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TRANSPORTATION SECURITY ADMINISTRATION

After Oversight Lapses, Compliance with Policy Governing Special Authority Has Been Strengthened

Accessible Version

GAO Highlights

Highlights of [GAO-18-172](#), a report to the Ranking Member, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

TSA is responsible for securing the nation's transportation systems and uses security technologies to screen airline passengers and their luggage to prevent prohibited items from being carried on commercial aircraft. TSA has special authority for using OTAs, which are not subject to certain federal contract laws and requirements. OTAs provide flexibility to help meet mission needs, but potentially carry the risk of reduced accountability and transparency.

GAO was asked to examine TSA's use of OTAs. This report addresses: (1) the extent and purposes of TSA's use of OTAs, and (2) how TSA ensures prices are reasonable and how it oversees OTAs.

To address TSA's use of OTAs, GAO analyzed data on OTA awards and obligations from the Federal Procurement Data System-Next Generation from fiscal years 2012 to 2016 (the most recent years for which data were available). GAO determined that data were sufficiently reliable to report on TSA's minimum use of OTAs. To examine how TSA prices and oversees OTAs, GAO selected a nongeneralizable sample of 29 OTAs from the 8 TSA programs that awarded them based on program size and OTA value. GAO reviewed relevant documentation, and interviewed contracting and program officials.

What GAO Recommends

GAO is not making any recommendations in this report.

View [GAO-18-172](#). For more information, contact William T. Woods at (202) 512-4841 or woodsw@gao.gov.

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What GAO Found

During fiscal years 2012 through 2016, the Transportation Security Administration (TSA) awarded at least 1,039 other transaction agreements (OTA) and obligated at least \$1.4 billion on them. These agreements, which are neither traditional contracts nor grants, were primarily used to reimburse airports and law enforcement agencies for the costs associated with TSA security programs. For example,

- TSA awarded at least 109 OTAs and obligated at least \$783 million from fiscal years 2012 through 2016 to reimburse airports for the allowable design and construction costs associated with installing, updating, or replacing checked baggage screening systems.
- TSA also used OTAs for intelligence analysis and to offset the costs of providing canines for explosives detection, among other things.

TSA Used Other Transaction Agreements to Reimburse Airports for Design and Construction Costs Associated with Checked Baggage Screening Systems



Source: Transportation Security Administration. | GAO-18-172

For the selected 29 OTAs GAO reviewed, GAO found that the methods TSA used to determine price reasonableness varied depending on the complexity of the requirement. For example,

- For complex design and construction projects, TSA compared independent government cost estimates with contractor bids. Certified program managers monitored project schedule and scope through site visits and status reports.
- In contrast, TSA independently verified the rates set by the local power authority when reimbursing some airports for electricity costs to operate TSA screening equipment.

GAO also found that TSA has taken action to address prior lapses in oversight, resulting in improved compliance. In 2015, TSA identified significant gaps in OTA file documentation and data reported in the Federal Procurement Data System-Next Generation. TSA took action to address these deficiencies by (1) updating its policy, (2) requiring additional training for contracting officers, (3) instituting monthly data verification, and (4) monitoring compliance through quarterly reviews. GAO's analysis confirmed that the quality of the data had improved between fiscal year 2012 and 2016. Moreover, the 29 OTAs generally met key requirements of TSA's policy that GAO identified.

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Abbreviations

COR	Contracting Officer’s Representative
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Data System-Next Generation
OTA	Other Transaction Agreement
TSA	Transportation Security Administration

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December 21, 2017

The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

Dear Senator McCaskill:

The Transportation Security Administration (TSA) is responsible for securing the nation's transportation systems while facilitating the movement of passengers and commerce using security-related technologies. To fulfill this mission, TSA must ensure that all airline passengers and their carry-on and checked baggage are screened to deter, detect, and prevent the carriage of prohibited and other dangerous items, such as explosives, on board commercial aircraft. As one of the largest components of the Department of Homeland Security, TSA obligated more than \$1.4 billion through instruments called other transaction agreements (OTA) from fiscal years 2012 to 2016. Congress granted TSA other transaction authority in 2001, allowing it to enter into agreements *other than* standard government contracts or other traditional mechanisms.¹ OTAs entered into under this authority are generally not subject to certain federal laws and regulations related to federal contracts such as the Federal Acquisition Regulation (FAR), allowing TSA to customize them to help meet project requirements and mission needs. As we and others have previously reported, the use of OTAs provides flexibility but carries the risk of reduced accountability and transparency,

¹Aviation and Transportation Security Act (ATSA), Pub. L. No. 107-71, § 101(a) (codified at 49 U.S.C. § 114(m)) states that the head of TSA "shall have the same authority as is provided to the Administrator of the Federal Aviation Administration under subsection (l) and (m) of section 106 [of Title 49 of the U.S. Code]. See also, 49 U.S.C. §106(l)(6)), stating "the Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration."

in part because such agreements are exempt from the FAR and the related controls and oversight mechanisms that apply to contracts.²

You asked us to review TSA's use of OTAs. This report addresses (1) the extent and purposes of TSA's use of OTAs and (2) how TSA ensures prices are reasonable and how it oversees OTAs.

To address the extent to which TSA uses OTAs, we analyzed data from the Federal Procurement Data System-Next Generation (FPDS-NG) on obligations through contracts and OTAs from fiscal year 2012 to 2016.³ We assessed the reliability of the OTA data in FPDS-NG by performing electronic testing and comparing it to data from TSA's financial management and accounting systems. We found that over this timeframe the data in all three systems were incomplete and we therefore excluded OTAs that did not match in two or more systems. As a result of this step, we determined that the data were sufficiently reliable to report on TSA's minimum use of OTAs; however, we were not able to independently verify TSA's total OTA obligations during this timeframe.

To address the purposes of TSA's use of OTAs and how TSA prices and oversees them, we reviewed relevant TSA policy and guidance and selected a nongeneralizable sample of 29 OTAs from the eight TSA programs that awarded them from fiscal year 2012 to 2016. Table 1 shows a breakdown by TSA program of the OTAs we reviewed.⁴

²GAO, *Defense Acquisitions: DOD Has Implemented Section 845 Recommendations but Reporting Can be Enhanced*, [GAO-03-150](#) (Washington, D.C.: Oct. 9, 2002); Congressional Research Service, *Other Transaction (OT) Authority*, RL34760 (Washington, D.C.: Jan. 4, 2012); National Aeronautics and Space Administration's Office of Inspector General, *NASA's Use of Space Act Agreements*, IG-14-020 (Washington, D.C.: June 5, 2014); GAO, *Homeland Security: Further Action Needed to Promote Successful Use of Special DHS Acquisition Authority*, [GAO-05-136](#) (Washington, D.C.: Dec. 15, 2004); and GAO, *Department of Homeland Security: Further Action Needed to Improve Management of Special Acquisition Authority*, [GAO-12-557](#) (Washington, D.C.: May 8, 2012).

³FPDS-NG is a comprehensive, web-based tool for agencies to report contract transactions. It also includes a module for reporting OTAs.

⁴For the purposes of this report, we refer to the list of programs, offices, and activities in table 1 as "programs" or "TSA security programs."

Table 1: Other Transaction Agreements by TSA Program from Fiscal Year 2012 to 2016

Programs	Number of New OTAs	Number of OTAs GAO reviewed
Electronic Baggage Screening Program	109	7
Law Enforcement Officer Reimbursement Program	563	3
Advanced Surveillance Program	29	4
National Explosives Detection Canine Team Program	187	5
Checkpoint Janitorial and Utilities Program	133	3
Office of Law Enforcement/Federal Air Marshal Service	13	2
Office of Security Policy and Industry Engagement	4	4
Office of Global Strategies	1	1
Total	1,039	29

Source: GAO analysis of TSA data. | GAO-18-172

Note: These data represent minimum number of awards based on matches between data reported in the Federal Procurement Data System-Next Generation, the Transportation Security Administration's (TSA) financial management system, and its accounting system. We found that the data in all three systems were incomplete and we excluded other transaction agreements (OTAs) that did not match in two or more systems. However, we were not able to independently verify the total number of OTAs that TSA awarded during this timeframe.

