



OFFICE *of* INSPECTOR GENERAL
NATIONAL RAILROAD PASSENGER CORPORATION

ACQUISITION AND PROCUREMENT:

**Adequate Competition for Most Contracts Awarded Under
Americans with Disabilities Act Program but Procurement
Policies Could be Improved**

Certain information in this report has been redacted due to its sensitive nature.


OIG-A-2016-008 | June 8, 2016

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Memorandum

To: Bernard Reynolds, Vice President, Chief Procurement and Logistics

From: Stephen Lord, 
Assistant Inspector General, Audits

Date: June 8, 2016

Subject: *Acquisition and Procurement: Adequate Competition for Most Contracts Awarded Under Americans with Disabilities Act Program but Procurement Policies Could be Improved (OIG-A-2016-008)*

The Fixing America's Surface Transportation Act¹ or the FAST Act included a requirement that we determine whether current expenditures or procurements involving Amtrak's (the company) fulfillment of the Americans with Disabilities Act (ADA) of 1990 use competitive, market-driven provisions that are applicable throughout the entire term of such related expenditures or procurements. To accomplish this, we reviewed all ADA-related contracts awarded from October 1, 2012, to March 31, 2016. This represented 45 contracts valued at about \$78 million. For additional details on our audit scope and methodology, see Appendix A.

BACKGROUND

Enacted in 1990, ADA required, among other things, that intercity rail stations be made accessible to persons with disabilities by July 26, 2010. Our 2011 and 2014 reports² highlighted the limited progress and the continuing challenges the company faces in achieving ADA program goals. In response to our report recommendations, the

¹ Pub. L. No. 114-94.

² *Americans with Disabilities Act: Leadership Needed to Help Ensure That Stations Served By Amtrak Are Compliant* (Report No. 109-2010) September 29, 2011; and *Train Operations and Business Management: Addressing Management Weaknesses Is Key to Enhancing the Americans with Disabilities Program* (Audit Report OIG-A-2014-010) August 4, 2014.

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company has made program management changes and issued a five-year strategic plan to guide program implementation. (For a more detailed summary of these reports, see Appendix B.)

As the company was making these changes, in June 2015, the Civil Rights Division of the Department of Justice (DOJ) issued its findings from its investigation of the company's compliance with the ADA. DOJ found that Amtrak violated the ADA and failed to comply with the statutory mandate to ensure that people with disabilities have equal access to the company's facilities. The company pledged its willingness to work with DOJ and remedy the violations in order to meet their obligations under the Act.

Since fiscal year 2013, Congress has included a provision in annual appropriations acts³ requiring that the company spend not less than \$50 million of its grant funds on ADA improvements. To meet this spending requirement, the company developed an ADA program consisting of the following components:

- **Amtrak ADA Stations Program (ADASP).** This program is intended to make platforms and station facilities such as restrooms and ticket counters ADA-compliant. The Engineering department identifies (1) the stations where work will be performed each year based on priorities established in the company's five-year ADA stations plan⁴ and (2) the scope of work needed at each station to make it ADA-compliant.
- **Passenger Information Display Systems (PIDS).** PIDS is an electronic information system that provides audio and visual messaging for passengers. The Marketing Department identifies the stations where work will be performed each year based on the stations where ADASP work is being performed and other priorities established in the company's ADA stations plan.
- **Other Projects.** This includes special projects such as an initiative to develop a level-boarding solution for stations with low-level platforms.

³ Pub. L. No. 112-55; Pub. L. No. 113-6; Pub. L. No. 113-76; Pub. L. No. 113-235; and Pub. L. No. 114-113.

⁴ ADA Stations Program Five Year Strategic Plan, June 4, 2015.

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As of May 2016, a total of 491 stations in the national system are required to be made ADA accessible. Amtrak has sole responsibility for 130 of the stations, has shared responsibility for 236, and no responsibility for the remaining 125 stations. The 366 stations for which the company has either sole or shared ADA responsibility are included in the ADA Stations Program Five Year plan, according to a project manager for the ADA Stations Program.

