U.S. Army Special Operations Command Properly Awarded Service Contracts
Mission
Our mission is to provide independent, relevant, and timely oversight of the Department of Defense that supports the warfighter; promotes accountability, integrity, and efficiency; advises the Secretary of Defense and Congress; and informs the public.

Vision
Our vision is to be a model oversight organization in the Federal Government by leading change, speaking truth, and promoting excellence—a diverse organization, working together as one professional team, recognized as leaders in our field.
May 12, 2016

Objective
We determined whether U.S. Army Special Operations Command awarded service contracts and task orders in accordance with Federal and DoD regulations. The contracted services included functions such as maintenance, medical, housekeeping, education and training, and transportation to support U.S. Army Special Operations Command. We reviewed the 35 service contracts, valued at $21.4 million, from the period of October 1, 2013, through September 30, 2015.

This is the second in a series of audits of U.S. Special Operations Command component commands. The United States House Committee on Armed Services requested the initial audit to review the process for awarding service contracts at Naval Special Warfare Command.

Finding
U.S. Army Special Operations Command contracting personnel properly planned and awarded 29 service contracts, valued at $12.1 million, in accordance with Federal and DoD regulations. Specifically, U.S. Army Special Operations Command contracting personnel properly:

- planned acquisitions to promote and provide for full and open competition to the maximum extent practicable by developing acquisition plans, determining whether to use commercial or Government resources for acquisition of supplies or services, and determining whether functions are inherently governmental;

Finding (cont’d)

- conducted and documented market research to ensure the most suitable approach to acquiring, distributing, and supporting service acquisitions;
- publicized contract opportunities and award information;
- competed contract awards in accordance with Federal Acquisition Regulation Part 6, that prescribes policies and procedures to promote full and open competition in the acquisition process; and
- ensured sole-source awards were justified and documented properly.

In addition, U.S. Army Special Operations Command contracting personnel used a valid statutory requirement when awarding the other six contracts, with a total value of $9.3 million. Specifically, the Federal Acquisition Regulation states that full and open competition need not be provided for when a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source.

Management Comments
We provided a discussion draft to officials at U.S. Army Special Operations Command on April 13, 2016. We considered management comments on a discussion draft of this report when preparing the final report. No official response to this report was required.
MEMORANDUM FOR COMMANDER, U.S. SPECIAL OPERATIONS COMMAND
AUDITOR GENERAL DEPARTMENT OF THE ARMY

SUBJECT: U.S. Army Special Operations Command Properly Awarded Service Contracts
(Report No. DODIG-2016-090)

We are providing this report for your information and use. Contracting personnel at U.S. Army Special Operations Command planned and awarded 29 service contracts valued at $12.1 million in accordance with Federal and DoD regulations. Additionally, the contracting personnel applied valid statutory requirements when awarding six contracts valued at $9.3 million. We conducted this audit in accordance with generally accepted government auditing standards.

We considered management comments on a discussion draft of this report when preparing the final report. No official response to this report was required.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9187. If you desire, we will provide a formal briefing on the results.

Michael J. Roark
Assistant Inspector General
Contract Management and Payments
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Introduction

Objective

We determined whether U.S. Army Special Operations Command (USASOC) awarded service contracts and task orders in accordance with Federal and DoD regulations. See Appendix A for scope and methodology and prior coverage.

Background

This is the second in a series of audits of U.S. Special Operations Command (USSOCOM) component commands. The United States House Committee on Armed Services requested the initial audit to review the process for awarding service contracts at Naval Special Warfare Command.

U.S. Special Operations Command

USSOCOM synchronizes the planning of Special Operations and provides Special Operations Forces to support Global Command operations to protect and advance our Nation’s interests. USSOCOM’s four major component commands are USASOC, Naval Special Warfare Command, Air Force Special Operations Command, and Marine Corps Forces Special Operations Command.

U.S. Army Special Operations Command

Located at Fort Bragg, North Carolina, USASOC is responsible for generating and sustaining Army Special Operations Forces to conduct special operations across the range of military operations worldwide in support of combatant commanders. USASOC controls seven major subordinate elements, which train and maintain forces for USSOCOM deployment to combatant command theaters worldwide.

