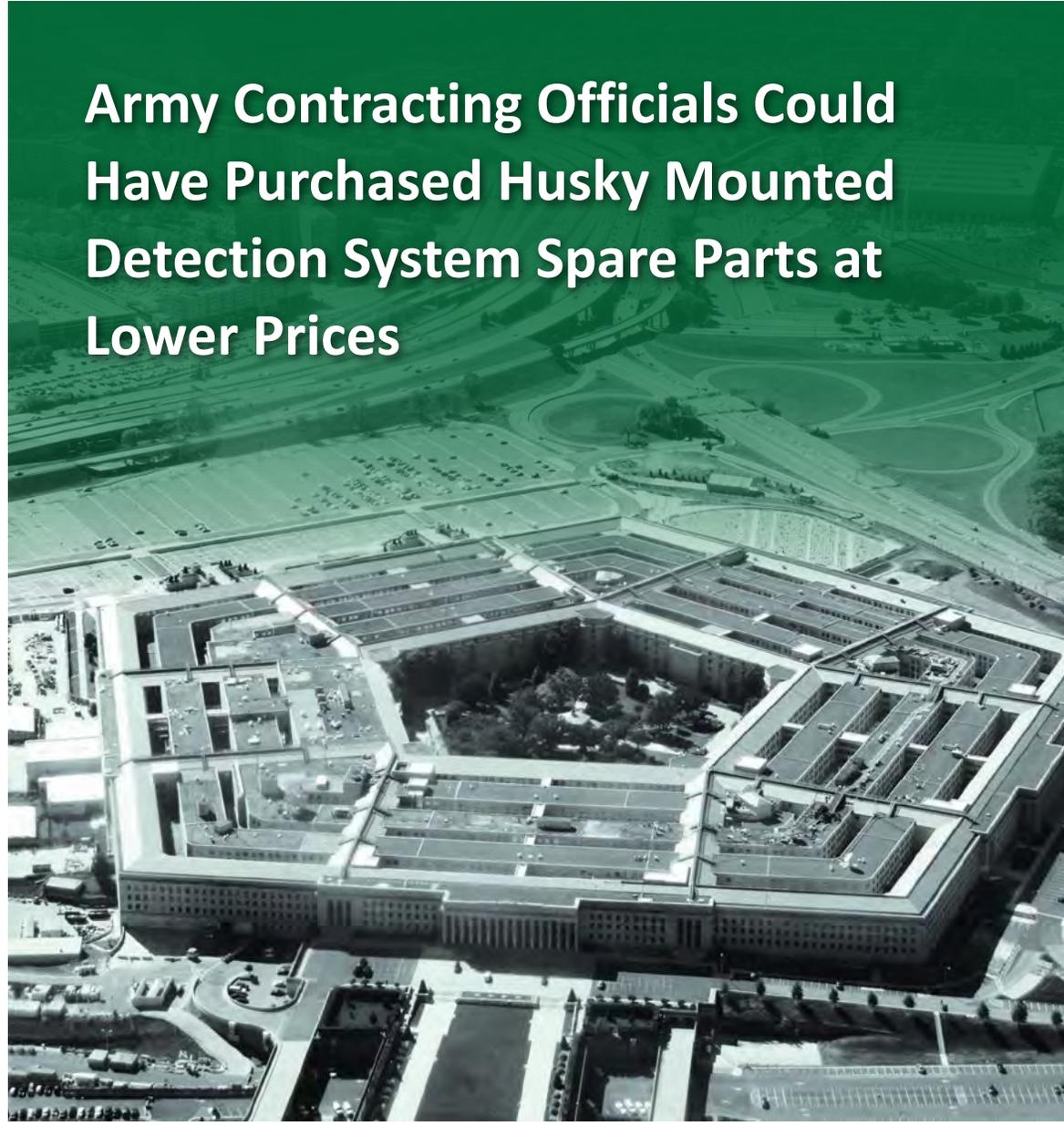


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# INSPECTOR GENERAL

*U.S. Department of Defense*

MARCH 31, 2016



## Army Contracting Officials Could Have Purchased Husky Mounted Detection System Spare Parts at Lower Prices

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INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

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# Results in Brief

## *Army Contracting Officials Could Have Purchased Husky Mounted Detection System Spare Parts at Lower Prices*

March 31, 2016

### Objective

Our objective was to determine whether the Department of the Army was purchasing sole-source spare parts for the Husky Mounted Detection System (HMDS) at fair and reasonable prices from NIITEK, Inc. (NIITEK).

We nonstatistically selected 13 of 340 HMDS spare parts to determine whether the Department of the Army paid fair and reasonable prices.

### Finding

Contracting officials for the U.S. Army Contracting Command–Aberdeen Proving Ground (ACC-APG) generally obtained fair and reasonable prices from NIITEK for 13 sole-source HMDS spare parts, valued at \$209 million. However, ACC-APG contracting officials established the minimum quantity for the HMDS contract as a dollar value, instead of a number of spare parts, which limited the contracting officials' effectiveness in obtaining lower prices for HMDS spare parts.

This occurred because ACC-APG contracting officials did not use available spare part estimates to establish a minimum number of spare parts to purchase on the contract. NIITEK could not effectively negotiate with its suppliers until ACC-APG provided actual order quantities, which occurred after ACC-APG and NIITEK negotiated prices for HMDS spare parts. NIITEK subsequently negotiated significantly lower prices with its suppliers. Instead of using available spare part estimates to establish the contract

### Finding (cont'd)

minimum, ACC-APG contracting officials established the \$50 million contract minimum for HMDS spare parts to support 3 months of sustainment because it allowed them flexibility to adjust order quantities if needed. As a result, ACC-APG contracting officials likely paid NIITEK \$27 million more than they would have paid for those 13 spare parts if the contract minimum was based on a number of spare parts, instead of a dollar value.

### Recommendations

We recommend that the Executive Director, ACC-APG, require contracting officials to assess available spare part estimates and determine and document whether establishing the minimum quantity limit as a dollar value or number of units would be more effective in obtaining fair and reasonable prices, when appropriate, on firm-fixed-price, indefinite-delivery indefinite-quantity contracts for spare parts. In addition, we recommend the Executive Director determine and document whether it is appropriate to request a \$27 million voluntary refund from NIITEK for sole-source HMDS spare parts, in accordance with the Defense acquisition regulation.

### Management Comments and Our Response

Comments from the Acting Deputy to the Command General, U.S. Army Contract Command, responding for the Executive Director, Army Contracting Command–Aberdeen Proving Ground, addressed all specifics of the recommendations and no further comments are required. Please see the Recommendations Table on the next page.

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***Recommendations Table***

<b>Management</b>	<b>No Additional Comments Required</b>
Executive Director, Army Contracting Command–Aberdeen Proving Ground	1, 2



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

March 31, 2016

MEMORANDUM FOR AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Army Contracting Officials Could Have Purchased Husky Mounted Detection System Spare Parts at Lower Prices (Report No. DODIG-2016-074)

We are providing this report for your information and use. Contracting officials for the U.S. Army Contracting Command–Aberdeen Proving Ground generally obtained fair and reasonable prices from NIITEK for 13 sole-source Husky Mounted Detection System spare parts reviewed. However, contracting officials established the minimum quantity for the Husky Mounted Detection System contract as a dollar value, which limited the contracting officials' effectiveness in obtaining lower prices. As a result, contracting officials likely paid NIITEK \$27 million more for spare parts than they should have. We conducted this audit in accordance with generally accepted government auditing standards.

