005. Of the 53 employees on-board, 40 employees are in the 1102 Contract and Acquisition career series, 31 employees hold contracting officer warrants, 12 employees, or 23 percent of the Acquisition Division workforce, are currently eligible to retire.

Several initiatives are in progress in the Ames Acquisition Division. These initiatives are driven by external reviews and audits as well as an internal “Tiger Team” review of the procurement process. Initiatives include integration of procurement process with other key Center processes in accordance with the AS9100 Aerospace standard, invigoration of the self-assessment process, and an Acquisition Division Climate Survey. In addition to the initiatives in progress, a number of initiatives are projected for the near and longer terms. Near-term initiatives include monthly workload reviews, standardization of lead times, concurrent file reviews, training, guidelines on expectations for promotions, mentoring, and employee recognition. Longer term initiatives include an effort to streamline policies and provide standard templates, Individual Development Plans, and situational leadership. The Division also plans to focus on key areas of procurement, including Justification for Other than Full and Open Competition (JOFOCs), Undefined Contract Actions (UCAs), Performance Evaluations, Pricing (including task orders), and Metrics.

#### **STRENGTH:**

The Ames Acquisition Division is commended for taking a proactive and comprehensive approach to tackling challenges in the current acquisition environment and for implementing a plan to improve critical areas.

#### **CONSIDERATIONS:**

1. The Ames Acquisition Division should consider mandating the use of milestone templates within CMM to facilitate the tracking of lead times.
2. The Ames Acquisition Division should work with the Headquarters Office of Procurement and the Ames Head of the Contracting Activity to develop a recruiting, retention, and staffing plan to ensure that procurement requirements for the Center will be met in the foreseeable future.

## 2. Personnel Interviews

### *Procurement Staff*

Interviews were conducted with a wide range of individuals in the Acquisition Division, varying from the most junior levels to senior personnel with more than 20 years of procurement experience. All grades were represented in the sample. Responsibilities ranged from Research and Development contracts and agreements, simplified acquisitions, and institutional services to co-located support for Ames programs and projects. Some individuals interviewed had limited experience with Government contracting but were assigned fairly complex work. The processes for reviewing the work of these less experienced individuals is critical to ensuring the division's success; however, the level of review was not consistent across the division. A significant challenge noted during the interviews is the pressures of a significant workload limiting the time for more experienced personnel to conduct thorough reviews. Several senior personnel expressed frustration at having to do work themselves, rather than being able to train newer employees how to do it.

Communication is reported as generally good. Some of the Acquisition Division's leadership is reported as providing good communication. Others in leadership position are reported as needing improvement in this area. There is a sense of collaboration in the organization that may have been lacking in the past; however, several employees report that knowledge sharing across branches is not effective. The recent reorganization has facilitated more cross-branch communication. The concurrent review process recently initiated facilitates inter-organizational communications, and periodic round tables are reported as a positive trend at encouraging knowledge sharing among Acquisition Division employees. There is a perception of poor communications and of a negative image of procurement from Center leadership.

Customer relations are reported as good to great. There is a mutual appreciation of pressures, and the procurement organization and technical customers work well together to succeed. There is a sense that the Acquisition Division is taking proactive steps to manage customer expectations by establishing and communicating milestone schedules for various types of procurement actions. This is a necessary step to help the technical customers plan for their projects' success.

Relations with attorney-advisors vary depending on the individual. Some reported highly positive experiences such as early involvement with legal and a sense of belonging to a team. Others expressed concern at attorneys not being willing to engage in dialogue on issues, but insisting that the individuals work within their organization to get answers.

Training is perceived as strongly supported by division leadership and meaningful when made available. Funding constraints are cited as reasons for non-availability of courses beyond the formal contracting curriculum. Workload pressures inhibit many employees from taking advantage of training opportunities. Others feel they are at a point in their career when training is not as important as it had been earlier in their career. Round table sessions presented by the Acquisition Business and Operations Branch and informal training sessions are seen as positive and effective when available. Some junior employees report difficulty getting classes. Several

employees suggested that courses offered locally might result in higher attendance than courses at the NASA Management Development Center at Wallops Island, Virginia, and have the added benefit of increasing the camaraderie across the division. Most employees reported having an Individual Development Plan.

Management feedback is generally perceived as good, both in day-to-day performance and in periodic performance reviews. Awards and recognition are good, but there is a sense that more funding could be made available for this. Management is seen as largely supportive, providing mentorship and supporting individual employees and their families. There were a limited number of exceptions to this general perception, attributed to a need for better communication skills for some at the branch level. Several recommended that the Acquisition Division leadership take management and leadership courses to improve in this area.

Several employees expressed appreciation for their colleagues, including Joanne Comstock for her dedication in the policy arena, Gary Heagy for his open and approachable style, Pat Hudson for her tireless support for all with CMM, and Kelley Kaplan and Ronnee Gonzales for their support mentoring other employees. There is a sense of cautious optimism for the new division leadership, with a sense that things have “turned a corner.”

The majority of personnel interviewed report high levels of involvement with their customers and a sense of being “part of the team.” Involvement with programs, projects, and institutional customers varies from area to area. Co-located employees report high levels of involvement. Individuals in Mission Support areas report challenges at engaging their customers in a timely and meaningful way.

Communications with the Headquarters Office of Procurement are generally good. Several employees expressed a sense that there are some barriers to communications, that employees should work issues within their teams and branches before contacting Headquarters. Many expressed positive experiences with Headquarters analysts, including Don Moses, Jamiel Commodore, Diane Frazier, and Brad Poston. There is a sense of frustration among a small number of interviewees that Headquarters personnel have a tendency to ask for information without being clear on what is needed but are critical of the information submitted.

Several suggestions were made that the Acquisition Division take a serious look at recruitment and retention. There is a sense that there have not been enough new hires to fill the shoes of pending retirees. A suggestion was made to leverage interns and CO-OP students to attend career fairs and interest other students in working for the Ames Acquisition Division.

### ***Technical Customers***

Representatives from a variety of technical organizations were interviewed regarding the effectiveness of and their level of satisfaction with the Ames Acquisition Division. Interviewees represented various programs and projects at Ames and Headquarters, from mission support organizations to major projects. They included individuals with a few years’ experience to those with over 30 years experience at Ames. The relationship with the Acquisition Division ranges from “very good” to “great.” Procurement personnel were reported as generally finding ways to

“make things happen rather than throw up roadblocks.” Several reported frustration with the process for less visible Information Technology or other “routine” types of contract actions. These actions were perceived as laden with red tape and lacking good customer service. Several expressed a need for better coverage when a contracting officer is out of the office, for a back-up in case a key decision or award needs to be made.

Some interviewees expressed the concern that the loss of senior procurement personnel has eroded the experience base and that the staff has not increased sufficiently to allow the division to recruit and train new personnel. There is also a concern about the organization’s ability to accurately assess the capabilities of newer employees and to assign them work appropriate to their capabilities. Management focus on quality appears to be slipping. Several customers expressed frustration with the business systems in the Acquisition Division, specifically CMM and the Integrated Enterprise Management System (IEMP). Glitches in these systems have impacted the timeliness of procurement actions and in several cases resulted in lost funding. There is a sense among technical customers that the division has overcome the initial learning curve and is returning to a more consistent level of performance. In spite of these significant challenges, technical customers report that their contracting officers do really good jobs and that they have come through for them time and again.

Contracting Officer Technical Representative (COTR) training is reported as generally effective. Several suggest that refresher training should be more frequent than five years but that it should focus on recent changes in the field rather than rehashing material covered in the basic course. Several expressed a preference for online refresher training.

Electronic interfaces are perceived as antiquated. Suggestions for improvement included the automation of contract documents such as contracts, task orders, and data deliverables. These are currently kept in folders on hard drives and tracked with excel spreadsheets. A common database for contracting officers, COTRs, contractors, and task managers with appropriate security and safeguards would enhance productivity. Customers reported that there is much room for improvement in the current procurement business systems from their perspective. The systems should take advantage of workflows, include PKI Certification for secure transactions and should automate the process from start to finish. Customers said there is no reason to use paper contract files and suggested these should be electronic and include the use of electronic signatures.

Technical customers offered many kudos for specialists and contracting officers they worked with. One interviewee captured the sentiment by saying, “They all deserve kudos ... the Acquisition Division really is a good group of people once you get to know them.”

### ***Legal Office***

The survey team conducted interviews with representatives from the Ames Office of Chief Counsel. Procurement personnel involve their legal advisors early in the acquisition planning process. During contract administration; however, there is a tendency not to involve legal counsel until after problems arise. Several attorneys expressed frustration with the timing of policy changes that impact the Source Selection language. The change has come at a bad time

for Ames which is experiencing a relatively large number of source evaluation boards. The interviewees expressed the sentiment that Agency standard language for sections L and M would be helpful in managing these changes.

The quality of procurement work products were reported as having declined over the past five to six years, but this assessment was highly dependent on the individual specialist or contracting officer who did the work. There is a perceived need for increased mentoring and file review for less experienced employees. The lack of resources inhibits effective review and mentoring. Several interviewees expressed that management reviews have declined in quality, that fundamental errors are reaching the legal office without adequate review by Acquisition Division management. The legal review threshold of \$2.5 million is perceived as relatively high but, even at this level, documents are arriving without effective management review. Justifications for Other than Full and Open Competition and Grants are not reviewed by legal.

Procurement personnel are seen as understanding their business in terms of acquisition regulations and procedures but are less effective at managing customer expectations. Inconsistent guidance and management support from the Headquarters Office of Procurement, Center, and Acquisition Division leadership is seen as problematic. Similar to findings on the previous survey, the legal community believes that this situation puts working level contracting officers in a difficult position when it comes to ensuring appropriate contract practices are followed by their technical customers. Unclear guidance, inconsistent interpretation of existing guidance, and a perceived unwillingness of management to support contracting officers inhibits the ability of the contracting officer to exercise sound business judgment when faced with questionable requests made by technical customers.

The legal community reports a high level of results-driven pressure on the Acquisition Division. They report that morale appears low, that people seem overworked, and that procurement personnel feel like they are not respected by other organizations. The legal office reported that there are talented people in the Acquisition Division, from the front-line operations through the branches and back office. There is a sense that procurement personnel need to be energized, to pull up the division to where it should be.

### ***Executive***

The survey team interviewed several executives at Ames Research Center, including mission support organizations and project offices. Interviewees had experience at Ames ranging from 1 year to more than 20 years. The perception of the Acquisition Division varied dramatically from “totally broken” to “hard working” and “responsive.” Frustration stemmed from a lack of transparency in the procurement process, expressed as the inability to see the progress of requirements as they move through the procurement process. Other concerns included a cumbersome Award Fee process and untimely payments as well as inconsistent involvement by procurement personnel in projects. There is a reluctance to provide negative feedback to contractors. Instead, there is a preference to use rewards as a carrot rather than highlight or expose negative performance.

The procurement community is perceived as risk averse rather than proactive and helpful. There is a clear recognition that the staffing level in the Acquisition Division is insufficient to accomplish the mission of Ames. Individuals are conscientious and hard working, but the persistent overtime and stress has impacted their ability to delivery quality service. Some customers feel that they do the work and hand it off to procurement to obligate the funding. The involvement of mid-level management seems to have diminished over time and service levels are uneven. Generally, the executives believe that the Acquisition Division is staffed with a knowledgeable and talented workforce dedicated to delivering its best, but day-to-day pressures seem to inhibit their capacity. Automation of key processes and insight into critical processes within Acquisition would help establish more realistic customer expectations. The ability to log in to a system to get information on the status of procurement requests would alleviate anxiety about the process and relive pressure on the procurement staff. A recent milestone schedule for upcoming projects communicated by the Procurement Officer was seen as a positive measure to help projects plan effectively for their procurement activities.

### **3. Metrics Review and Documentation**

The FY 2005 survey noted that the staffing for this function had been reduced and that metrics were not being produced on a consistent basis. The current staffing situation is somewhat improved; however, neither the staffing nor the metrics reporting is optimal.

The Ames Acquisition Division collects and provides metrics to support the NASA Annual Procurement Report, Undefined Contract Actions (UCA) report, and Subcontracting report. Routine use of reporting from SAP is used to track the status of procurement requests and monitor Unliquidated Obligations (ULO). Reports available through the purchase card system are used routinely to monitor performance and identify areas for further review.

The Ames Acquisition Division also makes effective use of more subjective metrics, such as a survey of all Source Evaluation Board and Source Evaluation Committee members upon the conclusion of boards. In addition to measuring performance, this tool facilitates the learning process so that adjustments can be made to improve organizational performance. The Ames Acquisition Division has a long standing practice of monthly roundtables which is a combination of training session and feedback tool for the procurement community.

However, the Ames Acquisition Division recognizes that there are a numbers of other metrics, such as award fee, work load, and customer satisfaction that should be collected to measure their performance and organizational health. The recent Climate Survey and regular meetings with senior Center management are seen as positive first steps towards addressing organizational health. The Acquisition Business and Operations Branch (JAB) draft of JA.0001, a policy designed to address this area, reflects well on the planning for more structured and comprehensive metrics in the future. The effort to use the tools other Centers have already developed is also a sound, effective approach to future improvements in collecting meaningful metrics.

## **CONSIDERATION:**

The Ames Acquisition Division should develop and coordinate with appropriate stakeholders a complete set of relevant metrics to monitor and assess the efficiency and effectiveness of their performance and the overall health of the organization.

### **4. 1102 Career Development and Training**

The survey team reviewed the Ames Acquisition Division's local policies and procedures related to 1102 training and development. The review consisted of interviews with responsible personnel, a review of training records, and an assessment of the effectiveness of the implementation of the Federal Acquisition Certification in Contracting (FAC-C).

The Ames Acquisition Division issued Acquisition Alert Number 08-02, "Training: FAC-C Process," on December 12, 2007. The alert notified employees about changes to NASA procurement training policies and the issuance of the NASA Procurement Career Development and Training Policy Handbook. The alert included links to the Handbook and the FAC-C Application and instructions, outlined the local procedures for completing and submitting the FAC-C applications, and provided common questions and answers regarding the process. The training coordinator maintains an excel spreadsheet identifying the status of employees' warrants and FAC-C certification information. This information is periodically updated and is used to notify employees about upcoming courses for required certification.

