



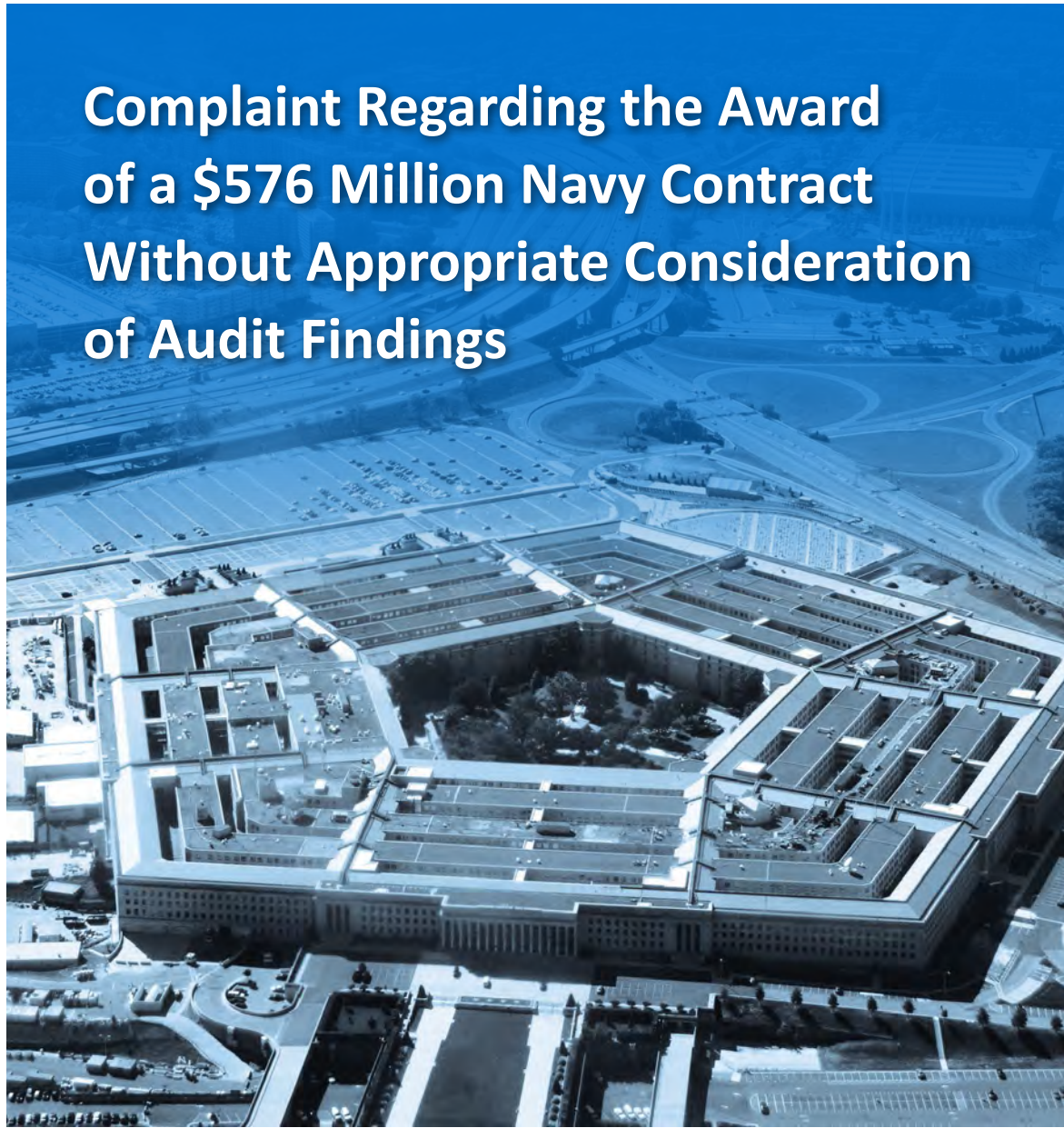
# INSPECTOR GENERAL

*U.S. Department of Defense*

APRIL 30, 2015



## Complaint Regarding the Award of a \$576 Million Navy Contract Without Appropriate Consideration of Audit Findings



INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

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# Results in Brief

## *Complaint Regarding the Award of a \$576 Million Navy Contract Without Appropriate Consideration of Audit Findings*

**April 30, 2015**

### Objective

We conducted this evaluation to determine the validity of a complaint alleging that a Navy contracting officer awarded a \$576 million contract without appropriately considering significant findings reported by the Defense Contract Audit Agency (DCAA).

