



INSPECTOR GENERAL

U.S. Department of Defense

NOVEMBER 10, 2015



Small Business Contracting at Marine Corps Systems Command Needs Improvement

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Results in Brief

Small Business Contracting at Marine Corps Systems Command Needs Improvement

November 10, 2015

Objective

We performed this audit in response to a Defense Hotline allegation. Our objective was to determine whether the Marine Corps Systems Command (MCSC), Quantico, Virginia, provided small businesses with an opportunity to be awarded prime contracts. In addition, we determined whether MCSC held prime contractors accountable for meeting small business subcontracting goals. We reviewed a nonstatistical sample of 40 contracts, valued at \$1.3 billion, out of 208 contracts, valued at \$2.8 billion.

Findings

We substantiated the allegation that MCSC contracting officials did not hold large prime contractors accountable for meeting small business subcontracting goals. We did not substantiate the allegation that MCSC senior leadership did not ensure that small businesses were awarded a sufficient number of contracts.

MCSC contracting officials generally provided small businesses an adequate opportunity to compete for 40 prime contracts, valued at \$1.3 billion. However, MCSC contracting officials could not find the contract file for 5 of the 40 contracts we initially requested for review. This occurred because MCSC contracting office management did not have procedures for transferring files for ongoing contracts from one contracting officer to another and did not designate a centralized storage location. As a result, MCSC cannot provide assurance

Findings (cont'd)

that the Government's interests when conducting reviews and investigations or in the event of litigation or contractor proprietary data were protected.

MCSC contracting officials did not ensure prime contractors provided small businesses with adequate subcontracting opportunities for 12 prime contracts (valued at \$222.1 million). Specifically, MCSC contracting officials did not track compliance with small business subcontracting goals for four contracts; did not determine why large businesses were not meeting their small business subcontracting goals on two ongoing contracts; and awarded six contracts without subcontracting plans or the required determination and approval. This occurred because MCSC contracting office management did not provide adequate internal guidance for awarding and administering subcontracting plans or implement effective internal review procedures for approving and administering subcontracting plans. As a result, small businesses may have been denied subcontracting opportunities that large businesses were required to make a good faith effort to provide. In addition, MCSC contracting officials did not determine whether the prime contractors are making good faith efforts to comply with negotiated subcontracting goals and whether liquidated damages should be assessed.

Recommendations

We recommend that the Assistant Commander for Contracts, Marine Corps Systems Command: establish procedures for transferring files for ongoing contracts; establish a local centralized storage location for completed contracts; determine whether the contractors for the six specified contracts made a good-faith effort to meet their subcontracting goals, and if not, whether liquidated damages may be imposed against the contractor; establish guidance for contracting officers for reviewing, approving, and administering subcontracting plans; and train contracting officials on their responsibilities for evaluating and administering subcontracting plans.



Results in Brief

Small Business Contracting at Marine Corps Systems Command Needs Improvement

Management Comments and Our Response

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, fully addressed all specifics of the recommendations, and no further comments are required. Please see the Recommendations Table on the next page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Assistant Commander for Contracts, Marine Corps Systems Command	None	A.1, A.2, B.1, B.2, B.3, B.4, B.5, B.6, B.7





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

November 10, 2015

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,
TECHNOLOGY, AND LOGISTICS
COMMANDANT OF THE MARINE CORPS
NAVAL INSPECTOR GENERAL

SUBJECT: Small Business Contracting at Marine Corps Systems Command
Needs Improvement (Report No. DODIG-2016-019)

We are providing this report for information and use. We initiated the audit as a result of a Defense Hotline Allegation. We substantiated the allegation that Marine Corps Systems Command did not hold large prime contractors accountable for meeting small business subcontracting goals. However, we did not substantiate the allegation that Marine Corps Systems Command did not ensure small businesses were awarded a sufficient number of contracts.

Marine Corps Systems Command contracting officials generally provided small businesses an adequate opportunity to compete for prime contracts. However, Marine Corps Systems Command contracting officials did not determine whether the prime contractors are making good faith efforts to comply with negotiated subcontracting goals and whether liquidated damages should be assessed. We conducted this audit in accordance with generally accepted government auditing standards.

We considered management comments on a draft of this report when preparing the final report. Comments from the Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, Marine Corps Systems Command, addressed all specifics of the recommendations and conformed to the requirements of DoD Instruction 7650.03; therefore, we do not require additional comments.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9187.

A handwritten signature in black ink, appearing to read "M. J. Roark", is positioned above the printed name.

Michael J. Roark
Assistant Inspector General
Contract Management and Payments



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Introduction

Objective

Our objective was to determine whether the Marine Corps Systems Command (MCSC), Quantico, Virginia, provided small businesses with an opportunity to be awarded prime contracts. In addition, we determined whether MCSC held prime contractors accountable for meeting small business subcontracting goals. See Appendix A for a discussion of the scope and methodology and prior audit coverage related to the objectives.

Hotline Complaint

The Defense Hotline received a complaint on October 3, 2012, related to small business contracting concerns at the Regional Contracting Office–National Capital Region and MCSC, both located in Quantico, Virginia. The complainant alleged that Regional Contracting Office–National Capital Region and MCSC senior leadership did not ensure that small businesses were awarded a sufficient number of contracts. In addition, the complainant alleged that those offices did not hold large prime contractors accountable for meeting small business subcontracting goals.

We completed the audit of the Regional Contracting Office–National Capital Region and issued report DODIG-2015-095, “Small Business Contracting at Regional Contracting Office–National Capital Region Needs Improvement,” on March 20, 2015. We announced the audit of the MCSC portion of the allegation on February 4, 2015.

We substantiated the allegation that MCSC contracting officials did not hold large prime contractors accountable for meeting small business subcontracting goals (Finding B). However, we did not substantiate the allegation that MCSC senior leadership did not ensure that small businesses were awarded a sufficient number of contracts (Finding A).

Background

Marine Corps Systems Command

MCSC is the organization responsible for acquisition and sustainment of systems and equipment used to accomplish the Marine Corps’ warfighting mission. The command outfits Marines with everything they drive, shoot, and wear. MCSC is responsible for providing research, development, and acquisition of equipment, information systems, training systems, and weapon systems to satisfy all approved material requirements of the Marine Corps.

Small Business Contracting

In 1953, Congress passed the Small Business Act, which created the Small Business Administration (SBA) and empowered the SBA to counsel and assist small business concerns and assist contracting personnel to ensure a fair proportion of government contracts for supplies and services are placed with small businesses. The Small Business Act ensures that the Government-wide goal for participation of small business concerns is established annually. The head of each Federal agency sets an annual goal for small business participation in its contracts by the various small business groups. Those groups include:

- small business concerns;
- small business concerns owned and controlled by service-disabled veterans;
- qualified Historically Underutilized Business Zone small business concerns;
- small business concerns owned and controlled by socially and economically disadvantaged individuals; and
- small business concerns owned and controlled by women.

The SBA uses the Federal Procurement Data System-Next Generation (FPDS-NG) as the official system for collecting, developing, and disseminating procurement data. The SBA also uses the FPDS-NG information to monitor the agencies' achievements against their small business goals throughout the year. MCSC officials rely on data from FPDS-NG to track how well they are meeting their small business goals.

Marine Corps Systems Command Contracts Reviewed

We nonstatistically selected 40 contracts (valued at \$1.3 billion) that were awarded by MCSC during FYs 2011, 2012, and 2013 for review. The 40 contracts included definitive contracts, purchase orders, and indefinite delivery contracts. We selected contracts awarded during those fiscal years because that was the timeframe of the Hotline complaint that initiated this audit. See Appendix B for a complete list of contracts reviewed.

