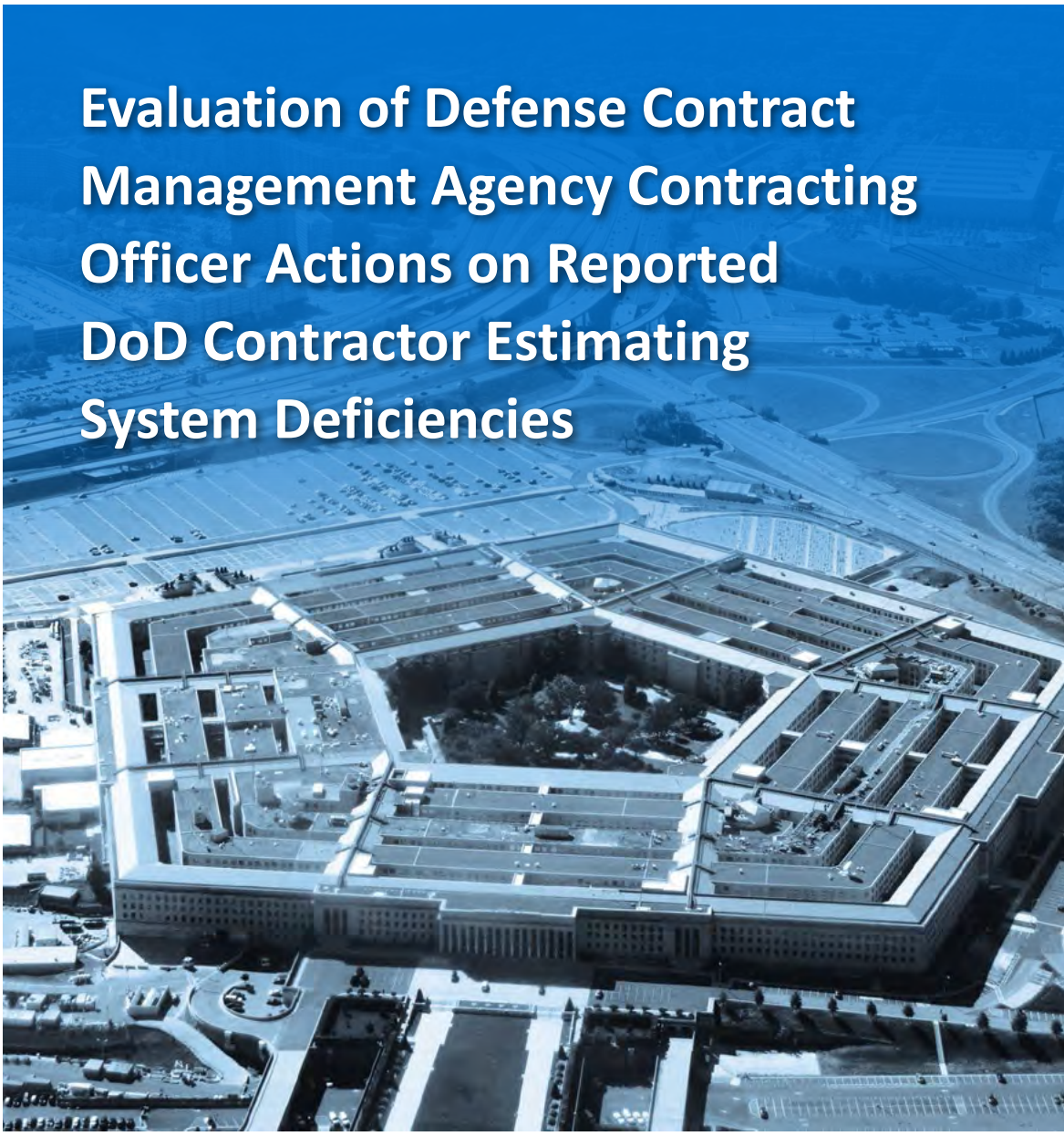
Report No. DODIG-2015-139

INSPECTOR GENERAL

U.S. Department of Defense

JUNE 29, 2015

Evaluation of Defense Contract Management Agency Contracting Officer Actions on Reported DoD Contractor Estimating System Deficiencies



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Results in Brief

Evaluation of Defense Contract Management Agency Contracting Officer Actions on Reported DoD Contractor Estimating System Deficiencies

June 29, 2015

Objective

We evaluated the Defense Contract Management Agency (DCMA) actions on DoD contractor estimating system deficiencies reported in 18 Defense Contract Audit Agency (DCAA) audit reports. Our objective was to assess the DCMA contracting officer's compliance with the Defense Federal Acquisition Regulation Supplement (DFARS) requirements for reported estimating system deficiencies.

Finding

For 17 of 18 reports, DCMA contracting officer actions did not comply with one or more DFARS requirements involving reported estimating system deficiencies. Specifically, the contracting officers did not:

- issue timely initial and final determinations on the reported deficiencies;
- obtain or adequately evaluate contractor responses; and
- withhold payments from the contractor's billings to protect the Government's interests.

For example, in 12 of 18 cases, contracting officers did not issue initial determination letters to the contractors within 10 days, as DFARS Procedures, Guidance, and Information (PGI) 215.407-5-70(e)(2)(ii)(A) provides. On average the initial determination letters were issued 88 days beyond the 10-day requirement. This likely resulted in delays in correcting significant estimating system deficiencies and lengthened the

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Finding (cont'd)

time the Government was unable to rely on the contractors' proposed cost estimates for future Government work. In addition, in 5 of 18 cases, contracting officers failed to withhold payments from contractor billings for uncorrected deficiencies, as DFARS 252.242-7005(e) requires when incorporated in a contract. Without a payment withhold, contractors may lack the incentive to timely correct significant estimating system deficiencies.

Finally, in 3 of 18 cases, DCMA contracting officers did not comply with a DCMA procedure requiring that contracting officers obtain management approval before issuing their determination on the contractor's estimating system.

Recommendations

We recommend that the Director, DCMA:

- Review the 18 cases we evaluated and ensure that contracting officers take all appropriate actions in response to reported estimating system deficiencies, including issuing final determinations and implementation of payment withholds to protect the Government's interests if significant deficiencies remain, and
- Improve internal controls and conduct training to provide reasonable assurance that contracting officers issue timely determinations and implement payment withholds in accordance with the clause at DFARS 252.242-7005.