We considered comments on a draft of this report when we prepared the final report. Comments from the Acting Deputy to the Commanding General, U.S. Army Contracting Command, responding for the Executive Director, Army Contracting Command–Aberdeen Proving Ground, addressed all specifics of the recommendations and conformed to the requirements of DoD 7650.03; therefore, we do not require additional comments.

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

*Jacqueline L. Wicecarver*  
Jacqueline L. Wicecarver  
Acting Deputy Inspector General  
For Auditing

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## Acronyms and Abbreviations

# Introduction

## Objective

Our objective was to determine whether the Department of the Army was purchasing sole-source spare parts for the Husky Mounted Detection System (HMDS) at fair and reasonable prices from NIITEK, Inc. (NIITEK). See Appendix A for a discussion of the scope and methodology and Appendix B for prior audit coverage related to the objective.

## Background

### *Husky Mounted Detection System*

The HMDS is a ground-penetrating radar system mounted on an armored vehicle. It detects and marks landmines and other buried explosive hazards, and serves an important role in keeping the warfighter safe during route clearance patrols.



Figure 1. HMDS Shown on a Husky Vehicle  
Source: Project Manager Close Combat Systems

(FOUO) In [REDACTED], the U.S. Army began using the HMDS [REDACTED]. According to contracting officials for the U.S. Army Contracting Command–Aberdeen Proving Ground (ACC-APG), the U.S. Army procured [REDACTED] HMDS for its use [REDACTED] HMDS for the [REDACTED], and [REDACTED] HMDS for foreign countries.

## ***U.S. Army Contracting Command–Aberdeen Proving Ground***

The U.S. Army Contracting Command, headquartered at Redstone Arsenal, Alabama, seeks to ensure that soldiers have necessary supplies, such as food, clothing, and ammunition.

ACC-APG, headquartered at Aberdeen Proving Ground, Maryland, is one of six U.S. Army Contracting Command major contracting centers. ACC-APG provides contracting and business advisory support to its customers and according to ACC-APG officials, it has 12 contracting divisions, including one at Fort Belvoir, Virginia. ACC-APG contracting officials at Fort Belvoir negotiated and awarded contracts to NIITEK for HMDS and HMDS spare parts.

## ***Product Manager Counter Explosive Hazard***

In 2009, the Product Manager Counter Explosive Hazard (PdM CEH) began managing the HMDS program.<sup>1</sup> PdM CEH provides products, such as the HMDS, to help warfighters overcome landmines and explosive hazards. PdM CEH validated the Government's need for HMDS and HMDS spare parts purchased on ACC-APG contracts.

## ***NIITEK***

NIITEK, founded in 2000, is headquartered in Dulles, Virginia, and its production facility is in Charlottesville, Virginia. NIITEK designs, develops, and produces ground-penetrating radar systems, such as the HMDS, which detect buried explosives.

## ***HMDS Contract***

On April 30, 2012, ACC-APG awarded NIITEK a sole-source, firm-fixed-price, indefinite-delivery indefinite-quantity contract for the procurement of HMDS and HMDS spare parts.<sup>2</sup> The contract's minimum quantity limit was \$50 million; its maximum quantity limit was \$579 million. The period of performance ended October 31, 2015; as of then, ACC-APG contracting officials obligated \$45 million for HMDS and \$261 million for HMDS spare parts. As of January 2015, ACC-APG contracting officials had not awarded a new contract for HMDS spare parts.

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<sup>1</sup> PdM CEH is part of the U.S. Army Project Manager Close Combat Systems. PdM CEH was formerly known as two separate product offices: Product Manager Countermine and Explosive Ordnance Disposal and Product Manager Improvised Explosive Device-Defeat/Protect Force.

<sup>2</sup> Contract W909MY-12-D-0010.

### ***Nonstatistical Sample***

We nonstatistically selected 13 of 340 HMDS spare parts, valued at \$209 million, for review. NIITEK purchased 3 of 13 spare parts from suppliers. NIITEK assembled 10 of 13 spare parts from subcomponents it purchased from suppliers. We nonstatistically selected 53 of those subcomponents for review. See Appendix A for more information on the nonstatistical sample.

### **Review of Internal Controls**

DoD Instruction 5010.40<sup>3</sup> requires DoD organizations to establish a program to review, assess, and report on the effectiveness of internal controls. We identified an internal control weakness associated with ACC-APG's purchase of HMDS sole-source spare parts from NIITEK. Specifically, ACC-APG contracting officials generally obtained fair and reasonable prices from NIITEK for the 13 HMDS spare parts we reviewed. However, contracting officials established the minimum quantity for the HMDS contract as a dollar value, which limited the contracting officials' effectiveness in obtaining lower prices. ACC-APG contracting officials obtained spare part estimates that they could have used to establish a minimum number of spare parts to purchase on the contract; however, contracting officials did not use the estimates to establish the contract's minimum quantity as a number of units. ACC-APG contracting officials could not provide documentation to support the basis for establishing the contract minimum as a dollar value. We will provide a copy of the report to the senior official responsible for internal controls in the Department of the Army.

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<sup>3</sup> DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013.

## Finding

### Army Contracting Command–Aberdeen Proving Ground Had Opportunity to Obtain Lower Prices for HMDS Spare Parts

ACC-APG contracting officials generally obtained fair and reasonable prices<sup>4</sup> from NIITEK for the 13 sole-source HMDS spare parts we reviewed, valued at \$209 million. However, ACC-APG contracting officials established the minimum quantity for the HMDS contract as a dollar value, instead of a number of spare parts, which limited the contracting officials' effectiveness in obtaining lower prices for HMDS spare parts. This occurred because ACC-APG contracting officials did not use available spare part estimates to establish a minimum number of spare parts to purchase on the contract. As a result of not having spare part estimates, NIITEK could not effectively negotiate with its suppliers until ACC-APG provided actual order quantities, which occurred after ACC-APG and NIITEK negotiated HMDS spare part prices. NIITEK subsequently negotiated significantly lower prices with its suppliers. Instead of using available spare part estimates to establish the contract minimum, ACC-APG contracting officials established the \$50 million contract minimum for HMDS spare parts to support 3 months of sustainment because it allowed them flexibility to adjust order quantities if needed. As a result, ACC-APG contracting officials likely paid NIITEK \$27 million more than they would have paid for 13 HMDS spare parts if the contract minimum was based on a number of spare parts, instead of a dollar value.

### Contracting Officials Generally Obtained Fair and Reasonable Prices

ACC-APG contracting officials generally obtained fair and reasonable prices from NIITEK for the 13 sole-source HMDS spare parts reviewed, valued at \$209 million. The Federal Acquisition Regulation<sup>5</sup> states that contracting officers must purchase supplies and services from responsible sources at fair and reasonable prices. The regulation also states that when establishing the reasonableness of proposed prices, the contracting officer shall obtain certified cost or pricing data, when required,<sup>6</sup> as well as other necessary data to establish a fair and reasonable price. Accordingly, ACC-APG contracting officials obtained certified cost and pricing data from NIITEK. In addition, contracting officials performed analysis to determine

<sup>4</sup> We reviewed material costs.