Review of Internal Controls

DoD Instruction 5010.40, “Managers’ Internal Control Program Procedures,” May 30, 2013, 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. We identified internal control weaknesses in MCSC contracting officers’ monitoring of subcontracting plans. Specifically, MCSC contracting officers did not support determinations to award contracts without subcontracting plans and did not effectively administer contracts with subcontracting plans. In addition, MCSC contracting officials could not locate the contract file for 5 of the 40 contracts we initially requested for review. We will provide a copy of the report to the senior official responsible for internal controls at MCSC.

Finding A

Adequate Opportunity Generally Provided

MCSC contracting officials generally provided small businesses an adequate opportunity to compete for 40 prime contracts, valued at \$1.3 billion. Specifically, MCSC contracting officials provided:

- adequate opportunities for small businesses to compete by conducting market research or advertising the solicitations for 21 contracts, valued at \$1.2 billion; and
- justifications for sole-source awards for 16 contracts, valued at \$79.4 million.

However, MCSC contracting officials overlooked the opportunity to consider setting aside two contracts for small businesses, and they did not prepare adequate documentation to support their decision to exclude small businesses from competition for one contract. We found no indication that those were systemic problems; therefore, we are not making recommendations.

Additionally, MCSC contracting officials could not find the contract file for 5 of the 40 contracts we initially requested for review. This occurred because MCSC contracting office management did not have procedures for transferring files for ongoing contracts from one contracting officer to another and did not designate a centralized location for storing contract files. As a result, MCSC contracting officials cannot provide assurance that the Government's interests or contractor proprietary data were protected.

Small Businesses Had Opportunities to Compete for Contracts

MCSC contracting officials provided small businesses an adequate opportunity to compete for 21 contracts, valued at \$1.2 billion.

MCSC contracting officials provided small businesses an adequate opportunity to compete for 21 contracts, valued at \$1.2 billion. Specifically, MCSC contracting officials used market research as a method for determining whether small businesses were capable of performing the work and advertised the solicitations on procurement websites. Therefore, we did not substantiate the Hotline allegation that MCSC senior leadership did not ensure that small businesses were awarded a sufficient number of contracts.

MCSC Effectively Conducted Market Research

MCSC contracting officials conducted market research on all 21 competed contracts. The Federal Acquisition Regulation (FAR)¹ states agencies must conduct market research appropriate to the circumstances before soliciting offers for acquisitions with an estimated value in excess of the simplified acquisition threshold (\$150,000).

As part of market research, MCSC contracting officials sent out requests for information (RFIs) to identify companies that were capable of providing services. Both small and large businesses responded to the RFI. The contracting officials and the Small Business representative made a determination whether the small businesses demonstrated that they possessed the knowledge and capabilities to perform the requirement.

For example, for contract M67854-11-D-5028, valued at \$15.2 million, MCSC contracting officials received 11 responses to the RFI—3 from small businesses and 8 from large businesses. The FAR² requires a contracting officer to set aside any acquisition over \$150,000 for small business participation when there is reasonable expectation that offers will be obtained from at least two responsible small businesses. MCSC contracting officials determined that the small businesses that responded to the RFI did not demonstrate their technical ability to fulfill the requirement. Therefore, MCSC contracting officials concluded it was not likely to receive two or more proposals from capable small businesses and did not set aside the procurement for small businesses.

For contract M67854-13-D-5034, valued at \$18.6 million, MCSC contracting officials posted the RFI on Navy Electronic Commerce Online and Federal Business Opportunities. The RFI was issued as a primary means of conducting market research in support of Marine Corps Arctic Operations. Through interactions with industry, MCSC aimed to identify several potential sources capable of addressing the availability, design, and performance capabilities of extreme cold weather shelters. Nine contractors responded to the RFI, and discussion items were addressed with each respondent. MCSC contracting officials could not determine whether two or more capable small business concerns existed that would support the use of a small business set-aside. Therefore, they did not set aside the procurement for small businesses.

¹ FAR Part 10, "Market Research," 10.001, "Policy."

² FAR Part 19, "Small Business Programs," Subpart 19.5, "Set Asides for Small Business," 19.502-2, "Total Small Business Set-Asides."

MCSC Advertised the Solicitations for Potential Contracts



MCSC contracting officials advertised the solicitations for 21 contracts on procurement websites such as Navy Electronic Commerce Online or Federal Business Opportunities. MCSC contracting officials advertised all 21 solicitations as full and open competition without restrictions.

For example, MCSC contracting officials competed a requirement to serve as an integrator to assemble the fiber optic cable assemblies under contract M67854-13-D-2440.

After determining that the contract could not be a small business set-aside, contracting officials competed the requirement as a full and open competition on Federal Business Opportunities for 54 days. Three large businesses and no small businesses responded to the solicitation.

MCSC Properly Justified Sole-Source Contracts

MCSC contracting officials awarded 16 contracts, valued at \$79.4 million, as sole-source contracts to large businesses after determining only one responsible source could meet the agency's requirements. Therefore, the contracts could not be awarded to small businesses. The FAR³ permits contracting without providing for full and open competition when only one responsible source exists and no other supplies or services will satisfy agency requirements. MCSC contracting officials prepared sole source justifications supporting the rationale for awarding the 16 contracts as sole source contracts to other than small businesses.

MCSC Overlooked Small Business Set-Aside Opportunities for Two Contracts

MCSC contracting officials overlooked the opportunity to consider setting aside two contracts for small businesses. However, we determined that this was not a systemic problem; therefore, we are not making a recommendation. In FY 2011, MCSC contracting officials intended to award two contracts from the General Services Administration Federal Supply Schedules. MCSC contracting officials did not set-aside this requirement for a small business and decided to compete the two contracts among both small and large businesses on the Federal Supply Schedules.

³ FAR Part 6, "Competition Requirements," Subpart 6.3, "Other Than Full and Open Competition," 6.302, "Circumstances Permitting Other Than Full and Open Competition."

However, when the MCSC contracting officers received the proposals, they realized the required items were not on the vendors' Federal Supply Schedules. Therefore, the MCSC contracting officials decided not to use the Federal Supply Schedules, and contracting officials should have set aside the awards for small businesses. One contracting officer agreed that she should have set the award aside for small businesses, but she said it did not occur to her at the time. In November 2011, the FAR was amended to expressly permit small business set-asides for Federal Supply Schedule orders.⁴ Therefore, this problem should not occur in the future.

MCSC Decision Not to Set-Aside a Contract for Small Businesses Was Not Supported

An MCSC contracting official did not support her decision not to set aside contract M67854-13-P-4002, valued at \$23,977, for a small business. Specifically, the Small Business Coordination Record indicated the contract would be set aside for small businesses; however, the contracting officer did not restrict the competition to small businesses. An MCSC contract specialist explained the Small Business Coordination Record was incorrect and should have stated that the contract would not be a small business set-aside. She stated she did not want the contract to be a small business set-aside because it included a logistics support requirement⁵ that she did not believe small businesses could perform effectively. However, the documentation in the contract file did not support the contracting official's rationale for not setting the contract aside for small businesses. We determined that this was not a systemic problem; therefore, we are not making a recommendation.

MCSC Provided Small Businesses Opportunities to Compete

MCSC contracting officials appropriately considered small businesses for 37 of the 40 contracts reviewed.

MCSC contracting officials appropriately considered small businesses for 37 of the 40 contracts reviewed. MCSC contracting officials provided small businesses the opportunity to compete for 21 prime contracts by conducting market research and advertising on different websites, such as Federal Business Opportunities and Navy Electronic Commerce Online. MCSC contracting officials also justified awarding 16 contracts as sole

⁴ In 2011, FAR subpart 8.4 was amended, implementing provisions of the Small Business Jobs Act of 2010, Pub L. 111-240, to make clear that order set-asides may be used in connection with the placement of orders and blanket purchase agreements under Federal Supply Schedules.

