

# Inspector General

United States  
Department of Defense



Army Contracting Command - Rock Island Contracts  
Awarded Without Competition Were Properly Justified

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## Acronyms and Abbreviations

|         |   |
|---------|---|
| ACC-RI  | Army Contracting Command – Rock Island            |
| FAR     | Federal Acquisition Regulation                    |
| FPDS-NG | Federal Procurement Data System - Next Generation |
| J&A     | Justification and Approval                        |



**INSPECTOR GENERAL**  
**DEPARTMENT OF DEFENSE**  
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April 19, 2012

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,  
TECHNOLOGY, AND LOGISTICS  
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Army Contracting Command – Rock Island Contracts Awarded Without  
Competition Were Properly Justified (Report No. DODIG-2012-076)

We are providing this report for your information and use. This report is the third in a series of audit reports on DoD contracts awarded without competition. Army Contracting Command – Rock Island contracting personnel adequately documented, obtained appropriate approvals, and justified the use of other than full and open competition on the justification and approval for other than full and open competition for all 26 contracts reviewed. In addition, they generally documented compliance with additional Federal requirements to support those sole source determinations. No written response to this report was required, and none was received. Therefore, we are publishing this report in final form.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9077 (DSN 664-9077).

*Jacqueline L. Wicecarver*  
Jacqueline L. Wicecarver  
Assistant Inspector General  
Acquisition and Contract Management





# Results in Brief: Army Contracting Command – Rock Island Contracts Awarded Without Competition Were Properly Justified

## What We Did

Our objective was to determine whether DoD noncompetitive contract awards were properly justified as sole source at the Army Contracting Command – Rock Island (ACC-RI), Rock Island, Illinois. This report is the third in a series of reports on DoD contracts awarded without competition. We reviewed 26 noncompetitive contracts with a combined obligated value of \$542.9 million that ACC-RI contracting personnel awarded in FY 2009 and FY 2010.

Full and open competition is the preferred method for Federal agencies to award contracts. Section 2304, title 10, United States Code, and Section 253, title 41, United States Code, require contracting officers to promote and provide for full and open competition when soliciting offers and awarding contracts. Contracting officers may use procedures other than full and open competition under certain circumstances. However, each contract awarded without providing for full and open competition must conform to policies and procedures in Federal Acquisition Regulation (FAR) Subpart 6.3, “Other Than Full and Open Competition.”

## What We Found

ACC-RI contracting personnel adequately documented, obtained appropriate approvals, and justified the use of other than full and open competition on the justification and approval (J&A) for other than full and open competition for all 26 contracts reviewed. In addition, ACC-RI contracting personnel generally documented compliance with additional Federal

requirements to support those sole source determinations.

Specifically, ACC-RI contracting personnel:

- generally included all data elements in the J&As;
- generally applied the cited authority permitting other than full and open competition in the J&As;
- obtained approval from the proper authorities to issue noncompetitive contract awards within the required time frames;
- documented compliance with FAR Part 10, “Market Research,” in the contract file; and
- did not include one or both of the statements required by FAR 5.207, “Preparation and Transmittal of Synopses,” in the synopsis for 17 of the 26 noncompetitive contracts.

## Management Comments

No written response to this report was required, and none was received. Therefore, we are publishing this report in final form.



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# Introduction

## Objective

Our objective was to determine whether DoD noncompetitive contract awards were properly justified as sole source at the Army Contracting Command – Rock Island (ACC-RI),<sup>1</sup> Rock Island, Illinois. This report is the third in a series of reports on DoD contracts awarded without competition. See Appendix A for the scope and methodology and prior coverage related to the objectives.

## Background

Full and open competition is the preferred method for Federal agencies to award contracts. Section 2304, title 10, United States Code, and Section 253, title 41, United States Code, require contracting officers to promote and provide for full and open competition when soliciting offers and awarding contracts. According to the Government Accountability Office, promoting competition in Federal contracting presents the opportunity for significant cost savings and can help improve contractor performance, prevent fraud, and promote accountability. Contracting officers may use procedures other than full and open competition under certain circumstances. However, each contract awarded without providing for full and open competition must conform to policies and procedures in Federal Acquisition Regulation (FAR) Subpart 6.3, “Other Than Full and Open Competition.”

FAR subpart 6.3 prescribes the policies and procedures for contracting without full and open competition. FAR Part 10, “Market Research,” prescribes policies and procedures for conducting market research to arrive at the most suitable approach for acquiring, distributing, and supporting supplies and services. FAR Subpart 5.2, “Synopsis of Proposed Contract Actions,” establishes policy to ensure agencies make notices of proposed contract actions available to the public. Appendix B provides additional explanation on FAR subpart 6.3, FAR part 10, and FAR subpart 5.2 requirements.

## Army Contracting Command – Rock Island

ACC-RI works to ensure the warfighting readiness of the Army by providing contracting support for the acquisition of ammunition, theatre logistics support, and chemical demilitarization. ACC-RI provides full support of the acquisition requirements for six customers: the U.S. Army Sustainment Command, the Joint Munitions and Lethality Life Cycle Management Command Rock Island, Program Executive Office Enterprise Information Systems, U.S. Central Command Contracting Command, the Surface Deployment and Distribution Command, and the Office of the Program Manager Saudi Arabian National Guard.

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<sup>1</sup> This audit specifically reviewed contracts issued by the Joint Munitions and Lethality Life Cycle Management Command Rock Island.

## Contracts Reviewed at ACC-RI

Our Federal Procurement Data System – Next Generation (FPDS-NG) queries identified that ACC-RI contracting personnel awarded 188 noncompetitive C and D type contracts<sup>2</sup> with an obligated value of \$2.3 billion during FY 2009 and FY 2010. Of the 188 C and D type noncompetitive contracts<sup>3</sup> awarded by ACC-RI contracting, we focused our review on the 36 noncompetitive C and D type contracts awarded by the Joint Munitions and Lethality Life Cycle Management Command Rock Island. We selected all 36 C and D type, noncompetitively awarded contracts, with an obligated value of \$584 million to review. We later excluded ten contracts from our sample because they were outside the scope of our audit:

- three contracts had J&As that were classified,
- two contracts were 8(a) set asides,
- two contracts were competed,
- two contracts had been transferred to the installation for contract administration and were unavailable for review, and
- one contract was not awarded in FY 2009 or FY 2010.

In total, we reviewed 26 contracts with a value of about \$2.8 billion.<sup>4</sup> See Appendix C for specific noncompetitive contract awards reviewed.

## Review of Internal Controls at ACC-RI

DoD Instruction 5010.40, “Managers’ Internal Control Program (MICP) Procedures,” July 29, 2010, requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. ACC-RI’s internal controls over its processes for issuing the noncompetitive contract awards we reviewed were effective as they applied to the audit objectives.

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<sup>2</sup> Defense Federal Acquisition Regulation Supplement 204.7003, “Basic PII Number,” defines C type contracts as “Contracts of all types except indefinite delivery contracts, sales contracts, and contracts placed with or through other Government departments or agencies or against contracts placed by such departments or agencies outside the DoD,” and D type contracts as “Indefinite delivery contracts.”

<sup>3</sup> Data obtained in FPDS-NG is reported on an individual action basis (that is, single modification). As a result, we combined all actions identified for a given contract to determine the number of contracts awarded during FY 2009 and FY 2010 and their respective obligated amounts.

<sup>4</sup> The obligated value for the 26 contracts was \$542.9 million.