<sup>5</sup> Federal Acquisition Regulation (FAR) Subpart 15.402, "Pricing Policy," January 3, 2012.

<sup>6</sup> Certified cost and pricing data are required for contract actions greater than \$700,000, unless an exception applies.

price reasonableness and negotiated prices they determined were fair and reasonable. Specifically, ACC-APG contracting officials conducted price analysis, cost analysis, and obtained Defense Contract Audit Agency (DCAA) assistance. In addition, contracting officials negotiated unit prices for 30 HMDS spare parts. Based on those negotiations, contracting officials developed decrement factors<sup>7</sup> to adjust unit prices for all other HMDS spare parts.

### **Price Analysis Performed**

(~~FOUO~~) The Federal Acquisition Regulation<sup>8</sup> states that contracting officers should use price analysis to verify that the overall price offered is fair and reasonable. Price analysis is the process of examining and evaluating a proposed price without evaluating the separate cost elements and proposed profit. Accordingly, ACC-APG contracting officials performed price analysis by reviewing previous purchase orders, invoices, and procurement histories for ■ of ■ spare parts<sup>9</sup> to verify that HMDS spare part prices were fair and reasonable. According to ACC-APG contracting officials, historical price analysis showed that the prices in most price tiers<sup>10</sup> were reasonable.

### **Cost Analysis Performed**

The Federal Acquisition Regulation<sup>11</sup> requires contracting officers to use cost analysis to evaluate the reasonableness of individual cost elements when certified cost or pricing data are required. Cost analysis is the review and evaluation of any of the separate cost elements and profit or fee in a contractor's proposal as needed to determine a fair and reasonable price. ACC-APG contracting officials requested field pricing assistance from DCAA to perform cost analysis and determine whether NIITEK's proposal was acceptable to negotiate a fair and reasonable contract price. DCAA analyzed NIITEK's proposed material costs, direct labor hours and rates, material overhead, and general and administrative rates. DCAA determined that NIITEK's price proposal was an acceptable basis for negotiation of a fair and reasonable price.

(~~FOUO~~) In addition, ACC-APG contracting officials analyzed material costs for ■ of ■ spare parts with the highest material costs. As a result, ACC-APG and NIITEK negotiated material costs for ■ parts and determined that the prices were fair and reasonable. ACC-APG contracting officials also analyzed material costs for the

<sup>7</sup> Decrement factors are an acceptable technique to analyze material costs.

<sup>8</sup> FAR Subpart 15.404-1, "Proposal Analysis Techniques," January 3, 2012.

<sup>9</sup> (~~FOUO~~) When ACC-APG performed this analysis, there were ■ HMDS spare parts; however, contracting officials subsequently added ■ spare parts for a total of 340 HMDS spare parts.

<sup>10</sup> The contract included price tiers for HMDS spare parts at these quantities: 1-19, 20-49, 50-99, 100-499, and 500-plus, where the spare part prices were based on the quantity of parts purchased. ACC-APG contracting officials did not evaluate the 1-19 and 500-plus price tiers because the historical data for those tiers were not adequate.

<sup>11</sup> FAR Subpart 15.404-1, "Proposal Analysis Techniques," January 3, 2012.

(FOUO) remaining [REDACTED] spare parts. Specifically, contracting officials used their analysis of [REDACTED] spare parts to develop and negotiate decrement factors to establish material costs for the remaining spare parts. ACC-APG contracting officials applied the decrement factors to each of the [REDACTED] spare parts in each price tier to determine fair and reasonable prices.

## Minimum Dollar Value Limited Ability to Obtain Lower Prices

According to the Federal Acquisition Regulation,<sup>12</sup> indefinite-quantity contracts include minimum quantity limits that may be stated as a dollar value or a number of units. This regulation further states that contracting officers may use indefinite-quantity contracts when the Government cannot predetermine, above a specified minimum, the precise quantities that the Government will require, and it is inadvisable for the Government to commit to more than a minimum quantity. The HMDS acquisition plan<sup>13</sup> identified a contract minimum of \$50 million for HMDS spare parts to support 3 months of sustainment. Accordingly, ACC-APG contracting officials established the contract's minimum quantity as a dollar value of \$50 million.

(FOUO) However, we concluded that ACC-APG contracting officials limited their effectiveness in obtaining lower prices by establishing the contract's minimum quantity as a dollar value, instead of a number of units. Specifically, NIITEK officials could not effectively negotiate prices with suppliers before contract award because the officials did not have spare part quantities to negotiate. We determined that NIITEK negotiated lower prices with suppliers after ACC-APG provided spare part quantities. However, ACC-APG contracting officials did not receive the lower prices because these negotiations occurred after the firm-fixed-price contract was awarded. For example, ACC-APG paid NIITEK a weighted-average unit price of \$ [REDACTED] for "transmit boards with cables."<sup>14</sup> NIITEK negotiated a weighted-average unit price of \$ [REDACTED] with the supplier for the same part. Taking into account NIITEK's material overhead, general and administrative expenses, and profit, ACC-APG should have

ACC-APG contracting officials limited their effectiveness in obtaining lower prices.

<sup>12</sup> FAR Subpart 16.504, "Indefinite-Quantity Contracts," February 2, 2012.

<sup>13</sup> The Product Manager Countermeasure and Explosive Ordnance Disposal prepared the acquisition plan.

<sup>14</sup> We calculated weighted-average unit prices, which took into account the quantity of parts purchased at each unit price. The weighted-average unit price represents direct material costs only.

(FOUO) paid NIITEK \$ [REDACTED] per unit. Instead, ACC-APG paid NIITEK a total weighted-average unit price of \$ [REDACTED] more per unit than the Army should have paid. ACC-APG purchased [REDACTED] transmit boards with cables;<sup>15</sup> therefore, ACC-APG paid \$4.2 million more than it should have for transmit boards with cables. Table 1 shows the amounts ACC-APG paid compared to those it should have paid.

ACC-APG paid \$4.2 million more than it should have for transmit boards with cables.

(FOUO) Table 1. Transmit Board with Cable Pricing

Cost Element	Unit Price <sup>1</sup> ACC-APG Paid NIITEK	Unit Price <sup>1</sup> ACC-APG Should Have Paid	Difference in Unit Prices	Quantity of Spare Parts Purchased	Total
Direct Materials	[REDACTED]	[REDACTED] <sup>2</sup>	\$ [REDACTED]		
Material Overhead <sup>3</sup>	[REDACTED]	[REDACTED]	[REDACTED]		
General and Administrative <sup>4</sup>	[REDACTED]	[REDACTED]	[REDACTED]		
Profit <sup>5</sup>	[REDACTED]	[REDACTED]	[REDACTED]		
<b>Total</b>	<b>\$ [REDACTED]</b>	<b>\$ [REDACTED]</b>	<b>\$ [REDACTED]</b>		

- <sup>1</sup> We calculated weighted-average unit prices, which took into account the quantity of parts purchased at each unit price.
- <sup>2</sup> This number represents the weighted-average unit price that NIITEK paid its supplier, which was used to calculate the unit price that ACC-APG should have paid.
- <sup>3</sup> (FOUO) Material overhead was calculated as [REDACTED] percent multiplied by direct materials.
- <sup>4</sup> (FOUO) General and administrative was calculated as [REDACTED] percent multiplied by the sum of direct materials and material overhead.
- <sup>5</sup> (FOUO) Profit was calculated as [REDACTED] percent multiplied by the sum of direct materials, material overhead, and general and administrative.
- <sup>6</sup> Totals may not equal the actual sum because of rounding.

