Summary of Federal OIG Findings and Recommendations Related to Other Transaction Agreements

NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL

March 3, 2023
OIG 23-6-001

AT A GLANCE

Summary of Federal OIG Findings and Recommendations Related to Other Transaction Agreements

Report No. 23-6-001
March 3, 2023

WHY WE CONDUCTED THIS ROUTINE ACTIVITY

The *CHIPS and Science Act of 2022* formally established NSF's Technology, Innovation, and Partnerships (TIP) directorate. It also provided NSF with the authority to use other transaction agreements (OTAs) to carry out the activities of the TIP directorate. OTAs are often used to advance new technologies and for research, development, and demonstration projects. Although OTAs are subject to federal fiscal law, they are not subject to the Uniform Guidance and the Federal Acquisition Regulation, which govern grants, cooperative agreements, and contracts. As such, agencies must develop a rigorous control environment with comprehensive policies, processes, and procedures to ensure proper oversight and accountability over the use of OTAs. We conducted this routine activity to inform NSF of potential risks inherent to OTAs as it develops its own OTA policies and procedures.

RESULTS OF ROUTINE ACTIVITY

We identified and summarized relevant information from 8 reports published by 4 federal OIGs over the past 5 years. These reports identified 19 findings concerning the management of OTAs, which we categorized into 3 key issues:

- Key Issue 1: Agencies obligated funds without complete information and/or documentation.
- Key Issue 2: Agencies did not comply with applicable laws, regulations, or policies during the award period, such as validating that work was completed, cost sharing occurred, or incurred costs were allowable.
- Key Issue 3: Agencies did not properly secure, maintain, track, or report award information.

These issues occurred because agencies did not have proper guidance or policies for overseeing OTA recipients, sufficient training for staff, or adequate systems to retain documents or track data. The findings emphasize the risks of entering into agreements without the proper control environment and the need for a strong control environment throughout the award's life cycle.

Federal OIGs made a total of 39 recommendations to improve agencies' oversight of OTAs in the 8 reports we reviewed, which we summarized in this report.

We provided a draft of this report to NSF management for review on February 7, 2023. NSF indicated that it plans to use this report to help identify and head off potential risks related to the use of OTAs. See Appendix F for NSF's full written response.

FOR FURTHER INFORMATION, CONTACT US AT OIGPUBLICAFFAIRS@NSF.GOV.

National Science Foundation • Office of Inspector General
2415 Eisenhower Avenue, Alexandria, Virginia 22314

MEMORANDUM

DATE: March 3, 2023

TO: Janis Coughlin-Piester
Office Head and Chief Financial Officer
Office of Budget, Finance and Award Management
[redacted]

FROM: Mark Bell
Assistant Inspector General
Office of Audits

SUBJECT: Report No. 23-6-001, *Summary of Federal OIG Findings and Recommendations Related to Other Transaction Agreements*

Attached is the final report on the subject routine activity. This report summarizes findings and recommendations related to other transaction agreements (OTAs) that were identified in federal OIG reports over the past 5 years. We conducted this routine activity to inform NSF of potential risks inherent to OTAs as it develops its own OTA policies and procedures. This report does not contain formal recommendations and as such does not require a written corrective action plan. We have included NSF's response to the draft report as an appendix.

We appreciate the courtesies and assistance NSF staff provided during the engagement. If you have any questions, please contact Ken Lish, Audit Director, 703.292.7100 or oigpublicaffairs@nsf.gov.

cc:
Stephen Willard, Dan Reed, Victor McCrary, Ann Bushmiller, John Veysey, Karen Marrongelle, Teresa Grancorvitz, Christina Sarris, Matt Wilson, Ona Hahs, Karen Santoro, Patrick Breen, Erwin Gianchandani, Graciela Narcho

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Abbreviations

DHS	Department of Homeland Security
DoD	Department of Defense
GAO	Government Accountability Office
HHS	Department of Health and Human Services
NASA	National Aeronautics and Space Administration
OTA	Other Transaction Agreement
The Act	Chips and Science Act of 2022
TIP	Technology, Innovation and Partnerships
USAID	U.S. Agency for International Development

Background

The *CHIPS and Science Act of 2022*[1] (the Act) is a wide-ranging statute intended to bolster semiconductor production in the United States and strengthen the U.S. research enterprise. The Act authorized $81 billion in funding for NSF over a 5-year period; formally established the Technology, Innovation and Partnerships (TIP) directorate; and created several new requirements for NSF related to research security, broadening participation in the research enterprise, and strengthening STEM education. The Act also provided NSF with the authority[2] to use other transaction agreements (OTA) to carry out the activities of the TIP directorate.

