

Inspector General

United States
Department of Defense



Hotline Complaint

August 31, 2009

Report on Hotline Complaint Regarding the Actions by
a Contracting Officer at the Defense Contract
Management Agency, East Hartford Office.

Report No. D-2009-6-008

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Acronyms

| | |
|-------|--|
| CAFU | Contract Audit Follow-up |
| DCAA | Defense Contract Audit Agency |
| DCMA | Defense Contract Management Agency |
| FAR | Federal Acquisition Regulation |
| DFARS | Defense Federal Acquisition Regulation |



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

AUG 31 2009

MEMORANDUM FOR DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
COMMANDER, DEFENSE CONTRACT MANAGEMENT
AGENCY, EAST HARTFORD OFFICE

SUBJECT: Report on Hotline Complaint Regarding the Actions by a Contracting Officer at
the Defense Contract Management Agency, East Hartford Office
(Report No. D-2009-6-008)

We are providing this report for your information and use. We performed the review in response to a Defense Hotline complaint. We considered management comments on a draft of this report when preparing the final report. The Defense Contract Management Agency comments conformed to the requirements of DOD Directive 7650.3; therefore, additional comments are not required.

We appreciate the courtesies extended to the staff. Questions should be directed to Carolyn R. Davis at (703) 604-8877 (DSN 664-8877), carolyn.davis@dodig.mil.

A handwritten signature in black ink, appearing to read "C. Beardall", with a long horizontal line extending to the right.

Charles W. Beardall
Deputy Inspector General
for Policy and Oversight

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Hotline Complaint Regarding Actions by a Contracting Officer at the Defense Contract Management Agency East Hartford Office

Results In Brief

What We Did

We conducted this review to determine the validity of a complaint received by the Defense Hotline regarding the actions that a contracting officer took in response to audit reports addressed to the Defense Contract Management Agency (DCMA) East Hartford office.

What We Found

We substantiated the allegations contained in the DoD Hotline complaint. In seven instances, actions taken by the contracting officer on contract audit reports were untimely. In one instance, the contracting officer failed to take any action on one significant estimating system deficiency that the auditor reported. In three instances, the contracting officer did not prepare an adequate negotiation memorandum. In seven instances, the contracting officer had not demonstrated a sufficient understanding of the Federal Acquisition Regulation, Defense Federal Acquisition Regulation Supplement, or DoD Directive 7640.2 (Policy for Follow-up of Contract Audit Reports). The contracting officer's insufficient knowledge of processing cost accounting standard noncompliances resulted in a failure to assess approximately \$466,000 in interest that was due to the Government. Finally, the contracting officer did not maintain accurate records of contract audit follow-up data included in the DCMA East Hartford portion of the DoD Inspector General Semiannual Report to Congress.

What We Recommended

DCMA needs to provide the contracting officer with training and implement quality assurance procedures to help ensure that the contracting officer executes timely and appropriate actions. The Commander of the DCMA East Hartford office should request that the contracting officer assess interest for a cost accounting standard noncompliance and take action on an audit finding that was not previously addressed. The Commander should also develop a plan that would ensure they work as a team with the auditor in performing reviews of contractor estimating systems and resolving reported findings in accordance with the FAR. Finally, the Commander should implement procedures for minimizing contract audit follow-up data errors.

Management Comments

DCMA was fully responsive to the recommendations when commenting on the July 24, 2009 draft of this report; additional comments are not required. The full text of management comments is included as the last element in this report, page 18.

Introduction

Objective

We conducted this review to determine the validity of a complaint received by the DoD Hotline involving the actions of a contracting officer assigned to the Defense Contract Management Agency, East Hartford office. The complaint alleges that the contracting officer failed to:

- Timely respond to Defense Contract Audit Agency findings involving estimating system deficiencies,
- Address all Defense Contract Audit Agency findings,
- Prepare professionally written and easily understandable contracting officer disposition of findings, and
- Understand the Defense Contract Audit Agency findings and pertinent sections of the Federal Acquisition Regulation.

The complainant cited the following five Defense Contract Audit Agency audit reports in support of the allegation:

| Audit Report Description | Audit Report No. |
|--|-------------------------|
| Audit of Manufacturing Operations Purchasing System | 2641-2006A12030001 |
| Audit of Administrative Pension Adjustments in the Forward Pricing Rate Agreement | 2641-2006G17900002 |
| Flash Estimating System Deficiencies (Duplication of Material Markup Factors and Associated Overstated Escalation) | 2641-2006G24020001 |
| Flash Estimating System Deficiencies (Regarding Unsupported Tooling Estimate) | 2641-2006G24020002 |
| Estimating System Deficiencies Found During Audits of F119 Lot 6 Re-Pricing and F100 Multi-Year MUP Kits Proposals | 2641-2006G24020003 |

In evaluating the merits of the allegations, we reviewed the actions that the contracting officer took on 12 audit reports, including these 5 reports. In addition to reviewing the DoD Hotline complaint, we reviewed the contracting officer's actions on the reporting of contract audit follow-up data and the assessment of penalties. See Appendix A for details regarding our scope and methodology and prior coverage.