The training coordinator maintains records of employees' FAC-C applications and supporting documentation. Supporting documentation includes the FAC-C application checklist, course certificates, FAC-C and Defense Acquisition Workforce Improvement Act (DAWIA) certifications, college transcripts, and notes concerning the review and approval of applications. The records were complete, accurate, and consistent with certification records maintained at Headquarters Office of Procurement. The training coordinator expressed concern that reminding employees to submit course certificates upon completion is a challenge.

Individual Development Plans (IDPs) are used to identify training opportunities for employees. For new employees, their branch chief introduces them to the 1102 career development web site, identifies required and meaningful training opportunities, and discusses how the IDP is tied to employee performance. Branch chiefs review IDPs with their employees during the annual performance review for the coming year and discuss progress during mid-point reviews and as necessary. The training coordinator and the Branch Chief for Acquisition Business and Operations receive course rosters from the NASA Shared Services Center (NSSC), and notify the other branch chiefs about which of their employees are scheduled for, or have completed, particular courses.

Courses at Wallops Island present a hardship for some employees. The training coordinator and Acquisition Division management acknowledged the benefit of participation in Agency-wide training where individuals from several Centers can share knowledge and experiences. However, they expressed the opinion that local Federal Acquisition Institute (FAI) courses save money on travel and are easier for employees with families and/or with physical hardships to

attend. Lower level courses are generally attended by employees who are still completing their college education. Extended travel for these employees often conflicts with their college courses.

The Ames Acquisition Division training coordinator maintains a spreadsheet which identifies grade, education, warrant level, courses completed, and FAC-C certification levels attained. The spreadsheet lists 49 personnel for the division. The spreadsheet does not identify complete information, including grade, for 20 percent, of the personnel. Thirty-five percent of division personnel are certified at the FAC-C level commensurate with their positions and responsibilities. The Ames Acquisition Division has set a goal to have all individuals certified at the appropriate level for their positions and responsibilities no later than June 2008. The spreadsheet shows that the majority of individuals lacking appropriate certification are within the GS-13 and above group, which requires Level III Certification. With two exceptions, these employees hold unlimited contracting officer warrants. The training coordinator stated that some of these individuals are reluctant to pursue certification due to the imminence of their retirement. However, the survey team noted the negative message sent throughout the organization when the majority of senior leadership has not taken the time to obtain the required level of certification.

#### **STRENGTH:**

The Ames Acquisition Division is commended for the comprehensive approach to addressing FAC-C policy and maintaining thorough records of employees FAC-C status.

#### **CONSIDERATIONS:**

1. The Ames Acquisition Division should seek to obtain more reliable, and automated, staffing data through the human resources division to ensure employee information is kept up to date in relation to 1102 training and certification.
2. Electronic copies of employees' certificates should be requested from the training provider upon course completion to facilitate the monitoring of continuous learning requirements.
3. The NSSC should make an effort to offer lower level CON courses over the summer to help avoid conflicts with college coursework.

#### **5. Contracting Officer Technical Representative Training and Delegation**

The survey team reviewed seven recently awarded contracts for conformity to COTR training and delegation requirements. The contracts ranged in size from one million to several hundred million dollars in value and range in complexity from logistics management to the University Affiliated Research Center. NFS 1842.270 stipulates that contracting officers may appoint qualified Government employees to act as their representative in managing the technical aspects of a particular contract. If an appointment is made, NASA Form 1634, Contracting Officer Technical Representative delegation, shall be used to appoint COTRs. COTRs must obtain initial comprehensive training with subsequent refresher training once every five years.



The Ames Acquisition Division has implemented an effective system for monitoring COTR training requirements. The Acquisition Business and Operations Branch maintains a spreadsheet that tracks COTR comprehensive and refresher training. COTR training at Ames is delivered by Training Resource Consultants, Inc., under an NSSC contract. The survey team reviewed the NSSC training materials to ensure they meet the requirements of NFS 1842.270(f) and found that NSSC training materials comply with the majority of those requirements. The survey team notified the training coordinator and NSSC representative of recent changes which require that the course be updated.

Most Ames COTRs had current training or refresher training. Only one contract designated a COTR and alternate COTR whose training was not current. According to the records of the COTR training monitor, the COTR on this contract was designated in February 2007, though she has never received required training. The alternate has not received training since 1998 according to the coordinator's records.

Requirements for COTR delegation are well established at NASA. Use of the standard Checklist for Contract Award File Content (NF-1098) ensures that COTR delegations are not overlooked. The Ames Acquisition Division continues to experience challenges documenting COTR delegations. The majority of files reviewed did not contain the required delegations.

#### **STRENGTH:**

The Ames Acquisition Division is commended for maintaining a comprehensive and detailed spreadsheet that records the COTR basic and refresher training.

#### **WEAKNESS:**

The Ames Acquisition Division must ensure that all COTR delegations are made on the NASA Form 1634 and that delegations are made in a timely fashion and are contained within the contract file. The division must ensure that individuals have the necessary comprehensive and refresher training to perform their assigned duties. **(REPEAT FINDING)**

### **6. Self-Assessment Program**

The self-assessment program is designed to ensure that the procurement organizations throughout NASA operate at a low level of vulnerability and that weaknesses identified in NASA Headquarters procurement surveys are tracked to closure. Self-assessments are used to conduct a periodic review of procurement processes and to identify and assess potential areas of concern resulting from audit findings or regulatory changes. Self-assessments should focus on the implementation of corrective action plans developed to remedy weaknesses identified during the previous Procurement Management Survey.

The Ames Acquisition Division has conducted four self-assessments since the previous survey in 2005. They are "Construction Contracts," July 2006; "Simplified Acquisition," December 2007; "Warranted Technical Buyers," December 2007; and "Reassessment of the 2005 Survey Teams

Findings,” February 2008. All four self-assessments were conducted by the Self-Assessment Program Manager, alone for Construction; with two members and the chief of the Acquisition Business and Operations Branch for the Simplified Acquisition and Technical Buyers; and most recently with 10 members of the operational leadership and staff for Reassessment of the 2005 Survey Team.

These self-assessments were submitted through the Chief, Acquisition Business and Operations Branch to the Procurement Officer. These assessments were not submitted to the Headquarters Office of Procurement. The surveys that were conducted identified weaknesses in the areas under review. The self-assessments did not review all of the weaknesses identified in the previous survey until February 2008, immediately prior to the arrival of the Procurement Management Survey team. Corrective actions from the “Reassessment of 2005 Survey Findings” were “to meet with division management to discuss in concert the corrective actions for not only the findings resulting from this self-assessment but for the survey team’s findings as well.”

The 2006 self-assessment on construction results were discussed at round table (all hands) meetings. Assessment team members would go to branch meetings and discuss corrective actions. Round tables and branch meetings were also forums for discussing recently issued or changed policies.

The 2005 survey results were captured in spreadsheets listing all weaknesses and proposed corrective actions. The self-assessment team reported findings to the technical buyer team and their management. After the review, the Chief of the Acquisition Business and Operations Branch met with the technical buyers and managers and corrected mistaken interpretations of regulations, policies, and procedures. The self-assessment team discussed the findings and needed changes and revised the technical buyers’ checklist to correct the errors.

The Chief of the Acquisition Business and Operations Branch met with the self-assessment team monthly to go over status. The monthly meetings were postponed due to pressures of workload. Corrective actions were implemented by individual team members working with the affected functional areas to find ways to fix things. The team members report back to the team during monthly status meetings. This was seen as ineffective. The lack of staff impeded implementation, and there was a sense that they could not focus on everything.

Some interviewees felt that if the Acquisition Business and Operations Branch could focus on self-assessments and training (e.g., facilitate round tables) they could more effectively accomplish their objectives. One person dedicated to facilitating the team would keep the self-assessment team focused. Also, the self-assessment could be better integrated with in-house training.

## **7. Internal Policies and Procedures**

The Ames Acquisition Division maintains all of its policies on its homepage, which offers an array of helpful information links at a central location. These include Agency procurement web applications, programs, and procurement tools. The web site links to all Ames-specific guidance

and Acquisition Alerts. The Ames procurement policy team is regularly updating the web site to reflect the current policy and regulatory requirements. They also notify the staff about changes via e-mail. The survey team observed that non-functional critical elements of the web site did contain dated material. The organization of policies and procedures on the web site is effective and user-friendly as evidenced by the results of the recent Ames Climate Survey.

The Acquisition Division web site includes current and useful information for the broader acquisition community in particular Contracting Officer Technical Representatives, purchase card holders, and approving officials. As an observation, the listing of prohibited and restricted actions associated with purchase cards provides appropriate and clear guidance.

The Acquisition Business and Operations Branch is responsible for the development and maintenance of procurement policy. The FY 2005 survey noted that the staffing for this function had been changed from three people to the work being handled on an ad-hoc basis with various individuals supporting the policy function as a collateral duty to their principal responsibilities. While the current staffing situation is improved from that survey report, staffing is not optimal.

The branch manages its Center-unique clause listing on the web site. The Acquisition Division has eliminated the majority of the Center-unique clauses but is regularly updating the few remaining Center-unique clauses to reflect the current environment and regulatory requirements. The branch also manages a set of tools and templates for operations personnel. These tools are compliant to regulations and are user friendly. The JA Form 007, "Market Research Report" and JA Form 008, "Personal/Non-personal Services Determination" are positive examples of these tools.

The survey team's review indicated there was an inconsistent adherence to the Ames policy requiring the use of the JA Form 022, "Coordination/Approval Document," the official record of review and approval in the contract file. As a result, it was often difficult to ascertain whether the correct levels of review and approval had been achieved prior to award actions. In some files, there was evidence that routing for review and approval had taken place, but this could only be determined by reading different memoranda or e-mail print-outs located under various tabs in the contract files. By consistently using the Coordination/Approval Document for all applicable actions and filing the form consistently in the contract file the record will be clear and concise as to whether all required reviews and approvals has been completed.

#### **STRENGTHS:**

1. The Ames Acquisition Division is commended for the overall quality of the Center's procurement policies and procedures.
2. The Ames Acquisition Division is commended for the content and user-friendly quality of their web site.

## 8. Contract Management Module Issues

The survey team interviewed personnel at the Ames Acquisition Division to assess the impact of Contract Management Module (CMM) on individual workload and on the organization, to assess the ramifications for the future, and to identify opportunities to improve the current procurement business systems for the Agency.

CMM was implemented beginning in late 2006. All Ames employees received initial training just prior to “go live.” There was no clear directive for using CMM at the time. Employees “formed bad habits” by working outside of CMM modifying documents on their computers from previous procurements in lieu of creating them within CMM. About six months into implementation, just following the stabilization period, Ames management directed that CMM be used. Ames has one dedicated Center business process lead (CBPL) and eight super users facilitating implementation and supporting users in the new business environment. Users consistently report positive experiences with the CMM support at Ames. The super users and CBPL are good at resolving most problems immediately and at maintaining a good working relationship with the Integrated Enterprise Management Program (IEMP) Competency Center to resolve more complex issues. The perception of the Competency Center is of an organization obsessed with control. Access to information within the contracting system is overly restricted, limiting the ability of contracting personnel to use the system to its capacity for knowledge sharing and management.

One example repeatedly cited is the vendor master file. The vendor information is managed by the Competency Center on a Center-by-Center basis and is reported as being consistently outdated. Procurement personnel are unable to view information in the financial module to see vendor information. When errors are encountered, a user is instructed to complete an electronic form and send it to an analyst who ensures it matches the Federal Central Contract Registration (CCR) system. The analyst then submits a service request to the Competency Center or returns it to a specialist to correct mistakes. A suggestion was made to link CMM to CCR to automatically update vendor information, reducing manual data entry and validation. Segregating vendors by Center is an impediment. Changes to procurement vendors’ information require approval by financial CBPLs prior to being updated. In addition, any change to one vendor used at multiple Centers requires the CBPL to obtain written concurrence from all Center CBPLs prior to having a change made. This causes delays lasting from several days to two weeks and in at least one case, causing a project to lose funding due to untimely award. Procurement personnel and their customers must plan for a time lag when dealing with CMM.

CMM is reported as being used by most personnel in the Ames Acquisition Division. User satisfaction varies from “it’s a terrible system, slow and difficult,” to “not that bad once you get used to it.” There is a clear sense of having overcome the most difficult part of the learning curve that there are still some bugs, but there is hope for the future. Some users report that they do not like the way solicitations and contracts look, so they work with them outside of the system. Tables are a major issue because they do not hold their format in the printed form or on the screen. Several users expressed dissatisfaction with the “.pdf” output file because the format is inflexible in what can be modified. Many report they do not like the look of documents or the formatting.

There is a sense that not everyone is using CMM the way it is supposed to be used. Some are creating the cover page and attaching the documents they have always used. Many are using CMM to generate the initial document then formatting the document outside of CMM to make it look “professional.” Creating the initial solicitation is reported as cumbersome. Users report delays from 5 to 20 minutes when adding each clause. There is some confusion on Center-unique clauses, which use the same numbering sequence as the CMM template clauses. Several users suggested that CMM distinguish Center-unique clauses with an alpha character identifying the Center to assist users at finding their Center’s clauses.

The solicitation generation process is slow. Users report that it takes 20 minutes to add a clause to a contract and therefore add clauses outside of the system. Those who report that they use CMM templates report that certain clauses are not useable because of a 200 character limitation in text boxes. Classified contracting presents challenges. Solicitation generation results in documents that do not print as they appear on the screen, are difficult to read, and have crude, unprofessional formatting. Users report that construction clauses are missing or inaccurate in the CMM templates. There is a common sentiment that CMM is a record keeping system, that the paper file is the official file.

Users expressed significant dissatisfaction with the process for obligating multiple line items of incremental funding. The interface with SAP causes significant delays in awarding these relatively simple procurement actions. CMM is perceived as having severe limitations and growing pains. CMM has the potential to be an effective Agency-wide contracting tool, but there is a significant learning curve. There is a definite perception that clauses are outdated. There is a perception that CMM is causing procurement personnel to perform accounting functions.

Many users expressed the need for individual, team, and branch lead time and workload data. There is a high level of frustration with Business Warehouse (BW) reports’ configuration among those who require the information. Management needs reports to gather workload data. Users need to have access for their reports. Ames Acquisition Division personnel do not have insight into workload. AS 9100 organizational profile metrics will require detailed metrics which are currently unavailable. In addition, reports are required to validate procurement data.

