

United States General Accounting Office Washington, DC 20548

March 31, 2003

Subject: Catalogue of GAO and Inspectors General Reports on Contracting Issues for Fiscal Years 1997 through 2002

Dear User:

The federal government spent more than \$230 billion through contracts with private industry in fiscal year 2001. Ten Executive Branch agencies¹ account for almost 95 percent of this spending. Past reviews by Executive Branch agency inspectors general, military-department audit agencies,² and the General Accounting Office (GAO) have created an extensive body of reports on the procedures and practices that federal agencies use to plan, award, and administer contracts. These reviews identified weaknesses in the contracting processes of individual agencies³ and contracting challenges faced by these agencies. To our knowledge, however, there is no comprehensive listing of these reviews that can be used to identify the contracting weaknesses and challenges these agencies have in common. Consequently, to facilitate literature searches of the reports concerning federal contracting matters, we compiled a catalogue of information from reports and testimonies by the 10 agencies' inspectors general, military department audit agencies, and GAO. Such a catalogue could be useful to the oversight community and others in determining (1) common contracting issues identified across multiple agencies and (2) the potential contracting-risk areas and gaps in contracting oversight across these agencies.

This catalogue contains information about contracting matters identified in reports and testimonies issued during fiscal years 1997 through 2002. Each catalogue record includes the agency that conducted the audit or review; the audited agency; audit report number, title, and date issued; a summary of the reported contracting issues; and the contracting processes or functions identified as weaknesses. Users of the catalogue can conduct a search by any of these items. The catalogue includes a brief summary of each report's findings. In most

¹ The Executive Branch agencies include the Departments of Agriculture, Defense, Energy, Health and Human Services, Justice, Transportation, Treasury, and Veterans Affairs; the General Services Administration; and the National Aeronautics and Space Administration.

² These are the Army and Air Force Audit Agencies and the Naval Audit Service.

³ Contracting is the purchasing, renting, leasing, or otherwise obtaining supplies or services from nonfederal sources. The contracting process includes planning the contracting action; describing the required supplies and services; identifying, soliciting and selecting sources of supplies and services; preparing and awarding contracts; all phases of contract administration; and closing out the contract.

cases, an electronic copy of the full report or testimony can be obtained from the reporting agency's Web site, or a hard copy document can be obtained from the reporting agency. This catalogue is intended to facilitate searches of reports. Users of the catalogue should follow up with the agencies to determine what actions they took to address the findings and recommendations.

The catalogue is available in two formats: (1) an AccessTM database and (2) a data extract text file. We also included (1) a list of agency Web sites where users can obtain copies of complete reports identified in the catalogue, (2) a glossary of contracting terms used to categorize the contracting issues identified in the reports, and (3) a tip sheet on conducting simple AccessTM searches of the catalogue.

Scope and Methodology

To identify reports and testimonies concerning contracting matters issued during fiscal years 1997 through 2002, we identified, obtained, and reviewed reports and testimonies from the Web sites of agency inspectors general, military department audit agencies, and GAO as well as agency-provided lists. We did not include reports that dealt with grants, cooperative agreements, or interagency agreements because these are not considered contracts and the Federal Acquisition Regulation does not govern these relationships. We also did not include pre-award and post award reviews of individual contracts or other reports with restricted distribution based on proprietary content. We also did not include reports restricted because of national security reasons.

Information on these reports is contained in a table, or catalogue. For each report, we captured key information (such as audited agency and report number), summarized the report's findings, and categorized the report by various contracting terms or issues to facilitate catalogue searches. A panel of GAO contracting-matter specialists compiled a list of contracting terms used to categorize the reported contracting issues. These terms were validated by inspector general and audit agency officials and defined in a glossary.⁴ Officials from each inspector general's office and audit agency reviewed our catalogue entries to validate them for completeness, accuracy, and appropriateness of the contracting terms we used to facilitate data searches. We incorporated the changes they suggested.

We conducted our research between May 2002 and January 2003. Because this effort was not an audit of government organizations or programs, this effort was not required to be conducted in accordance with generally accepted government auditing standards.