## **ACC-RI Contract Awards Were Properly Justified As Sole Source**

ACC-RI contracting personnel properly justified the use of other than full and open competition on the justification and approval (J&A) for other than full and open competition for all 26 contracts, with an obligated value of \$542.9 million. ACC-RI contracting personnel generally complied with FAR 6.303-2, “Content,” requirements in the J&As, generally applied the authority cited, and obtained approval from the proper personnel before contract award for all 26 J&As. Further, ACC-RI contracting personnel generally documented compliance with FAR Part 10, “Market Research,” and FAR Subpart 5.2, “Synopsis of Proposed Contract Actions” in the contract files to support sole-source determinations.

## **ACC-RI Adequately Supported Sole-Source Determinations**

ACC-RI contracting personnel adequately supported the use of other than full and open competition on the J&As for all 26 contracts. FAR 6.302, “Circumstances Permitting Other Than Full and Open Competition,” lists the seven exceptions permitting contracting without full and open competition. A contracting officer must not begin negotiations for or award a sole-source contract without providing full and open competition unless the contracting officer justifies the use of such action in writing, certifies the accuracy and completeness of the justification, and obtains approval of the justification. ACC-RI contracting personnel did not always document all the required elements of FAR 6.303-2 in the J&As; however, personnel provided enough information in the J&As to justify permitting other than full and open competition. ACC-RI contracting personnel obtained approval from the proper official for each of the 26 J&As and obtained approval within the required time frames.

## ***ACC-RI Generally Complied With J&A Content Requirements***

ACC-RI contracting personnel generally documented compliance with content requirements in the 26 J&As. ACC-RI contracting personnel included all the required elements as outlined in FAR 6.303-2 in the J&As for 20 of the 26 J&As. FAR 6.303-2 identifies the minimum information that must be included in a J&A. FAR 6.303-2 requires information such as a description of the supplies or services required to meet the agency’s needs, the estimated value, and the statutory authority permitting other than full and open competition. Although ACC-RI contracting personnel did not document all the required elements of FAR 6.303-2 in six of the J&As, ACC-RI contracting personnel provided enough information in the J&As to justify executing the contracts without full and open competition. See Table 1 for the specific contracts that did not meet all J&A content requirements and whether additional information was in the contract file to address the missing information.

**Table 1. J&As Missing FAR Content Requirements**

| <b>Contract</b>  | <b>J&amp;A Addresses Requirements of FAR Subpart 5.2, “Publicizing Contract Actions,” or the Exception</b> | <b>Additional Information in the Contract File to Address the Missing J&amp;A Content Requirement</b> |
|------------------|--|---|
| W52P1J-10-C-0030 | No   | Yes   |
| W52P1J-10-C-0033 | No   | Yes   |
| W52P1J-10-C-0018 | No   | Yes   |
| W52P1J-09-C-0024 | No   | No  |
| W52P1J-10-C-0022 | No   | Yes   |
| W52P1J-10-C-0002 | No   | Yes   |

ACC-RI contracting personnel did not meet all of the content requirements for six contracts due to minor documentation omissions. For the six contracts, ACC-RI contracting personnel did not cite, as required by FAR 6.303-2(b)(6), whether a notice was or will be publicized as required by FAR subpart 5.2, and if it will not be publicized, which exception under FAR 5.202, “Exceptions,” applies. For five of the six contracts, ACC-RI contracting personnel provided additional information in the contract file to address the missing J&A content requirement. The ACC-RI contracting officer included a memorandum in the contracting file citing the exception used under FAR 5.202 for two of the six contracts. ACC-RI contracting personnel provided enough evidence in the contract files for two contracts to show they were publicized, as required by FAR subpart 5.2. The J&A for contract W52P1J-10-C-0018 did not cite an exception from FAR 5.202; however, the J&A cited FAR 6.302-2 as the reason for awarding the contract using other than full and open competition. FAR 5.202(a)(2) is the exception that permits a proposed contract action under the authority of FAR 6.302-2 to be awarded without issuing a synopsis. We consider this to be a documentation omission because the support was in the contract file that the five contract actions were publicized as required by FAR subpart 5.2 or that an exception under FAR 5.202 applied.

ACC-RI contracting personnel did not include any evidence for the remaining J&A in the contract file indicating whether a notice was publicized or that an exception was used. The contracting officer stated that the procurement for contract W52P1J-09-C-0024 was not synopsisized because no competitor or subcontracting possibilities were available. Although the contract should have been publicized as required by FAR subpart 5.2 and noted in the J&A, contracting personnel provided enough information in the J&A to justify executing the contract without full and open competition. Each of these six instances resulted from documentation omissions and did not result in inadequate noncompetitive awards; therefore, we do not consider these problems to be systemic and

are not making a recommendation to address these problems. Also, see Appendix D for additional information on justifications and J&A content and approvals.

### ***ACC-RI Personnel Generally Applied the Sole-Source Authority Cited***

ACC-RI contracting personnel generally applied the appropriate authority permitting other than full and open competition in 23 of the 26 J&As. ACC-RI contracting personnel awarded:

- 21 contracts citing the authority of FAR 6.302-1, “Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements,”
- 4 contracts citing the authority of FAR 6.302-2, “Unusual and Compelling Urgency,” and
- 1 contract citing the authority of FAR 6.302-3, “Industrial mobilization; engineering, developmental, or research capability; or expert services.”

For the 21 contracts that cited the authority of FAR 6.302-1, ACC-RI contracting personnel provided adequate rationale in the J&A as to why only one contractor could provide the required product or service and why only that product or service could meet the Government’s requirements. However, for 3 of these 21 contracts, ACC-RI contracting personnel should have cited the authority of FAR 6.302-2, as the J&A explained the immediate need for the continuation of services, which only a specific contractor could provide without a disruption in service. In addition, ACC-RI listed the exception in FAR 5.202(a)(2), which states a contracting officer does not need to submit a synopsis for contract actions issued under the conditions described at FAR 6.302-2 as the reason for not issuing a synopsis for all three of these contracts. ACC-RI personnel cited FAR 6.302-1 when they should have cited the FAR 6.302-2 authority but, based on information included in the J&A and contract file, we still consider the sole-source contract award to be justified, as only one contractor could fulfill the immediate need for continuation of services.

For the four contracts that cited the authority of FAR 6.302-2, ACC-RI contracting personnel provided adequate rationale in the J&A that supported the unusual and compelling urgency of the acquisition. ACC-RI contracting personnel explained the need for immediate operations and engineering support because of an unanticipated expansion of support to Afghanistan in the J&A for contract W52P1J-10-C-0018. The rapid expansion was not predicted and if the contractor was not in place immediately, a risk of mission failure could occur, which poses a threat to the safety of soldiers and civilians. FAR 6.302-2(c) and (d) impose further limitations on contract awards citing this authority. For the four contracts, ACC-RI contracting personnel provided adequate rationale in the J&A that supported why only one contractor and one product or service could have met the Government’s requirements. Contracting personnel are required by FAR 6.302-2(c) to request offers from as many potential sources as practicable. For contract W52P1J-10-C-0018, the contracting officer explained in the J&A that the contractor had extensive knowledge of the area of responsibility and was already in place. Awarding it to another contractor would cause a duplication of effort and costs as well as

delays. Contracting personnel are required by FAR 6.302-2(d) to limit the period of performance of the contract. ACC-RI contracting personnel awarded contract W52P1J-10-C-0018 for 6 months only.