Managers and team leaders expressed frustration that they cannot access contracts in their teams’ workload. Some are unable to run reports, but rely on the “print screen” function to capture data. There is a perception of inaccurate or incomplete data within CMM, and there is a low level of confidence in the system. Workload reports are generally kept on spreadsheets, which are updated manually.

Several recommended improvements include that CMM allow multiple line items to be selected at once, to allow the user to copy data from one line to another, that the templates be re-designed to be more user friendly, and that re-training be conducted for infrequent users. Additionally, the availability of electronic documents and electronic signature would go a long way to improve the system.

## SECTION III

# PRE-AWARD PROCESSES AND DOCUMENTATION

### 1. Master Buy Plan and Acquisition Forecast

#### *Master Buy Plan*

The survey team reviewed the Master Buy Plan (MBP) program database for compliance with NFS 1807.71. In accordance with NFS 1807.7100, “The Master Buy Plan provides information on planned acquisitions to enable management to focus its attention on a representative selection of high-dollar-value and otherwise sensitive acquisitions.” The NFS requires Centers to submit their MBP by July 15 of every year and to include data for the fiscal year that follows. As a result of increased Headquarters senior management review, additional reporting requirements have been established for high-dollar-value acquisitions. The Office of the Administrator requires the Headquarters Office of Procurement to provide an annual MBP report of all MBP records submitted by the Centers. MBP data is also included in the recently-established Acquisition Spreadsheet used for the Baseline Performance Review (BPR). The spreadsheet is sent from Headquarters to Centers as a monthly data call. The information reported by the Centers is presented and discussed at the monthly BPR, which is a splinter meeting of the Program Management Council (PMC). Because of the expanded management focus, all Centers are being advised to be more diligent regarding the quality, level of detail, accuracy, completeness, and consistency of data entered into the MBP database and BPR Acquisition Spreadsheet. For Ames MBP submissions and updates, the cognizant Headquarters analyst noted the following:

*Annual Submission:* The most recent annual MBP due July 15, 2007, was not submitted by Ames until September 2007. The transition from an experienced Ames MBP focal point to one just learning the system was a contributing factor.

*Descriptions:* The MBP description should be sufficiently detailed to provide NASA senior management with a clear understanding of the acquisition requirements. The level of detail should be equivalent to the detail provided in the description section of an Administrator’s Notice of Significant Contract Action (ANOSCA). Ames has shown vast improvement in the quality and level of detail of MBP descriptions since the previous survey and is encouraged to continue this practice.

*Status Schedule:* Planned and actual dates for critical milestones such as JOFOC approval (when applicable), RFP release, PSM, source selection, and contract award should be entered in the status schedule field and updated periodically. When practicable, “To be determined” (TBD) status entries should be avoided or if entered, replaced with a milestone date before an MBP record is approved.

*Periodic Updates:* All entries must be updated periodically as necessary to reflect any changes and keep data current.

*Remarks:* Details regarding progress, problems, changes, or significant issues associated with each MBP record should be recorded as they occur under the “Remarks” section.

### ***Acquisition Forecast***

In accordance with the Business Opportunity Development Reform Act of 1988 (reference NFS 1807.7200), NASA Centers are required to prepare an annual acquisition forecast on or before October 1 and update it semi-annually by April 15 for anticipated contract opportunities or classes of contract opportunities. Where appropriate, the information reflected in the Acquisition Forecast should correlate with the MBP database. The descriptions of these planned procurements must be sufficiently detailed to allow readers to recognize information about the procurement to determine whether the opportunity would be of interest to them.

The most recent Ames Acquisition Forecast was updated on the NASA Acquisition Internet Service (NAIS) web site September 27, 2007, by the Ames Acquisition Division Business and Operations Branch. Ames indicated that it is currently gathering and formulating data in preparation for the April 15, 2008, semi-annual update.

### **STRENGTH:**

The Ames Acquisition Division is commended for the quality and level of detail provided in the “description” section of its MBP submissions and updates.

### **CONSIDERATION:**

The Ames Acquisition Division must ensure that any changes in an acquisition are reflected (e.g., change in contracting officer, status schedule, etc.) and entered into the MBP system in a timely manner. Ames must also ensure detailed descriptions are entered into the Acquisition Forecast.

### **WEAKNESS:**

The Ames Acquisition Division’s most recent annual MBP due July 15, 2007, was not submitted until September 2007. Ames must ensure that future annual submissions are submitted in a timely manner.

## **2. Justifications for Other than Full and Open Competition and Competition Advocacy**

The survey team reviewed seven noncompetitive contract files for compliance with FAR Subpart 6.3, “Other Than Full and Open Competition,” and NFS Part 1806, “Competition Requirements.” Dollar values ranged from \$168,000 to \$43 million. Statutory authorities included (c)(1) - only one responsible source, and (c)(2) - unusual and compelling urgency. Most of the Justifications for Other than Full and Open Competitions (JOFOCs) appeared to

contain sufficient rationale to support the sole source, and all were reviewed and approved at the appropriate level. Several of the JOFOCs did not contain all of the information required by FAR 6.303-2. Examples of missing items included synopsis information; statements regarding actions the Agency may take to remove or overcome barriers to competition before any subsequent acquisitions for the required supplies or services; and details regarding the estimated cost of the harm to the Government when the justification is based on unusual and compelling urgency.

FAR 6.303-2 requires that JOFOCs contain a description of efforts made to ensure that offerors are solicited from as many potential sources as practicable, including whether a notice (synopsis) was or will be publicized as required by Subpart 5.2 and, if not, which exception under 5.202 applies. It also requires a listing of any sources that expressed interest in the acquisition in writing. Ames Acquisition Requirement Number 3 entitled "JOFOC Preparation and Approval," also stipulates synopsis requirements, the need to analyze responses, and the need to include in the JOFOC a listing and analysis of any sources that expressed an interest in the acquisition. One JOFOC stated that a sole source synopsis would be posted on the NASA Acquisition Internet Service (NAIS) site and FedBizOpps. The synopsis was posted the day after the JOFOC was approved, and the file had no information as to whether there were any synopsis responses. That JOFOC was approved by the Center Deputy Director and thus underwent a high level of review prior to approval. One JOFOC did not mention a synopsis at all, but had been issued the same day that the JOFOC was approved with no further documentation in the file as to whether there were any synopsis responses. One JOFOC stated that a synopsis would be published, responses would be analyzed, and the file would be documented. No follow-up documentation was found. In this case the file showed that the synopsis had been posted and closed two weeks prior to JOFOC approval, yet the JOFOC was never updated to include this information.

Two JOFOCs were based on unusual and compelling urgency. One of these supported the award of a letter contract and was not placed into the review cycle until five weeks after a letter contract award, with approval seven weeks after contract award. Although the background information in the file substantiated the need for the letter contract and JOFOC, and the FAR allows a delay in JOFOC approval if it would delay the acquisition, it appeared from the background information that the JOFOC could have been initiated sooner in order to limit the time between contract award and JOFOC approval. The other JOFOC was for a contract extension to avoid a break in service pending completion of a follow-on competitive acquisition. NFS 1806.303-70 requires that such a JOFOC document that the acquisition process for the successor contract was started early enough to allow for adequately planning and conducting a full and open competition, together with a description of the circumstances that prevented award in a timely manner. Although there was some data regarding the status of the follow-on process, the JOFOC did not specifically state when the follow-on acquisition commenced and whether it was timely or not. Additionally, it appeared from the limited status data that it should have been known several months ahead of time that an extension would be required. This would have allowed a JOFOC based on only one responsible source supported by a synopsis instead of one based on unusual and compelling urgency placed into review approximately two weeks prior to contract expiration. The resultant contract modification for the extension cited the Option to Extend Services and Changes clauses and did not mention the statutory authority. Information appears to be missing from the Ames Review Policy for JOFOC Approval for actions valued at between



one million and ten million dollars. The policy does not show an approval level, and reviews are limited to the Office of the Chief Counsel and the technical organization director.

**CONSIDERATION:**

The Ames Acquisition Division should consider using a template based on FAR 6.303-2 to ensure that all information required by the FAR is covered in the JOFOC. Each FAR content item could have its own section or heading with appropriate narrative which would ensure coverage of all required information and facilitate review. Although Ames Acquisition Requirement Number 3 contains a template which is utilized by Ames procurement personnel, required information continues to be left out of JOFOCs. The Virtual Procurement Library (VPO) contains two sample templates in a format different from the Ames format, but which contain headings for all required information, thus essentially eliminating the possibility of accidentally failing to address all required information. **(REPEAT CONSIDERATION FROM THE 2002 AND 2005 SURVEYS)**

**WEAKNESS:**

The Ames Acquisition Division must ensure adherence to the requirements for JOFOC content listed in FAR 6.303-2, adherence to the synopsis publicizing and response times in FAR 5.203, that JOFOCs are not approved until synopsis response times have elapsed, any expressions of interest are resolved, and that the results are documented in the JOFOC. **(REPEAT FINDING)**

**3. Deviations and Waivers**

The survey team reviewed six contract files for compliance with NFS 1832.702-70 regarding NASA policy for waiving conditions necessary to incrementally fund fixed price R&D contracts. The Ames Acquisition Division is maintaining a record of approvals for incremental funding waivers in accordance with NFS 1832.702-70(f). Four files met the requirements of the NFS and were well documented. Two of the requests for waivers stated that the award of the contract action did not meet all of the conditions in NFS 1832.702(a)(1) through (4) and 1832.702(c)(1). However, the requests for waivers did not mention which of the conditions that the contracting officer wanted the Procurement Officer to waive. In addition, two contracts were awarded in September 2007, but the waiver was not approved until November 2007 due to late submittals by the project office utilizing funding that needed to be obligated by the end of the fiscal year and because the contracting officer went on leave immediately after the end of the fiscal year.

**CONSIDERATIONS:**

1. The Ames Acquisition Division should ensure that all requests for waivers specify which of the conditions in NFS 1832.702-70(a)(1) through (4) and 1832.702(c)(1) the contracting officer is seeking authorization to waive.

2. The Ames Acquisition Division should work with the project office to ensure that requirements are received early enough to enable approval of waiver requests before award of resulting contracts.

#### **4. Acquisition Planning**

The survey team reviewed a random sample of acquisition plans. The samples demonstrated that acquisition planning was adequate and that acquisition plans were being prepared and approved as required by NFS 1807.103. The majority of plans reviewed contained adequate logic that was appropriate for the complexity of the requirement. Acquisition planning was not mentioned or acknowledged in the classified contracts reviewed. While the exclusion of classified material from the file is appropriate, the requirement for acquisition planning remains. In such instances it is appropriate to document that the plan is available for review by authorized personnel.

Acquisition plans were appropriately coordinated between procurement, program, and cognizant staff offices. Counsel comments and disposition were evidenced in the files. All plans reviewed discussed consideration of small business and minority business enterprises. There were no deviations cited under the acquisition plans. One instance where an award term incentive was to be utilized was properly authorized by the Office of Procurement at NASA Headquarters.

Typically the acquisition plans documented the selected contract type; however, in some files the discussion only presented the conclusion without supporting rationale or only superficially discussed the considerations for determining the contract type. An emphasis on the use of performance based acquisition methods was not evidenced.

The Ames Acquisition Division does not have guidance for acquisition planning for requirements under \$10 million (and it is not a regulatory requirement to document acquisition planning below this amount). However, during the survey, files below the threshold amount did address and document acquisition planning. This information supported the principles cited in FAR 7.102 and is a positive reflection on the professionalism of the staff. This practice should be considered for Center-wide application.

#### **CONSIDERATIONS:**

1. The Ames Acquisition Division should more consistently provide their rationale for the contract type selected in the depth necessary to reflect risk allocation deliberations and their potential impact on contract performance.
2. The Ames Acquisition Division should more consistently address their deliberations on using performance based acquisition methods in their acquisition plans.
3. The Ames Acquisition Division should consider the development and implementation of guidance and procedures for acquisition planning for requirements under \$10 million.

## **5. Market Research**

The survey team reviewed seven recently awarded contracts for conformity to market research requirements, ranging in size from one million to several hundreds of million dollars in value. The reviewed actions ranged in complexity from logistics management to a University Affiliated Research Contract (UARC). Market research documentation at Ames was, at times, exemplary. The UARC procurement included a formal capabilities questionnaire, the responses to which drove the direction of the source selection process. The file documentation in this case indicates that this vital aspect of acquisition planning is well understood at Ames.

Part 10 of the FAR, along with various topical sections, prescribes policies and procedures for conducting market research to arrive at the most suitable approach for acquiring, distributing, and supporting supplies and services. There is no NFS coverage and no required standard format (FAR 10.002(e)), though a template for market research analysis reports is offered in VPO.

In accordance with FAR 10.002(e), extensive market research is not required in all actions. Of the seven files reviewed, five contained documentary evidence that market research had been performed. Of the other two, one was a cooperative research effort based on proprietary models and the other was a Small Business Innovative Research (SBIR) Phase II contract. The Ames Acquisition Division documents the results of market research in a manner appropriate to the size and complexity of the acquisition. Market research supports the small business considerations of acquisition planning. Contract NNA07CF60C for the demolition of a wind tunnel is a good example. We commend the contract specialist who prepared the latter file, for cross referencing the appropriate tab on the Checklist for Contract Award File Content (NF-1098), which makes the documentation easy to find when it is filed elsewhere.

### **STRENGTH:**

The Ames Acquisition Division is commended for utilizing several different methods of market research which resulted in very thorough analyses of potential sources.  
**(REPEAT FINDING)**

## **6. Pre- and Post-Negotiation Memoranda**

The survey team reviewed contract files to assess completion of Pre-Negotiation Position Memoranda (PPM), Price Negotiation Memoranda (PNM), and compliance with FAR Part 15.406 and NFS 1815.406. The survey team reviewed three non-competitive contract files with an estimated value in excess of \$1 million. The remaining files reviewed were competitive procurements.

The PPMs and PNMs reviewed contained limited information. Several files were considered incomplete, inadequate, or were missing written justifications, although most of the files did contain a limited amount of information. Some of the PPMs or PNMs were located in the files but were filed under the wrong tabs.

## **CONSIDERATIONS:**

1. The Ames Acquisition Division should closely monitor the submittal of PPMs and PNMs documentation to ensure that the documentation is comprehensive and covers the negotiated actions.
2. References should be entered in the PPM/PNM file tabs if documents are filed in alternate locations.

