

GAO

Report to the Chairman, Subcommittee  
on Oversight and Investigations,  
Committee on Energy and Commerce,  
House of Representatives

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July 1994

# TRAINING PROCUREMENT

## Weaknesses Identified In NTSB Procurement Practices



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**Office of Special Investigations**

B-257253

July 26, 1994

The Honorable John D. Dingell  
Chairman, Subcommittee on Oversight  
and Investigations  
Committee on Energy and Commerce  
House of Representatives

Dear Mr. Chairman:

This report responds to your letter of April 1, 1993, in which you asked us to investigate the National Transportation Safety Board's (NTSB) procurement of training courses provided by the firm of Miller & Friends. You asked that we investigate allegations that NTSB (1) kept incomplete records of training procurements, (2) circumvented procurement regulations by splitting a contract into individual purchase orders, (3) improperly procured training courses from Mr. John Miller by paying the same instructor through different names and accounts, (4) accepted the misrepresentation of an instructor's qualifications, and (5) allowed instructors to use abusive training techniques in classes that NTSB employees were required to attend.

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**Background**

The NTSB is an independent agency that promotes transportation safety by conducting independent accident investigations and preparing safety recommendations. The NTSB's 1993 appropriation was \$36 million, which included a \$760,000 training budget for its approximately 350 employees.

In March 1990, NTSB underwent a major reorganization, hiring a new Managing Director and several senior-level directors. Among those hired was Mr. Timothy Forte, the Director of Aviation Safety. Within 6 months following the reorganization, Mr. Forte began sending groups of employees to a series of leadership and management courses given by Miller & Friends. These courses were conducted at the request of the NTSB and for the benefit of NTSB employees.

In fiscal years 1990 through 1993, NTSB employees attended at least 18 courses provided by Miller & Friends, at a cost to the agency of \$167,185, exclusive of travel and per diem expenses. Typically, about 20 NTSB employees attended each course, at a cost of at least \$410 per employee. The total paid to Miller & Friends for each course was typically about \$6,000-\$14,000 and was always in excess of \$2,500.

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## Results in Brief

The NTSB maintained incomplete records regarding the training courses obtained from Miller & Friends. The records that were maintained indicated that the NTSB did not seek competition for the Miller & Friends training courses nor did it provide any justification for awarding those contracts without competition. The available records also indicated that the total billing for one of the training courses was split between several purchase orders. Further, NTSB officials did not pursue questions concerning Mr. Miller's qualifications. While some NTSB employees objected to attending courses and to the training techniques used in the Miller & Friends courses, others described the courses in positive terms. Finally, in one instance, Mr. Forte failed to properly report reimbursement that he had received for travel expenses from an NTSB vendor.

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## NTSB Records Regarding the Miller & Friends Training Courses Were Incomplete

We reviewed the NTSB records maintained by NTSB's accounting, training, and program offices regarding the Miller & Friends courses. For many of the courses, the files failed to establish (1) who negotiated the price, (2) what services or materials were to be delivered, and (3) what the basis was for obtaining the courses without competition.

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## NTSB Failed to Obtain Competition for the Training Courses

During fiscal years 1990 through 1993, NTSB employees attended at least 18 courses provided by Miller & Friends, at a cost to the agency of \$167,185. NTSB officials requested the courses, which were attended only by NTSB employees.

As a general rule, agencies are required to obtain competition when acquiring property or services. With respect to procurements in excess of \$2,500, but less than \$25,000, federal procurement regulations require agencies to seek a reasonable number of bids or quotations from qualified competitors before selecting a vendor, unless an appropriate justification for selecting a single vendor without competition is documented. NTSB Order 4400.1<sup>1</sup> requires that NTSB acquisitions for property or services be consistent with federal procurement laws and regulations and provides that requests for procurement of goods or services be submitted on NTSB Form 4400.1, titled "Requisition for Supplies Services and Shipments."

However, NTSB officials usually did not submit a Form 4400.1 in seeking authorization and payment for the Miller & Friends courses. Rather, NTSB

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<sup>1</sup>NTSB Order 4400.1 was dated September 23, 1969, and has not been updated since NTSB became an independent agency in 1974. The agency is in the process of revising the order.

