

GAO Highlights

Highlights of [GAO-16-209](#), a report to the Ranking Member, Committee on Science, Space, and Technology, House of Representatives

Why GAO Did This Study

Federal agencies use a variety of acquisition and financial assistance mechanisms, such as contracts, grants, and cooperative agreements, to help meet their missions. Some federal agencies have received authorization to use other transaction agreements, which allow an agency to enter into agreements other than traditional mechanisms, such as contracts. As a result, agencies can customize their other transaction agreements to help meet project requirements and mission needs. As GAO reported in May 2002, this authority carries risks, however, because such agreements may be exempt from the Federal Acquisition Regulation and other requirements that are intended to protect taxpayers' interests.

GAO was asked to review federal agencies' use of other transaction authority. This report describes (1) which agencies are authorized to use other transaction agreements and the extent to which agencies have guidance to implement the authority, (2) why agencies used other transaction agreements and for what types of activities, and (3) the extent to which agencies used other transaction agreements for fiscal years 2010 through 2014. GAO reviewed statutory authorizations, agencies' guidance, and information on agencies' other transaction agreements and use for fiscal years 2010 through 2014, and interviewed officials from each of the agencies authorized to use other transaction agreements.

What GAO Recommends

GAO is not making any recommendations in this report.

View [GAO-16-209](#). For more information, contact John Neumann at (202) 512-3841 or neumannj@gao.gov.

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FEDERAL ACQUISITIONS

Use of 'Other Transaction' Agreements Limited and Mostly for Research and Development Activities

What GAO Found

Congress has authorized 11 federal agencies to use other transaction agreements—which generally do not follow a standard format or include terms and conditions required in traditional mechanisms, such as contracts or grants—to help meet project requirements and mission needs. The National Aeronautics and Space Administration (NASA) first received this authority in 1958. Over the next several decades, five additional federal departments were given this authority—Defense (DOD), Energy (DOE), Health and Human Services (HHS), Homeland Security (DHS), and Transportation (DOT). Congress also granted authority to five agencies within these departments, including DOT's Federal Aviation Administration and DHS's Transportation Security Administration (TSA). The statutory authorities for most agencies include some limitations on the use of their agreements, although the extent and type of limitations vary. For example, DOT's authority limits use of other transaction agreements to research, development, and demonstration (RD&D) projects that focus on public transportation. Ten of the 11 agencies have issued guidance to implement their authority. The last agency—the National Institutes of Health (NIH)—is in the process of developing guidance.

Most agencies cited flexibility as a primary reason for their use of other transaction agreements, and used agreements mostly for RD&D activities. Officials from 7 agencies told GAO the authority allowed them to develop customized agreements that addressed concerns over requirements in traditional mechanisms that some companies viewed as potential obstacles to doing business with a federal agency. This flexibility allowed agencies to address concerns regarding intellectual property and cost accounting provisions that would otherwise need to be included when using traditional mechanisms, such as contracts. In addition, other transaction agreements allowed some agencies to tailor other terms and conditions of agreements as needed when working with other entities. Most agencies—9 of the 11—used other transaction agreements for RD&D activities for a range of projects from medical research to energy development research. Two of the 9 agencies—DOD and DHS—also used other transaction agreements for prototype activities. Three agencies, including TSA and NASA, used other transaction agreements for activities not related to RD&D or prototype development, including airport security and education and outreach.

Other transaction agreements were a small proportion of most agencies' contracting and financial assistance activities for fiscal years 2010 through 2014. Compared to traditional mechanisms, most agencies used other transaction agreements sparingly, according to officials. Most agencies had a small number of other transaction agreements—75 or fewer—in fiscal year 2010, and the number of agreements generally remained low by the end of fiscal year 2014. Officials cited budgetary and other reasons for this trend. In contrast, two agencies that used other transaction agreements for activities other than RD&D and prototypes—TSA and NASA—had larger numbers of agreements. In fiscal year 2010, TSA and NASA had about 400 and 2,220 agreements, respectively. By the end of fiscal year 2014, these agencies had increased their use to about 640 and 3,220 agreements, respectively.