Background

Defense Contract Audit Agency (DCAA). DCAA, under the authority, direction, and control of the United States Under Secretary of Defense (Comptroller), is responsible for performing all contract audits for the DoD and providing accounting and financial advisory services regarding contracts and subcontracts to all DoD Components responsible for procurement and contract administration. These services are provided in connection with negotiation, administration, and settlement of contracts and subcontracts. DCAA issues audit reports resulting from several types of audits, such as audits on contractor compliance with cost accounting standards and the adequacy of

internal control systems. The audit reports addressed in our review of the DoD Hotline complaint involve DCAA audits of a DoD contractor's internal control systems and compliance with the cost accounting standards.

DCAA conducts audits of internal control systems at major DoD contractors to evaluate the adequacy of the internal controls over major financial systems, such as the accounting, billing, estimating, and purchasing systems.

DCAA conducts audits of Cost Accounting Standards to determine that a contractor's cost accounting practices comply with the requirements of the Cost Accounting Standards contained in 48 Code of Federal Regulations Chapter 99, *Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget*. The Cost Accounting Standards are incorporated in the Federal Acquisition Regulation as an Appendix, *Cost Accounting Preambles and Regulations*. The Cost Accounting Standards establish rules for consistently estimating, accumulating and reporting costs on Government contracts.

Defense Contract Management Agency (DCMA). DCMA is the United States Department of Defense (DoD) Component that works directly with Defense suppliers to help ensure that DoD, Federal, and allied government supplies and services are delivered on time at projected cost and meet performance requirements. DCMA contracting officers are responsible for resolving and completing the disposition of most DCAA audit reports on behalf of the Army, Navy, Air Force, Defense Logistics Agency, and other DoD agencies. The Defense Contract Management Agency office located in East Hartford is one of 47 field offices that DCMA has established throughout the United States.

Office of Management and Budget Circular Number A-50, "Audit Followup," September 29, 1982 provides the policies and procedures for use by executive agencies when considering reports issued by the Inspectors General, other executive branch audit organizations (such as DCAA), the Government Accountability Office, and non-Federal auditors where follow-up is necessary.

Department of Defense Directive 7640.2, "Policy for Follow-up on Contract Audit Reports," February 12, 1988, prescribed the responsibilities, reporting requirements, and follow-up procedures on contract audits conducted by the Defense Contract Audit Agency. Paragraph 6.5 of the Directive required the contracting officer to prepare a post-negotiation memorandum covering the disposition of all significant audit report findings, including the underlying rationale for such dispositions. The DoD Inspector General evaluates the effectiveness of contract audit follow-up (CAFU) systems implemented at each DoD Component for compliance with this directive.

DoD Directive 7640.2 also required DoD Components to submit semiannual status reports on reportable contract audits to the DoD Inspector General. The DoD Inspector General includes a summary of the status reports for all DoD Components in its *Semiannual Report to Congress*. DoD Directive 7640.2 applied to all CAFU actions covered in this review. On August 22, 2008, the DoD Acting Inspector General reissued the Directive as DoD Instruction 7640.02.

Findings

A. Hotline Complaint

We substantiated the DoD Hotline complaint. A contracting officer assigned to the DCMA East Hartford office failed to:

- Timely respond to DCAA findings on 7 of 12 reports;
- Address a DCAA finding in 1 of 12 reports;
- Prepare professionally written and easily understandable dispositions of findings on 3 of 12 reports; and
- Sufficiently understand pertinent sections of the Federal Acquisition Regulation, Defense Federal Acquisition Regulation Supplement, or DoD Directive 7640.2 with respect to 7 of 12 reports.

The DCMA East Hartford office needs to provide the contracting officer with adequate training and implement quality assurance procedures to ensure that the contracting officer executes timely and effective CAFU actions in the future. See Appendix B for details of our review results by audit report.

Timely Response to DCAA Findings. Of the 12 reports we reviewed, the contracting officer did not complete actions on 7 of 12 reports within the timeframes required by DoD Directive 7640.2 or Office of Management and Budget Circular Number A-50. According to DoD Directive 7640.2, paragraphs 6.1 and E2.1.12, a contracting officer should resolve¹ a contract audit report within 6 months and disposition² a report within 12 months. If contracting officers do not complete their actions within these timeframes, they should provide adequate justification for the delay in the contract file. In all 7 cases, the contracting officer failed to include any such justification in the contract files. Moreover, we did not identify significant legal, contractual or other issues that would have justified a delay in meeting the timeframes. In one case, the contracting officer took 21 months to resolve the audit report (15 months beyond the 6 month resolution requirement) at which point the action was meaningless because the contractor had already corrected the reported deficiency. Appendix C provides a detailed listing of audit reports where the contracting officer actions exceeded the required timeframes.

Failure to Address All DCAA Findings. Of the 12 reports we reviewed, the contracting officer did not take action on a significant finding included in one report, DCAA Audit Report No. 2641-2006G24020003. In this report, DCAA reported four deficiencies related to the contractor's cost estimating methods used in a cost proposal. The contracting officer's October 29, 2007 negotiation memorandum for this audit report does not address one of the four

¹ An audit report is resolved when the contracting officer documents a plan for settling the reported findings in a negotiation memorandum.