The number of OTAs we reviewed varied by program based on total obligations through the programs, OTA values, and the extent to which OTAs awarded under a program were similar. For example, we reviewed a larger percentage of OTAs awarded by the Electronic Baggage Screening Program and Advanced Surveillance Program because these programs accounted for about 79 percent of TSA's overall obligations through OTAs from fiscal year 2012 to 2016. By contrast, we reviewed a smaller percentage of OTAs from the Law Enforcement Officer Reimbursement Program, National Explosives Detection Canine Team Program, and Checkpoint Janitorial and Utilities Program because OTAs under these programs were generally for a similar purpose. We reviewed all of the OTAs awarded by the Office of Security Policy and Industry Engagement and the Office of Global Strategies because each of the OTAs awarded by these offices was unique. For each OTA, we requested information from TSA on the total period of performance, including unexercised options and obligations as of the end of fiscal year 2017. We also reviewed file documents including the determination and findings, business clearance memoranda, and acquisition plans as applicable and interviewed contracting and program officials. Our review focused on five key areas: rationale for using an OTA instead of a traditional contract, method of selecting OTA recipients, OTA type, determination of price reasonableness, and contracting officer's representative (COR) monitoring. We also reviewed COR files for a sample of OTAs awarded by the top three programs that awarded cost reimbursable OTAs and one

that awarded fixed-price OTAs to provide greater insight into monitoring methods. In addition, we reviewed TSA OTA compliance reviews from fiscal years 2015 and 2016 and interviewed officials responsible for OTA policy and oversight. Appendix I summarizes information on the 8 programs and 29 OTAs in our review based on documentation provided by TSA.

We conducted this performance audit from October 2016 to December 2017 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.

Background

Following the terrorist attacks of September 11, 2001, Congress passed the Aviation and Transportation Security Act which created TSA as the federal agency responsible for security in all modes of transportation, including civil aviation. Among its responsibilities, TSA must generally ensure that all passengers and property are screened before being transported on a commercial passenger aircraft.⁵ This statute also provided TSA the authority to enter into OTAs.⁶ TSA defines an OTA as a set of legally enforceable promises between TSA and another party that is *other than* a procurement contract, grant, cooperative agreement, lease, or loan.

Every agency has inherent authority to enter into contracts to procure goods or services for its own use; however, agencies must receive specific authority to award OTAs. Under these authorities, agencies may develop agreements that do not follow a standard format or include terms and conditions that are typically required when using traditional mechanisms such as FAR-based contracts. Agreements entered into using other transaction authority are not generally subject to certain statutory and regulatory requirements related to government contracting

⁵Pub. L. No. 107-71, §§ 101(a), 110 (2001) (codified as amended at 49 U.S.C. § 114(m) and 40 U.S.C. § 44901).

⁶Pub. L. No. 107-71, § 101(a) (2001) (codified at 49 U.S.C. § 114(m)).

such as the FAR and the terms and conditions of each individual OTA may be tailored to meet the specific situation. For example, OTAs may be fixed-price, cost-reimbursable, or provide that each party bear the costs of their participation. In addition, the length of an OTA is negotiable, with some agreements lasting a few days and others for years.

As we reported in 2016, Congress has granted other transaction authority to 11 federal agencies.⁷ The statutory authorities for most agencies, however, include some limitations on the use of the agreements, although the extent and type of limitations vary. We found that most of the 11 agencies used OTAs for two purposes: (1) research, development, and demonstration; and (2) prototype development. Three agencies—the Federal Aviation Administration, TSA, and the National Aeronautics and Space Administration—used OTAs for different activities, such as airport security and education and outreach. Only a few agencies, including TSA and the National Aeronautics and Space Administration, have unrestricted authority to award OTAs. We also found that 9 of the 11 agencies had fewer than 90 active OTAs per fiscal year, but that, in contrast, TSA and the National Aeronautics and Space Administration had hundreds, and thousands, respectively.

⁷GAO, *Federal Acquisitions: Use of 'Other Transaction' Agreements Limited and Mostly for Research and Development Activities*, [GAO-16-209](#) (Washington, D.C.: Jan. 7, 2016). The 11 agencies with other transaction authority are: NASA, the Departments of Defense, Energy, Health and Human Services, Homeland Security, and Transportation, the Federal Aviation Administration, TSA, the Domestic Nuclear Detection Office, the National Institute of Health, and the Advanced Research Projects Agency–Energy.

TSA's OTA Policy

TSA's Office of Contracting and Procurement established policy and procedures for the use, award, and oversight of OTAs in 2011.⁸ Prior to 2011, TSA had no governing policy for OTAs. According to TSA's policy, which has been revised several times since its inception, OTAs are best suited for situations where:

- an entity is not a traditional contracting partner, for example, airlines, airport authorities, trade associations, quasi-governmental entities, or research and development organizations;
- there are cost sharing mechanisms that require the recipient to contribute to the overall cost of the effort; or
- the recipient must recoup all costs through third-party user-fees.

Further, the policy states that OTAs may not be used when the principal purpose of the agreement is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States government. Table 2 identifies some of the key provisions of TSA's OTA policy.

⁸The Office of Contracting and Procurement was previously known as the Office of Acquisition. In fiscal year 2017, the Office of Acquisition was separated into two new offices: the Office of Acquisition Program Management which is responsible for major acquisition functions such as test and evaluation and life cycle cost estimating and the Office of Contracting and Procurement, which is responsible for the procurement, award, and administration of contracts and OTAs including OTA policy and oversight.

Table 2: Key Provisions of the Transportation Security Administration’s 2016 Policy for the Use of Other Transaction Agreements

Contracting Officer Warrant	Other Transaction Agreements (OTAs) may only be negotiated, awarded, and administered by senior level contracting officers possessing Federal Acquisition Certification in Contracting Level III acquisition certification and a warrant that specifically identifies OTAs as within their scope and specify the authority as the Aviation and Transportation Security Act. ^a	
Determination and Findings	<p>All OTAs require a determination and findings which must be approved by the Deputy Assistant Administrator and obtain the concurrence of the Acquisition Branch Chief, Acquisition Division Director, cognizant program manager, and legal counsel prior to solicitation, negotiation, and award.^b The determination and findings must include:</p> <ul style="list-style-type: none"> • a description of the requirement; • the rationale for using an OTA including documenting the reasons why traditional contract types do not apply; • method of selecting OTA recipients; • OTA type (e.g., fixed price, cost reimbursable, no funding, etc.); • market research; and • method of determining price reasonableness. 	
Review and Approval Thresholds	A Pre-Negotiation Business Clearance Memorandum must be approved prior to negotiation and a post-Negotiation Business Clearance Memorandum must be approved prior to award. Thresholds and content requirements are the same as those for Federal Acquisition Regulation-based contracts. For example, all actions greater than \$500,000 must be reviewed and approved at least one level above the Contracting Officer who will execute the action.	
	Value of Action	Reviewer
	\$1 - \$500K	Contract Specialist
	>\$500K - \$2.5M	Contracting Officer
	>\$2.5M - \$20.0M	Contracting Officer, and Branch Chief
	>\$20.0M - \$40.0M	Contracting Officer, Branch Chief, Division Director
	>\$40M	Contracting Officer, Branch Chief, Division Director, and Acquisition Policy Division
		Approval Authority
		Contracting Officer
		Branch Chief
		Division Director
		Division Director, with Head of the Contracting Activity Brief Required
		Head of the Contracting Activity
Contracting Officer’s Representative Appointment	Contracting Officers shall appoint a Contracting Officer’s Representative (COR) who shall be responsible for providing surveillance and ensuring that all requirements of the OTA are satisfactorily delivered. A COR is a member of the acquisition team with technical or administrative expertise in a particular field and has a current Department of Homeland Security COR certification. The specific functions that are delegated to a COR are to be provided in the appointment letter and may include a wide range of contract administration tasks.	

Source: GAO analysis of Transportation Security Administration policy. | GAO-18-172

^aThe Federal Acquisition Certification in Contracting Program establishes general education, training, and experience requirements for contracting professionals in the federal government. Federal Acquisition Certification in Contracting Level III is the highest level of contracting officer certification

and requires a minimum of 4 years of contract work experience based on the Contract Specialist (GS-1102) Qualification Standard along with minimum education and training requirements.