### Finding

We substantiated the complaint. We found that the contracting officer did not:

- obtain the required prime contractor's subcontract cost or pricing data in accordance with Federal Acquisition Regulation (FAR) 15.403 and 15.404 and
- address DCAA-questioned material costs of \$8.8 million as required by FAR 15.406 and Defense Federal Acquisition Regulation Supplement (DFARS), Procedures, Guidance, and Information (PGI) 215.406-1(b)(i).

As a result, the Navy could not demonstrate that the negotiated \$576 million contract price was fair and reasonable. The contracting officer may have achieved significant savings for the Government if he had complied with FAR and DFARS requirements and appropriately considered the audit findings.

### Recommendations

We recommend that the Deputy Assistant Secretary of the Navy for Acquisition and Procurement implement procedures and provide training at the Naval Supply Systems Command Weapon Systems Support Philadelphia facility to help ensure contracting officers comply with FAR 15.4 requirements for obtaining cost or pricing data, and appropriately resolve DCAA audit findings.

We also recommend that the Commander, Weapon Systems Support Philadelphia, facility consider appropriate administrative action for the contracting official who did not comply with FAR 15.4 and DFARS.

### Management Comments and Our Response

In a March 31, 2015, response, the Deputy Assistant Secretary of the Navy (Acquisition and Procurement) concurred with the reported recommendations. Comments on the recommendations were fully responsive and no additional comments are required.

## ***Recommendations Table***

Management	Recommendations Requiring Comment	No Additional Comments Required
Deputy Assistant Secretary of the Navy for Acquisition and Procurement		1 and 2



**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

April 30, 2015

**MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE NAVY ACQUISITION  
AND PROCUREMENT  
DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY**

**SUBJECT: Complaint Regarding the Award of a \$576 Million Navy Contract Without  
Appropriate Consideration of Audit Findings (Report No. DODIG-2015-115)**

We are providing this report for your information and use. We substantiated a complaint that a Navy contracting officer negotiated a \$576 million contract without appropriately considering Defense Contract Audit Agency's audit findings regarding unsupported subcontract costs of \$75 million and questioned material costs of \$8.8 million. The contracting officer could have potentially achieved significant savings for the Government if he had appropriately considered the audit findings.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. We considered management comments on a draft of this report. The management comments conformed to the requirements of DoD 7650.3; therefore, additional comments are not required.

We appreciate the courtesies extended to the staff. Please direct questions to Ms. Carolyn R. Davis at (703) 604-8877, or e-mail at [carolyn.davis@dodig.mil](mailto:carolyn.davis@dodig.mil).

A handwritten signature in black ink, appearing to read "R. Stone", is located below the text of the memorandum.

Randolph R. Stone  
Deputy Inspector General  
Policy and Oversight



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## Acronyms and Abbreviations

# Introduction

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## Objective

We conducted this evaluation to determine the validity of a complaint alleging that a Navy contracting officer awarded a \$576 million contract for aircraft engine spare parts without appropriately considering significant unsupported and questioned costs reported by the Defense Contract Audit Agency (DCAA). See the Appendix for our scope and methodology.

## Background

### ***Navy Supply System Command Weapon Systems Support***

Navy Supply System Command Weapon Systems Support<sup>1</sup> (hereafter referred to as “WSS”) provides Joint, Allied, Navy, and Marine Corps Forces program and supply support for Naval Weapons Systems. WSS maintains centralized control over more than 400,000 different line items of repair parts, components, and assemblies that keep ships, aircraft, and weapons operating, while also providing logistics and supply assistance. WSS is responsible for negotiating and procuring these parts from DoD contractors. It operates two primary sites in Mechanicsburg and Philadelphia, Pennsylvania. The complaint covered in this report involves the actions of a contracting officer assigned to the WSS Philadelphia site.

### ***Defense Contract Audit Agency***

In accordance with DoD Directive 5105.36, “Defense Contract Audit Agency (DCAA),” January 4, 2010, DCAA performs contract audits and provides accounting and financial advisory services in connection with the negotiation, administration, and settlement of contracts and subcontracts. DCAA operates under the authority, direction, and control of the Under Secretary of Defense (Comptroller) Chief Financial Officer. DCAA maintains a headquarters, field detachment (for audits involving DoD classified programs), and five regions: Central, Eastern, Mid-Atlantic, Northeastern, and Western. Each region operates several field audit offices. As part of its mission, DCAA audits forward pricing proposals submitted by DoD contractors and subcontractors in connection with the award of Government contracts. DCAA uses criteria in the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS) to determine the allowability, allocability, and reasonableness of proposed costs. DCAA reports its findings to contracting officers for consideration in negotiating fair and reasonable contract prices.