² An audit report is dispositioned when the contracting officer completes all actions necessary to settle the reported findings and recommendations.

findings involving the contractor's failure to use subcontract cost analysis to determine price reasonableness. Left uncorrected, the contractor could be proposing unreasonable subcontractor costs. The contracting officer should take immediate action on this reported finding.

Although we found only one instance of failing to address a DCAA finding, the Government could nevertheless be significantly harmed for such failure. The DCMA East Hartford office should implement corrective actions to prevent future occurrences.

Preparation of Professionally Written and Easily Understandable Disposition of Findings. Of the 12 audits we reviewed, we found three instances where the contracting officer did not prepare an adequate negotiation memorandum. The negotiation memorandum serves as the official record of actions taken to disposition the contract issues raised in the contract audit report. As required by OMB Circular A-50, paragraph 6a, the negotiation memorandum must document the contracting officer's agreement or disagreement with the audit findings and recommendations. The contracting officer must fully explain the basis for any disagreement in the negotiation memorandum. The negotiation memorandum should demonstrate that the actions taken by the contracting officer were consistent with applicable law, regulations, and DoD policy. It also serves to protect the interests of the Government in the event of future disputes.

Of the three instances, two involved audit reports of the contractor's estimating system where the contracting officer did not adequately explain the basis for disagreeing with the auditor in the negotiation memorandum. The negotiation memorandum for DCAA Audit Report No. 2641-2006G24010001 does not adequately explain how the contracting officer settled each of the ten cited deficiencies in the contractor's production pricing estimating procedures. The negotiation memorandum for DCAA Audit Report No. 2641-2006G24020001 was vague and could not be used by DCAA or the contractor to understand the contracting officer's determination on the contractor's estimating system practice that resulted in the duplication of material markup factors and overstatement of escalation. In both cases, neither DCAA nor the contractor was able to identify or understand the contracting officer's determination or determine if the contractor should take corrective actions. As a result, the contracting officer had to reissue a clarified negotiation memorandum.

In the third instance, the negotiation memorandum for DCAA Audit Report No. 2641-2006G24020003 did not adequately explain how the contracting officer addressed three of the findings in the negotiation memorandum for another audit report. We had to obtain a verbal explanation from the contracting officer in order to determine that she had adequately addressed these findings. As a result, the contract file does not provide a clear understanding about how the contracting officer completed the disposition of these findings.

Understanding the DCAA findings and Pertinent Sections of the Federal Acquisition Regulation. In 7 of 12 cases, the contracting officer did not demonstrate sufficient knowledge of the FAR and other applicable regulations and DoD Directives.

Administration of Cost Accounting Standard Noncompliances. FAR 30.605, *Processing Noncompliances*, identifies contracting officer responsibilities for processing noncompliances reported by the auditor. Two of the 12 audit reports we reviewed involved alleged

noncompliances with a Cost Accounting Standard. In both cases, the contracting officer did not process the reported noncompliances in accordance with FAR 30.605 *Processing Noncompliances*. The contracting officer did not:

- Issue a notice of potential noncompliance to the contractor (or disagree with the auditor’s allegation) within 15 days after receiving the report [FAR 30.605(b)(1)];
- Obtain the contractor’s response to the noncompliance report within 60 days after issuing the notice of potential noncompliance [FAR 30.605(b)(2)], and
- Evaluate the contractor’s response and make a determination of compliance or noncompliance. [FAR 30.605(b)(3)].

In one of the two cases, the contracting officer also failed to assess interest on \$2.3 million in increased costs due to the Government for a contractor Cost Accounting Standard noncompliance, as FAR 30.605(g) requires. FAR 30.605(g) states:

“Interest. The CFAO [cognizant Federal Agency Official] shall—(1) Separately identify interest on any increased cost paid, in the aggregate, as a result of the noncompliance; (2) Compute interest from the date of overpayment to the date of repayment using the rate specified in 26 U.S.C. 6621(a)(2).” [clarification added]

We estimate that the interest associated with this noncompliance is approximately \$466,000, which the contracting officer should have collected in addition to the increased costs of \$2.3 million.

These cases demonstrate that the contracting officer did not possess a sufficient knowledge and understanding of her responsibilities as established in the FAR for properly administering and resolving Cost Accounting Standard noncompliances. The contracting officer has not received training on the administration of the Cost Accounting Standards since 1989.

Duties and Responsibilities for Evaluating a Contractor’s Estimating System. Defense Federal Acquisition Regulation Supplement, Procedures Guidance and Information (DFARS PGI) 215.407-5, *Estimating systems*, outlines the responsibilities and procedures for conducting contractor estimating system reviews and dispositioning estimating system reports. It states that the contract auditor (DCAA) and the contract administration activity (DCMA) shall conduct estimating system reviews as a team effort. Between December 2005 and November 2007, DCAA issued five estimating system reports³ to the contracting officer with findings and recommendations. The contracting officer did not uphold the DCAA position on these reports. Prior to issuing her determinations, the contracting officer did not consult with DCAA on the review of the contractor responses to the DCAA reports, or discuss any concerns she had with the significance of the DCAA-reported deficiencies.