ACC-RI contracting personnel awarded one contract that cited the authority of FAR 6.302-3. FAR 6.302-3(a) allows other than full and open competition when it is necessary to maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization. FAR 6.302-3(b) also states the authority may be necessary to keep vital facilities or supplies in business or make them available in the event of a national emergency. For contract W52P1J-09-D-0003, ACC-RI personnel provided adequate rationale in the J&A to justify the noncompetitive contract award based on the authority at FAR 6.302-3. For example, ACC-RI contracting personnel explained in the J&A for contract W52P1J-09-D-0003 the need to restrict the production and supply of explosive ammunition components, which are essential and must be available in case of a national emergency. The specialized manufacturing processes and skill sets associated in producing the explosives are difficult and costly to reestablish, therefore, it was necessary to restrict the procurement to ensure prompt response in case of a national emergency.

### ***ACC-RI Personnel Obtained Approval From the Proper Officials for Sole-Source Contract Awards***

ACC-RI contracting personnel obtained approval from the appropriate official on all 26 J&As. FAR 6.304, "Approval of the Justification," defines the proper approval authority at various thresholds for the estimated dollar value of the contract including options. For FY 2009 and FY 2010, the FAR authorized the procuring contracting officer to provide the final approval for proposed contract actions up to \$550,000 and for the competition advocate of the procuring activity to provide the final approval for proposed contract actions of more than \$550,000 but not exceeding \$11.5 million. The contracting officer appropriately approved seven J&As with an estimated value of \$550,000 or less. The competition advocate appropriately approved seven J&As valued at more than \$550,000 but not exceeding \$11.5 million. The Principal Assistant Responsible for Contracting or the Chief Counsel appropriately approved nine J&As valued at more than \$11.5 million but not exceeding \$78.5 million. The Assistant Secretary of the Army (Acquisition, Technology, and Logistics) approved the remaining three J&As valued at more than \$78.5 million, as required by FAR 6.304.

For 25 of the 26 J&As, the designated official approved the J&A before contract award as required by FAR 6.303, "Justifications." However, FAR 6.303 allows justifications for contracts awarded under FAR 6.302-2 to be prepared and approved within a reasonable time after contract award when preparation and approval prior to award would unreasonably delay the acquisitions. ACC-RI contracting personnel awarded contract W52P1J-10-D0083 under the authority of FAR 6.302-2 and 5 days later the appropriate official approved the J&A. Although the ACC-RI contracting officer awarded contract W52P1J-10-D-0083 before the designated official approved the J&A, he was in compliance with FAR 6.303. See Appendix D for additional information on justifications and J&A content and approvals.

ACC-RI needed to issue two new J&As on 2 of the 26 existing contracts to comply with Army Federal Acquisition Regulation Supplement, 5106.304, "Approval of the Justification." Army Federal Acquisition Regulation Supplement, 5106.304(a), requires a new J&A to be obtained from the appropriate approval authority prior to award if the new dollar value exceeds the original J&A approval authority. In each case, ACC-RI contracting personnel issued a modification to the contract that required a higher approval authority than was required for the original J&A. ACC-RI contracting personnel obtained approval from the appropriate official on both J&As. For one of the J&As, the designated official approved the J&A before ACC-RI contracting personnel issued the modification; however, the second J&A was not approved by the designated official until after ACC-RI contracting personnel issued the modification. We do not consider this problem to be systemic and are not making a recommendation.

## **ACC-RI Personnel Generally Complied With Additional Regulations That Supported Sole-Source Determinations**

ACC-RI personnel documented the market research efforts and included adequate documentation in the contract files to support FAR part 10 and FAR subpart 5.2 requirements. ACC-RI contracting personnel provided sufficient information in the contract files to determine the specific steps ACC-RI personnel took to conduct market research and the results. In addition, ACC-RI contracting personnel generally included adequate documentation to support that the proposed contract actions were properly synopsisized in the Governmentwide Point of Entry, which is accessed on the Internet at <https://www.fedbizopps.gov>, with the exception of including the required language outlined in FAR 5.207(c)(14) and (15) in the synopses. As a result, ACC-RI contracting personnel generally complied with FAR part 10 and FAR subpart 5.2 requirements to support ACC-RI sole-source determinations.

## ***ACC-RI Appropriately Documented the Market Research Efforts and the Results***

ACC-RI personnel appropriately documented the market research conducted or provided adequate justification in the contract file when market research was not conducted for all 26 contracts reviewed. Contracting personnel included documentation to show compliance with FAR part 10 in the contract file<sup>5</sup> to support all 26 sole-source determinations. FAR part 10 states that agencies should document the results of market research in a manner appropriate to the size and complexity of the acquisition. FAR 10.002, "Procedures," states the extent of market research will vary, depending on such factors as urgency, estimated dollar value, complexity, and past experience. ACC-RI contracting personnel performed market research techniques identified in

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<sup>5</sup> We considered documentation sufficient to meet FAR part 10 requirements if the specific steps taken to conduct market research and the subsequent results were documented or adequate rationale for not conducting market research was documented.

FAR part 10 for 13 of the 26 contract awards that had adequate support documented in the contract file. For example, ACC-RI contracting personnel conducted internet inquiries, contacted knowledgeable individuals in industry, or reviewed past procurements for the 13 noncompetitive awards that had award values ranging from \$150,000 to \$2 billion. ACC-RI contracting personnel documented the techniques performed and the subsequent results in each of the 13 contract files.

ACC-RI contracting personnel did not conduct market research in 13 of the 26 instances; however, contracting personnel provided adequate documentation in each of the 13 contract files to support those determinations. For example, ACC-RI contracting personnel did not conduct market research for contract W52P1J-09-C-0023 because the Uzbekistani Ministry of Defense and the U.S. Secretary of Defense signed a Transient Agreement establishing business arrangements and procedures for land transit. The Republics of Uzbekistan and Korea do not allow their citizens to enter into Afghanistan. A U.S. company is the only contractor approved by the agreement to legally enter into Afghanistan from Uzbekistan. Therefore, the contractor was the only company available to provide services for this contract action. See Appendix E for additional information on the market research ACC-RI personnel conducted.

### ***ACC-RI Personnel Complied With FAR 5.207 for Most of the 18 Noncompetitive Contracts***

ACC-RI contracting personnel complied with requirements when synopsisizing 17 of the 18 proposed contract actions that required a presolicitation notice, with the exception of including the required language outlined in FAR 5.207(c)(14) and (15). FAR Subpart 5.2, “Synopses of Proposed Contract Actions,” requires contracting officers to transmit a notice to the Governmentwide Point of Entry for each proposed contract action expected to exceed \$25,000, except those covered by an exception in FAR 5.202, “Exceptions.” The primary purposes of the notice are to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities.

In accordance with FAR 5.202(a)(2) or (10), ACC-RI contracting personnel awarded 8 of the 26 contracts reviewed without issuing a synopsis. Contracting officers are exempt from issuing a synopsis under FAR 5.202(a)(2) when the proposed contract action is made under the conditions described in FAR 6.302-2, “Unusual and Compelling Urgency,” and the Government would be seriously injured if the agency complies with the publicizing and response times specified in the FAR. In addition, contracting officers are exempt from issuing a synopsis under FAR 5.202(a)(10) when the proposed contract action is made under the conditions described in FAR 6.302-3, “Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services.”

ACC-RI personnel did not include one or both of the statements required by FAR 5.207, “Preparation and Transmittal of Synopses,” in the 17 synopses available for our review.



