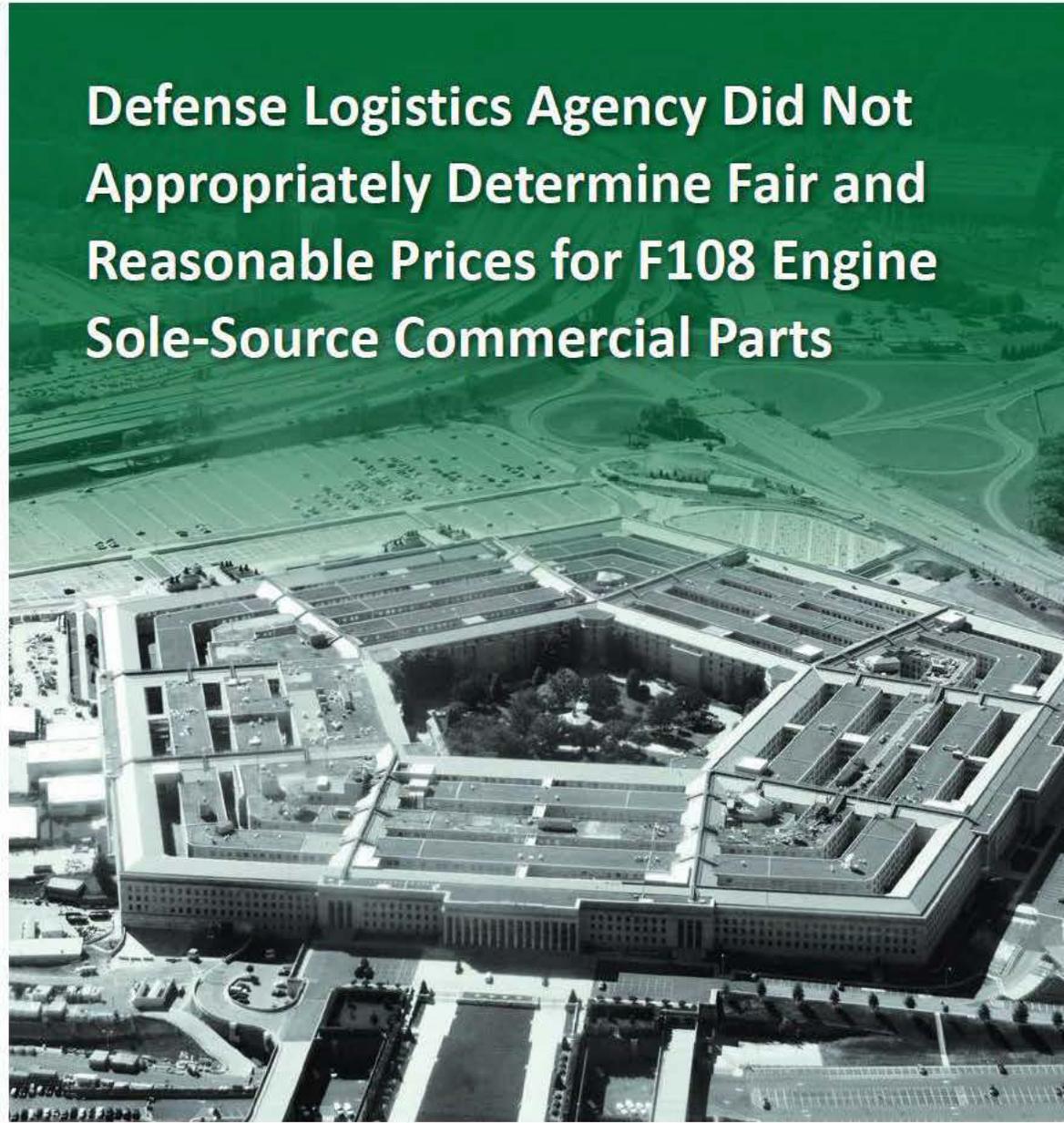


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# INSPECTOR GENERAL

*U.S. Department of Defense*

FEBRUARY 16, 2016



## Defense Logistics Agency Did Not Appropriately Determine Fair and Reasonable Prices for F108 Engine Sole-Source Commercial Parts

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INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

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# Results in Brief

## *Defense Logistics Agency Did Not Appropriately Determine Fair and Reasonable Prices for F108 Engine Sole-Source Commercial Parts*

February 16, 2016

### Objective

Our objective was to determine whether Defense Logistics Agency (DLA) purchased sole-source commercial spare parts at fair and reasonable prices from CFM International.

### Finding

The DLA Aviation contracting officer did not appropriately determine fair and reasonable prices for sole-source commercial spare parts purchased from CFM International. This occurred because the contracting officer did not conduct a sufficient price analysis. Specifically, the contracting officer:

- relied on sales data that did not include customer names;
- did not review commercial sales quantities; and
- accepted prices for sole-source commercial parts with no commercial sales.

Further, the contracting officer did not question the commercial off-the-shelf classification for parts with no commercial sales, and did not require CFM International to comply with a contract requirement to submit negotiation documentation within stated timelines. In addition, the contracting officer's supervisor did not provide adequate oversight and the contracting officer did not elevate contract negotiation problems. As a result, the contracting officer did not request or obtain additional data necessary to determine if the maximum value contract price of nearly \$1 billion was fair and reasonable.

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### Management Action

We briefed the Deputy Commander, DLA Aviation, on our preliminary concerns and he took immediate action. The Deputy Commander requested that CFM provide its updated commercial catalog and un-redacted sales data for option year 4 no later than August 1, 2015, as required by the contract. The Deputy Commander also requested other-than-certified cost and pricing data for any parts that do not have commercial sales. CFM agreed and provided its catalog on August 4, 2015. However, CFM provided sales data that did not include customer names. Therefore, the contracting officer requested Defense Contract Management Agency assistance to validate the sales data and to verify whether similar parts that CFM provided to support the prices of parts on contract were appropriate for comparison.

### Recommendations

We recommend that the Director, DLA, require the contracting officer to review the classification of the parts with no commercial sales to determine whether the commercial off-the-shelf classification is appropriate before awarding the next CFM International contract. In addition, the Director should review existing controls for contracting officer oversight, provide additional training on sole-source commercial acquisitions, review the performance of the DLA contracting officer, and take administrative action as appropriate for not following the Federal Acquisition Regulation and defense acquisition guidance.