### **7. Homeland Security Policy Directive-12 Compliance**

The survey team reviewed contracts for compliance with Procurement Information Circular (PIC) 06-01 dated Jan. 18, 2006. The PIC requires the inclusion of FAR clause 52.204-9, “Personal Identity Verification of Contractor Personnel” and inclusion of PIV card issuance procedures in solicitations and contracts which require contractors to have physical access to a federally-controlled facility or access to a Federal information system.

Twenty-five contracts, two cooperative agreements, and one grant were selected for review. The review revealed that Ames modified a number of existing contracts to include FAR clause 52.204-9 and PIV card issuance procedures. The grant and cooperative agreements reviewed were GIC 06-02 compliant. However, some of the more recently awarded contracts as well as those awarded some years earlier did not consistently include the FAR clause and PIV card issuance procedures. Some contracts awarded in FY 2007 and FY 2008 incorporated by reference FAR 52.204-9 in the basic contract, but did not include the PIV procedures. A recently awarded on-site construction contract and recently awarded A&E contract did not include FAR 52.204-9 or PIV procedures.

There were other instances where the clause, PIV procedures, or both were omitted. It is noted that in some cases an Ames local clause (52.204-91) was used to incorporate contractor badge identification and security registration requirements. The survey team provided the list of contracts requiring modification to an Ames Homeland Security Policy Directive (HSPD)-12 implementation team member.

Across the board compliance with HSPD-12 on applicable Ames procurement actions is essential. Such compliance, to a great extent, will be dependent upon the input of program/project managers, the Office of Security and Program Protection (OSPP), the Chief Information Officer (CIO), and other technical personnel during the planning and pre-solicitation stage. Compliance will also depend upon the Ames Acquisition Division implementation of a formal solicitation/contract review process.

## **CONSIDERATION:**

The Ames Acquisition Division in collaboration with the Ames HSPD-12 implementation manager should establish HSPD-12 work instructions and review procedures that focus on:

- The critical importance of obtaining technical input and reviews for work requirements during the planning/pre-solicitation stage.
- Working with OSPP and technical personnel to distinguish SOW requirements that require routine contractor access (see FAR 52.204-9) to a federally-controlled facility or Federal information system vs. those which provide for intermittent contractor access that may not require HSPD-12 coverage.

## **WEAKNESS:**

The Ames Acquisition Division must consistently include FAR 52-204-9 and PIV card issuance procedures in solicitations and resultant contracts. To accomplish this, Ames should:

- Issue a data call for existing contracts providing for contractor access to a federally-controlled facility or Federal information system to ensure FAR clause 52.204-9 and PIV procedures are included in the basic contract; or modify the contract accordingly.
- Institute a formal review process to the degree necessary to ensure inclusion of FAR 52.204-9 and PIV procedures in all applicable solicitations and contracts, and to ensure GIC 06-02 coverage for actions that apply.

## **8. Contractor Safety Requirements**

The survey team reviewed a broad sample of contracts to ensure Safety and Health, NFS 1823.7001, NASA solicitation provisions and contract clauses, and FAR 23.3, “Hazardous Material Identification and Material Safety Data,” are used, as appropriate, in a contract.

The Safety and Health clause, NFS 1823.70, is included in a significant number of the contracts reviewed by the survey team. Objective evidence in the contract files also indicated the contracting officer inserts the provision, NFS 1852.223-73, “Safety and Health Plan,” in solicitations containing the clause 1852.223-70. The team verified the Safety and Health Plan Data Requirement Document was contained in the contract file. The survey team also found evidence that contracting officers insert the clause NFS 1852.223-75, “Major Breach of Safety or Security,” in contracts with estimated values of \$500,000 or more.

Hazardous Material Identification and Material Safety Data, FAR 23.3, defines hazardous material and hazardous material data. FAR 23.303, “Contract Clause,” requires the contracting officer to insert FAR 52.223-3, “Hazardous Material Identification and Material Safety Data,” in a contract if the contract requires the delivery of hazardous materials. The survey team review of contracts reveals that contracting officers determine the use of the hazardous material clause as required by FAR 23.302(e) on a case-by-case basis. It appears from the review of contracts where the clause FAR 52.223-3 is required contracting officers insert the clause as appropriate to the acquisition.

## **STRENGTH:**

The Ames Acquisition Division consistently includes the appropriate safety and hazardous material clauses in their contracts.

### **9. Contract Type Selection**

The survey team reviewed contract files for compliance with FAR 16.1 and NFS 1816. The team focused its evaluation on the following specific documentation: acquisition plans/strategies, memoranda for record, internal NASA pre-award email correspondence, market analyses, and draft RFP comments/responses. All of the files reviewed included at minimum a brief statement specifying planned contract type within the acquisition plan/strategy as required by FAR 16.103 (d). However, all of these statements lacked sufficient detail to fully substantiate the NASA decision process employed to determine appropriate contract type.

FAR 16.103 states that “Selecting the contract type is generally a matter for negotiation and requires the exercise of sound judgment. Negotiating the contract type and negotiating prices are closely related and should be considered together.” None of the contract files reviewed reflected that the Ames Acquisition Division considered the selection of contract type to be an item for negotiation with industry. Documentation in the files indicated that the decision for contract type was limited to internal discussion among Government personnel only.

The files reviewed indicate that the Acquisition Division consistently performed extensive, thorough, and well-documented market analyses. Some files included the strategic practice of publicizing draft acquisition plans for industry comment, which proved to be an effective tool. The high level of dialog that the Ames Acquisition Division appears able to develop during the market analysis phase may provide an excellent venue for understanding industry perspective on contract type as it affects price. Engaging industry and potential contractors in discussions regarding this issue at the earliest stages of the procurement could present the Ames Acquisition Division with new, valuable options for the Government.

NASA’s Risk-Based Acquisition Management (R-BAM) initiative integrates the analysis of programmatic risk with the formulation of acquisition strategies by overlaying the Agency’s continuous risk management process onto the acquisition process. The goal of this initiative is to identify significant risk areas associated with procurements, as well as to focus acquisition team resources to mitigate identified risks. R-BAM is based on a 5-step acquisition process, the second of which is the “Acquisition Strategy Development” phase. Two of the files reviewed by the team contained documentation demonstrating the use of R-BAM. More extensive use of this methodology would be of substantial value to support the most strategic selection of contract type.

The files reviewed did not provide any documentation to reflect consideration of FAR 16.103(c), which states that “...contracting officers should avoid protracted use of a cost-reimbursement or time-and-materials contract after experience provides a basis for firmer pricing.” Most of the cost-type contract files reviewed had extensive periods of performance, some more than ten years, which may place NASA at undue cost risk.

## **CONSIDERATIONS:**

1. Several areas within the Ames Acquisition Division have successfully engaged industry through the strategic posting of acquisition plans and executive summaries on NAIS. This practice should be expanded more consistently throughout the division.
2. The Ames Acquisition Division should place more emphasis and rigor on the decision process associated with the selection of contract type. The division should consider expanding market analysis discussions with industry to include price impact to contract-type selection and should expand its use of tools such as R-BAM more consistently.

## SECTION IV

# POST-AWARD PROCESSES AND DOCUMENTATION

### 1. Synopsis of Contract Award

The survey team reviewed a random sample of twenty-eight contract files for compliance with FAR 5.301, which covers contract award synopsis requirements. Half of the contract files reviewed required a synopsis of contract award. Sixty percent of the files reviewed did not include documentation in the file that a synopsis of contract award was performed when required. Additionally, a review of the NAIS system confirmed that there was no record of a post-award synopsis being posted for the referenced contracts.

NFS 1805.303-71 requires a NASA Headquarters public announcement for all contract actions with anticipated contract values, including unexercised options of \$5 million or greater and Administrator notification for all contract actions with anticipated values of \$25 million or greater. The survey team reviewed five awards that required Administrator notification prior to public announcement. Of the files reviewed, three evidenced compliance with notification procedures prior to posting the synopsis of contract award on NAIS. They contained copies of all supporting documentation. Two files did not contain the required Administrator notification.

#### **WEAKNESSES:**

1. The Ames Acquisition Division shall ensure that contract awards are synopsized in accordance with FAR 5.301(a) unless the award meets one of the exceptions at 5.301(b).
2. The Ames Acquisition Division shall ensure that a Headquarters public Announcement and Administrator notification are documented in the contract files in accordance with NFS 1805.303-71(a)(1) and Ames Acquisition Requirement Number 07 Revision 04.

### 2. Contractor Performance Evaluations NF-1680

The survey team reviewed Past Performance Data Base (PPDB) records for compliance with FAR 42.15 and NFS 1842.15, "Contractor Performance Information." The FAR and NFS require contracting officers to conduct interim evaluations of contractor performance within sixty days of the anniversary of the award date of a contract having a term exceeding one year.

Objective evidence in the contract files indicates that contracting officers and/or COTRs are maintaining periodic liaison with program, technical, and fiscal personnel to monitor performance as required by FAR 42, "Contract Administration and Audit Services." Award fee contracts contain performance history used to monitor contract performance. In these award fee



contracts, detailed performance records are included in the contract file. However, performance records for other types of contracts were missing or not clearly addressed in every contract file reviewed by the team. A clear picture of contractor performance was not readily apparent.

Evaluation of contractor performance as required by FAR 42.1502, "Policy," was inconsistent in the sample of contracts reviewed by the team. The task order type contract files have objective evidence of evaluation of performance. However, numerous contracts in the sample did not have supporting evidence of performance evaluation.

A random sampling of contracts in the PPDB showed that a significant amount of submissions were beyond the 60-day period, and ratings were not always supported by substantive narrative. Delays ranged from several weeks to several years. Some CPAF contracts were missing several evaluation periods.

Problems with meeting the FAR and NFS requirements persist, though the PPDB automatically sends reminders, monthly reports providing a summary of delinquent and upcoming evaluations are disseminated to the Acquisition Division, and the division has held training on the PPDB.

The Ames self-assessment dated February 2008 noted that CPAF evaluation results are not required to be posted in the PPDB. This is consistent with the NFS but not consistent with Procurement Information Circular 01-12 which requires that such be done.

#### **CONSIDERATION:**

The Headquarters Office of Procurement should consider updating and/or reissuing PIC 01-12 to reinforce the requirement for the incorporation of Award Fee evaluation results into the PPDB.

#### **WEAKNESS:**

The Ames Acquisition Division must ensure that contracting officers are aware of, and in compliance with, the FAR and NFS requirements regarding contractor performance evaluations. **(REPEAT FINDING)**

### **3. Undefined Contract Actions**

The survey team reviewed the last three monthly reports submitted to the Headquarters Office of Procurement. The file review focused on age, dollar value, appropriate approval level, justification, and file documentation in accordance with NFS 1843.70.

As of the latest report, there is only one UCA. The UCA was approved at the appropriate level. The file contained sufficient justification. The UCA is currently scheduled to be definitized within the 180-day NFS definitization goal and within the not-to-exceed amount. In accordance with NFS UCA policy, the changes authorized on the UCA were part of a larger contract change, but were severed from the larger piece in order to limit the UCA to only what was urgently needed. The authorization to proceed was transmitted via an email from the contracting officer,

with the bilateral modification being executed approximately six weeks later. The delay was attributed to the holidays and to discussions regarding the specific activities to be performed.

At least two letter contracts were awarded since the previous survey. One was made in June 2006 and one was made in January 2007. Neither of these letter contracts was reported as a UCA on any report. The January 2007 letter contract was not definitized until July 31, 2007, two months beyond the planned definitization date and several weeks beyond the 180-day NFS definitization goal for UCAs.

A previous UCA report contained a modification for a provisional increase to the contract estimated cost pending negotiation of an overrun proposal. After being reported, it was recognized that it was not actually a UCA, so it was removed from the report. There was no review sheet associated with this modification, so there was no record to show if the file was reviewed by the Acquisition Business and Operations Branch Chief or the Office of the Chief Counsel in accordance with Ames Review Policy for actions up to \$25 million.

The 2005 Survey Report recommended that the Ames Procurement Officer incorporate a definitization schedule in UCA contract modifications along with language stating that any costs that exceed the not-to-exceed amount would not be fee bearing. This would ensure that both parties were aware of the goal to definitize the action in a timely manner. The UCA reviewed did have a definitization schedule, but no language regarding costs that exceed the not-to-exceed amount.

#### **CONSIDERATION:**

Although timely definitization of UCAs is not an issue on the one outstanding UCA, the previous recommendation to incorporate a definitization schedule and language stating that any costs that exceed the not-to-exceed amount will not be fee bearing is still considered a good practice to make both parties cognizant of the goal to definitize the action in a timely manner.

#### **WEAKNESS:**

The Ames Acquisition Division must ensure that all UCAs including letter contracts are reported on a monthly basis. UCAs should be issued as formal contract modifications unless absolutely necessary, and in those cases, delays in issuing a formal modification should be minimized.

#### **4. Competition under Multiple Award and IDIQ Contracts**

The survey team reviewed a sample of indefinite delivery indefinite quantity (IDIQ) contracts for task order competition and compliance with FAR Part 16.5 and NFS 1816.5. The FAR stipulates that contracting officers award IDIQ contracts to multiple sources for services and supplies to the maximum extent practicable.

One contract within the review sample included multiple vendors that competed for task orders. The execution of the solicitation and resultant contract is problematic. The task order evaluation and selection criteria for task order competition states that selection will be based on a variety of factors, including a variety of price and non-price related factors listed in the solicitation. Task order requests reviewed did not include selection criteria. The survey team could not determine how proposals for individual task orders were evaluated, not how vendors were selected for award. Other problems found within the sample of task order contracts include:

- Non-adherence to the NSF numbering for basic contract awards or for task orders;
- Absence of indefinite delivery contract clauses;
- Failure to identify minimum and maximum ordering dollar thresholds;
- Technical evaluations were not contained in contract files;
- Cost or price analysis was not documented;
- Clause 1852.216-80, "Task Ordering Procedure," was not included as prescribed by NFS; and
- Ordering procedures were not identified in the contract.

The Ames Service Request Form 73A has an estimated cost line at the bottom of the form with columns for labor and material costs that was not utilized for IGCE purposes. Thus, some valuable tools are already in place but are not being used.