FAR 5.207(c)(14),<sup>6</sup> requires the synopsis of noncompetitive contract actions to identify the intended source and a statement of the reason justifying the lack of competition. FAR 5.207(c)(15) requires the synopsis for all noncompetitive contract actions to include a statement that all responsible sources may submit a capability statement, bid, proposal, or quotation, “which shall be considered by the agency.” By not including this required statement in the synopsis, ACC-RI contracting personnel did not encourage potential sources to answer the synopsis for 17 of the 18 contract actions that were required to be synopsisized. The ACC-RI contracting personnel did not synopsisize one contract, W52P1J-09-C-0024, or document one of the exceptions listed in FAR 5.202 for why they did not synopsisize the contract. We are not making a recommendation on this issue because ACC-RI contracting personnel included support within each of the 18 contract files to show that competition could not be reasonably anticipated. See Table 2 for the 17 noncompetitive contracts that did not include the statement or statements required by FAR 5.207(c)(14) and/or FAR 5.207(c)(15).

**Table 2. Contracts Not Compliant With FAR 5.207(c)(14) and/or FAR 5.207(c)(15)**

| <b>Contract</b>  | <b>Synopsis did not include the statement required by FAR 5.207(c)(14)</b> | <b>Synopsis did not include the statement required by FAR 5.207(c)(15)</b> |
|------------------|--|--|
| W52P1J-10-D-0023 | √  |  |
| W52P1J-10-C-5002 |  | √  |
| W52P1J-10-C-0008 |  | √  |
| W52P1J-10-C-0048 |  | √  |
| W52P1J-09-C-0023 | √  |  |
| W52P1J-10-C-5000 | √  | √  |
| W52P1J-10-C-0054 |  | √  |
| W52P1J-10-C-0030 | √  | √  |
| W52P1J-10-C-5035 | √  | √  |
| W52P1J-10-D-0048 | √  | √  |
| W52P1J-10-C-0016 |  | √  |
| W52P1J-10-C-0033 |  | √  |
| W52P1J-10-C-0027 |  | √  |
| W52P1J-09-D-0027 | √  | √  |
| W52P1J-10-C-0007 |  | √  |
| W52P1J-10-C-0058 | √  | √  |
| W52P1J-10-C-5036 | √  | √  |

<sup>6</sup> Effective May 31, 2011, the requirements in FAR 5.207(c)(14), FAR 5.207(c)(15)(i), and FAR 5.207(c)(15)(ii) were moved to FAR 5.207(c)(15), FAR 5.207(c)(16)(i), and FAR 5.207(c)(16)(ii), respectively.

## **Summary**

ACC-RI contracting personnel adequately justified the use of other than full and open competition on the J&As for all 26 contracts reviewed. ACC-RI contracting personnel generally complied with FAR 6.303-2 requirements in the J&As, generally applied the authority cited, and obtained approval from the proper personnel before contract award for all 26 J&As. Further, ACC-RI contracting personnel generally documented compliance with FAR part 10 and FAR subpart 5.2 in the contract files to support sole-source determinations. We are not making recommendations because we do not consider the problems identified to be material.

## **Appendix A. Scope and Methodology**

We conducted this performance audit from August 2011 through April 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Our scope was limited to noncompetitive contract awards during FY 2009 and FY 2010 to determine whether DoD noncompetitive contract awards were properly and adequately justified as sole source. We excluded contracts that were awarded for national security purposes, foreign military sales, classified contracts, or contracts that were improperly coded in the FPDS-NG as noncompetitive.

In July 2011, DoD Office of Inspector General management decided the audit teams would issue site reports under individual subprojects from the initial project. In October 2011, we reannounced the revised audit approach of issuing separate audit reports for each audit site as well as the revised audit objective to determine whether DoD noncompetitive contract awards were properly justified as sole source.

### **Universe and Sample Information**

We used the FPDS-NG to identify noncompetitive contract actions issued by the Military Services and DoD agencies during FY 2009 and FY 2010. The queries were limited to actions issued on contracts that were awarded during FY 2009 and FY 2010 and coded as a “noncompetitive delivery order” or “not competed” in FPDS-NG. The queries also excluded contract actions that received more than one offer as identified in FPDS-NG. We then selected the four DoD Components with the highest dollar value of awards, specifically the Army, Navy, Air Force, and the Defense Logistics Agency to identify specific audit locations.

We focused our site selection on three sites for the Department of the Army that awarded 20 or more C and D type noncompetitive contracts and obligated approximately \$200 million or more during FY 2009 and FY 2010. Our site selection excluded sites that were visited during the recent Government Accountability Office and Army Audit Agency reviews on noncompetitive contract awards. In addition, we reviewed reports issued by the Department of Defense Office of Inspector General, Acquisition and Contract Management Directorate, from October 2008 to April 2011 that covered acquisition and contracting issues and excluded sites that have been visited on numerous occasions.

The initial data obtained from FPDS-NG resulted in a universe of 188 noncompetitive C and D type contracts and we focused our review on the 36 noncompetitive C and D type contracts awarded by ACC-RI Joint Munitions and Lethality Life Cycle Management Command. We requested all 36 contracts to review during the site visit to ACC-RI.

However, for the 36 contracts requested, we did not review contracts awarded for national security purposes, foreign military sales, classified contracts, or contracts that were improperly coded in the FPDS-NG as noncompetitive. In addition, we did not review contracts that were not truly noncompetitive such as contracts that were competitive one bids or those contracts set aside to develop small businesses.

Three contracts were excluded from our sample because they contained a classified justification and approval and two contracts were transferred to the installation for contract administration and were unavailable for review. In addition, two contracts were excluded from our sample because they were miscoded as noncompetitive in FPDS-NG and were competed before award, two contracts were excluded because they were miscoded in FPDS-NG and should have been coded as a Small Business Innovative Research Program, and one contract file was a contract continuation of a contract awarded in FY 2006 that was outside of the audit scope. Based on these exclusions, we reviewed 26 of the 36 contracts requested. See Appendix C for additional details on the noncompetitive contracts we reviewed.

## **Review of Documentation and Interviews**

We evaluated documentation against applicable criteria including:

- FAR Part 5, “Publicizing Contract Actions,”
- FAR Subpart 6.3, “Other Than Full and Open Competition,”
- FAR Part 10, “Market Research,”
- Defense Federal Acquisition Regulation Supplement 204.7003, “Basic PII number,”
- Army Federal Acquisition Regulation Supplement Part 5110, “Market Research,” and
- Army Federal Acquisition Regulation Supplement 5106.304, “Approval of the Justification.”

We interviewed contracting personnel at ACC-RI to discuss noncompetitive contract awards and to obtain information regarding the noncompetitive contract files identified in our sample, specifically about the J&A and market research. We also interviewed the competition advocate at ACC-RI to gain an understanding of the competition advocate’s responsibilities and role in noncompetitive contract awards.

## **Use of Computer-Processed Data**

We relied on computer-processed data from the FPDS-NG to establish the initial universe for this audit by identifying noncompetitive contract actions issued by the Military Services and DoD agencies. We also used the data from the FPDS-NG to help determine the contracting organizations to visit and to perform the nonstatistical sample selection. In addition, we used the Electronic Document Access database to obtain contract documentation, such as the contract and modifications to the contract before our site visit to the ACC-RI. To assess the accuracy and appropriateness of the computer-processed data, we verified the FPDS-NG and Electronic Document Access data against official records at the contracting activity. We determined that data obtained through the

Electronic Document Access database were sufficiently reliable to accomplish our audit objective when compared with contract records. We determined that there were four miscodes within the data reviewed from FPDS-NG when compared with contract records; however, we used the FPDS-NG only to identify the universe, to help determine the contracting organizations to visit, and to identify our nonstatistical sample.