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officials authorized payment for the Miller & Friends courses by issuing multiple Office of Personnel Management Standard Forms 182 (SF-182).<sup>2</sup>

At some point, the NTSB Comptroller<sup>3</sup> became aware of the use of SF-182s to obtain training courses from Miller & Friends. In a February 3, 1993, memorandum, the Comptroller advised NTSB officials that

“It has come to my attention that training provided by Miller & Friends has been acquired through the issuance of SF-182 forms and not NTSB Form 4400.1. After researching this, it has been concluded that we have reached a dollar threshold for FY 1993 wherein no further training may be obtained with Miller & Friends. Effective immediately, you are instructed not to commit funds/staff to Miller & Friends. Also, you are reminded to submit an NTSB Form 4400.1 for any training required by Non-Government facilities (except for colleges or universities).”

The available documents, along with inquiries made during our investigation, established that Mr. Timothy Forte, the Director of Aviation Safety, suggested that Miller & Friends courses be selected. Mr. Forte stated that he wanted his employees to attend Miller & Friends courses because he was personally familiar with Mr. Miller’s abilities. Mr. Forte explained that he had attended the Federal Aviation Administration’s Executive School and other courses taught by Mr. Miller and regarded those courses very highly.

Mr. Forte’s prior experience with Miller & Friends courses, by itself, does not constitute a valid basis for awarding contracts to that firm without competition. NTSB officials provided us with no other justification for Miller & Friends’ sole-source selection.

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## Alleged Splitting of Billing

We received allegations that NTSB officials tried to conceal the total cost of the Miller & Friends courses by making payments using different account numbers, different program codes, and variations of Miller & Friends’ name. Our review of NTSB’s accounting records showed that NTSB made payments to Miller & Friends using seven different vendor numbers, eight different program codes, and four variations of Miller & Friends’ name.

The records indicated that on one occasion multiple purchase orders to separate vendors were related to the same course. Specifically, with

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<sup>2</sup>SF-182s are normally used to authorize individual government employees’ attendance at nongovernment-sponsored training courses. Form 4400.1 was used on three occasions.

<sup>3</sup>NTSB’s Comptroller also functions as the Contracting Officer, Director of the Financial Management Division, and Equal Employment Opportunity Director.

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regard to a 3-day Team Building course conducted in February 1993, we found one \$8,000 purchase order to Miller & Friends for the training course; one \$3,000 purchase order to Mr. Miller's wife, Ms. Athena Kaye, for implementing a precourse self-assessment; and one \$2,489 purchase order to Mr. Richard Brungraber for a 1-day "follow-up" session.<sup>4</sup> NTSB's Comptroller acknowledged that Ms. Kaye's administration of the questionnaire was part of the 3-day course and should not have been billed separately.

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## NTSB Officials Did Not Pursue Questions Regarding Instructor Credentials

NTSB employees alleged that Mr. Miller had misrepresented his qualifications as an instructor and that NTSB officials ignored reports of such misrepresentations. Mr. Forte stated that he was aware of questions regarding Mr. Miller's credentials but did not pursue them because NTSB had no requirement to verify an instructor's credentials for this type of training.

We reviewed a Miller & Friends corporate brochure obtained from an NTSB file. The brochure stated that Mr. Miller "worked at the University of California Medical Center at Davis as a clinical instructor" and that he was completing his doctorate in clinical psychology from the International College in Sacramento, California.

We attempted to verify the accuracy of these representations. Officials at the University of California Medical Center at Davis advised that no record exists for John Miller as a clinical instructor. We were unable to locate any listing for a school by the name of International College in Sacramento. The Association of Adult Learning and Educational Credentials has no record of an accreditation for International College in California; nor was it listed in Peterson's Guide to Four-Year Colleges, 1992.

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<sup>4</sup>According to the justification statement in the requisition, Mr. Brungraber taught the 3-day Team Building course and was needed for the follow-up session. Mr. Brungraber was listed in a corporate brochure as a "management training associate" of Miller & Friends.

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## Attendance at Courses Where Abusive Training Techniques Allegedly Were Used

Several NTSB employees who had attended Miller & Friends courses stated that they had been required to attend the courses and that the courses subjected them to psychotherapy, harassment, and techniques offensive to their religious beliefs.<sup>5</sup> Various participants, however, held widely divergent perceptions about the training. The following discusses the information we found regarding these issues.

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### Alleged Mandatory Training

Mr. Forte told us that the courses were not mandatory but rather “available to all.” He added that it was his “goal to have everyone in NTSB attend Miller’s training classes and see [the] effect on the office.” Our investigation revealed the following examples of evidence that appear inconsistent with Mr. Forte’s assertion that the courses were not mandatory.