^bIn 2017, the policy was updated, and the Head of the Contracting Activity was made the approval authority for OTA determinations and findings.

This framework for awarding and overseeing OTAs is similar to those for contracts. Further, according to TSA's OTA policy, contracting officers who award OTAs must be certified at Federal Acquisition Certification in Contracting Level III and demonstrate possession of a level of experience, responsibility, business acumen, and judgment that enables them to operate in the relatively unstructured business environment of the OTA.

TSA Obligates Millions Annually through OTAs, Primarily to Reimburse for Costs Associated with TSA Security Programs

From fiscal years 2012 through 2016, TSA reported obligating millions annually through OTAs, which amounted to at least \$1.4 billion, or about 13 percent of its overall obligations during this time. Five TSA reimbursement programs used OTAs to partially or fully reimburse airports and law enforcement agencies for the allowable costs associated with TSA security programs such as the design and construction of checked baggage inline systems. These five reimbursement programs accounted for about 99 percent of the \$1.1 billion that TSA obligated on OTAs that were awarded during this period. The remaining three non-reimbursement programs accounted for a small amount of obligations and awarded a low number of OTAs for services including intelligence analysis and the development of aviation standards.

TSA Obligates Millions Annually through OTAs

From fiscal year 2012 to 2016, TSA reported obligating millions annually through OTAs, amounting to at least \$1.4 billion, or about 13 percent of its overall obligations through contracts and OTAs. Annual OTA obligations remained fairly stable over this period, except for fiscal year 2013 when obligations spiked and then sharply declined in fiscal year 2014. This spike was driven in large part by the Electronic Baggage Screening Program, which obligated \$519 million on 54 OTAs in fiscal year 2013 but obligated only \$4 million on one OTA in fiscal year 2014. See table 3 for TSA's obligations on contracts and OTAs.

Table 3: TSA Obligations through Contracts and OTAs from Fiscal Year 2012 to 2016 (dollars in millions)

	2012	2013	2014	2015	2016	Total ^c
Contracts^a	\$1,969	\$1,771	\$1,712	\$2,133	\$2,195	\$9,781
OTAs^b	\$232	\$665	\$86	\$205	\$222	\$1,411
Total^c	\$2,200	\$2,436	\$1,798	\$2,339	\$2,418	\$11,192
OTA percentage of total	11%	27%	5%	9%	9%	13%

Source: GAO analysis of data from Transportation Security Administration (TSA) and the Federal Procurement Data System-Next Generation. | GAO-18-172

^aContracts includes several types of Federal Acquisition Regulation-based acquisitions including contracts and agreements.

^bThese data represent minimum obligations on new and ongoing awards based on matches between data reported in the Federal Procurement Data System-Next Generation, the Transportation Security Administration's financial management system, and its accounting system. We found that the data in all three systems were incomplete and we excluded other transaction agreements that did not match in two or more systems. Therefore, we were not able to independently verify TSA's total other transaction agreement (OTA) obligations during this timeframe.

^cThe total obligations may not be the total of the numbers in this table due to rounding.

TSA Primarily Uses OTAs to Reimburse Airports and Law Enforcement Agencies for the Costs Associated with Security Programs

From fiscal year 2012 to 2016 eight TSA programs used OTAs to meet a variety of mission requirements. Five reimbursement programs used OTAs to partially or fully reimburse airports and law enforcement agencies for the allowable costs associated with TSA security programs. This accounted for about 99 percent of all OTA awards and obligations from fiscal year 2012 to 2016. The remaining three non-reimbursement programs accounted for a small amount of obligations and awarded a low number of OTAs for services including intelligence analysis and the development of aviation standards. See table 4 for the number of OTA awards and obligations by program. For more information on the programs and OTAs we reviewed, see appendix I.

Table 4: Number of New Other Transaction Agreement Awards and Obligations on New Awards by Program from Fiscal Year 2012 to 2016

	New awards	Total obligations on new awards Dollars (in millions) ^a	Obligations as a percentage of total
Reimbursement programs			
Electronic Baggage Screening Program	109	783	69
Law Enforcement Officer Reimbursement Program	563	117	10

	New awards	Total obligations on new awards Dollars (in millions) ^a	Obligations as a percentage of total
Advanced Surveillance Program	29	107	9
National Explosives Detection Canine Team Program	187	68	6
Checkpoint Janitorial and Utilities Program	133	42	4
Non-reimbursement programs			
Office of Law Enforcement/Federal Air Marshal Service	13	9	1
Office of Security Policy and Industry Engagement	4	4	<1
Office of Global Strategies	1	1	<1
Total	1,039	\$1,129	100%

Source: GAO analysis of data from the Transportation Security Administration and the Federal Procurement Data System-Next Generation. | GAO-18-172

Note: These data represent the minimum number of new awards and obligations based on matches between the Federal Procurement Data System-Next Generation, the Transportation Security Administration's (TSA) financial management system, and its accounting system. We found that data in all three systems were incomplete and we excluded other transaction agreements (OTA) that did not match in two or more systems. Therefore, we were not able to independently verify TSA's total OTA obligations during this timeframe.

^aThe total obligations may not be the total of the numbers in this table due to rounding.

The five reimbursement programs awarded numerous OTAs to different airports and law enforcement agencies for similar requirements. These programs each used a class determination and findings that describes the general requirement and other parameters such as a range of possible award amounts or periods of performance. TSA has an OTA template with standard provisions. Terms tailored to the specific airport or law enforcement agency are then provided in the individual OTAs. The following examples illustrate some of the ways TSA has used OTAs to reimburse airports and law enforcement agencies for the costs associated with TSA security programs.

- **The Electronic Baggage Screening Program** is an acquisition program that tests, procures, deploys, and maintains checked baggage screening equipment at federalized airports.⁹ TSA uses FAR-based contracts to buy things like explosives detection machines and engineering support services. TSA uses OTAs to reimburse airports for the allowable design and construction costs associated with facility modifications needed for installing, updating, or replacing in-line checked baggage screening systems. These systems use

⁹For related work on the Electronic Baggage Screening Program, see GAO, *Homeland Security Acquisitions: Earlier Requirements Definition and Clear Documentation of Key Decisions Could Facilitate Ongoing Progress*, [GAO-17-346SP](#) (Washington, D.C., April 6, 2017).

conveyor belts to route checked luggage through an explosives detection machine which captures an image of the checked bag to determine if the bag contains any type of threat item including explosives. Agreements generally range in value from \$50,000 to \$150 million, and the anticipated period of performance can range from 6 months to 3 years, depending on the size and complexity of the project. In one example, TSA entered into an OTA to reimburse the City of Cleveland about \$24 million for work at Cleveland Hopkins International Airport for installation of explosive detection systems within the checked baggage screening area.

- **The Law Enforcement Officer Reimbursement Program** provides partial salary reimbursement to approximately 325 airports to offset the costs of carrying out aviation law enforcement responsibilities in support of passenger screening activities. Reimbursement is based on an established “not-to-exceed” hourly rate or the actual cost per hour, whichever is lower. Agreements range in value depending on the airport category, the number of checkpoints and law enforcement officers, hours of operation, and availability of funds. The period of performance for these agreements is generally 3 to 5 years. For example, TSA entered into an agreement with the Dallas/Fort Worth International Airport Board that lasted from October 2012 to March 2016 to reimburse the airport about \$5.5 million.