OTAs are often used to advance new technologies and for research, development, and demonstration projects. Agencies that receive specific statutory authority may use OTAs. OTAs are subject to federal fiscal law; however, OTAs are not subject to the *Uniform Guidance*[3] and the *Federal Acquisition Regulation*,[4] which govern grants, cooperative agreements, and contracts. As such, agencies must develop a rigorous control environment with comprehensive policies, processes, and procedures to ensure proper oversight and accountability over the use of OTAs.

The objective of this routine activity was to summarize findings and recommendations related to OTAs that had been identified in federal Offices of Inspector General (OIG) reports over the past 5 years. We conducted this routine activity to inform NSF of potential risks inherent to OTAs as it develops its own OTA policies and procedures. See Appendix A for our objective, scope, and methodology.

Results of Routine Activity

We identified and summarized relevant information from 8 reports[5] published by 4 federal OIGs over the past 5 years: Department of Defense (DoD) OIG, Department of Health and Human Services (HHS) OIG, U.S. Agency for International Development (USAID) OIG, and Department of Homeland Security (DHS) OIG. These reports identified 19 findings[6] concerning the management of OTAs and made 39 recommendations[7] to improve oversight of OTAs.

Summary of Federal OIG-Issued Findings about Other Transaction Agreements

We summarized and categorized the findings from the reports we reviewed into three key issues below. The findings emphasize the risks of entering into agreements without the proper control

[1] Public Law 117-167, enacted August 9, 2022.
[2] Public Law 117-167, Title III, Subtitle G, Section 10396.
[3] *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 2 CFR Pt. 200
[4] *Subpart 4.6 – Contract Reporting*
[5] For a complete list of reports, see Appendix B.
[6] For a complete list of findings, see Appendix C.
[7] For a complete list of recommendations, see Appendix D.

environment and the need for a strong control environment throughout the award's life cycle.

Key Issue 1: Agencies obligated funds without complete information and/or documentation.

Specifically, OIGs found agencies:

- selected award recipients with incomplete information or without verifying recipients' eligibility;
- did not adequately document justifications for using OTAs or ensure other transaction authority was appropriately applied;
- did not support recipient selection decisions with adequate documentation;
- obligated current-year funds to cover future-year needs without proper documentation; and
- obligated funds without documenting work requirements.

Key Issue 2: Agencies did not comply with applicable laws, regulations, or policies during the award period, such as validating that work was completed, cost sharing occurred, or incurred costs were allowable.

Specifically, OIGs found agencies:

- did not require agreement officers to validate recipients' work throughout the project;
- did not ensure cost sharing, which is when the recipient pays a portion of the project's costs, when required;
- did not adequately document whether recipients' incurred costs were allowable;
- did not consistently award OTAs when involving consortiums, which allow an agency to communicate in one forum to two or more individuals, companies, or organizations; and
- did not ensure statutory requirements were being met when modifying an OTA.

Key Issue 3: Agencies did not properly secure, maintain, track, or report award information.

Specifically, OIGs found agencies:

- did not properly secure information;
- did not maintain documents showing OTA award amounts were fair and reasonable;
- did not properly track awarded OTAs or account for OTAs and associated dollar amounts; and
- did not report OTA activities to Congress and/or reported inaccurate information to Congress.

This occurred because agencies did not have proper guidance or policies for overseeing OTA recipients, sufficient training for staff, or adequate systems to retain documents or track data. For example, one agency did not designate roles and responsibilities of staff overseeing OTA recipients, and some agencies did not have sufficient guidance or processes necessary to ensure

cost sharing requirements were met, OTAs with consortiums were awarded consistently, or documents were properly reviewed or maintained.