## **Use of Technical Assistance**

We held discussions with personnel from the Department of Defense Office of Inspector General's Quantitative Methods and Analysis Division. We determined that we would use FPDS-NG data to select a nonstatistical sample of contracting activities and then use FPDS-NG data to select a nonstatistical sample of noncompetitive contracts to review. During our site visit, we worked with ACC-RI contracting personnel to verify that the selected contracts met the scope limitations of our review and to identify additional contracts that did not meet the selection criteria. Our nonstatistical sample was limited to specific contracts, and our results should not be projected across other ACC-RI-issued or Army-issued contracts.

## **Prior Coverage**

During the last 5 years, the Government Accountability Office, DoD IG, and the Department of the Army have issued five reports discussing noncompetitive contract awards. Unrestricted DoD Office of Inspector General reports can be accessed over the Internet at <http://www.dodig.mil>. Unrestricted Government Accountability Office reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted Army reports can be accessed from .mil and .gov domains over the Internet at <https://www.aaa.army.mil/>.

## **Government Accountability Office**

Government Accountability Office Report No. GAO-12-263, "Improved Policies and Tools Could Help Increase Competition on DOD's National Security Exception Procurements," January 13, 2012

Government Accountability Office Report No. GAO-10-833, "Opportunities Exist to Increase Competition and Assess Reasons When Only One Offer Is Received," July 26, 2010

## **DoD IG**

DoD Office of Inspector General Report No. DODIG-2012-073, "Natick Contracting Division's Management of Noncompetitive Awards Was Generally Justified," April 10, 2012

DoD Office of Inspector General Report No. DODIG-2012-042, "Naval Air Systems Command Lakehurst Contracts Awarded Without Competition Were Properly Justified," January 20, 2012

**Army**

Army Audit Agency Report No. A-2011-0002-ALC, "Extent of Competition in Army Contracting," October 12, 2010

# Appendix B. Federal Acquisition Regulation Criteria

## FAR Subpart 6.3, “Other Than Full and Open Competition”

FAR subpart 6.3 prescribes the policies and procedures for contracting without full and open competition. Contracting without full and open competition is a violation of statute such as Section 2304, title 10, United States Code, unless permitted by an exception provided in FAR 6.302, “Circumstances Permitting Other Than Full and Open Competition.” FAR 6.302 lists seven exceptions for contracting without full and open competition:

- FAR 6.302-1, “Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements,”
- FAR 6.302-2, “Unusual and Compelling Urgency,”
- FAR 6.302-3, “Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services,”
- FAR 6.302-4, “International Agreement,”
- FAR 6.302-5, “Authorized or Required by Statute,”
- FAR 6.302-6, “National Security,” and
- FAR 6.302-7, “Public Interest.”

A contracting officer must not begin negotiations for or award a noncompetitive contract without providing full and open competition unless the contracting officer justifies the use of such action in writing, certifies the accuracy and completeness of the justification, and obtains approval of the justification. FAR 6.303-2, “Content,” requires each justification to contain sufficient facts and rationale to justify the use of the authority cited. At a minimum, each justification must contain the following.

- The name of the agency and contracting activity and identification of the document as a “Justification for other than full and open competition.”
- A description of the action being approved.
- A description of the supplies or services required to meet the agency’s needs including the estimated value.
- The statutory authority permitting other than full and open competition.
- A demonstration that the contractor’s unique qualifications or the nature of the acquisition requires the use of the authority cited.
- A description of the efforts made to ensure offers are submitted from as many sources as practicable.
- The contracting officer’s determination that the cost to the Government will be fair and reasonable.
- A description and the results of the market research conducted or, if market research was not conducted, a reason it was not conducted.
- Any other facts supporting the use of other than full and open competition.

- A listing or sources that expressed written interest in the acquisition.
- A statement of the actions the agency may take to overcome any barriers to competition before a subsequent acquisition.
- The contracting officer's certification that the justification is accurate and complete to the best of his or her knowledge and belief.

FAR 6.304, "Approval of the Justification," identifies the person responsible for approving the J&A based on the value of the proposed contract.\* The contracting officer approves the J&A for a proposed contract not exceeding \$550,000. The competition advocate approves the J&A for a proposed contract of more than \$550,000 but not exceeding \$11.5 million. A general or flag officer if a member of the military, or a civilian in a position above GS-15 under the general schedule approves the J&A for a proposed contract more than \$11.5 million but not exceeding \$78.5 million. The senior procurement executive of the agency approves the J&A for a proposed contract over \$78.5 million.

## **FAR Subpart 5.2, "Synopsis of Proposed Contract Actions"**

FAR 5.201, "General," requires agencies to provide a synopsis of proposed contract actions for the acquisition of supplies and services. The contracting officer must submit the synopsis to the Governmentwide Point of Entry that can be accessed on the Internet at <https://www.fedbizopps.gov>. FAR 5.203, "Publicizing and Response Time," requires the synopsis to be published for at least 15 days before the issuance of a solicitation or proposed contract action; however, the contracting officer may establish a shorter period of time for commercial items. Each synopsis submitted to the Governmentwide Point of Entry must include certain data elements as applicable, such as the date of the synopsis, the closing response date, a proposed solicitation number, a description, and the point of contact or contracting officer. In addition, FAR 5.202, "Exceptions," lists circumstances when the contracting officer does not need to submit a synopsis. Examples of instances when the contracting officer does not need to submit a synopsis include the following.

- The proposed contract action is made under FAR 6.302-2, and the Government would be seriously injured if the agency complied with time periods specified by FAR 5.203.
- The proposed contract action is made under FAR 6.302-3 or FAR 6.302-5 with regard to brand name commercial items authorized for resale.
- The proposed contract action is made under FAR 6.302-3 with regard to the services of an expert to support the Government in a litigation or dispute.

Contracting officers are required by FAR 5.207, "Preparation and Transmittal of Synopses," to include statements in the synopses of noncompetitive contract actions stating their intent to award a noncompetitive contract and notifying interested sources of actions they can take if interested in the noncompetitive contract. FAR 5.207(c)(14)

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\* On October 1, 2010, the approval thresholds increased. Our review was limited to noncompetitive contract awards during FY 2009 and FY 2010; therefore, we used the approval thresholds in place during FY 2009 and FY 2010.



requires the synopsis of noncompetitive contract actions to identify the intended source and a statement of the reason justifying the lack of competition. FAR 5.207(c)(15)(ii) requires the synopsis of noncompetitive contract actions using FAR 6.302-1 as the authority cited to include a statement that all responsible sources may submit a capability statement, proposal, or quotation, which will be considered by the agency. For other proposed contract actions made under FAR 6.302, FAR 5.207(c)(15)(i) requires the synopsis to include a statement that all responsible sources may submit a bid, proposal, or quotation, which shall be considered by the agency.