While the five reimbursement programs awarded numerous OTAs for the same purpose to different airports and law enforcement agencies, the remaining three non-reimbursement programs awarded few OTAs and their use was more varied. Specifically, the Office of Security Policy and Industry Engagement, the Office of Law Enforcement/Federal Air Marshal Service, and the Office of Global Strategies used OTAs for a range of services including intelligence analysis and the development of aviation standards. For example:

- **The Office of Security Policy and Industry Engagement** is responsible for developing security policies to reduce the risk of catastrophic terrorist attacks. From fiscal year 2012 to 2016, the office awarded four OTAs. These included two awards to the American Public Transportation Association to meet ongoing requirements for intelligence gathering, public transit information sharing and analysis, and the development of mass transit and passenger rail security practices.
- **The Office of Law Enforcement/Federal Air Marshal Service** awarded 13 OTAs to pay for parking for federal air marshals and authorized Law Enforcement Office employees at airports including

John F. Kennedy International and Washington Dulles International. However, in September 2016, TSA competitively awarded a contract to manage parking expenses at numerous airports. According to officials, parking requirements for the Office of Law Enforcement/Federal Air Marshal Service will be met through the contract and as a result, existing OTAs for this requirement are being phased out.

Other than the parking OTAs, TSA officials noted that the requirements for the seven remaining programs that used OTAs from fiscal year 2012 to 2016 are ongoing and that TSA will continue to use OTAs for the same purposes in fiscal year 2017 and beyond, contingent on available funding. They also noted that they do not anticipate any new uses of OTAs.

Methods to Price and Monitor Selected OTAs Reviewed Varied, and TSA Has Taken Action to Strengthen Oversight

Our review of 29 OTAs awarded by 8 TSA programs from fiscal years 2012 through 2016 found that the methods used to determine price reasonableness and monitor these OTAs varied based on the complexity of the requirement. Further, for the key areas we reviewed, the OTAs generally met the requirements of TSA's policy. Nonetheless, TSA's own 2015 internal compliance review found significant gaps in OTA documentation and reporting. In response to these deficiencies, TSA has taken action to strengthen oversight and compliance with its policy.

Methods to Determine Price Reasonableness and Monitor OTAs Varied by Program

TSA's OTA policy requires contracting officers to determine that the price negotiated under the OTA is reasonable and to appoint a COR to provide monitoring and a range of administration tasks to ensure that requirements are satisfactorily delivered. For the 29 OTAs we reviewed, we found that the methods used to determine price reasonableness and provide monitoring varied based on the complexity of the requirement.

Approaches to determining price reasonableness ranged from instances where TSA extensively evaluated proposed costs to more straightforward analysis. For OTAs awarded by the Electronic Baggage Screening Program where the requirements for infrastructure design and

construction can be complex, the program produces an independent government cost estimate based on design drawings and specifications from the airports which are required to follow TSA's detailed guidance.¹⁰ The program compares the estimate with the airport authority's independent bid for the design and construction. Any discrepancies are noted in the technical evaluation, which the contracting officer reviews and documents in the business clearance memorandum. For example, in fiscal year 2016, TSA awarded an OTA for \$23 million to the City of Chicago for the recapitalization of the checked baggage resolution area at O'Hare International Airport. Certain proposed costs in the contractor's bid were higher than TSA's independent government cost estimate. The contracting officer performed an evaluation of the costs and determined that they were reasonable and that the difference was, in part, the result of the airport having greater familiarity with the existing conditions at the site than TSA's cost estimators.

By contrast, some programs took a more straightforward approach to determining price reasonableness, including cases where the costs were predetermined or not negotiable. For example, the Checkpoint Janitorial and Utilities Program used OTAs as a vehicle for reimbursing airport authorities for the costs of electricity to operate TSA screening equipment and for janitorial services in checkpoint areas. TSA had independently verified electricity prices set by the local power authority. Prices for janitorial services were verified based on the airport's competitively-awarded janitorial contracts. In one case, TSA entered into an OTA to reimburse the Massachusetts Port Authority for \$678,000 for one year. TSA performed price analysis on historical data from agreements dating back to 2008 and reviewed changes to the checkpoint square footage and changes in electrical consumption based on use of new TSA equipment. The airport authority provided documentation verifying electrical rates set by the local power authority that TSA's contracting officer used to determine fair and reasonable pricing. Janitorial costs were based on TSA's pro-rated share of the airport's competitively-awarded janitorial contract and considered to be fair and reasonable based on adequate competition in the commercial market-place. TSA verified the rates each year prior to executing options.

¹⁰TSA requires projects to follow TSA's Planning Guidelines and Design Standards for checked baggage inspection systems, which provides a consolidated source for best practices, standards, and guidelines for selecting and designing cost-effective, optimal screening systems.

COR monitoring similarly varied depending on the complexity of the requirement. For the more complex design and construction projects under the Electronic Baggage Screening Program, COR monitoring was more rigorous than for programs with less complex requirements. According to 2016 guidance, the COR is the primary interface between TSA and the airport and is responsible for performing stakeholder coordination functions. During the design phase, the COR is to review the airport's design documentation to ensure compliance with TSA's guidelines and standards in collaboration with TSA subject matter experts. During the construction phase, the COR is responsible for performing ongoing oversight including reviewing invoices prior to payment. For an OTA awarded to the Miami Dade Aviation Department the COR reviews monthly milestone progress status reports as well as weekly status reports prepared by TSA's site integration contractor highlighting work completed, ongoing activities, and program risks. A contracting official noted that schedule slippage is a big risk for cost reimbursement projects which is mitigated by COR oversight, as well as the ongoing oversight of the site leads. A contracting official also noted that most CORs for these OTAs have DHS certification for program and project management providing them with greater technical and administrative expertise to monitor more complex projects.¹¹

In one instance on another project with complex requirements under the Advanced Surveillance Program, project monitoring resulted in TSA and the airport working together to contain costs when a project did not go as expected. In fiscal year 2012, TSA awarded an OTA for \$7.2 million to the Port Authority of New York and New Jersey for the design, installation and maintenance of a security system, including closed-circuit television cameras and associated software, at John F. Kennedy International Airport. In fiscal year 2013, TSA modified the OTA to add more cameras, thereby increasing the cost of the project to \$21 million. However, during installation, the Port Authority experienced several unforeseen issues with the project, including reduced work hours available for unionized labor and asbestos abatement costs. As a result, the Port Authority reassessed its original cost estimate and determined that it was not sustainable. In fiscal year 2017, TSA and the Port Authority agreed to decrease the scope of the project from 751 cameras to 389 cameras to stay within the original \$21 million estimate.

¹¹DHS Program Manager Certification supplements the Federal Acquisition Certification for Program and Project Managers with additional requirements focused on knowledge of the DHS's acquisition and program management processes and procedures.

TSA Found Improved Compliance in Its Reviews of OTAs after Taking Action to Address Lapses in Oversight

Starting in fiscal year 2015, four years after it issued its 2011 OTA policy, TSA began to include OTAs in its contract compliance review program. Compliance reviews are conducted quarterly based on a selection of contracts and OTAs awarded in the previous quarter and intended to improve contracting operations, ensure compliance with applicable standards and policies, and identify best practices. Based on the number of findings identified in its review of six OTA actions included in a 2015 quarterly review, TSA commissioned an OTA-specific compliance review in June 2015. The OTA-specific review covered 30 actions with a total value of about \$82 million and identified significant gaps in documentation and reporting. For example, 18 of 27 OTAs awarded after TSA's 2011 policy was issued did not include a determination and findings approving the action. As noted above, this is a key document that describes the rationale for using an OTA instead of a traditional contract and the determination of price reasonableness. The review also found that 18 of 30 files did not document the assignment of a COR to perform oversight and that 20 of 30 FPDS-NG records were incorrect.

In response to the findings of the OTA-specific compliance review, TSA implemented a number of actions and has subsequently found improvement in OTAs meeting documentation and reporting requirements. We found that TSA revised the OTA policy to clarify requirements and increased training for contracting officers with OTA warrants. Specifically, to obtain the OTA warrant, contracting officers must complete webinar training and 3 days of classroom training. To maintain the warrant, contracting officers must retake the webinar training every two years. According to TSA contracting officials, all of the 56 contracting officers had completed the new training requirements as of May 2017. In addition, TSA has continued to include OTAs in its quarterly compliance review process. Based on our analysis of TSA's fiscal year 2016 compliance reviews, we found that TSA reviewed 16 OTAs with a total value of \$62 million. In those reviews, 12 of the 16 findings were determined to be low risk. For example, several of the files did not include documentation of COR certification. The remaining four OTAs had findings that were determined to be medium risk. This includes, for example, one case where the OTA period of performance started 5 months before the OTA was signed. None of the OTAs, however, was missing a determination and findings and three had missing or incorrect FPDS-NG entries. Officials noted that their efforts to increase training,

oversight, and enforcement of OTA policies and procedures have resulted in increased awareness of reporting requirements and greater compliance.