### Management Comments and Our Response

Comments from the Director, DLA Acquisition, responding for the Director, DLA, addressed Recommendations a, b, and c. However, the Director did not address the specifics of Recommendation d. Therefore, we request additional comments to the final report by March 17, 2016. Please see the Recommendations Table on the next page.

### ***Recommendations Table***

<b>Management</b>	<b>Recommendations Requiring Comment</b>	<b>No Additional Comments Required</b>
Director, Defense Logistics Agency	d	a, b, c

Please provide Management Comments by March 17, 2016.



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

February 16, 2016

MEMORANDUM FOR DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: Defense Logistics Agency Did Not Appropriately Determine Fair and Reasonable Prices for F108 Engine Sole-Source Commercial Parts (Report No. DODIG-2016-047)

~~(FOUO)~~ We are providing this report for review and comment. The Defense Logistics Agency did not appropriately determine fair and reasonable prices for sole-source commercial spare parts from CFM International. Specifically, the contracting officer did not request or obtain additional data necessary to determine if the \$(b)(4) contract price was fair and reasonable. 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. DoD Instruction 7650.03 requires that recommendations be resolved promptly. Comments from the Director, DLA Acquisition, responding for the Director, Defense Logistics Agency, addressed Recommendations a, b, and c. However, we request additional comment from the Director, for Recommendation d by March 17, 2016.

Please send a PDF file containing your comments to [audapi@dodig.mil](mailto:audapi@dodig.mil). Copies of your comments must have the actual signature of the authorizing official for your organization. We cannot accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-(b)(6) (DSN 664-(b)(6)).

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

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## Acronyms and Abbreviations

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# Introduction

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## Objective

Our objective was to determine whether Defense Logistics Agency (DLA) purchased sole-source commercial spare parts at fair and reasonable prices from CFM International (CFM). See Appendix A for a discussion of the scope and methodology, and Appendix B for prior audit coverage related to the objective.

## Background

DLA, headquartered at Fort Belvoir, Virginia, provides the Army, Marine Corps, Navy, Air Force, and allied forces with a full spectrum of logistics, acquisition, and technical services. DLA provides nearly all of the consumable items military forces need to operate and supplies nearly 90 percent of the military's spare parts. DLA Aviation, headquartered in Richmond, Virginia, is the U.S. military's integrated material manager for more than 1.1 million repair parts. DLA Aviation also manages operating supply items in support of all fixed- and rotor-wing aircraft including spare parts for engines on fighters, bombers, transports, and helicopters; all airframe and landing gear parts; flight safety equipment; and propeller systems.

## ***CFM International***

CFM is a 50/50 joint company between Snecma (Safran) and General Electric (GE) Aviation, with a North American headquarters near Cincinnati, Ohio. CFM develops, produces, and sells the CFM56 engine line. Snecma manufactures engines for commercial and military aircraft. GE Aviation is a division of the GE Company that produces commercial and military jet engines and components, as well as integrated digital, electric-power, and mechanical systems for aircraft. The two partners share in the manufacturing and assembly of different parts of the CFM56 engine. GE Aviation manufactures the core that consists of the high-pressure compressor, combustor, and high-pressure turbine. Snecma is responsible for the fan module, low-pressure compressor and turbine, gearbox, and accessories. The CFM56 engine is assembled at GE facilities near Cincinnati, Ohio, and Durham, North Carolina, and at Snecma facilities in Villaroche, France.

## ***CFM56 Engine***

According to CFM, more than 520 airlines, charter operators, militaries, and leasing companies around the world use the CFM56 engine. CFM's product line includes six engine models that are tailored to each aircraft application: the CFM56-2, CFM56-3, CFM56-5A, CFM56-5B, CFM56-5C, and CFM56-7B. Since 1984, the U.S. military has used CFM's initial engine, the CFM56-2, which the military

designated as the F108 engine. According to GE, the U.S. military is the largest single user of the CFM56-2 engine, which 20 international militaries also use. The CFM56-2 powers the KC-135 Stratotanker and E-6 Mercury aircraft. See the Figure for pictures of the KC-135 and E-6 aircraft.



Figure. (Left) A KC-135 Refueling an F-16 and (Right) an E-6 Mercury  
Source: (Left) U.S. Air Force, (Right) U.S. Navy

### ***CFM Contract***

~~(FOUO)~~ On September 10, 2012, DLA Aviation, Oklahoma City awarded CFM a sole-source, firm-fixed price, indefinite-delivery requirements contract<sup>1</sup> for F108 engine spare parts. All parts are sole-source to CFM, and DoD considers them commercial off-the-shelf (COTS) parts. The Federal Acquisition Regulation (FAR)<sup>2</sup> defines COTS as “**parts sold in substantial quantities in the commercial market and offered to the Government without any modifications [emphasis added].**” The contract performance period consists of a three-month base and four one-year options. DLA exercised the fourth and final option on October 30, 2015.<sup>3</sup> Since the contract award, DLA modified the contract to add additional parts, including the renovation project referred to as the commercial-propulsion upgrade program (C-PUP) kit, which increased the contract’s maximum value from \$██████ to \$██████. As of August 31, 2015, DoD has purchased ██████ of ██████ parts from the CFM contract, totaling approximately \$██████ million. For administrative purposes, DLA Aviation established a separate contract number<sup>4</sup> for all consumable parts under the CFM contract.

### ***Procedures for Pricing Commercial Items***

The FAR<sup>5</sup> states that contracting officers shall purchase supplies and services from responsible sources at fair and reasonable prices. When pricing commercial items, contracting officers at a minimum must use price analysis to determine

<sup>1</sup> Contract SPRTA1-12-D-0021.

<sup>2</sup> FAR 2.101, “Definitions.”

<sup>3</sup> Our analysis focused on the base contract, and option years 1, 2, and 3.

<sup>4</sup> Contract SPM4AX-13-D-9401.

<sup>5</sup> FAR 15.402, “Pricing Policy” and FAR 15.403-3(c), “Commercial Items.”

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fair and reasonable prices. Contracting officers shall obtain other-than-certified cost or pricing data as necessary. Contracting officers should follow an order of preference when obtaining data. If the contracting officer cannot obtain sufficient data readily available to the Government or data from sources other than the contractor, the contracting officer shall obtain data related to prices from the contractor. Data from the contractor could include catalogs, market prices, sales to non-governmental (commercial) and government entities, cost data, or any other data the contracting officer needs to determine fair and reasonable prices. At a minimum, contracting officers must get data on the prices previously paid for the same or similar parts.