## **FAR Part 10, “Market Research”**

FAR part 10 prescribes policies and procedures for conducting market research to arrive at the most suitable approach for acquiring, distributing, and supporting supplies and services. Agencies are required to conduct market research appropriate to the circumstance before soliciting offers for acquisitions with an estimated value over the simplified acquisition threshold. Agencies are required to use the results of market research to determine if there are appropriate sources or commercial items capable of satisfying the agency’s requirements. The extent of market research the agencies conducts varies depending on factors such as urgency, estimated dollar value, complexity, and past experience. The contracting officer may use market research conducted within 18 months before the award of any task or delivery order if the information is still current, accurate, and relevant. Agencies use market research techniques, such as contacting knowledgeable individuals in Government and industry, reviewing results of recent market research, publishing formal requests for information, querying database, participating in on-line communication, obtaining source lists of similar items, and reviewing available product literature. Agencies should document the results of market research in a manner appropriate to the size and complexity of the acquisition.

## Appendix C. Noncompetitive Contracts Reviewed

### Noncompetitive Contracts Awarded by ACC - Rock Island From FY 2009-FY 2010

|   | Contract Number  | Product or Service | Description   | Award Date | Contract Type | Authority Cited | Contract Value <sup>1</sup> |
|---|------------------|--------------------|---|------------|---------------|-----------------|-----------------------------|
| 1 | W52P1J-10-D-0023 | Service            | Rapid Reaction Support Services   | 11/24/2009 | FFP & IDIQ    | FAR 6.302-1     | \$3,248,354                 |
| 2 | W52P1J-10-C-5002 | Service            | Construction of a handicapped accessible restroom and design and construction of a janitor's closet | 6/18/2010  | FFP           | FAR 6.302-1     | \$396,542                   |
| 3 | W52P1J-10-C-0008 | Product            | Procurement of cartridges with a 90-degree cut-away display   | 3/3/2010   | FFP           | FAR 6.302-1     | \$114,472                   |
| 4 | W52P1J-09-C-0002 | Service            | Dining facilities services  | 11/06/2008 | FFP           | FAR 6.302-1     | \$17,136,000                |
| 5 | W52P1J-10-C-0048 | Service            | Rapid Response Solutions to the Warfighter Information Systems                                      | 9/24/2010  | T&M           | FAR 6.302-1     | \$78,400,000                |
| 6 | W52P1J-09-C-0005 | Service            | Logistical support functions  | 12/29/2008 | FFP & CPFF    | FAR 6.302-2     | \$5,350,531                 |
| 7 | W52P1J-09-C-0023 | Service            | Movement of cargo   | 4/27/2009  | FFP           | FAR 6.302-1     | \$158,884                   |
| 8 | W52P1J-10-C-5000 | Service            | Operation and Maintenance Service of Groundwater Recovery System                                    | 1/12/2010  | Cost          | FAR 6.302-1     | \$551,412                   |

Acronyms and footnotes used throughout the Appendix C are defined on the final page of Appendix C.

## Appendix C. Noncompetitive Contracts Reviewed (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number  | Product or Service | Description   | Award Date | Contract Type | Authority Cited | Contract Value |
|----|------------------|--------------------|---|------------|---------------|-----------------|----------------|
| 9  | W52P1J-10-C-0054 | Service            | Global Command Terrestrial Communications   | 9/24/2010  | T&M           | FAR 6.302-1     | \$34,100,000   |
| 10 | W52P1J-10-C-0030 | Service            | Sampling and analysis of Department of Transportation containers for impurities/contaminants  | 4/25/2010  | CPFF          | FAR 6.302-1     | \$198,927      |
| 11 | W52P1J-10-C-5035 | Service            | Environmental Investigation   | 7/27/2010  | FFP           | FAR 6.302-1     | \$324,381      |
| 12 | W52P1J-10-D-0048 | Service            | Line Haul Services of Freights  | 4/2/2010   | FFP & IDIQ    | FAR 6.302-1     | \$24,500,000   |
| 13 | W52P1J-10-C-0016 | Service            | Site maintenance, technical support services, training services, training materials, spare parts, and management of spare parts inventory | 1/29/2010  | FFP           | FAR 6.302-1     | \$1,750,000    |
| 14 | W52P1J-10-C-0033 | Service            | Maintenance, repair, and training activities for the Iraqi Army vehicles and equipment  | 5/26/2010  | CPFF          | FAR 6.302-1     | \$25,000,000   |
| 15 | W52P1J-10-C-0018 | Service            | Planning and Logistics Engineering Support for Operation Enduring Freedom in Afghanistan.   | 2/24/2010  | T&M           | FAR 6.302-2     | \$381,030      |
| 16 | W52P1J-09-C-0024 | Product            | M118 LR Alternate Propellant  | 6/5/2009   | FFP           | FAR 6.302-1     | \$130,439      |

Acronyms and footnotes used throughout the Appendix C are defined on the final page of Appendix C.

## Appendix C. Noncompetitive Contracts Reviewed (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number  | Product or Service   | Description   | Award Date | Contract Type               | Authority Cited | Contract Value               |
|----|------------------|----------------------|---|------------|-----------------------------|-----------------|------------------------------|
| 17 | W52P1J-09-D-0003 | Product              | Production and supply of bulk research development explosive and high-melt explosive                          | 12/8/2008  | FFP                         | FAR 6.302-3     | \$650,000,000                |
| 18 | W52P1J-10-C-0022 | Service              | Dining Facilities services in Kuwait  | 5/07/2010  | FFP                         | FAR 6.302-1     | \$2,783,000                  |
| 19 | W52P1J-10-C-0027 | Service              | High-visibility IT security solution that is urgently needed in the Afghanistan Theater                       | 4/6/2010   | FFP                         | FAR 6.302-1     | \$34,000,000                 |
| 20 | W52P1J-10-D-0083 | Service              | Continued urgent and critical intelligence and intelligence-related services                                  | 9/24/2010  | FFP & IDIQ                  | FAR 6.302-2     | \$3,620,075                  |
| 21 | W52P1J-09-D-0052 | Service              | Operation of a container yard providing repairs and refurbishment to containers at the Port of Umm Qasr, Iraq | 9/11/2009  | FFP & IDIQ                  | FAR 6.302-2     | \$4,000,000                  |
| 22 | W52P1J-10-C-0002 | Services             | Dining facilities services in Kuwait  | 11/10/2009 | FFP                         | FAR 6.302-1     | \$2,780,000                  |
| 23 | W52P1J-09-D-0027 | Product and Services | Small caliber ammunition and related services   | 3/20/2009  | Fixed Price with EPA & CPFF | FAR 6.302-1     | \$1,851,331,574 <sup>2</sup> |

Acronyms and footnotes used throughout the Appendix C are defined on the final page of Appendix C.

## Appendix C. Noncompetitive Contracts Reviewed (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number       | Product or Service | Description  | Award Date | Contract Type | Authority Cited | Contract Value         |
|----|-----------------------|--------------------|--|------------|---------------|-----------------|------------------------|
| 24 | W52P1J-10-C-0007      | Services           | Maintenance of wheel and track vehicles, night vision devices, radios, support operations for generators | 11/24/2009 | CPFF          | FAR 6.302-1     | \$26,835,962           |
| 25 | W52P1J-10-C-0058      | Product            | LUU-2D/B Illumination Flare and LUU-19B/B Infrared Flare program   | 9/24/2010  | FFP           | FAR 6.302-1     | \$71,770,952           |
| 26 | W52P1J-10-C-5036      | Services           | Angle Gear Replacement   | 9/15/2010  | FFP           | FAR 6.302-1     | \$855,114              |
|    | <b>Total Reviewed</b> |                    |  |            |               |                 | <b>\$2,839,717,649</b> |

<sup>1</sup>The contract value is the base award value excluding options or the maximum ceiling price at award.

