

Inspector General

United States
Department of Defense



Air Force Host and Tenant Agreements
Between the 50th Space Wing, the
Joint National Integration Center, and
Tenants

Additional Copies

To obtain additional copies of this report, visit the Web site of the Department of Defense Inspector General at <http://www.dodig.mil/audit/reports> or contact the Secondary Reports Distribution Unit at (703) 604-8937 (DSN 664-8937) or fax (703) 604-8932.

Suggestions for Future Audits

To suggest ideas for or to request future audits, contact the Office of the Deputy Inspector General for Auditing at (703) 604-9142 (DSN 664-9142) or fax (703) 604-8932. Ideas and requests can also be mailed to:

ODIG-AUD (ATTN: Audit Suggestions)
Department of Defense Inspector General
400 Army Navy Drive (Room 801)
Arlington, VA 22202-4704

DEPARTMENT OF DEFENSE

hotline

To report fraud, waste, mismanagement, and abuse of authority.

Send written complaints to: Defense Hotline, The Pentagon, Washington, DC 20301-1900
Phone: 800.424.9098 e-mail: hotline@dodig.mil www.dodig.mil/hotline

Acronyms

AFI	Air Force Instruction
FAR	Federal Acquisition Regulation
JFCC	Joint Functional Component Command
JNIC	Joint National Integration Center
JTAAS	Joint National Integration Center Technical Advisory and Assistance Services
LAN	Local Area Network
R&D	Research and Development
U.S.C.	United States Code



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

May 22, 2007

MEMORANDUM FOR DIRECTOR, MISSILE DEFENSE AGENCY
COMMANDER, 50TH SPACE WING, AIR FORCE SPACE
COMMAND

SUBJECT: Report on Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants (Report No. D-2007-102)

We are providing this report for review and comment. The 50th Space Wing did not respond to the draft report; however, we considered comments from the Missile Defense Agency when preparing the final report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. As a result of management comments we revised Recommendation 1. The Missile Defense Agency comments were partially responsive. We request additional comments for recommendations 1 and 2.a, 2.b, and 2.c. We request the Missile Defense Agency and the 50th Space Wing provide comments on the Recommendations by July 23, 2007.

If possible, please send management comments in electronic format (Adobe Acrobat file only) to Auddfs@dodig.mil. Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Questions should be directed to Amy Frontz at (303) 676-7392 (DSN 926-7392) or Mr. John Furutani at (303) 676-7513 (DSN 926-7513). See Appendix C for the report distribution list. The team members are listed inside the back cover.

By direction of the Deputy Inspector General for Auditing:

A handwritten signature in black ink, reading "Paul J. Granetto", is positioned above the typed name.

Paul J. Granetto, CPA
Assistant Inspector General & Director
Defense Financial Auditing Service

Department of Defense Office of Inspector General

Report No. D-2007-102

May 22, 2007

(Project No. D2006-D000FD-0064.000)

Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants

Executive Summary

Who Should Read This Report and Why? DoD and Air Force staff involved with host and tenant support agreements are the intended audience for this report. It discusses the appropriateness of the cost allocation methodologies the Joint National Integration Center and the 50th Space Wing used to assess tenants for support costs.

Background. The 50th Space Wing of the Air Force Space Command operates Schriever Air Force Base in Colorado Springs, Colorado. The 50th Space Wing makes available by permit two buildings on the base's real property records, 720 and 730, to the Joint National Integration Center, a Component of the Missile Defense Agency. The Joint National Integration Center resides as a tenant, serves as a host to other tenants, and contracts for services. As part of its host duties, the Joint National Integration Center assesses charges for services provided based on the amount of square footage each tenant occupies in the two buildings. The Joint National Integration Center estimates and collects these charges (reimbursements) in advance through military interdepartmental purchase requests.

Results. In assessing their tenants' operating and support charges, the Joint National Integration Center and the 50th Space Wing used cost allocation methodologies that did not comply with DoD guidance on what constitutes reimbursable costs under support agreements. The Joint National Integration Center was also assessing nonreimbursable charges and miscalculating utility charges. As a result, the Joint National Integration Center and other tenants paid an inappropriate share of operations and support costs—amounting to more than \$350,000—from February 2005 to January 2006. The Joint National Integration Center and the 50th Space Wing need to review their methodologies to ensure they accurately reflect the costs of support provided and comply with DoD Instruction 4000.19. In addition, the Joint National Integration Center needs to review its procedures for determining which costs are properly reimbursable (incremental direct costs) from tenants and correct the utility calculation used to allocate costs to the Joint Functional Component Command. Finally, the Missile Defense Agency should review charges paid by tenants in previous years to verify that it did not collect more than the actual expenses for each fiscal year. If the Missile Defense Agency collected more than actual expenses, it should either refund excess funds to the tenants or deposit those funds in the U.S. Treasury through miscellaneous receipts and, if it lacks sufficient budget authority, it should report an Antideficiency Act violation.

Management Comments and Audit Response. The Executive Director, Missile Defense Agency concurred with one of the recommendations and partially concurred with three recommendations. The Executive Director, MDA, did not concur that the cost allocation methodology used by JNIC resulted in fund augmentation. She stated MDA was operating under the statutory authority of the Economy Act which allows for estimates. We agree

estimates may be used; however, the Economy Act requires that estimates be adjusted to reflect actual costs. In addition, DoD policy requires that intragovernmental support agreements adjust the estimated amounts paid in advance by the receiving party. JNIC did not attempt to determine if funds were collected in excess of actual direct costs.

The Executive Director stated the cost methodology used by JNIC is consistent with DoD guidance and all reimbursable costs identified in the agreements are incremental direct costs. We disagree that all costs had a direct link to the tenants. We also disagree that JNIC should include the common-use infrastructure as part of the square footage when multiplying it by the rate per square foot to arrive at the total utility cost to the tenant.

We request the Executive Director, Missile Defense Agency reconsider her position, and 50th Space Wing Commander provide comments on the final report by July 23, 2007. See the Finding section of the report for a discussion of management comments, and the Management Comments section of the report for the complete text of the comments.

Table of Contents

Executive Summary	i
Background	1
Objectives	1
Finding	
Cost Allocation Methodologies and Assessment of Host and Tenant Charges	2
Appendixes	
A. Scope and Methodology	13
B. Overcharges	14
C. Report Distribution	16
Management Comments	
Missile Defense Agency	19

Background

This report discusses the cost allocation methodologies used by the Joint National Integration Center (JNIC) and the 50th Space Wing to assess operating and support charges to tenants, and questions the appropriateness of specific charges.