Defense acquisition guidance<sup>6</sup> provides contracting officers further guidance for pricing sole-source commercial items. Specifically, contracting officers must obtain some form of commercial sales data for sole-source commercial items. Sales data obtained must be comparable to the quantities, capabilities, and specification of the product or service proposed. When reviewing prior sales, the contracting officer must determine if the prior sales data is sufficient to determine fair and reasonable prices. If the prior sales data is not sufficient, contracting officers are required to obtain additional data, which could include cost data. If the contracting officer cannot determine fair and reasonable prices for commercial items through price analysis, then cost analysis may be used.<sup>7</sup>

## 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 for purchasing sole-source commercial spare parts from CFM. The DLA Aviation contracting officer did not sufficiently conduct a price analysis in accordance with the FAR and defense acquisition guidance. Specifically, the contracting officer relied on sales data that did not include customer names, did not review commercial sales quantities, accepted prices for parts with no commercial sales, accepted the COTS classification for parts with no commercial sales, and did not require CFM to comply with contract requirements. In addition, the DLA Aviation Strategic Division Chief did not provide adequate oversight. We will provide a copy of the report to the senior officials responsible for internal controls at DLA.

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<sup>6</sup> Defense Federal Acquisition Regulation Supplement (DFARS) Procedures, Guidance, and Information (PGI) 215.403, "Obtaining certified cost or pricing data."

<sup>7</sup> FAR 15.404-1, "Proposal analysis techniques."

## Finding

### DLA Aviation Did Not Appropriately Determine Fair and Reasonable Prices

~~(FOUO)~~ The DLA Aviation contracting officer did not appropriately determine fair and reasonable prices for sole-source commercial spare parts purchased from CFM International. This occurred because the contracting officer did not conduct a sufficient price analysis, accepted the COTS classification for parts with no commercial sales, and did not require CFM International to comply with a contract requirement to submit negotiation documentation within stated timelines. In addition, the contracting officer's supervisor did not provide adequate oversight, and the contracting officer did not elevate contract negotiation problems. As a result, the contracting officer did not request or obtain additional data necessary to determine if the maximum value contract price of \$(b) (4) was fair and reasonable.

### Contracting Officer Did Not Appropriately Negotiate Sole-Source Commercial Prices

The contracting officer did not appropriately determine fair and reasonable prices for sole-source commercial spare parts purchased from CFM. The FAR<sup>8</sup> requires contracting officers to award contracts with fair and reasonable prices. When certified cost or pricing data is not required, the guidance requires contracting officers to obtain other-than-certified cost or pricing data as necessary to establish fair and reasonable prices. Defense acquisition guidance<sup>9</sup> states that obtaining sufficient data is critical when purchasing sole-source commercial items. Contracting officers can request Government or commercial sales data, cost data, or any other information required to determine if the price is fair and reasonable.<sup>10</sup>

~~(FOUO)~~ The DLA Aviation contracting officer accepted prices that consisted of CFM's catalog prices and a negotiated discount established during the initial engine production contract in 1984 between the Air Force and CFM. The contracting officer stated she was not able to negotiate prices. She stated that in her opinion, she is limited when negotiating sole-source commercial contracts because they create a "take it or leave it" negotiation environment. Therefore, to determine if CFM's

The contracting officer stated she was not able to negotiate prices.

<sup>8</sup> FAR 15.402.

<sup>9</sup> DFARS PGI 215.402 (3), "Pricing policy."

<sup>10</sup> FAR 15.403-3(c).

(FOUO) proposed prices were fair and reasonable, the contracting officer reviewed sales data to verify customers were not receiving larger discounts than DoD. However, the data we obtained from CFM did not support fair and reasonable prices for █ of █ non-statistically sampled parts we reviewed.<sup>11</sup> See Appendix C for a summary of our analysis techniques, compared to the analysis conducted by the contracting officer.

## Contracting Officer Did Not Sufficiently Analyze Prices

The contracting officer did not conduct a sufficient price analysis to determine whether the prices for sole-source commercial parts were properly supported in accordance with the FAR and defense acquisition guidance. Contracting officers are required, at a minimum, to use price analysis to determine whether prices are fair and reasonable. In addition, contracting officers must obtain sufficient data from the contractor, particularly for sole-source commercial parts. However, the DLA contracting officer:

- relied on sales data that did not include customer names;
- did not review commercial sales quantities in the sales data; and
- accepted prices for sole-source commercial parts that had no commercial sales.

## Sales Data Did Not Include Customer Names

The contracting officer relied on sales data to support CFM's proposed prices that did not include customer names. Defense acquisition guidance<sup>12</sup> states that for sole-source commercial acquisitions, the contracting officer must obtain commercial sales data to support the proposed price and must take sufficient steps to verify the integrity of the sales data. CFM provided the contracting officer sales data to support their prices. Specifically, CFM provided sales data for the base and option year 1 in a spreadsheet that concealed customer names using █.█<sup>13</sup> In addition, the contracting officer stated that for option years 2 and 3, CFM provided █ to support each part with the customer names redacted. The contracting officer did not question the sales data that did not include customer names. CFM stated that it did not include the customer names because they were proprietary. Therefore, during price analysis, the contracting officer could not validate that the sales were to commercial customers.

<sup>11</sup> For option year 3, the contracting officer selected a sample of █ of █ proposed parts. We non-statistically sampled █ of █ parts purchased as of May 8, 2015, and additional parts CFM did not provide commercial sales for during the option year 3 negotiations. See appendix A for details of our sample selection methodology.

<sup>12</sup> DFARS PGI 215.402(3) and DFARS PGI 215.403-3(1), "Data other than certified cost or pricing data."

<sup>13</sup> CFM also provided a spreadsheet that included █ and █ before DLA awarded the base contract.

Before DLA awarded the base contract, CFM provided the contracting officer a separate sales data spreadsheet that included both (b) (4) and (b) (4). A price analyst used the spreadsheet with the (b) (4) when analyzing the prices for the base contract. However, the contracting officer did not use the spreadsheet with (b) (4) when analyzing the sales data for option year 1 or for the addition of new contract parts. Instead, the contracting officer stated that she did not question the sales data because she trusted CFM and she believed CFM would not provide internal or Government sales information.