Management Comments and Our Response

In a June 5, 2015 response, the Director, Defense Contract Management Agency concurred with the reported recommendations. The comments and planned corrective actions were responsive and no additional comments are required.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Director, Defense Contract Management Agency		1a, 1b, and 2

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

June 29, 2015

MEMORANDUM FOR DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY

SUBJECT: Report on Evaluation of Defense Contract Management Agency Contracting Officer Actions on Reported DoD Contractor Estimating System Deficiencies (Report No. DODIG-2015-139)

We are providing this draft report for your review and comment. We evaluated contracting officer actions on estimating system deficiencies reported in 18 Defense Contract Audit Agency reports. In several instances, contracting officers did not comply with the requirements of DFARS 252.215-7002 and 252.242-7005 for issuing timely initial and final determinations, obtaining and evaluating the contractor's response to the reported deficiencies, and withholding payments for uncorrected deficiencies.

DoD Instruction 7650.03 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 7650.03; therefore, additional comments are not required.

We appreciate the courtesies extended to the staff. Please direct questions to Ms. Carolyn R. Hantz at (703) 604-8877, or e-mail at carolyn.hantz@dodig.mil.

Randolph R. Stone
Deputy Inspector General
Policy and Oversight

Contents

Introduction

Objective

We evaluated Defense Contract Management Agency (DCMA) contracting officer actions on estimating system deficiencies reported by the Defense Contract Audit Agency (DCAA). Our primary objective was to determine if DCMA complied with:

- Defense Federal Acquisition Regulation Supplement (DFARS), clauses at 252.215-7002, "Cost Estimating System Requirements," and 252.242-7005, "Contractor Business Systems;" and
- DFARS Procedures, Guidance, and Information (PGI), 215.407-5, "Estimating Systems."

As part of the evaluation, we randomly selected 18 of 84 (21 percent) DCAA estimating system deficiency reports issued from July 2012 through June 2013. See Appendix A for a discussion of our scope and methodology. This is the first of two reports that we plan to issue on DCMA contracting officer compliance with the DFARS requirements relative to contractor business systems.

Background

Estimating System Requirements

Contractor business systems and related internal controls, including the estimating system, are the first line of defense against waste, fraud, and abuse. A DoD contractor's estimating system encompasses the policies, procedures, and practices used by the contractor for generating estimates of costs and other data included in proposals submitted to the Government. DoD negotiated and awarded approximately $310 billion in contracts to DoD contractors in FY 2013, based on price proposals generated by DoD contractor estimating systems.

Inadequacies with contractor business systems led to the enactment of major changes to related DoD regulations. On February 24, 2012, DoD revised the DFARS addressing the contractor's business system to incorporate time limits for taking action on reported business system deficiencies and require a payment withholding if the system is disapproved. For example, DFARS PGI 242.75, "Contractor Accounting Systems and Related Internal Controls," states that the contracting officer should issue a final determination on reported deficiencies within 30 days after receiving the contractor's response to the initial determination of deficiencies.

For contracts that include DFARS clause 252.242-7005(e), "Withholding Payments," contracting officers must withhold 5 percent of payments from a DoD contractor if significant deficiencies exist with any of the contractor's business systems.

Defense Contract Audit Agency

DCAA performs contract audits for DoD. It also performs contract audit services for non-DoD Federal organizations on a reimbursable basis. DCAA operates in accordance with DoD Directive 5105.36, "Defense Contract Audit Agency," January 4, 2010, and reports to the Under Secretary of Defense (Comptroller)/ Chief Financial Officer.

The Agency performs several types of contract audits, such as audits of contractor claimed incurred costs, forward pricing proposals, and contractor business systems. If DCAA uncovers a significant business system deficiency during a system review or other related audit, DCAA policy requires that the auditor issue a "deficiency report" to alert the cognizant contracting officer of the deficiency and recommend contractor corrective action.

Defense Contract Management Agency

DCMA is a component of DoD that works directly with DoD contractors to ensure that DoD, Federal, and allied government supplies and services are delivered on time and at projected cost, and meet all performance requirements.

DCMA contracting officers are responsible for several contract administrative functions, such as approving or disapproving contractor business systems, determining final indirect cost rates on cost-reimbursement contracts, and evaluating contractor compliance with the Cost Accounting Standards. DCMA contracting officers are required to consider any DCAA business system deficiency report and other expert advice to help them determine whether to approve or disapprove contractor business systems.

For the 18 DCAA deficiency reports we selected for evaluation, DCMA contracting officers were responsible for determining the adequacy of the contractor's estimating systems and taking the action required by the DFARS 252.215-7002(e) and DFARS PGI 215.407-5.

Finding

Contracting Officers Did Not Comply With DFARS Requirements and DCMA Policy

For 17 of 18 DCAA reports we reviewed, DCMA contracting officers did not comply with 1 or more DFARS requirements. Each DCAA report outlined significant estimating system deficiencies that impacted DoD's ability to rely on contractor estimates and negotiate a fair and reasonable price for goods and services. The contracting officers did not take appropriate or timely action to address the significant estimating system deficiencies that DCAA reported.

Scope of Evaluation

We evaluated contracting officer actions on 18 DCAA reports addressing significant contractor estimating system deficiencies to determine whether the actions complied with DFARS and DCMA Instructions. The DFARS clause at 252.242-7005(b), "Definitions," defines a significant deficiency as a shortcoming in the system that materially affects the ability of DoD officials to rely on information produced by the system that is needed for management purposes. Examples of deficiencies reported by DCAA included the contractor's failure to:

- adhere to its disclosed estimating practices,
- consider historical experiences,
- support cost estimates, and
- eliminate duplicated costs in proposals.

These types of deficiencies can materially impact the ability of the Government to rely on information produced by a contractor's estimating system and proposed for DoD contracts.