#### **CONSIDERATIONS:**

1. The Ames Acquisition Division should examine the Kennedy Office of Procurement multiple award IDIQ contracting program and other Agency best practices to strengthen its multiple award IDIQ contracting practices and procedures.
2. The Ames Acquisition Division should identify candidate services such as base operations support services for multiple award consideration.

#### **WEAKNESSES:**

1. The Ames Acquisition Division must ensure that the preference for making multiple awards under IDIQ contracts is considered during the acquisition planning phase for all proposed IDIQ contract efforts and that rationale to pursue single award IDIQ contracts is clearly documented in the contract file.
2. The Ames Acquisition Division must ensure that IDIQ contracts and orders are numbered in accordance with NFS format, include required clauses, and are supported by adequate documentation to support the award decision.

#### **5. Government Furnished Property**

The survey team reviewed seven contracts for implementation of and compliance with Government Furnished Property (GFP) requirements. With one exception, reviewed contracts included all required clauses and contained adequate supporting documentation, including the

controls and verification of GFP. The team found in all but one case that NFS 1845.245-73, “Financial Reporting of NASA Property in the Custody of Contractors,” requires the contractor to submit an NF-1018, NASA Property in the Custody of Contractors.” Review of the NF-1018 records on file in the Property Management office revealed that some files are not complete and up to date.

#### **CONSIDERATION:**

The Ames Acquisition Division should review and strengthen coordination between the Contracting Office and the Property Management office. Additional care should be taken to ensure that the Property Management office receives on-site contracts for review.

#### **6. Closeout/Unliquidated Obligations**

The survey team reviewed a sample of contracts for closeouts and unliquidated obligations. The review consisted of trend analyses for the closeout of completed contracts, purchase orders, financial assistance agreements (grants and cooperative agreements), interagency agreements, and the status of unliquidated obligations.

Ames has a significant number of physically completed award instruments, which are not administratively closed and where obligated monies are not yet liquidated. The total value of unliquidated obligations is approximately \$24 million. Empirical data was not provided explaining why expired instruments have not been sent to closeout, nor was there empirical data presented on the reason for the backlog of awards in closeout. Resource constraints were cited as the primary cause of the delay for the former. The contributing factors presented for the latter issue included the lack of DCAA final audits, the lack of funding from Headquarters necessary to fulfill the financial requirement as a result of final audits, and the lack of technology office concurrence.

The Ames Acquisition Division has a well defined system for determining contract and order completion. Metrics are used to track monthly closed and deobligated dollars by action type of category: open, closed, and overage cumulative summary reports. In looking for trends, the survey team noted inconsistencies between data sets and inaccuracies with data sets (either the expiration dates were incorrect or the award should not have been in a closeout status). THESE raise concerns ABOUT the accuracy of the data and its value as a management tool.

The Agency closeout contractor, LeGacy Consulting Resource Corporation, provides support to the Acquisition Division. They are responsible for preparing all closeout documentation for the contracting officer’s review and approval. The Ames Acquisition Division/LeGacy interaction is appropriate for closeout processing. LeGacy’s progress reporting on closeout and unliquidated obligations could be improved.

## **CONSIDERATIONS:**

1. The Ames Acquisition Division should emphasize getting physically complete contracts and grants to the Agency closeout contractor in a more timely fashion to initiate the closeout process and eventually free up obligated dollars for other efforts.
2. The Ames Acquisition Division should validate reports for unliquidated obligations.

### **7. Award Fee and Incentive Fee Administration**

The survey team reviewed contract files for compliance with FAR 16.4 and NFS 1816.405. The team reviewed pre- and post-award documentation with a focus on award/incentive fee administration actions that were executed since the last Procurement Management Survey in June 2005.

Many files that were reviewed lacked complete documentation and did not include performance evaluation plans addressing technical, cost, schedule, and appropriate risk management considerations as required by the NFS. Pre-award contract files did not contain documentation required by the NFS concerning the selection of award fee contracts, including cost benefit analyses that identify all administrative costs (including the costs of all personnel assigned to the Performance Evaluation Board (PEB), procurement personnel, and other staff as appropriate). Award fee evaluations present in the files generally followed their corresponding award fee plans and provided an analysis of the evaluation for each award fee period. Most plans provided for a mid-point assessment of the contractors' performance to maintain effective communication on contract performance issues; however, this provision was not consistently followed in the administrative phase of the contracts. As a result, it was unclear whether performance feedback was being provided to the contractor in a consistent and meaningful way. Some files did not include records of PEB deliberations.

The NFS requires that the Fee Determination Official's (FDO) rating for both interim and final evaluations be provided to the contractor within 45 days of the end of the period being evaluated and that any fee payments are made not later than 60 days after the end of the period being evaluated. Most of the performance evaluation periods reviewed went beyond the 45-day period ranging from several weeks to several months late.

## **CONSIDERATION:**

The Ames Acquisition Division should work with its technical customers and PEB members to ensure that award fee evaluation criteria are selective, specific, and relevant to desired outcomes and to resist "grade creep" from one award fee period to another.

## **WEAKNESSES:**

1. The Ames Acquisition Division must ensure that all pre-award contract files contain documentation required by NFS concerning the determination to use an award fee contract type.

2. The Ames Acquisition Division must ensure FDO decisions are issued no later than 45 days after an evaluation period completion, and that all fee documentation is maintained up to date in the official contract file.

## **8. Contract Administration and Surveillance**

The survey team reviewed a sample of supplies, services, and research and development contracts for inclusion of the appropriate FAR 52.246 inspection clause. The appropriate inspection clause was included in the contracts reviewed.

The survey team reviewed contract files for evidence of acceptance of nonconforming goods and services. The survey team found minimal evidence of nonconforming goods documented in the contract files. The team reviewed one case in a contract file where the nonconformance clause was applied. The nonconformance was documented and addressed in a nonconformance report. The survey team found no evidence of equitable adjustment documented in the contract files as defined by FAR 46-407(f).

The survey team concludes from a review of contract files that the Ames Acquisition Division may perceive a nonconformance is applicable to supplies only. It is possible that acquisition personnel collect nonconformance data related to services but that it is not included in the contract file.

FAR 37.604, "Quality Assurance Surveillance Plans (QASPs)," and FAR 46.4, "Government Contract Quality Assurance," require QASPs to be developed in conjunction with Statements of Work. A previous assessment at Ames by the Inspector General identified a weakness in the development of QASPs for service contracts. NASA Procurement Information Circular 02-17 identified the types of contracts requiring a QASP, performance based contracts, service contracts, and other types of work. A previous Headquarters Procurement Management Survey identified a lack of Quality Assurance Surveillance Plans as a weakness. The weakness identified was in the use of a QASP for delivery orders and task orders under IDIQ/Time and Material type contracts.

Interviews and objective evidence indicate that the Ames Acquisition Division was in the process of developing an acquisition regulation in 2004 on the subject of QASPs. The activity to develop this regulation was suspended without being completed.

The lack of QASPs remains a weakness. QASPs are not prepared for most contracts. One file contained a QASP created in September 2007. This could serve as a template for generating surveillance plans on other contracts.

The survey team reviewed contract files for documentation of post-award conferences in accordance with FAR 42.5. The review of contract files found consistent documentation of a post-award conference in the contract files as required by FAR 42.5, "Post-award Orientation," and NFS 1842.503, "Post-award Conferences."

For those contracts with no post-award conference documentation in contract files, the contracts did not meet the criteria/threshold for a post-award conference.

**STRENGTHS:**

1. Ames acquisition personnel are properly using FAR 52.246 inspection clauses in all acquisitions. The team also noticed on one contract, the contracting officer included NFS 1852.246-71, "Government Contract Quality Assurance Functions." The purpose is to identify the quality assurance location and function. The review team considers this action taken by the contracting officer a "best practice."
2. The Ames Acquisition Division post-award orientation conferences are consistently documented in the contract file.

**CONSIDERATIONS:**

1. The Ames Acquisition Division should increase the awareness of the need to collect evidence of nonconformance during contract performance and maintain the data in the contract file.
2. The Ames Acquisition Division should renew the effort from 2004 to increase the awareness on the part of the COTR for developing and using the QASP tool to mitigate risk and monitor and manage contract performance.
3. The Ames Acquisition Division should consider the Johnson Space Center Procurement Instruction 52.246-93, "Quality Assurance Surveillance Plan (QASP)," in providing direction to the Contracting Officer Technical Representative for the development and implementation of a surveillance plan.

**WEAKNESS:**

The Ames Acquisition Division must ensure that contracting officers require the development and use of QASPs in compliance with FAR 37.604.

**9. Exercise of Options**

The survey team reviewed contract files for compliance with FAR 17.207 and NFS 1817.207-70. The review focused on the presence of required option exercise determinations and evidence of Ames implementation of improvements since the prior survey. Ames consistently met the option exercise determination requirement of FAR 17.207 and NFS 1817.207-70. This was facilitated by a template letter sent to the COTR or other technical authority addressing FAR and NFS requirements to which the technical authority was requested to provide a response.

Determinations and Findings (D&Fs) providing the rationale and justification for exercising the option met content requirements; however, in some cases they were undated. The survey team was unable to determine if the proper analysis was done and determination made before written notification was provided to the contractor as required by the FAR. The contract file should

clearly document that early planning and analysis was performed to determine whether the option continued to fulfill programmatic needs and that the determination was executed before the option (written notice) was exercised.

Preliminary notifications were not consistently provided to contractors prior to exercising options. In several cases, options were exercised outside the terms stated in the option clause. In one case, a properly executed bi-lateral modification was issued, in another, an “early” unilateral modification was issued without providing the preliminary notice. Some of the files did not include the justification required for inclusion of options, nor was the designated block checked on form 1098. This, in conjunction with discussions with Ames contracting personnel, indicated that Ames was not aware that the justification was required. In one case, an option item was exercised at time of award without the inclusion of the proper clause in the solicitation (i.e., 52.217-5 was used instead of 52.217-4).

### **CONSIDERATION:**

The Ames Acquisition Division should ensure that D&Fs as well as other documents supporting the exercise of an option are dated to clearly demonstrate that planning was done in advance. Also, the determination should be made prior to providing written notice to the contractor of the Government’s intent to exercise the option.

### **WEAKNESSES:**

1. The Ames Acquisition Division did not consistently exercise options within the terms of the option clause primarily by unilaterally exercising an option without providing preliminary notification to the contractor. Ames must insure that it abides by the terms specified in the option clause, or in rare instances when the option must be exercised outside the terms of the option clause, Ames must obtain bi-lateral agreement from the contractor.
2. The Ames Acquisition Division did not consistently execute the D&Fs required by the FAR for inclusion of options. Ames must ensure that the D&Fs are executed for solicitations and resultant contracts that contemplate the inclusion of options.

## **10. Interagency Agreements**

The survey team reviewed nine interagency agreement files for compliance with FAR Subpart 17.5, “Interagency Acquisitions Under the Economy Act,” and NFS Subpart 1817.70, “Interagency Acquisitions.”

All of the agreements were executed using the NF-523; all cited the Space Act as the authority; and all had statements of work, deliverables, delivery schedules, periods of performance, fund citations, invoice procedures, acceptance provisions, and other necessary supporting documentation. However, not all of the agreements covered all of the items required by the FAR and NFS. Items missing in various agreements included a procedure for resolution of disagreements between the parties; a payment provision to submit a final invoice within six



months after the work is completed; data rights, when applicable; a property clause; and identification of the technical representative's roles, responsibilities, and limitations.

There was confusion in some agreements as to the difference between the amount of the agreement and the amount of funding. In one agreement, the estimated total price reflected the total funding amount for the first year, even though the order was written for a longer term and the proposal reflected a higher total estimated price. Another agreement revised the amount of the order each time funding was added but only reflected the new funding amount rather than a cumulative amount.

All of the files contained the required Determination and Findings. Most were based on the D&F template in the VPO which contains most of the required information. The D&F template is partially a checklist. One file contained a proposal from a civilian agency with a civil service member as the Principal Investigator. The proposal did not mention contractor support but the D&F block was checked stating that the servicing agency had the capability or expertise to enter into a contract for the required services.

Two of the agreements were with the U.S. Air Force which has an existing contract with its Federally Funded Research and Development Center (FFRDC), MIT/Lincoln Labs. One file correctly stated that the work would be done under an existing contract of the servicing agency, while the other one stated that the servicing agency had the capabilities or expertise to enter into a contract for the required services. These apparent mistakes made it appear that there was confusion as to which blocks to check on the D&F.

Some D&Fs stated that the agreements were non-competitive follow-ons for the same services but gave no history as to how long the services had been acquired. Deviation approval from Headquarters is required for continuing periods greater than 5 years, but without the history the total period could not be determined.

None of the D&Fs had been reviewed by the Office of the Chief Counsel (OCC) as required by NFS 1817.7002(g) and 1801.770. It was also noted that one of the agreements was valued at greater than \$1 million, which requires review by the OCC in accordance with the Ames Review Policy, but no OCC review was evident in the file.

#### **CONSIDERATIONS:**

1. The Ames Acquisition Division should consider developing some guidance for interagency acquisitions. Goddard has existing guidance at <http://code210.gsfc.nasa.gov/library/flashes/PC99-3.html> which could be useful.
2. The Headquarters Office of Procurement should update the D&F template in VPO with a note to discuss the history of the effort if the new agreement is a non-competitive follow-on for the same services.

## **WEAKNESSES:**

1. The Ames Acquisition Division must comply with the FAR and NFS requirements for interagency acquisitions regarding information to be included in the agreements. Development of a standardized template may be beneficial to ensuring all correct and appropriate information is included. **(REPEAT FINDING)**
2. The Ames Acquisition Division must ensure that all D&Fs are reviewed by the Office of Chief Counsel in accordance with the NFS.

### **11. Contracts for Administrative and Clerical Support**

The Ames Acquisition Division has one contract for business operations and technical services. The survey team reviewed this file for compliance with FAR Part 37 regarding personal/non-personal services and FAR 7.503 regarding inherently governmental functions. In addition, the survey team conducted interviews with the contracting officer and COTR to determine if there is a clear distinction between Government and contractor personnel and to determine what measures have been taken to avoid the perception of personal services contracting.

The Ames Acquisition Division awarded the Business Operations and Technical Services (BOATS) contract in 2003. The services provided by Planners Collaborative, Inc., are a continuation of support services provided under a predecessor contract. The BOATS contract is nearing completion, and the Ames Acquisition Division is considering combining this effort with logistic services, which is currently under a separate contract.