The contracting officer stated that she did not question the sales data because she trusted CFM...

The contracting officer could have used the spreadsheet with the (b) (4) to verify that the CFM sales data included commercial sales.

~~(FOUO)~~ We used the spreadsheet with (b) (4) to verify whether the sales data provided to the contracting officer for option year 1 included commercial sales. We determined that the contracting officer accepted sales data as commercial sales for (b) (4) of (b) (4) parts that did not actually include commercial sales. Instead, the sales that CFM provided to support the prices of the (b) (4) parts were all internal sales.<sup>14</sup> For example, the contracting officer added the C-PUP Kit, valued at \$(b) (4) to the contract through a modification. CFM provided a spreadsheet to support the price, which showed (b) (4) sales with (b) (4) different (b) (4). Using the spreadsheet with (b) (4), we determined that all (b) (4) sales were internal sales. Furthermore, the Head of Contracting Activity approved this modification, worth (b) (4) percent of the estimated contract value, under the assumption that all (b) (4) sales were to commercial customers.

...the contracting officer accepted sales data as commercial sales... that did not actually include commercial sales.

Although defense acquisition guidance<sup>15</sup> requires contracting officers to verify the integrity of commercial sales data obtained, it does not specifically prohibit contracting officers from obtaining data that conceals customer names or data. However, a previous DoD OIG report<sup>16</sup> recommended that the Director, Defense Pricing, establish policy defining when redacted invoices would be acceptable to support fair and reasonable price determinations. The Director agreed with the previous recommendation, and reported that he plans to update the Commercial Item Handbook and defense acquisition guidance.

<sup>14</sup> We considered any sales to (b) (4) to be internal sales.

<sup>15</sup> DFARS PGI 215.402(3) and DFARS PGI 215.403-3(1).

<sup>16</sup> DODIG-2015-058, "U.S. Air Force May Be Paying Too Much for F117 Engine Sustainment," December 22, 2014.

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## ***Contracting Officer Did Not Review Commercial Sales Quantities***

The contracting officer did not review the commercial sales quantities as required. The FAR<sup>17</sup> requires contracting officers conducting price analysis using historical sales to adjust prices to account for materially differing sales quantities. Defense acquisition guidance<sup>18</sup> states that when procuring sole-source commercial parts, contracting officers are required to obtain commercial sales data for quantities comparable to those in the solicitation. In addition, the contracting officer must determine whether the sales data obtained from the contractor is sufficient to support fair and reasonable price determinations. If the sales data is not sufficient, the contracting officer should request additional data, which could include cost data.

The contracting officer may not have obtained sufficient sales data to analyze whether CFM's sales quantities were comparable to the quantities DLA estimated purchasing in option years 2 and 3. Although the contracting officer received a complete sales history<sup>19</sup> for the base and option year 1, CFM only provided [REDACTED] to support the proposed price for each part for option years 2 and 3, which showed quantities that were not comparable. Therefore, the contracting officer could not compare the estimated quantities to the commercial sales data CFM provided. However, the contracting officer stated that she preferred getting only [REDACTED], and she did not think it was necessary to review the commercial sales quantities. Specifically, she only reviewed the [REDACTED] to determine whether a commercial customer paid CFM's catalog price before accepting CFM's proposed prices.



The contracting officer stated that...she did not think it was necessary to review the commercial sales quantities.

(FOUO) We requested sales data from CFM for our sample of [REDACTED] parts. Based on the commercial sales data that CFM provided, we determined that CFM's sales quantities were not comparable to DLA's estimated annual demand quantities for [REDACTED] of [REDACTED] parts reviewed. A CFM official stated that if the quantities sold to commercial customers were not comparable to the DoD estimated annual demand quantities for a part, the contracting officer could have negotiated downward from that point using other techniques. For example, during option year 3, DLA planned to purchase [REDACTED] fueling manifolds priced at \$ [REDACTED] each, for

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<sup>17</sup> FAR 15.404-1(b), "Price analysis for commercial and non-commercial items."

<sup>18</sup> DFARS PGI 215.403-3 "Requiring data other than certified cost or pricing data," and DFARS PGI 215.404-1, "Proposal analysis techniques."

<sup>19</sup> We consider a complete sales history all sales within a specific period. For example, we requested all sales from 2011 through 2015 and CFM provided [REDACTED] for one part in our sample.

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(FOUO) a total value of [REDACTED]. The sales data CFM provided shows that CFM only sold [REDACTED] fueling manifolds to commercial customers for an adjusted price<sup>20</sup> of \$ [REDACTED] each. Although DLA plans to buy more than the commercial customer, DLA is paying [REDACTED] percent more than the commercial customer. Therefore, the sales data for this part does not support that DLA obtained a fair and reasonable price. The contracting officer should have negotiated a lower price or requested additional data for this part.

(FOUO) In another example, DLA plans to purchase [REDACTED] fan rotor spacers for \$ [REDACTED] each during option year 3, for a total value of \$ [REDACTED]. CFM only provided one commercial sale of this part to support the price. The commercial customer bought [REDACTED] fan rotor spacers for \$ [REDACTED] each, adjusted for inflation. Although DLA plans to buy significantly more fan rotor spacers than the commercial customer purchased, DLA is paying more than the price, adjusted for inflation, the commercial customer paid. Therefore, the contracting officer should have negotiated a lower price or requested additional data—which could include cost data—necessary to support the price of this part.

### ***Contracting Officer Accepted Prices for Parts With No Commercial Sales***

The contracting officer accepted CFM’s proposed prices for sole-source COTS parts that did not have commercial sales. Defense acquisition guidance<sup>21</sup> states that when procuring sole-source commercial items with no commercial sales and no other market data is available, the contracting officer must require the contractor to provide whatever cost data is necessary to determine fair and reasonable prices. However, the contracting officer removed parts with no commercial sales from her price analysis without requesting additional data to support the prices.

The contracting officer removed parts with no commercial sales from her price analysis...

(FOUO) The contracting officer selected her sample of parts for price analysis of each option year using an 80/20 rule. The sample selection methodology selected approximately 20 percent of the parts that made up about 80 percent of the total cost proposed. For instance, the contracting officer conducted price analysis on [REDACTED] of [REDACTED] parts for option year 3. However, CFM did not provide commercial sales data to support the price of [REDACTED] parts. Instead of requesting additional market

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<sup>20</sup> To make prices comparable, we adjusted all 2011 through 2013 sales prices for inflation to November 2014 levels using the Aircraft Engines and Engine Parts Bureau of Labor Statistics Producer Price Index, which was used by the contracting officer during analysis.