In another example, ACC-APG paid NIITEK [REDACTED] more per unit than it should have for a position synthesis module. Since ACC-APG purchased [REDACTED] position synthesis modules, it paid \$2.5 million more for those modules than it should have. Figure 2 shows a picture of the position synthesis module and Table 2 illustrates the position synthesis module’s pricing.

<sup>15</sup> (FOUO) [REDACTED] transmit boards with cables were required for each “radar panel assembly C” and ACC-APG purchased [REDACTED] radar panel assembly C units; therefore, [REDACTED] transmit boards with cables were required.



(FOUO) Table 2. Position Synthesis Module Pricing

Cost Element	Unit Price <sup>1</sup> ACC-APG Paid NIITEK	Unit Price <sup>1</sup> ACC-APG Should Have Paid	Difference in Unit Prices	Quantity of Spare Parts Purchased	Total
Direct Materials	\$ [REDACTED]	\$ [REDACTED] <sup>2</sup>	\$ [REDACTED]		
Material Overhead <sup>3</sup>	[REDACTED]	[REDACTED]	[REDACTED]		
General and Administrative <sup>4</sup>	[REDACTED]	[REDACTED]	[REDACTED]		
Profit <sup>5</sup>	[REDACTED]	[REDACTED]	[REDACTED]		
<b>Total</b>	<b>\$ [REDACTED]</b>	<b>[REDACTED]</b>	<b>\$ [REDACTED]</b>	<b>[REDACTED]</b>	<b>\$2,465,459<sup>6</sup></b>

<sup>1</sup> We calculated weighted-average unit prices, which took into account the quantity of parts purchased at each unit price.

<sup>2</sup> This number represents the weighted-average unit price that NIITEK paid its supplier, which was used to calculate the unit price that ACC-APG should have paid.

<sup>3</sup> (FOUO) Material overhead was calculated as [REDACTED] percent multiplied by direct materials.

<sup>4</sup> (FOUO) General and administrative was calculated as [REDACTED] percent multiplied by the sum of direct materials and material overhead.

<sup>5</sup> (FOUO) Profit was calculated as [REDACTED] percent multiplied by the sum of direct materials, material overhead, and general and administrative.

<sup>6</sup> Total may not equal the actual sum because of rounding.

## Available Spare Part Estimates Not Used to Establish Minimum Quantity

ACC-APG contracting officials stated that they could not reasonably predict how many HMDS spare parts were needed and could only identify the minimum quantity as a number of units if the quantities were guaranteed to be ordered. However, the Federal Acquisition Regulation<sup>16</sup> states that the minimum quantity should not exceed the amount the Government is fairly certain to order, not guaranteed to order. ACC-APG contracting officials had estimates for HMDS spare parts that PdM CEH officials were fairly certain needed to be ordered. ACC-APG contracting officials could have used these estimates to establish a minimum number of spare parts on the contract. However, ACC-APG contracting officials did not use the estimates to establish the contract's minimum quantity as a number of units.

ACC-APG contracting officials had estimates for HMDS spare parts that PdM CEH officials were fairly certain needed to be ordered.

### ***Spare Part Estimates Were Available Before Contract Award***

(FOUO) In March 2012, PdM CEH officials provided ACC-APG contracting officials with estimates for 174 HMDS spare parts, including 10 high-dollar spare parts we reviewed.<sup>17</sup> According to PdM CEH officials, the March 2012 spare part estimates were developed through frequent communication with HMDS users [REDACTED]. In addition, PdM CEH officials stated that users provided HMDS spare part data, such as inventory levels and quantities of spare parts that were needed to sustain operations. The quantities of spare parts fluctuated, but PdM CEH officials were fairly certain that the HMDS spare part quantities identified in the March 2012 estimate were needed.

On April 30, 2012, ACC-APG contracting officials issued the first delivery order for the HMDS contract. The HMDS spare part quantities in the first delivery order were equal to or greater than the quantities identified in the March 2012 estimate for the spare parts we reviewed. Therefore, ACC-APG contracting officials could have used the March 2012 estimate to establish the contract's minimum quantity as a number of units for these parts, because the first delivery order met or exceeded the March 2012 estimate. The March 2012 estimate did not include spare part quantities for 3 of 13 spare parts we reviewed, so it may not have been feasible to establish the minimum quantity as a number of units for every HMDS spare part. Therefore, ACC-APG contracting officials could have established the contract's minimum quantity as a combination of a number of units and a dollar

<sup>16</sup> FAR 16.504, "Indefinite-Quantity Contracts," February 2, 2012.

<sup>17</sup> Of the 13 HMDS spare parts we reviewed, 11 were high-dollar parts, which accounted for 80 percent of spare parts obligations on the contract.

value. Specifically, ACC-APG contracting officials could have used the available March 2012 estimate to establish a minimum number of units for high-dollar spare parts and establish a minimum dollar value for nonhigh-dollar value parts and spare parts without fairly certain estimates. Table 3 shows differences in the quantities of HMDS spare parts between the March 2012 HMDS estimate and the first delivery order.

(FOUO) Table 3. Comparison of March 2012 Estimate and April 2012 Delivery Order Quantities

Part Description	March 2012 Estimate Quantities	April 2012 Delivery Order Quantities	Amount that April 2012 Quantity Exceeded March 2012 Estimate
Power control assembly with firmware	■	■	0
Radar panel assembly B	■	■	51
Enhanced installation kit	■	■	36
Radar panel assembly C	■	■	598
High ground clearance front lift assembly	■	■	55
High ground clearance radar mount and positioning system	■	■	47
Enhanced power control assembly with firmware and vehicle mount	■	■	44
Power control assembly with firmware and vehicle mount	■	■	23
Enhanced mission computer assembly with software	■	■	102
Position synthesis module	■	■	99

(FOUO) In addition to obtaining the March 2012 estimate before contract award, ACC-APG contracting officials also obtained an estimate of average HMDS spare parts used annually. The U.S. Army Communications–Electronics Research, Development and Engineering Center (CERDEC) analyzed ■■■■■. CERDEC’s analysis included ■■■■■. According to ACC-APG contracting officials, the average usage quantity was adjusted to ■ units, based on discussion with Night Vision and Electronic Sensors Directorate officials who provided engineering and technical support to the HMDS program.<sup>19</sup>

<sup>18</sup> (FOUO) CERDEC’s analysis was based on ■ HMDS.

<sup>19</sup> ACC-APG and Night Vision and Electronic Sensors Directorate officials could not provide documentation to support the decision to adjust the average annual usage.

(FOUO) ACC-APG contracting officials used the average usage quantity for evaluation purposes during contract negotiations. According to ACC-APG contracting officials, they did not use the data to establish the contract minimum as a number of parts because the average usage quantity was not necessarily indicative of future orders. However, ACC-APG contracting officials ordered more than [REDACTED] units for 9 of 13 HMDS spare parts we reviewed. Therefore, although ACC-APG contracting officials may not have been certain of ordering the average usage quantities, they could have considered the average usage quantities to assist in establishing the contract’s minimum as a number of spare parts. Table 4 shows the difference between the total quantities of HMDS spare parts ordered on the contract and the [REDACTED] average usage quantity.