Summary of Federal OIG-Issued Recommendations to Improve Oversight of Other Transaction Agreements

Agencies need robust policies, procedures, and guidance to ensure proper stewardship and oversight of OTAs. Federal OIGs made a total of 39 recommendations[8] to improve agencies' oversight of OTAs in the eight reports we reviewed as part of our routine activity. We have summarized and categorized the recommendations below.

Recommendations Related to Key Issue 1

OIGs recommended agencies:

- Establish standards and documentation requirements for determining when it is appropriate to use an OTA. Competitive bidding procedures should be used to the maximum extent practicable.
- Establish policies and procedures to ensure evaluators document decisions consistently and within appropriately designated systems.
- Train source selection officials on what information can and cannot be considered in the determination process and what documentation is required.
- Develop processes for determining reasonableness of award amounts and/or cost estimates.
- Ensure uniform documentation requirements related to both project execution and costs.

Recommendations Related to Key Issue 2

OIGs recommended agencies:

- Establish policies that outline the agency's authority and what laws and regulations apply.
- Establish roles, responsibilities, and segregation of duties of agency personnel.
- Develop processes and procedures:
    - to assess proposed project modifications or changes in scope;
    - to monitor cost sharing requirements;
    - to evaluate the allowability of costs charged to the award and compliance with other applicable federal requirements;
    - to ensure consistent decision making related to the allowance and negotiation of management fees, including for OTAs awarded to consortium management organizations; and
    - to periodically reassess OTAs to ensure that the agency is continuing to use the appropriate vehicle to accomplish project goals.

[8] For a complete list of recommendations, see Appendix D.

Recommendations Related to Key Issue 3

OIGs recommended agencies:

- Establish processes for initial and ongoing security reviews.
- Develop standards, and train staff about standards, for awarding OTAs and tracking pertinent financial and other data within agency systems.
- Develop policies designed to provide reasonable assurance that the agency adheres to statutory requirements by timely and accurately reporting OTA use annually to Congress.

Agency Response

We provided a draft of this report to NSF management for review on February 7, 2023. NSF indicated that it plans to use this report to help identify and head off potential risks related to the use of OTAs. See Appendix F for NSF's full written response.

Appendix A: Objective, Scope, and Methodology

The objective of this routine activity was to summarize findings and recommendations related to OTAs that had been identified in federal OIG reports over the past 5 years. We conducted this routine activity to inform NSF of potential risks inherent to OTAs as it develops its own OTA policies and procedures.

This report should not be construed as policy development or any other inherently managerial function. We did not perform any management functions or make any management decisions while conducting this review that could call into question OIG independence.

To accomplish our objective, we:

- conducted a search of federal OIG reports on oversight.gov that contained findings related to OTAs;
- identified 14 reports within this search: 8 audit reports that included findings applicable to our review (see Appendix B) and 6 reports that included related information (see Appendix E); and
- summarized and categorized the findings and recommendations from the 8 reports with findings applicable to this review.

We did not contact any of the agencies or OIGs mentioned within this report. All information contained within this report was gathered from the publicly available sources identified in Appendices B through E.

Ken Lish, Director, Contract Grant Audits; Sarah Adams; Billy McCain; Keith Nackerud; Elizabeth Argeris Lewis; Kelly Stefanko, Referencer; and Philip Emswiler, Referencer, made key contributions to this routine activity.

Appendix B: Federal OIG Reports Included in Routine Activity

Agency	Report No.	Issue Date	Report Title
DoD	DODIG-2022-127	9/8/2022	Audit of DoD Other Transactions and the Use of Nontraditional Contractors and Resource Sharing
DoD	DODIG-2022-094	5/11/2022	Management Advisory: Tracking of Follow-On Production Other Transaction Agreements and Tracking and Awarding of Experimental Purpose Other Transactions
DoD	DODIG-2022-073	3/21/2022	Audit of DoD Hotline Allegations Concerning the DoD Ordnance Technology Consortium Award Process
HHS	A-04-20-04078	4/23/2021	The National Heart, Lung, and Blood Institute Did Not Fully Comply With Federal Requirements for Other Transactions
DoD	DODIG-2021-077	4/21/2021	Audit of Other Transactions Awarded Through Consortiums
DHS	OIG-19-44	5/30/2019	Audit of DHS' Issuance and Management of Other Transaction Agreements Involving Consortium Activities
USAID	8-00-18-003-P	9/25/2018	Insufficient Oversight of Public International Organizations Puts U.S. Foreign Assistance Programs at Risk
DHS	OIG-18-24	11/30/2017	Department of Homeland Security's Use of Other Transaction Authority