Owner-Host-Tenant Relationship. The 50th Space Wing, Air Force Space Command operates Schriever Air Force Base in Colorado Springs, Colorado. The 50th Space Wing makes available by permit two buildings on Schriever's real property records, 720 and 730, to JNIC, a Component of the Missile Defense Agency.¹ JNIC resides as a tenant, serves as a host to other tenants, and contracts for services necessary to carry out its mission and perform interior building operations and maintenance. JNIC serves as host to the following tenants: the Space Innovation & Development Center, the Center for Research Support, Cheyenne Mountain Training Systems, the Air Force Operational Test and Evaluation Center, and the Joint Functional Component Command (JFCC).

Costs Incurred and Assessed. The 50th Space Wing provides services to the occupants of buildings 720 and 730 as defined in a support agreement with JNIC. These services cover maintenance of grounds and building exteriors and provision of utilities, refuse collection, and communications services. JNIC is responsible for operation and maintenance costs of building interiors. JNIC considers utilities, refuse collection, and communications services reimbursable by tenants. These reimbursable services are calculated and allocated based on square footage basis. Before each fiscal year begins, tenants provide funds through military interdepartmental purchase requests to JNIC for the charges assessed.² JNIC also charges some tenants for certain services based on use, such as copies exceeding a base amount, local area network (LAN) lines, and JNIC Technical Advisory and Assistance Services (JTAAS).

Objectives

Our audit objective was to determine the extent to which charges assessed under host and tenant agreements involving the Air Force as either host or tenant complied with DoD guidelines. However, the complexity of the issues identified at Schriever Air Force Base led us to reduce our scope to include only that installation. We looked at the charges assessed under host and tenant agreements between the 50th Space Wing, JNIC, and tenants. Although we announced our intention to review the management internal control program as it related to the overall objective, we discontinued the review when we limited the scope to Schriever Air Force Base. See Appendix A for a discussion of our scope and methodology and Appendix B for a discussion of potential overcharges.

¹ By law, only military Services may own real property; therefore, DoD agencies must use real property assets through a permit, lease, or support agreement.

² JNIC uses "reimbursement" as an equivalent term for a "charge"—a cost incurred and passed on.

Cost Allocation Methodologies and Assessment of Host and Tenant Charges

JNIC and the 50th Space Wing methodologies did not comply with DoD guidance for determining and allocating reimbursable support costs. JNIC charged tenants for support costs that could not be attributed to or influenced by the tenants. Tenants were improperly charged because JNIC:

- charged them for nonreimbursable costs,
- used an inappropriate methodology to assess specific charges, and
- incorrectly calculated reimbursable charges.

As a result, tenants were overcharged by \$313,761 from February 1, 2005, to January 31, 2006, for support costs not measurable and directly attributable. During the same period, a tenant was overcharged \$36,975 because of a utility miscalculation. Consequently, if JNIC used the same methodology to assess charges to tenants in prior years, the Missile Defense Agency, the JNIC parent organization, through reimbursement collections by JNIC, may have augmented its research and development (R&D) appropriation, possibly resulting in an Antideficiency Act violation.

Criteria

DoD Instruction. DoD Instruction 4000.19, “Interservice and Intergovernmental Support,” August 9, 1995, prescribes the nature and details of various support agreements among Military Services, DoD Components, other Federal agencies, and non-Federal entities. The key requirement is to identify and charge only for incremental direct costs associated with the services obtained under the agreement.

Air Force Instruction (AFI). AFI 25-201, “Support Agreement Procedures,” May 1, 2005, is the Air Force policy implementing the requirements of DoD Instruction 4000.19. AFI 25-201 provides detailed guidance on agreements, functional area responsibilities, documentation, and processing and review procedures.

AFI 65-601, volume 1, chapter 7, “Support Guidance,” March 3, 2005, provides financial management guidance for planning and executing support transactions, including respective roles and tasks, between Component organizations of the Air Force and other Air Force activities, Component organizations of other DoD agencies, and Component organizations of non-DoD departments and agencies.

Reimbursable Costs Charged to Tenants

The cost allocation methodology JNIC used to calculate tenant charges is not compliant with DoD guidance on what constitutes reimbursable costs under support agreements. The underlying assumption for JNIC cost methodology is that all costs billed under the contract are a direct cost to JNIC and are thus used to determine reimbursable costs assessed to tenants.³ This assumption is unwarranted because all these costs cannot be directly attributed to, or influenced by, tenants and thus are not “incremental direct costs” as defined in DoD guidance. As a result, JNIC overcharged tenants \$313,761 for the period February 1, 2005, to January 31, 2006. The calculations showing the nonreimbursable costs are summarized in Appendix B.

DoD Instruction 4000.19 identifies reimbursable support as that which:

. . . increases the support supplier’s direct costs (i.e. incremental direct costs). Costs associated with common use infrastructure are nonreimbursable, except for support provided solely for the benefit of one or more tenants. Support costs that are charged to a support receiver (i.e. reimbursable cost) must be measurable and directly attributable to the receiver.

An example of an incremental direct cost is the cost for electricity used by tenants leasing and occupying host-office space.

DoD Instruction 4000.19 also provides the following guidance:

. . . whether support service is reimbursable must be based on local conditions in accordance with subsection 4.6. of the main body of this Instruction. Recurring interservice and intragovernmental support is reimbursable to the extent that provision of the specified support to a receiver increases the support supplier’s direct costs and that cost is measurable and attributable to the support receiver. Support services that are operated for the supplier’s benefit and that also benefit other activities without increasing the cost to the supplier are not reimbursable.

JNIC Cost Basis. JNIC had an R&D contract with Northrop Grumman Mission Systems (contractor) from February 1, 2005, through January 31, 2006. As part of the contract, JNIC created an environmental task order directing the contractor to provide services and to operate and maintain buildings 720 and 730. Task order costs are defined in the task order elements. The task order elements follow:

- task order administration,
- interior operation and maintenance,
- reproduction services,

³ Federal Acquisition Regulation (FAR), Part 2, Subpart 2.1, “Definitions,” February 2, 2006, defines a direct cost as “any cost that is identified specifically with a particular final cost objective.”

-
- facility engineering (renovation planning and designing),
 - facility services,
 - mail distribution,
 - custodial services,
 - supplies, and
 - property management.

In addition to payment for the services mentioned above, an award fee for performance for elements containing labor costs (facility engineering, for example) was included as part of the estimated total cost. We identified elements currently used for tenant-related costs that are nonreimbursable and should not be charged to tenants. These elements are discussed below.

Administration. This task element included requirements such as program management, schedule management, and delivery order coordination. These subtasks are general requirements of the contractor and would be incurred by JNIC regardless of tenant presence; therefore, they did not meet the definition of incremental direct costs. The entire cost associated with the task was not specifically linked to one or more tenants. Therefore, administration costs are not incremental direct costs suitable for reimbursement.