⁵ The contract included 5 years of onsite support.

source. MCSC contracting officials did not support their decision not to award three contracts as small business set-asides; however, we determined that this was not a systemic problem; therefore, we are not making recommendations.

MCSC Could Not Locate Contract Files We Requested for Review

MCSC contracting officials could not find the contract file for 5 of the 40 contracts we initially requested for review.

MCSC contracting officials could not find the contract file for 5 of the 40 contracts we initially requested for review.

The FAR⁶ states that contracts at or below the simplified acquisition threshold (\$150,000) for other than construction should be retained for 3 years after final payment and contracts above the simplified acquisition threshold should be retained for 6 years and 3 months after final payment. The MCSC Closeout Desk Guide requires the contracting office to hold completed contract files for 12 months after contract closeout, and then to send the contract files to a local storage area.

We reviewed contract information from the Electronic Document Access system for those five contracts and determined that four of the five contracts were recently completed and should be held in storage at an MCSC facility. The following table lists the missing contracts and their values.

Table. Missing Contract Files

Contract Number	Contract Value (Base & Options)
M67854-11-C-9021	\$258,660.20
M67854-12-P-4190	81,480.00
M67854-11-P-5130	102,910.79
M67854-12-P-1021	99,533.90
M67854-11-P-5073*	96,255.00

* The contract was outside of the FAR record retention period and MCSC contracting officials were not required to keep it. However, MCSC contracting officials did not know how it was disposed of.

We replaced the five missing contracts with five other contracts.

⁶ FAR Part 4, "Administrative Matters," Subpart 4.8, "Government Contract Files," 4.805, "Storage, Handling, and Disposal of Contract Files."

MCSC contracting office management did not establish procedures for transferring files for ongoing contracts from one contracting officer to another. The MCSC Assistant Commander for Contracts explained that, when a contracting officer leaves the organization, the contracting officer's replacement was expected to take the file. The MCSC Assistant Commander for Contracts should establish procedures for transferring files for ongoing contracts from one contracting officer to another.

In addition, MCSC contracting office leadership did not designate a centralized storage location for completed contract files. The Office of the Deputy Assistant Secretary of the Navy (Acquisition and Logistics Management) conducted an external Procurement Performance Management Assessment Program (PPMAP) on MCSC in July 2009, and identified the need for additional contract file storage space. The MCSC Assistant Commander for Contracts should establish a local centralized storage area for all completed contracts to include contracts awaiting disposal.

MCSC contracting management was aware of the missing contract file issue, and that MCSC internal policy required a centralized storage location. Therefore, MCSC senior officials are aware they have a systemic problem with missing contract files, and they did not protect proprietary information from potentially unauthorized disclosure and did not protect the Government's interests. Specifically, by not maintaining the contracting files, MCSC contracting officials are unable to provide contracting information for reviews and investigations and are unable to furnish essential facts in the event of litigation.

Recommendations, Management Comments, and Our Response

We recommend that the Assistant Commander for Contracts, Marine Corps Systems Command:

Recommendation A.1

Establish procedures for transferring files for ongoing contracts from one contracting officer to another.

Marine Corps Comments

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, agreed, stating a policy for transferring contracts from one contracting officer to another, requiring both contracting officers' signatures, has been drafted and will be finalized by December 2015.

Recommendation A.2

Establish a local centralized storage location for all completed contracts to include contracts awaiting disposal.

Marine Corps Comments

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, agreed, stating interim guidance on securing contract files that contain source selection data was implemented in a policy letter on September 25, 2015. The estimated completion date for this recommendation is January 2017.

Our Response

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, fully addressed the specifics of the recommendations, and no further comments are required.

Finding B

MCSC Did Not Ensure Subcontracting Opportunities Were Provided for Small Businesses

MCSC contracting officials did not ensure prime contractors provided small businesses with adequate subcontracting opportunities for 12 (valued at \$222.1 million) of 19 prime contracts (valued at \$1.3 billion) reviewed.

Specifically, MCSC contracting officials:

- did not track compliance with small business subcontracting goals for four contracts with individual subcontracting plans,
- did not determine why large businesses were not meeting their small business subcontracting goals on two ongoing contracts with individual subcontracting plans, and
- awarded six contracts without subcontracting plans or the required determination and approval.

In addition, MCSC contracting officials awarded two prime contracts, valued at \$421.9 million, with commercial subcontracting plans⁷ without verifying whether the plans had been approved by a contracting officer.

Those conditions occurred because MCSC contracting management did not provide adequate internal guidance for awarding contracts with subcontracting plans and for administering subcontracting plans. Additionally, MCSC contracting management did not implement effective internal review procedures for approving and administering subcontracting plans.

As a result, small businesses may have been denied subcontracting opportunities that large business were required to make a good faith effort to provide. In addition, MCSC contracting officials have not been determining whether the prime contractors are making good-faith efforts to comply with negotiated subcontracting goals and whether liquidated damages⁸ should be assessed.

⁷ FAR 19.701 defines a commercial plan as, "a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line)." In this report, we refer to commercial plans as commercial subcontracting plans.

⁸ FAR 19.705-7 states that when a contractor does not make a good faith effort to comply with a subcontracting plan, the contractor will pay liquidated damages equal to the amount by which the contractor failed to achieve its subcontracting goals.

MCSC Did Not Comply With Requirements for Subcontracting Plans

MCSC contracting officials did not ensure prime contractors provided small businesses with adequate subcontracting opportunities. Specifically, MCSC contracting officials:

- did not track compliance with small business subcontracting goals for four contracts with individual subcontracting plans,
- did not determine why large businesses were not meeting their small business subcontracting goals on two ongoing contracts with individual subcontracting plans,
- awarded six contracts without subcontracting plans or the required determination and approval, and
- awarded two prime contracts with commercial subcontracting plans without verifying whether the plans had been approved by a contracting officer.

Compliance with Small Business Subcontracting Goals Not Tracked for Four Contracts

MCSC contracting officials did not track compliance with small business subcontracting goals for four contracts awarded to large businesses, valued at \$65.0 million, with individual subcontracting plans. The FAR⁹ defines an individual contract plan¹⁰ as, “a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s planned subcontracting in support of the specific contract.” The FAR¹¹ requires contractors to submit Individual Subcontracting Reports (ISRs) to the Electronic Subcontract Reporting System (eSRS) every 6 months for contracts with individual subcontracting plans. The ISRs show whether the contractor is meeting its subcontracting goals for the contract. MCSC contracting officials did not ensure the contractor submitted ISRs to eSRS for the following four contracts.

MCSC contracting officials did not track compliance with small business subcontracting goals for four contracts awarded to large businesses, valued at \$65.0 million, with individual subcontracting plans.

⁹ FAR Part 19, “Small Business Programs,” Subpart 19.7, “The Small Business Subcontracting Program,” 19.701, “Definitions.”

¹⁰ In this report, we refer to individual contract plans as individual subcontracting plans.

¹¹ FAR Part 19, “Small Business Programs,” Subpart 19.7, “The Small Business Subcontracting Program,” 19.704, “Subcontracting Plan Requirements.”