<sup>2</sup>The contract value is the amount ordered on the contract since July 27, 2011.

|             |   |
|-------------|---|
| Cost        | Cost Reimbursement  |
| CPFF        | Cost-Plus-Fixed-Fee   |
| EPA         | Economic Price Adjustment   |
| FAR 6.302-1 | Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements  |
| FAR 6.302-2 | Unusual and Compelling Urgency  |
| FAR 6.302-3 | Industrial mobilization; engineering, developmental, or research capability; or expert services |
| FFP         | Firm-Fixed-Price  |
| IDIQ        | Indefinite-Delivery, Indefinite-Quantity  |
| T&M         | Time-and-Materiels  |

## Appendix D. Adequate Justification and Approvals

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number  | Content Requirements Met | Authority Cited Appropriately Met | Justification & Approval Approved by Proper Personnel | Justification & Approval Approved Before Contract Award |
|----|------------------|--------------------------|-----------------------------------|---|---|
| 1  | W52P1J-10-D-0023 | √                        | √                                 | √   | √   |
| 2  | W52P1J-10-C-5002 | √                        | √                                 | √   | √   |
| 3  | W52P1J-10-C-0008 | √                        | √                                 | √   | √   |
| 4  | W52P1J-09-C-0002 | √                        |                                   | √   | √   |
| 5  | W52P1J-10-C-0048 | √                        | √                                 | √   | √   |
| 6  | W52P1J-09-C-0005 | √                        | √                                 | √   | √   |
| 7  | W52P1J-09-C-0023 | √                        | √                                 | √   | √   |
| 8  | W52P1J-10-C-5000 | √                        | √                                 | √   | √   |
| 9  | W52P1J-10-C-0054 | √                        | √                                 | √   | √   |
| 10 | W52P1J-10-C-0030 |                          | √                                 | √   | √   |
| 11 | W52P1J-10-C-5035 | √                        | √                                 | √   | √   |
| 12 | W52P1J-10-D-0048 | √                        | √                                 | √   | √   |
| 13 | W52P1J-10-C-0016 | √                        | √                                 | √   | √   |

## Appendix D. Adequate Justification and Approvals (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number  | Content Requirements Met | Authority Cited Appropriately Met | Justification & Approval Approved by Proper Personnel | Justification & Approval Approved Before Contract Award |
|----|------------------|--------------------------|-----------------------------------|---|---|
| 14 | W52P1J-10-C-0033 |                          | √                                 | √   | √   |
| 15 | W52P1J-10-C-0018 |                          | √                                 | √   | √   |
| 16 | W52P1J-09-C-0024 |                          | √                                 | √   | √   |
| 17 | W52P1J-09-D-0003 | √                        | √                                 | √   | √   |
| 18 | W52P1J-10-C-0022 |                          |                                   | √   | √   |
| 19 | W52P1J-10-C-0027 | √                        | √                                 | √   | √   |
| 20 | W52P1J-10-D-0083 | √                        | √                                 | √   |   |
| 21 | W52P1J-09-D-0052 | √                        | √                                 | √   | √   |
| 22 | W52P1J-10-C-0002 |                          |                                   | √   | √   |
| 23 | W52P1J-09-D-0027 | √                        | √                                 | √   | √   |
| 24 | W52P1J-10-C-0007 | √                        | √                                 | √   | √   |
| 25 | W52P1J-10-C-0058 | √                        | √                                 | √   | √   |
| 26 | W52P1J-10-C-5036 | √                        | √                                 | √   | √   |

## Appendix E. Market Research Conducted

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|   | <b>Contract Number</b> | <b>Estimated Value on the J&amp;A</b> | <b>Specific Steps Performed</b>    | <b>Results of Market Research or Justification for Not Conducting Market Research</b>                                   | <b>Supporting Documentation</b>   | <b>Market Research Considered Adequate</b> |
|---|------------------------|---------------------------------------|------------------------------------|---|-----------------------------------|--|
| 1 | W52P1J-10-D-0023       | \$3,250,000                           | Market research was not conducted. | Only one contractor could provide the services without a break in service at the level of skill and expertise required. | J&A                               | Yes <sup>1</sup>                           |
| 2 | W52P1J-10-C-5002       | \$425,000                             | Market research was not conducted. | The mechanical and electrical designs of the area for the restroom are available only to the contractor.                | Memorandum for the Record and J&A | Yes <sup>1</sup>                           |
| 3 | W52P1J-10-C-0008       | \$114,472                             | Market research was not conducted. | This action was a onetime buy for Inert M1064 cartridges. A market survey would serve no useful purpose.                | J&A                               | Yes <sup>1</sup>                           |
| 4 | W52P1J-09-C-0002       | \$17,136,000                          | Market research was not conducted. | No other contractor was in a position to provide the continuation of services.  | J&A                               | Yes <sup>1</sup>                           |

Footnotes used throughout Appendix E are defined on the final page of Appendix E.



## Appendix E. Market Research Conducted (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|   | Contract Number  | Estimated Value on the J&A | Specific Steps Performed   | Results of Market Research or Justification for Not Conducting Market Research   | Supporting Documentation       | Market Research Considered Adequate |
|---|------------------|----------------------------|--|--|--------------------------------|-------------------------------------|
| 5 | W52P1J-10-C-0048 | \$78,400,000               | Technical experts reviewed the General Services Administration Schedules e-library, General Services Administration Advantage, trade journals, and the Internet to identify potential sources. The sources were then reviewed to determine if they possessed the basic understanding of the dynamic nature of the product. | The contractor was the only source capable of providing the required support.  | Market research report and J&A | Yes                                 |
| 6 | W52P1J-09-C-0005 | \$6,100,000                | Market research was not conducted.   | The contractor was the only one with the qualifications and experience required to meet the requirements.  | J&A                            | Yes <sup>1</sup>                    |
| 7 | W52P1J-09-C-0023 | \$500,000 <sup>2</sup>     | Market research was not conducted.   | The Republics of Uzbekistan and Korea do not allow their citizens to enter into Afghanistan. The current contractor is a U.S. registered company and is able to legally provide movement and enter into Afghanistan. | J&A                            | Yes <sup>1</sup>                    |

Footnotes used throughout Appendix E are defined on the final page of Appendix E.

## Appendix E. Market Research Conducted (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|   | Contract Number  | Estimated Value on the J&A | Specific Steps Performed  | Results of Market Research or Justification for Not Conducting Market Research   | Supporting Documentation       | Market Research Considered Adequate |
|---|------------------|----------------------------|---|--|--------------------------------|-------------------------------------|
| 8 | W52P1J-10-C-5000 | \$4,282,364                | Market research was not conducted.  | The terms of the Final Apportionment and Settlement Agreement between the Army and the contractor require the contractor to operate and maintain the plant's Groundwater Remediation System for remediation of the soil and groundwater contamination emanating from Twin Cities Army Ammunition Plant. The Army and the contractor share the cost and do not make a profit. | J&A                            | Yes <sup>1</sup>                    |
| 9 | W52P1J-10-C-0054 | \$34,100,000               | Technical experts reviewed the General Services Administration Schedules e-library, General Services Administration Advantage, trade journals, and the Internet to identify sources. The sources were reviewed to determine if they possessed the basic understanding of the dynamic nature of the product. | The contractor was the only source that possessed the knowledge, experience, and the required number of deployed, cleared personnel to provide the services.   | Market research report and J&A | Yes                                 |

Footnotes used throughout Appendix E are defined on the final page of Appendix E.