For each DCAA report, our evaluation primarily focused on whether the contracting officer:

- issued an initial determination on reported significant deficiencies within 10 days in accordance with DFARS PGI 215.407-5-70(e)(2)(ii)(A);
- obtained a written contractor response to the initial determination within 30 days pursuant to DFARS 215.407-5-70(d)(2)(ii)(B);

- evaluated the contractor's response and issued a final determination to approve or disapprove the system within 30 days in accordance with DFARS PGI 215.407-5-70(e)(2)(ii)(C); and
- withheld payments from the contractor billings to the Government in accordance with DFARS 252.242-7005(e), if the system is disapproved.

Results of Evaluation

For the 18 DCAA deficiency reports we selected for evaluation, Table 1 depicts the instances when DCMA contracting officers did not comply with the five DFARS key requirements we evaluated.

Table 1. DCMA Actions Taken in Response to 18 DCAA Estimating System Deficiency Reports

DCAA Report No.	Contracting Officer Actions That Did Not Comply With DFARS				
	Initial Determination	Obtain Contractor Response	Evaluation of Contractor Response	Final Determination	Withhold of Contractor Payments
01101-2012L24010004	X	X		X	
01201-2012N24010001	X	X	X	X	
01301-2009P24010001		X	X	X	
01461-2011B24010001	X		X	X	
02501-2013C11090001				X	
02701-2010C24010001	X			X	X
02821-2012U24010002	X			X	X
02901-2013B11090001	X	X	X	X	
03121-2013K11090001	X	X		X	X
03191-2012F24010003	X		X	X	
03421-2011J24010003		X			
03541-2012R24010001			X	X	
04141-2013H24010001	X	X	X	X	X
04151-2012H11090001	X				
04231-2012J24010001			X	X	X
04531-2013K11090001	X	X	X		
04601-2012U24010001					
06381-2013T11090001	X	X		X	
Instance Totals	12	9	9	14	5
Error %	67%	50%	50%	77%	28%

Contracting Officers Did Not Timely Issue Initial Determinations

After receiving a DCAA estimating system deficiency report, the contracting officer is required to review DCAA audit report findings and make a preliminary assessment as to the existence of any significant deficiencies. If so, the contracting officer is required to issue an initial determination letter to the contractor within 10 days of receiving a DCAA report concerning estimating system deficiencies.

DFARS Criteria and DCMA Instructions on Initial Determinations

DFARS PGI 215.407-5-70(e)(2)(ii)(A) states the contracting officer should issue an initial determination to the contractor within 10 days of receiving a DCAA report detailing a system deficiency. The initial determination involves the contracting officer making a preliminary assessment as to whether a significant deficiency may exist based on their review of DCAA audit report findings. In the initial determination letter, the contracting officer describes each significant deficiency in sufficient detail to allow the contractor to understand the deficiency and request a response within 30 days.

DCMA Instruction 133, "Estimating System Review," paragraph 3.3.4.1, requires that contracting officers obtain DCMA management's review and approval of the initial determination letter. DCMA management must verify whether the contracting officer followed the procedures for resolving and/or dispositioning the reportable audit before approving the initial determination letter. DCMA Instruction 131, "Contractor Business Systems," paragraph 3.2.2, requires DCMA supervisory contracting officials to review and approve all proposed initial determinations before issuance.

Contracting Officer Actions on Initial Determinations

In 12 of 18 cases, DCMA's contracting officers did not comply with the DFARS PGI requirement to timely issue initial determination letters to the contractors. For six cases, the contracting officers never issued the required initial determination letter. For the remaining six cases, the contracting officers issued initial determination letters but they were not sent within the 10-day standard. On average, the six determination letters were issued 88 days beyond the 10-day standard. Failure to issue a timely initial determination letter likely resulted in delays in correcting reported estimating system deficiencies and lengthened the time the Government is unable to rely on cost estimates produced by the contractor's estimating system.

In addition, in three instances, contracting officers did not obtain supervisory approval for the initial determinations they issued, as DCMA Instruction 131 requires. Without supervisory approval, DCMA management is not helping to ensure the contracting officer's actions comply with DFARS requirements for issuing initial determinations.

Contracting Officer Did Not Obtain Contractor Responses in a Timely Manner

DFARS Criteria for Obtaining a Contractor Response

DFARS 215.407-5-70(d)(2)(ii)(B) requires the contracting officer to request the contractor to respond, in writing, to the initial determination letter within 30 days.

Obtaining a contractor's written response expedites the corrective action process for resolving the cited deficiencies. A timely contractor response is necessary to ensure that the contracting officer promptly receives either notice that the deficiencies have been corrected or obtains an acceptable corrective action plan showing milestones and actions to eliminate the reported deficiencies.

Contracting Officer Actions Did Not Comply with the DFARS Criteria

In 9 of 18 cases, contracting officers did not comply with the DFARS criteria for obtaining the contractor's response within 30 days. For three cases, the contracting officers did not request or obtain a written response from the contractor. In the remaining six cases, the contracting officer received a response but not within the 30-day timeframe. On average, the six contractor responses were received 65 days beyond the 30-day timeframe and one of the responses did not fully address the reported deficiencies. Additionally, once the contractor responses became overdue, we found no evidence in the contract file that the contracting officers followed up with the contractor to obtain the response.

An untimely contractor response to the initial determination may cause the system deficiencies to remain uncorrected and diminishes the reliability that can be placed on the accuracy of contractor cost estimates for work on Government contracts.

Contracting Officers Did Not Adequately Evaluate the Contractor's Responses to the Initial Determination

DFARS Criteria for Evaluating the Contractor's Response

DFARS PGI 215.407-5-70(e)(2)(ii)(C) states the contracting officer, in consultation with auditors or the cognizant functional specialist, should evaluate the contractor's response to the deficiencies within 30 days of receiving it.

The contracting officer is responsible for evaluating the sufficiency of the contractor's response to the initial determination in order to determine whether the contractor addressed all significant deficiencies. If the contractor included a corrective action plan in its response, the contracting officer is required to verify the proposed actions and the milestones to eliminate the deficiencies in consultation with the auditor.

Inadequate Evaluation of Contractor Response

For nine cases, contracting officers did not comply with the DFARS requirement to evaluate the contractor's response within 30 days. In one case, we found no evidence that the contracting officer had evaluated the contractor's response to the reported deficiencies. In six instances, the contracting officers evaluated the response but did not complete it within the 30-day timeframe. On average, these contracting officers took 127 days beyond the 30-day DFARS timeframe to complete the evaluations.