We are sending electronic versions of this catalogue to the inspectors general of the Departments of Agriculture, Defense, Energy, Health and Human Services, Justice, Transportation, Treasury, and Veterans Affairs; the General Services Administration; and the National Aeronautics and Space Administration as well as the directors for the Army and Air Force Audit Agencies, and the Naval Audit Service. This report will also be available at no charge on GAO's home page at http://www.gao.gov/special.pubs/d03504sp/.

⁴ The panel developed the glossary based on 1) the panel members' knowledge and experience with contract related issues and (2) definitions contained in the *Federal Acquisition Regulation*.

Questions regarding this catalogue can be directed to me at (202) 512-8214, or Hilary Sullivan at (214) 777-5652. Major contributors to this product were Frederick Day, Timothy DiNapoli, Jack Edwards, Michael Gorin, Gordon Lusby, Gary Middleton, Monty Peters, Pauline Reaves, Sylvia Schatz, Christina Sklarew, Tanisha Stewart, Bradley Terry, and Ralph White.

William T. Woods

William T. Woods Director Acquisition and Sourcing Management

LIST OF AGENCY OR INSPECTOR GENERAL WEBSITES

Agency	Website
Department of Agriculture	www.usda.gov/oig
Department of Defense	www.dodig.osd.mil
Department of Energy	www.ig.doe.gov
Department of Health and Human Services	www.oig.hhs.gov
Department of Justice	www.usdoj.gov/oig
Department of Transportation	www.oig.dot.gov
Department of Treasury	www.ustreas.gov/offices/inspector-general
Department of Treasury for Tax Administration	www.treas.gov/tigta
Department of Veterans Affairs	www.va.gov/oig
General Services Administration ⁵	www.gsa.gov
National Aeronautics and Space Administration	www.hq.nasa.gov
Air Force Audit Agency	www.afaa.hq.af.mil
Army Audit Agency	www.hqda.army.mil/aaaweb
Naval Audit Service	www.hq.navy.mil/navalaudit
General Accounting Office	www.gao.gov

 $^{^{\}scriptscriptstyle 5}$ GSA Inspector General reports generally are not available on the website and must be ordered in hard copy.

GLOSSARY OF THE CONTRACTING TERMS USED IN THE CATALOGUE

The purpose of this glossary is to provide definitions of the terms we used to categorize the contracting issues identified in reports included in the catalogue. We used the Federal Acquisition Regulation (FAR) as our source of choice whenever possible to provide the definitions, but used other sources when we could not find a term defined in the FAR. The definitions are not intended to be all-inclusive or legally precise; they are intended to provide a usable, general definition to assist users in searching the catalogue. We have grouped these terms into various categories, for example, contract planning, contract type, and contract administration.

Users can search the catalogue using the terms in this glossary that are identified in **bold** (e.g. **requirements**) and using the type of information contained in each catalogue record, such as the name of the agency that was audited or the audit report's number or title. Each catalogue record includes the agency that conducted the audit; the audited agency; audit report number, title, and date issued; a summary of the reported contracting issues; and the contracting processes or functions identified as weaknesses. In addition, users can perform a word search of the audit report title and the findings summary.

The catalogue includes reports that address issues related to contracting—the purchasing, renting, leasing, or otherwise obtaining supplies or services from nonfederal sources. The contracting functions include planning the contracting action; describing the required supplies and services; identifying, soliciting, and selecting sources of supplies and services; preparing and awarding contracts; all phases of contract administration; and closing out the contract. Contracting does not include awarding grants or cooperative agreements.

CONTRACT PLANNING

Requirements are the agency's identified needs for personnel, equipment, facilities, other resources, or services, and of definite or indefinite quantities, during specific periods of time or at a specified time. In addition to specified performance requirements, contract requirements include those defined in the statement of work; specifications, standards, and related documents; the contract data requirements list; or contract terms and conditions.

Socioeconomic programs are programs implemented through the procurement process to foster the achievement of national social or economic goals. The government uses its purchasing power as a means of promoting goals and policies such as fostering small businesses or providing contracting opportunities for those with disabilities.

Cost estimate is a judgment or opinion regarding the cost of a commodity or service. A cost estimate is included in an offeror's proposal and is based on the offeror's estimate of the cost for the work to be performed, specifying the expected cost required to perform a stipulated task or to produce an item. A cost estimate may consist of a single value or a range of values.