³ An audit of an estimating system represents a review of a contractor's organization, policies, and practices for preparing cost estimates and pricing proposals to ensure they provide reliable estimates that are allowable, allocable and reasonable in accordance with the FAR and applicable contract terms.

The contracting officer did not comply with the DFARS Procedures, Guidance, and Instructions (PGI) requirement to conduct estimating system reviews as a team effort. The actions taken by the contracting officer did not comply with DFARS PGI 215.407-5-70(f)(3) which states:

“The ACO [administrative contracting officer], *in consultation with the auditor*, will evaluate the contractor’s response to determine whether-

- (i) The estimating system contains deficiencies that need correction;
- (ii) The deficiencies are significant estimating deficiencies that would result in disapproval of all or a portion of the contractor’s estimating system; or
- (iii) The contractor’s proposed corrective actions are adequate to eliminate the deficiency.” [clarification and emphasis added]

Consulting with DCAA and working as a team ensures the government has formed a consensus for identifying significant deficiencies and taking timely action to correct them.

In addition, the contracting officer stated she was unaware of her responsibility for determining the adequacy of the contractor’s internal control systems (for example, the estimating system), which is reflected in DFARS 215.407-5-70(c) and 244.305-70. The contracting officer mistakenly thought DCAA was responsible for determining adequacy. These actions and statements by the contracting officer indicate an insufficient understanding of her duties and responsibilities for effectively evaluating contractor internal control systems.

Reporting Responsibilities Contained in DoD Directive 7640.2. As detailed in Finding B of this report, the contracting officer assigned to the DCMA East Hartford office did not demonstrate a sufficient knowledge of the record keeping and reporting requirements contained in DoD Directive 7640.2. In addition, the contracting officer was unaware that DoD Directive 7640.2, Paragraph 6.4.1, requires the preparation of a pre-negotiation memorandum to document the contracting officer’s action plan for addressing reported findings and recommendations. In May 2009, (after we completed our fieldwork) DCMA provided the contracting officer with training on DoD Instruction 7640.02 which replaced DoD Directive 7640.2.

Recommendation, Management Comments and DoD IG Response

Recommendation A:

1. We recommend that the Executive Director of the Defense Contract Management Agency (Office of Independent Assessment):

a. Provide training to the contracting officer at the Defense Contract Management Agency, East Hartford office, covering (at a minimum)

- 1) Preparation of adequate negotiation memoranda,**
- 2) Federal Acquisition Regulation Subpart 30.6, Cost Accounting Standard Administration, and**

3) Defense Federal Acquisition Regulation Supplement 215.407-5, Estimating Systems.

Management Comments. The DCMA Executive Director, Contracts concurred. DCMA will assess the training needs of the contracting officer and provide the necessary training within the next 90 days.

DoD IG Response. DCMA comments were responsive.

- b. Evaluate the contract audit follow-up training needs of the other contracting officers assigned to the Defense Contract Management Agency, East Hartford office and provide the necessary training based on the results of the evaluation.**

Management Comments. The DCMA Executive Director, Contracts concurred. DCMA will assess the training needs of the other contracting officers and provide the necessary training within the next 90 days.

DoD IG Response. DCMA comments were responsive.

2. We recommend that the Commander, Defense Contract Management Agency, East Hartford office:

- a. Instruct the contracting officer to take action on the finding from Audit Report Number 2641-2006G24020003 involving the failure to use subcontract cost analysis to determine price reasonableness.**

Management Comments. The DCMA Executive Director, Contracts, concurred and considers the action complete because the ensuing events surrounding this procurement and the DCAA reported finding were self-correcting.

DoD IG Response. DCMA comments were responsive. We agree that the ensuing events surrounding this procurement and the DCAA reported finding were self-correcting; however, we did not find the rationale presented by the Executive Director, Contracts, in the Contracting Officer's written disposition of Audit Report No. 2641-2641-2006G240003.

- b. Recover any interest due the government in accordance with Federal Acquisition Regulation 30.605(g) for the \$2.3 million in increased costs due to the government for a cost accounting standard noncompliance reported in Defense Contract Audit Agency Audit Report Number 2641-2005G19200002.**

Management Comments. The DCMA Executive Director, Contracts concurred. The contracting officer is coordinating with DCAA and the contractor to recover the correct amount of interest owed to the Government.

DoD IG Response. DCMA comments were responsive. Upon receipt of the contractors check for interest owed the Government, DCMA will provide a copy of the check directly to our office.

c. Establish and document quality assurance procedures to help ensure that contracting officers:

- 1) Timely resolve and disposition all Defense Contract Audit Agency audit findings and recommendations in accordance with DoD Instruction 7640.02 and Office of Management and Budget Circular A-50;**
- 2) Provide an adequate legal basis for disagreement with the audit finding and/or recommendation as required by DoD Instruction 7640.02, Enclosure 3, paragraph 2.c.(1) and Office of Management and Budget Circular Number A-50, paragraph 8.a.(6);**
- 3) Resolve and disposition contract audit reports within the required timeframe, or include adequate written justification in the contract file for any resolutions and dispositions that occur beyond the specified timeframes.**
- 4) Comply with Federal Acquisition Regulation 30.605, *Processing Noncompliances*;**

Management Comments. The DCMA Executive Director, Contracts concurred. DCMA is developing a new Contract Audit Follow-up quality assurance policy that will help ensure contracting officers are adhering to the procedures in the acquisition regulations. The anticipated publication of the new policy is October 2009.