<sup>21</sup> DFARS PGI 215.404-1(b)(ii).

(FOUO) data or cost data to support the fair and reasonable price determination, the contracting officer simply removed the parts with no commercial sales from the sample, resulting in a new sample of [REDACTED] parts. Table 1 shows the original and final contracting officer's parts sample for the three option years.

Table 1. Contracting Officer's Price Analysis Samples

(FOUO)	Contracting Officer's Original Sample	Parts With No Commercial Sales Removed From Sample	Final Sample Analyzed
Option Year 1	(b) (4)	(b) (4)	(b) (4)
Option Year 2	(b) (4)	(b) (4)	(b) (4)
Option Year 3	(b) (4)	(b) (4)	(b) (4)

Source: DoD OIG-generated table

(FOUO) For example, for option year 3, CFM did not provide any commercial sales to support the price of an aircraft inlet cone, priced at \$ [REDACTED] each. DLA estimated purchasing [REDACTED] aircraft inlet cones, for a total value of \$ [REDACTED] during option year 3. Instead of requesting additional data to support the price, the contracting officer removed the part from her analysis and accepted CFM's proposed price. To determine a fair and reasonable price, the contracting officer should have requested additional data because CFM could not provide any commercial sales to support the proposed price.

(FOUO) We reviewed the sales data CFM provided for our sample and found that [REDACTED] of the [REDACTED] parts did not have any commercial sales. We could not determine that the prices for these parts were fair and reasonable without additional data. For example, CFM could not provide us any commercial sales data to support the price of a metallic tube, priced at \$ [REDACTED]. Instead, CFM provided internal and Government sales to support this part. During option year 3, DLA purchased [REDACTED] metallic tubes, for a total of \$ [REDACTED]. Therefore, DLA has no assurance that the total price paid for this part during option year 3 was fair and reasonable.

## Parts Misclassified as COTS

(FOUO) The contracting officer accepted the COTS classification for parts with no commercial sales. Specifically, the contracting officer established in the CFM contract that DoD considers all parts COTS. DoD has considered the CFM parts COTS since at least 2007.<sup>22</sup> COTS are commercial parts sold in substantial quantities in the commercial marketplace and offered to the

<sup>22</sup> Contract FA8104-08-G-0002, awarded December 13, 2007, classified the CFM parts as COTS.

The contracting officer should have questioned whether those parts were COTS...when there were no commercial sales...

(FOUO) Government without modification.<sup>23</sup> However, during the contracting officer's price analysis, she identified from ■ to ■ parts in her sample for each option year that did not have commercial sales to support their prices. The contracting officer should have questioned whether those parts were COTS and requested additional data to support their prices, which could include sales data of similar (of-a-type) parts when there were no commercial sales to support the prices.

During our analysis, we requested additional data to support the prices for the ■ of ■ parts we identified with no commercial sales. We specifically requested cost data in accordance with defense acquisition guidance.<sup>24</sup> CFM denied our request for cost data three times. Although CFM did not provide cost data, it provided commercial sales and technical engineering data for similar parts to support the contract prices. If the contract did not state that the parts were COTS, we could have used the similar part data to determine fair and reasonable prices for the contract parts. However, since the contract defines the parts as COTS, which should be sold in substantial quantities in the commercial market, we expected to obtain substantial commercial sales data for the contract parts to support their prices.

Had the contracting officer questioned whether the parts were COTS, she could have obtained commercial sales and technical engineering data for similar parts to support the prices of the parts on contract. However, to use the data for the similar parts, the FAR and defense acquisition guidance<sup>25</sup> state that it is particularly important to request technical assistance to identify differences between the part on contract and the similar part. The contracting officer could have considered the differences identified by the technical expert when negotiating fair and reasonable prices. Therefore, the Director, DLA, should require the contracting officer to review the classification of COTS parts that have no commercial sales. If the contracting officer does not classify the parts without commercial sales as COTS on future contracts with CFM, the Director should require the contracting officer to request technical assistance to determine whether the similar parts CFM provides are appropriate for comparison.

<sup>23</sup> FAR 2.101.

<sup>24</sup> DFARS PGI 215.404-1(b)(ii).

<sup>25</sup> FAR 15.404-1 (b)(2)(ii)(C) and DFARS PGI 215.404-1(e), "Technical analysis."

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## DLA Did Not Require Contract Compliance

The contracting officer did not require CFM to comply with contract requirements to submit negotiation documentation within stated timelines. Specifically, the contract required CFM to provide its updated commercial catalog and sales data to support prices at least 90 days before option year award. The intent of the 90-day requirement was to provide the contracting officer adequate time to conduct a price evaluation to determine fair and reasonable prices, and modify the contract as needed before awarding the option. However, CFM did not comply with contract requirements to submit negotiation documentation.

CFM publishes its catalog each year with prices effective on November 1. DLA stated that for efficient management of the contract and to coincide with CFM's catalog release date, the contract option years would begin November 1 each year. Therefore, according to the requirements, CFM should provide DLA its updated commercial catalog and sales data to support prices no later than August 3 of each year. However, CFM did not meet contract requirements for any of the three option years. Instead, CFM provided their catalogs on September 12, 2012; September 13, 2013; and September 24, 2014—an average of 46 days before the option year awards. See Table 2 for a comparison of how many days before option year award CFM provided their data.

CFM did not meet contract requirements for any of the three option years.

Table 2. Comparison of CFM's Data Submission Dates

Option Year	Date CFM Provided Catalog	Option Start	Days Before Option Award
1	September 12, 2012	November 1, 2012	50 Days
2	September 13, 2013	November 1, 2013	49 Days
3	September 24, 2014	November 1, 2014	38 Days
<b>Average Days Before Option Award</b>			<b>46 Days</b>

Source: DoD OIG-generated table

Although the contracting officer received the documentation late from CFM, she was still required to award the contract options by November 1 of each year, which reduced the contracting officer's time to evaluate the proposed prices. The contracting officer stated that she did not question CFM's late data submissions because CFM officials told her they provided her the data when they received it. However, the contracting officer still needs adequate time to conduct price analysis to determine fair and reasonable prices, and should have required

compliance with the contract requirement. We briefed preliminary concerns to DLA Aviation management, who implemented corrective actions before exercising option year 4. See the Management Action section for a discussion on the actions DLA Aviation implemented.