Acquisition planning is the process of coordinating and integrating, through development of a plan, all of the steps required for the government to meet its needs in a timely fashion at a reasonable cost. The plan must address all the technical, business, management, and other significant considerations that control the acquisition.

Market research means collecting and analyzing information about capabilities within the market to satisfy agency needs. It involves a process for gathering data on products' characteristics as well as suppliers' capabilities and business practices, including the analysis of that data to make acquisition decisions. Market research has two phases: market surveillance—all the activities that acquisition personnel perform continuously to keep themselves abreast of technology and product developments in their areas of expertise--and market investigation—a phase of market research conducted in response to a specific need.

CONTRACT TYPES

Fixed-price contracts provide for a firm price set at the time of award, although in appropriate cases, such prices may later be subject to adjustment. Fixed-price contracts providing for an adjustable price may include a ceiling price, a target price (including target cost), or both. Unless otherwise specified in the contract, the ceiling price or target price is subject to adjustment only by operation of contract clauses providing for equitable adjustment or other revision of the contract price under stated circumstances. Types of fixed-price contracts include firm-fixed-price, fixed-price with economic price adjustment, and fixed-price incentive contracts.

Cost reimbursement is a type of contract where the government agrees to reimburse the contractor its allowable incurred costs to the extent permitted. This type of contract establishes an estimate of total cost for the purpose of obligation of funds and establishes a ceiling that the contract may not exceed (except at the contractor's own risk) without prior approval or subsequent ratification by the contracting officer. Cost-reimbursement contracts are suitable for use when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract. Types of cost reimbursement contracts include cost (no fee), cost-sharing, and a variety of cost-plusfee contracts.

Indefinite delivery contracts include three types: definite-quantity, requirements, and indefinite-quantity contracts, any of which might be appropriate when the exact times or quantities of deliveries are unknown when the contract is awarded. A definite-quantity contract provides for delivery of a definite quantity of specific supplies or services, with deliveries to be scheduled upon order. A requirements contract provides for filling all actual purchase requirements of designated government activities for supplies or services during a specified contract period, with deliveries or performance to be scheduled by placing orders with the contractor. An indefinite-quantity contract provides for an indefinite quantity, within stated limits, of supplies or services to be delivered during a fixed period. Requirements contracts and indefinite-quantity contracts are also known as **indefinite delivery/indefinite quantity (ID/IQ)** contracts. These contracts do not specify a firm quantity of supplies or services for the delivery of supplies or the performance of tasks during the period of the contract. Examples of **ID/IQ** contracts include:

- **Government-wide acquisition contract (GWAC)** is a contract for information technology established by an agency designated as an executive agent by the Office of Management and Budget for use by agencies government-wide.
- **Multi-agency contract** is a contract established by one agency for use by multiple government agencies to obtain supplies and services consistent with the requirements of the Economy Act.
- **Multiple award contract** is a contract awarded to two or more sources for the same or similar supplies or services under a single solicitation. Orders placed under such contracts must clearly specify all the tasks to be performed or supplies to be delivered. In addition, agencies placing orders must ensure that each awardee is afforded a fair opportunity to be considered for orders exceeding \$2,500.

Time-and-materials is a type of contract that provides for acquiring supplies or services on the basis of

- direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit, and
- materials at cost, including, if appropriate, material handling costs as part of material costs.

Time-and-materials contracts require the execution of a determination and finding that no other contract type is suitable and that the contract includes a ceiling price that the contractor cannot exceed except at his own risk.

CONTRACTING METHODS

Share-in-savings describes a contracting approach, authorized by the Clinger-Cohen Act for use in information technology procurements, where a contractor funds a project up front in return for a percentage of the savings actually realized by the contracting agency.

Performance-based contracting is a means of structuring all aspects of an acquisition around the purpose of the work to be performed, with the contract's requirements set forth in clear, specific, and objective terms with measurable outcomes, as opposed to specifying the manner by which the work is to be performed.