The USASOC contracting directorate supports unique contracting requirements of Army Special Operation Forces, including USASOC Headquarters, U.S. Army 1st Special Forces Command, and the U.S. Army John F. Kennedy Special Warfare Center and School.

Relevant Federal Acquisition Regulation Guidance

All Federal Executive agencies must follow the Federal Acquisition Regulation (FAR) when acquiring supplies and services with appropriated funds. Agency heads may issue or authorize the issuance of agency acquisition regulations that implement or supplement the FAR.

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The following parts of the FAR are relevant to this audit.

FAR Part 5, “Publicizing Contract Actions,” prescribes policies and procedures for publicizing contract opportunities and award information. It also provides guidance for contracting officers on disseminating information, synopsizing proposed contract actions, and synopsizing contract awards.

FAR Part 6, “Competition Requirements,” prescribes policies and procedures for promoting full and open competition in the acquisition process and for providing for full and open competition, full and open competition after exclusions, and other than full and open competition. This part also prescribes policies and procedures for promoting advocates for competition.

FAR Part 7, “Acquisition Plans,” prescribes policies and procedures for developing acquisition plans, determining whether to use commercial or Government resources for acquisition of supplies or services, and determining whether functions are inherently governmental. This part also states that acquisition planning should begin as soon as the agency need is identified.

FAR Part 10, “Market Research,” prescribes policies and procedures for conducting market research to identify the most suitable approach to acquiring, distributing, and supporting supplies and services.

**Contracts Reviewed at USASOC**

We queried the Federal Procurement Data System-Next Generation\(^2\) and identified that USASOC contracting personnel awarded 39 service contracts and task orders, valued at $33.4 million, from October 1, 2013, through September 30, 2015.

We determined that contracts that received four or more offers from different contractors indicated that sufficient competition occurred. Therefore, we eliminated three contracts that received four or more offers from our sample. During the audit, we also identified that one contract was a ratification of an unauthorized commitment.\(^3\) We removed the contract from our sample and limited our review to verifying that the ratification was awarded in accordance with the FAR\(^4\) and the Special Operations Federal Acquisition Regulation Supplement.\(^5\)

We also verified that USASOC took corrective action to avoid future occurrences.

We reviewed the remaining 35 contracts, valued at $21.4 million. Additionally, for

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\(^2\) The Federal Procurement Data System-Next Generation is an online database of contract actions.

\(^3\) FAR Subpart 1.602-3, “Ratification of Unauthorized Commitments,” defines ratification as the act of approving an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government.

\(^4\) FAR Subpart 1.602-3(c).

\(^5\) Special Operations Federal Acquisition Regulation Supplement Subpart 5601.602-3, “Ratification of Unauthorized Commitments.”
six of the contracts, we limited our review to verifying whether the contract files contained a valid statutory requirement.⁶ See Appendix A for more detail on how we selected contracts for review and Appendix B for a list of contracts reviewed.

**Review of Internal Controls**

DoD Instruction 5010.40⁷ 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. USASOC internal controls over the process for awarding service contracts were effective as they applied to the audit objectives. We will provide a copy of the report to the USASOC senior official(s) responsible for internal controls.

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⁶ FAR Subpart 6.302-5, “Authorized or Required By Statute,” allows contracting officers to award contracts using procedures other than full and open competition when a statute expressly authorizes, or requires, that the acquisition be made through another agency or from a specified source.

Finding

USASOC Properly Awarded Service Contracts

USASOC contracting personnel properly planned and awarded 29 service contracts and task orders valued at $12.1 million in accordance with Federal and DoD regulations. Specifically, USASOC contracting personnel properly:

- planned acquisitions to promote and provide for full and open competition to the maximum extent practicable;
- conducted and documented market research to ensure the most suitable approach to acquiring, distributing, and supporting service acquisitions;
- publicized contract opportunities and award information;
- competed contract awards in accordance with FAR part 6; and
- ensured sole-source awards were supported.

In addition, USASOC contracting personnel applied valid statutory requirements when awarding six contracts with a total value of $9.3 million.