Award Fee. JNIC applied a 12-percent award fee to the labor cost for each task order element in calculating the reimbursement basis for tenants. This practice was not consistent with DoD guidance because the award fee was not always tied to a tenant-specific activity, and award fees are associated with subtasks not directly linked to tenant service needs. Tenants could not control or influence the award-fee costs, nor did the award fee benefit them directly; thus, the award fee was not an incremental direct cost suitable for reimbursement.

Methodologies for Charging Tenants

JNIC and the 50th Space Wing used square footage as a basis to charge tenants for services and other costs although other bases were more appropriate and more accurately reflected costs associated with tenant activity. The total operating and support costs being shared by JNIC and its tenants for buildings 720 and 730 were \$29,286,443 (JNIC pays \$27,554,525 and tenants pay \$1,731,918). Figure 1 shows the cost allocation between JNIC and building tenants, and Table 1 identifies the cost allocation methodologies used by the 50th Space Wing and JNIC to charge their tenants.

Figure 1. Cost Allocation Between JNIC and Building Tenants

Table 1. How Host Determined Tenant Charges		
Charge	Host	
	50th Space Wing	JNIC
Utilities		
Water	Square footage	Square footage
Sewer	Square footage	Square footage
Electric	Square footage	Square footage
Gas	Square footage	Square footage
Communication services		
Cellular service	Cell phone	Cell phone
Local dial tone	Lines	Square footage
Cable television	Receivers	Square footage
Refuse collection	Containers	Square footage
Environmental task order ⁴		Square footage
JNIC communication costs		Square footage
LAN		Number of units
JTAAS		Number of support personnel

Because they were assessed charges based on square footage, some tenants were paying an inappropriate share for these services. Until JNIC and the 50th Space Wing use appropriate methodologies to determine costs, tenants will continue to pay an inappropriate share.

JNIC and the 50th Space Wing could use alternative data to identify and track tenant-related costs. JNIC could use the database maintained by the operation and maintenance subcontractor, Lockheed Martin, which tracks activity by action requests. These requests contain data fields such as submitter and submitter location and can identify direct, measurable costs tied to tenants. The data fields can also be used to estimate a percentage of total labor cost related to tenant activity when such estimates are relevant and desirable.

The inappropriate cost assumptions and allocations include:

- **Mail Distribution.** The category “other direct costs/material” (for example, stamps) was a reimbursable cost charged to tenants based on square footage with the assumption that each organization used the same

⁴ The environmental task order includes the following task elements: task order administration, interior operations and maintenance, reproduction services, facility engineering, facility services, mail distribution, custodial services, supplies, and property management.

amount of postage. However, JNIC kept a log of the amount of postage used by each tenant. Even though JNIC had data identifying the actual direct costs of mail distribution used by each tenant, it used square footage as the methodology to allocate and assess these costs.

- **Reproduction Services.** JNIC calculated the cost of reproduction services as labor plus 50 percent of the cost of white copy paper. This cost was then allocated to tenants by square footage. The copy center had the ability to track the actual copying done for each tenant using a job request form. The form provided type and number of copies, along with the name of the requesting organization. The form provided a direct link to each organization and its use of reproduction services—a more appropriate measure than square footage.
- **Supplies.** Specifically, the contractor was supposed to identify requirements for, order, provide control over, and warehouse JNIC administrative supplies and spares. The cost was calculated as a percentage of total labor cost on the assumption that each person received the same supply services. The subtask language indicated work is primarily for the benefit of JNIC. There is no direct link to the presence or requests of tenants.
- **Facility Engineering.** The Government project manager for the environmental task order adjusted the amount allocated to this task, which involved planning and design for building renovations, based on estimates of reimbursable costs provided by the contractor. The project manager assessed tenants 50 percent of labor costs based on tenants' projected benefits from this service. Because these costs were based on an estimate for services of a general nature, not tied to a specific task or project (for example, remodeling of tenant space), the charge cannot be directly attributed to a specific tenant.
- **50th Space Wing Utilities.** The 50th Space Wing used square footage to charge tenants for water and sewer. Because water and sewer costs were based on meter measurements, which in turn were based on actual amounts used, a headcount for each tenant would have provided a better measure of associated direct costs.

As a result of our analysis, JNIC is crediting tenants \$22,442 in FY 2007. This credit stems from JNIC reducing its FY 2006 “supply support” assessment to tenants by \$0.18 per square foot, from \$15.51 to \$15.33. However, this adjustment does not fully respond to the methodological concerns raised in this report.

Calculation Error

In addition to the incorrect methodology used, we noted a utility calculation error affecting one tenant—JFCC—resulting in an overcharge of \$36,975 for utilities

from February 1, 2005, through January 31, 2006. The calculation error is summarized in Appendix B.

As a result of our analysis, JNIC is adjusting its utility calculation to arrive at the same utility cost per square foot as used by the 50th Space Wing. However, the application of the rate to common area square footage is still not consistent with the requirements of DoD Instruction 4000.19, as discussed in Appendix B under the heading, “Utility Charges.”

Fund Augmentation

As a consequence of JNIC collecting an excess \$350,736 of revenues from nonreimbursable charges (\$313,761) and utility miscalculation from tenants (\$36,975); the Missile Defense Agency may have augmented its appropriation and committed an Antideficiency Act violation. Augmentation may have occurred when funds collected from tenants exceeded actual costs incurred and the excess funds were not refunded to the tenants or deposited in the U.S. Treasury, as required by 31 U.S.C. § 3302.⁵

Fund augmentation may have occurred because:

- Tenant charges were based on an estimated task order cost for future service. The contractor provided estimated costs for each task order element. JNIC subsequently adjusted these costs, included the award fee, derived a cost per square foot, and billed tenants by requesting reimbursements in advance.
- JNIC did not determine whether it had collected excess funds from tenants by comparing collections with actual expenses or costs and then returning these excess funds to either the tenants or the Treasury.
- The funds collected from tenants were used to offset the estimated costs of the environmental task order, freeing Missile Defense Agency funds for other purposes.

Any and all funds received that cannot be identified as incremental direct costs associated with tenants are an apparent fund augmentation in violation of 31 U.S.C. § 3302, and may be an Antideficiency Act violation according to 31 U.S.C. § 1341 a. 1. (A.). The Missile Defense Agency should determine whether an augmentation of its funding occurred and either refund excess funds to the tenants or deposit these funds to the Treasury as required under 31 U.S.C § 3302. The Missile Defense Agency should determine whether any

⁵ **United States Code (U.S.C.).** 31 U.S.C. § 3302 (b) “Custodians of Money,” January 19, 2004, provides legal requirements for custodians of money: “An official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.”

Antideficiency Act violations have occurred, and if so, the Missile Defense Agency should report the violations.