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<sup>1</sup> Navy Supply System Command Weapon Systems Support was formerly known as Naval Inventory Control Point.

## Finding

### Contracting Officer Did Not Consider DCAA Audit Recommendations

We substantiated the allegation that a Navy contracting officer did not appropriately consider DCAA audit findings involving the negotiation of a \$576 million firm-fixed-price contract for aircraft spare parts. Specifically, the contracting officer did not:

- obtain the prime contractor's subcontractor cost or price analyses and/or cost or pricing data in accordance with FAR 15.404-3, "Subcontract Pricing Considerations"; and
- address the DCAA audit findings of \$8.8 million in questioned material costs, contrary to FAR 15.406 and DFARS PGI 215.406-1, "Documentation of Prenegotiation Objective."

As a result, the Navy could not demonstrate that the \$576 million negotiated contract price was fair and reasonable.

### Allegation

The complainant alleged that the WSS contracting officer failed to consider DCAA audit findings on a DoD contractor's \$576 million proposal prior to negotiating and awarding the contract. Specifically, the complainant stated the contracting officer failed to:

1. ensure that the contractor obtained cost or pricing data for \$75 million in subcontract costs, as FAR 15.403, "Obtaining Certified Cost or Pricing Data" and 15.404 requires; and
2. address \$8.8 million in DCAA-questioned material costs.

### DCAA Audit Findings

As requested by WSS, DCAA audited a contractor's \$1 billion firm-fixed-price proposal for aircraft spare parts. The proposed period of performance initially covered 5 years. In Audit Report No. 02151-2010B27000001, July 6, 2010, DCAA concluded that the contractor's proposal was not an adequate basis for establishing a fair and reasonable price. DCAA reported \$240 million of the contractor's proposed subcontract costs as "unsupported"<sup>2</sup> because the prime contractor failed

<sup>2</sup> DCAA classifies proposed costs as "unsupported" when no sufficient evidence is provided to support the pricing for acquired items or the evidence obtained from the contractor does not permit reaching a definitive conclusion on the proposed costs.



to obtain cost or pricing data from subcontractors. DCAA recommended that the contracting officer ensure the contractor obtain the data prior to negotiating the contract, in accordance with FAR 15.403 and 15.404. In addition, DCAA questioned \$17 million in questioned cost<sup>3</sup> relating to overstated proposed material costs. The questioned costs were due in part to the contractor's use of inflated escalation factors and failure to pass on the Government discount terms offered by vendors. The Defense Contract Management Agency (DCMA) office that performed a price analysis of the contractor's proposal agreed with DCAA's reported findings.

On December 10, 2010, the contracting officer negotiated a firm-fixed-price contract for \$576 million. In negotiating the contract, WSS reduced the period of performance from 5 years to 3 years. Of the \$240 million in DCAA's unsupported costs, \$75 million were estimated to be attributable to the 3-year contract. Of the \$17 million in DCAA-questioned costs, \$8.8 million are estimated to be associated with the 3-year contract. The contracting officer did not obtain the cost or pricing data or consider the questioned material costs DCAA had reported.

## **Failure to Obtain Cost or Pricing Data on Subcontract Costs**

### ***Definition and FAR Requirements***

According to FAR 2.101, "Definition," cost or pricing data are factual and verifiable information that forms the basis for a prospective contractor's proposal. They include all facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of costs already incurred.

The FAR imposes certain requirements on a contractor when proposing subcontract costs. The prime contractor is required to:

- obtain and analyze subcontract cost or pricing data on subcontracts that exceed the certified cost or pricing data threshold (\$700,000 at the time of contract award) and submit the results of the analysis to the contracting officer (FAR 15.404-3(b) and (c)) and
- in addition to submitting the analysis provide to the contracting officer the certified cost or pricing data for subcontracts that are the lower of either (i) \$12.5 million or (ii) more than 10 percent of the prime contractor's proposed price (FAR 15.404-3(c)(1)).

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<sup>3</sup> Questioned costs include the amount of audit exception, potential cost avoidance, or recommended price adjustment in the audit report, resulting from a violation of a provision of a law, regulation, contract, grant, or document governing the expenditure of funds.