## **Inadequate Oversight and Problems Not Elevated**

The DLA Aviation Strategic Division Chief did not provide adequate oversight of the contracting officer's work, and the contracting officer did not elevate negotiation problems. The contracting officer is located at DLA Aviation Oklahoma City, maintains an unlimited warrant,<sup>26</sup> and reports directly to the Strategic Division Chief located at DLA Aviation Richmond. The Strategic Division Chief stated she became the contracting officer's supervisor shortly after DLA awarded the contract in 2012 and stated she is intimately involved with the CFM contract. However, the Division Chief was unaware of three recurring price analysis problems that the contracting officer detailed in the price negotiation memorandums. Specifically, the Strategic Division Chief was not aware that the contracting officer removed parts from her analysis that did not have commercial sales, relied on CFM sales data that did not include customer names, and did not enforce requirements for data submission stated in the contract.

The Strategic Division Chief stated that she requires her contracting officers to obtain additional data and to conduct additional work to determine fair and reasonable prices for commercial parts with no commercial sales. In the price negotiation memorandums for the contract we reviewed, the contracting officer detailed that she identified and removed parts from her analysis that did not have commercial sales to support their prices. In addition, the Strategic Division Chief stated that obtaining redacted data is appropriate as long as her contracting officers can determine that the customers are commercial customers. However, the Strategic Division Chief was not aware that the contracting officer relied on CFM data that concealed customer names. Finally, although the contracting officer listed the dates CFM provided their catalogs in each price negotiation memorandum, the Strategic Division Chief was not aware that CFM consistently did not provide their data 90 days before each option-year award as required. When we informed the Strategic Division Chief, she stated that she would coordinate with the contracting officer to determine how the late data submission affected the contracting officer's price analysis.

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<sup>26</sup> A warrant, Standard Form 1402, is an official document that appoints an individual as a contracting officer for the United States of America, and authorizes withdrawal of funds from the U.S. Treasury.

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The contracting officer did not elevate the negotiation problems we identified to the Strategic Division Chief because she did not consider them problems. For example, the contracting officer stated that she accepted sales data that did not include customer names because she trusted CFM and she believed CFM would provide commercial sales. Additionally, the contracting officer did not consider CFM's late-catalog submissions a problem because CFM officials told her they provided the data once the catalog was ready. Therefore, the Director, DLA, should review the existing controls for the contracting officer's oversight and develop procedures to strengthen oversight and involvement of the DLA Aviation Strategic Division Chief during contract negotiations, taking the contracting officer's warrant and appropriate levels of review into consideration.

## Contracting Officer Did Not Request or Obtain Additional Data

The contracting officer did not request or obtain additional data for parts with prices that commercial sales data did not support. The Director, Defense Pricing, stated in a February 4, 2015, memorandum that contractors should be in the best position to substantiate why they think DoD should pay offered prices. The FAR and defense acquisition guidance<sup>27</sup> state that, at a minimum, contracting officers are required to obtain commercial sales data to support prices of commercial sole-source parts. If the sales data is not sufficient to determine fair and reasonable prices, the contracting officer must obtain additional data, which could include other market data, commercial sales data of similar (of-a-type) parts, or uncertified cost data. Further, when a sole-source commercial part is offered for sale to the commercial market but there are no commercial sales, the contracting officer must request cost data to determine fair and reasonable prices.<sup>28</sup>

The contracting officer did not request additional data to support CFM's proposed prices prior to acceptance. For example, the contracting officer stated that she did not request uncertified cost data for the parts with no commercial sales because CFM officials informed her multiple times that they did not have cost data. Therefore, the contracting officer assumed she would not receive cost data if she requested the information.



The contracting officer assumed she would not receive cost data if she requested the information.

During our analysis, we requested additional data from CFM for ■ of ■ parts for which we could not determine fair and reasonable prices using the CFM provided commercial sales data. Specifically, we requested uncertified cost data for the

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<sup>27</sup> FAR 15.402, FAR 15.403-3(c), DFARS PGI 215.402, DFARS PGI 215.403-1, DFARS PGI 215.403-3, and DFARS PGI 215.404-1.

<sup>28</sup> DFARS PGI 215.404-1 (b)(ii).

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unsupported parts. Although CFM was not willing to provide cost data, it provided technical and sales data for parts they stated were similar (of-a-type) parts. The contracting officer may have been able to use the sales data for the similar parts, after additional analysis, if she would have questioned the prices for parts not supported by CFM's commercial sales data.

Although the contracting officer did not expect to obtain cost data, she should have requested additional data and elevated any data denials to her supervisors, which could include the Head of the Contracting Activity. The FAR and defense acquisition guidance<sup>29</sup> state that contractors who refuse to provide requested data are not eligible for contract award without approval from the Head of the Contracting Activity. The contracting officer stated that she was not going to request data from CFM that she knew she would not receive because she would have to elevate any denials, adding time to the contract award process. Further, the contracting officer stated that she was not willing to miss her contract award milestones. Therefore, she accepted CFM's proposed prices and did not question the sales data that did not have customer names, or the parts with no commercial sales.

The Director, DLA, should provide the contracting officer additional training on sole-source commercial acquisitions. In addition, the Director should review the DLA Aviation contracting officer's price analysis and negotiation performance and take administrative action for not following applicable FAR and defense acquisition guidance as appropriate.

## Conclusion

(FOUO) Without obtaining additional data for parts not supported by CFM's commercial sales data, the contracting officer did not effectively negotiate fair and reasonable prices for the CFM contract with a maximum value of \$ [REDACTED]. Obtaining sufficient data is imperative to sole-source commercial contracting, and contractors should be in the best position to substantiate why they think DoD should pay offered prices. If contracting officers do not ask for additional data because they assume they will not receive the information, they increase DoD's risk of paying excessive prices.

Obtaining sufficient data is imperative to sole-source commercial contracting...

<sup>29</sup> FAR 15.403-3(a)(4) and DFARS PGI 215.404-1(a), "General."