USASOC Contracting Personnel Properly Planned Acquisitions

USASOC contracting personnel properly planned for 29 contract awards (total value of $12.1 million) in accordance with the FAR. Specifically, the FAR states that agencies shall perform acquisition planning for all acquisitions to promote and provide for full and open competition to the maximum extent practicable. The contract files included key planning documents, such as statements of work, performance work statements, customer purchase requests, cost estimates, legal reviews, and justifications for sole-source awards that were commensurate with regard to the nature of the services required and the complexity of each contract.

For example, USASOC contracting personnel properly planned low-dollar acquisitions. One such acquisition was contract H92239-14-P-0039, a sole-source award of $7,650 for training services related to the MP7A1 submachine gun. Planning documents included a purchase request and commitment form that established the genuine need for the requested training. USASOC contracting personnel did not compete this contract award and the files properly included

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8 FAR part 7.
a signed justification and approval (for other than full and open competition) indicating the contractor was the original equipment manufacturer and the only entity providing factory-certified training on the MP7A1.

USASOC contracting personnel properly planned other acquisitions. For example, USASOC contracting personnel awarded contract H92239-15-C-0009, a small business set-aside of $135,463, for maintenance of equipment located on four cell phone towers. The contract files properly included a purchase request and commitment form, a legal analysis of the draft solicitation, an independent Government estimate, a service contract approval form, and an acquisition planning sheet.

As shown in these two examples and the other 27 contracts reviewed, USASOC contracting personnel properly planned the acquisitions and the documents we reviewed complied with FAR requirements to perform sufficient acquisition planning with regard to the nature of the services required. Additionally, while the Special Operations Federal Acquisition Regulation Supplement\(^9\) does not always require legal review during the planning phase, the Deputy Chief of Staff for Contracting encouraged her staff to obtain a legal review on a case-by-case basis. Many of the contract files reviewed contained evidence of legal review.

**USASOC Properly Supported Service Contract Awards With Market Research**

USASOC contracting personnel properly documented market research for 27 of 29\(^{10}\) service contracts (total value of $12.1 million) to ensure the most suitable approach to acquiring, distributing, and supporting service acquisitions in accordance with the FAR.\(^{11}\) The FAR\(^{12}\) requires agencies to conduct market research for all acquisitions to promote and provide for full and open competition or, when full and open competition is not required, to obtain competition to the maximum extent possible, considering the type of supplies or services to be acquired. The FAR also states agencies should document the results of market research in a manner appropriate to the size and complexity of the acquisition.

For example, USASOC contracting personnel properly conducted market research on contract H92239-14-P-0035, a sole-source award for expert witness services, valued at $30,000. The market research included review of the Federal Awardee

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\(^{9}\) Special Operations Federal Acquisition Regulation Supplement Part 5601, “The Federal Acquisition Regulation System,” Attachment 5601-1.2b, “Approval Levels of Authority and Document Review.”

\(^{10}\) Two contracts did not require market research because they were payments for repairs of rental car damage caused by the Government.

\(^{11}\) FAR parts 7 and 10.

\(^{12}\) FAR part 7.
Performance and Integrity Information System and the System for Award Management profile to research the requested contractor. In addition, USASOC contracting personnel conducted online searches to determine the average cost associated with expert witnesses.

**USASOC Properly Publicized Contract Actions**

USASOC contracting personnel properly publicized contract opportunities and award notices for 12 of 29\(^{13}\) contracts (total value of $11.7 million) in accordance with the FAR.\(^{14}\) Contracting officers must publicize contract actions to increase competition; broaden industry participation in meeting Government requirements; and assist small business concerns, veteran-owned small business, service-disabled veteran-owned small business concerns, historically underutilized business zones, small disadvantaged business concerns, and women-owned small business concerns in obtaining contracts and subcontracts. Specifically, the FAR establishes policy to ensure agencies make notices of proposed contract actions available to the public.

For example, USASOC contracting personnel properly publicized contract H92239-15-P-0044, valued at $57,488, by posting the proposed contract action to the Federal Business Opportunities website for 45 days beginning June 22, 2015 (the FAR requires a 15-day minimum). USASOC contracting personnel subsequently awarded the contract on August 5, 2015, 45 days after publication. This example demonstrates that USASOC contract personnel properly publicized contract opportunities and award notices.