Source: Auditor summary of federal OIG reports related to OTAs

Appendix C: Federal OIG-Issued Findings Included in Routine Activity

Agency	Report	Finding Area	Finding Summary*
DoD	Audit of DoD Hotline Allegations Concerning the DoD Ordnance Technology Consortium Award Process	Key Issue 1 Did not support source selection decision	Agency personnel did not track all individuals performing white paper technical evaluations, maintain adequate documentation to support source selection decision rationale, and supported source selection decisions with information obtained outside of the source selection process because the award process lacked the necessary controls and did not ensure all statements in the source selection decision document were properly supported.
DoD	Audit of DoD Hotline Allegations Concerning the DoD Ordnance Technology Consortium Award Process	Key Issue 1 Made source selection decisions with incomplete information	Agency personnel did not make source selection decisions based on complete information. Contracting and program personnel made source selection decisions based only on information obtained during a white paper process and did not require further requests for supplementary documentation to clarify partial or missing information.
DoD	Audit of DoD Other Transactions and the Use of Nontraditional Contractors and Resource Sharing	Key Issue 1 Did not verify eligibility of contractors	Agency personnel did not always comply with the agency's authorizing language for OTAs related to verifying the organizational status of nontraditional defense contractors. There was not sufficient guidance in place to determine if or how agreement personnel should verify the status of these organizations.
HHS	The National Heart, Lung, and Blood Institute Did Not Fully Comply With Federal Requirements for Other Transactions	Key Issue 1 Did not adequately document justification for using OTAs	The agency did not adequately document its justifications for using OTAs rather than traditional award instruments because its internal controls for awarding and administering OTAs were ineffective. Even though agency policy required justification and periodic reconsideration, the implementing procedures did not specifically require that memos include the reasons why the agency could not

			have used a traditional award instrument. Further, procedures neither required Other Transaction Agreements Officers to document this reconsideration nor defined how often reconsideration of OTAs should take place. Additionally, agency personnel did not adequately document that circumstances were tracked throughout the life of the agreement to ensure that continued use of other transaction authority was appropriate for multi-year agreements, as required by agency policy.
HHS	The National Heart, Lung, and Blood Institute Did Not Fully Comply With Federal Requirements for Other Transactions	Key Issue 1 Obligated funds without establishing key deliverables	The agency obligated funds without adequately documenting work requirements such as objectives and milestones prior to bilaterally executing the OTAs.
HHS	The National Heart, Lung, and Blood Institute Did Not Fully Comply With Federal Requirements for Other Transactions	Key Issue 1 Did not document bona fide need	The agency obligated current-year funds to cover future-year needs by providing funds for OTAs to cover the entire performance period without proper documentation. The documentation did not support funding of multi-year OTA based on bona fide needs.
DoD	Audit of Other Transactions Awarded Through Consortiums	Key Issue 2 Did not consistently award OTAs in accordance with applicable laws and regulations	Contracting personnel did not have proper guidance or training on awarding consortium OTAs and as a result personnel did not consistently award OTAs in accordance with applicable laws and regulations.
DoD	Audit of Other Transactions Awarded Through Consortiums	Key Issue 2 Did not have a consistent basis to negotiate fees with consortium management organizations	Contracting personnel did not have a consistent basis to negotiate fees with consortium management organizations because there was no guidance in place for establishing these fees.
USAID	Insufficient Oversight of Public International Organizations Puts U.S. Foreign Assistance Programs at Risk	Key Issue 2 Confusion whether other transaction authority appropriately applied	Agency policy did not designate the roles and responsibilities of agency staff assigned to oversee recipients, describe how the agency can use its influence on recipient executive boards, or emphasize the importance