For the remaining two cases, the contracting officer evaluated the contractor's response in a timely manner, but they did not adequately evaluate it because they failed to obtain evidence that the contractor had completed the corrective actions.

To protect the Government's interests, the contracting officer has an obligation to evaluate the contractor's response to verify and assess whether the proposed contractor's actions fully addressed the reported deficiencies.

Contracting Officers Did Not Issue Final Determinations in a Timely Manner

DFARS Criteria for Final Determinations

DFARS PGI 215.407-5-70(e)(2)(ii)(C) states the contracting officer should issue a final determination within 30 days of receiving the contractor's response.

DFARS 252.215-7002(e)(3) states,

> "The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning (i) Remaining significant deficiencies; (ii) The adequacy of any proposed or completed corrective action; and (iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain."

The final determination reflects the contracting officer's ultimate decision on whether to approve or disapprove the estimating system.

Contracting Officer Actions Did Not Comply with DFARS Criteria for Final Determinations

In 14 of 18 cases, the contracting officer did not comply with the DFARS requirement for making a final determination on the contractors' estimating system.

In 6 of the 14 cases, the contracting officer failed to issue any final determination. For the remaining eight cases, the contracting officers did not issue the final determination within the 30-day timeframe. On average, the eight final determinations were issued 206 days beyond the 30-day timeframe. In one instance, the contracting officer also did not obtain supervisory approval to issue the final determination in accordance with DCMA Instruction 131.

The failure to make a timely final determination increases the Government's risk that significant business system deficiencies remain uncorrected and the Government cannot rely on cost estimates processed by those systems and proposed for Government contracts. If significant deficiencies require the contracting officer to disapprove the estimating system, it is important that the contracting officer make a timely final determination because it triggers the requirement to withhold payments and protect the Government's interests.

Contracting Officers Did Not Disapprove the Contractors' System and Withhold Payments

DFARS Criteria for Implementing Payment Withholds

DFARS 215.407-5-70(d)(3)(i)(B)(2) requires the contracting officer to disapprove the contractor's estimating system if any significant deficiencies remain uncorrected.

DFARS 252.242-7005(e) states that if the contracting officer disapproves the estimating system the contracting officer will withhold 5 percent of contractor billings until the contracting officer has determined that the contractor has corrected all significant deficiencies.

Contracting Officer Actions Did Not Comply with DFARS Requirements for Withholding Payments

In 5 of 18 cases, DCMA contracting officers did not withhold payments even though significant deficiencies still remained. DFARS 215.407-5-70(d)(3)(i)(B)(3) requires the contracting officer to withhold payments in accordance with the clause at DFARS 252.242-7005 if the clause is included in the contract.

If significant estimating system deficiencies remain, the contracting officer is obligated to disapprove the system and implement payment withholdings to help protect the Government's interests from the effects of the deficiencies and incentivize the contractor to implement corrective action in a timely manner.

Previous DoD Inspector General Findings

Since December 2012, we reported on two similar instances of DCMA's failure to take timely or appropriate action on business system deficiencies. In a December 14, 2012, "Notice of Concern," we pointed out that a DCMA contracting officer had postponed a final determination and payment withholding associated with estimating system deficiencies for 1 year and 5 months. The contracting officer inappropriately postponed the determination until DCAA completed its follow-up audit. In Report No. DODIG-2014-084, "Hotline Allegations Regarding Defense Contract Management Agency Contracting Officer Actions on Several Business System Audit Reports," June 20, 2014, we substantiated a complaint that a DCMA contracting officer failed to make final determinations in a timely manner or implement monetary withholds for significant business system deficiencies, as DFARS 252.242-7005 requires.

Conclusion

Our evaluation of a cross-section of 18 DCAA audit reports disclosed that DCMA contracting officers' actions taken to address significant DCAA reported estimating system deficiencies continues to be inadequate. For example, some contracting officers did not issue initial or final determinations in a timely manner, and failed to implement payment withholdings for existing estimating system deficiencies. DCMA should improve its related internal controls and training to help ensure that contracting officers comply with the DFARS requirements and protect the Government's interests from significant estimating deficiencies.

Recommendations, Management Comments, and Our Response

Recommendation 1

We recommend that the Director, Defense Contract Management Agency review the 18 cases we evaluated and ensure that contracting officers:

a. Take all appropriate actions in response to reported estimating system deficiencies, including issuing final determinations and disapproving any systems that have significant uncorrected deficiencies; and

The Director, Defense Contract Management Agency Comments

The Director, Defense Contract Management Agency agreed. By June 20, 2015, DCMA stated that it will develop corrective action plans for those cases with outstanding actions. In 3 of 18 cases, the Director provided additional comments

to explain why DCMA believes no outstanding actions are required. Due to the complex nature of some cases, the Director stated that contracting officers may need additional time beyond the timelines established in the DFARS in order to complete the required actions.

Our Response

The Director, Defense Contract Management Agency comments to the recommendation are responsive and no additional comments are required. Once received, we will evaluate the adequacy of the corrective action plan and verify that outstanding actions are no longer required for the 3 cases.

b. Implement payment withholds on any disapproved estimating system when the clause at Defense Federal Acquisition Regulation Supplement 252.242-7005(e) is included in the contract.

The Director, Defense Contract Management Agency Comments

The Director, Defense Contract Management Agency agreed and indicated that contracting officers will disapprove those systems with any remaining significant deficiencies and identify contracts for payment withholds in accordance with agency procedures.

Our Response

The Director, Defense Contract Management Agency comments to the recommendation are responsive and no additional comments are required.

Recommendation 2

We recommend that the Director, Defense Contract Management Agency review and improve internal controls and conduct training to provide reasonable assurance that contracting officers issue determinations in a timely manner and implement payment withholds in accordance with Defense Federal Acquisition Regulation Supplement 252.242-7005.