- **Contract M67854-13-D-5005.** MCSC contracting officials did not properly monitor contract M67854-13-D-5005. MCSC contracting officials awarded the contract on May 30, 2013, with a total price of \$11.4 million. The contractor submitted an individual subcontracting plan which stated the contractor intended to subcontract about \$3.1 million to small businesses. However, we found no record of any ISRs for the contract in eSRS. When we asked the contracting officer why he had not ensured the contractor submitted ISRs to eSRS, he stated that administration of the contract had been delegated to an administrative contracting officer, and he believed the administrative contracting officer was responsible for ensuring that the contractor submitted the ISRs. However, the FAR¹² states it is the responsibility of the contracting officer who approved the subcontracting plan to acknowledge or reject ISRs in eSRS. Therefore, no one determined whether the contractor met its goal to subcontract \$3.1 million to small businesses.
- **Contract M67854-12-C-0030.** MCSC contracting officials did not properly monitor contract M67854-12-C-0030. MCSC contracting officials awarded the contract on August 27, 2012, valued at \$7.6 million. The contract included an individual subcontracting plan which required the contractor to submit ISRs to eSRS. In November 2014, the contractor submitted an ISR directly to the contracting officer without submitting it to eSRS. In November 2014, the MCSC contracting officer asked the contractor why the report was not submitted to eSRS. However, the contracting officer did not follow up to get that explanation until we asked questions in April 2015 during the audit. The contractor explained that another company had erroneously claimed the contract number in eSRS, which prevented the contractor from submitting the ISRs. While the contractor's explanation was reasonable, the contracting officer should have obtained the explanation and attempted to resolve the eSRS error before being prompted to do so by our audit.
- **Contract M67854-13-D-2440.** MCSC contracting officials miscoded contract M67854-13-D-2440 in FPDS-NG, which prevented the contractor from submitting ISRs. MCSC contracting officials awarded the contract on June 27, 2013, with a not-to-exceed value of \$45 million. The contractor submitted an individual subcontracting plan which stated the contractor intended to subcontract \$4.5 million to small businesses. However, we found no record of any ISRs for the contract in eSRS. We determined there were no ISRs because the contract action report erroneously indicated no subcontracting plan was required for the contract. Specifically, the "Subcontract Plan" field on the contract action

¹² FAR Part 19, "Small Business Programs," Subpart 19.7, "The Small Business Subcontracting Program," 19.705, "Responsibilities of the Contracting Officer Under the Subcontracting Assistance Program," 19.705-6, "Postaward Responsibilities of the Contracting Officer."

report directly affects the contractor’s ability to submit reports to eSRS. If the contract action report indicated a plan was not required, then the contractor would be unable to upload ISRs into eSRS for the contract.

- **Contract M67854-13-C-5037.** MCSC contracting officials did not include FAR clause 52.219-9, “Small Business Subcontracting Plan,” which requires contractors to upload ISRs to eSRS, in contract M67854-13-C-5037. MCSC contracting officials awarded the contract on July 8, 2013, valued at \$1 million. The contractor submitted a subcontracting plan. However, we found no record of any ISRs for the contract in eSRS. The contracting officer stated that FAR clause 52.219-9 was inadvertently omitted from the request for proposal. The MCSC contracting officer is preparing a modification to incorporate the FAR clause into the contract.

...we substantiated the allegation that MCSC contracting officials did not hold large prime contractors accountable for meeting small business subcontracting goals.

Therefore, we substantiated the allegation that MCSC contracting officials did not hold large prime contractors accountable for meeting small business subcontracting goals. If the contractors did not meet their subcontracting goals and did not make a good-faith effort to do so, MCSC may be entitled to liquidated damages. The MCSC Assistant Commander for Contracts should require the contractors to submit ISRs in eSRS for contracts M67854-13-D-5005, M67854-12-C-0030, M67854-13-D-2440, and

M67854-13-C-5037. If the ISRs show the contractors did not meet the contract’s subcontracting goals, the MCSC Assistant Commander for Contracts should initiate a review to determine whether the contractor made a good faith effort to meet its subcontracting goals, and if not, whether liquidated damages may be imposed against the contractor.

Contracting Officials Did Not Hold Prime Contractors Accountable for Meeting Subcontracting Goals for Two Contracts

MCSC contracting officials did not determine why large businesses were not meeting their small business subcontracting goals on two ongoing contracts, valued at \$60.9 million,¹³ with individual subcontracting plans. The FAR¹⁴ states:

if, at completion of the basic contract or any option, . . . a contractor has failed to meet its subcontracting goals, the contracting officer shall review all available information for an indication that the contractor has not made a good faith effort to comply with the plan.

MCSC contracting officials did not determine why large businesses were not meeting their small business subcontracting goals on two ongoing contracts...

- **Contract M67854-11-D-3024.** MCSC contracting officials did not ensure that the contractor made a good-faith effort to meet its subcontracting goals for contract M67854-11-D-3024. MCSC contracting officials awarded the contract on March 24, 2011, with a not-to-exceed value of \$53.5 million, and a period of performance of 5 years. The contractor submitted an individual subcontracting plan which stated the contractor intended to subcontract about \$19 million to small businesses. However, the contractor submitted ISRs which showed it only subcontracted about \$1.3 million to small businesses during the first 3.5 years of the contract. The MCSC contracting officer stated she had not contacted the contractor to determine why it was not meeting its goals. As a result of our audit, she contacted the contractor and requested that the contractor either provide assurance it would meet its subcontracting goals by the end of the contract period of performance or provide an explanation for why it cannot meet the goals. If the contractor is unable to show it made a good-faith effort to meet its goals, it may have to pay liquidated damages to the Government.
- **Contract M67854-13-C-0201.** MCSC contracting officials did not ensure the contractor made a good-faith effort to meet its subcontracting goals for contract M67854-13-C-0201. MCSC contracting officials awarded the contract on September 27, 2013, valued at \$7.3 million, with a period of performance of 15 months. The contractor submitted an individual subcontracting plan that showed the contractor intended to subcontract

¹³ Difference due to rounding.

¹⁴ FAR Part 19, "Small Business Programs," Subpart 19.7, "The Small Business Subcontracting Program," 19.705, "Responsibilities of the Contracting Officer Under the Subcontracting Assistance Program," 19.705-7, "Liquidated Damages."

approximately \$31,000 to small businesses during the first 12 months of the contract. However, after the first 12 months, the contractor submitted an ISR stating it had only subcontracted about \$8,000 to small businesses. The contracting officer did not know why the contractor had fallen short of its goals, but subsequently asked the contractor for an explanation. The contractor stated that the accounting method it used for material purchases did not allow it to track materials to individual contracts. In addition, the workload for the contract was less than anticipated.

The MCSC Assistant Commander for Contracts should determine whether the contractors for contracts M67854-11-D-3024 and M67854-13-C-0201 made a good-faith effort to meet the subcontracting goals in their subcontracting plans, and if not, whether liquidated damages may be imposed against the contractor.

MCSC Contracting Officials Did Not Obtain Approvals for Six Contracts That Did Not Have Subcontracting Plans

MCSC contracting officials awarded six contracts, valued at \$96.3 million, without subcontracting plans or the required determination and approval to not have a subcontracting plan. The FAR¹⁵ requires a subcontracting plan for contracts exceeding \$650,000, unless the contracting officer makes a determination that no subcontracting possibilities exist, obtains approval of this determination at a level above the contracting officer, and places the approval in the contract file. MCSC contracting officials awarded those six contracts¹⁶ without subcontracting plans or approval at a level above the contracting officer that no subcontracting possibilities existed.

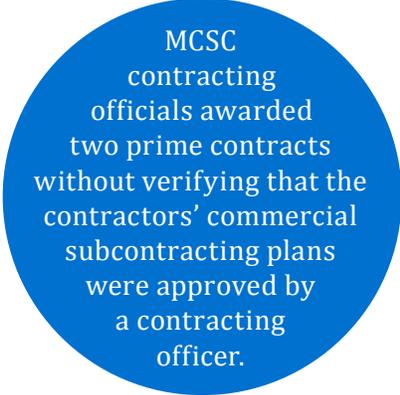
For example, an MCSC contracting officer could not remember how she determined that no subcontracting possibilities existed for contract M67854-13-D-4033. The MCSC contracting officer awarded the contract on September 26, 2013, for \$64.4 million. Documentation in the contract file indicated a subcontracting plan would be required for the contract; but, the contracting officer ultimately awarded the contract without requiring a subcontracting plan. The contracting officer did not include documentation in the contract file justifying why a subcontracting plan was not required or an approval at a level above the contracting officer.