			of the General Counsel's role in managing operations of oversight entities.
DoD	Audit of DoD Other Transactions and the Use of Nontraditional Contractors and Resource Sharing	Key Issue 2 Did not properly oversee costs or cost sharing contributions	Agreement officers did not always follow guidance on approving costs incurred prior to an award's effective date or when approving contractor contributions for resource-sharing OTAs. Additionally, agreement personnel did not conduct oversight or have necessary documentation to verify contractor contributions.
DHS	Department of Homeland Security's Use of Other Transaction Authority	Key Issue 2 Did not require cost sharing agreement	The agency did not require a cost sharing agreement with the OTA recipient, which was a management directive for research-related OTAs.
DHS	Department of Homeland Security's Use of Other Transaction Authority	Key Issue 2 Did not ensure statutory requirements were met when modifying an OTA	The agency did not properly ensure statutory requirements were met when it modified an OTA for prototyping to include separate research-related activities.
DoD	Audit of DoD Other Transactions and the Use of Nontraditional Contractors and Resource Sharing	Key Issue 2 Did not validate completion of significant work by recipients	Agreement officers did not always validate that nontraditional defense contractors completed significant work because there was no requirement for the agreement officers to validate the work throughout the project.
HHS	The National Heart, Lung, and Blood Institute Did Not Fully Comply With Federal Requirements for Other Transactions	Key Issue 2 Did not adequately document that incurred costs were allowable	The agency's policy omitted guidance on requirements for reviewing awardees' costs prior to reimbursement, including any processes for reviewing invoices, vouchers, or other documentation for allowability.
DoD	Audit of Other Transactions Awarded Through Consortiums	Key Issue 3 Did not properly secure information	Contracting personnel did not ensure the security of controlled or restricted information being sent to consortia because contracting personnel relied on consortium management organizations to vet members and ensure proper safeguarding of controlled and restricted data. Further, the agency did not require consortium members to register in the System for Award Management (SAM).

HHS	The National Heart, Lung, and Blood Institute Did Not Fully Comply With Federal Requirements for Other Transactions	Key Issue 3 Did not adequately retain documents	The agency did not always maintain adequate documentation to support its determinations that specific OTA award amounts were fair and reasonable. Additionally, the agency did not have policies and procedures for reviewing that costs were allowable in accordance with OTA terms and conditions prior to reimbursement
DoD	Audit of Other Transactions Awarded Through Consortiums	Key Issue 3 Did not properly track awarded OTAs and associated dollar values related to consortium OTAs or individual consortium projects	Contracting personnel did not properly track awarded OTAs and did not have an accurate count of OTAs and associated dollar values because the procurement data system was not setup to track consortium OTAs or individual consortium projects. Further, there was no guidance on how to award projects to a consortium.
DHS	Department of Homeland Security's Use of Other Transaction Authority	Key Issue 3 Did not report OTA activity timely or accurately to Congress	The agency did not report OTA activities to Congress timely and accurately, as required.
DoD	Management Advisory: Tracking of Follow-On Production Other Transaction Agreements and Tracking and Awarding of Experimental Purpose Other Transactions	Key Issue 3 Did not report OTA activity accurately to Congress	Agency policy was insufficient in providing guidance on how to track and report OTAs related to follow-on production. This caused OTAs to be misclassified, resulting in inaccurate reports to Congress.

Source: Auditor summary of federal OIG findings related to OTAs

* Some OIGs used the abbreviation OT for other transaction instead of using OTA for other transaction agreement as we have in this report. For consistency, we used the abbreviation OTA where appropriate.