The Director, Defense Contract Management Agency Comments

The Director, Defense Contract Management Agency agreed. The Director stated that the Agency developed an internal control called the "Contractor Business System Determination Timeline Tracking Tool" to help ensure contracting officers take appropriate and timely actions regarding contractor business system determinations. The Tool tracks contracting officer actions from receipt of a DCAA audit report to issuance of the final determinations. DCMA began holding regular meetings to review the information within the Tool and develop corrective actions.

In 2015, DCMA held a series of training sessions to refresh the DCMA workforce on the requirements of the business system process as well as training on each of the six business systems. On July 22, 2015, DCMA will hold refresher training on contracting officer actions applicable to estimating systems.

In addition, the Director has asked the DCMA Mission Review Team under the Office of Independent Assessment to make business system compliance a special focus item during its internal reviews.

Finally, DCMA outlined several performance measures reflecting recent improvements in making timely business system determinations and implementing payment withholds for disapproved systems.

Our Response

The Director, Defense Contract Management Agency comments to the recommendation are responsive and no additional comments are required.

Appendix A

Scope and Methodology

We conducted this evaluation from April 2014 through February 2015 in accordance with the Council of Inspectors General on Integrity and Efficiency "Quality Standards for Inspection and Evaluation." As part of the evaluation, we randomly selected 18 of 84 (21%) estimating deficiency reports from a listing of deficiency reports issued by DCAA between July 2012 and June 2013. To accomplish our objective, we:

- obtained and gained an understanding of the estimating system deficiencies outlined in the 18 DCAA reports we selected for evaluation;
- interviewed appropriate DCMA and DCAA employees;
- analyzed relevant DCAA and DCMA documents; and
- evaluated the DCMA contracting officers' actions for compliance with DFARS 215.407-5-70, DFARS PGI 215.407-5-70, DFARS 252.215-7002, and DFARS 252.242-7005.

Use of Computer-Processed Data

In selecting DCAA audit reports, we relied on a computerized listing of DCAA deficiency reports issued between July 2012 and June 2013. This listing was based on data residing in DCAA's Management Information System. We did not selectively test the listing for accuracy and completeness.

Use of Technical Assistance

The DoD Inspector General's Quantitative Methods Division assisted us in selecting a sufficient cross-section of DCAA reports for evaluation.

Prior Report Coverage

During the last 5 years, the DoD Inspector General has issued two reports related to the DCMA's actions on business system deficiencies reported by DCAA. The unrestricted DoD Inspector General reports can be accessed over the Internet at http://www.dodig.mil.

DoD Inspector General Report No. DODIG-2014-084, "Hotline Allegations Regarding Defense Contract Management Agency Contracting Officer Actions on Several Business System Audit Reports," June 20, 2014

DoD Inspector General Report No. D-2010-6-002, "Report on Allegation of Unsatisfactory Conditions Regarding Actions by the Defense Contract Management Agency Earned Value Management Center," July 28, 2010

Appendix B

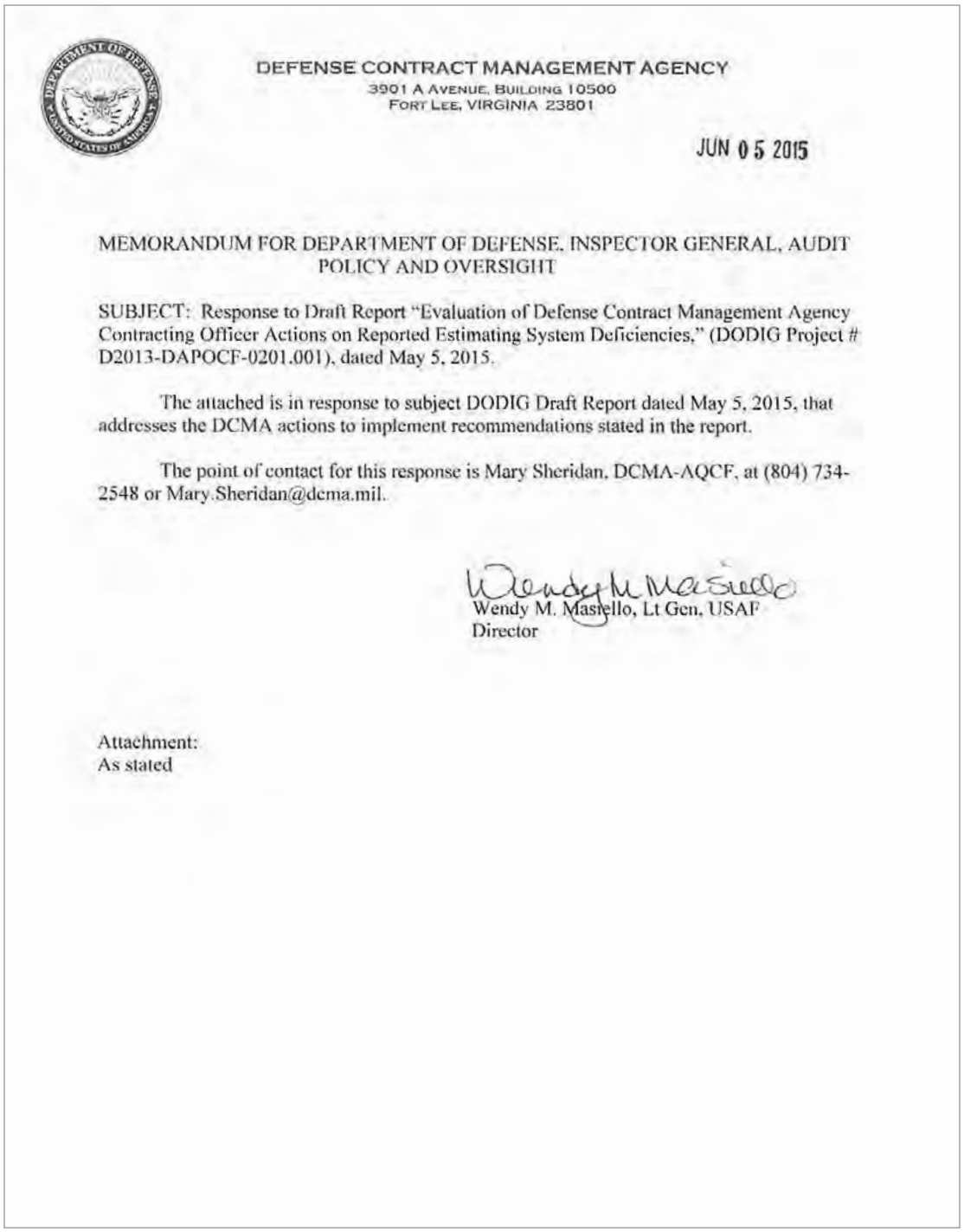
Selected DCAA Reports and Responsible DCMA Field Office