¹⁵ FAR 19, "Small Business Programs," Subpart 19.7, "The Small Business Subcontracting Program," 19.705-2, "Determining the Need for a Subcontracting Plan."

¹⁶ The six contracts are; M67854-11-C-0205, M67854-11-C-1007, M67854-11-D-5028, M67854-11-C-4798, M67854-13-D-4033, and M67854-13-C-4110.

MCSC Did Not Verify That Two Commercial Subcontracting Plans Were Approved

MCSC contracting officials awarded two prime contracts without verifying that the contractors' commercial subcontracting plans were approved by a contracting officer. The FAR¹⁷ defines a commercial plan as, "a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof." Contracts awarded under commercial subcontracting plans do not require the contractor to report on subcontracting activities for a specific contract. The contractor is required to submit one Summary Subcontracting Report for all contracts covered by the commercial subcontracting plan at the end of the fiscal year. The Summary Subcontracting Reports must be reviewed by the contracting officer who approved the plan.



MCSC contracting officials awarded two prime contracts without verifying that the contractors' commercial subcontracting plans were approved by a contracting officer.

- **Contract M67854-12-D-5504.** MCSC contracting officials did not verify that the contractor had an approved subcontracting plan for contract M67854-12-D-5504. MCSC contracting officials awarded the contract on November 18, 2011. The contractor's proposal included a commercial subcontracting plan for calendar year 2011, and the proposal stated the contractor had also submitted the commercial subcontracting plan to a contracting officer at the U.S. Army Communications–Electronics Command for an Army contract. The proposal stated, "If the U.S. Army has not approved the plan, our understanding is that acceptance under this RFP [request for proposal] will make the plan applicable to all current [contractor] contracts as well as any subsequent awards while the plan is in effect." We contacted the Army contracting officer, who stated she did not approve the plan. The contractor submitted Summary Subcontracting Reports in eSRS for FY 2013 and FY 2014 that were acknowledged by two U.S. Army Contracting Command contracting officers.¹⁸ However, there was no Summary Subcontracting Report for FY 2012 in eSRS for the contractor.
- **Contract M67854-13-C-5048.** MCSC contracting officials did not verify that the contractor had an approved subcontracting plan for contract M67854-13-C-5048, awarded on July 9, 2013. The contractor's proposal stated the contractor had an approved commercial subcontracting plan for

¹⁷ FAR Part 19, "Small Business Programs," Subpart 19.7, "The Small Business Subcontracting Program," 19.701, "Definitions."

¹⁸ The contracting officers moved from the U.S. Army Communications-Electronics Command to the U.S. Army Contracting Command.

calendar year 2013. However, MCSC contracting officials did not obtain a copy of the approved plan from the contractor, as required by the FAR,¹⁹ or determine which contracting officer approved the plan. Therefore, MCSC was not certain the contractor had an approved commercial subcontracting plan when it awarded the contract. There were no Summary Subcontracting Reports in eSRS for the contractor for FY 2013 or FY 2014.

The MCSC Assistant Commander for Contracts should obtain copies of approved commercial subcontracting plans before considering those plans when awarding contracts which require subcontracting plans. In addition, the MCSC Assistant Commander for Contracts should modify the Contract File Checklist to include steps to verify that contracts exceeding \$650,000 without subcontracting plans are approved at a level above the contracting officer.

MCSC Internal Guidance for Awarding and Administering Contracts with Subcontracting Plans Was Not Adequate

MCSC contracting office management did not provide MCSC contracting officers adequate internal guidance for awarding contracts with subcontracting plans. Specifically, management provided an assortment of documents including a subcontracting plan checklist, PowerPoint presentations, a subcontracting plan reference guide, and a contract file checklist that were not consolidated into an overall policy and included some out-of-date information. For example, the FAR requirement to approve the determination that no subcontracting possibilities exist at a level above the contracting officer and place the approval in the contract file was not included in the contract file checklist. The contract file checklist is the document contracting officers are most likely to review when preparing the contract file. In addition, some of the documents stated subcontracting plans are required for contracts exceeding \$550,000, a threshold raised to \$650,000 in December 2010.

MCSC contracting office management did not provide adequate guidance on administering subcontracting plans. MCSC's internal guidance did not state ISRs are to be reviewed and accepted in eSRS by the contracting officer who approved the plan. One of the contracting officers mistakenly believed it was the responsibility of the administrative contracting officer to review the ISRs. Another contracting officer told us she relies on notifications from eSRS to alert her when a contractor submits an ISR for any of her contracts to eSRS. However, this method

¹⁹ FAR Part 19, "Small Business Programs," Subpart 19.7, "The Small Business Subcontracting Program," 19.704, "Subcontracting Plan Requirements."

relies on the contractor to submit the ISR when required and also to correctly enter the contracting officer's e-mail address on the ISR. In addition, MCSC's internal guidance did not instruct contracting officers on what to do if the ISRs showed the contractor was not meeting its small business subcontracting goals. The MCSC Assistant Commander for Contracts should establish guidance for contracting officers for reviewing, approving, and administering subcontracting plans and to verify the contractors submit the required subcontracting reports to eSRS. In addition, the MCSC Assistant Commander for Contracts should train contracting officials on their FAR subpart 19.7 responsibilities for evaluating and administering subcontracting plans.

Internal Review Procedures For Administering Subcontracting Plans Were Not Effective

MCSC contracting office management did not implement effective internal review procedures for approving and administering subcontracting plans. MCSC has two primary internal review procedures. The first is the Internal Business Assessment (IBA), which is self-assessment approach designed to ensure that the procurement function is being properly executed within the contracting organization. Each of MCSC's 12 components performs this review semiannually using the Contract Review Checklist. The other internal review is the PPMAP, a self-assessment approach conducted periodically on the contracting offices to continuously assess and improve the contracting competency, validate the results of the IBAs, and ensure IBAs are being conducted as required. The MCSC Business Operations component conducts a PPMAP for each of the other components once every 3 years.

The IBA and PPMAP procedures (including the IBA Contract Review Checklist) did not include steps to ensure that contracts exceeding \$650,000 without subcontracting plans were approved at a level above the contracting officer or steps to ensure contracting officers monitored ISRs. The MCSC Assistant Commander for Contracts should add steps to the IBA Contract Review Checklist to verify contracts exceeding \$650,000 without subcontracting plans are approved at a level above the contracting officer, and to include steps to verify that contracting officers ensure that contractors submit ISRs to eSRS when required.

Opportunities to Recoup Liquidated Damages May Have Been Missed

Small businesses may not have received subcontract work which large businesses were required to make a good faith effort to provide them. In addition, when contracting officials did not obtain ISRs or did not follow up on ISRs that showed

the contractor was not meeting its small business subcontracting goals, contracting officials did not determine whether the prime contractors made a good-faith effort to comply with negotiated subcontracting goals. A contractor's failure to make a good-faith effort to comply with negotiated subcontracting goals can result in the contracting officer assessing liquidated damages.

MCSC Was Not Required to Monitor Compliance with Commercial Subcontracting Plans for Four Contracts

MCSC contracting officials were not required to monitor the subcontracting activities for four prime contracts to contractors with approved commercial subcontracting plans. The General Services Administration contracting officers approved the commercial subcontracting plans for those four contracts.²⁰

MCSC Properly Monitored One Contract with an Individual Subcontracting Plan

MCSC contracting officials awarded one contract, valued at \$300.5 million, with an individual subcontracting plan and properly monitored compliance with that plan. The FAR²¹ states subcontracting plans are required for contracts exceeding \$650,000 when subcontracting possibilities exist. The FAR²² states that subcontracting plans must include percentage goals for using small businesses as subcontractors and a statement of the total dollars planned to be subcontracted and total dollars to be subcontracted to small businesses. The FAR²³ also states that contracting officers are responsible for evaluating and accepting the subcontracting plans. MCSC contracting officials awarded contract M67854-13-D-0214 on May 30, 2013. The contractor submitted an individual subcontracting plan which stated it would subcontract about \$500,000 to small businesses. During the performance of the contract, the contractor submitted an ISR to eSRS showing the contractor awarded over \$1.5 million in subcontracts to small businesses, far exceeding its small business subcontracting goal. The contracting officer reviewed and accepted the report in eSRS. Therefore, for this contract, the contracting officer ensured the contractor met its small business subcontracting goals.