The Navy contract covered in this report was subject to these cost or pricing data requirements. It did not qualify for an exception to the certified cost or pricing data requirements in FAR 15.403-1(b). For example, the Navy contract did not involve the procurement of a commercial item.<sup>4</sup>

### ***Contracting Officer Actions and Rationale***

The contracting officer did not require the prime contractor to conduct and submit cost or price analyses before awarding the subcontracts, as FAR 15.404-3(b) and (c) requires and DCAA recommended. For the 3-year contract, we determined that the prime contractor should have provided the required analysis on 15 subcontract parts worth \$75 million. Also, the contracting officer did not require the prime contractor to submit certified cost or pricing data to the Government for subcontracts that met the threshold provided at FAR 15.404-3(c)(1), as DCAA recommended. Of the 15 subcontract parts subject to the requirements in FAR 15.404-3(b) and (c), 1 subcontract part was also subject to the requirements at FAR 15.404-3(c)(1).

According to the WSS contract file, the contracting officer relied on the contractor's approved estimating system to justify his acceptance of the proposed subcontract costs, rather than ensuring that the contractor submitted the required subcontract cost or pricing data. The contracting officer reasoned that the prime contractor's estimating system eliminated the need to comply with the cost or pricing data requirements.

We observed that, as part of a peer review conducted prior to contract award, concerns were raised as to whether the contracting officer had adequately addressed the unsupported costs reported by DCAA. However, we found no evidence that the contracting officer or his approving officials had responded to the peer review team's concerns prior to awarding the contract.

We disagree with the contracting officer's reasoning that the prime contractor's estimating system eliminated the need to comply with the cost or pricing data requirements. When determining whether proposed subcontract prices are fair and reasonable, FAR 15.404-3(a), in part, states:

The contracting officer should consider whether a contractor or subcontractor has an approved purchasing system, **has performed cost or price analysis of proposed subcontractor prices**, or has negotiated the subcontract prices before negotiation of the prime contract, in determining the reasonableness of the prime contract price. **This does not relieve the contracting officer from the responsibility to analyze the contractor's submission, including subcontractor's cost or pricing data.** [Emphasis added]

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<sup>4</sup> FAR 2.101 defines commercial items as products or services offered for sale or lease to non-Government entities or to the general public. The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government.

Therefore, the contracting officer is still responsible for analyzing the contractor's cost and pricing data requirements pursuant to the FAR, even if the contractor has an adequate business system (such as a purchasing or estimating system).

## **Failure to Address the DCAA-Questioned Material Costs**

### ***Regulatory Requirements***

FAR 15.405(a), "Price Negotiation," states that the contracting officer is responsible for negotiating a fair and reasonable settlement with a contractor, taking into consideration many factors such as any advisory recommendations or reports they receive from contributing specialists (such as DCAA). However, when significant audit or other specialist recommendations are not adopted, FAR 15.405(a) specifically requires the contracting officer to document the rationale that supports the negotiated price.

DFARS PGI 215.406-1(b)(i), "Significant Disagreements," points out that contracting officers and contract auditors have complementary roles in the contracting process and are expected to collaborate to determine fair and reasonable contract values. It outlines steps that contracting officers must take when they disagree with significant questioned costs reported by DCAA. For example, prior to proceeding with negotiations, the contracting officers must document any disagreement with the auditor and their attempt to resolve it in the prenegotiation objective (which must be placed in the official contract file).

### ***Contracting Officer's Actions***

The contracting officer did not comply with FAR 15.405(a) or DFARS PGI 215.406-1(b)(i). The WSS contract file does not include any documented discussion on the \$8.8 million in material costs questioned by DCAA applicable to the 3-year negotiated contract. Without any documented rationale for not adopting the DCAA-questioned costs, WSS could not demonstrate that the contracting officer had appropriately considered the questioned costs in reaching the negotiated agreement with the contractor.

## **Conclusion**

We substantiated the complaint. The contracting officer did not comply with the FAR and DFARS PGI to: 1) ensure that the contractor complied with the FAR cost or pricing data requirements; and 2) document his consideration of \$8.8 million in DCAA-questioned costs. Both DCAA and DCMA advised the WSS contracting officer that the contractor did not submit the required cost or pricing data and overstated the proposed material cost. Nevertheless, he elected not to consider their advice or enforce the FAR requirements.

The contracting officer had a responsibility to comply with regulatory requirements and appropriately consider the DCAA audit findings. By not fulfilling his responsibility, WSS was unable to adequately demonstrate that the resulting contract price of \$576 million was fair and reasonable. The contracting officer could have potentially negotiated a lower contract value and achieved significant savings for the Government if he had appropriately considered DCAA's findings.