In addition, TSA also recently increased oversight of the COR program to support efficient OTA and contract oversight and administration. A TSA official responsible for the COR program reported that in fiscal year 2017, TSA began to conduct quarterly compliance reviews of the COR program to ensure greater consistency in oversight practices across the agency. According to COR compliance review guidance issued in 2016, the reviews are intended to highlight positive practices, effective management techniques, and identify areas of improvements.

Our analysis of data in FPDS-NG showed that issues with incomplete data have been corrected over time, in part due to increased oversight. We compared data reported in TSA's financial management and accounting systems with data reported in FPDS-NG and found that the percentage of new OTAs reported in FPDS-NG increased from 37 percent in 2012 to 95 percent in 2016. TSA's policy requires that OTAs be reported in the OTA module within FPDS-NG. The awarding contracting officer has responsibility for accurately entering OTA information, including the value of the award and the period of performance. TSA contracting officials attributed gaps in data in part to the fact that the process for entering OTA data into FPDS-NG is manual, whereas FPDS-NG automatically pulls data for contracts from TSA's contract writing system. According to officials, OTAs are excluded from the contract writing system due to system limitations and this additional step increases the chance that a contracting officer may forget to enter the data into FPDS-NG or enter it into the system incorrectly. TSA officials noted that they have taken steps to improve the accuracy of the data reported in FPDS-NG by reviewing and verifying entries on a monthly basis in accordance with TSA's policy.

Our review of 29 OTAs also demonstrated that the OTAs generally met the requirements for the key areas of TSA policy that we reviewed. For example, TSA's policy states that if the OTA will be awarded without competition, the determination and findings must include a discussion of the method for selecting the OTA recipient. None of the OTAs we reviewed was competed because TSA determined that competition was not applicable due to the nature of the requirements. Nonetheless, all the determination and findings included a discussion of the method for selecting OTA recipients, a process that varied by program. For example, the Law Enforcement Officer Reimbursement Program posts a solicitation

and selects eligible applicants based on review criteria. By contrast, the Advanced Surveillance Program prioritizes projects using a risk-based matrix that assesses threats, vulnerabilities, and consequences populated with data from 449 airports.

Despite improvements, TSA officials acknowledged the need for continued vigilance based on several issues we identified. For example, TSA entered into a “no funding” OTA in 2013 with Signature Flight Support, a commercial fixed-base operator at Ronald Reagan Washington National Airport. A fixed-base operator is an organization granted the right by an airport to provide aeronautical services such as fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, flight instruction, and similar services. Under the agreement, Signature Flight Support collects and remits special security screening and threat assessment fees from airline operators on behalf of TSA, fees that are required due to the airport’s location within a flight restricted zone and special flight rules area. TSA does not obligate funds through the OTA, which primarily establishes the responsibilities and procedures for the fee collection and remittal. Our review found that TSA did not take any action to extend or renew the agreement after it expired in December 2014. However, TSA program officials told us that Signature Flight Support continued to provide the service although an agreement was not in place. When we brought this issue to TSA’s attention, officials agreed the OTA period of performance should have been extended each year. Officials told us that as of October 2017 they anticipate awarding a new OTA for this requirement in the second quarter of fiscal year 2018, more than three years after the OTA expired. In addition to the steps TSA has taken to improve OTA oversight, such as revising its OTA policy and increasing training requirements, TSA officials told us that they will continue to conduct quarterly compliance reviews and monthly data verification in accordance with their policy.

Agency Comments

We provided a draft of this report to the Department of Homeland Security for comment. The Department provided only technical comments, which we incorporated as appropriate.

We are sending copies of this report to the Senate Committee on Homeland Security and Governmental Affairs and the Secretary of the Department of Homeland Security. The report is also available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-4841 or woodsw@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.

Sincerely yours,

A handwritten signature in black ink that reads "William T. Woods". The signature is written in a cursive style with a large initial "W".

William T. Woods
Director, Acquisition and Sourcing Management

Appendix I: Summary of Key Areas for the Other Transaction Agreements GAO Reviewed

Electronic Baggage Screening Program



Source: Transportation Security Administration. | GAO-18-172

Purpose: Reimburses airports for the allowable costs related to various airport checked baggage screening projects including the design and construction of checked baggage inline systems and the recapitalization of existing inline systems. Agreements generally range in value from \$50,000 to \$150 million, and the anticipated period of performance can range from 6 months to 3 years, depending on the size of airport and complexity of the project.

TSA rationale for using Other Transaction Agreement (OTA): Airports are owned and operated either by city or county municipalities, airport boards or trusts, or, in some cases as not-for-profit entities. Given that the program requires modifications to airport terminals that are owned by an entity other than the federal government, it is more practical for the airport to oversee and monitor the construction or modifications required for their facilities.

Method of selecting OTA recipient: Airports submit applications through the airport's Federal Security Director—a TSA employee responsible for security operations at federalized airports—including a description of the requirement, schematic design, budgetary cost estimate, and data relating to number of bags processed and airlines served. TSA prioritizes applications using a risk-based model and by

considering several factors such as the cost share the airport is willing to assume and the readiness of the airport to begin the project.

OTA type: Partial cost share/reimbursement. Depending on the airport's size, TSA will reimburse 90 or 95 percent of the allowable, allocable and reasonable cost of certain projects. In other types of projects, TSA provides 100 percent reimbursement—for example, for existing systems requiring the correction of security or safety deficiencies.

Method of determining price reasonableness: TSA produces an independent government cost estimate based on design drawings and specifications received from the airport and approved by TSA. The estimate is developed using industry standards and is used for evaluating total project cost. When bids are received from the airport, TSA compares the bid amount with the estimate. TSA may conduct further analysis and discussion to ensure that the estimate correctly reflects the scope included in the bid documents.

Contracting Officer's Representative (COR) monitoring: The COR is the primary interface between TSA and the airport and is responsible for performing stakeholder coordination functions. During the design phase, the COR is to review the airport's design documentation to ensure compliance with TSAs guidelines and standards in collaboration with TSA subject matter experts. During the construction phase, the COR is to monitor project schedule and scope through processes such as weekly and monthly reporting.

**Appendix I: Summary of Key Areas for the
Other Transaction Agreements GAO Reviewed**

Table 5: Other Transaction Agreements GAO Reviewed for the Electronic Baggage Screening Program and a Related Project

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
City and County of Denver	For modification or construction of the airport terminal building infrastructure to provide for the installation of explosive trace detection equipment in the checked baggage resolution areas and installation of applicable hardware and software for use with an inline baggage screening system.	Mar 2012 – Jun 2018	\$49,249,646
Miami Dade Aviation Department	For modification or construction of the airport terminal building infrastructure at Miami International Airport to provide for the installation of explosive detection systems within the baggage screening area, explosive trace detection equipment in the checked baggage resolution areas, and the installation of hardware and software for use with an inline baggage screening system.	Sept 2016 – Sept 2018	\$101,161,252
City of Houston	For modification or construction of the airport terminal building infrastructure at George Bush Intercontinental Airport to provide for the installation of explosive detection systems within the baggage screening area, explosive trace detection equipment in the checked baggage resolution areas, and the installation of hardware and software for use with an inline baggage screening system.	Sept 2015 – Jan 2019	\$33,020,959
City of Cleveland	For modification or construction of the airport terminal building infrastructure at Cleveland Hopkins International Airport to provide for the installation of explosive detection systems within the baggage screening area, explosive trace detection equipment in the checked baggage resolution areas, and the installation of hardware and software for use with an inline baggage screening system.	Sept 2015 – Dec 2017	\$24,493,816
City of Chicago – Department of Aviation	For recapitalization of the checked baggage resolution area at O'Hare International Airport.	Sept 2016 – Sept 2018	\$23,116,751
Dallas/Fort Worth International Airport Board	For design services to provide improvements to the checked baggage resolution area at the Dallas/Fort Worth International Airport.	Jul 2012 – Jul 2016	\$2,828,040
Reno Tahoe Airport Authority ^a	For the construction for a centralized screening checkpoint at Reno-Tahoe International Airport.	Jun 2012 – May 2013	\$1,500,000

Source: GAO review of TSA other transaction agreement files and TSA data. | GAO-18-172

^aThis agreement is not part of the Electronic Baggage Screening Program but is related in that it was awarded and overseen by the Office of Security Capabilities to provide reimbursement for the design and construction of modifications to an airport following TSA's design guidelines.