²⁰ The four contracts are; M67854-13-D-5034, M67854-12-C-6001, M67854-12-D-5503, and M67854-13-C-4950.

²¹ FAR Part 19, "Small Business Programs," Subpart 19.7, "The Small Business Subcontracting Program," 19.702, "Statutory Requirements."

²² FAR Part 19, "Small Business Programs," Subpart 19.7, "The Small Business Subcontracting Program," 19.704, "Subcontracting Plan Requirements."

²³ FAR Part 19, "Small Business Programs," Subpart 19.7, "The Small Business Subcontracting Program," 19.705, "Responsibilities of the Contracting Officer Under the Subcontracting Assistance Program," 19.705-4, "Reviewing the Subcontracting Plan."

Recommendations, Management Comments, and Our Response

We recommend that the Assistant Commander for Contracts, Marine Corps Systems Command:

Recommendation B.1

Require the contractors to submit individual subcontracting reports in the Electronic Subcontracting Reporting System for contracts M67854-13-D-5005, M67854-12-C-0030, M67854-13-D-2440, and M67854-13-C-5037. If the individual subcontracting reports show the contractors did not meet the contract's subcontracting goals, determine whether the contractor made a good-faith effort to meet its subcontracting goals, and if not, whether liquidated damages may be imposed against the contractor.

Marine Corps Comments

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, agreed, stating the contracting officers have been tasked to require the contractors to submit individual subcontracting reports in eSRS. If the individual subcontracting reports show the contractors did not meet the respective contract's subcontracting goals, a determination of liquidated damages will be made and appropriate action taken. The estimated completion date for this recommendation is April 2016.

Recommendation B.2

Determine whether the contractors for contracts M67854-11-D-3024 and M67854-13-C-0201 made a good-faith effort to meet the small business subcontracting goals in their subcontracting plans, and if not, determine whether liquidated damages may imposed against the contractor.

Marine Corps Comments

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, agreed, stating the contracting officers have been tasked to review the subcontracting plan submitted by the contractor and to make a determination on liquidated damages and take appropriate action. The estimated completion date for this recommendation is April 2016.

Recommendation B.3

Obtain copies of approved commercial subcontracting plans before considering those plans when awarding contracts which require subcontracting plans.

Marine Corps Comments

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, agreed, stating training on the requirements of FAR 19.705-5 will be provided to contracting personnel by November 2015.

Recommendation B.4

Modify the Contract File Checklist to include steps to verify that contracts exceeding \$650,000²⁴ without subcontracting plans are approved at a level above the contracting officer.

Marine Corps Comments

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, agreed, stating the contract file checklist will be modified. The estimated completion date for this recommendation is November 2015.

Recommendation B.5

Establish guidance for contracting officers for reviewing, approving, and administering subcontracting plans, and to verify contractors submit the required subcontracting reports to the Electronic Subcontracting Reporting System.

Marine Corps Comments

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, agreed, stating the MCSC Office of Small Business Programs will establish policy requiring use of the subcontracting checklist by January 2016. Additionally, the MCSC Office of Small Business Programs will provide training to the required personnel on reviewing, approving, and administering subcontracting plans, and verifying contractors submit the required reports in eSRS. The estimated completion date for this recommendation is September 2016.

²⁴ The threshold was increased to \$700,000 on October 1, 2015.

Recommendation B.6

Train contracting officials on their Federal Acquisition Regulation subpart 19.7 responsibilities for evaluating and administering subcontracting plans.

Marine Corps Comments

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, agreed, stating the MCSC Office of Small Business Programs will provide training on contracting personnel's responsibilities based on FAR subpart 19.7 by September 2016.

Recommendation B.7

Modify the Internal Business Assessment Contract Review Checklist to include steps to verify that contracts exceeding \$650,000 without subcontracting plans are approved at a level above the contracting officer, and to include steps to verify that contracting officers ensure contractors submit individual subcontracting reports to the Electronic Subcontracting Reporting System when required.

Marine Corps Comments

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, agreed, stating the IBA checklist will be modified to include the required approval for actions exceeding the threshold and actions without subcontracting plans. The estimated completion date for this recommendation is November 2015.

Our Response

The Head, Audit Coordination, Office of the Director, Marine Corps Staff, responding for the Assistant Commander for Contracts, MCSC, fully addressed the specifics of the recommendations, and no further comments are required.

Appendix A

Scope and Methodology

We conducted this performance audit from February 2015 through September 2015 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our objective was to determine whether MCSC provided small businesses adequate opportunity to be awarded prime contracts and whether they were holding prime contractors accountable for meeting small business subcontracting goals.

The audit universe consisted of 208 contracts (valued at \$2.8 billion) that MCSC contracting officials awarded to other than small businesses in FYs 2011, 2012, and 2013. We reviewed a nonstatistical sample of 40 contracts²⁵, valued at \$1.3 billion. The 40 contracts consisted of 10 indefinite-delivery contracts, 16 definitive contracts, and 14 purchase orders.

Work Performed

We collected, reviewed, and analyzed documents for the 40 contracts to determine whether MCSC contracting officials provided small businesses adequate opportunities to be awarded prime contracts and whether MCSC held prime contractors accountable for meeting small business subcontracting goals. We reviewed documentation dated between October 2006 and July 2015.

Review of Opportunities Provided to Small Businesses

To determine whether MCSC met small business contracting goals, we:

- interviewed MCSC personnel to determine how they established their small business prime and subcontracting goals, whether they met those goals, and how they made that determination, and
- reviewed the accuracy of FPDS–NG data for the MCSC contracts because MCSC officials relied on data from FPDS–NG to track how well they met their small business goals.

²⁵ Of the 40 contracts we originally requested, MCSC was unable to locate the contract files for 5 of them. We selected 5 new contracts to replace the 5 missing contracts.

To determine whether MCSC provided small business an adequate opportunity to be awarded prime contracts, we reviewed documents from contract files, including:

- solicitations;
- Small Business Coordination Records;
- market research;
- business clearance memorandums;
- justifications for other than full and open competition;
- System for Award Management (SAM) information; and
- FPDS-NG Contract Action Reports.

Review of Subcontracting Plans

To determine whether MCSC monitored compliance with small business subcontracting goals, we reviewed 19 prime contracts (valued at \$1.3 billion) that exceeded \$650,000. We reviewed contractor proposals, Small Business Coordination Records, and business clearance memorandums. In addition, we interviewed MCSC contracting officials, and obtained subcontracting reports from eSRS.

We interviewed key MCSC personnel at Marine Corps Base Quantico, Virginia, to understand their roles and responsibilities related to the contract awards. Those interviewed included, the head of contracting, contracting officers, and contract specialists.

We reviewed the following sections of the FAR relevant to our audit objectives.

- FAR Part 4, “Administrative Matters,” establishes policies and procedures relating to the administrative aspects of contract execution.
- FAR Part 6, “Competition Requirements,” addresses competition requirements and situations where contracts can be awarded without full and open competition.
- FAR Part 8, “Required Sources of Supplies and Services,” addresses prioritizing sources of supplies and services for use by the Government.
- FAR Part 10, “Market Research,” addresses when and how contracting officials should conduct market research.
- FAR Part 19, “Small Business Programs,” establishes requirements for contracting officials to provide prime contracting opportunities and subcontracting opportunities for small businesses.
- FAR Clause 52.219-9, “Small Business Subcontracting Plan,” which requires contractors to upload ISRs to eSRS.