**USASOC Complied With Competition Requirements and Properly Justified Sole Source Awards**

USASOC contracting personnel properly awarded 6 service contracts as competitive awards and 23 service contracts as sole-source awards. In accordance with United States Code,\(^{15}\) contracting personnel must provide for full and open competition when awarding contracts. The FAR\(^{16}\) further prescribes policies and procedures to promote full and open competition in the acquisition process.

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\(^{13}\) Of the 29 total contracts, 11 were properly publicized and 18 were not required to be publicized (of these 18 contracts, 16 were exceptions and 2 cited FAR Subpart 52.228-8, “Liability and Insurance-Leased Motor Vehicles.”)

\(^{14}\) FAR part 5.

\(^{15}\) Section 2304, title 10, United States Code (10 U.S.C. § 2304 [2011]), “Contracts: competition requirements.”

\(^{16}\) FAR part 6.
**Competitive Contracts Awarded in Accordance With Federal Regulations**

USASOC contracting personnel properly awarded six competitive contracts valued at $8.4 million in accordance with the FAR. The FAR requires:

> with certain limited exceptions, that contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts. Contracting officers shall provide for full and open competition through use of the competitive procedure(s) contained in this subpart that are best suited to the circumstances of the contract action and consistent with the need to fulfill the Government’s requirements efficiently.

For example, USASOC contracting personnel properly solicited, evaluated, and awarded contract H92239-15-C-0007, valued at $7.9 million, for psychological services. USASOC contracting personnel posted a Sources Sought notice on the Federal Business Opportunities website with a request for information to help identify interested sources capable of meeting the contract requirements. USASOC contracting personnel also used the Federal Business Opportunities website to publicize the presolicitation, modifications, and the solicitation. In response to the solicitation, two proposals were received. USASOC contracting personnel performed a source selection evaluation and negotiated a best and final offer.

**Sole-Source Awards Were Appropriately Justified**

USASOC contracting personnel properly justified the use of other than full and open competition on 23 sole-source service contracts valued at $3.6 million. The Table shows the FAR citations and justifications that USASOC contracting personnel provided for their sole-source awards.

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17 FAR part 6.
### Table. Justification for Sole-Source (Other Than Full and Open Competition) Awards

<table>
<thead>
<tr>
<th>No. of Contracts</th>
<th>FAR Citation</th>
<th>Justification for Sole Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>FAR subpart 6.302-3. Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services</td>
<td>Expert services related to current and anticipated litigation are exempt from competition</td>
</tr>
<tr>
<td>9</td>
<td>FAR subpart 6.302-1. Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements</td>
<td>Competition not required when needed services are available from only one source</td>
</tr>
<tr>
<td>2</td>
<td>FAR subpart 52.228-8. Liability and Insurance – Leased Motor Vehicles</td>
<td>Payments for repair of Government rental car damage are exempt from competition</td>
</tr>
<tr>
<td>1</td>
<td>FAR subpart 8.405-6. Limiting Sources</td>
<td>Competition not required due to the urgency of needed services</td>
</tr>
<tr>
<td>1</td>
<td>FAR subpart 13.106-1. Soliciting Competition</td>
<td>Competition not required due to the urgency of needed services</td>
</tr>
</tbody>
</table>

For example, USASOC contracting personnel properly awarded contract H92239-14-C-0003 as sole source, valued at $1.7 million, for the development and execution of the Special Operations Performance Enhancement Program. In accordance with 10 U.S.C. § 2304 (2011) as implemented by the FAR, the justification and approval properly supported that only one responsible source and no other service would satisfy agency requirements. USASOC contracting personnel explained that only the contractor’s company possessed the customized databases containing the normative data for measuring the results. In addition, the contractor was the sole distributor to the military. USASOC contracting personnel obtained the proper approval and signatures for the justification and approval document prior to the contract award, and posted the presolicitation notice on the Federal Business Opportunities website, stating the intent to negotiate a sole-source award. A legal review found no legal objections.
USASOC Contracting Personnel Appropriately Awarded Contracts That Were Authorized by Statute

USASOC contracting personnel properly complied with the FAR\textsuperscript{19} when awarding six contracts with a valid statutory requirement, valued at $9.3 million. Specifically, the FAR states that full and open competition need not be provided for when a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source.