DoD IG Response. DCMA comments were responsive.

d. Develop a process or plan that would ensure DCMA contracting officers work as a team with the Defense Contract Audit Agency in performing reviews of contractor estimating systems and resolving reported findings and recommendations.

Management Comments. The DCMA Executive Director, Contracts concurred. DCMA is revising its policy to ensure contracting officers work as a team with DCAA consistent with the requirements in POI 215.407-5-70. DCMA anticipates issuing the revised policy in December 2009.

DoD IG Response. DCMA comments were responsive.

B. Inaccurate Contract Audit Follow-up Data

The contracting officer located at DCMA East Hartford did not maintain accurate records of reportable contract audit reports. Consequently, DCMA East Hartford reported inaccurate CAFU data to the DoD IG for each semiannual period ending March 31, 2007 through March 31, 2008. As a result, DCMA management, the DoD IG, and Congress did not have accurate information on contracting officer actions taken in response to contract audit reports. The inaccurate records resulted from the contracting officer's insufficient knowledge of the reporting and documentation requirements included in DoD Directive 7640.2 as well as existing DCMA guidance supplementing the Directive.

Data Accuracy Requirements. DoD Directive 7640.2 included the following requirements:

- Paragraph 6.3 required the maintenance of accurate and complete information regarding the status of reportable audit reports from the time a report is received through final disposition; and
- Paragraph 6.3.4 required that DoD Components submit semiannual reports on the status of reportable contract audits to the DoD IG. It identified the types of audits that are reportable, such as reports on Cost Accounting Standard noncompliances and contractor internal control systems with findings and recommendations.

Data Errors. We reviewed the accuracy of the CAFU records maintained by the DCMA East Hartford contracting officer for each semiannual reporting period ending between March 31, 2007 through March 31, 2008. The contracting officer reported on the status of 15 audit reports between these reporting periods. Our review disclosed:

- 2 audit reports that were inaccurately added and 1 audit report that was missing from the semiannual reporting of CAFU data (Appendix D);
- 2 records with incorrect questioned costs (Appendix E);
- 1 record with incorrect sustained questioned costs (Appendix E);
- 9 records with inaccurate resolution dates (Appendix F); and
- 7 records with inaccurate disposition dates (Appendix F).

Most of the data errors resulted from the contracting officer's lack of knowledge with the requirements of DoD Directive 7640.2, and not verifying the accuracy of the DCAA listing of reportable audits entered into the CAFU automated system. Although DCAA provides a monthly electronic listing of reportable audits, the contracting officer is ultimately responsible for data accuracy. The contracting officer needs to verify the DCAA-provided information against the DCAA audit reports and make any necessary adjustments.

In May 2009 (after we completed our fieldwork), DCMA did provide the contracting officer with training on DoD Instruction 7640.02 (DoD Instruction 7640.02 replaced DoD Directive 7640.2 on August 22, 2008). This training should help to improve the DCMA East Hartford contracting

officer's knowledge of the contract audit follow-up reporting requirements. However, the DCMA East Hartford office should also implement additional quality assurance procedures to help prevent, detect, and correct data errors.

Recommendation, Management Comments and DoD IG Response

Recommendation B. The Commander, Defense Contract Management Agency East Hartford office needs to establish and document quality assurance procedures to help ensure that contracting officers report accurate data in the Contract Audit Follow-up system.

Management Comments. The DCMA Executive Director, Contracts concurred. DCMA is in the process of developing a Contract Audit Follow-up quality assurance policy. This policy will address both the accuracy and completeness of reportable audit information from inception through final disposition.

DoD IG Response. DCMA comments were responsive.

Appendix A. Scope and Methodology

We evaluated the actions that a DCMA East Hartford contracting officer took on 12 audit reports (including 5 referenced in a DoD Hotline complaint) to determine if the allegations contained in a DoD Hotline complaint were valid. See Appendix B for a list of reports covered in this portion of the review. As part of our review, we:

- reviewed DCMA contract files addressing the 12 DCAA audit reports to determine the validity of the DoD hotline complaint;
- interviewed DCAA and DCMA employees who were involved in issuing or taking action on the 12 reports; and
- determined if the actions taken by the contracting officer were compliant with applicable standards, public law, Department of Defense (DoD) regulations, directives, and instructions.

In addition to reviewing the Hotline complaint, we reviewed actions taken by the same contracting officer on the reporting of contract audit follow-up data and the assessment of DCAA recommended penalties for compliance with DoD Directive 7640.2 and the Federal Acquisition Regulation.

Use of Computer-Processed Data. DCMA uses a Web-based eTools system that maintains data on the status of actions taken to resolve and disposition contract audit reports. We verified the eTools data used in our review to source documents.

Prior Coverage. In the last 5 years, we issued five other reports related to Defense Contract Management Agency actions on Defense Contract Audit Agency audit reports.