Table B. Selected DCAA Reports and Responsible DCMA Field Office

Count	DCAA Report No.	DCAA Report Date	Responsible DCMA Field Office
1	01101-2012L24010004	11/05/2012	Fort Worth
2	01201-2012N24010001	10/22/2012	Huntsville
3	01301-2009P24010001	10/04/2012	Orlando
4	01461-2011B24010001	08/17/2012	Dallas
5	02501-2013C11090001	01/31/2013	Syracuse
6	02701-2010C24010001	04/24/2013	Nashua
7	02821-2012U24010002	03/29/2013	Tucson
8	02901-2013B11090001	02/08/2013	Harford
9	03121-2013K11090001	03/20/2013	Denver
10	03191-2012F24010003	08/14/2012	Bloomington
11	03421-2011J24010003	12/04/2012	St. Louis
12	03541-2012R24010001	02/22/2013	Cedar Rapids
13	04141-2013H24010001	05/09/2013	Denver
14	04151-2012H11090001	11/16/2012	San Diego
15	04231-2012J24010001	03/27/2013	Los Angeles
16	04531-2013K11090001	05/30/2013	San Diego
17	04601-2012U24010001	01/13/2013	Seattle
18	06381-2013T11090001	06/20/2013	Pittsburg

Management Comments

DCMA Director Comments



DEFENSE CONTRACT MANAGEMENT AGENCY
3901 A AVENUE, BUILDING 10500
FORT LEE, VIRGINIA 23801

JUN 05 2015

MEMORANDUM FOR DEPARTMENT OF DEFENSE, INSPECTOR GENERAL, AUDIT POLICY AND OVERSIGHT

SUBJECT: Response to Draft Report "Evaluation of Defense Contract Management Agency Contracting Officer Actions on Reported Estimating System Deficiencies," (DODIG Project # D2013-DAPOCF-0201.001), dated May 5, 2015.

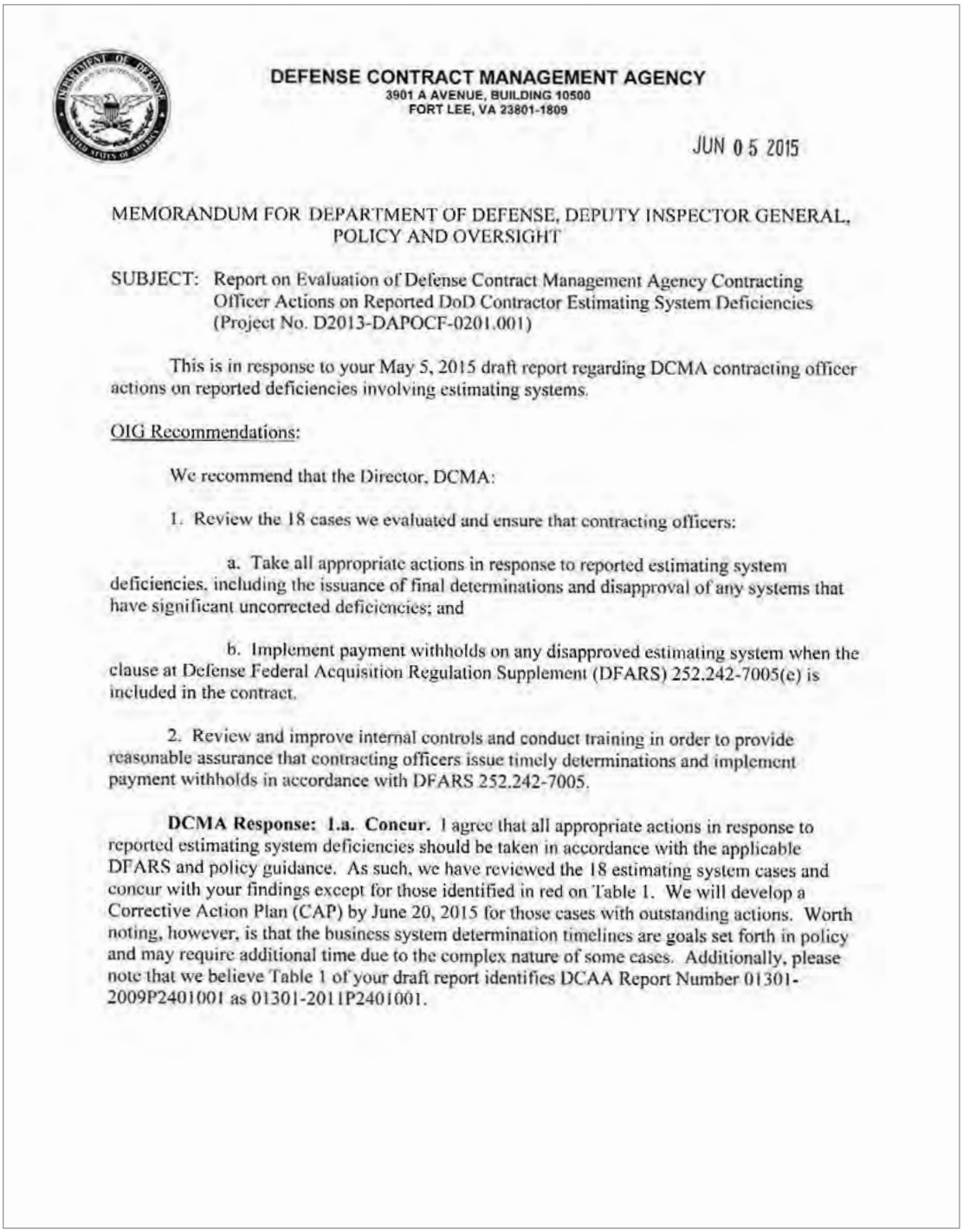
The attached is in response to subject DODIG Draft Report dated May 5, 2015, that addresses the DCMA actions to implement recommendations stated in the report.