The Procurement department is responsible for awarding ADA-related contracts and do so by coordinating with other departments such as engineering and marketing to establish requirements, and by otherwise relying on procedures outlined in the Amtrak Procurement Manual.⁵ As to price competition, the manual defines price competition as “adequate” if (1) there are at least two bidders, (2) the bidders are mutually independent (separate companies), and (3) bids are responsive to the solicitation requirements. The manual further states that a contract can be awarded to a single bidder if the contracting officer determines that the price is “fair and reasonable” and is in the “best interests” of the company.⁶

For the ADASP contracts, the department issues a request for proposal (RFP) to contractors they have identified who could perform the scope of work described in the statement of work. Procurement staff then evaluate the proposals and award a firm-fixed price contract to the lowest responsive, responsible bidder.

For the PIDS program, the company used Master Service Agreement (MSA) as the contracting vehicle. While the company does not have an established definition for MSA’s, similar vehicles are used in both the private and public sectors. For example, the federal procurement community uses a similar vehicle called a “basic ordering agreement”. This term is defined in the Federal Acquisition Regulation (FAR) as a

⁵Amtrak Procurement Manual, December 2015.

⁶Although the company is generally not subject to the FAR, the FAR states that adequate price competition occurs when two or more responsible offerors, competing independently, submit priced offers that satisfy the Government’s expressed requirement. Federal Acquisition Regulation, 48 C.F.R. § 15.403-1(c) (2015).

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written instrument of understanding, negotiated between an agency, contracting activity, or contracting office and a contractor, that contains (1) terms and clauses applying to future contracts (orders) between the parties during its term, (2) a description, as specific as practicable, of supplies or services to be provided, and (3) methods for pricing, issuing, and delivering future orders under the basic ordering agreement absent additional consideration.⁷

SUMMARY OF RESULTS

The company used competitive, market-driven processes for ADA procurements. In the small number of contracts where competition was not adequate, action was taken to ensure that the bid price was fair and reasonable. We did, however, identify opportunities to improve the company's policies for the use of MSAs.

Specifically, the company used competitive procedures in awarding virtually all (42 of 45) of the ADA contracts from October 2012 to March 2016. The 42 contracts had an estimated contract value of \$76.8 million or 98 percent of the total ADA awards. We found that there were at least two bidders for each of these contracts, the bidders were mutually independent (separate companies), and the bids were responsive to the solicitation requirements. The 42 contracts were awarded for a variety of purposes, such as improving access to station platforms, ticket counters and restrooms, and designing and installing PIDS.

The company received only one bid in awarding three other ADA contracts valued at \$1.3 million. Two contracts were for station improvements made in rural areas under the ADASP and one was for contract management software used by Procurement and Engineering for managing the ADA program. Company policy allows contracts to be awarded to a single bidder if the contracting officer determines that the price is fair and reasonable and the contract is in the best interests of the company. We verified that such a determination was made, and based upon our review, the award decisions appear consistent with company policy.

⁷Federal Acquisition Regulation, 48 C.F.R. § 16.703(a) (2015).

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The company awarded six MSAs for the PIDS program—the largest dollar share of the ADA contracts (60 percent) awarded over the time period of our review. These MSAs were used to select contractors to perform the PIDS design, commissioning and software development. Although these types of agreements are not defined in the Amtrak Procurement Manual, we applied the same competition criteria used for other types of company contracts and found that at least two independent bids were received from qualified firms in awarding the six MSAs.

The company's procurement policy does not specifically address the extent to which competition should occur in awarding follow-on task orders under MSAs. However, applying the same company competition criteria used for other types of contracts, we found the following for each phase of the PIDS program.

- **Design.** We found that there was adequate competition (two or more bids) for 16 of the 17 (94 percent) follow-on task orders issued for the design work, which totaled about \$1.1 million.
- **Commissioning.** We could not fully assess the extent competition occurred in awarding task orders for the commissioning work because the Marketing Department was missing documentation for 8 of 17 task orders issued for commissioning work. For the nine task orders with available documentation, we found that the Marketing department requested bids from two companies for eight of the nine task orders. For the remaining task order, the Marketing Department requested one bid from the company and received one final bid.
- **Software development, deployment, and operations and maintenance.** We found there was adequate competition (two or more bids) by Com-Net Software (Com-Net) in selecting subcontractors to perform [REDACTED] PIDS at stations. These subcontracts were valued at about \$ [REDACTED]—24 percent of the \$ [REDACTED] estimated value of task orders issued to Com-Net.