Many individual contractor employees on BOATS have supported Ames for many years, moving to employment with the successful offeror when an incumbent is unseated. Planners Collaborative, Inc., employees have had numerous briefings on the distinctions between their positions and civil service positions and on the limitations and prohibitions of their activities.

Planners Collaborative, Inc., has on-site management which provides advice and instruction. Contractor employees do not take direction from Ames civil service personnel. The COTR, in accordance with the terms of the contract and her delegation, is responsible for coordinating with the user offices to determine the business operations and technical services support needs. All those involved in contract performance and management understand the reasons for the clear distinction between contractor and civil service personnel and demonstrate diligent contract management.

The contracting officer, at time of contract award, determined that the contract was for non-personal services. Additionally, the contracting officer provided a listing of measures that should be taken to avoid the perception of personal services in an attachment to the COTR delegation.

The BOATS contract contains a surveillance plan, which delineates performance standards via the Performance Requirements Summary that are tied to each Work Breakdown Structure section of the Statement of Work (SOW). The SOW describes the required results in clear, specific, and

objective terms with measurable outcomes. The contractor is required to maintain adequate records to demonstrate performance against the standards and to demonstrate historical trends. In addition, the SOW was written to avoid contractor performance of inherently governmental functions. Based on comments received, no major problems have been realized and the contractor's performance has been excellent.

## **CONSIDERATION:**

The Ames Acquisition Division should consider requiring the issuance of the COTR delegation attachment at time of contract award, after some revision to include a discussion of personal services issues, proper identification of contractor support service personnel, inherently governmental functions, access to information, and ordering supplies or services, for all on-site contracts providing services as guidance to the COTRs, technical representatives, and contractors.

## **12. Subcontract Consent**

The survey team reviewed eight contracts for conformity to subcontract consent requirements, ranging in size from one million to several hundreds of million dollars in value, and in complexity from logistics management to a University Affiliated Research Contract to and a science instrument.

Of the files reviewed, all but one included the Subcontracts (52.244-2) and Competition in Subcontracting (52.244-5) clauses as required by FAR 44.204. Of these only two showed evidence of subcontract consent reviews. These two files contained a Subcontract Consent Checklist based on FAR 44.202-2 and the associated VPO template.

Except for the UARC contract, it was not clear from the files how the particular subcontracts were selected and designated for review, whether by special surveillance in accordance with FAR 42.202(f) and 52.244-2(d) or by another method. Consistent with other Centers, operational procedures are not clear within the Ames Acquisition Division. The process is confusing because of overlap of FAR 42.2, "Contract Administration Services," FAR Part 44, "Subcontracting Policies and Procedures," FAR Subpart 19.7, "The Small Business Subcontracting Program," and related NFS coverage. FAR 42.302(a)(51) requires that consent "normally" be delegated to a Contract Administration Office (CAO), and FAR 44.202-1(a) provides for assistance by the CAO even when consent authority is retained. NFS 1844.202-1 requires subcontract consent to be retained by NASA, but no FAR deviation explains this policy. The rationale is left to individual conjecture.

The considerations used by NASA for consent to subcontracts are the same as those listed in FAR (44.202-2). Although subcontract consent authority is retained even when CAO authority is delegated, other aspects of administration of subcontracts including those applying to engineering and management surveillance and socioeconomic programs might be delegated to the CAO. NASA guidance is further complicated by DCMA and ONR's role as the lead for performing contractors' purchasing systems reviews (FAR 42.302(a)(53)), which are the

foundations for consent decision-making, and by the Special Surveillance procedures, FAR 44.202(f) and 44.201-1(a).

**CONSIDERATION:**

The Headquarters Office of Procurement should clarify NASA subcontract management guidance with respect to the post-award responsibilities of NASA contracting officials, Center small business representatives, the COTR, and DCMA/ONR. At a minimum, Center contracting officials should be given a clear understanding of their roles in subcontract management and file documentation based on underlying FAR and NFS policy.

**WEAKNESS:**

The Ames Acquisition Division should ensure that the clauses, Subcontracts (FAR 52.244-2) and Competition in Subcontracting (FAR 52.244-5) are included in all required contracts and that subcontract consent reviews are, in fact, performed during contract administration in accordance with the former clause.

## SECTION V

# PRICING/FINANCIAL/AUDITS

### 1. DCAA Audit Follow-Up

The survey team reviewed the Ames Acquisition Division's processes, procedures, and data supporting DCAA audit follow-up. The survey team interviewed the Audit Liaison Representative (ALR), the cognizant contracting officer, and the contracting officer involved in the purchase card Office of Inspector General (OIG) and General Accounting Office (GAO) audits. We reviewed audit follow-up actions for compliance with NFS 1842.7301. Follow-up on DCAA reportable audits is being effectively managed by the Ames Acquisition Division. The cognizant contracting officer indicated that the CO, the ALR, and DCAA work well together and are responsive to outstanding audit follow-up issues. DCAA audits are tracked through the online Contract Audit Tracking System II (CATS II). Use of CATS II to track audits is consistent with the Ames 2005 survey consideration. Each DCAA audit is entered into CATS II with a target resolution and target disposition date. The system is updated quarterly. Ames issued Acquisition Alert 08-03, "DCAA Reportable Audits," dated December 21, 2007, which clearly outlines the audit follow-up process and lists the ALR as the focal point of contact.

The survey team reviewed the most recent Ames audit follow-up actions contained in CATS II. The status report showed two reportable audit follow-up actions, both delegated to DCAA. The actions involve questioned costs associated with contract terminations. The audit reports were received February 28, 2007, and March 16, 2007, respectively, with questioned costs amounting to \$288,000 and \$1.04 million. Each has a target resolution date of March 31, 2008, and target disposition date of April 15, 2008. Both actions exceeded the NFS and Acquisition Alert 08-03 objective of resolving audit recommendations within six months. The ALR stated that the complexities of the actions have resulted in longer periods to resolve the audit recommendations. The cognizant contracting officer indicated that he expected both actions to be resolved by March 31, 2008.

The survey team discussed follow-up of OIG and GAO audits with the ALR, cognizant contracting officer, and a contracting officer that responded to OIG and GAO purchase card audit inquiries. These discussions revealed no outstanding OIG or GAO audit reports or unresolved actions resulting from such reports. The contracting officer confirmed that all recommendations related to the purchase card audit conducted over a year ago were resolved and that the disposition of recommendations was complete.

### 2. Financial Management Reporting – NF-533s

The survey team reviewed a sample of contract files for compliance with NFS Subpart 1842.72, "NASA Contractor Financial Management Reporting." All of the contracts reviewed met the contract type and dollar thresholds requiring financial management reporting. All but one of the contracts included NFS clause 1852.242-73 requiring NASA Financial Management Reporting. The clause requires that the detailed reporting categories to be used shall be set forth in the

contract as well as the number of copies and time and manner of submission. All of the contracts, including the one missing the clause, contained data requirements descriptions that covered the required information.

NFS 1842.7201(a)(1) requires contracting officers to monitor contractor cost reports on a regular basis to ensure cost data reported is accurate and timely and to pursue adverse trends and discrepancies discovered in cost reports through discussions with financial and project team members. Although not all of the files were documented, it was apparent from interviews with the contracting officers that they were aware of and were diligent about complying with the NFS requirements to review and/or analyze the reports and that they worked closely with their financial and project team members when issues arose. Documentation ranged from an “adequacy checklist,” to a monthly log, to financial spreadsheets.

Ames Acquisition Business and Operations Branch (JAB) previously had excellent guidance regarding reviews of NF-533 reports in its JAB Snowflake Advisory Number 02-07, but that guidance has ceased to exist.

#### **CONSIDERATIONS:**

1. The Ames Acquisition Division should consider using a standard checklist/form that all contracting officers can use to document the review of the NF-533s. The checklist/form could provide 533 due dates and received dates, verification that the 533 was checked for accuracy, notation of any irregularities or discrepancies found, notation of any follow-up actions that were taken, and a signature block for the contracting officer.
2. The Ames Acquisition Division should consider re-issuing its financial management reporting analysis guidance and including it in its Acquisition Guidance Reference Library. In addition, the VPO contains a Glenn Research Center NF-533 analysis guide which would be beneficial to use. Both of these could be used to develop a standard template for contracting officers to use to document their monthly review/analysis.

#### **3. Cost/Price Analysis and NF-634 Structured Fee Approach/Fee Objective**

The survey team reviewed contract and task order files for cost/price analyses and NF-634 Structured Fee Approach in accordance with NFS 1815.404-4 and 1815.404-470. The team reviewed competitive and non-competitive fixed price and cost reimbursement types of contracts. The majority of files had limited or missing documentation of cost/price reasonableness, allocability, and allowability. Files that contained analysis did not adequately justify the price of the goods or services procured. Many task orders reviewed did not include evidence of contracting officer/specialist evaluation.

Contract files were reviewed for the appropriate usage and implementation of the NF-634 Structured Approach Profit/Fee Objective. Only one file had the NF-634 included; however, there was no corresponding rationale to explain the profit/fee objectives.

**CONSIDERATION:**

The Ames Acquisition Division should ensure that all files contain a determination of price reasonableness.

**WEAKNESS:**

The Ames Acquisition Division must ensure that files contain a Structured Fee Approach (NF-634) and a corresponding rationale to explain the profit/fee objectives.

**4. Technical Evaluations**

The survey team reviewed a variety of contracting actions. Although, most files did contain a technical evaluation, many evaluations consisted of six (or fewer) questions with yes or no responses. The technical reviews generally did not provide an adequate evaluation of the proposals and lacked adequate detail for comparing the merits of the proposals.

**WEAKNESS:**

The Ames Acquisition Division should ensure that technical evaluations adequately assess the strengths and weaknesses of proposals.

## SECTION VI

# GRANTS, COOPERATIVE AGREEMENTS, SIMPLIFIED ACQUISITIONS, AND OTHER ISSUES

### 1. Grants and Cooperative Agreements

The survey team reviewed grants files for compliance with the Grant and Cooperative Agreement Handbook (NPG 5800.1) and the documentation requirements posted on the Ames Acquisition Division intranet site. The award and administration of new grants and cooperative agreements transitioned to the NSSC effective October 1, 2006.

The Ames Acquisition Division retains responsibility for the administration of approximately 250 grants and cooperative agreements awarded prior to the NSSC transition. The Ames Acquisition Division also retains the authority to award grants to the Astrobiology Institute and the Universities Space Research Association, which is consistent with the NSSC Grant and Cooperative Agreement Service Delivery Guide, Appendix VI, Rev. B.

Since the 2005 Procurement Management Survey, the Ames Acquisition Division has maintained its civil service grants workforce of three. However, due to the reduced award volume, the number of support contractor staff in this area has been reduced from three to one. The current civil service personnel have not yet begun formal cross-training within the division to prepare for what will ultimately be an almost complete loss of grants work over the next few years. To date, there does not appear to be a clear, coordinated succession plan in place for the staff members that will be displaced by this change.

Files reviewed included training grants, earmarks, and grants awarded as the result of NASA Research Announcements (NRAs). All files contained technical evaluations, although many lacked detailed analysis of proposed costs/price. Additionally, each file reviewed included the form entitled, "Required Publications And Reports" as part of the award documentation. This form identifies deliverables with due dates. The timely tracking of required deliverables has improved significantly since the last Procurement Management Survey in 2005; however, the grants office should continue to emphasize grantee accountability by enforcing deliverable requirements more consistently and in a more timely manner.

### CONSIDERATIONS:

1. The Ames Acquisition Division should ensure that the rationale for supplements is clearly identified. Most post-award grant changes fall within three distinct but related areas: period of performance, estimated value, and allotted funding. Consistently providing updates to each of these data fields with each transaction will reduce confusion in administering grants.



2. The Headquarters Office of Procurement should update the Grant and Cooperative Agreement Handbook (NPG 5800.1) by updating the following areas:
  - Section 1260.3, “Definitions,” does not include a definition of the term supplement. Supplement is the term used on the NASA Grant and Cooperative Agreement form (NF-1687), box 2, and is the process by which changes are made post-award.
  - Exhibit B should reflect the most recent NASA Grant and Cooperative Agreement form NF-1687, in order to be consistent with Contracts Management Module (CMM).
3. Ames Acquisition Division Policy Number 02, “Ames Review Procedures,” paragraph 5.5 states, “Form JA 022, Coordination/Approval Document, shall be used as the official record of approval unless there is a designated format for the particular action.” This form was not present in any grant files reviewed. The grants staff asserts that this requirement is not applicable to their work within the division; however, there is no written exception to the policy.

#### **WEAKNESS:**

The Ames Acquisition Division must ensure that all grants and supplements are awarded in a manner consistent with NASA Agency standards. This includes working within the Contracts Management Module for processing actions versus using external templates. Grants and supplements should use the most recent NASA Form 1687 version (currently Aug 2006) to generate awards and supplements rather than using local or obsolete versions.

## **2. Simplified Acquisitions and Commercial Item Procurements**

The survey team reviewed purchase order and contract files for compliance with FAR 12 and 13 for simplified acquisition and the acquisition of commercial items. The dollar values of the contracts ranged from \$32,000 to \$1.3 million. Solicitation procedures included requests for quotation, orders under Blanket Purchase Agreements (BPAs), GSA schedules, sealed bidding, and negotiated acquisition. Most of the contracts reviewed were firm fixed price with one time and materials order under a GSA schedule.

In general, the files reviewed were well documented and contained the appropriate clauses. Most of the files reviewed employed competitive procedures. A Justification for Other than Full and Open Competition (JOFOC) or basis to solicit a single source was contained in files where competition was not obtained. Most were synopsized through the NASA Acquisition Internet System (NAIS) portal, and where applicable, inquiries addressed. Several of the files reviewed contained extensive market research. Others contained a checklist JA 029, “File Documentation for All Orders over \$2,500,” that identified the date and number of offerors contacted. Most of the files reviewed contained an abstract of quotes listing pertinent information about the offerors and their proposed prices. Several files were missing determinations of price reasonableness. Time pressure was evident in several files. In one file, an RFQ was open for one week. In

another, a JOFOC for a training course cited Urgency as the basis to solicit a single source for a course required five months in the future. Several files contained extensive documentation, including e-mail traffic and detailed “notes to file.”