Recommendations, Management Comments, and Audit Response

Revised Recommendation. As a result of management comments, we revised draft Recommendation 1. to include the Comptroller General decision to allow agencies to refund excess funds to tenants or deposit the funds to the Treasury as required by 31 U.S.C § 3302 (b).

1. We recommend the Director, Missile Defense Agency review prior fiscal year cost allocations to tenants, identify fund augmentations when they occurred, and either refund excess funds to the tenants per Comptroller General decision or deposit the funds to the Treasury as required by 31 United States Code § 3302 (b). If the Missile Defense Agency determines that Antideficiency Act violations have occurred, the Missile Defense Agency should report these as required by 31 U.S.C. § 1341 (a)(1)(A).

Management Comments. The Executive Director, Missile Defense Agency (MDA) partially concurred with the recommendation, agreeing to review its methods of calculating the cost allocations charged to the tenants. However, the Executive Director, MDA did not concur that the cost allocation used by JNIC resulted in fund augmentation or a potential Antideficiency Act violation. She stated DoD Instruction 4000.19 requires interservice support costs to be incremental direct costs, measurable, and attributable to the receiver. She stated that the JNIC services are provided by its prime contractor; the tenants are a large proportion of the infrastructure and other costs of this contract; and excess support provided for the benefit of those tenants is measurable and directly attributable to the receivers. She added that the word “measurable” does not always mean an exact number and that it can mean estimating or determining based on some criteria. Furthermore, nothing in the instruction or law requires exact cost figures, and she maintained that MDA can base its charges to the tenants on estimates.

The Executive Director further stated that MDA was operating under the statutory authority of the Economy Act, 31 U.S.C. § 1535 versus the 31 U.S.C. § 3302 cited in the report. She stated that the Economy Act allows for estimates, thus statutory authority exists to make and collect charges from tenants. She also stated that 31 U.S.C. § 1535 (b) allows for adjustments of amounts paid by tenants as agreed by the heads of agencies on the basis of actual costs. She said the Economy Act encourages the return of excess of funds, but does not require it unless agreed upon by the agencies. She indicated that the MDA and Air Force did not desire to alter support agreement provisions after the fact; in turn, no legal basis exists to require additional reimbursement or refunding for past years’ charges. Furthermore, MDA did not directly benefit from any excess charges and any identified differences in estimated and actual costs resulted in credits to future tenant costs.

Audit Response. Comments from the Executive Director, MDA, are not responsive. The Executive Director stated that, under the Economy Act, cost estimates are a sufficient basis for allocating and assessing tenant charges. We agree estimates may be used to assess costs but not to the exclusion of actual cost data when that is available. The contractor provided an estimate of task order costs to JNIC for the coming year. JNIC subsequently revised the data in calculating tenant charges per square foot. There was no subsequent capture of actual cost data and adjustment to tenant charges via reimbursements or additional collections. The contractor must have an adequate cost accounting system in order to segregate and record contract costs. Data pertaining to direct, tenant-related costs were available and were the basis for the contractor's estimate of future costs. An estimate can serve as the basis for a charge to a tenant. However, subsequent adjustment of the estimate to reflect actual cost is implicit in both DoD policy and the Economy Act.

Paragraph 4.6 of DODI 4000.19 states that interservice and intragovernmental support is reimbursable to the extent that provision of the specified support for a receiver increases the support supplier's direct costs (that is, incremental direct cost). Both the Economy Act, 31 U.S.C. § 1535(b), and Paragraph 030502, Volume 11A, Chapter 3 of DOD Financial Management Regulation DOD 7000.14-R state:

Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

MDA has not indicated that any adjustment of estimated amounts that were paid in advance by JNIC tenants was attempted or that any agreement was made with the tenants to adjust the estimated amounts paid in advance by the tenants. If adjustments were made to the estimates reflecting the actual costs incurred by JNIC in rendering services to the tenants, JNIC would be in a position to credit the tenant for amounts overpaid by the tenant or collect from the tenant additional charges when the services rendered exceeded the amount paid by the tenant.⁶

The Comptroller General noted that, under an Economy Act transaction, the ordering agency may advance funds to the performing agency for services, but the performing agency must return excess advanced funds to the ordering agency once actual costs of services are determined.⁷ The Comptroller General has also indicated that any retention of amounts in excess of actual costs called for in an

⁶ See *Economy Act Payments After Obligated Account is Closed*, B-260993, 1996 U.S. Comp. Gen. LEXIS 318; 96-1 Comp. Gen. Proc. Dec. P287 (June 26, 1996).

⁷ See *National Archives and Records Administration Records Center Revolving Fund--Advance Payments*, B-306975, 2006 U.S. Comp. Gen. LEXIS 44 (February 27, 2006).

Economy Act agreement would result in an improper augmentation of appropriations.⁸ The Comptroller General specifically stated:

The Economy Act requires the ordering agency to pay the performing agency its actual cost of performance. When an agreement is funded by advances, the advances are usually deposited to a special fund against which the performing agency charges costs and makes payments to carry out the agreement. Any advances remaining after the performing agency reconciles its actual costs must be returned to the ordering agency.⁹

The Comptroller General separately determined that Economy Act transactions involving funding and provision of services and facilities from one agency Component to another involve the application of standards for cost determination similar to that of a DoD agency to other Government departments and agencies. Therefore, 31 U.S.C. § 3302 (b) is applicable to the MDA support agreements.

Furthermore, the Comptroller General has mandated that one performing agency refund overpayments to an ordering agency (amounts advanced in excess of the actual cost incurred) under an Economy Act agreement even though 12 years had elapsed since the completion of the Economy Act agreement.¹⁰

We believe funds were collected for services that were not of direct benefit to or associated with tenants. The fund augmentation may have also occurred in prior years, because MDA used a similar cost methodology for tenant costs. As such, refunds or credits to tenants may not obviate existing legal requirements for fund augmentation and Antideficiency Act violations.

2) We recommend the Deputy Director, Joint National Integration Center implement DoD Instruction 4000.19, “Interservice and Intergovernmental Support” by taking the following actions.

a. Charge tenants only for incremental direct costs attributable to tenant presence and use of services.

b. Use a more appropriate and accurate methodology to determine reimbursable charges.

c. Review the utility cost calculation error and the nonreimbursable cost charges, identify any subsequent adjustments, and adjust tenant charges accordingly.

⁸ See *Bureau of Land Management--Disposition of Water Resources Council Appropriations Advanced Pursuant to the Economy Act*, B-250411, 72 Comp. Gen. 120; 1993 U.S. Comp. Gen. LEXIS 478 (March 1, 1993).

⁹ See *Economy Act Payments After Obligated Account is Closed*, B-260993, 1996 U.S. Comp. Gen. LEXIS 318; 96-1 Comp. Gen. Proc. Dec. P287 (June 26, 1996).