Although we are conducting a broader review of the company's use of MSAs across several departments and plan to issue the report later this year, we are making recommendations in this report to improve the policy for the use of MSAs. The company agreed with our recommendations.

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ADEQUATE COMPETITION FOR MOST CONTRACTS

The company awarded 45 contracts valued at about \$78.1 million for various ADA projects from October 1, 2012 to March 31, 2016. Our review determined that there were two or more independent, qualified bidders for 42 contracts (93 percent) valued at about \$76.8 million—98.3 percent of the value of all ADA contracts. Table 1 summarizes the results of our analysis of the extent of competition in awarding these ADA contracts.

**Table 1. Extent of Competition on ADA Contracts Awarded
 From October 1, 2012 to March 31, 2016**

Program Category	Contracts Where Competition Was Adequate (000)		Contracts Where Competition Was Not Adequate (000)		Total (000)	
	Number	Amount	Number	Amount	Number	Amount
ADASP	35	\$20,587	2	\$890	37	\$21,477
PIDS	6	47,100	-	-	6	47,100
Other	1	9,037	1	505	2	9,542
Total	42	\$76,724	3	\$1,395	45	\$78,119
Percent	98.3		1.7		100.0	

Source: OIG analysis of Procurement department contract files

Note: According to company procurement policy, competition is defined as adequate if there are at least two bidders for each of these contracts, the bidders were mutually independent (separate companies), and the bids were responsive to the solicitation requirements.

To identify contractors and promote competition, the company used a variety of market-driven processes including:

- issuing letters of interest to potential contractors
- researching a nation-wide register of contractors to identify potential bidders
- conducting searches for local contractors
- soliciting input from the company's management teams that oversee stations throughout the country

In addition, the company advertised projects over \$1 million on its procurement website. In December 2015, the company reduced the threshold for advertising projects on the website to \$100,000.

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Contracts without Adequate Competition

The Procurement department awarded three contracts that did not receive adequate competition because there was only one bidder; two of these contracts were for work in rural areas. One contract was for contract management software used by the Procurement and Engineering departments. These contracts had an estimated value of about \$1.3 million. According to the Amtrak Procurement Manual, a contract can be awarded to a single source bidder if the contracting officer determines that the price is fair and reasonable and is in the best interests of the company. The company's rationale for awarding each contract is described below.

- **Klamath Falls, Oregon (Accessible Stations Development Program Project)** In November 2015, a firm-fixed price contract was awarded for about \$427,000 to make ADA improvements at the station in Klamath Falls, Oregon. The company sent a letter of interest to six potential contractors; however, only one firm submitted a bid. The proposed bid was for about \$427,000, which was \$160,000 higher than the \$267,000 engineering estimate. The contracting officer compared the proposed bid to the costs for a project in La Junta, Colorado that had a similar scope of work. This analysis showed about \$17,000 difference in the price of the two projects. Based on this comparison, the contracting officer decided that the bid for the work at Klamath Falls was fair and reasonable.
- **Raton, New Mexico (Accessible Stations Development Program Project).** In October, 2015, a firm-fixed price contract was awarded for about \$363,000 to make ADA improvements to the station in Raton, New Mexico. The company sent a letter of interest to eight potential contractors; however, only one firm submitted a bid. The bid was for about \$405,000, which was about \$230,000 higher than the engineering estimate of about \$175,000. The contracting officer compared the proposed bid to the costs for a project in Malta, Montana that had a similar scope of work. This analysis showed about \$15,000 difference in the price of the two projects. Based on this comparison, the contracting officer decided that the bid for the work at Raton was fair and reasonable.
- **Primavera Contract Management Software (Other project category).** In December 2013, a sole source contract was awarded to Byrne Software Technologies for about \$505,000 for proprietary contract management software used by Procurement for managing ADASP. The contracting officer compared

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the proposed cost of additional software licenses to the cost of licenses obtained in the previous fiscal year and determined that the proposed price was fair and reasonable.