- Several student evaluations stated that attendance was required or mandatory.
- An NTSB supervisor wrote on a student evaluation of the course that “. . . course attendance was mandated by headquarters.” Another supervisor wrote, “I was required to send an employee. . . .”
- Two students filed EEO complaints with NTSB’s EEO Director because the courses allegedly violated their religious beliefs and subjected them to harassment or psychotherapy without their consent. The complaints resulted in a handwritten note from the Management Director to the NTSB Chairman of the Board stating, in part, “Future Miller training should be . . . 100% voluntary.”

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### Alleged Abusive Training Techniques

We received allegations that the Miller & Friends instructors were using “abusive” tactics, including assertions that Mr. Miller was “practicing group therapy,” using harassment techniques similar to those used to indoctrinate military recruits. Some NTSB employees who attended these courses stated that Mr. Miller practiced group therapy without a license and “violated ethical standards” by “probing for personal information in a public forum” without prior consent. The NTSB employees also complained that they were not advised of the course’s content before being required to attend.

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<sup>5</sup>Equal Employment Opportunity Commission (EEOC) guidance to its investigators indicates that employers are required to reasonably accommodate employees whose sincerely held religious beliefs conflict with a particular training technique or method used in a “new age” training program. EEOC Compliance Manual § 628, App. B.

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We interviewed a number of students who had attended the courses. Most expressed strong opinions regarding the training techniques used. Those who favored the training described it as an “enriching experience” that taught them how to deal with reality and to “improve their self-awareness.” Those who opposed the training described it as “abusive,” “brainwashing,” and “bizarre.” Some of the students we interviewed stated that, on occasion, Mr. Miller would solicit personal information from individual students and then used that information in a way that caused emotional distress for the student from whom the information had been obtained.

For example, Mr. Miller told a student whose father was dying of cancer, “You are the cancer that is spreading through this group; you are the cancer that is infecting everyone around you.” The student told us she was “deeply hurt” by his remarks and subsequently broke down and cried. Upon contacting her supervisor to request permission to leave the class, she was told that “He [Mr. Miller] tried to rip me apart too, but this is the type of class you have to go through.” Later that day, when she returned to the office, she said that Mr. Forte also told her to return to the class. At the end of the course, the student wrote in her course evaluation “Participation was not allowed. Instructor taught by intimidation, humiliation, and had no course objective.”

Mr. Forte told us that in at least one instance, Mr. Miller called a participant a “slime bucket.” He told us, however, that this remark had to be put in context, because it was part of the “frank feedback” given during these classes.

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## Senior Official Failed to Disclose Acceptance of Travel Reimbursement

Mr. Forte told us that he accepted “about \$300” in travel reimbursement from Arola Enterprises, an NTSB vendor, to facilitate his participation in teaching a non-NTSB course. Although NTSB regulations did not prohibit Mr. Forte’s action,<sup>6</sup> the Ethics in Government Act, 5 U.S.C. App. 6 § 102(a)(B) (1988), required that he disclose this reimbursement on his Public Financial Disclosure Report, Standard Form 278. Mr. Forte’s Standard Form 278 for the years 1990 through 1993 did not disclose his receipt of travel expenses.

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<sup>6</sup>NTSB’s regulations permit “bona fide” reimbursements for nonofficial travel. 49 C.F.R. § 805.735-5(g) (1992).



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## Methodology

We conducted our investigation from April 1993 to February 1994. Our investigation focused on NTSB's procurement of the Miller courses. We reviewed applicable law and regulations, directives, internal NTSB correspondence, and documents.

We interviewed NTSB officials, including the Director for Administration, the Comptroller, the Budget Officer, the Deputy Ethics Officer, and the Director for Aviation Safety. We also interviewed selected employees who attended the Miller & Friends courses and various administrative staff who were responsible for the procurement. In addition, we made an attempt to talk with Mr. Miller, but he declined to grant us an interview.

We attempted to independently verify the accuracy of the cost data by examining source documents, such as requisitions, invoices, and vouchers. We consolidated the Miller courses by requesting that NTSB provide us with a complete report of all its training expenditures from its automated Consolidated Accounting System, beginning in fiscal year 1990. Then we isolated all the payments made to Miller & Friends or others with the same address as Miller & Friends or Mr. Miller.

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We plan no further distribution of this report at this time. If you have questions concerning this report, please contact me or Assistant Director Houston Fuller of my staff at (202) 512-6722.

Sincerely,



Richard C. Stiener  
Director

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