(FOUO) Table 4. Quantities of HMDS Spare Parts Purchased Compared to Average Usage

Part Description	Total Quantity Ordered On Contract	Quantity <sup>1</sup> Ordered On Contract Minus Annual Average Usage Rate of [REDACTED]
Radar panel assembly C	[REDACTED]	3,758
Radar panel assembly B	[REDACTED]	306
High ground clearance front lift assembly	[REDACTED]	283
Enhanced mission computer assembly with software	[REDACTED]	263
Cable harness for mission computer	[REDACTED]	242
Position synthesis module	[REDACTED]	193
Enhanced power control assembly with firmware and vehicle mount	[REDACTED]	126
Enhanced installation kit	[REDACTED]	20
High ground clearance radar mount and positioning system	[REDACTED]	13
Speakerphone assembly	[REDACTED]	-2
Power control assembly with firmware	[REDACTED]	-49
Power control assembly with firmware and vehicle mount	[REDACTED]	-59
Navigation system <sup>2</sup>	[REDACTED]	-84

<sup>1</sup> (FOUO) A positive number indicates that ACC-APG contracting officials ordered more than [REDACTED] units. A negative number indicates that ACC-APG contracting officials ordered fewer than [REDACTED] units.

<sup>2</sup> (FOUO) According to NIITEK officials, during the HMDS contract, NIITEK stopped using the navigation system and replaced it with the position synthesis module. ACC-APG contracting officials purchased [REDACTED] position synthesis modules. Therefore, ACC-APG contracting officials may have ordered at least [REDACTED] navigation systems if the navigation system had not been replaced.

### ***Minimum Dollar Value Not Supported***

After repeated requests, ACC-APG contracting officials could not provide any documentation to support the basis for establishing the contract minimum as a dollar value of \$50 million. Instead of using available spare part estimates to establish the contract's minimum quantity, ACC-APG contracting officials established the contract minimum as a dollar value of \$50 million. The HMDS contract stated that the first delivery order must satisfy the \$50 million contract minimum, which was considerably less than the \$121 million of HMDS spare parts that ACC-APG contracting officials actually purchased on the first delivery order.

### ***NIITEK Needed Spare Part Quantities to Effectively Negotiate With Suppliers***

If ACC-APG contracting officials had established the contract minimum as a number of units, instead of dollar value, NIITEK would have had spare part quantities to provide its suppliers and negotiate lower prices with the suppliers before negotiating with the Government. If NIITEK had negotiated lower prices with its suppliers before negotiating with ACC-APG, NIITEK would have been required to provide the lower prices to ACC-APG contracting officials to use during contract negotiations, which likely would have resulted in ACC-APG paying lower prices.

(~~FOUO~~) The HMDS contract was a firm-fixed-price contract that was not subject to price adjustments; therefore, NIITEK did not pass its savings to ACC-APG. NIITEK officials could not effectively negotiate with NIITEK's suppliers before contract award because the officials did not have quantities to negotiate prices for. Instead, NIITEK officials relied on supplier quotes to calculate the HMDS spare part prices proposed to ACC-APG. Although supplier quotes included ranges of prices for various price tiers, NIITEK officials were able to negotiate significantly lower prices after contract award when ACC-APG provided actual order quantities. For example, one of NIITEK's suppliers quoted a unit price of \$[REDACTED] if NIITEK purchased [REDACTED] to [REDACTED] encoders. However, after ACC-APG provided actual quantities, NIITEK negotiated with its supplier and purchased [REDACTED] encoders at a price lower than quoted, \$[REDACTED] per unit. Therefore, NIITEK paid its supplier \$[REDACTED], or [REDACTED] percent, less per encoder than what the supplier quoted.

### ***Contracting Officials Should Assess Available Estimates***

According to ACC-APG contracting officials, establishing the contract's minimum quantity as a dollar value allowed them flexibility to adjust order quantities if needed. However, in March 2012, ACC-APG contracting officials obtained estimates for HMDS spare parts that PdM CEH officials were fairly certain to order and that ACC-APG contracting officials could have used to establish the contract minimum

as a number of units. In addition, ACC-APG contracting officials obtained average annual usage data for HMDS spare parts. This information could have been considered in establishing the contract minimum. ACC-APG contracting officials did not use or consider either of these available estimates. Instead, ACC-APG contracting officials established the contract minimum as a dollar value of \$50 million, which officials could not provide support for. ACC-APG contracting officials could have established the minimum quantity as a combination of number of units and dollar value, based on available estimates and high-dollar parts. Establishing at least a portion of the minimum quantity as a number of units would have allowed NIITEK to negotiate with suppliers before contract award and pass the savings to ACC-APG.

ACC-APG contracting officials should assess available spare part estimates and determine and document whether establishing the minimum quantity limit as a dollar value or number of units would be more effective in obtaining fair and reasonable prices, when appropriate, on firm-fixed-price, indefinite-delivery indefinite-quantity contracts for spare parts.

### Spare Parts Likely Cost More

Although the contracting officials complied with the Federal Acquisition Regulation<sup>20</sup> by performing price and cost analysis to determine price reasonableness, they were not as effective as they could have been in setting the contract minimum. As a result, ACC-APG contracting officials limited their effectiveness in obtaining lower prices for HMDS spare parts and likely paid NIITEK \$27 million more than they would have paid for 13 HMDS spare parts if the contract minimum was based on a number of spare parts, instead of a dollar value. Appendix C shows the differences in the prices ACC-APG paid compared to what should have been paid. Therefore, ACC-APG should determine and document whether it is appropriate to request a \$27 million voluntary refund from NIITEK for sole-source HMDS spare parts, in accordance with the Defense acquisition regulation.<sup>21</sup>

ACC-APG contracting officials...likely paid NIITEK \$27 million more than they would have paid for 13 HMDS spare parts.

<sup>20</sup> FAR Subpart 15.404-1, "Proposal Analysis Techniques," January 3, 2012.

<sup>21</sup> Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 242.71, "Voluntary Refunds," November 9, 2005, explains that a voluntary refund is a payment or credit to the Government from a contractor or subcontractor that is not required by any contractual or other legal obligation.

Additionally, according to ACC-APG contracting officials, PdM CEH officials are evaluating the need for HMDS spare parts to determine whether a new contract for HMDS spare parts is necessary. Therefore, ACC-APG contracting officials may continue to pay more than needed for HMDS spare parts if the officials do not establish the minimum quantity as a number of units, for at least the spare parts with available estimates or high-dollar parts, instead of solely as a dollar value.

## Recommendations, Management Comments, and Our Response

### **Recommendation 1**

**We recommend the Executive Director, Army Contracting Command–Aberdeen Proving Ground:**

- 1. Require contracting officials to assess available spare part estimates and determine and document whether establishing the minimum quantity limit as a dollar value or number of units would be more effective in obtaining fair and reasonable prices, when appropriate, on firm-fixed-price, indefinite-delivery indefinite-quantity contracts for spare parts.**

### *U.S. Army Contracting Command Comments*

The Acting Deputy to the Commanding General, U.S. Army Contracting Command, responding for the Executive Director, Army Contracting Command–Aberdeen Proving Ground, agreed with the recommendation. The Acting Deputy to the Commanding General stated that when preparing firm-fixed-price, indefinite-delivery indefinite-quantity contracts for spare parts, ACC-APG contracting officials will assess all available information to determine the most appropriate basis for establishing the contract's minimum order quantity. In addition, the Acting Deputy to the Commanding General stated that this information will be documented in the contract file. The Acting Deputy to the Commanding General stated that a reminder will be included in ACC-APG weekly update in March 2016.