¹⁰ See *Bureau of Land Management--Disposition of Water Resources Council Appropriations Advanced Pursuant to the Economy Act*, B-250411, 72 Comp. Gen. 120; 1993 U.S. Comp. Gen. LEXIS 478 (March 1, 1993).

Management Comments. The Executive Director, MDA, concurred with recommendation 2.a. and partially concurred with recommendations 2.b and c. The Executive Director stated that the cost methodology used by JNIC is consistent with DoD guidance and all reimbursable costs identified in the Host Tenant Support Agreements are considered incremental direct costs. She stated the task order element “administration costs” includes acquisition and contract administration services directly attributable to tenants. She added that the award fee is associated with labor costs benefiting tenants and that the tenants have an opportunity to evaluate the contractor’s performance and have input to the Award Fee Review Board. However, she did indicate the methodology will be revised for certain task elements to more accurately capture incremental direct costs.

The Executive Director says that MDA will process a credit to the JFCC-IMD in the amount of \$1,289 based on actual utility use in FY06 by March 30, 2007. She added MDA will work closely with the 50th Space Wing to ensure proper capture and charges for utility costs. However, she stated the tenants are a large part of the infrastructure and other costs of the contract, and the excess of support provided for the benefit of those tenants is measurable and directly attributable to the receivers, including common space.

Audit Response. Although the Executive Director, MDA concurred or partially concurred with the recommendations, we do not consider the comments responsive. JNIC’s cost methodology is not consistent with DoD guidance because officials did not attempt to determine if funds were collected in excess of actual direct costs. The tasks associated with “Administration,” as defined in the task order, would be performed regardless of tenant presence. Tenant costs based on an award fee may be overstated or may not even be valid based on task order elements with no direct link to tenant-specific services. Without such a link, an award fee does not inherently indicate an incremental direct cost attributable to tenant presence or use of services. MDA should clearly demonstrate a direct tie to tenant presence or services on tenants’ behalf to allocate such costs for reimbursement. MDA also stated tenants have input into the contractor’s performance during the award fee period. However, the full amount (12 percent) is estimated as awarded, with no subsequent adjustment for what is actually awarded. Without a process in place to refund the difference between the estimated and actual award fee costs determined by the Award Fee Review Board, the tenants may be overcharged by an award fee amount they feel is unwarranted.

JNIC had previously miscalculated the cost per square foot for utilities charged to JFCC-IMD. In the process of our audit, JNIC officials concluded that the calculation of the cost per square foot for utilities needed to be changed. After they concluded the calculation was incorrect, they issued a credit. Although the JNIC changed the cost per square foot, the new calculation included an indirect cost of common space for a higher overall square footage allocation to JFCC-IMD. JNIC includes the common area infrastructure as part of JFCC-IMD square footage. The DoD Instruction 4000.19 states that the use of common-use infrastructure is typically non-reimbursable. We believe JNIC should not include the common-use infrastructure as part of JFCC-IMD square footage when multiplying it by the cost per square foot to arrive at the total utility cost to JFCC-IMD.

We request that the Executive Director, MDA reconsider MDA's position on the recommendation, and provide final comments to the report by July 23, 2007.

3. We recommend the Commander, 50th Space Wing adjust the cost allocation for sewer and water to reflect actual tenant usage.

Management Comments. The Commander, 50th Space Wing did not comment on a draft of this report. Therefore, we request that the Commander provide comments on the final report.

Appendix A. Scope and Methodology

We performed this audit at Schriever Air Force Base, Colorado, from November 2005 through March 2006 in accordance with generally accepted government auditing standards.

Our original audit scope was to determine whether appropriate charges and methodologies were being used to assess costs to tenants. However, because of the issues raised at Schriever Air Force Base, we limited our scope to only that installation. Our focus was on the methodologies the 50th Space Wing and JNIC used to assess charges to tenants. The scope of our audit was further limited in that we did not review JNIC's management control program.

We reviewed DoD Instruction 4000.19, "Interservice and Intergovernmental Support." We examined JNIC support costs and the methodology for calculating charges to its tenants. To ensure an accurate understanding of the methodology, we requested that JNIC review our summary and add pertinent comments and revisions. We reviewed the process Northrop Grumman used to develop the task order cost proposal. This review included the relevant contract documents and task order requirements. In addition, we verified the nature and amount of charges to JNIC by the 50th Space Wing under the support agreement. To obtain their understanding of the cost allocation methodology and its rationale and components, we interviewed all tenants in buildings 720 and 730; JNIC; Northrop Grumman Missile Systems; Lockheed Martin; and numerous offices of the 50th Space Wing—Security, Real Property, Civil Engineering, Support Agreement Manager, and Financial Management.

Use of Computer-Processed Data. We did not rely on computer-processed data to perform this audit.

Government Accountability Office High-Risk Area. The Government Accountability Office has identified several high-risk areas in DoD. This report does not identify a high-risk area.

Prior Coverage

During the last 5 years, no audits have been conducted of Air Force host and tenant support agreements between JNIC and Schriever Air Force Base.

Appendix B. Overcharges

JNIC overcharged tenants \$350,736 as a result of including nonreimbursable costs (\$313,761) and making an error in calculating utility charges (\$36,975). The \$313,761 overcharge resulted because JNIC included nonreimbursable costs—administration costs incurred under the first task and award fees for the entire task order.

Table B-1. Calculation of Tenant Overpayment		
Tenant reimbursable costs (non-storage)		Amounts
Environmental task order		\$4,874,250
Less: Administration	\$730,437	
Award fee	450,765	
Facility support cost		\$3,693,048
Add: Other	\$398,289	
Total reimbursable occupancy costs		\$4,091,337
Operational square footage	339,835	
Reimbursable cost per square foot (\$4,091,337 / 339,835)	\$12.04¹	
Tenant square footage (nonstorage)	88,717	
Tenant (nonstorage) reimbursable costs (\$12.04 X 88,717)		\$1,068,080
Tenant reimbursable costs (storage)		
Reimbursable costs per square foot ²	\$7.85¹	
Storage square footage	1,799	
Tenant (storage) reimbursable costs (\$7.85 X 1,799)		\$ 14,129
Tenant overpayment		
Costs reimbursable from tenants		\$1,395,970
Less: Tenant (nonstorage) reimbursable costs	\$1,068,080	
Tenant (storage) reimbursable costs	14,129	
Tenant reimbursable costs		\$1,082,210
Total overpayment by tenants		\$ 313,761

¹ Reimbursable costs per square foot are rounded.

² No custodial, reproduction, JNIC communications, or 50th Space Wing support agreement costs were included in the storage reimbursable costs per square foot.

Utility Charges

As a result of a calculation error, JNIC overcharged one of its tenants, JFCC, by \$36,975. The calculation error resulted when JNIC improperly excluded square footage associated with common space in the calculation of utility costs per square foot. The miscalculation resulted in an erroneous cost of \$5.00 per square foot, as opposed to \$2.65.