Basis for Use and Award of MSAs

The company awarded six MSA for the three phases of the PIDS program. As previously noted, the PIDS program accounted for \$47.1 million (60 percent) of the \$78 million in ADA contracts awarded by the company from October 2012 to March 2016.

As previously mentioned, the Amtrak Procurement Manual does not formally define MSAs, but these types of agreements are used in the private and public sectors.⁸ According to Marketing and Procurement officials, using an MSA as a contract vehicle allows the company to act more quickly to award task orders once funding for the PIDS program is approved. Marketing and Procurement officials viewed these MSAs as a more flexible procurement vehicle than awarding individual firm-fixed price contracts for work at each station. They stated that awarding individual contracts would be more administratively burdensome. However, according to Procurement officials, there is a lack of coordination between Procurement and end-user departments in issuing task orders after an MSA is awarded. This complicates company efforts to oversee and monitor contractors performing work under the task orders. We plan to address this issue in a subsequent report on the company's use and management of MSAs.

Our analysis shows there were at least two bidders for each of the six MSAs awarded from October 1, 2012 to March 31, 2016, as shown in Table 2.

⁸ E.g. Federal Acquisition Regulation (FAR), 48 C.F.R. § 16.703(a) (2015).

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**Table 2. Analysis of Competition for PIDS Master Service Agreement
 Awarded From October 1, 2012 through March 31, 2016**

Category	Number of		Estimated Value of MSA (\$000)
	Bids Received	MSA Awarded	
Software development, deployment, and operations and maintenance	3	1	\$ [REDACTED]
Design	3	3	[REDACTED]
Commissioning	2	2	[REDACTED]
Total		6	\$ [REDACTED]

Source: Amtrak OIG Analysis of Procurement department contract files.

Procurement awarded a separate MSA to each company that submitted a bid for design and commissioning work as highlighted in Table 2. In contrast, Procurement awarded a single MSA to one company—Com-Net—for the software development, deployment, and operations and maintenance work on May 7, 2013.

We conducted additional analysis of the MSA for this category of the work because it accounted for the largest share of all ADA contracts—\$40 million or 51 percent of the total value of the ADA contracts.

To identify and select MSA contractors for the PIDS program, Procurement staff issued a request for proposals to potential contractors in May 2012. The RFP included the following four phases of work:

- **Design.** The contractor will provide a working set of design drawings to install PIDS at various stations.
- **Software Development, Integration and Operations and Maintenance.** The contractor will develop and test audio/visual PIDS software including all system interfaces.
- **Installation.** The contractor will install and integrate all PIDS components at a given station.
- **Commissioning.** The contractor will verify that PIDS signage units, sound systems, data systems and electrical systems are functioning.

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In August 2012, the company issued a revised RFP that consolidated all the PIDS work into three phases. The design and commissioning phases remained the same, but the software development and installation phases were combined into one phase and renamed “software development, deployment and operations and maintenance.”

The PIDS program manager stated that the two phases were combined in response to numerous vendor questions related to pricing for equipment, installation, warranty and maintenance services. Under the original RFP, the software vendor was required to identify the equipment needed for their PIDS solution but the installation vendors were to procure and install this equipment. However, installation vendors could not provide pricing on specific components because they did not know the equipment needed to support the software vendor's system. Questions also arose about warranty and maintenance since the installation vendors would purchase the equipment and hold the manufacturer's warranties but the software vendor would be responsible for ongoing operation and maintenance. The two phases were thus combined to eliminate these issues by having one vendor responsible for installation, operation and maintenance of the system.

Although not explicitly stated in the RFP, the program manager stated that the company intended to award the MSA for software development, integration, and operations and maintenance work to only one contractor to help facilitate the implementation of the project. However, this procurement strategy was not formally communicated to the contractors who were interested in competing for this phase of the program.