The point of contact for this response is Mary Sheridan, DCMA-AQCF, at (804) 734-2548 or Mary.Sheridan@dcma.mil.

Wendy M. Masiello, Lt Gen, USAF
Director

Attachment:
As stated

DCMA Director Comments



DEFENSE CONTRACT MANAGEMENT AGENCY
3901 A AVENUE, BUILDING 10500
FORT LEE, VA 23801-1809

JUN 05 2015

MEMORANDUM FOR DEPARTMENT OF DEFENSE, DEPUTY INSPECTOR GENERAL, POLICY AND OVERSIGHT

SUBJECT: Report on Evaluation of Defense Contract Management Agency Contracting Officer Actions on Reported DoD Contractor Estimating System Deficiencies (Project No. D2013-DAPOCF-0201.001)

This is in response to your May 5, 2015 draft report regarding DCMA contracting officer actions on reported deficiencies involving estimating systems.

OIG Recommendations:

We recommend that the Director, DCMA:

1. Review the 18 cases we evaluated and ensure that contracting officers:

a. Take all appropriate actions in response to reported estimating system deficiencies, including the issuance of final determinations and disapproval of any systems that have significant uncorrected deficiencies; and

b. Implement payment withholds on any disapproved estimating system when the clause at Defense Federal Acquisition Regulation Supplement (DFARS) 252.242-7005(e) is included in the contract.

2. Review and improve internal controls and conduct training in order to provide reasonable assurance that contracting officers issue timely determinations and implement payment withholds in accordance with DFARS 252.242-7005.

DCMA Response: 1.a. Concur. I agree that all appropriate actions in response to reported estimating system deficiencies should be taken in accordance with the applicable DFARS and policy guidance. As such, we have reviewed the 18 estimating system cases and concur with your findings except for those identified in red on Table 1. We will develop a Corrective Action Plan (CAP) by June 20, 2015 for those cases with outstanding actions. Worth noting, however, is that the business system determination timelines are goals set forth in policy and may require additional time due to the complex nature of some cases. Additionally, please note that we believe Table 1 of your draft report identifies DCAA Report Number 01301-2009P2401001 as 01301-2011P2401001.

DCMA Director Comments (cont'd)

DCAA Report	Report Date	Contracting Officer Actions That Did Not Comply With DFARS Based on DoDIG Evaluation: Initial Determination	Obtain Contractor Response	Evaluation of Contractors Response	Final Determination	Withhold of Contractor payments	DCMA Review & Comments
02821-2012U24010002	03/29/2013	X			X	X	Final determination was issued on 04 Apr 2014 approving the estimating system. It was determined withholds do not apply during the determination process.
07001-2013B11090001	02/08/2013	X	X	X	X		The ACO issued a final determination of disapproval, dated 11 Feb 2013, based on technical evaluations that identified significant deficiencies with the estimating system. This disapproval was issued before the ACO received the subject DCAA audit report on 07 Mar 2013, which identified findings the ACO determined to be not significant. DCMA Instruction 1201, Corrective Action Process, provides policy for handling non-significant findings. The ACO obtained a response from the contractor on the subject audit findings, and DCAA was in agreement with the contractor's response.
04231-2012J24010001	03/27/2013			X	X	X	Final determination of disapproval was issued on 17 Jul 2014 implementing payment withholds at 5%. As of 12 May 2015, $864,517 has been withheld.

Table 1. Results of DoDIG Evaluation and DCMA Response

DCMA Response: 1.b. Concur. In general, I agree that contracting officers should implement payment withholds on disapproved estimating systems in accordance with DFARS 252.242-7005, Contractor Business Systems. DFARS 242.7000(b)(1), however, states contracts for withhold are to be identified in accordance with agency procedures. Consequently, not all contracts that contain DFARS 252.242-7005 are candidates for payment withhold. DCMA Instruction 131, Contractor Business Systems, specifies withhold candidates shall include all contracts that: (1) contain DFARS 252.242-7005; (2) contain the applicable business system specific clause (i.e., DFARS 252.215-7002, Cost Estimating System Requirements); and (3) have a total contract value greater than or equal to $50 million. We chose this threshold based on a May 2010 analysis of contracts that found 93% of total contract dollars are on contracts valued at $50 million or more. Focusing on this population gives the Government the best return and mitigation while still incentivizing contractors to correct their system deficiencies as having a disapproved system may preclude award of future contracts.

Moreover, withholds are not the only remedy contracting officers can use to incentivize contractors to take corrective action on deficient business systems. Other remedies such as a reduction in contract financing, suspension of progress payments, or revocation of the Government's assumption of risk for loss of property are also available when applicable. For the 18 estimating system cases cited, there is currently one case with a disapproved system and payment withholds have been implemented accordingly. Therefore, as part of our CAP, we will disapprove those systems with any remaining significant deficiencies and identify contracts for payment withhold in accordance with agency procedures.

DCMA Response: 2. Concur. I agree that internal controls and training are critical tools needed in order to provide reasonable assurance that contracting officers issue timely determinations and implement payment withholds in accordance with DFARS and policy guidance. In fact, over the past three years we have reviewed and strengthened internal controls and continued our training efforts. The agency has made great strides to establish and improve internal controls and conduct training since the DoD issued the interim business system rule on May 18, 2011 and adopted the final rule into law on February 24, 2012.

DCMA Director Comments (cont'd)

DCMA leadership recognized the importance of making timely determinations and having visibility into this data. We have developed a tool to help ensure contracting officers took appropriate and timely actions regarding contractor business system determinations. This internal control, called the Contractor Business System Determination Timeline Tracking Tool, became effective via a tasking memorandum on August 27, 2013. Contracting officers responsible for business system determinations must populate the tool from receipt of a DCAA audit report to issuance of a final determination with notes and supporting information. They are required to include in the tool any existing open business system reports for which a final determination has not yet been made. Subsequent tasking memorandums in May 2014 and March 2015 clarified requirements and copies have been provided for your review.

After the tool was in place and data was populated, senior leadership began holding regular meetings to review the information and develop corrective actions. Table 2 depicts data for open (i.e., overdue) initial and final determinations from January 2014 through February 2015.