Blanket purchase agreement (BPA) is a simplified method of filling anticipated repetitive needs for supplies or services by establishing "charge accounts" with qualified sources of supply. BPAs may be established under the following conditions:

- Purchases may be from a wide variety of items in a broad class of supplies or services, but the exact items, quantities, and delivery requirements are not known in advance and may vary considerably.
- There is a need to provide commercial sources of supply for one or more offices or projects in a given area that do not have authority to purchase otherwise.
- The use of this procedure would avoid the writing of numerous purchase orders.
- There is no existing requirements contract for the same supply or service that the contracting activity is required to use.

General Service Administration (GSA) schedules, or Federal Supply Schedules, are indefinite-delivery contracts that GSA negotiates with commercial firms to provide supplies and services at stated prices for given periods of time. Customers (federal agencies) place orders directly with the schedule contractors.

CONTRACT SOLICITATION, NEGOTIATION, AND AWARD

Competition is an acquisition strategy where more than one contractor is sought to bid on a service or function; the winner is selected on the basis of criteria announced in the solicitation. The Competition in Contracting Act of 1984 (P.L. 98-369) requires full and open competition for most government contracts.

Cost analysis is the review and evaluation of the separate costs and profit in a contractor's proposal. The purpose of the review is to determine the accuracy and reasonableness of the proposed costs, assuming reasonable economy and efficiency, and the proposed profit.

Price analysis is the process of examining and evaluating a proposed price without evaluating its separate cost components or proposed profit.

Price negotiation is the process of negotiating a contract's price with the objective to achieve a fair and reasonable contract price.

Request for proposal (RFP) is a solicitation used in a negotiated acquisition to communicate government requirements to prospective contractors and to solicit proposals intended to result in a contract award. The RFP contains the anticipated terms and conditions of the prospective contract.

Request for quotation (RFQ) is used in federal contracting to obtain information (e.g. price, delivery information) from prospective suppliers. An RFQ is similar to an RFP but solicits information rather than offers and is not intended to result in a contract award.

Source selection is the process of selecting a contractor in a competitive procurement and typically involves the assessment of contractor proposals and evaluating such factors as price, product or service quality, and past performance.

CONTRACT ADMINISTRATION

Contract oversight is the monitoring of the contractor's performance by reviewing progress reports, making visits to the contractor, inspecting deliverables, comparing progress with delivery schedules and cost objectives, and advising the contracting officer of suspected problems with contract performance. Contract oversight starts when the contract is awarded and continues until the contract is closed out.

Cost performance report (CPR) is a primary means that a contractor uses to report cost and schedule performance and trends to the procuring agency.

Financial management includes the supervision or administration of payments to the contractor and financing issues such as obtaining the funds necessary for performance of the contract.

Fee administration is the administration or management of the amount paid to a contractor beyond allowable costs under a cost-reimbursable contract. The term "fee" is only used in the cost-reimbursement environment and is used to describe the contractor's profit. The term "profit" is used in the fixed-price environment. A contractor's fee may be set as a contract award (as in cost-plus-fixed-fee contracts) or may be allowed to fluctuate within a preestablished range in order to incentivize the contractor (as in cost-plus-incentive-fee contracts).

Subcontracting refers to a contractor's purchase of supplies or services from another nongovernmental source for use in the performance of a prime contract or another subcontract.

Contract closeout is the term used to describe the final settling of outstanding contractual issues to ensure that both the government and the contractor have completed their obligations. The term also includes the final documenting of the contract file to indicate completion of the work. A contract is complete when (1) the contractor has completed the required deliveries or performed the required services and the government has accepted them, or (2) the government has given the contractor notice of complete contract termination.

FUNCTIONAL MANAGEMENT

Acquisition workforce is the personnel component of the acquisition system responsible for acquiring goods and services; however, the definition of the acquisition workforce is not consistent among federal agencies. In DOD, it is generally defined as those people, including contracting professionals, program managers, engineers, scientists, and logisticians who are responsible for managing various facets of acquisitions from the earliest phases of basic research to the logistical support of systems. In civil agencies, it is generally defined as contracting professionals.

Information technology support includes all activities that ensure an information technology system meets its operational mission and supports the contracting mission. "Information technology" includes computers, ancillary equipment, software, firmware, services (including support services), and related resources used to support the contracting mission by providing the appropriate data and data accuracy needed to perform the contracting function.