We observed that the WSS facility in Philadelphia does not have any internal procedures to help ensure compliance with the FAR cost or pricing data requirements or addressing DCAA findings. These procedures should be implemented, and related training should be provided, to assure that contracting officers can demonstrate they have negotiated fair and reasonable prices on behalf of the Government. The WSS Facility Commander should also consider appropriate corrective actions for the contracting official not complying with the regulatory requirements and appropriately addressing DCAA findings.

## **Recommendations, Management Comments, and Our Response**

### ***Recommendation 1***

**We recommend that the Deputy Assistant Secretary of the Navy for Acquisition and Procurement implement procedures and provide training at the Weapon Systems Support Philadelphia facility to help ensure that contracting officers and their approving officials comply with the cost or pricing data requirements and appropriately resolve Defense Contract Audit Agency audit findings.**

#### ***The Deputy Assistant Secretary of the Navy (Acquisition and Procurement) Comments***

The Deputy Assistant Secretary of the Navy (Acquisition and Procurement) concurred with the recommendation. The Defense Acquisition University provided "Price Reasonableness" training to the WSS workforce on March 23-26, 2015, with emphasis on subcontractor cost and price analysis and documenting pre-negotiation business clearances in accordance with FAR. Additional training for the WSS workforce is forthcoming. The Navy will hold additional training to emphasize the necessity of obtaining subcontract cost or pricing data, steps to resolve audit findings and adequately documenting the negotiation memorandum to ensure compliance with the FAR.

In addition, the WSS Philadelphia facility is developing procedures to ensure that contracting officials adequately address the cost or pricing data requirements and DCAA findings. The procedures are estimated to be completed by June 30, 2015.

### *Our Response*

The management comments to the recommendation are responsive and no additional comments are required.

## **Recommendation 2**

**We recommend that the WSS Philadelphia Commander consider appropriate administrative action as a result of the contracting officer not complying with Federal Acquisition Regulation requirements for obtaining and analyzing cost or pricing data contained in Federal Acquisition Regulation 15.404, “Proposal Analysis,” and failing to document rationale for not adopting audit recommendations in accordance with Federal Acquisition Regulation 15.405, “Price Negotiation,” and Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-1, “Pre-negotiation Objectives.”**

### *The Deputy Assistant Secretary of the Navy (Acquisition and Procurement) Comments*

The Deputy Assistant Secretary of the Navy (Acquisition and Procurement) concurred with the recommendation. However, the Deputy Assistant Secretary stated that the contracting officer who was subject of the report retired. The Navy has conducted training with all NAVSUP WSS contracting personnel on cost and price data analysis and appropriate business documentation for DCAA audit findings.

### *Our Response*

The management comments to the recommendation are responsive and no additional comments are required.

## Appendix

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### Scope and Methodology

We conducted this evaluation from November 2013 through December 2014 in accordance with the Council of Inspectors General for Integrity and Efficiency Quality Standards for Inspection and Evaluation. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, conclusions, and recommendations based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions and recommendations based on our review. As part of our evaluation of the complaint, we:

- interviewed WSS contracting officials involved in negotiating the contract.
- interviewed DCAA and DCMA officials involved with examining the proposal.
- reviewed WSS, DCAA, and DCMA records and communications associated with the negotiation of the contract.
- determined if the actions of WSS contracting officials complied with applicable law, acquisition regulations, and DoD policy.

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

We did not rely on computer-processed data as part of our review.

### ***Prior Coverage***

During the last 5 years, the DoD IG has issued two reports involving Navy contracting officer actions taken in response to DCAA audit reports. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil>.

Report No. D-2010-6-003, “Actions to Establish Final Indirect Cost Rates on Reportable Contract Audit Reports by the Supervisor of Shipbuilding, Conversion and Repair, Groton, Connecticut,” September 24, 2010

Report No. DODIG-2013-082 “Hotline Allegation Regarding the Failure to Take Action on Material Management and Accounting System Audit Findings,” May 29, 2013



# Management Comments

## Department of the Navy Comments



DEPARTMENT OF THE NAVY  
OFFICE OF THE ASSISTANT SECRETARY  
(RESEARCH, DEVELOPMENT AND ACQUISITION)  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

MAR 31 2015

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Department of Defense Inspector General (DoDIG) Report, "Complaint Regarding the Award of a \$576 Million Navy Contract Without Appropriate Consideration of Audit Findings" (Project No. D2014-DAPOCF-0121.001) of 06 March 2015.