## Appendix E. Market Research Conducted (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number  | Estimated Value on the J&A | Specific Steps Performed  | Results of Market Research or Justification for Not Conducting Market Research   | Supporting Documentation          | Market Research Considered Adequate |
|----|------------------|----------------------------|---|--|-----------------------------------|-------------------------------------|
| 10 | W52P1J-10-C-0030 | \$500,000                  | Listed possible labs based on past experiences and labs that have approval for chemical agents then contacted these organizations that were the only known sources capable to meet the Government's requirements. | Only two labs could satisfy the requirement. One lab did not have the resources or agent surety limit to commit to the task due to prior Government contracts. Therefore, the remaining lab was the only available source. | Market research report and J&A    | Yes                                 |
| 11 | W52P1J-10-C-5035 | \$294,000                  | Market research was not conducted.  | Because of the unique knowledge and skill set required for the work, there were no other environmental companies available to accomplish the work in an acceptable time frame, without a negative impact.                  | Memorandum for the Record and J&A | Yes <sup>1</sup>                    |
| 12 | W52P1J-10-D-0048 | \$24,500,000               | Market research was not conducted.  | A Transient Agreement signed by the Uzbekistan Ministry of Defense and the U.S. Secretary of Defense directs the use of the contractor within the Uzbekistan territory.  | J&A                               | Yes <sup>1</sup>                    |

Footnotes used throughout Appendix E are defined on the final page of Appendix E.

## Appendix E. Market Research Conducted (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number  | Estimated Value on the J&A | Specific Steps Performed   | Results of Market Research or Justification for Not Conducting Market Research   | Supporting Documentation         | Market Research Considered Adequate |
|----|------------------|----------------------------|--|--|----------------------------------|-------------------------------------|
| 13 | W52P1J-10-C-0016 | \$12,000,000               | Internet searches, reviews of previous procurements, and contacting the Marine Corps, which was seeking similar services. Also obtaining source lists of similar items from other contracting activities or agencies, trade associations or other sources. | The contractor had patent rights on the technology equipment in the systems that were in need of maintenance and on-the-job training services.   | Market research report and J&A   | Yes                                 |
| 14 | W52P1J-10-C-0033 | \$25,000,000               | Surveying knowledge from technical experts on lead times, unique software support, and costs required.   | The contractor was the only available source who could perform the contract without substantial duplication of cost within the 6-month period of performance.  | Market research document and J&A | Yes                                 |
| 15 | W52P1J-10-C-0018 | \$300,000                  | Market research was not conducted.   | The immediate requirement was of an urgent and compelling nature. The only available source had already established the positions required to support the immediate and un-anticipated reorganization of support of the mission. | J&A                              | Yes <sup>1</sup>                    |

Footnotes used throughout Appendix E are defined on the final page of Appendix E.

## Appendix E. Market Research Conducted (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number  | Estimated Value on the J&A | Specific Steps Performed   | Results of Market Research or Justification for Not Conducting Market Research   | Supporting Documentation | Market Research Considered Adequate |
|----|------------------|----------------------------|--|--|--------------------------|-------------------------------------|
| 16 | W52P1J-09-C-0024 | \$150,000                  | Verified with the Government technical community that the contractor was the only producer available.                        | No other sources available.  | J&A                      | Yes                                 |
| 17 | W52P1J-09-D-0003 | \$650,863,000              | A sources sought announcement was issued, and site visits were coordinated with all interested parties in various locations. | There were four responses. Three could not provide the requirement. It was determined through market research that the contractor was the only available source. | J&A                      | Yes                                 |
| 18 | W52P1J-10-C-0022 | \$4,200,000 <sup>3</sup>   | Market research was not conducted.   | The contractor was the only company capable to provide the services.   | J&A                      | Yes <sup>1</sup>                    |

Footnotes used throughout Appendix E are defined on the final page of Appendix E.

## Appendix E. Market Research Conducted (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number  | Estimated Value on the J&A | Specific Steps Performed   | Results of Market Research or Justification for Not Conducting Market Research   | Supporting Documentation | Market Research Considered Adequate |
|----|------------------|----------------------------|--|--|--------------------------|-------------------------------------|
| 19 | W52P1J-10-C-0027 | \$27,300,000               | Conducted internet research for Theater Network Management Architecture.           | No other integration entities possessed the intricate knowledge, familiarity, and intellect to support the warfighter efforts. | J&A                      | Yes                                 |
| 20 | W52P1J-10-D-0083 | \$3,620,075                | Market research was not conducted.   | The incumbent contractor was the only contractor in the United Kingdom, which could meet the Government's urgent requirement.  | J&A                      | Yes <sup>1</sup>                    |
| 21 | W52P1J-09-D-0052 | \$4,000,000                | Extensive market research was conducted, and a sources sought synopsis was issued. | The current contractor was the sole vendor capable of fulfilling the immediate requirements.                                   | J&A                      | Yes                                 |
| 22 | W52P1J-10-C-0002 | \$16,776,000               | Market research was not conducted.   | The contractor was the only company capable of providing the services.   | J&A                      | Yes <sup>1</sup>                    |

Footnotes used throughout Appendix E are defined on the final page of Appendix E.

## Appendix E. Market Research Conducted (cont'd)

### Noncompetitive Contracts Awarded by ACC - Rock Island from FY 2009-FY 2010

|    | Contract Number  | Estimated Value on the J&A | Specific Steps Performed   | Results of Market Research or Justification for Not Conducting Market Research   | Supporting Documentation         | Market Research Considered Adequate |
|----|------------------|----------------------------|--|--|----------------------------------|-------------------------------------|
| 23 | W52P1J-09-D-0027 | \$2,000,000,000            | Conducted regular site and customer visits that provide in-depth knowledge of the overall industry. Specifically, they evaluated information relative to experience in high-volume, small caliber production ability to meet U.S. Military specification requirements. | There were no manufacturers that would be capable of providing a seamless transition from the incumbent contractor while meeting the continued high-delivery requirements. | Market research document and J&A | Yes                                 |
| 24 | W52P1J-10-C-0007 | \$30,200,000               | A sources sought announcement was issued, and site visits were coordinated with all interested parties in various locations.   | The current contractor was the only one that possessed the required permissions needed to perform the requirements.  | Market research document and J&A | Yes                                 |
| 25 | W52P1J-10-C-0058 | \$265,700,000              | Several sources sought announcements were issued. Reviewed the responses to determine if they could meet contract requirements.  | The contractor was the only available source currently qualified to produce flares that met the Air Force technical data package.  | Market research document and J&A | Yes                                 |
| 26 | W52P1J-10-C-5036 | \$1,700,000                | Contacted knowledgeable individuals in the Government and industry regarding market capabilities to meet requirements.   | Civil Construction Inc. was the only reliable contractor that was familiar with the bridge.  | Market research document and J&A | Yes                                 |

<sup>1</sup> Although market research was not conducted, the rationale provided for not conducting research was considered appropriate.

<sup>2</sup> ACC-RI contracting personnel issued a new J&A with an estimated value of \$24.5 million in accordance with Army Federal Acquisition Regulation Supplement 5106.304(a).

<sup>3</sup> ACC-RI contracting personnel issued a new J&A with an estimated value of \$16.2 million in accordance with Army Federal Acquisition Regulation Supplement 5106.304(a).



# Inspector General Department of Defense