In accordance with the FAR, USASOC contracting personnel awarded:

- 3 contracts, valued at approximately $9.3 million, under Section 8(a) of the Small Business Act program,\textsuperscript{20} and
- 3 smaller contracts\textsuperscript{21} for official events, valued at approximately $15,000, to the Fort Bragg Club under 10 U.S.C. § 2492 (2011), “Nonappropriated Fund Instrumentalities: Contracts with Other Agencies and Instrumentalities to Provide and Obtain Goods and Service.”

Each of the six contract files included adequate documentation, such as memorandums to and from the Small Business Agency, justification and approval documents, and legal reviews, to support the contract award under the specified statutes.

\textsuperscript{19} FAR subpart 6.302-5.
\textsuperscript{21} The contracts were for Gold Star luncheon events and a chaplain leadership training event. The three contracts were awarded in accordance with Defense Procurement Acquisition Policy Memorandum “Limitations on the Use of Contracts and Other Agreement with DoD Nonappropriated Fund Instrumentalities,” December 2004.
Appendix A

Scope and Methodology

We conducted this performance audit from September 2015 through April 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 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. This is the second in a series of audits of contracts awarded by USSOCOM component commands.

Audit Universe

We queried the Federal Procurement Data System-Next Generation to determine the contract universe. We queried all contract actions issued from October 1, 2013, through September 30, 2015. We determined that USASOC contracting personnel issued 624 contract actions with a value, including base and option years, of approximately $97.4 million. We excluded 584 contract actions that met one or more of the following criteria:

- contract awards issued from the General Service Administration or other Service contracts;
- contracts that were modifications of prior year contracts; and
- contracts for products or research and development.

After these exclusions, we determined that USASOC contracting personnel awarded 39 service contracts, valued at $33.4 million, from October 1, 2013, through September 30, 2015. We determined that contracts that received four or more offers from different contractors indicated that sufficient competition occurred. Therefore, we eliminated three contracts that received four or more offers from our sample. During our review of the 36 contracts, we also identified that one contract was a ratification of an unauthorized commitment. We also removed the contract from our sample and limited our review to verifying that the ratification was awarded in accordance with the FAR and the Special Operations Federal Acquisition Regulation Supplement. We reviewed the remaining 35 contracts, valued at $21.4 million. We also determined that six contracts were required or authorized by statute. For those six contracts, we limited our review to verifying whether the contract files contained a valid statutory requirement.
Review of Documentation and Interviews

For 29 service contracts, we reviewed applicable contract file documentation such as:

- requirement documents (funding document, statement of work, performance work statement, services contract approval form);
- records of market research;
- the justification and approval for other than full and open competition;
- small business coordination records; and
- price reasonableness determinations.

We obtained copies of the contract file documentation during our November 2015 site visit to USASOC Headquarters, Fort Bragg, North Carolina.

We interviewed USASOC contracting officials, including the Deputy Chief of Staff for Contracting, contracting officers, and contracting specialists responsible for the 29 contracts, as well as personnel from the requiring activities. We discussed the award process and documentation obtained from the contract files. We also interviewed the competition advocate, small business representative, and USSOCOM contract personnel to gain an understanding of the role each entity played in USASOC service contract awards.

We evaluated contract documentation obtained against applicable criteria, including:

- FAR Part 5, “Publicizing Contract Actions;”
- FAR Part 6, “Competition Requirements;”
- FAR Part 7, “Acquisition Planning;” and
- FAR Part 10, “Market Research.”