Appendix D: Federal OIG-Issued Recommendations Included in Routine Activity

Agency	Report Title	Recommendations from Reports*
DHS	Audit of DHS' Issuance and Management of Other Transaction Agreements Involving Consortium Activities	We recommend the DHS Chief Procurement Officer direct the Department to update its other transaction agreements policy to include periodically documenting its reassessment of ongoing other transaction agreements to ensure those agreements remain effective vehicles for achieving the goals of research or prototype projects.
DHS	Department of Homeland Security's Use of Other Transaction Authority	We recommend the Under Secretary for Management establish DHS policies designated to provide reasonable assurance that the Department justifies and documents any deviations in cost sharing between the government and contractor regarding other transaction agreements for research.
		We recommend the Under Secretary for Management establish DHS policies designated to provide reasonable assurance that the Department requires that modifications to OTAs meet all statutory requirements
		We recommend the Under Secretary for Management establish DHS policies designated to provide reasonable assurance that the Department adheres to statutory requirements by timely and accurately reporting OTA use annually to Congress.
DoD	Audit of DoD Hotline Allegations Concerning the DoD Ordnance Technology Consortium Award Process	Implement controls over the source selection process to ensure that all individual technical evaluators document their evaluations in the Business Information Database System and ensure those evaluations are included in the contract files. Further, the DoD Ordnance Technology Consortium Program Office should update training provided to the technical evaluators, emphasizing that each individual must upload their own technical evaluations into the Broad Agency Announcement Information Delivery System.
		Provide additional training to source selection officials to highlight what information can and cannot be included in source selection decision making, and what supporting documentation is required
		Implement controls over the source selection decision process to ensure that selection decisions properly reflect only the documentation obtained during the source selection process, and that those decisions are properly documented to ensure transparency of awards in accordance with the Office of the Under Secretary of Defense for Acquisition and Sustainment Other Transactions Guide.
		Implement controls over the award process to ensure source selection officials request additional proposal and cost information when needed to make informed selection decisions based on complete information

		and do not wait until a contractor is selected to address all information gaps during statement of work negotiations
		Update the training provided to requiring activities to include how to properly obtain additional source selection information prior to award. The training should also include additional guidance regarding the existing two-step process to ensure requiring activities understand the two-step process and when it can be used to the Government's advantage.
DoD	Audit of DoD Other Transactions and the Use of Nontraditional Contractors and Resource Sharing	We recommend that the Principal Director, Defense Pricing and Contracting: Require agreement personnel to validate the nontraditional defense contractor status prior to awarding an other transaction, when necessary, and to include documentation of the verification in the other transaction file.
		We recommend that the Principal Director, Defense Pricing and Contracting: Implement guidance or best practices for agreement personnel to consider when validating nontraditional defense contractor status to ensure that the conditions of section 2371b, title 10, United States Code are met, including steps to review the relationship between companies claiming to be a nontraditional defense contractor, when necessary.
		We recommend that the Principal Director, Defense Pricing and Contracting: Develop and implement guidance or best practices for agreement personnel to validate that the nontraditional defense contractor participated to a significant extent, as proposed, throughout the duration of the prototype project.
		We recommend that the Principal Director, Defense Pricing and Contracting: Reinforce the requirements in Section 2371b, Title 10, United States Code for approving costs prior to awarding an other transaction.
		We recommend that the Principal Director, Defense Pricing and Contracting: Require agreement officers to follow resource-sharing procedures in the Other Transaction Guide or implement other requirements to ensure resource sharing other transaction files clearly document elements of the contractor contribution, agreement officer approval of costs incurred before the effective date, and verification procedures for contractor contributions.
		We recommend that the Chief, Office of Naval Research review the $800,000 in questioned costs to determine if the agreement officer properly approved it in writing and if the costs were appropriate. If the costs were not properly approved or appropriate, then take action to recover the funds.
DoD	Audit of Other Transactions Awarded Through Consortiums	We recommend that the Principal Director, Defense Pricing and Contracting: Develop policies outlining how the Services should award and track other transaction projects when using a consortium, and whether contracting personnel should award projects using delivery orders, modifications, or some other method, when awarding projects to a consortium.