- DoD IG Report No. D-2009-6-004, “Defense Contract Management Agency Actions on Audits of Cost Accounting Standards and Internal Control Systems at DoD Contractors Involved in Iraq Reconstruction Activities,” April 8, 2009
- DoD IG Report No. D-2007-6-010, “Reimbursement of Settlement Costs at Defense Contract Management Agency Melbourne,” September 28, 2007
- DoD IG Report No. D-2007-6-009, “Actions on Reportable Contract Audit Reports by the Defense Contract Management Agency’s Northrop Grumman El Segundo Office,” September 28, 2007
- DoD IG Report No. D-2007-6-004, “Defense Contract Management Agency Virginia’s Actions on Incurred Cost Audit Reports,” April 20, 2007
- DoD IG Report No. D-2005-6-003, “Defense Contract Management Agency Santa Ana Office’s Actions on Incurred Cost Audits,” March 17, 2005

Appendix B. Review Results by Audit Report

| DCAA Audit Report | Audit Type | Failure to Timely Respond to DCAA Findings | Failure to Address all DCAA Findings | Failure to Execute Professionally Written Disposition | Failure to Understand DCAA Findings & Demonstrate Knowledge of Pertinent FAR Requirements |
|---|------------------------------|---|---|--|--|
| 2641-2005E10502001S1 | Operations (Labor Practices) | No | No | No | No |
| 2641-2005G19200002 | CAS 402 noncompliance | Yes | No | No | Yes |
| 2641-2006A12030001 | Purchasing System | No | No | No | No |
| 2641-2006B13500001 | Labor Floor Check | No | No | No | No |
| 2641-2006G17900002 | Pension Adjustment | Yes | No | No | No |
| 2641-2006G19200002 | CAS 414 & 417 noncompliance | Yes | No | No | Yes |
| 2641-2006G24010001 | Estimating System | Yes | No | Yes | Yes |
| 2641-2006G24010002 | Estimating System | No | No | No | Yes |
| 2641-2006G24020001 | Estimating System (Flash) | Yes | No | Yes | Yes |
| 2641-2006G24020002 | Estimating System (Flash) | Yes | No | No | Yes |
| 2641-2006G24020003 | Estimating System (Flash) | Yes | Yes | Yes | Yes |
| 2641-2007G10502001 | Operations (Labor Practices) | No | No | No | No |
| Total Exceptions (“Yes” Responses) | | 7 | 1 | 3 | 7 |

Appendix C. Untimely Resolution and Disposition

| Audit Report Number | Audit Report Date | Number of Months Past the 6 Month Resolution Rule | Number of Months Past the 12 Month Disposition Rule | Note |
|----------------------------|--------------------------|--|--|-------------|
| 2641-2005G19200002 | 23-Sep-05 | 7 | 3 | 1 |
| 2641-2006G19200002 | 31-Mar-06 | 10 | 4 | 1 |
| 2641-2006G24010001 | 16-Aug-07 | 3 | - | 1 |
| 2641-2006G17900002 | 20-Dec-05 | 15 | N/A | 2 |
| 2641-2006G24020001 | 28-Dec-05 | 16 | N/A | 2 |
| 2641-2006G24020002 | 28-Dec-05 | 15 | N/A | 2 |
| 2641-2006G24020003 | 22-Aug-06 | 8 | N/A | 2 |
| Average | | 10.5 | 3.5 | |

Notes:

1. The DCMA East Hartford contracting officer did not timely resolve and/or complete the disposition of these audits based on the timeframes established in DoD Directive 7640.2. This Directive requires the resolution of reportable⁴ contract audit reports within 6 months and the disposition of reportable contract audits within 12 months. Resolution of an audit report takes place when the contracting officer prepares a written action for responding to the reported findings. Disposition generally occurs when the contracting officer reaches a settlement with the contractor on the reported findings or issues a final decision under the Disputes Clause.
2. The DCMA East Hartford contracting officer did not timely resolve these audits using the criteria in Office of Management and Budget (OMB) Circular A-50, paragraph 8a(2), which requires audit resolution within 6 months. For these audits, we used OMB Circular A-50 because the audits do not qualify as reportable under DoD Directive 7640.2. Unlike, DoD Directive 7640.2, OMB Circular A-50 does not contain a 12 month disposition rule.

⁴ Reportable audits refer to certain types of audits that were subject to the reporting requirements in DoD Directive 7640.2. Refer to Enclosure 4 of DoD Directive 7640.2 (or Enclosure 5 of DoD Instruction 7640.02) for a detailed listing of reportable audits.

Appendix D. Audit Reports Inaccurately Added or Missing

| Audit Report Number | Audit Report Date | Note |
|----------------------------|--------------------------|-------------|
| Inaccurately Added | | |
| 2641-2004B10100002 | 28-Sep-06 | 1 |
| 2641-2004B10100003 | 29-Sep-06 | 1 |
| Missing | | |
| 2641-2006A12030001 | 28-Feb-07 | 2 |

Notes:

1. Represents non-reportable contract audit reports included in the semiannual data reported to the DoD IG by the DCMA East Hartford contracting officer.
2. The DCMA East Hartford contracting officer did not include this reportable audit in the semiannual data reported to the DoD IG.