Use of Computer-Processed Data

We relied on computer-processed data from FPDS-NG to identify a universe of contracts to review. Specifically, we queried FPDS-NG to identify contracts awarded by MCSC. We relied on the contracting officer's business size selection field to select contracts awarded to other than small businesses. To further refine our universe, we reviewed documentation from the Electronic Document Access System and SAM²⁶ to determine whether the contracts were actually awarded to other than small businesses. Once we identified contracts that matched our criteria, we selected a nonstatistical sample of contracts to review. To assess the accuracy of computer-processed data, we compared the FPDS-NG data to documents in the contract files and to data from SAM. We identified 43 contracts that MCSC contracting officials awarded to small businesses which were miscoded in FPDS-NG as being awarded to other than small businesses. We notified MCSC contracting officials about those coding errors and they corrected them in FPDS-NG (see Appendix C for discussion of the miscoded contracts). We determined that data obtained from FPDS-NG were sufficiently reliable to accomplish our audit objectives.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO), Department of Defense Inspector General (DoD IG), Department of Commerce Inspector General, and SBA Inspector General issued six reports discussing small business contracting. Unrestricted GAO reports can be accessed at <http://www.gao.gov>. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/pubs/index.cfm>. Unrestricted Department of Commerce Inspector General reports can be accessed at <http://www.oig.doc.gov/Pages/Audits-Evaluations.aspx>. Unrestricted Small Business Administration Inspector General reports can be accessed at <http://www.sba.gov/office-of-inspector-general/863>.

GAO

Report No. GAO-14-706, "8(A) Subcontracting Limitations: Continued Noncompliance with Monitoring Requirements Signals Need for Regulatory Change," September 16, 2014

Report No. GAO-14-126, "Strategic Sourcing: Selected Agencies Should Develop Performance Measures on Inclusion of Small Business and OMB should Improve Monitoring," January 23, 2014

²⁶ SAM is a Federal Government-owned and operated website where a contractor makes several self-certifications, including self-certification of its small business status. SAM transmits contractor data to FPDS-NG, but contracting personnel must manually input the contractor's business size.

DoD IG

Report No. DODIG-2015-095, "Small Business Contracting at Regional Contracting Office-National Capital Region Needs Improvement," March 20, 2015

Report No. DODIG-2012-059, "Inadequate Controls Over the DoD Service-Disabled Veteran-Owned Small Business Set-Aside Program Allow Ineligible Contractors to Receive Contracts," February 29, 2012

Department of Commerce IG

Report No. OIG-15-033-A, "Inaccurate Reporting of Undefined Actions in the Federal Procurement Data System-Next Generation," June 19, 2015

SBA IG

SBA IG Report No. 10-08, "SBA's Efforts to Improve the Quality of Acquisition Data in the Federal Procurement Data System," February 26, 2010

Appendix B

Contracts Reviewed

Summary of Contracts Reviewed		
Contracts	Base & Options Value	Sole Source or Competed
M67854-13-D-5034	\$18,590,964.00	Competed
M67854-12-P-3004	30,000.00	Sole Source
M67854-11-P-0542	46,676.00	Sole Source
M67854-13-C-0231	33,179.30	Sole Source
M67854-12-P-1015	87,552.00	Sole Source
M67854-12-P-1022	92,573.02	Sole Source
M67854-13-P-1060	24,000.00	Competed
M67854-12-P-1071	75,000.00	Sole Source
M67854-12-D-5037	134,580.72	Competed
M67854-11-C-9055	150,000.00	Sole Source
M67854-12-C-0212	351,465.00	Sole Source
M67854-13-P-0240	650,000.00	Sole Source
M67854-13-C-5037	984,286.92	Competed
M67854-13-C-5048	988,849.92	Competed
M67854-13-D-5005	11,384,734.00	Competed
M67854-11-C-1007	3,855,530.28	Sole Source
M67854-11-C-0205	4,993,975.00	Competed
M67854-13-C-0201	7,319,039.18	Sole Source
M67854-11-D-3024	53,539,595.68	Competed
M67854-13-D-0214	300,463,149.00	Competed
M67854-13-D-2440	45,000,000.00	Competed
M67854-12-P-5505	39,000.00	Sole Source
M67854-12-C-0001	89,089.00	Sole Source
M67854-12-P-0010	93,844.00	Sole Source
M67854-13-P-2454	109,744.07	Sole Source
M67854-12-C-6001	5,439,006.96	Competed
M67854-12-C-0030	7,639,687.50	Competed
M67854-11-D-5028	15,192,221.00	Competed
M67854-12-D-5503	334,699,883.96	Competed
M67854-12-D-5504	420,897,644.00	Competed

Contracts Reviewed (cont'd)

Summary of Contracts Reviewed		
M67854-13-P-4002	23,976.84	Competed
M67854-12-P-4115	68,943.01	Competed
M67854-13-C-4110	3,297,234.43	Competed
M67854-12-C-4931	104,465.00	Competed
M67854-12-P-4020	107,815.00	Competed
M67854-12-P-4048	252,514.00	Competed
M67854-12-C-4118	320,930.00	Competed
M67854-11-C-4798	1,796,000.00	Competed
M67854-13-C-4950	16,749,000.36	Competed
M67854-13-D-4033	66,400,000.00	Sole Source
Total	\$1,322,854,261.65	

Appendix C

MCSC Miscoded Contractor Business Size in FPDS–NG

MCSC contracting officials miscoded 43 contracts, valued at \$182.9 million, of 268 contracts, valued at \$3.1 billion. Specifically, the 43 contracts were coded as being awarded to “other than small businesses” in FPDS–NG when the contracts were actually awarded to small businesses. The 268 contracts included definitive contracts, indefinite-delivery contracts, and purchase orders MCSC awarded in FYs 2011, 2012, and 2013.

FAR 4.602(a)²⁷ states that FPDS–NG provides a comprehensive web-based tool for agencies to report contract actions. The resulting data is reported to the President, the Congress, the Government Accountability Office, Federal executive agencies, and the general public. FPDS–NG provides a means of measuring and assessing the effect of Federal contracting on the extent to which small businesses are sharing in Federal contracts. MCSC contracting officials rely upon FPDS–NG to determine their small business achievements on an ongoing basis throughout the fiscal year as well as for their final fiscal year achievements.

A contractor is considered a small business for a contract if the contractor does not exceed the size standard for the contract’s North American Industry Classification System (NAICS) code. NAICS was developed under the direction and guidance of the Office of Management and Budget as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and presentation of statistical data related to the U.S. economy. The size standards are either expressed in millions of dollars or number of employees, and define how large a business can be and still qualify as a small business for Federal Government programs. Contractors self-certify if they are a small business in SAM. SAM is the primary Government repository for contractor information required for the conduct of business with the Government.

FAR 19.303²⁸ requires the contracting officer to determine the appropriate NAICS code and related small business standard and include them in solicitations above the micro-purchase threshold (\$3,000). MCSC contracting officials assigned a NAICS code for each of the 43 miscoded contracts.

²⁷ FAR Part 4, “Administrative Matters,” Subpart 4.6, “Contract Reporting,” 4.602, “General.”

²⁸ FAR Part 19, “Small Business Programs,” Subpart 19.3, “Determination of Small Business Status for Small Business Programs,” 19.303, “Determining North American Industry Classification System Codes and size standards.”

Information such as the contractors' name, address, and socioeconomic data is automatically populated from SAM into FPDS-NG. However, the contracting officials must manually select the business size in the "contracting officers business size selection field" in FPDS-NG.