Three firms submitted bids for the software development, deployment, and operations and maintenance work. Per the RFP, they submitted price estimates to install PIDS at a small, medium, and large station, based on ridership. A technical evaluation committee of seven employees from various departments, reviewed the proposals and gave each vendor a technical score and price score as shown in Table 3.

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**Table 3. Company Analysis of Bids for PIDS
 Software, Equipment and Installation**

Company	Score ^a			Estimated Price ^b (\$000)
	Technical	Price	Total	
██████████	████	████	████	\$\$\$ ██████████
Com-Net	████	████	████	\$\$\$ ██████████
██████████	████	████	████	\$\$\$ ██████████

Source: Procurement department Request for Contract Authorization, April 12, 2013

Notes:

^aThe maximum technical score was █████ and the maximum price score was █████

^bThe estimated amount to perform the work at █████ stations developed by the PIDS program manager from prices in the bid proposals to perform the work at 3 stations.

After evaluating the proposals, Procurement determined that the █████ proposal was non-responsive because it was not willing to accept some of the contractual terms and conditions. Com-Net Software (Com-Net) was awarded the MSA because it had the higher technical score and lower price than █████

Our review of the technical evaluation committee's assessment of the proposals confirmed that Com-Net received a higher technical score and had a lower price. Specifically, we found the following:

- Technical.** The technical evaluation committee used 30 criteria to evaluate the proposals. The criteria assessed organizational structure, approach to tasks, key personnel, and experience in software development, deployment, and operation and maintenance; and other factors. Our review of the evaluation score sheets showed that █████ members of the technical evaluation committee gave Com-Net a higher overall score than █████ █████ gave █████ a higher overall score, and █████ gave both companies the same score. We verified the technical score calculations.
- Price.** The proposals were based on prices to install PIDS at three stations—small, medium and large in terms of ridership. The PIDS program manager in the Marketing and Sales department extrapolated the firms pricing data to develop an estimated price for work at █████ stations. The program manager stated that the estimate of █████ stations was used to evaluate pricing because it was the best estimate of the number of stations where PIDS would be installed. The █████ stations consisted of █████ stations where the company would pay for installation

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and ■ stations where state or city partners would pay for installation. In addition, the extrapolation assigned weights to the number of small (40 percent), medium (30 percent) and large stations (30 percent) based on where PIDS would be installed.

The company did not develop an independent cost estimate for each station size. According to experts from the Government Accountability Office, a best practice would have been to develop three independent estimates—one each for small, medium and large stations—prior to solicitation in order to better identify the cost of installing PIDS equipment at each type of station.

Our independent analysis of the price extrapolation to ■ stations confirmed that the Com-Net price was lower than the ■ price. Our calculations showed that the Com-Net estimated price was about \$ ■, which was about \$ ■ less than the company's calculation. The difference was primarily due to the company double-counting about \$3.1 million in software costs and not including about \$800,000 for recurring operations and maintenance costs. Our calculations also showed that the ■ cost estimate was \$ ■ less than the company's calculation. The difference resulted because the company double-counted about \$256,000 in software integration costs and did not include about \$247,000 for recurring operations and maintenance costs. These adjustments did not change the company's determination that Com-Net provided the lowest price. The PIDS program manager agreed with our analysis.

Extent of Competition Varied in Issuing Follow-on PIDS Task Orders

After an MSA is awarded, follow-on task orders are issued to selected firms. When multiple firms are asked to bid on task orders, there is potential for additional competition. However, company policy does not address the extent to which competition should occur when awarding task orders once an MSA has been signed. As a result, it is unclear to what extent competition should occur (1) when multiple firms have received an MSA for the same work or (2) when selecting subcontractors to do work when only one firm has received an MSA.

Applying the company's competition criteria for contracts, we found that there was adequate competition (two or more bids) for most of the task orders issued for the PIDS

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design work and task orders issued to Com-Net in selecting subcontractors. However, we could not fully assess the extent to which competition occurred in the commission phase because of the lack of documentation for most of the task orders.