Appendix E. Reported Incorrect Costs

| Audit Report Number | Questioned Cost DCAA Report | Questioned Cost CAFU System | Sustained Cost According to Negotiation Files | Sustained Cost Reported In CAFU* System | Difference |
|----------------------------|------------------------------------|------------------------------------|--|--|-------------------|
| 2641-2004B10100003 | \$32,000 | \$32 | | | \$31,968 |
| 2641-2005E10502001S1 | \$20,143,177 | \$8,863,998 | | | \$11,279,179 |
| | | | | | |
| 2641-2005G19200002 | | | \$2,258,659 | \$0 | \$(2,258,659) |

For three audit reports, the DCMA East Hartford contracting officer reported inaccurate questioned and/or sustained costs in the eTools CAFU system. The contracting officer should have compared the questioned cost amounts in the DCAA audit report to those reflected in the eTools CAFU system to ensure their accuracy.

Appendix F. Reported Date Inaccuracies

| Audit Report Number | Actual Resolution Date | Resolution Date Reported in CAFU System | Actual Disposition Date | Disposition Date Reported in CAFU* | Note |
|----------------------------|-------------------------------|--|--------------------------------|---|-------------|
| 2641-2004B10100001 | 1-Nov-06 | 6-Sep-06 | 1-Nov-06 | 6-Sep-06 | 1, 2 |
| 2641-2004B10100002 | 1-Nov-06 | 31-Oct-06 | 1-Nov-06 | 31-Oct-06 | 1, 2 |
| 2641-2004B10100003 | 1-Nov-06 | 29-Mar-07 | 1-Nov-06 | 24-May-07 | 1, 2 |
| 2641-2004B10100004 | 1-Nov-06 | 20-Dec-06 | 1-Nov-06 | 20-Dec-06 | 1, 2 |
| 2641-2004B10100005 | 1-Nov-06 | 11-Dec-06 | 1-Nov-06 | 11-Dec-06 | 1, 2 |
| 2641-2005E10502001S1 | 10-May-07 | 9-May-07 | 10-May-07 | 10-May-07 | 1 |
| 2641-2005G19200002 | 7-Nov-06 | 7-Nov-06 | 4-Jan-07 | 7-Nov-06 | 2 |
| 2641-2006G24010001 | 1-May-08 | 2-Apr-08 | 1-May-08 | 1-May-08 | 1 |
| 2641-2007G10502001 | 22-May-07 | 24-May-07 | 22-May-07 | 24-May-07 | 1, 2 |
| 2641-2007Q11010001 | 15-Nov-07 | 16-Apr-08 | Under Investigation | Under Investigation | 1 |

Notes:

1. The DCMA East Hartford contracting officer inaccurately reported 10 resolution dates in the CAFU system as evidenced by the date of negotiation memoranda included in the DCMA contract file.
2. The DCMA East Hartford contracting officer inaccurately reported 7 disposition dates in the CAFU system as evidenced by the date of negotiation memoranda included in the DCMA contract file.

Defense Contract Management Agency Comments



DEFENSE CONTRACT MANAGEMENT AGENCY
6350 WALKER LANE, SUITE 300
ALEXANDRIA, VA 22310-3241

IN REPLY
REFER TO DCMA –AQ

AUG 14 2009

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDIT POLICY
AND OVERSIGHT

SUBJECT: DOD IG Draft Audit Report, Project No. D2008-DIP0AI-0192, Report on Hotline Complaint Regarding the Actions by a Contracting Officer at the Defense Contract Management Agency, East Hartford Office.

This is in response to your July 24, 2009 request to provide comments on recommendations detailed in subject report.

Recommendations A.1.a. We recommend that the Executive Director of the Defense Contract Management Agency (Office of Independent Assessment), provide training to the contracting officer at the Defense Contract Management Agency, East Hartford office, covering (at a minimum)

- 1) Preparation of adequate negotiation memoranda,
- 2) Federal Acquisition Regulation Subpart 30.6, Cost Accounting Standard Administration, and
- 3) Defense Federal Acquisition Regulation Supplement 215.407-5, Estimating Systems.

Response: Concur. We are assessing the training needs of the contracting officer and will provide any necessary training within the next 90 days.

Recommendations A.1.b. We recommend that the Executive Director of the Defense Contract Management Agency (Office of Independent Assessment), evaluate the contract audit follow-up training needs of the other contracting officers assigned to the Defense Contract Management Agency, East Hartford office and provide the necessary training based on the results of the evaluation.

Response: Concur. We are assessing the training needs of the subject contracting officers and will provide any necessary training within the next 90 days.

Recommendation A.2.a. We recommend that the Commander, Defense Contract Management Agency, East Hartford office, instruct the contracting officer to take action

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on the finding from Audit Report Number 2641-2006G24020003 involving the failure to use subcontract cost analysis to determine price reasonableness.