Authorized by Statute

For six contracts authorized by statute, we reviewed contract files to determine whether the contracts were awarded under authorizations provided in the applicable regulations and statutes, and whether the contract files included documents that supported the award under:

- FAR Subpart 6.302-5, “Authorized or Required By Statute;”
• FAR Subpart 19.8, “Contracting with The Small Business Administration (The 8(a) Program);” and
• Title 10 U.S.C. § 2492, “Nonappropriated Fund Instrumentalities: Contracts with Other Agencies and Instrumentalities to Provide and Obtain Goods and Service.”

**Use of Computer-Processed Data**

We did not use computer-processed data to perform this audit.

**Prior Coverage**

During the last 5 years, the Department of Defense Inspector General (DoD IG) issued one report discussing the awarding of service contracts. Unrestricted DoD IG reports can be accessed at [http://www.dodig.mil/pubs/index.cfm](http://www.dodig.mil/pubs/index.cfm).

*DoD IG*

# Appendix B

## U.S. Army Special Operations Command Service Contracts Reviewed

<table>
<thead>
<tr>
<th></th>
<th>Contract Number</th>
<th>Award Date</th>
<th>Competitive or Noncompetitive</th>
<th>Total Contract Value</th>
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<tbody>
<tr>
<td>1</td>
<td>H92239-15-C-0007</td>
<td>August 24, 2015</td>
<td>Competitive</td>
<td>$7,898,111</td>
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<td>2</td>
<td>H92239-14-C-0003</td>
<td>April 17, 2014</td>
<td>Noncompetitive</td>
<td>$1,658,396</td>
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<td>3</td>
<td>H92239-15-D-0001</td>
<td>December 17, 2014</td>
<td>Noncompetitive</td>
<td>$599,960</td>
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<td>4</td>
<td>H92239-14-P-0016</td>
<td>March 31, 2014</td>
<td>Noncompetitive</td>
<td>$398,601</td>
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<tr>
<td>5</td>
<td>H92239-15-C-0002</td>
<td>March 1, 2015</td>
<td>Competitive</td>
<td>$319,200</td>
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<tr>
<td>7</td>
<td>H92239-14-D-0001</td>
<td>October 24, 2013</td>
<td>Noncompetitive</td>
<td>$287,000</td>
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<tr>
<td>8</td>
<td>H92239-15-P-0009</td>
<td>February 3, 2015</td>
<td>Competitive</td>
<td>$135,463</td>
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<tr>
<td>9</td>
<td>H92239-14-C-0006</td>
<td>August 5, 2014</td>
<td>Noncompetitive</td>
<td>$101,200</td>
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<td>10</td>
<td>H92239-15-P-0044</td>
<td>August 5, 2015</td>
<td>Competitive</td>
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<td>11</td>
<td>H92239-15-P-0024</td>
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<td>H92239-14-P-0036</td>
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<td>14</td>
<td>H92239-15-P-0057</td>
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<td>H92239-14-P-0018</td>
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<td>H92239-14-P-0023</td>
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<td>H92239-15-P-0013</td>
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<td>26</td>
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<td>January 9, 2014</td>
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<td>Noncompetitive</td>
<td>$2,700</td>
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</tbody>
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**Total** $12,058,722
## U.S. Army Special Operations Command Service Contracts Reviewed – Authorized by Statute

<table>
<thead>
<tr>
<th>Contract Number</th>
<th>Award Date</th>
<th>Competitive or Noncompetitive</th>
<th>Total Contract Value</th>
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<td>June 27, 2014</td>
<td>Noncompetitive</td>
<td>$3,738,892</td>
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<td>November 15, 2013</td>
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<td>May 7, 2015</td>
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<td>H92239-15-P-0047</td>
<td>August 10, 2015</td>
<td>Noncompetitive</td>
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<td><strong>Total</strong></td>
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<td><strong>$9,334,560</strong></td>
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Acronyms and Abbreviations

FAR  Federal Acquisition Regulation
USASOC  U.S. Army Special Operations Command
USSOCOM  U.S. Special Operations Command
Whistleblower Protection
U.S. Department of Defense

The Whistleblower Protection Ombudsman’s role is to educate agency employees about prohibitions on retaliation and employees’ rights and remedies available for reprisal. The DoD Hotline Director is the designated ombudsman. For more information, please visit the Whistleblower webpage at www.dodig.mil/programs/whistleblower.

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