Design. For the design work, our analysis shows there were 2 or more bids for 16 of the 17 task orders issued for design work. Specifically, we found the following:

- For 16 task orders, 2 or more bids were submitted.
- For one task order, the program manager could not provide documentation on the number of bids submitted.

Commissioning. All 17 task orders valued at about \$ [REDACTED] were issued to BelStar. We could not fully assess the extent of competition in awarding these task orders because the Marketing department was missing documentation for 8 out of the 17 task orders. This occurred because Procurement had no policy or procedures establishing requirements for recordkeeping or documentation for issuing task orders. The May 2013 report of the Committee of Sponsoring Organizations,⁹ emphasized the need for an entity to maintain documentation on key processes for a number of reasons including providing clarity around roles and responsibilities, creating standards and expectations of performance, and enabling proper monitoring.

For the 9 task orders where documentation was available, our analysis showed the following:

- For three task orders, the company requested bids from two companies, but received only one bid, and the work was awarded to that firm.
- For five task orders, the company requested and received bids from two companies, and the firm with the lower price bid was awarded the work.
- For one task order, the company requested and received bids from one company, and the work was awarded to that firm.

Software development, deployment and operations and maintenance. All task orders for software development, integration and operations and maintenance will be issued to

⁹ Committee of Sponsoring Organizations, Internal Control—Integrated Framework, May 2013.

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a single vendor, Com-Net. As of May 2016, the estimated value of task orders issued to Com-Net is \$ [REDACTED]. Of that amount, \$ [REDACTED] or 24 percent has been issued to subcontractors. Any further competition is limited to Com-Net's selection of subcontractors. The contracting officer stated that the MSA does not require Com-Net to provide information on the process it uses to select subcontractors. However, documentation provided to us directly by Com-Net officials showed the following:

- For 11 task orders, 2 or more bids were received for the subcontract work.
- For five task orders, the contractor performing the ADASP work at a station was selected to do the PIDS work.
- For four task orders, only one bid was sent and received.

Com-Net officials stated that they generally request only one bid when the work is estimated to cost less than \$ [REDACTED]. For the four task orders with only one bid, the cost ranged from \$ [REDACTED] to \$ [REDACTED].

CONCLUSIONS

The company used competitive, market-driven processes for ADA procurements. In the small number of contracts where competition was not adequate, appropriate action was taken to ensure that the bid price was fair and reasonable. The extent of competition on task orders issued under MSAs varies because the Amtrak Procurement Manual does not define MSAs, and the company does not have a clear policy stipulating the extent to which competition should occur with these types of agreements. Formally defining MSAs, and clarifying the extent to which competition should occur when using these agreements will help ensure that competition occurs on a more consistent basis when using these agreements. Additionally, we could not assess the extent of competition on all PIDS design and commissioning task orders because of the lack of documentation. Taking additional steps to clarify the requirements for task order documentation will help provide more effective project monitoring and oversight.

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RECOMMENDATIONS

We recommend that the Vice President/Chief Procurement and Logistics take the following actions to update the Amtrak Procurement Manual:

1. Define a Master Service Agreement.
2. Clarify the extent to which competition should occur when task orders are issued under these agreements.
3. Specify the record-keeping requirements for issuing task orders under these agreements.

MANAGEMENT COMMENTS AND OIG ANALYSIS

In commenting on a draft of the report, the company's Vice President/Chief Procurement and Logistics Officer agreed with our recommendations. He also cited the actions the company has planned to address the recommendations. The proposed actions meet the intent of the recommendations. Appendix C contains management's complete response. The company's planned actions are summarized below.

- **Recommendation 1:** Management agrees with the recommendation and will add a definition of master service agreement to the Procurement Manual.
- **Recommendation 2 and 3:** Management agrees with the recommendations and will update the Master Service Agreement Standard Operating Procedures to address these issues.

The company's PIDS program manager provided updated information on the extent of competition for design and commissioning task orders. We made changes to the final report based on this information, where appropriate.

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Appendix A

SCOPE AND METHODOLOGY

The report provides the results of our audit on the adequacy of competition for contracts awarded under the ADA program. The scope of our work included all ADA-related contracts awarded from October 1, 2012, to March 31, 2016. We reviewed 45 contracts valued at more than \$78 million.