### *Our Response*

Comments from the Acting Deputy to the Commanding General addressed the specifics of the recommendation and no further comments are required.

## ***Recommendation 2***

**We recommend the Executive Director, Army Contracting Command–Aberdeen Proving Ground:**

- 2. Determine and document whether it is appropriate to request a \$27 million voluntary refund from NIITEK, Inc. for sole-source Husky Mounted Detection System spare parts, in accordance with Defense Federal Acquisition Regulation Supplement Subpart 242.71, “Voluntary Refunds.”**

### ***U.S. Army Contracting Command Comments***

The Acting Deputy to the Commanding General, U.S. Army Contracting Command, responding for the Executive Director, Army Contracting Command–Aberdeen Proving Ground, agreed with the recommendation. The Acting Deputy to the Commanding General stated that ACC-APG officials will request information from NIITEK and determine whether a voluntary refund is appropriate by September 30, 2016.

### ***Our Response***

Comments from the Acting Deputy to the Commanding General addressed the specifics of the recommendation and no further comments are required.

## Appendix A

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### Scope and Methodology

We conducted this performance audit from July 2015 through February 2016 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 finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

### ***Nonstatistical Audit Sample of Husky Mounted Detection System Spare Parts***

We reviewed Army contract W909MY-12-D-0010 to identify HMDS spare parts. We used the Electronic Document Access (EDA) database to identify delivery orders awarded on the contract. We nonstatistically selected for review 13 of 340 HMDS spare parts procured on contract W909MY-12-D-0010, which accounted for \$209 million of \$261 million obligated for spare parts on the contract. Specifically, we selected 11 parts that accounted for 80 percent of the dollar value obligated for spare parts and 2 parts that were potentially overpriced. NIITEK purchased 3 of 13 spare parts from suppliers and assembled 10 of 13 spare parts from subcomponents it purchased from suppliers. Additionally, we nonstatistically selected for review 53 subcomponents with unit prices greater than \$300 in the 50 to 99 price tier.

### ***Interviews and Documentation***

To determine whether the Department of the Army is purchasing sole-source spare parts for the HMDS at fair and reasonable prices, we reviewed Federal and Defense regulations pertaining to contract pricing and price reasonableness. Specifically, we reviewed the following:

- FAR Subpart 15.402, "Pricing Policy," January 2012;
- DFARS Procedures, Guidance, and Information Subpart 215.402, "Pricing Policy," November 2011;
- DFARS Procedures, Guidance, and Information 215.403-3, "Requiring Information Other Than Cost or Pricing Data," November 2011;
- FAR Subpart 15.403-4, "Requiring Certified Cost or Pricing Data," January 2012;
- FAR Subpart 15.404-1, "Proposal Analysis Techniques," January 2012;
- FAR Subpart 15.404-2, "Data to Support Proposal Analysis," January 2012;

- DFARS Procedures, Guidance, and Information Subpart 215.404-2, “Information to Support Proposal Analysis,” November 2011;
- FAR Subpart 15.404-3, “Subcontract Pricing Considerations,” January 2012;
- DFARS Procedures, Guidance, and Information Subpart 215.404-3, “Subcontract Pricing Considerations,” November 2011;
- FAR Subpart 16.5, “Indefinite Delivery Contracts,” February 2012;
- FAR Subpart 31.201-3, “Determining Reasonableness,” February 2012; and
- DFARS Subpart 242.71, “Voluntary Refunds,” November 2005.

We also reviewed ACC-APG and NIITEK contract files. For example, we reviewed the solicitation, contract W909MY-12-D-0010 and modifications, delivery orders and modifications, NIITEK purchase orders, supplier quotes, DCAA reports, price negotiation memorandums, prenegotiation objectives memorandum, basis of estimates, bills of material, and NIITEK’s pricing proposal.

In addition, we met with ACC-APG officials at Fort Belvoir, Virginia, to discuss contract W909MY-12-D-0010, negotiations and price reasonableness, and ACC-APG’s analysis of NIITEK’s pricing for 13 HMDS spare parts and 53 subcomponents. We interviewed NIITEK officials in Charlottesville, Virginia, to discuss NIITEK’s pricing process, supplier quotes and negotiations, purchase orders, and price reasonableness determinations. In addition, we met with DCAA officials in Hampton, Virginia, to discuss DCAA’s review of NIITEK’s pricing proposal and accounting and estimating systems. We also contacted Defense Contract Management Agency officials in Fort Lee, Virginia, to discuss their review of NIITEK’s purchasing system. Furthermore, we met with PdM CEH officials to discuss HMDS spare part estimates.

## ***Methodology***

For HMDS spare parts and subcomponents, we calculated weighted-average unit prices that ACC-APG paid NIITEK and compared them to the weighted-average unit prices that NIITEK paid to its suppliers. To calculate the weighted-average unit prices, we multiplied the unit prices by the quantity purchased at each unit price and divided the total cost by the total quantity. We calculated the difference between the weighted-average unit prices that ACC-APG and NIITEK paid and multiplied the difference by the quantity of spare parts ACC-APG purchased. In addition, we applied NIITEK’s material overhead, general and administrative costs, and profit to the difference.

## Use of Computer-Processed Data

We used computer-processed data from the EDA database, Paperless Contract Files, and NIITEK. EDA is a mission-critical business system that supports Military Services and several DoD agencies by providing internet access to documents used to support the procurement, contract administration, bill paying, and accounting processes. We obtained contract documentation from EDA. To assess the reliability of the data, we compared the documents obtained from EDA with the documents obtained from Paperless Contract Files, an online contracting office where acquisition officials maintain contract files. To assess the reliability of NIITEK's invoice summaries and negotiated rates, we compared the data to source documents. Specifically, we compared NIITEK's invoice summaries to its purchase orders and we compared NIITEK's negotiated rates to the price negotiation memorandum. As a result, we determined that EDA, Paperless Contract Files, and NIITEK computer-processed data were sufficiently reliable to support our findings and conclusions.

## Use of Technical Assistance

We consulted with the DoD Office of Inspector General Quantitative Methods Division to select a logical and reasonable nonstatistical sample.

## Appendix B

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### Prior Coverage

During the last 5 years, DoD OIG issued 13 final reports related to fair and reasonable pricing. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/pubs/index.cfm>.