Response: Concur. The Contracting Officer has taken, and continues to take, appropriate steps to correct the contractor's failure to use subcontract cost analysis to determine price reasonableness. Audit report 2641-2006G24020003, which was addressed to the Procurement Contracting Officer responsible for the procurements, cited four findings based on data submitted under the IPT process for subject proposals. Of the four findings cited in the 2006 audit report, one pertained to the contractor not identifying and performing subcontract cost analysis to determine price reasonableness. The data used in DCAA's review was uncertified data. Upon completion of the IPT activity, the certified proposal incorporated certified data which was acceptable cost or pricing data. This particular issue had been resolved and dispositioned as stated in the October 29, 2007 Disposition Memorandum for Audit Report Number 2641-2006G24020003. So, while we concur, we consider this action complete.

Recommendation A.2.b. We recommend that the Commander, Defense Contract Management Agency, East Hartford office, recover any interest due the government in accordance with Federal Acquisition Regulation 30.605(g) for the \$2.3 million in increased costs due to the government for a cost accounting standard noncompliance reported in Defense Contract Audit Agency Audit Report Number 2641-2005G19200002.

Response: Concur. In the process of off-setting the cost impact, the interest was unintentionally overlooked. The contracting officer on July 30, 2009 notified the contractor of the Government's intent to recover interest owed the government for the costing standard noncompliance reported in Audit Report Number 2641-2005G19200002. The contractor has taken no exception to the government's recoupment of the interest. The CO, contractor and DCAA are in the process of determining the correct amount of interest due the Government. The contractor will issue a check once the interest has been determined.

Recommendation A.2.c. We recommend that the Commander, Defense Contract Management Agency, East Hartford office, establish and document quality assurance procedures to help ensure that contracting officers:

1) timely resolve and disposition all Defense Contract Audit Agency audit findings and recommendations in accordance with DoD Instruction 7640.02 and Office of Management and Budget Circular A-50;

2) provide an adequate legal basis for disagreement with the audit findings and or recommendation as required by DoD Instruction 7640.02, Enclosure 3, paragraph 2.c.(1) and Office of Management and Budget Circular Number A-50, paragraph 8.a.(6);

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3) resolve and disposition contract audit reports within the required timeframe, or include adequate written justification in the contract file for any resolutions and dispositions that occur beyond the specified timeframes.

4) comply with Federal Acquisition Regulation 30.605, Processing Noncompliances;

Response: Concur. DCMA is developing a new Contract Audit Follow-up (CAFU) quality assurance policy that will help ensure:

- The timely resolution and disposition of all reportable Defense Contract Audit Agency audit findings and recommendations in accordance with DOD Instructions 7640.02 and OMB Circular A-50;
- Resolution actions are consistent with law, regulation and Administration policy; and include written justification containing, when applicable, the legal basis for decisions not agreeing with the audit recommendations; and
- Adequate written justification is maintained in the contract file for any resolutions and dispositions that occur beyond the specified timeframes

As part of the new policy, CMO and Division Contract Directors will assess whether contracting officers actions to resolve and disposition audit findings adhered to the procedures in the acquisition regulation. If contracting officers fail to follow appropriate procedures, we will provide necessary training or take other actions to ensure compliance. We anticipate publication of the new policy in October 2009. In addition, we have recently established an internal policy that subjects any contracting officer determination that is inconsistent with DCAA recommendations to a higher-level review. As part of the higher-level review, we assess whether planned contracting officer actions adhere to the procedures in the acquisition regulation.

Recommendation A.2.d. Develop a process or plan that would ensure DCMA Contracting Officers work as a team with the Defense Contract Audit Agency in performing reviews of contractor estimating systems and resolving reported findings and recommendations.

Response: Concur. We are revising our policy to ensure our ACOs work as a team with DCAA consistent with the requirements in PGI 215.407-5-70. We anticipate issuing the revised policy in December 2009. We advise that the issue of resolving audit reports on business systems is a matter being reviewed by the Commission on Wartime Contracting and at senior levels within the Pentagon.

Recommendation B. The Commander, Defense Contract Management Agency East Hartford office, needs to establish and document quality assurance procedures to help ensure that contracting officers report accurate data in the contract audit follow-up system.

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Response: Concur. As previously stated, we are developing a CAFU quality assurance policy that will help ensure the accuracy of the data in the contract audit follow-up system. In addition, we are revising the policy to clarify the requirements to maintain the accuracy and completeness of information regarding the status of reportable audits from the time the reports are received through final disposition.

Please contact Dennis Dinneen at (703) 428-0994, Dennis.dinneen@dema.mil if additional information is required.



DAVID E. RICCI
Executive Director
Contracts

Defense Contract Management Agency Comments

DCMA Technical Comments to DOD IG Draft Audit Report, Project No. D2008-DIPOAI-0192, Report on Hotline Complaint Regarding the Actions by a Contracting Officer at the Defense Contract Management Agency, East Hartford Office.

Recommendation A.1

DoDIG report states, "We recommend that the Executive Director of the Defense Contract Management Agency (Office of Independent Assessment)..."

DCMA Comments: The Executive Director of the Defense Contract Management Agency Contracts Directorate, not Office of Independent Assessment, is responsible for implementation of this recommendation. The corrective action that's stated in our response to this recommendation will be taken by the Contracts Directorate, not the Office of Independent Assessment.



Inspector General Department of Defense