- 37 contracts valued at about \$21.5 million for the Amtrak ADA Stations Program
- 6 contracts valued at about \$47.1 million for the Passenger Information Display Program
- 2 other ADA-related contracts valued at about \$9.5 million

We conducted our audit work from January through April 2016 in Philadelphia, Pennsylvania, and Washington, D.C. Certain information in this report has been redacted due to its sensitive nature.

Our methodology for assessing the adequacy of competition included (1) reviewing the Amtrak Procurement Manual (July 2008) and the December 2015 update to document the company policy for adequate competition in awarding, and (2) interviewing Procurement officials regarding the procedures followed to issue requests for proposals. We reviewed files for all ADA-related contracts awarded from October 1, 2012, to March 31, 2016 to determine the number of firms invited to bid, the number of bids received, and the basis for awarding the contract. If there were two or more mutually independent bidders, we concluded that there was adequate competition. If there were only two bids, we queried the General Services Administration System of Management Award to ensure that the bidders were not wholly owned or subsidiaries of each other. If there was only one bid, we reviewed the actions the contracting officer took to determine whether the price was fair and reasonable. We also met with officials from the Acquisition and Sourcing Management team and Applied Research and Methods team at the Government Accountability Office to discuss best practices for using MSAs and developing independent cost estimates.

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We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Internal Controls

In conducting this audit, we reviewed the management controls Procurement has in place to ensure adequate competition in awarding contracts. This included assessing the controls used to establish bidder's lists, evaluate bids, and award contracts. We did not assess Procurement's overall system for contract project management.

Computer-Processed Data

We did not use computer-processed data.

Prior Audit Reports

In conducting our audit, we reviewed and relied on the following OIG reports:

- *Americans with Disabilities Act: Leadership Needed to Help Ensure That Stations Served By Amtrak Are Compliant* (Report No. 109-2010) September 29, 2011
- *Train Operations and Business Management: Addressing Management Weaknesses Is Key to Enhancing the Americans with Disabilities Program* (Audit Report OIG-A-2014-010) August 4, 2014

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Appendix B

Summary of Prior OIG Reports on Company's ADA Program

Since 2011, we have issued two reports on the company's compliance with ADA. In 2011¹⁰ we reported that Amtrak has made limited progress in making the stations it serves ADA-compliant. The compliant stations served about 34 percent of Amtrak's FY 2010 ridership. The remaining stations have not been deemed compliant.

We also found that key gaps exist in the company's October 2010 updated plan for the ADA program. First, the plan did not address how stations that Amtrak serves but has no ADA responsibility for will achieve compliance. Achieving compliance for those stations depends on other parties—who are responsible for 225 station structures, 83 platforms, and 241 parking facilities. Second, the plan did not include the estimated cost of compliance.

The underlying cause of the limited program progress and planning weaknesses was the program's fragmented management and lack of accountability for results. Currently, seven departments were involved in program management, and no office or official held accountable for results. Further, the current status of ADA efforts leaves the company vulnerable to significant financial liability resulting from potential legal judgments and detracts from Amtrak's goals to improve safety and customer service.

We made recommendations to address the program's fragmented management, lack of accountability, weaknesses in program cost estimates, and gaps in the compliance plan.

In 2014¹¹ we followed-up on the company's progress achieving its ADA program goals because of the company's noncompliance with the ADA legislation, the negative impact on passengers with disabilities, and the financial risk associated with ADA litigation. We found that over the last two years, the ADA program made limited progress achieving its goals, largely because of the lack of an effective program management

¹⁰ AMERICANS WITH DISABILITIES ACT: Leadership Needed to Help Ensure That Stations Served By Amtrak Are Compliant (Report No. 109-2010, September 29, 2011).

¹¹ TRAIN OPERATIONS AND BUSINESS MANAGEMENT: Addressing Management Weaknesses Is Key to Enhancing the Americans with Disabilities Program (Audit Report OIG-A-2014-010, August 4, 2014).