Utility costs are determined by meter readings. Costs are apportioned by the 50th Space Wing based on square footage as a cost to JNIC. Prior to assessing these utility costs to JFCC, JNIC recalculated the costs by excluding common area square footage, deducting Air Force tenant square footage, and dividing the full utility cost by the remaining square footage, yielding a revised rate of \$5.00 per square foot.

However, the 50th Space Wing previously calculated the cost of utilities for both buildings by combining mission and common area square footage. From this total, square footage specific to Air Force tenants was excluded, resulting in an allocation of \$2.65 per square foot.

JNIC removed common area square footage to avoid inclusion in the utilities calculation but did not reduce total square footage by a similar amount. This approach is consistent with DoD Instruction 4000.19, which specifies that costs for common-use infrastructure are typically non-reimbursable. Thus, the rate is artificially inflated by \$2.35, resulting in an overcharge of \$36,975. Table B-2 shows details of the utility miscalculation.

Table B-2. Utility Calculation Error			
Utilities	JNIC calculation	Correct calculation	Difference
Total utility cost	\$1,324,563	\$1,324,563	
Utility square footage	263,989 ¹	499,835 ²	235,846
Utility cost per square foot ³	\$ 5.00 ⁴	\$ 2.65	\$ 2.35
JFCC square footage	15,734	15,734	
JFCC utility cost⁵	\$ 78,670	\$ 41,695	\$36,975

¹ JNIC and JFCC mission area.

² Total mission and common area.

³ Total utility cost divide by Utility square footage.

⁴ The Utility cost per square foot should be \$5.02, but JNIC used \$5.00 per square foot for their calculation.

⁵ Utility cost per square foot multiplied by JFCC square footage.

Appendix C. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense (Comptroller)/Chief Financial Officer
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)
Director, Program Analysis and Evaluation

Department of the Army

Auditor General, Department of the Army

Department of the Navy

Naval Inspector General
Auditor General, Department of the Navy

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, Department of the Air Force
Commander, 50th Space Wing Air Force Space Command

Other Defense Organizations

Director, Missile Defense Agency
Deputy Director, Joint National Integration Center

Non-Defense Federal Organization

Office of Management and Budget

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Homeland Security and Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Committee on Oversight and Government Reform
House Subcommittee on Government Management, Organization, and Procurement,
Committee on Oversight and Government Reform
House Subcommittee on National Security and Foreign Affairs, Committee on
Oversight and Government Reform
House Subcommittee on Technology, Information Policy, Intergovernmental
Relations, and the Census, Committee on Government Reform

Missile Defense Agency Comments



DO

DEPARTMENT OF DEFENSE
MISSILE DEFENSE AGENCY
7100 DEFENSE PENTAGON
WASHINGTON, DC 20301-7100

MAR 18 2007

MEMORANDUM FOR PROGRAM DIRECTOR, DEFENSE FINANCIAL AUDITING SERVICE

SUBJECT: Draft of a Proposed Report on Air Force Host and Tenant Agreements
Between the 50th Space Wing, the Joint National Integration Center, and
Tenants, (Project No. D2006-D000FD-0064.000), February 28, 2007

Reference: DoD Inspector General Memorandum, Subject: "Report on Air Force Host
and Tenant Agreements Between the 50th Space Wing, the Joint National
Integration Center, and Tenants, February 28, 2007

The Missile Defense Agency (MDA) appreciates the opportunity to review and provide comments on the subject report. We strongly disagree with the audit conclusion that the Agency may have improperly augmented its appropriation or that there is a potential Antideficiency Act violation. MDA is compliant with the guidance of DoDI 4000.19 and the provisions of the Economy Act that authorize support to Joint National Integration Center (JNIC) tenants. The JNIC employs an appropriate and reasonable methodology to assess reimbursable costs for tenant support. MDA does agree, however, that the JNIC may be able to improve its methodology for calculating reimbursable costs charged to tenants for mail distribution, reproduction services, supplies and facility engineering.

The JNIC developed and applied methodology consistent with DoDI 4000.19, Interservice and Intergovernmental Support, specifically the guidance cited in Paragraph 4.6., regarding reimbursable costs under support agreements. In accordance with the guidance in this paragraph, the JNIC allocated incremental direct costs to each tenant based on resource consumption that would otherwise not have been incurred by the JNIC. The JNIC executes tenant support through a prime contract and uses this vehicle as a determinant to assess reimbursable support costs. All reimbursable costs identified in the Host Tenant Support Agreements are considered Incremental Direct Costs.

DoDI 4000.19, Paragraph E6.1.3, states that "Incremental direct costs should be associated with units of support (e.g., \$5 per square foot) to simplify calculation of reimbursable charges and to use practical types of units to define the required support." The JNIC primarily used this methodology to assess reimbursable costs based on the percentage of square feet occupied by each tenant. The JNIC methodology minimizes the effort and associated increased costs required to collect and report reimbursement by using the simplified calculations and practical methods prescribed in DoDI 4000.19.

The JNIC, as host for tenant support, strives to provide cost efficient support through open communications to its tenants. The methodology used by the JNIC for determining reimbursable costs for services is coordinated to gain concurrence of each tenant activity prior to implementation. The JNIC has employed prudent concepts and procedures consistent with DoD guidance to provide equitable reimbursable costing of services for its tenants. The attached matrix provides detailed comments indicating MDA's concurrence/non-concurrence with each recommendation, actions taken and future planned actions.

My point of contact for this action is Mr. Mirza Baig, Assistant Director, Program Liaison, at (703) 692-6538.


PATRICIA SANDERS
Executive Director

Attachment
As stated

Missile Defense Agency Comments on DoD IG Draft Report on "Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants",
Project No. D-2006-D000FD-0064.000

DOD IG Recommendation	MDA Comments Provided in Response to the Draft Report
<p>I. The Director, Missile Defense Agency review prior fiscal year cost allocations to tenants, identify fund augmentations when they occurred, and deposit the funds to the Treasury as required by 31 United States Code 3302 (b). If the Missile Defense Agency determines that Antideficiency Act violations have occurred, the Missile Defense Agency should report these as required by 31 U.S.C. 1341 (a)(1)(A).</p>	<p>Partially Concur</p> <p>Actions Taken. The JNIC has reviewed the fiscal year cost allocations to tenants and does not find augmentations as indicated in the report findings. Even if there had been an overcharge/augmentation, however, the remedy would be a refund to the serviced agency, not a deposit to the Treasury. MDA offers the following explanation:</p> <p>DoD Instruction 4000.19 restricts reimbursement of interservice support to increases in the support suppliers direct costs (i.e. incremental direct cost). Costs associated with common use infrastructure are non-reimbursable except for support provided solely for the benefit of one or more tenants. Under the Instruction such costs must be measurable and directly attributable to the receiver. The word measurable has various meanings, but one of those is to estimate or appraise by a criterion. Thus, the word measurable does not always mean an exact number; it can mean estimating or determining based on some criteria. That is precisely what MDA did at the JNIC to determine charges to be paid by tenants for services provided to them.</p> <p>MDA JNIC services are mostly provided by its prime contractor, Northrop-Grumman under a services contract under which services are provided by task or delivery order based on the amount of services required. In this instance, as tenants are a large proportion of the infrastructure and other costs of this contract (approximately 31% of the personnel residing in the JNIC facilities are tenants), excess support provided for the benefit of those tenants are measurable and directly attributable to the receivers. They may not be measurable to an exact dollar figure because you cannot divide up the precise number of bodies</p>