### **DoD OIG**

Report No. DODIG-2016-023, "Improvements Needed in the Defense Logistics Agency's Evaluation of Fair and Reasonable Prices for C-130 Aircraft Spare Parts," November 16, 2015

Report No. DODIG-2015-153, "Defense Logistics Agency Aviation Generally Purchased Sole-Source Spare Parts From the General Electric Company at Fair and Reasonable prices, but Improvements Could be Made," July 24, 2015

Report No. DODIG-2015-120, "Defense Logistics Agency Did Not Obtain Fair and Reasonable Prices From Meggitt Aircraft Braking Systems for Sole-Source Commercial Spare Parts," May 8, 2015

Report No. DODIG-2015-103, "Summary of DoD Office of Inspector General Spare-Parts Pricing Audits: Additional Guidance is Needed," March 31, 2015

Report No. DODIG-2015-053, "Naval Supply Systems Command Needs to Improve Cost Effectiveness of Purchases for the Phalanx Close-In Weapon System," December 19, 2014

Report No. DODIG-2014-110, "Ontic Engineering and Manufacturing Overcharged the Defense Logistics Agency for Sole-Source Spare Parts," September 15, 2014

Report No. DODIG-2014-088, "Defense Logistics Agency Aviation Potentially Overpaid Bell Helicopter for Sole-Source Commercial Spare Parts," July 3, 2014

Report No. DODIG-2014-054, "Defense Logistics Agency Land and Maritime Paid Too Much for High Mobility Multipurpose Wheeled Vehicle Repair Parts," April 4, 2014

Report No. DODIG-2014-038, "Air Force Life Cycle Management Center Could Not Identify Actual Cost of F119 Engine Spare Parts Purchased from Pratt and Whitney," February 10, 2014

Report No. DODIG-2014-020, "U.S. Army Contracting Command Did Not Obtain Fair and Reasonable Prices for Communication Equipment," December 5, 2013

Report No. D-2013-090, "Improved Guidance Needed to Obtain Fair and Reasonable Prices for Sole-Source Spare Parts Procured by the Defense Logistics Agency From The Boeing Company," June 7, 2013

Report No. D-2011-104, "Pricing and Escalation Issues Weaken the Effectiveness of the Army Contract with Sikorsky to Support the Corpus Christi Army Depot," September 8, 2011

Report No. D-2011-061, "Excess Inventory and Contract Pricing Problems Jeopardize the Army Contract with Boeing to Support the Corpus Christi Army Depot," May 3, 2011

## Appendix C

### Spare Parts Likely Cost More

The following table identifies the 13 HMDS spare parts and 53 subcomponent parts that we reviewed.<sup>22</sup> It includes the dollar amounts that ACC-APG paid more than it should have, totaling \$27 million.

Part Number	Part Description	Subcomponent Part Number	Subcomponent Part Description	Amounts that ACC-APG Paid More Than It Should Have
011593-AY-1	Radar panel assembly C	010873-AY	Transmit board with cable	\$4,228,295.07
		009007-AY	Radar board assembly	3,354,583.71
		010864-1	Tan panel shell	2,379,356.76
		011600-1	Tan cover	2,180,893.69
		008707	Single board computer	1,797,375.23
		011691-1	Tan rear electronics mounts	1,723,810.99
		011597	Electrical connector seal	1,387,981.65
		006046	Reverse high reliability antenna element	384,057.54
		006766	Internal fiber optic panel connector	542,887.36
		009005-AY	Power board assembly	489,159.36
		006044	High reliability antenna element	378,072.24
		009006-AY	Interface board assembly	147,988.74
		013141-AY	Backplane board	(185,717.66)
<b>Total for part number 011593-AY-1</b>				<b>\$18,808,744.68</b>

<sup>22</sup> Some subcomponents were used on multiple spare parts; we grouped these spare parts together in the table.

Part Number	Part Description	Subcomponent Part Number	Subcomponent Part Description	Amounts that ACC-APG Paid More Than It Should Have
006631-2	Radar panel assembly B	003147	Printed circuit board	487,161.19
		001542	Electrical connector mount	365,033.16
		010009	Ground-penetrating radar shell top coat	351,063.44
		011177-AY	Radar board assembly	299,690.38
		006629	Interface board	223,681.26
		001312	Data acquisition board	178,160.07
		009294	Operating system license	112,585.13
		001768	Electrical enclosure	110,952.83
		011178-AY	Power board assembly	90,258.77
		003644	Electrical enclosure cover	84,206.67
		003416	Receive reverse board with cable	65,695.61
		003415	Receive board with cable	65,158.76
		001291	Backplane board	39,232.73
		011343-AY	Transmit board with cable	41,064.74
<b>Total for part number 006631-2</b>				<b>2,513,944.74</b>
010960-AY	Position synthesis module	N/A <sup>1</sup>	N/A	2,465,459.28
<b>Total for part number 010960-AY</b>				<b>2,465,459.28</b>

Part Number	Part Description	Subcomponent Part Number	Subcomponent Part Description	Amounts that ACC-APG Paid More Than It Should Have
004877-1-AY	Power control assembly with firmware	002426	Power supply, 24-volt direct current	164,743.85
012361-AY	Enhanced power control assembly with firmware and vehicle mount	007268	Power control	79,283.49
		005721	Power supply, 12-volt direct current	64,797.73
012364-AY	Power control assembly with firmware and vehicle mount	004593	Power supply, direct current	64,794.15
		005708	Modified power control enclosure	45,587.12
		002594	Splitter for navigation system	34,625.75
		004834	Control module	339.67
		009579	Starfire receiver <sup>2</sup>	146,622.03
		002596	Starfire annual license renewal <sup>2</sup>	100,300.37
		006135	Top compression bracket <sup>3</sup>	28,988.98
<b>Total for part numbers 004877-1-AY, 012361-AY, 012364-AY</b>				<b>730,083.14</b>
011087-2-IK	Enhanced installation kit	012239	Encoder	550,857.70
		007289	Tablet	45,896.15
		008277	Lights	11,943.43
		012936	Upper hull spacer plate	(12,417.65)
<b>Total for part number 011087-2-IK</b>				<b>596,279.63</b>
012371-AY	Enhanced mission computer assembly with software	012466	Computer	690,473.12
<b>Total for part number 012371-AY</b>				<b>690,473.12</b>
007957	Navigation system	N/A <sup>1</sup>	N/A	592,456.81
<b>Total for part number 007957</b>				<b>592,456.81</b>

Part Number	Part Description	Subcomponent Part Number	Subcomponent Part Description	Amounts that ACC-APG Paid More Than It Should Have
012013-AY	High ground clearance front lift assembly	012417	Hydraulic cylinder assembly	151,129.25
012116-AY	High ground clearance radar mount and positioning system	011203	Front lift support	96,820.13
		011206	Lift arm	6,229.24
		004629	Panel support assembly <sup>4</sup>	136,520.43
		004651	Framework support <sup>4</sup>	47,402.35
		004650	Right frame rail <sup>4</sup>	36,752.05
		004387	Horizontal rail support <sup>4</sup>	24,302.78
		012472	Top stabilizer support <sup>4</sup>	20,650.81
		007027	Bar storage <sup>4</sup>	17,668.86
		004654	Track plate assembly <sup>4</sup>	16,996.79
		004412	Cable support tray <sup>4</sup>	3,904.05
<b>Total for part numbers 012013-AY and 012116-AY</b>				<b>558,376.74</b>
007963	Speakerphone assembly	N/A <sup>5</sup>	N/A	57,379.41
<b>Total for part number 007963</b>				<b>57,379.41</b>
006195	Cable harness for mission computer	N/A <sup>1</sup>	N/A	19,233.42
<b>Total for part number 006195</b>				<b>19,233.42</b>

<sup>1</sup> The position synthesis module, navigation system, and cable harness for mission computer did not have subcomponents.

<sup>2</sup> Subcomponent part numbers 009579 and 002596 were used on part numbers 004877-1-AY and 012364-AY.

<sup>3</sup> Subcomponent part number 006135 was used on part numbers 012361-AY and 012364-AY.