The Department of the Navy has reviewed the recommendations contained in the subject report and addressed the findings. The attached comments provide the response to the findings and recommendations contained in the subject report. The Navy's comments should be incorporated into the final DoDIG report.

If you have any questions pertaining to this memo or its attachments, please refer them to Mr. Dwayne Weaver at [Dwayne.Weaver@navy.mil](mailto:Dwayne.Weaver@navy.mil) or at 703-693-4073.

*Elliott B. Branch*

Elliott B. Branch  
Deputy Assistant Secretary of the Navy  
(Acquisition & Procurement)

Attachments:  
As Stated

cc:  
NAVIG  
NAVSUP IG

## Department of the Navy Comments (cont'd)

Deputy Assistant Secretary of the Navy for Acquisition and Procurement Comments:  
DoDIG PROJECT D2014-DAPOCF-0121.001

### Deputy Assistant Secretary of the Navy for Acquisition and Procurement Comments to DODIG Recommendations:

1. We recommend that the Deputy Assistant Secretary of the Navy for Acquisition and Procurement implement procedures and provide training at the NAVSUP Weapon Systems Support Philadelphia facility to help ensure that contracting officers and their approving officials comply with the cost or pricing data requirements and appropriately resolve Defense Contract Audit Agency audit findings.

#### **Response: Concur/Partially Completed**

Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN (AP)) has recently communicated its concerns related to PBL requirements, cost and price analysis, and business clearance content to both Naval Supply Systems Command (NAVSUP) Headquarters and NAVSUP Weapons Systems Support (WSS) senior leadership. DASN (AP) has also collaborated with NAVSUP N7 Contracting Department to schedule Defense Acquisition University (DAU) led "Price Reasonableness" training to the entire NAVSUP WSS contracting workforce at both Philadelphia and Mechanicsburg sites. This four day training event is tailored to include specific emphasis on topics identified by the Defense Contract Audit Agency (DCAA) and DODIG evaluation teams. Specifically, DAU will include emphasis on the necessity of obtaining subcontractor cost or price analyses in accordance with FAR 15.404-3, steps to resolving audit discrepancies, and adequately documenting the pre-negotiation business clearance in accordance with FAR 15.406. The first training class was conducted March 23rd through March 26th at NAVSUP WSS Philadelphia. Additional classes for both contracting sites are forthcoming. A WSS local procedure guide is being developed with an estimated completion date of June 30 to ensure contracting officer's and approving officials adequately address required cost and pricing data leading to negotiations, including subcontractor pricing and documenting DCAA findings and recommendations, including exceptions to any recommendations. A modified DASN (AP) peer review procedure has also been implemented with NAVSUP WSS that will increase communication at the pre-evaluation and pre-award phases of any award decision for Performance Based Logistics requirements.

2. We recommend that the Weapons System Support Facility Commander in Philadelphia consider appropriate administrative action as a result of the contracting officer not complying with Federal Acquisition Regulation requirements for obtaining and analyzing cost or pricing data contained in Federal Acquisition Regulation 15.404, "Proposal Analysis," and not documenting his rationale for not adopting audit recommendations required by Federal Acquisition Regulation 15.405, "Price Negotiation," and Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-1, "Prenegotiation Objectives."

#### **Response: Concur/Completed**

Appropriate corrective action with respect to the contracting officer would include a discussion of the actions taken and training to ensure compliance with Federal

## Department of the Navy Comments (cont'd)

Deputy Assistant Secretary of the Navy for Acquisition and Procurement Comments:  
DoDIG PROJECT D2014-DAPOCF-0121.001

Acquisition Regulation requirements; however, the contracting officer who is the subject of this report has retired. In lieu of that, the NAVSUP WSS has conducted training with all contracting department personnel to improve contracting officers' analysis of cost or pricing data and to ensure appropriate business clearance documentation show the steps taken to resolve DCAA audit findings.

## Acronyms and Abbreviations

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<b>DCAA</b>	Defense Contract Audit Agency
<b>DCMA</b>	Defense Contract Management Agency
<b>DFARS</b>	Defense Federal Acquisition Regulation Supplement
<b>FAR</b>	Federal Acquisition Regulation
<b>WSS</b>	Navy Supply System Command Weapon Systems Support
<b>PGI</b>	Procedures, Guidance, and Information

# **Whistleblower Protection**

## **U.S. DEPARTMENT OF DEFENSE**

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