Attachment: 1 of 9

Revised

**Missile Defense Agency Comments on DoD IG Draft Report on "Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants",
Project No. D-2006-D000FD-0064.000**

provided by Northrop-Grumman necessary to do a particular job, but they are measurable as compared to the amount of services being provided by the contractor that would not have been provided had the tenants not been in the facilities. Thus, various methods (including square footage of useable space) can be and have been used over the years to measure these costs and while differences of opinion may result as to which measure is ultimately the most accurate, there can be no dispute that all such measures were done in good faith and with a reasonable attempt to document the best possible estimate for those costs. We also believe they were accomplished consistent with the law and regulations applicable to such activities.

Nothing in the DoD Instruction or in the law requires that exact cost figures be determined and refunded for inter-agency service support in accordance with some later defined cost standard, except where the funds received have not otherwise been utilized, in which case they should be returned (DoDI 4000.19, paragraph 4.6.2). Furthermore, in accordance with Paragraph E6.1.3, DoDI 4000.19 Incremental direct costs should be associated with units of support (e.g., \$5 per square foot) to simplify calculation of reimbursement charges and to use practical types of units to define the required support. Indeed, under the DoD Financial Management Regulation, Volume 11A, Chapter 1, paragraph 10203.F, "Contracts costs incurred for contracts awarded as part of a reimbursable agreement shall be billed to the benefiting organization." Because of the nature of the MDA's contract with Northrop-Grumman a determination of the contract's incremental cost increases were based on good faith and rational estimates and billed to the benefiting organization consistent with this and other DoD Regulations.

The fact that in hindsight some other method might have been utilized to determine what some may perceive as a better method to determine actual costs, does not translate the original actions

Attachment: 2 of 9

Missile Defense Agency Comments on DoD IG Draft Report on "Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants",
Project No. D-2006-D000FD-0064.000

into an agency augmentation.

The Government Accountability Office (GAO), in its Principle of Appropriation Law, Chapter 6, states that: "As a general proposition, an agency may not augment its appropriations from outside sources without specific statutory authority." As stated elsewhere in this response to the IG Draft, MDA did not calculate tenant charges in an unreasonable manner or inconsistent with DoD regulations in any instance dealing with its tenants at the JNIC. Thus, it is MDA's view that no augmentation issues exist or existed in this situation.

But, even if an augmentation question did exist, a review of the augmentation rules is necessary to determine if a violation may have occurred. The statutory authority cited to support an allegation of augmentation in this instance is 31 USC 3302. That statute applies to situations where the government receives money from an outside source and no other statutory authority allows it to use the funds received. Normally this has to do with funds received from private or other sources for which Congress did not contemplate a particular agency's benefiting from their receipt.

Specifically, the statute states at paragraph (a): "Except as provided by another law, an official or agent of the United States Government having custody or possession of public money shall keep the money safe without-

- (1) lending the money;
- (2) using the money;
- (3) depositing the money in a bank; and
- (4) exchanging the money for other amounts."

First, 31 USC 3302 is inapplicable to this situation. There was, indeed, specific statutory authority provided by another law for MDA to receive and "use" these funds. In the event of an

Attachment: 3 of 9

**Missile Defense Agency Comments on DoD IG Draft Report on "Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants",
Project No. D-2006-0800FD-006-1.000**

	<p>overcharge, MDA believes the appropriate remedy would be a refund or credit to the paying agency, not a deposit to the Treasury. (See again, GAO Principles of Appropriation Law, chapter 6).</p> <p>In this case the agency (MDA) was operating under the statutory authority of the Economy Act, 31 U.S.C. 1535, receiving O&M funds via MIPR from the Air Force to purchase services on their behalf via direct fund cites placed on MDA service contracts. The Economy Act specifically provides that orders for services may be placed with other agencies, and that estimated or actual cost as determined by the agency filling the order can be used to determine the costs to be charged to the requester. Thus, estimated costs are statutorily authorized to be utilized in these instances. Additional statutory authority, 31 U.S.C. 1536 and 10 U.S.C. 2205 authorizes the deposit of such funds to Agency appropriations.</p> <p>Furthermore, 31 U.S.C. 1535(b) states in part that "Proper adjustments of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided." The Act contemplates the use of estimates and advance payments, and, while it may encourage it, does not mandate return of excess funds if any exist, unless otherwise agreed upon by the two agencies. This statute recognizes that some flexibility is necessary to encourage cost savings via services being provided by other agencies rather than having to duplicate costs and expenses by using other tools and that flexible language is included in the FMR (Vol. 11A, Ch. 3, para 030502). In this instance the tenants would have had to obtain significant funding to buy, lease, or build other facilities and contract for other support services, had the JNKC facilities not been available.</p>
--	--

Economy Act orders within DoD typically are executed through

Attachment: 4 of 9

**Missile Defense Agency Comments on DoD IG Draft Report on "Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants",
Project No. D-2006-D000FD-0064.000**

MIPR's. Additionally, the Regulation provides that written determinations under the Economy Act are not required, except via the DD Form 1144, ISSA Agreements. JNIC utilized both the MIPR and the FORM 1144 processes to implement the support services orders to the Air Force.

The JNIC did not have an agreement in its ISSA's to adjust the estimates to later determined actuals, because to do so would have been impractical; it was administratively cumbersome, difficult to determine, and, due to the cost plus award fee nature of its contract with Northrop-Crumman, probably not even possible for many years-until contract closeout when final labor and other costs are verified.

In addition, due to the difficulty of calculating exact costs for the services being provided, and the understanding and agreement (as a result of discussions each year between the parties regarding the estimated costs to be charged-generally the previous years' adjusted figures plus contractually mandated inflation type cost increases for the upcoming year), the Air Force and the MDA did not desire or need to enter into provisions re-opening the support agreements after the fact. Because they did not have re-opening provisions, any possible later determinations of other methods to calculate more accurate determinations of over or under charges, did not, by law, require a reimbursement or additional bill to the serviced organization. They might suggest changes for future billings, but not for past ones.