Policy/guidance/processes includes agency regulations, instructions, or directives that govern how government acquisitions are carried out and contracting activities are performed.

Funds management is the management of obligations against funds appropriated by the Congress and apportioned to specific activities, programs, or projects. The purpose of funds management is to prevent obligations in excess of the funds made available in the appropriation as required by the Anti-deficiency Act.

SPECIAL TOPICS

Illegal activities are actions that do not comply with laws and regulations.

Commercial items include any item, other than real property, that is customarily used by the general public or nongovernmental entities for other than governmental purposes and that has been sold, leased, or licensed to the general public; or has been offered for sale, lease, or license to the general public.

E-commerce means electronic techniques for accomplishing business transactions including electronic mail or messaging, World Wide Web technology, electronic bulletin boards, electronic funds transfers, and electronic data interchange.

Intellectual property includes inventions, patents, trademarks, copyrights, trade secrets, technical information including software, data designs, technical know-how, manufacturing information and know-how, techniques, technical data packages, and manufacturing data packages.

Competitive sourcing is a process used to determine if it would be more advantageous and cost-effective to obtain services using agency personnel or through a contract with the private sector.

Prime vendor is a support concept whereby a single contractor serves as commercial distributor/supplier of products to various federal customers within a geographical region or zone. The prime vendor concept was initiated to reduce inventories and improve customer satisfaction.

Purchase cards are similar in nature to a commercial credit card and are issued to authorized agency personnel for use at commercial establishments to acquire and pay for supplies and services.

<u>Tips for Searching Catalogue of IG Contracting Reports</u>

- 1. When you open the IG contracting reports file, a contracting reports form will appear. **Please note: that you will actually be looking at a table of information in a form format for easy reading.** There are 934 records in this table. Each record represents an individual IG report containing contracting information
- 2. At the top of the form slightly to the right of the middle of the tool bar you will see three funnels. Place your cursor over the center funnel; this is the "Filter by Form" button (it will look like a funnel with a square attached to it). Click on this funnel, and you will get a blank form.

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4. **Filtering to find the records you want**. You can then place your cursor in any field (e.g., Who Did The Audit?, Report Summary, Title, Date, etc.), depending on the information you desire. Some fields will have drop down

menus identifying specific information. For example, in the "Who Did The Audit?" field, you can click on the drop down menu and see all the agencies that have contracting information in this searchable form.

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5. Once you've identified the field you want to find information in (by clicking in it), then go to your tool bar and click on the funnel (it is the only one on the tool bar at this point and will be next to the right of the red "X".) Click on this to apply filter and the appropriate information you are looking for will be identified by the number of records containing the information you want at the bottom of the form on the left hand side. The text will read, "Look for Record______ of 297 (filtered)," for example.



Can scroll through and look at a records meeting the criteria

- 6. Let's do some examples:
 - a. How many Department of Defense (DOD) contracting reports are available in this table?

Click on funnel "Filter by Form." Place your cursor in the "Who Did The Audit?" field. Click on the drop down menu. Highlight "Defense IG." Go to your tool bar at the top, click on apply filter funnel (as explained in step 5). **All records meeting these criteria will now be displayed in the form view.** You will notice on the very bottom left side of the form, the text for "number of records" will read as 297. This means there are 297 DOD IG contract records (reports). (See previous example.)

b. Now suppose you want to find out how many of these DOD contracting reports deal with contract requirements.

You already know that there are a total 297 DOD reports on contracting issues from our first search. To narrow the search to just those reports in DOD that deal with contract requirement issues, click on the "filter by form funnel" (as explained in step 2). Then look at the bottom of the form on the left hand side under "Contract Planning" and click in the box for "Requirements." **Then click on the "Apply Filter" button on the tool bar (as explained in step 5).** Now you will notice at the bottom of the form that there are 69 records that meet your criteria **and all records meeting these criteria are now displayed in the form view.**

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c. You are able to find additional information continuously by adding whatever criteria you desire, clicking on the "Filter by Form," and then clicking on the "Applying Filter." For example, if you now want to find out how many DOD records contain source selection information in addition to contract requirements information, you would click on the "Filter by Form" then click in the box for "Source Selection" (Look for this under the "Contract Solicitation, Negotiation, and Award" heading). Then click on "apply filter" button. You will then see that there are four records that meet these criteria (look at the bottom left hand side of the screen where you will see record______ of 4 (filtered). You can add as much information as you like to your search. If you decide that you want to start a new search click on "filter by form" and then click on the red "X" to clear the grid.