Law Enforcement Officer Reimbursement Program



Source: Transportation Security Administration. | GAO-18-172

Purpose: Provides partial reimbursement to approximately 325 airports to offset the allowable costs of carrying out aviation law enforcement responsibilities in support of passenger screening activities.

TSA rationale for using OTA: Participants are not traditional contracting partners; most participants must contribute to the cost of providing law enforcement officer support at the checkpoints; and the agreements do not acquire property or services for the direct benefit or use of the government.

Method of selecting OTA recipient: The program posts a solicitation to FedBizOpps.gov with eligibility requirements, application process, review criteria, and selection process. Airports as well as state, local, or other public institutions/organizations responsible for commercial airport operations that have incurred law enforcement service costs due to TSA security mandates are eligible. The Federal Security Director—a TSA employee responsible for security operations at federalized airports—along with the Law Enforcement Officer Program Office, Office of Chief Counsel, and the contracting officer, participate in selecting eligible applicants.

OTA type: Partial cost reimbursement.

Method of determining price reasonableness: OTAs are negotiated to provide reimbursement for law enforcement officer support at an established “not-to-exceed” hourly rate or the actual cost per hour, whichever is lower. The amount of partial reimbursement is based on

airport category, the number of checkpoints, hours of operation, and availability of funds.

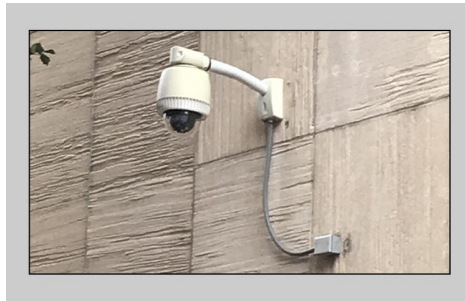
COR monitoring: CORs provide technical direction and day-to-day oversight of the program, work with the airport Federal Security Director to make sure that requirements are being satisfied, and approve invoices prior to payment.

Table 6: Other Transaction Agreements GAO Reviewed for the Law Enforcement Officer Reimbursement Program

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
Dallas/Fort Worth International Airport Board	Partially offset costs of carrying out aviation law enforcement responsibilities in support of passenger screening activities	Oct 2012 – Mar 2016	\$5,462,149
City of Chicago – Department of Aviation	Partially offset costs of carrying out aviation law enforcement responsibilities in support of passenger screening activities	Feb 2016 – Dec 2018	\$3,503,279
Yuma County Airport Authority, Inc.	Partially offset costs of carrying out aviation law enforcement responsibilities in support of passenger screening activities	Oct 2012 – Mar 2016	\$336,111

Source: GAO review of TSA other transaction agreement files and TSA data. | GAO-18-172

Advanced Surveillance Program



Source: GAO. | GAO-18-172

Purpose: Provides reimbursement for the allowable costs incurred to design, install, or expand surveillance systems to meet the required views of the local TSA. Project costs generally range from \$200,000 to \$21 million with an anticipated period of performance ranging from 6 months to 3 years depending on the complexity of the system and facility size.

TSA rationale for using OTA: The primary beneficiary of the surveillance equipment is the facility that will take ownership of the system and be solely responsible for its operation. The use of an OTA provides for the facility to manage and perform the work but allows TSA oversight and control over the expenditure of TSA funds. TSA will not benefit directly from the purchase, installation, and operation of the system, so a traditional contract would not be appropriate.

Method of selecting OTA recipient: The program prioritizes projects based on a risk-based matrix that assesses threats, vulnerabilities, and consequences based on data from 449 airports. Airports must be willing to complete the project within the required timeframe.

OTA type: Cost reimbursement.

Method of determining price reasonableness: The program uses a pre-award systems engineering process which culminates in a project evaluation and plan, a comprehensive surveillance assessment of TSA managed areas, and an independent government cost estimate. TSA reviews the cost elements to, for example, validate labor categories, labor hours, materials, and other direct costs based on industry standards and comparison with other projects. The program also uses market research and historical data to inform price analysis.

COR monitoring: The COR works with project coordinators to monitor OTA performance and maintains direct contact with the transportation facility and the local TSA representatives. The COR reviews invoices to ensure that the transportation facility (via its contractor) has met all acceptance criteria prior to approval and payment of each invoice. Upon completion of installation and testing, TSA obtains an acceptance report to be signed by the transportation facility authority and major stakeholders including facility representatives, and the responsible TSA Federal Security Director, contracting officer, and COR.

Table 7: Other Transaction Agreements GAO Reviewed for the Advanced Surveillance Program

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
Port Authority of New York & New Jersey	For a new video surveillance system at John F. Kennedy International Airport.	May 2012 – May 2018	\$21,270,770
Metropolitan Airports Commission	For a new video surveillance system at Minneapolis St. Paul International Airport.	Aug 2013 – May 2018	\$10,588,950
Port of Seattle	For the expansion of the video surveillance system at Seattle Tacoma International Airport.	Jul 2014 – Jul 2019	\$11,981,067
Metropolitan Knoxville Airport Authority	For the expansion of the video surveillance system at McGhee Tyson Airport.	Aug 2016 – Jul 2017	\$84,630

Source: GAO review of TSA other transaction agreement files and TSA data. | GAO-18-172

National Explosives Detection Canine Team Program



Source: GAO. | GAO-18-172

Purpose: Provides partial reimbursement to airports, mass transit systems, and state and local law enforcement participants for the allowable costs incurred associated with the operation of the authorized canine teams and explosives storage magazines. Allowable costs that will be reimbursed include handlers' salaries and care for the canines. In turn, the local jurisdiction agrees to a set of responsibilities including using TSA trained canine teams at least 80 percent of their on-duty time in the transportation environment and to maintain a minimum of three certified teams available for around-the-clock incident response. The program reimburses participants up to \$50,500 per canine team for allowable costs incurred. The period of performance for these OTAs is up to 5 years.

TSA rationale for using OTA: A standard procurement contract is not suitable because the airports, mass transit, and maritime facilities are not owned by TSA, but by airport authorities, and state and local agencies. These entities have the responsibility for the control and oversight of security operations at a specific location, either by having their own law enforcement officers, or using the state or local law enforcement officers. Since TSA does not own the airport or have primary law enforcement responsibility and only provides participants partial reimbursement for the operating costs of the teams, an OTA is warranted.

Method of selecting OTA recipient: Transportation authorities and/or local law enforcement entities submit a written request outlining their desire to join the program in which they outline the need for the canine teams within their respective transportation system/s. TSA selects

recipients based on a review of the transportation system’s risk profile and the program’s available team openings.

OTA type: Partial cost reimbursement.

Method of determining price reasonableness: The \$50,500 per team stipend only covers a portion of the cost to the participant. There are instances after award that require an additional price reasonableness determination, such as when a participant requests reimbursement for a supply or service that is either unknown to the program or inconsistent with program historical prices for the given supply/service. If the program determines that the item is allocable the program will determine whether it was procured competitively and any facts that may support it being higher than historical prices paid. If the item was not procured competitively, the program will look at current price lists and catalogs for a same or similar item and consult program subject matter experts on their personal knowledge of the item(s) being purchased.

COR monitoring: The program assigns a Field Canine Coordinator who is responsible for overseeing the participant’s compliance with the agreement through periodic reporting and assessments. Reimbursement is to be made upon receipt and review of summited expenses by the COR and contracting officer.