Ames Procurement Notice 08, Rev 03, requires Ames Form 796, “Certification for Special Approvers for SAP Purchase Request,” to be completed by each requisitioner. The requisitioner certifies that certain program/projects, information technology, environmental, and other required approvals have been obtained prior to initiation of the purchase request. Most of the files reviewed did not contain the Ames Form 796 or otherwise evidence review for environmental, IT, or NPR 7120.5 applicability. Several of the commercial contract files reviewed were not coded as commercial on the Federal Procurement Data System (FPDS) reports. None of the files reviewed contained documentation discussing the commerciality or non-commerciality determination.

### **CONSIDERATION:**

The Ames Acquisition Division should periodically review Simplified Acquisition and Commercial Item contract files for consistent documentation and accurate reporting.

### **3. Purchase Card Program**

The survey team reviewed the purchase card (P-Card) program at the Ames Acquisition Division for adequacy of internal controls, training, card holder numbers, monthly reconciliations, delegations, violations, and individual card holders’ limits. In general, the micro-purchase procedures at the Ames Acquisition Division are followed. The division performed an internal audit on P-Card holders in June 2007 and is working with the user community to address action items and areas of concern that resulted from the findings.

There are 317 card holders at the Center, a reduction of 42 from the last Ames Procurement Management Survey in 2005. The Center Agency Program Coordinator (CAPC) is responsible for the management of the P-Card program. There is minimal contractor support. As a result of the limited P-Card administration staff, the CAPC is often required to work several hours of overtime each week in order to prevent a backlog of work from accruing.

Each card holder is required to complete Agency-wide training via SATERN and receive a certificate online. If P-Card candidates prefer in person training, the CAPC provides sessions in a laboratory-style environment. Approving officials and their alternates must also complete the required training certification before approving any transactions. The Ames CAPC has recently implemented a policy whereby no new cards will be issued without an alternate approval official. This change mitigates timeliness issues with end of the month reconciliations and helps ensure that all bills are paid in accordance with the Prompt Payment Act.

The Procurement Officer’s signature is on each delegation letter, which identifies the limits of the authority and the approving official and alternate approving officials’ names. The designation letter summarizes all necessary training requirements and the dates when refresher training will next be required. The printed training certificate is maintained on file along with

the Acquisition Division delegation of authority letter. All card holders must take refresher training every three years. The CAPC offers supplemental training to card holders every three to six months to provide regulation updates.

Nine buyers from the technical community hold limited warrants. Prior to receiving their warrants, the Ames Acquisition Division required these technical buyers to perform a 12-month detail within the Acquisition Division in addition to taking required SATERN training. In addition, some technical buyer delegation files contained Memoranda of Understanding between the technical organizations and the Acquisition Division, which further detail expectations regarding these specific users.

Budgetary limits have been placed on each individual P-Card user's account. There are both single purchase limits and cumulative monthly limits. These restrictions are delineated on the delegation letter provided when the card is issued. The survey team found no violations of the single purchase limits, individual monthly purchase limits, or the monthly office limits since the last Procurement Management Survey.

The Ames Acquisition Division maintains a web site for the purchase card program, which provides NASA policy, Ames-specific guidance, training materials, and information related to the program. The web site is dynamic and is consistently maintained up to date. It includes a list of prohibited or restricted items specific to each NASA Center. To date, there have been no issues with Ames P-Card users purchasing prohibited or restricted items.

The NASA P-Card system generates automatic emails to card holders and approval officials with each transaction. On a monthly basis, the credit card vendor (currently Bank of America), sends an Agency activity report to the NASA IEM Competency Center. The Competency Center then sorts the usage data by Center and sends an email notification to the CAPC, providing notice of when the Center's transactions have been uploaded to iView, the IEM Competency Center web site. The CAPC then downloads the Ames-specific data into the P-Card software. Reconciliation and approval occurs within the P-Card solution module of the P-Card system on a monthly basis. Records are grouped by month in files and maintained by the CAPC for approved transactions for three years.

The CAPC is responsible for reviewing activity levels and canceling cards for inactive users. The NASA IEM Competency Center sends the CAPC an annual listing of infrequent P-Card users. The CAPC works from that list to assess whether circumstances warrant terminating the user's card. The CAPC is also included on the list of Ames "check-out" points of contact, which provides an automatic email notice when the card holder is leaving employment at the Center. In addition, the CAPC tracks when P-Card holders change job positions at the Center and performs an assessment at that time as to whether there is a continued user need for the card. Cancelled cards are turned into the Ames Acquisition Division and account close-out paperwork is signed by both the user and the CAPC.

## **STRENGTHS:**

1. The Ames Acquisition Division is commended for proactively citing specific mandatory refresher training dates for all card holders and Approving Officials upon issuance of P-Cards.
2. The Ames Acquisition Division developed and maintains in the delegation file a checklist to ensure all required documentation (including certificates of training) are in place prior to signature of the Procurement Officer on the designation letter.  
**(AGENCY BEST PRACTICE)**

## **CONSIDERATION:**

The Ames Acquisition Division should consider appointing an alternate Center Agency Program Coordinator to support the purchase card program during the absence or unavailability of the CAPC.

## **4. Construction and Architect Engineering Service Contracts**

### ***Construction***

The survey team reviewed six Ames IDIQ construction contracts and several stand-alone construction contracts for specific projects. All files reviewed contained the appropriate clauses with the exception that a few of the files contained provisions in Section K that should not have been used according to the FAR because the solicitation included FAR Clause 52.204-7, "Central Contractor Registration." These files did not include justification for the inclusion of the provisions. One file did not contain a Government estimate and another file had a Government estimate that was 30 percent higher than the lowest offer that was submitted, but there was no documentation on the adequacy of the Government estimate. Several files did not evidence a Supply and Equipment Management Officer (SEMO) review as required by NFS 1845.102-71(b). One modification file did not contain a Price Negotiation Memorandum by the contracting officer, and two modifications did not contain a technical evaluation of the contractor's proposal.

All files reviewed complied with bonding and insurance requirements and contained preconstruction conference information including extensive checklists and sample forms for contractor use. The contracts provided for liquidated damages and in most contract files there was documentation of the basis and necessity for using liquidated damages. A few of the files did not have approved safety plans before the contracting officer issued a notice to proceed to the contractors.

None of the requests for progress payments contained all of the information required by FAR 52.232-5. Specifically, the requests for progress payments did not include a listing of the amount included for work performed by each subcontractor under the contract, a listing of the total amount of each subcontract under the contract, or a listing of the amounts previously paid to each subcontractor under the contract. In addition, contracting officers have delegated the

responsibility for reviewing weekly payroll submittals required by FAR 22.406-6(c) to COTRs. COTRs interviewed stated that they review the weekly payrolls; however, none of the files contained evidence of the weekly payroll review. In addition, the weekly payrolls do not consistently contain the weekly payroll statements of compliance. The survey team found no evidence in the files that regular compliance checks are being conducted at the worksites. These checks should include employee interviews to determine rates of pay, hours worked, number and classification of workers, etc. These compliance checks are required by FAR 22.406-7.

#### **CONSIDERATIONS:**

1. The Ames Acquisition Division should ensure that contractors submit the information required by FAR 22.406-6 to include the weekly payroll statements of compliance. In addition, the contract file should contain evidence of the review of the weekly payroll submittals.
2. The Ames Acquisition Division should ensure that evidence of regular compliance checks conducted at the worksite is documented in the contract file in accordance with FAR 22.406-7.
3. The Ames Acquisition Division should consider modifying the construction contracts with an attachment for progress payments that includes all the information required by the FAR.

#### **WEAKNESSES:**

1. The Ames Acquisition Division must ensure that contracting officers obtain Government approval of safety and health plans prior to commencement of work. **(REPEAT FINDING)**
2. The Ames Acquisition Division must ensure that requests for progress payments for construction contracts are in compliance with FAR 52.232-5. Requests for progress payments that are not compliant should not be accepted. The Ames self-assessment report dated February 29, 2008, has identified this as an issue. **(REPEAT FINDING)**

#### ***Architect and Engineer Contracting***

The survey team reviewed an IDIQ contract for Architect and Engineering (A&E) services that has a one-year base period with four one-year option periods. All A&E services at Ames are awarded under this contract. FAR Part 36 requires the Government to negotiate contracts for A&E services based on the demonstrated competence and qualifications of prospective contractors to perform the services at fair and reasonable prices. Agencies are required to evaluate each potential contractor in accordance with the selection criteria at FAR 36.602-1. No Source Selection documentation was provided to enable the survey team to determine if the procedures in FAR 36.602 and 36.603 were followed in the selection of the A&E contractor. In addition, the survey team was unable to ascertain this information through interviews with procurement personnel.

The A&E solicitation and contract contained the appropriate provisions and clauses with the exception that it included multiple Cost Accounting Standards (CAS) provisions and clauses even though this effort is a firm fixed price contract that is exempt from CAS. The file included a Price Negotiation Memoranda (PNM) that documented negotiated labor and overhead rates for the term of the contract. The PNM stated that a certificate of current cost or pricing data had been obtained from the contractor. However, the file did not contain a certificate of current cost or pricing data that followed the required format in FAR 15.406-2. In addition, according to FAR 15.407-3(c), contracting officers shall not require certification at the time of agreement for data supplied in support of a forward pricing rate agreement or other advance agreement.

All task orders were reviewed and the files did not contain adequate documentation to determine the proposed prices to be fair and reasonable. In most cases, a technical evaluation and a PNM were not included in the files. In addition, many of the files either did not contain a Government estimate or the estimate was not broken down in sufficient detail to permit proper evaluation of proposals. Many task orders did not have certified purchase requests in the file.

In accordance with FAR 15.404-4(c)(4)(i)(B), the contract price or the estimated cost and fee for production and delivery of designs, plans, drawings, and specifications shall not exceed six percent of the estimated cost of construction. All of the task orders contained SOWs; however, some of the SOWs did not ask for an estimate of construction costs to ensure that the negotiated A&E fee was within six percent of the estimated construction cost. In addition, there was no documentation that the design fee limitation was considered in negotiations of the A&E fee. It was also discovered that the COTRs, in many cases, are conducting the negotiations without contracting officer involvement.

#### **CONSIDERATIONS:**

1. The Ames Acquisition Division should ensure that certified purchase requests are included in files with each task order.
2. The Ames Acquisition Division should consider creating a checklist for documentation that needs to be accomplished for A&E task orders.

#### **WEAKNESSES:**

1. The Ames Acquisition Division must ensure that contractors' proposals include an estimated cost for construction along with the proposed cost for A&E services and that the negotiated amount for A&E services does not exceed the six percent design fee limitation set forth in FAR 15.404-4(c)(4)(i)(B).
2. The Ames Acquisition Division must ensure that contracting officers conduct negotiations with the contractor. COTRs may participate in negotiations, but COTRs do not have authority to obligate the Government.
3. The Ames Acquisition Division must ensure that technical evaluations are received from COTRs prior to commencing negotiations and that a PNM is written documenting the contracting officer's determination of a fair and reasonable price.

4. The Ames Acquisition Division shall ensure that a Government cost estimate is obtained for every A&E effort above the simplified acquisition threshold in accordance with FAR 36.605.

## **5. Environmental Issues**

The survey team reviewed seven contracts ranging in size from one million to several hundreds of million dollars in value and in complexity from logistics management to a UARC. Our approach was to ensure that required environmental management clauses are in the contracts; reporting requirements are met; and contracting, environmental, and technical requirements personnel collaborate pursuant to the procedures set out in NASA directives.

Environmental acquisition requirements have been changing significantly because of new legislation and the consolidation of environmental Executive Orders that are the basis for much of FAR and NFS Part 23. Accordingly, the survey team placed emphasis on the requirements for environmental management systems (EMS) support that were established in August 2003, through the clause alternates to FAR 52.223-5, "Pollution Prevention and Right-to-Know Information." This policy requires certain contractors to report data relevant to the Center's priority aspects, impacts, and associated objectives under its EMS.

Ames demonstrates a high awareness of individual responsibility for pollution prevention and disclosure of environmental information. In particular, we observed that office supplies provided to the survey team complied with recycled content requirements of FAR 23.4 and that IT equipment was energy star compliant in accordance with FAR 23.2. This demonstrated compliance with affirmative procurement and environmentally preferable products requirements was reflected in clauses in the contracts reviewed. However, requirements for support of environmental management systems as described above need attention. None of the contracts examined included the new clause alternates as required by FAR 23. Several contracts reviewed should have had the clause and alternates included. The survey team notified cognizant contracting officers of the need to modify these contracts.

### **CONSIDERATION:**

1. The survey team recommends the Ames Acquisition Division work with the Environmental Management Office (EMO) to adopt a standard Data Requirement Description (DRD) for EMS reporting in accordance with FAR 52.223-5 Alternates I and II, and NPR 8553.1, "NASA Environmental Management System."
2. The Ames' EMO committed to provide a standard DRD for the data referenced in the clause alternates.

### **WEAKNESS:**

The Ames Acquisition Division must ensure that the appropriate environmental management system clauses, FAR 52.223-5 alternates I and II, are included in appropriate contracts.

**ATTACHMENT**  
**SMALL BUSINESS PROGRAMS REPORT**



# ATTACHMENT

## SMALL BUSINESS PROGRAMS

### OVERVIEW

#### 1. Scope of Review:

The purpose for the Office of Small Business Programs (OSBP) participation in the Procurement Management Survey is to conduct a detailed review of a NASA field center small business program to ensure that it has adequate processes and that these processes are fully implemented to meet the goals established by NASA and the Ames Research Center (ARC). The review also identifies any issues that may prevent a Center Small Business Specialist from accomplishing their mission. The review consists of interviews, contract file reviews, metric analysis of socio-economic goals, procurement planning, subcontracting, award fees, reporting, outreach, and training programs. The review pays particular attention to the various categories of small businesses (small businesses (SB), small disadvantaged businesses (SDB), woman-owned small businesses (WOSB), veteran (VOSB) and service-disabled veteran-owned small businesses (SDVOSB), Historically Underutilized Business Zone small businesses (HUBZone), and minority serving institutions(MSI).

#### 2. Organizational Structure and Staffing:

The ARC Small Business Office organization is located in the Business & Policy Office. The Small Business Specialist (SBS) is a part time position who reports to the head of that office who in turn reports to the head of the Procurement Office. The current SBS is under the GS 1102 series and has a generic 1102 position description. The office does not have any written standard operating procedures, desk guides, or policy directives to guide the small business program. The office does have processes that seem to be understood by the Office of Procurement, the program personnel, and the SBS. The SBS has a letter of appointment under APD 5000.1 which does delegate the authority of the SBS to perform the duties required by the NFS 1819.201 (d).