FAR 4.1103²⁹ requires the contracting officer to verify that a prospective contractor is registered in SAM before awarding a contract or agreement, unless the acquisition is exempt. However, the MCSC contracting officials did not review the contractor's business size for the contract's NAICS code in SAM. Therefore they miscoded the contracts as being awarded to "other than small businesses" when they were actually awarded to a small business.

MCSC Understated Small Business Goal Achievements

MCSC contracting officials compromised the integrity of their small business contracting data and may have underreported their small business goal achievements to Congress. MCSC may also have inaccurately measured their small business contracting goals against their actual small business contract awards. This could cause MCSC to develop future small business contracting goals and initiatives based on inaccurate information.

The coding errors we identified resulted primarily from human error on the part of MCSC contracting personnel. The Federal Government relies on FPDS-NG data to measure and assess the impact of Federal procurement on the nation's economy, the extent to which awards are made to businesses in the various socioeconomic categories, and the impact of full and open competition on the acquisition process, and to address changes to procurement policy. We notified MCSC contracting officials about those coding errors and they corrected them in FPDS-NG.

²⁹ FAR Part 4, "Administrative Matters," Subpart 4.11, "System for Award Management," 4.1103, "Procedures."

Management Comments

Marine Corps Comments



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3000 MARINE CORPS PENTAGON
WASHINGTON, DC 20350-3000

IN REPLY REFER TO:
7500
DMCS-A
26 Oct 15

From: Head, Audit Coordination, Office of the Director,
Marine Corps Staff
To: Program Director, Contract Management and Payments,
Office of the Inspector General, U.S. Department of
Defense (DODIG)

SUBJ: RESPONSE TO DODIG DRAFT AUDIT REPORT D2015-D000CF-0118
.000, SMALL BUSINESS CONTRACTING AT MARINE CORPS SYSTEMS
COMMAND NEEDS IMPROVEMENT, DTD SEPTEMBER 21, 2015

Ref: (a) DODIG memorandum of September 21, 2015

Encl: (1) U.S. Marine Corps Comments

1. Official responses required by the reference are provided at the enclosure.
2. The Marine Corps appreciates the opportunity to respond to the draft audit report.




C. K. DOVE

Copy to:
OUSD (AT&L)
OUSD (C)
NAVINGEN (N11)
NAVAUDSVC
DONAA
DC, I&L
CMDR, MCSC
IGMC
OUSMCC
CL

Marine Corps Comments (cont'd)



UNITED STATES MARINE CORPS
MARINE CORPS SYSTEMS COMMAND
2200 LESTER ST
QUANTICO, VIRGINIA 22134-6050

IN REPLY REFER TO
7501.2
DCRM
21 OCT 15

From: Commander
To: Commandant of the Marine Corps (DMCS)
Subj: DEPARTMENT OF DEFENSE INSPECTOR GENERAL DRAFT
REPORT D2015 D000CF 0118 000 SMALL BUSINESS CONTRACTING
AT MARINE CORPS SYSTEMS COMMAND NEEDS IMPROVEMENT
Ref: (a) Draft DOD IG Report D2015-D000CF-0118.000

1. Marine Corps Systems Command and its affiliated Program Executive Offices have consistently met or exceeded our annual negotiated prime contracting small business goals. Since fiscal year 2009 the Command has obligated over \$5 billion of our total contract obligations to small businesses. We have reviewed the referenced draft report and concur with all auditor recommendations.

a. Recommendation A.1 Establish procedures for transferring files for ongoing contracts from one contracting office to another.

Marine Corps Response: Concur with the recommendation. A policy for transferring contracts from one contracting officer to another and requires both contracting officers' signatures has been drafted and will be finalized by December 2015.

b. Recommendation A.2 Establish a local centralized storage location for all completed contracts to include contracts awaiting disposal.

Marine Corps Response: Concur with the recommendation. Interim guidance on securing contract files that contain source selection data was implemented via Policy Letter 13-02 on 25 September 2015. The estimated completion date for this recommendation is January 2017.

c. Recommendation E.1 Require the contractors to submit individual subcontracting reports in the Electronic Subcontracting Reporting System for contracts M67854 13-D 5005, M67854-12-C-0030, M67854-13-D-2440, and M67548 13-C-5037. If the individual subcontracting reports show the contractors did not meet the contract's subcontracting goals, determine whether the contractor made a good-faith effort to meet its subcontracting goals, and if not, whether liquidated damages may be imposed against the contractor.

Marine Corps Response: Concur with the recommendation. The contracting officers associated with the aforementioned contracts identified in this audit have been tasked to require the contractors to

Encl (1)

Marine Corps Comments (cont'd)

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submit individual subcontracting reports in the eSRS. If the individual subcontracting reports show the contractors did not meet the respective contract's subcontracting goals, a determination will be made and appropriate action taken. The estimated completion date for this recommendation is April 2016.

d. Recommendation B.2 Determine whether the contractors for contracts M67854-11-D-3024 and M67854-13-C-0201 made a good-faith effort to meet the small business subcontracting goals in their subcontracting plans, and if not, determine whether liquidated damages may imposed against the contractor.

Marine Corps Response: Concur with the recommendation. The contracting officers associated with the aforementioned contracts identified in this audit have been tasked to review the subcontracting plans submitted by the contractor and to make a determination and take appropriate action. The estimated completion date for this recommendation is April 2016.

e. Recommendation B.3 Obtain copies of approved commercial subcontracting plans before considering those plans when awarding contracts which require subcontracting plans.

Marine Corps Response: Concur with the recommendation. Training on the requirements of FAR 19.705-5 will be provided to contracting personnel by November 2015.

f. Recommendation B.4 Modify the Contract File Checklist to include steps to verify that contracts exceeding \$700,000 without subcontracting plans are approved at a level above the contracting officer.

Marine Corps Response: Concur with the recommendation. The contract file checklist will be modified and instruction will be provided to include the required approval for those actions exceeding the threshold and without subcontracting plans. The estimated completion date for this recommendation is November 2015.

g. Recommendation B.5 Establish guidance for contracting officers for reviewing, approving, and administering subcontracting plans, and to verify contractors submit the required subcontracting reports to the Electronic Subcontracting Reporting System.

Marine Corps Response: Concur with the recommendation. Policy will be established by the MARCORSYSCOM Office of Small Business Programs mandating use of the subcontracting plan checklist by January 2016. Additionally, the MARCORSYSCOM Office of Small Business Programs will provide training to the required personnel on reviewing, approving, and

Marine Corps Comments (cont'd)

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administering subcontracting plans, and verifying contractors submit the required subcontracting reports to the Electronic Subcontracting Reporting System by September 2016.

h. Recommendation B.6 Train contracting officials on their Federal Acquisition Regulation subpart 19.7 responsibilities for evaluating and administering subcontracting plans.

Marine Corps Response: Concur with the recommendation. The MARCORSYSCOM Office of Small Business Programs will provide training on contracting personnel's responsibilities in FAR subpart 19.7 by September 2016.

i. Recommendation B.7 Modify the Internal Business Assessment Contract Review Checklist to include steps to verify that contracts exceeding \$700,000 without subcontracting plans are approved at a level above the contracting officer, and to include steps to verify that contracting officers ensure contractors submit individual subcontracting reports to the Electronic Subcontracting Reporting System when required.

Marine Corps Response: Concur with the recommendation. The IBA checklist will be modified to include the required approval for those actions exceeding the threshold and without subcontracting plans. The estimated completion date for this recommendation is November 2015.




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Acronyms and Abbreviations

eSRS	Electronic Subcontracting Reporting System
FAR	Federal Acquisition Regulation
FPDS–NG	Federal Procurement Data System–Next Generation
IBA	Internal Business Assessment
ISR	Individual Subcontracting Report
MCSC	Marine Corps Systems Command
NAICS	North American Industry Classification System
PPMAP	Procurement Performance Management Assessment Program
RFI	Request for Information
SAM	System for Award Management
SBA	Small Business Administration

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