Table 8: Other Transaction Agreements GAO Reviewed for the National Explosives Detection Canine Team Program

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
Northeast Illinois Regional Commuter Railroad Corporation	For TSA-certified explosives detection canine teams that will be available to respond to transportation systems under the jurisdiction of the Railroad Corporation.	Oct 2012 – Dec 2014	\$681,750
City of Los Angeles, Los Angeles World Airports	For TSA-certified explosives detection canine teams that will be available to respond to Los Angeles and Ontario International Airports.	Oct 2012 – Dec 2014	\$4,508,000
City of Los Angeles, Los Angeles World Airports	For TSA-certified explosives detection canine teams that will be available to respond to Los Angeles and Ontario International Airports.	Jan 2016 – Dec 2019	\$3,232,000
City of Los Angeles, Los Angeles World Airports	For TSA-certified explosives detection canine teams that will be available to respond to Los Angeles and Ontario International Airports.	Jan 2015 – Dec 2015	\$1,666,500
City of Houston ^a	For the construction and use of a storage facility for canine explosive training devices located at the William P. Hobby Airport.	Sept 2013 – Dec 2015	\$31,219

**Appendix I: Summary of Key Areas for the
Other Transaction Agreements GAO Reviewed**

Source: GAO review of TSA other transaction agreement files and TSA data. | GAO-18-172

^aThis other transaction agreement is not covered by the class determination and findings used by the other agreements in our sample under this program.

Checkpoint Janitorial and Utilities Program



Source: GAO. | GAO-18-172

Purpose: The Checkpoint Janitorial and Utilities program uses OTAs to define the terms and conditions for TSA's use of checkpoint space in mandated non-leased space at airports and to provide a vehicle for reimbursing the cost of electrical consumption and janitorial services.

TSA rationale for using OTA: A procurement contract is not suitable since the airport is a governmental entity, not a commercial vendor. Additionally, airports often contract directly with a utility provider or janitorial company.

Method of selecting OTA recipient: Airports request reimbursement for utility costs and janitorial services in mandated non-leased space at TSA security checkpoints. TSA Federal Security Directors who are responsible for security operations at federalized airports confirm the need for reimbursing the cost of utilities and janitorial services at the checkpoint space. These OTAs are not available for competition as the only available source is the airport authority.

OTA type: Cost reimbursement.

Method of determining price reasonableness: TSA reimburses airports at cost for the costs of electrical consumption by TSA screening equipment located in the checkpoint space based on a cost allocation methodology. TSA reimburses airports for its pro-rata share of the airports janitorial costs per square foot also based on a cost allocation methodology. In the files we reviewed, prices were considered to be fair and reasonable based on documentation verifying the rates set by the local power authority. Costs were considered to be fair and reasonable

based on the airports' competitively-awarded janitorial contracts and rates established by the local utility authority.

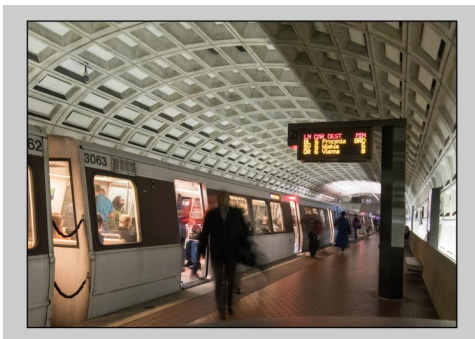
COR monitoring: Provides technical direction, contractor oversight, and certification of payments.

Table 9: Other Transaction Agreements GAO Reviewed for the Checkpoint Janitorial and Utilities Program

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
City of Los Angeles, Los Angeles World Airports	Establish terms and conditions for use of space and to reimburse electrical and janitorial costs for the TSA checkpoint and baggage screening areas at Los Angeles and Ontario International Airports.	June 2014 – May 2019	\$10,423,075
Massachusetts Port Authority	Establish terms and conditions for use of space and to reimburse electrical and janitorial costs for the TSA checkpoint and baggage screening areas at Boston Logan International Airport.	Sept 2013 – Feb 2018	\$3,349,702
Dallas/Fort Worth International Airport Board of Directors	Establish terms and conditions for use of space and to reimburse electrical and janitorial costs for the TSA checkpoint and baggage screening areas at Dallas/Fort Worth International Airport.	Oct 2015 – Feb 2020	\$3,123,950

Source: GAO review of TSA other transaction agreement files and TSA data. | GAO-18-172

Office of Security Policy and Industry Engagement



Source: GAO. | GAO-18-172

Purpose: The office has an ongoing requirement for intelligence gathering, public transit information sharing and analysis, and development of mass transit and passenger rail recommended security practices.

TSA rationale for using OTA: The American Public Transportation Association is a not-for-profit trade association which therefore may not currently have the experience, knowledge, or past performance to support a FAR type contract.

Method of selecting OTA recipient: Through market research, TSA determined that the American Public Transportation Association was uniquely capable of meeting requirements.

OTA type: Fixed price.

Method of determining price reasonableness: In 2014, price was determined to be fair and reasonable based primarily on historical data and prices consistent with the preceding interagency agreement and the office's independent government cost estimate. In 2016, the program updated the independent government cost estimate based on a quote from the American Public Transportation Association which provided for greater clarity, insight, and definition to the actual costs. Additional market research is planned to determine the best way to fulfill this requirement in the future.

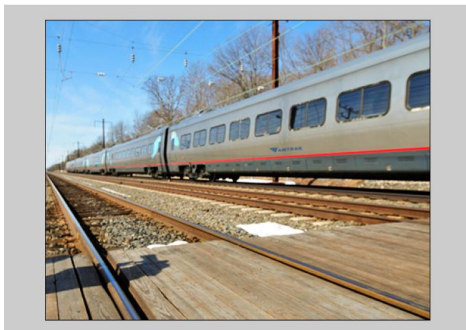
COR monitoring: The COR developed a contract management plan which identifies a detailed list of work products and delivery schedule. The expected deliverables are also detailed in the OTA statement of work. Responsibilities of the contractor include developing and managing a project plan; updating the plan as the project evolves; reporting project progress and status via monthly reports; and, participating in TSA-scheduled conference calls, if necessary, to review project progress, identify and discuss issues, and discuss corrective action.

Table 10: Two of Four Other Transaction Agreements GAO Reviewed for the Office of Security Policy and Industry Engagement

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
American Public Transportation Association	For the operation and maintenance of the Information Sharing and Analysis Center and the generation of new, recommended practices and guidelines in order to meet the threats of domestic terrorism aimed at the nation's transportation infrastructure.	Apr 2016 – Oct 2016	\$908,273
American Public Transportation Association	For the management of the Information Sharing and Analysis Center and to spread awareness concerning terrorist threats against surface transportation.	Jan 2014 – Jan 2016	\$3,000,000

Source: GAO review of TSA other transaction agreement files and TSA data. | GAO-18-172

Office of Security Policy and Industry Engagement



Source: GAO. | GAO-18-172

Purpose: The Surface Division of the Office of Security Policy and Industry Engagement has a need to maintain railroad police personnel involvement and a liaison relationship with the FBI's National Joint Terrorism Task Force. The requirement entails the direct employment of intelligence gathering focused on preventing terrorist acts affecting the nation's passenger and freight-rail infrastructure to facilitate the continuity of communications, liaison, intelligence analysis and information sharing among federal, state, local and railroad industry police/security agencies.

TSA rationale for using OTA: A procurement contract is not suitable for this requirement, as the purpose of the action is to not acquire property or services for the direct benefit or use of the United States government. Rather, the requirement entails the direct employment of intelligence gathering focused on preventing terrorist acts affecting the nation's passenger and freight-rail infrastructure.

Method of selecting OTA recipient: Since 2003, the Association of American Railroads has provided the TSA with a railroad police officer charged with collecting and analyzing intelligence information. Market research reveals the Association of American Railroads to be one of two major railway representation groups in the U.S. counting among its membership the seven largest freight and passenger rail carriers in North America. A follow-on agreement with the Association of American Railroads maintains an uninterrupted flow of the critical intelligence necessary in monitoring the safety and security of the nation's railway infrastructure.

OTA type: Fixed price.

Method of determining price reasonableness: The program developed an independent government cost estimate based on prices paid under a previous agreement which allows for an inflationary cost adjustment of 3 percent per year and determined the annual funding cost to be fair and reasonable in meeting this requirement.