ARC is currently sixth largest procurement office based on dollars awarded. The five Centers with greater contract dollar values all have full time SBS and some have multiple SBS. One Center, Glenn Research Center (GRC) has a lower volume of contract dollars and also has a full time SBS. Consideration should be given to make the ARC SBS a full time position.

#### Strategic Small Business Plan:

The ARC Procurement Officer along with his Branch Chiefs and the Small Business Specialist are developing a long range small business strategic plan to identify up front those requirements that can be set aside for small businesses. In addition those requirements that are full and open and require a subcontracting plan will also be identified. Long range strategic planning assists small businesses in preparing for solicitations, developing teaming arrangements and identifying subcontracting opportunities.

### 3. Industry Assistance Priorities:

The Business & Policy Office is charged with implementing and managing all aspects of the Small Business Program, in accordance with the FAR, NFS, and as directed by the Assistant Administrator for NASA's Office of Small Business Programs (OSBP). Programmatic priorities include (1) counseling both large and small firms wanting to do business with ARC and providing advice regarding the importance of teaming relationships; (2) engaging in acquisition planning, analyzing statements of work, and providing guidance on small business participation; (3) participating in a broad range of outreach activities, (4) monitoring periodic progress and annual results of NASA and prime contractors' achievement of negotiated socioeconomic business goals; and (5) providing oversight of prime contractors' subcontracting programs, to ensure compliance.

### 4. Center Prime Contracting Socioeconomic Business Goals:

In FY 2007, ARC achieved only one of five NASA assigned targets and only two of six congressionally mandated targets. ARC awarded 33.78% of their contract dollars to small business exceeding the congressionally mandated goal of 23%. Of particular note, ARC achieved a 2.32% awards to SDVOSB meeting their NASA goal and closing in on the congressionally mandated goal of 3%. In the area of Small Disadvantage Businesses, ARC exceeded the congressionally mandated goal of 5%.

	FY 2006		FY 2007		FY 2008 Thru 29 Feb 2008	
	GOALS	ACTUAL	GOALS	ACTUAL	GOALS	ACTUAL
<b>OBLIGATIONS</b>						
<b>(in \$M)</b>	\$434.9	\$575.6	\$434.9	\$455.0		
<b>SB</b>	\$161	\$205.9	\$161	\$153.7		\$36.4
%	37%	35.7%	37%	33.78%	32.61%	37.99%
<b>SDB</b>	\$57.1	\$43.7	\$57.1	\$36.1		\$11.7
%	23.4	7.6%	23.4%	7.9%	7.99%	12.21%
<b>8(a)</b>	\$45	\$25.5	\$45	\$17.8		N/A
%	10.3%	4.4%	10.3%	3.9%	N/A	N/A
<b>WOSB</b>	\$37	\$27	\$37	\$19.3		\$5.1
%	8.5%	4.7%	8.5%	4.2%	4.83%	5.28%
<b>SDVOSB</b>	\$6.5	\$8.1	\$6.5	\$10.3		\$1.4
%	1.5%	1.4%	1.5%	2.3%	1.61%	1.45%

<b>HUBZone</b>	\$6.5	\$575K	\$6.5	\$1.1		\$1.4
%	1.5%	0.10%	1.5%	.24%	.16%	1.45%

**Table 1: Ames SB Prime Contractor Data**

### 5. Center Subcontractor Socioeconomic Business Goals:

The subcontractor chart tracks the number of contracts that require a subcontracting plan and the extent to which the contractor is achieving the goals set by that plan. Subcontracting plan goals for the most part do not need to be met until the end of the contract performance. However, it become more difficult to achieve the goals over a long period of time once the contractor falls behind. Subcontracting plans are based on a variety of factors and not all subcontracting plans have goals for all categories of small business.

	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b># ISR* Submitted</b>	19	28	23
<b># ISR Goals Required / # ISR Goals Achieved</b>			
<b>SB</b>	17/ 11	28 / 19	23 / 17
%	65%	68%	74%
<b>SDB</b>	16/ 5	23 / 10	21 / 10
%	31%	43%	48%
<b>WOSB</b>	15/ 11	23 / 12	20 / 13
%	73%	52%	65%
<b>VOSB</b>	10/ 5	15 / 9	4 / 1
%	50%	60%	25%
<b>SDVOSB</b>	4 / 4	8 / 4	12 / 6
%	100%	50%	50%
<b>HUBZone</b>	9/ 3	17 / 9	16 / 11
%	33%	53%	69%

**Table 2: SB Subcontracting Data, Based on \* Individual Subcontracting Reports (ISR)**

## **PROGRAM MANAGEMENT**

### **1. Procurement Planning:**

The small business specialist (SBS) is involved in review of acquisition plans for requirements which are considered Master Buy requirements (over \$50K). The Business and Policy Branch will analyze the ARC Acquisition Requirements (AR) for Review Procedures & Acquisition Actions form. The SBS is part of the Acquisition Business and Policy Branch review of this procedural document.

#### ***Uniform Methodology for Determining Small Disadvantaged Business Goals:***

NPD 5000.2A – is used to establish a uniform method for determining the small business goals incorporated into solicitations for full and open competition valued at \$50M or more. The methodology entails review of the solicitation's statement of work to identify areas with subcontracting opportunities; review of the subcontracting history of the contract if the solicitation is for a follow-on requirement and/or review of the subcontracting history of similar contracts; market research to assess the availability of small businesses with the capability to perform the effort in the statement of work requirements; and a determination of the percentage of the effort that can be subcontracted to small businesses. The goals established are incorporated into the solicitation and the awarded contract and are tracked both on a six month and cumulative basis.

The following programs used the NPD 5000.2A methodology were found:

2008 Intelligent Systems Research and Development Support (ISRDS)

2007 None

#### ***Small Business Administration (SBA) Procurement Center Representative (PCR):***

The SBA PCR for ARC is Mr. Paul Chann who works out of the U.S. Small Business Administration Area VI office in San Francisco, CA. The PCR does review all procurement requests over \$100,000 and coordinates his comments with the small business specialist. The turn-around time for coordination is 48-72 hours. The PCR also reviews all subcontracting plans and suggests possible ways to improve the plan with the small business specialist. Any issues are raised to the contracting officer level for resolution during negotiations.

#### ***Center Small Business Technical Advisor:***

ARC assigned Small Business Technical Advisor is Mr. Rysard Pisarki. He also serves at the Deputy Chief of Office in the IPP SBIR Office. Mr. Pisarki is a valuable resource to the small business office and fulfills his duties in accordance with FAR 19.201. He is technically trained and familiar with the supplies and services that ARC procures.

## **2. Subcontracting Plan:**

The subcontracting plans for prime contracts over \$550,000 are sent to the small business specialist (SBS) for review. The SBS uses an SBA checklist to review the plans. Any omissions or problems with the plans are worked until they are approved by the SBS, the PCR and the contracting officer. The SBS keeps a copy of approved subcontracting plans and monitors performance on a bi-annual basis. The plans are reviewed in accordance with FAR 19.704 and 52.219-9. During this PMS, subcontracting plans were reviewed. The typical deficiencies include failure to meet one of the eleven elements required in a subcontracting plan by the FAR. The difficult part of approving any subcontracting plan is setting realistic goals that the prime contractor can meet and yet still attain the agency goals set by SBA.

## **3. Award Fee/Incentive Fee Contracts:**

The SBS does not provide input into award fee determinations. During the PMS, two contracts (NAS2-02090 and NAS-03144) were reviewed concerning the award fee process. Both contracts did not follow the NFS 1816.405-274 award fee evaluation that requires the evaluation weight to be significant up to 15%. In both contracts the small business subcontracting performance was rated in the management portion of the award fee plan and then the weights were less than 10%. In addition, both contracts failed to meet all their goals yet the contractors received the majority of the award fee.

Award fee incentives should be weighted to provide incentives to prime contractors to meet their subcontracting goals. ARC should change the award fee process so that the SBS has input into the award fee determination.

## **4. Set-Asides:**

ARC follows the FAR 19.502 for setting aside procurement for small business. Micro purchases under \$3,000 are not required to be set-aside. Simplified Acquisition Procurements (SAP) \$3,000 to \$100,000 are automatically reserved exclusively for small business concerns. Each procurement over \$100,000 requires a JA 30 Market Survey sheet. The sheet documents the procurement package. The small business specialist in turn provides a set aside recommendation, NAICS code, size standard, contractor source list, and justification if no set-aside is recommended. The JA 30 will also document the fact that a sub-contracting plan may be required.

The small business specialist signs the form and the action is either concurred or not concurred by the contracting officer. It is also then reviewed by a reviewing authority and the SBA PCR. Due to the PCR location, the form is faxed to the PCR who signs it and faxes it back.

### ***Small Business Set-Asides:***

Small business set-asides are used when two or more small businesses possess the capabilities to perform the work required on a contract. During the last two years, ARC awarded a total of 44 contracts as small business set-asides.

<b>Fiscal Year</b>	<b>Competitive SB Set-asides Awarded</b>	<b>Non-comp. SB Set-asides Awarded</b>	<b>SBIRs Awarded</b>	<b>STTRs Awarded</b>	<b>Total Value of SB Set-Asides</b>
2005	15	0	45	3	24.4M
2006	31	1	48	5	39.0M
2007	9	3	62	2	6.4M

***SBA Section 8(a) Program:***

ARC awards contracts to 8(a) firms whenever possible. The 8(a) awards for each of the last two fiscal years are provided in the following table:

**5. Reporting:**

The SBS does a semi-annual review of all Individual Subcontracting Reports (ISR) and reports progress to the OSBP on the Small Business Program Report. In addition, the SBS does one-on-one training with the prime vendors to explain the new eSRS reporting system. The eSRS system does bring challenging problems to the small business specialist but for the most part she is able to over come them.

**OUTREACH**

**1. Programs: Small Business Forum Roundtable**

ARC has established the Ames Contractor Council to assist ARC in providing world-class products and services to their customers that consistently meet or exceed all customer specifications and expectations. The council meets monthly and is chaired by the Deputy Center Director. The council's by-laws are posted on the web and the small business specialist attends each meeting. **(AA OSBP ITEM OF INTEREST)**

ARC has established an annual Small Business Forum and invites small businesses to attend and learn more about the Ames small business program. Mr. Dennis O'Neil currently chairs the forum. **(AA OSBP ITEM OF INTEREST)**

In addition to the Forums, ARC also participated in:

### **Conference**

CA Disabled Veterans Business Alliance – Keeping the Promise 2007 – 6/14/07

3rd Annual National Vets Conference – 6/25 – 6/28/07

Sacramento SB Council Meeting – 7/24/07

MEDWeek Celebration 25th Silver Anniversary – SF – 8/31/07

SBS Council Quarterly Meeting at JPL – 7/9-7/13/07, 11/6-11/8/07, 4/2-4/5/08

Attended SBA PCR training session (Region IX) – 9/18-9/19/07

CA Disabled Veterans Business Alliance – Keeping the Promise 2007 – 6/14/07

### **2. Counseling:**

ARC receives capability briefs from small businesses and provides counseling in return. Due to security on the Center the meeting must be arranged for in advance and a visit request sent to security for access to the base. Two gates must be entered to gain access to the building. The counseling session starts by providing the small business with a counseling package. The small business specialist tries to point out contracting officers and program offices that the small business vendor could contact that require their types of supplies or services.

### **SUMMARY**

In summary, the ARC SBS and the Business & Policy Office has the necessary processes and procedures in place and is effective in meeting the goals of NASA and ARC. Below is a list of the organizations strengths and considerations for future actions.

### **STRENGTHS:**

#### Ames Contractor Council:

ARC has established the Ames Contractor Council to assist ARC in providing world-class products and services to their customers that consistently meet or exceed all customer specifications and expectations. It meets monthly and is chaired by the Deputy Center Director.

#### Small Business Forum:

ARC has established an annual Small Business Forum and invites small businesses to attend and learn more about the Ames small business program.

### Strategic Small Business Plan:

The ARC Procurement Officer along with his Branch Chiefs and the Small Business Specialist are developing a long range small business strategic plan to identify up front those requirements that can be set aside for small businesses

### Multiple Award Construction Contract (MACC):

The MACC contract is a fine example of letting small businesses compete for ARC contracts. The acquisition plan for this multiple award contract identified the need for six contractors that would compete for construction contracts. The acquisition plan set aside one award each for SDB 8(a), SDVOSB and HUBZone companies with the remaining three slots going full and open. After evaluation of all proposals, award was made to a SDVOSB/HUBZone, SDB 8(a), two HUBZone, a generic small business and one large business. Initial indications are that the small businesses are very competitive on the task orders.

## **CONSIDERATIONS:**

### Small Business Specialist Direct Report to Procurement Officer:

Currently the SBS position is a part time position and is located in the Business & Policy Office. The SBS does acquisition policy and contract administration as her other duties. The SBS should report to the Procurement Officer IAW Section 15(k) of the Small Business Act (15 U.S.C. 644(k)). Allowing the SBS to report to the Procurement Officer when performing the duties of a SBS gives the SBS direct access to the Procurement Officer to discuss long range forecasts, small business issues, and policy changes that will improve the Ames small business program. **(AA OSBP ITEM OF INTEREST)**

### Small Business Specialist (SBS) Position Description (PD):

The SBS PD is a generic Contracts Specialist's PD and does not detail the full duties and responsibilities of a small business specialist. The Small Business Specialist letter does include some of the duties but omits Outreach, Training, and the Counselor roles. To be effective, the Ames Small Business Specialist PD should detail all the duties and responsibilities of the position.

### Upgrade the Small Business Specialist to a full time position:

For those NASA Centers with part time small business specialist, Ames has the largest acquisition dollars totaling over \$700 M in FY 2007. With increasing acquisition dollars and actions the workload of a small business specialist also increases. Ames should budget for a full time SBS.



APR 5160.1 Minority Business Enterprise Program Council

Consideration should be given to updating this regulation and making it more inclusive of the changes in the small business program. The regulation should include HUBZone and Service Disabled Veteran Owned small businesses, eliminate the 8% NASA Goal, and spell out the duties of the council.

**NO WEAKNESSES WERE FOUND.**