		We recommend that the Principal Director, Defense Pricing and Contracting: Coordinate with the General Services Administration to update the Federal Procurement Data System-Next Generation database to more accurately capture data related to other transactions awarded through consortiums.
		We recommend that the Principal Director, Defense Pricing and Contracting: Reinforce guidelines or implement additional best practices to ensure other transactions awarded through consortiums use competition to the maximum extent practicable as required.
		We recommend that the Principal Director, Defense Pricing and Contracting: Implement additional guidance or best practices that ensure contracting personnel maintain documentation for major decisions made to support the award of an other transaction agreement in the other transaction agreement file.
		We recommend that the Principal Director, Defense Pricing and Contracting: Clarify its policy for determining the approval level required for project awards when using consortiums and ensure the guidance is uniformly applied and implemented by contracting personnel.
		We recommend that the Principal Director, Defense Pricing and Contracting: Assess and determine whether it will require the inclusion of basic protest language in other transaction solicitations and establish processes or best practices to address those protests of other transaction agreements.
		We recommend that the Principal Director, Defense Pricing and Contracting: Establish Department of Defense-level training specific to awarding other transactions through consortiums that ensures Agreements Officers receive training to demonstrate expertise in executing, managing, and administering complex acquisition instruments, and can function in a less structured environment where prudent judgment is essential.
		We recommend that the Principal Director, Defense Pricing and Contracting: Implement Department of Defense level guidance establishing a standard Agreements Officer delegation and warrant process.
		We recommend that the Principal Director, Defense Pricing and Contracting: Implement guidelines or best practices for contracting personnel to consider when negotiating consortium management fees to ensure the Department of Defense receives the best value when working with a consortium management organization.
		We recommend that the Principal Director, Defense Pricing and Contracting: Establish requirements to vet consortium members upon membership to identify which members meet applicable security requirements for future opportunities.
		We recommend that the Principal Director, Defense Pricing and Contracting: Establish controls to ensure that the consortium management organization only disseminates controlled and restricted information to consortium members with proper security clearance.

		We recommend that the Principal Director, Defense Pricing and Contracting: Provide guidance requiring that contracting personnel check the System for Award Management prior to the award of an other transaction through a consortium, to determine and document if a contractor is registered in the System for Award Management and is not on the excluded parties list. For those contractors not registered in the System for Award Management, provide additional review requirements that must be performed and documented prior to award to ensure they are able to do business with the Government.
		We recommend that the Principal Director, Defense Pricing and Contracting: Develop procedures to require security reviews of solicitation and supplementary information, including the aggregate of all information being provided in the solicitations to ensure potential sensitive information is not revealed by the compilation of information.
DoD	Management Advisory: Tracking of Follow-On Production Other Transaction Agreements and Tracking and Awarding of Experimental Purpose Other Transactions	We recommend that the Principal Director, Defense Pricing and Contracting develop policies for tracking Other Transactions for follow-on production and Other Transactions for experimental purposes, and work with the General Services Administration to implement any additional system changes in the Federal Procurement Data System-Next Generation needed to properly account for each type of Other Transaction.
		We recommend that the Principal Director, Defense Pricing and Contracting, in coordination with the Services, review the statute and the use of 10 U.S.C. § 2373 to determine whether additional DoD-level guidance is needed on the use of the authority for Other Transactions. If additional guidance is needed, Defense Pricing and Contracting should develop DoD-level guidance on the use of Other Transactions in accordance with 10 U.S.C. § 2373.
HHS	The National Heart, Lung, and Blood Institute Did Not Fully Comply With Federal Requirements for Other Transactions	We recommend that the National Heart, Lung, and Blood Institute strengthen its internal controls for OTAs by updating its policies and procedures to: require that OTA justification memos: be signed, dated, and written or developed with involvement from appropriate parties, including Other Transaction Agreements Officers, and include explicit statements as to why a traditional award instrument could not be used for a project
		We recommend that the National Heart, Lung, and Blood Institute strengthen its internal controls for OTAs by updating its policies and procedures to: require that justifications for the continued use of other transaction authority be documented throughout the life of OTAs with reconsideration required at a defined frequency
		We recommend that the National Heart, Lung, and Blood Institute strengthen its internal controls for OTAs by updating its policies and procedures to: specify requirements for determining and documenting: the fairness and reasonableness of award amounts or cost estimates provided by OTA award applicants; the allowability of costs charged to OTA awards; and its compliance with Federal funding requirements including the proper establishment of bona fide needs through specific work requirements prior to the obligation of OTA funds.