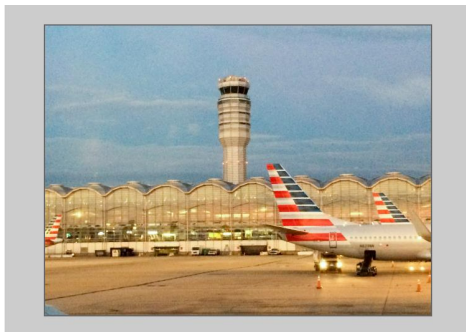
COR monitoring: The COR is responsible for the technical administration and liaison of the agreement and is to review and certify invoices for completeness and accuracy before approving them for payment. As authorized by the FBI, the assigned railroad police officer is to provide a monthly written report that summarizes the activities and accomplishments related to the tasks outlined in the agreement.

Table 11: One of Four Other Transaction Agreements GAO Reviewed for the Office of Security Policy and Industry Engagement

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
Association of American Railroads	To provide funding for a railroad police officer, who will collect and analyze intelligence information and share this information with TSA and other government agencies as appropriate. The officer will also serve as a liaison between railroad police and the National Joint Terrorism Task Force.	Oct 2015 – Sept 2020	\$449,691

Source: GAO review of TSA other transaction agreement file and TSA data. | GAO-18-172

Office of Security Policy and Industry Engagement



Source: GAO. | GAO-18-172

Purpose: Ronald Reagan Washington National Airport is located within the Flight Restricted Zone and Special Flight Rules Area. As such, the Office of Security Policy and Industry Engagement developed a security program for approved general aviation aircraft operators which requires stringent security measures including requirements for background checks, physical screening of passengers and baggage. Aircraft operators are responsible for reimbursing TSA for the cost of the security screening. TSA requires the use of the airport facility to perform the screening function and a mechanism for the collection of security screening and threat assessment fees from aircraft operators and remittance of those fees to TSA.

TSA rationale for using OTA: A procurement contract is not suitable for this requirement because TSA is not acquiring, purchasing, or leasing any product or service. The OTA primarily establishes the responsibilities of the parties and the fee collection and remittal procedures.

Method of selecting OTA recipient: TSA determined that Signature Flight Support, as the sole commercial fixed base operator granted the right to operate at Reagan National Airport to provide aeronautical services such as fueling, hangaring, parking, aircraft rental, aircraft maintenance, flight instruction, and similar services—is therefore the only entity capable of providing the facilities and services required to implement this program.

OTA type: No funding.

Appendix I: Summary of Key Areas for the
Other Transaction Agreements GAO Reviewed

Method of determining price reasonableness: Not applicable.

COR monitoring: The COR is responsible for providing technical direction and administration.

Table 12: One of Four Other Transaction Agreements GAO Reviewed for the Office of Security Policy and Industry Engagement

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
Signature Flight Support	To collect and remit security screening and threat assessment fees on behalf of TSA.	Dec 2013 – Dec 2014	\$0

Source: GAO review of TSA other transaction agreement file and TSA data. | GAO-18-172

Office of Global Strategies



Source: GAO. | GAO-18-172

Purpose: The Office of Global Strategies is directed to encourage the development of civil aviation security, and is authorized to furnish to international organizations certain technical expertise and assistance. The office awarded an OTA to the International Civil Aviation Organization—a specialized agency of the United Nations committed to preventing and deterring unlawful interference with international civil aviation—to cover the salaries and benefits for three TSA employees assigned to the organization as senior security advisors. TSA actively participates in the organization’s Aviation Security Panel of Experts, which is responsible for promulgating international security standards.

TSA rationale for using OTA: An OTA is best suited for this requirement since the International Civil Aviation Organization is a United Nations specialized agency and TSA is not acquiring any property or services for the direct benefit or use of the United States government.

Method of selecting OTA recipient: There are no known alternative sources.

OTA type: Fixed price.

Method of determining a fair and reasonable price: Both the Program Office and the Contracting Officer solely relied upon historical salaries as previously used with the International Civil Aviation Organization.

COR monitoring: The COR reviews and the contracting officer approves all invoices prior to payment.

**Appendix I: Summary of Key Areas for the
Other Transaction Agreements GAO Reviewed**

Table 13: Other Transaction Agreement GAO Reviewed for the Office of Global Strategies

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
International Civil Aviation Organization	To provide three TSA personnel to serve in positions at the International Civil Aviation Organization to provide technical expertise in the field of civil aviation security.	Oct 2015 – Sept 2016	\$955,211

Source: GAO review of TSA other transaction agreement file and TSA data. | GAO-18-172

Office of Law Enforcement/Federal Air Marshal Service



Source: GAO. | GAO-18-172

Purpose: TSA has a requirement to obtain parking spaces/permits for Federal Air Marshals during their mission flights for various airports.

TSA rationale for using OTA: A procurement contract is not suitable for this requirement as airport parking is not considered a commercial item/service to the public; it is only available to business partners. An OTA allows TSA to participate in an airport's business partner category. Further OTAs provide a practical vehicle because the airport authority is considered a U.S. state government entity.

Method of selecting OTA recipient: TSA conducted market research which found that an OTA with the airport provides a significant cost savings to the government compared with other alternatives. TSA compared the costs of parking as a business partner with the cost of parking at the typical rates at the airport.

OTA type: Fixed price.

Method of determining a fair and reasonable price: TSA prepared an independent government cost estimate based upon commercial market pricing for airport parking.

COR monitoring: TSA will pay the airport the variable fixed rate on a monthly basis. All costs will be invoiced based on actual costs incurred, but not to exceed the OTA amount. To receive payment from TSA, the airport submits one-page invoice to include the quantity used, unit price, and extended prices of the monthly deliverable. The invoice will be

**Appendix I: Summary of Key Areas for the
Other Transaction Agreements GAO Reviewed**

reviewed and approved by the COR and contracting officer prior to payment.

Table 14: One of Two Other Transaction Agreements GAO Reviewed for the Office of Law Enforcement/Federal Air Marshal Service

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
Port Authority of New York & New Jersey	For parking permits for the Federal Air Marshal Service at John F. Kennedy International Airport.	Sept 2014 – Aug 2017 ^a	\$1,890,237

Source: GAO review of TSA other transaction agreement file and TSA data. | GAO-18-172

^aThe period of performance does not include unexercised options as TSA chose not to extend this agreement after 2017.

Office of Law Enforcement/Federal Air Marshal Service

Purpose: TSA has a need for parking for authorized Office of Law Enforcement Employees at Washington Dulles International Airport.

TSA rationale for using OTA: Need for parking can be met more economically with mechanism to directly reimburse Metropolitan Washington Airports Authority.

Method of selecting OTA recipient: TSA conducted market research which found that an OTA with the Metropolitan Washington Area Airport authority provides a significant cost savings to the government compared with other alternatives.

OTA type: Fixed price.

Method of determining a fair and reasonable price: TSA conducted price analysis and found that other available lots are all more expensive, farther away from the airport, and lack the capacity to service 400 people.

COR monitoring: Perform surveillance to assure performance and compliance with the terms and conditions of the agreement. Certify invoices to the contracting officer for payment.

Table 15: One of Two Other Transaction Agreements GAO Reviewed for the Office of Law Enforcement/Federal Air Marshal Service

Awardee	Purpose	Period of performance as of the end of fiscal year 2017	Total obligations as of the end of fiscal year 2017
Metropolitan Washington Airports Authority	To provide funding for parking passes for the Federal Air Marshal Service at Washington Dulles International Airport.	Sept 2013 – Sept 2017	\$810,500

Source: GAO review of TSA other transaction agreement file and TSA data. | GAO-18-172

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact:

William T. Woods, (202) 512-4841 or woodsw@gao.gov

Staff Acknowledgments

In addition to the contact named above, Tatiana Winger (Assistant Director), Angie Nichols-Friedman (Analyst in Charge), Peter Anderson, Lorraine Ettaro, Julia Kennon, Carol Petersen, Lindsay Taylor, Westley Tsou, Alyssa Weir, and Robin Wilson made key contributions to this report.

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