<sup>4</sup> Subcomponent part numbers 004629, 004651, 004650, 004387, 012472, 007027, 004654, and 004412 were used only on part number 012116-AY.

<sup>5</sup> The speakerphone assembly did not have any major subcomponents.

## Management Comments

### Office of the Assistant Secretary of the Army Acquisition Logistics and Technology



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY  
ACQUISITION LOGISTICS AND TECHNOLOGY  
103 ARMY PENTAGON  
WASHINGTON DC 20310-0103

MAR 22 2016

SAAL-PR

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL  
(DODIG), [REDACTED] ACQUISITION, PARTS,  
AND INVENTORY, 4800 MARK CENTER DRIVE, ALEXANDRIA, VA 22350-1500

SUBJECT: Official Army Position for DODIG Draft Report: Army Contracting Officials  
Could Have Purchased Husky Mounted Detection System Spare Parts at Lower Prices  
(Project Number D2015-D000AH-0225.000)

1. On behalf of the Assistant Secretary of the Army (Acquisition, Logistics and  
Technology), the Office of the Deputy Assistant Secretary of the Army (Procurement)  
reviewed the subject draft report and concurs with Headquarters, United States Army  
Materiel Command and Headquarters, Army Contracting Command endorsement of  
Army Contracting Command-Aberdeen Proving Ground responses. Enclosed are the  
endorsement memoranda and the responses.

2. The point of contact is [REDACTED]

Encls

  
Harry P. Hallock  
Deputy Assistant Secretary  
of the Army (Procurement)



## U.S. Army Contracting Command



REPLY TO  
ATTENTION OF:

DEPARTMENT OF THE ARMY  
U.S. ARMY CONTRACTING COMMAND  
4505 MARTIN ROAD  
REDSTONE ARSENAL, AL 35898-5000

AMSCC-IR

07 MAR 2016

MEMORANDUM FOR [REDACTED] Internal Review and Audit  
Compliance Office, Headquarters, U.S. Army Materiel Command, 4400 Martin Road,  
Redstone Arsenal, AL 35898

SUBJECT: Draft Report: Inspector General – Department of Defense, Army  
Contracting Officials Could Have Purchased Husky Mounted Detection System Spare  
Parts at Lower Prices (Project No. D2015-D000AH-0225.000) (D1549) (3390)

1. DODIG Report, DoD Inspector General, 16 February 2016, subject: same as above.
2. The Army Contracting Command (ACC) provides the enclosed comments in response to the referenced document.
3. The ACC POC is [REDACTED]

Encl

BRYAN R. SAMSON  
Acting Deputy to the Commanding General

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## U.S. Army Contracting Command (cont'd)

ACC-APG RESPONSE TO DRAFT AUDIT OF ARMY CONTRACTING OFFICIALS  
COULD HAVE PURCHASED HUSKY MOUNTED DETECTION SYSTEM SPARE PARTS  
AT LOWER PRICES (PROJECT No. D2015-D000AH-0225.000)

### Background

The Department of Defense Inspector General (DoDIG) conducted audit work at ACC-APG Belvoir Contracting Division. The objective of the project was to determine whether the Department of the Army was purchasing sole-source spare parts for the Husky Mounted Detection System (HMDS) at fair and reasonable prices from NIITEK, Inc. (NIITEK).

DoDIG nonstatistically selected 13 of 340 HMDS spare parts to determine whether the Department of Army paid fair and reasonable prices. The report concluded that contracting officials for the U.S. ACC-APG generally obtained fair and reasonable prices from NIITEK for 13 sole-source HMDS spare parts, valued at \$209 million. However, ACC-APG contracting officials established the minimum quantity for the HMDS contract as a dollar value, instead of a number of spare parts, which limited the contracting officials' effectiveness in obtaining lower prices for HMDS spare parts. This occurred because ACC-APG contracting officials did not use available spare part estimates to establish a minimum number of spare parts to purchase on the contract. NIITEK could not effectively negotiate with its suppliers until ACC-APG provided actual order quantities, which occurred after ACC-APG and NIITEK negotiated prices for HMDS spare parts. NIITEK subsequently negotiated significantly lower prices with its suppliers. Instead of using available spare part estimates to establish the contract minimum, ACC-APG contracting officials established the \$50 million contract minimum for HMDS spare parts to support 3 months of sustainment because it allowed them flexibility to adjust order quantities if needed. As a result, ACC-APG contracting officials likely paid NIITEK \$27 million more than they would have paid for those 13 spare parts if the contract minimum was based on a number of spare parts instead of a dollar value.

The report provided two (2) recommendations. ACC-APG's response to each is provided below.

### DRAFT REPORT RECOMMENDATION 1 FOR EXECUTIVE DIRECTOR, ACC-APG

Require contracting officials to assess available spare part estimates and determine and document whether establishing the minimum quantity limit as a dollar value or number of units would be more effective in obtaining fair and reasonable prices, when appropriate, on firm-fixed-price, indefinite-delivery indefinite-quantity contracts for spare parts.

### ACC-APG RESPONSE TO RECOMMENDATION 1

ACC-APG concurs with the recommendation. When preparing firm fixed price, indefinite delivery/ indefinite quantity (IDIQ) type contracts for spare parts, ACC-APG contracting officials shall assess all available information to determine the most appropriate basis for a minimum order quantity. That assessment will be used to determine a minimum order that is both greater than a nominal quantity and less than the Government is fairly certain to order in accordance with FAR 16.504(a) (2). It should be noted that circumstances within the Theater of Operations may subsequently generate requirements that are substantially different (greater or smaller) than the original estimate, thus the election of an Indefinite Delivery/ Indefinite

## U.S. Army Contracting Command (cont'd)

ACC-APG RESPONSE TO DRAFT AUDIT OF ARMY CONTRACTING OFFICIALS  
COULD HAVE PURCHASED HUSKY MOUNTED DETECTION SYSTEM SPARE PARTS  
AT LOWER PRICES (PROJECT No. D2015-D000AH-0225.000)

Quantity contract type. This information should be documented in the contract file. A reminder will be included in ACC-APG Contract Operations Weekly Update in March 2016.

### DRAFT REPORT RECOMMENDATION 2 FOR EXECUTIVE DIRECTOR, ACC-APG

Determine and document whether it is appropriate to request a \$27 million voluntary refund from NITEK, Inc. for sole-source Husky Mounted Detection System spare parts, in accordance with Defense Federal Acquisition Regulation Supplement Subpart 242.71, "Voluntary Refunds."

### ACC-APG RESPONSE TO RECOMMENDATION 2

ACC-APG concurs with the recommendation. ACC-APG will request information from NITEK, Inc. to determine and document if a voluntary refund is appropriate by 30 September 2016.

## Acronyms and Abbreviations

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<b>ACC-APG</b>	U.S. Army Contracting Command-Aberdeen Proving Ground
<b>CERDEC</b>	U.S. Army Communications-Electronics Research, Development and Engineering Center
<b>DCAA</b>	Defense Contract Audit Agency
<b>DFARS</b>	Defense Federal Acquisition Regulation Supplement
<b>EDA</b>	Electronic Document Access
<b>FAR</b>	Federal Acquisition Regulation
<b>HMDS</b>	Husky Mounted Detection System
<b>PdM CEH</b>	Product Manager Counter Explosive Hazard

## **Whistleblower Protection**

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

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