Furthermore, MDA did not directly benefit from any subsequently determined better methods to calculate these costs since the funds were directly placed on the contract and expended for the services provided to the tenants. MDA did not buy or build anything for its own benefit with these funds. And, in those instances where differences in estimates and actuals were identified, credit was given to the tenant in subsequent years. Thus, the question is not

Attachment: 5 of 9

**Missile Defense Agency Comments on DoD IG Draft Report on "Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants",
Project No. D-2006-D000FD-0064.000**

	<p>one of augmentation but should be the reasonableness of the government's calculations of estimated costs. If there were other or even better ways to calculate the estimated costs, MDA can revisit its methods of calculating those costs, and we have agreed to do that, but that does not translate into an augmentation or potential Anti-Deficiency Act violation.</p> <p>In view of the Economy Act authority, the appropriate and reasonable implementation of it by the JNIC and the AF, no improper Fund Augmentation occurred.</p>
<p>2. The Deputy Director, Joint National Integration Center implement DoD Instruction 4000.19, "Interservice and Intergovernmental Support" by taking the following actions:</p> <p>a. Charge tenants only for incremental direct costs attributable to tenant presence and use of services.</p>	<p>Concur with Comment</p> <p>The JNIC fully complies with the provisions of DoDI 4000.19. All reimbursable costs identified in the Host Tenant Support Agreements are Incremental Direct Cost. The JNIC executes tenant support through a prime contract and uses this vehicle as a determinant to assess reimbursable support cost IAW DoDI 4000.19, para 4.1. IAW DoDI 4000.19, para E2.1.5 "Incremental Direct Cost is the cost of resources directly consumed by an individual activity that would not have been consumed if the individual activity were not performed. A cost that is specifically identified with a single cost object." The prime contract used for reimbursement calculation is for "Facility Support" which includes the disputed categories of:</p> <ul style="list-style-type: none"> - Task Order Administration (Ref DoDI 4000.19, para E6.1.4.42, Purchasing and Contracting Services). This reimbursable tasking includes cost associated with acquisition and contract administration services. Due to the volume of tenant population (31%) and space allocated (26%) of the JNIC's total; costs associated with Task Order Administration is directly attributable to tenant presence and use of services. - Award Fee: Award fee is calculated at 12% of labor costs.

Attachment: 6 of 9

**Missile Defense Agency Comments on DoD IG Draft Report on "Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants",
Project No. D-2006-D000FD-0064.000**

	<p>Labor costs that are negotiated for each task order directly support the respective tenant. Each tenant receives a benefit from these labor hours. Therefore, we disagree that award fees are not always tied to a tenant-specific activity or that award fees associated with subtasks are not directly linked to tenant service needs. We also disagree that tenants cannot control or influence the award fee costs. The award fee process provides for subjective evaluation of a contractor's performance and JNIC program managers and tenants have equal opportunity to provide input on this evaluation through the Award Fee Review Board. While the Fee Determining Official exercises discretion in making the overall award fee decision, it is based on the Award Fee Review Board recommendation. This practice is consistent across all task order activity under the contract. Finally, we disagree that tenants do not benefit directly from award fee costs. Fee is a standard and allowable component of any cost reimbursable contract. At the JNIC, we utilize an award fee arrangement to incentivize the contractor to perform and deliver quality service. As previously stated, award fee is calculated based on labor costs. Since tenants directly benefit from these labor costs, we believe that award fee is appropriate.</p>
2b. Use a more appropriate and accurate methodology to determine reimbursable charges.	<p>Partially Concur</p> <p>The methodology the JNIC used for the calculation of reimbursable charges is compliant with DoDI 4000.19, para E6.1.3. Incremental direct costs are associated with units of support to simplify calculation of reimbursement charges. The cost methodology used to determine the basis of reimbursement and the quantity of support provided is furnished to the tenant in a timely (annually) and cooperative manner. The methodologies are jointly reviewed for appropriateness and accuracy. After the methodologies and costs are agreed upon, the Support Agreement</p>

Attachment: 7 of 9

**Missile Defense Agency Comments on DoD IG Draft Report on "Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants",
Project No. D-2006-D000FD-0064.000**

	<p>is signed by both parties</p> <p>Actions Planned: The JNIC will work in cooperation with the tenants to improve the methodology used to ascertain reimbursement costs associated with mail distribution, reproduction services, supplies, and facility engineering. Examples of cost calculation improvements include: Transferring service to the Tenant specific contract vehicle, and accessing cost per unit basis. Methodology improvements that could more precisely capture incremental direct cost would most likely drive additional costs in tracking and reporting. Coordination to be completed by October 2007.</p>
<p>2c. Review the utility cost calculation error and the nonreimbursable cost charges, identify any subsequent adjustments, and adjust tenant charges accordingly.</p>	<p>Partially Concur</p> <p>The JNIC non-concurs with the allegation of a cost calculation error. The estimated utility costs charged to the JFCC-IMD was \$78,670 and the actual utility costs (as calculated by the 50th SW on 9 Mar 07) is 76,122.79. The JNIC has already provided a credit to the JFCC-IMD of \$1,259 on 20 Sep 06 on projected estimates.</p> <p>The JNIC non-concurs that Tenants were charged for nonreimbursable costs. The assumption that the JNIC Tenants have little impact on the common use infrastructure and is therefore nonreimbursable is incorrect. MDA JNIC services are mostly provided by its prime contractor, Northrop-Grumman under a services contract under which services are provided by task or delivery order based on the amount of services required. In this instance, as tenants are a large proportion of the infrastructure and other costs of this contract (approximately 31% of the personnel residing in the JNIC facilities are tenants), excess support provided for the benefit of those tenants are measurable and directly attributable to the receivers.</p>

Attachment: 8 of 9

**Missile Defense Agency Comments on DoD IG Draft Report on "Air Force Host and Tenant Agreements Between the 50th Space Wing, the Joint National Integration Center, and Tenants",
Project No. D-2006-D000FD-0064.000**

	<p>Actions taken/Planned: 1) The JNIC will process a credit to the JFCC-IMD in the amount of \$1,289 based on the actual utility usage in FY 06 by 30 Mar 07. 2) The JNIC will work closely with the 50th Space Wing to ensure we are properly capturing and changing utility costs. Coordination to be completed by October 2007.</p>
--	--

Team Members

The Department of Defense Office of the Deputy Inspector General for Auditing, Defense Financial Auditing Service prepared this report. Personnel of the Department of Defense Office of Inspector General who contributed to the report are listed below.

Paul J. Granetto
Patricia A. Marsh
Amy J. Frontz
Jeffrey T. Hunter
John C. Furutani
Abby R. Brakefield
Allison Tarmann



Inspector General Department of Defense