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structure and the absence of a written strategic plan establishing a vision, goals, and objectives, including estimates of costs and a timeframe for program completion. These weaknesses were similar to the ones we identified previously, which resulted from the lack of program accountability and decision-making authority. For the program in fiscal years 2012 and 2013, we noted the following:

- Program accomplishments included completing numerous property surveys and facility assessments, and making three more stations compliant.
- More than \$46 million of program funds (more than 46 percent) was spent on program management activities; however, best practices suggest that 30 percent is typically spent on such activities.
- Approximately \$6.5 million was spent on designs for projects that are not included in current construction plans.
- An undetermined amount of ADA funds was spent on state-of-good-repair work, not ADA-compliance work.

More recently, changes to the program's goals in fiscal year 2014 have not been set forth in a written strategic plan that can be used to monitor progress and ensure accountability. If the weaknesses persist, the program is likely to continue to see only limited progress in achieving its goals.

We recommended and the company agreed to take actions to help improve the effectiveness of the ADA program's management including making program structure changes and developing a strategic plan to guide program implementation.

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Appendix C

MANAGEMENT COMMENTS

NATIONAL RAILROAD PASSENGER CORPORATION

Memo



Date	<i>June 3, 2016</i>	From	<i>Bernard Reynolds</i>  <i>VP/Chief Procurement and Logistics Officer</i>
To	<i>Stephen Lord Assistant Inspector General, Audits</i>	Department	<i>Procurement & Logistics</i>
		Subject	<i>Acquisition and Procurement: Adequate Competition for Most Contracts Awarded Under Americans with Disabilities Act Program but Procurement Policies Could be Improved</i>
		cc	<i>Gerald Sokol Matthew Gagnon Michael Alexis John McCrohan Joseph Giandonato</i>

This memorandum provides Procurement & Logistics' (P&L) response to the OIG 5/20/2016 memorandum on: "*Acquisition and Procurement: Adequate Competition for Most Contracts Awarded Under Americans with Disabilities Act Program but Procurement Policies Could be Improved (Audit Report for Project No. 008-2016).*"

Recommendation 1:

We recommend that the Vice President/Chief Procurement and Logistics take the following actions to update the Amtrak Procurement Manual:

- 1. Define Master Service Agreement.*
- 2. Clarify the extent to which competition should occur when task orders are issued under these agreements.*
- 3. Specify the record-keeping requirements for issuing task orders under these agreements.*

Management Response/Action Plan:

P&L agrees with the OIG's recommendation that the term Master Service Agreement (MSA) needs to be defined in the Amtrak Procurement Manual and will begin to draft a section to address this area of concern immediately. The section containing the MSA definition will be completed by 9/30/16.

P&L recently began to draft and implement a set of Standard Operating Procedures (SOPs) which document the steps necessary to comply with corporate and departmental policies. P&L intends to address Items 2 & 3 from this finding in SOP-1005.00, Master Services Agreement (MSA) Procedures. This SOP will be completed by 9/30/16. All SOPs are posted on the Amtrak intranet (Procurement Wiki Site) after being fully vetted, approved, and endorsed by the process owner up through the VP/Chief Procurement & Logistics Officer.

Rev 1

6/2/2016

Certain information in this report has been redacted due to its sensitive nature.

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Appendix D

ABBREVIATIONS

ADA	Americans with Disabilities Act
ADASP	Amtrak ADA Stations Program
Com-Net	Com-Net Software
DOJ	Department of Justice
MSA	Master Service Agreement
PIDS	Passenger Information Display System
RFP	Request for Proposal
the company	Amtrak

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Appendix E

OIG TEAM MEMBERS

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OIG MISSION AND CONTACT INFORMATION

Mission

The Amtrak OIG's mission is to provide independent, objective oversight of Amtrak's programs and operations through audits and investigations focused on recommending improvements to Amtrak's economy, efficiency, and effectiveness; preventing and detecting fraud, waste, and abuse; and providing Congress, Amtrak management and Amtrak's Board of Directors with timely information about problems and deficiencies relating to Amtrak's programs and operations.

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