The contracting officer accepted CFM's proposed prices without questioning or requiring CFM to substantiate why DoD should be paying the prices proposed. Specifically, the contracting officer stated that sole-source commercial contracts create a "take it or leave it" negotiation environment. Although sole-source commercial contracts are difficult for contracting officers, they do not create a "take it or leave it" negotiation. Instead, when negotiating sole-source commercial contracts, contracting officers should be more inclined to follow all FAR and defense acquisition guidance to make sure they are obtaining a fair and reasonable price for the warfighter and taxpayers.

### Management Action

On July 8, 2015, we briefed the Deputy Commander, DLA Aviation, on our preliminary concerns. The Deputy Commander took immediate action by personally contacting CFM officials. Specifically, the Deputy Commander requested that CFM provide its updated commercial catalog for option year 4 no later than August 1, 2015, as required by the contract. The Deputy Commander also requested that CFM provide (b) (4) [REDACTED], and other-than-certified cost and pricing data for any parts that do not have commercial sales. CFM responded to the Deputy Commander and agreed to provide their catalog August 1, 2015, and to work with the contracting officer to allow her (b) (4) [REDACTED].

CFM subsequently provided its commercial catalog on August 4, 2015, which the contracting officer used to identify the sample parts for review. On August 20, 2015, the contracting officer requested sales data for the sample, and CFM provided the requested data on September 18, 2015—43 days before the end of option year 3. Although the Deputy Commander requested (b) (4) [REDACTED]

(b) (4) [REDACTED]

(b) (4) [REDACTED]. The contracting officer exercised option year 4 on October 30, 2015.

(b) (4) [REDACTED]

(b) (4) [REDACTED]. We commend DLA Aviation for taking immediate action to correct the negotiation deficiencies we identified before exercising option year 4.

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## Recommendations, Management Comments, and Our Response

We recommend that the Director, Defense Logistics Agency:

- a. **Require the contracting officer to review the parts with no commercial sales and determine whether the commercial off-the-shelf classification is appropriate before awarding the next contract with CFM International in 2016. If the classification is changed from commercial off-the-shelf to commercial, request technical assistance to determine the similarity of the parts CFM proposes to support the commercial parts that have no commercial sales, in accordance with Defense Federal Acquisition Regulation Supplement Procedure, Guidance, and Information 215.404-1(e).**

### *Defense Logistics Agency Comments*

The Director, DLA Acquisition, responding for the Director, DLA, agreed with the recommendation stating that prior to awarding the next contract with CFM International, the contracting officer will review the national stock numbers on contract SPRTA1-12-D-0021 with no commercial sales and determine whether the commercial off-the-shelf classification is appropriate. If the classification is changed, the contracting officer will request technical assistance to determine the similarity of parts CFM International proposes to support the commercial parts that have no commercial sales, in accordance with DFARS PGI 215.404-1(e).

### *Our Response*

The Director's comments addressed all specifics of the recommendation, and no further comments are required.

- b. **Review the existing controls for oversight of the Defense Logistics Agency Aviation contracting officer for contract SPRTA1-12-D-0021. Specifically, develop procedures to strengthen oversight and involvement of the Defense Logistics Agency Aviation Strategic Division Chief during contract negotiations, taking into consideration the contracting officer's warrant and appropriate levels of review.**

### *Defense Logistics Agency Comments*

The Director, DLA Acquisition, responding for the Director, DLA, agreed with the recommendation, stating that he reviewed DLA Aviation Acquisition Workforce Guidelines, 1.690-1-G, "Establishment of Clearance Authority," and found it contains adequate controls for oversight and involvement of a DLA Aviation Strategic

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Division Chief. Additionally, the Director disagreed with the assertion that oversight by the current DLA Aviation Strategic Division Chief was not adequate and stated the current Division Chief was not in that position at the time of the negotiations and award of the base contract. The Director stated the Division Chief in the position at the time of the base contract award properly followed the oversight procedures in place at the time of the award.

### *Our Response*

The Director's comments addressed all specifics of the recommendation, and no further comments are required. We acknowledge in the Inadequate Oversight and Problems Not Elevated section of the report that the current Strategic Division Chief was not in that position at the time of the base contract negotiations and award. However, the Division Chief was in the position for the addition of the C-PUP kit and option years 1, 2, and 3. The Division Chief was not aware of the three recurring price analysis problems that the contracting officer detailed in price negotiation memorandums, the C-PUP kit addition, or the option years, but was aware of the actions the contracting officer should have taken during contract negotiations.

In addition, DLA Aviation acknowledged the price analysis problems and took action for option year 4. Specifically, the Deputy Commander contacted CFM officials after we briefed him on our preliminary findings. He requested that CFM provide the updated commercial catalog in accordance with the contract, un-redacted commercial sales data, and other-than-certified cost or pricing data for any parts that do not have commercial sales. Further, the Division Chief understood the defense acquisition guidance. The contracting officer also requested assistance from the Defense Contract Management Agency and only included ■ parts when exercising option year 4.

- c. Provide additional training to the contracting officer on sole-source commercial acquisitions.**

### *Defense Logistics Agency Comments*

The Director, DLA Acquisition, responding for the Director, DLA, agreed with the recommendation, stating the contracting officer received additional training on commercial acquisitions on March 4, 2015.

### *Our Response*

The Director's comments addressed all specifics of the recommendation, and, no further comments are required.

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- d. **Review the performance of the Defense Logistics Agency Aviation contracting officer to include considering her warrant and responsibilities, and take administrative action, as appropriate, for not following applicable Federal Acquisition Regulation and defense acquisition guidance when awarding contract SPRTA1-12-D-0021, to include:**

*Defense Logistics Agency Comments*

The Director, DLA Acquisition, responding for the Director, DLA, disagreed with the overall recommendation. He disagreed with the assertion that the contracting officer did not follow applicable FAR and defense acquisition guidance when awarding the contract. The Director stated that the contracting officer received additional training on commercial acquisitions, including the areas of evaluating sales data and using historical prices when performing price analysis.

- (1) not verifying the integrity of the commercial sales data, in accordance with Defense Federal Acquisition Regulation Supplement Procedure, Guidance, and Information 215.403-3(1);**

*Defense Logistics Agency Comments*

The Director, DLA Acquisition, responding for the Director, DLA disagreed with the recommendation. He stated that the contracting officer followed the price analysis steps at FAR 15.404-1(b)(2) to determine fair and reasonable prices, by comparing proposed prices to prices previously determined fair and reasonable on prior contracts for the same items. The Director stated that DFARS PGI 215.403-3(1) would apply if there were no other means for the contracting officer to determine fair and reasonable prices and was relying on contractor's sales pricing data for price determination. He stated that the contracting officer used price analysis of prior government contract prices to determine prices and no further data was required. Additionally, he stated sales data was obtained to determine if the government was receiving the largest discount available and not as the basis of reasonableness.