	Overdue Initial Determinations		Overdue Final Determinations	
Date	DCMA Operations Directorate	DCMA Cost and Pricing Center	DCMA Operations Directorate	DCMA Cost and Pricing Center
Jan-14	44	17	32	34
Feb-14	41	29	27	46
Mar-14	30	14	22	51
Apr-14	10	7	10	44
May-14	5	6	6	43
Jun-14	5	3	8	38
Jul-14	3	0	6	19
Aug-14	1	4	1	18
Sep-14	18	15	4	14
Oct-14	8	12	0	16
Nov-14	6	13	1	16
Dec-14	7	11	4	15
Jan-15	2	3	4	10
Feb-15	2	1	2	12

Table 2. Contractor Business System Determination Timeline Tracking Tool Overdue Initial and Final Determination Data

As you can see, the trend has significantly improved in both overdue initial and final determinations and we continue to monitor progress on a quarterly basis to ensure determinations are made in a timely manner.

To further assess compliance, we have been working on development of a performance indicator that measures the timeliness of business system determinations. This internal control measures the percent of business system final determinations that were issued on time, as defined by the timeline goals set forth in policy. Table 3 depicts agency data for business system final determination timeliness from June 2014 through April 2015.

DCMA Director Comments (cont'd)

Contractor Business System Determination: Timeliness	
Date	Percentage
Jun-14	62%
Jul-14	63%
Aug-14	77%
Sep-14	79%
Oct-14	73%
Nov-14	61%
Dec-14	59%
Jan-15	73%
Feb-15	68%
Mar-15	60%
Apr-15	68%

Table 3. Performance Indicator Agency Data for Business System Final Determination Timeliness

As you can see, agency performance has fluctuated each month but on average final determinations are being made within the timeline goals 68% of the time. This is yet another internal control for monitoring timeliness and provides an additional tool we use for data and trend analysis to help drive compliance. Worth noting, however, this performance indicator does not take into account our internal extension process that allows for a 30 to 45 day extension beyond the timeline goals set forth in policy. Many final determinations are issued that fall within this extension period, while others may require additional time to accommodate several rounds of discussion and coordination due to their complex nature.

Training is another critical area necessary to enable contracting officers to issue timely determinations and implement payment withholds in accordance with DFARS and policy guidance. The agency has met this mark based on in house training conducted in the short term and training under development with the Defense Acquisition University (DAU) for the long term. Attachment 1 identifies various training sessions that DCMA Headquarters has provided to the DCMA workforce on contractor business systems. As you can see, we initially provided training to precede the publication of the interim business system rule in May 2011 and adoption of the final rule in February 2012. Likewise, we continued training efforts throughout 2012 as our workforce became acclimated to the new rule and began to understand the major impacts it had on their day-to-day jobs. In 2015, we implemented a series of training sessions to refresh our workforce on the requirements of the business system process as well as training on each of the six specific business systems.

We have established a strategic partnership with DAU to stand up the College of Contract Management (CCM). Currently under CCM development is a course that has training on the contractor business system determination process. My subject matter experts are working diligently with DAU on this course.

All together, the internal controls and training we have instituted have had a positive impact on the timeliness of our business system determinations. Table 4 provides a snapshot of current disapproved systems and applicable withholds as of May 12, 2015.

DCMA Director Comments (cont'd)

Business System	Disapprovals (count of CAGEs)	Withholds (in millions)
Accounting	42	$3.4 M
Estimating	24	$84.6 M
Earned Value Management	9	$42 M
Material Management and Accounting	1	$0
Property	35	$30.1 M
Purchasing	21	$20.8 M
	Total: 132	Total: $180.9 M

Table 4. Business System Disapprovals and Withholds

Lastly, I have asked my Office of Independent Assessment and its Mission Review Team to make business system determination compliance a special focus item during their internal reviews. This will help to provide a check and balance toward agency compliance and maintain visibility and management oversight of this critical process.

For further information regarding DCMA policy on Contractor Business Systems, refer to the DCMA policy publication website at http://www.dcma.mil/policy/. Please direct any comments or questions to Mary Sheridan, Deputy Director, Contracts Policy, at (804) 734-2548 or Mary.Sheridan@dcma.mil.

Wendy M. Masiello

Wendy M. Masiello, Lt Gen, USAF
Director

Attachments: As stated

DCMA Director Comments (cont'd)

DCMA Response to Report on Evaluation of Contracting Officer Actions on Reported DoD Contractor Estimating System Deficiencies (Project No. D2013-DAPOCF-0201.001)

Attachment 1

DCMA Headquarters Training on Contractor Business Systems	
Course Title	Training Date
Contractor Business Systems	2/2/2011
Contractor Business Systems	2/8/2012
Contractor Property Systems - An Overview for the "1102" Community	5/8/2012
Contractor Business Systems - Accounting Systems	5/16/2012
Contractor Business Systems - Earned Value Management Systems (EVMS)	6/13/2012
Corrective Action Request eTool and the Business System Rule	6/20/2012
Contractor Business Systems - Material Management & Accounting Systems (MMAS)	6/27/2012
Contractor Business Systems - Estimating Systems	7/11/2012
Contractor Purchasing System Review	7/25/2012
Contractor Business Systems - "Not Evaluateds"	11/6/2012
Contractor Business Systems - Policy and Lessons Learned	4/17/2014
Defense Connect Online (DCO) Focused Refresher Session - EVMS	1/20/2015
DCO Focused Refresher Session - Accounting Systems	2/4/2015
DCO Focused Refresher Session - DCMA Headquarters Contractor Business System Panel Lessons Learned	3/4/2015
DCO Focused Refresher Session - Government Contract Property	4/9/2015
DCO Focused Refresher Session - MMAS	5/6/2015
DCO Focused Refresher Session - Purchasing Systems	6/3/2015
DCO Focused Refresher Session - Estimating Systems	7/22/2015

Acronyms and Abbreviations

DCAA	Defense Contract Audit Agency
DCMA	Defense Contract Management Agency
DFARS	Defense Federal Acquisition Regulation Supplement
PGI	Procedures, Guidance, and Information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