USAID	Insufficient Oversight of Public International Organizations Puts U.S. Foreign Assistance Programs at Risk	Develop a comprehensive risk management policy for assessing and mitigating risk for PIO awards. The policy should inform staff on risk tolerances and risk categories; provide a framework and guidance on how and when to assess risks, develop risk responses, and assign mitigating controls based on risks; and clearly communicate roles and responsibilities for carrying out risk management across the Agency.
		Establish a dedicated, centralized entity with the authority and resources to assess and address (1) PIO performance, (2) PIO internal oversight effectiveness, (3) other crosscutting PIO oversight methods, and (4) oversight units operating across multiple organizations, using information from across the Agency.
		Develop a comprehensive policy that outlines (1) what authority—for example, other transaction authority—will be used to make each PIO award and (2) what corresponding rules and regulations apply, to include the roles and responsibilities for individuals and offices responsible for award management.
		Direct the Office of Foreign Disaster Assistance to (1) review and define its processes for making awards to PIOs to carry out work in long-term crisis environments and (2) update policies to ensure they include standards of internal control related to documenting the internal control system, analyzing risks, designing control activities, and documenting transactions by retaining records.
		Direct the Office of Food for Peace to (1) review and define its processes for making awards to PIOs to carry out work in long-term crisis environments and (2) update policies to ensure they include standards of internal control related to documenting the internal control system, analyzing risks, designing control activities, and documenting transactions by retaining records.
		Establish requirements for PIOs to notify USAID of suspected and identified serious criminal misconduct in activities funded by USAID to include unlawful actions taken by employees, subpartners, subcontractors, vendors, or other parties. The requirements should specify the process for reporting and criteria for what to report.

Source: Auditor summary of federal OIG recommendations related to OTAs

* Some OIGs used the abbreviation OT for other transaction instead of using OTA for other transaction agreement as we have in this report. For consistency, we used the abbreviation OTA where appropriate.

Appendix E: Other Federal OIG and GAO Publications Related to Other Transaction Agreements

Agency	Issue Date	Report Title
DoD	5/26/2022	Semiannual Report to the Congress - October 1, 2021 through March 31, 2022
DoD	11/12/2021	FY 2022: Top DoD Management Challenges
USAID	12/9/2020	Improved Guidance, Data, and Metrics Would Help Optimize USAID's Private Sector Engagement
National Aeronautics and Space Administration (NASA)	11/14/2019	NASA's Management of Crew Transportation to the International Space Station
DoD	11/15/2018	Fiscal Year 2019 Oversight Plan
Government Accountability Office (GAO)[9]	1/7/2016	Use of 'Other Transaction' Agreements Limited and Mostly for Research and Development Activities

Source: Auditor summary of other federal OIG and GAO publications related to OTAs

[9] This GAO report was outside of our scope but provides insight about the specific ways agencies use OTAs.

Appendix F: Agency Response

National Science Foundation
Office of Budget, Finance and Award Management

MEMORANDUM

Date: February 27, 2023

To: Mark Bell, Assistant Inspector General, Office of Audits

From: Janis Coughlin-Piester, Chief Financial Officer and Head, Office of Budget, Finance and Award Management JANIS A COUGHLIN-PIESTER Digitally signed by JANIS A COUGHLIN-PIESTER Date: 2023.02.27 13:31:44 -05'00'

cc: Erwin Gianchandani, Ph.D. Assistant Director, Directorate for Technology, Innovation and Partnerships

Subject: NSF's Response to the OIG's Draft Routine Activity Report, *Summary of Federal OIG Findings and Recommendations Related to Other Transaction Agreements*

The National Science Foundation (NSF) appreciates the Office of Inspector General's (OIG) timely and helpful synthesis of information arising from its review of reports issued by other Federal OIGs related to the use of "other transaction agreements" or OTAs. As we develop policies and procedures for implementation of the flexible transaction authority under the CHIPS and Science Act of 2022, this report will help identify and head-off potential risks related to the use of OTAs.

We recognize that NSF benefits from the OIG's thoughtful and proactive reviews of emerging issues such as the use of OTAs. More broadly, open and constructive dialogue with the OIG advances sound stewardship of taxpayer dollars across all types of agreements, under both existing and new authorities. We look forward to further engagement with the OIG on these issues.

2415 Eisenhower Avenue | Alexandria, VA 22314

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