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7. To remove the filter and return to the original form with all records, click on the funnel (after in a filtered form, the funnel changes to "Remove Filter").



After filter is applied, funnel changes to "Remove Filter" 8. All criteria entered on one "Filter by Form" page will result in all reports that meet all the criteria you have indicated. You can also build searches with "or" criteria. For example, let's say you now want to find out if there are also Army Audit Agency contracting reports that contain both contract requirements information and source selection information. You would once again click on "Filter by Form" then look at the bottom of the form on the left side for two tabs labeled "look for" and "or." Click on the "or" tab. Then click on the drop down menu in the "Who Did The Audit?" field; highlight Army Audit Agency. Then, click on requirements and source selection. Click on "Apply Filter." Your Army Audit Agency criteria are now added to your previous criteria for DOD, which was retained in the "Filter by Form." You can keep adding criteria with the "or" tab. The following search will result in six reports (four for DOD IG and two for Army Audit Agency).



This filter will find all records meeting the following:

Defense IG		Army Audit Agency
And		And
Requirements	OR	Requirements
And		And
Source Selection		Source Selection

9. You can search for individual words or phrases in various fields containing text (e.g., Report Title or Report Summary) using the "Filter by Form" and "Apply Filter." Please note that before starting any new searches you should clear previous searches as described in the last sentence of step 6.c. In the Report Summary, for example, let's say you want to identify every report (out of 934) that contains the phrase "service contract." You will note there is a field entitled "Report Summary." This field provides a short summary of information about every report listed. Therefore, you would want to search in this field for the phrase "service contract." You would first click on the "Filter by Form" funnel on the tool bar (as explained in step 2). Then click in the "Report Summary" field. Type in *service contract*. MAKE SURE YOU HAVE THE * AT THE BEGINNING AND THE END OF

YOUR PHRASE. By putting the asterisk at the end of the word "contract" you will get both "service contract" and "service contracts." Putting the asterisk after the word "contracts" will only get the plural "service contracts." Click on Apply Filter and then at the bottom of the form (as explained in step 5) you will notice that there are 24 reports with information on "service contract." **Please note that these 24 reports are not necessarily all "service contract" reports in the table, but represent only those with the phrase "service contract" in the report summary.**

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Who Did The Audit? Audited Agency	Report Number
Additinal Unique Info (eg Additional Audited Agencies)	Date Issued
	Report Title
Report Summary "service contract"	
Enter words or	phrase to search fo

10. Now suppose you want to find out if there are any Department of Transportation (DOT) contracting reports (audited agency) that contain the phrase "service contract" in the report summary. You already have criteria on service contract; you now just want to narrow your search to DOT. Click on "Filter by Form" (you will notice that the previous criteria on service contract is still retained in the Report Summary field). Click on the "Audited Agency" field, highlight "Department of Transportation" and click on "Apply Filter." You will then notice a blank screen. This indicates that there are **no DOT reports that** have the phrase "**service contract**" **in the Report Summary field**.



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11. Now let's say you want to search for all reports between a specific starting date and ending date. Start by clicking on "Filter by Form," and then place your cursor in the "Date Issued" field. Let's say you want to identify all contracting reports for all agencies in the table for 1998. Type the following in the date field: **between 01/01/1998 and 12/31/1998**, then click on "Apply Filter" and look at the bottom of the form on the left hand side (as explained in step 5). You will see that there are 162 records that meet these criteria. You can expand this search (as explained in the first sentence in step 6.c).

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12. Now let's do a variation of step 11. Suppose you want to find all reports issued after 12/31/1997. You would clear the filter (as explained in the last sentence of step 6.c) and then follow what you did in step 11 only this time when you click in the "Date Issued" field you would type the following:
>12/31/1997. You will notice at the bottom of the form on the left hand side (as explained in the last sentence of step 5) that there are 745 records that meet this criterion. As was previously mentioned, you could expand criteria on this particular search (as explained in the first sentence step 6.c.)

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