- (2) not obtaining additional data, which could include other market data, cost data, or sales data of similar (of-a-type) parts when sales data is insufficient to determine fair and reasonable prices or if there are no commercial sales, in accordance with Federal Acquisition Regulation 15.403-3 and Defense Federal Acquisition Regulation Supplement Procedure, Guidance, and Information 215.404-1;**

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### *Defense Logistics Agency Comments*

The Director, DLA Acquisition, responding for the Director, DLA, disagreed with the recommendation. The Director stated that the contracting officer did not rely on sales data to determine fair and reasonable prices, and, therefore, the issue of whether sales data was sufficient was not relevant. The Director added that instead of relying on sales data, the contracting officer determined fair and reasonable prices by comparing the proposed prices to prices previously determined fair and reasonable on prior contracts for the same parts numbers in accordance with FAR 15.404-1(b)(2)(ii)(A) and (B). However, the Director stated that the contracting officer did not adjust the prices for differences in quantity because CFM [REDACTED]. In addition, the Director stated that according to FAR 15.402(a)(3), the contracting officer shall obtain data necessary to determine fair and reasonable prices, but not more than what is necessary. The Director stated that price analysis is a technique to establish fair and reasonable prices.

**(3) not comparing contract quantities to sales data quantities in accordance with Defense Federal Acquisition Regulation Supplement Procedure, Guidance, and Information 215.404-1(b)(iii)(B); and**

### *Defense Logistics Agency Comments*

The Director, DLA Acquisition, responding for the Director, DLA, disagreed with the recommendation. The Director stated the sales data were used to determine if the Government received the largest discount available, not the basis of price reasonableness. In addition, he stated prices were not adjusted for quantity because CFM [REDACTED].

**(4) any additional non-compliance with applicable guidance when awarding the contract, based upon your review.**

### *Defense Logistics Agency Comments*

The Director, DLA Acquisition, responding for the Director, DLA, disagreed with the recommendation. The Director stated no further action is required because the contract file documents that the contracting officer followed applicable FAR and defense acquisition guidance when awarding the contract.

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### *Our Response*

We disagree with the comments of the Director, DLA Acquisition that the contracting officer followed FAR 15.404-1, DFARS PGI 215.403, and DFARS PGI 215.404. The Director did not review the performance of the contracting officer for not following FAR and defense acquisition guidance. We agree that the contracting officer stated in the price negotiation memorandums that the primary estimating technique used to determine price reasonableness was the comparison of the proposed prices to prices previously determined fair and reasonable on prior contracts for the same items in accordance with FAR 15.404-1(b)(2)(ii)(A). However, the contracting officer did not adjust the prior prices to account for differences in sales quantities, as required by FAR 15.404-1(b)(2)(ii)(B).

Additionally, DFARS PGI 215.403-1(c)(3)(A)(2) expands on the FAR by requiring contracting officers to obtain some form of commercial sales data for sole-source commercial items. Therefore, the contracting officer was required to obtain and review commercial sales data for this commercial sole-source contract. Further, DFARS PGI 215.404-1(b)(iii)(B) states commercial sales data must be for quantities comparable to those in the solicitation. DFARS PGI 215.403-3(3) states when using prior sales, the contracting officer must determine if prior sales data is sufficient to determine fair and reasonable prices and if the data is not sufficient, the contracting officer is required to obtain additional data.

~~(FOUO)~~ As stated in the report, the contracting officer relied on sales data that did not have customer names; therefore, the contracting officer could not verify if the sales were to commercial customers. In addition, when parts did not have commercial sales data, the contracting officer removed them from the price analysis without requesting additional data to support the prices as required by DFARS PGI 215.404-1(b)(ii). Further, the contracting officer did not compare the commercial quantities to the estimated quantities because she did not request a complete sales history. A CFM official stated that if the quantities sold to commercial customers were not comparable to the DoD estimated annual demand quantities for a part, the contracting officer could have negotiated downward from that point using other techniques. Therefore, we disagree that the contracting officer followed applicable FAR 15.404-1, DFARS PGI 215.403, and DFARS PGI 215.404 guidance. We request that the Director provide additional comments on the final report.

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## Appendix A

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### Scope and Methodology

We conducted this performance audit from April 2015 through November 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 objective.

To determine whether DLA purchased sole-source spare parts at fair and reasonable prices from CFM, we interviewed DLA Aviation officials to understand their roles and responsibilities. We met with CFM International officials, shared portions of the report, considered their comments, and made changes to the report where appropriate. We reviewed contract documentation from October 19, 2011, through August 31, 2015, for contract SPRTA1-12-D-0021. Specifically, we reviewed the:

- contract;
- modifications;
- delivery orders;
- price negotiation memorandums;
- justification and approval for other-than-full and open competition; and
- acquisition plan.

In addition, we reviewed previous CFM contracts FA8104-08-G-0002 and SPRTA1-11-G-0001. We also reviewed applicable regulations and guidance on contract pricing, including, but not limited to:

- FAR Subpart 2.1, “Definitions;”
- FAR Subpart 15.4, “Contract Pricing;”
- DFARS Subpart 215.4, “Contract Pricing;” and
- DFARS PGI 215.4, “Contract Pricing.”

We also reviewed the contracting officer’s price analysis and negotiations. For example, we used the spreadsheet [REDACTED] to analyze the sales data the contracting officer obtained for option year 1 and the addition of the C-PUP kit. We used the spreadsheet to determine whether the sales were to commercial customers because CFM provided the contracting officer sales data that did not include customer names.

## **Audit Spare Part Sample**

We non-statistically selected a sample from all parts DLA purchased with delivery orders and modifications on contract SPRTA1-12-D-0021 from October 2, 2012, through May 8, 2015. As of May 8, 2015, DLA purchased [REDACTED] parts, valued at \$[REDACTED] million. In addition, we selected all parts with no commercial sales from the contracting officer's option year 3 price analysis.

(FOUO) Specifically, we non-statistically selected [REDACTED] parts, which consisted of:

- 1 part, the C-PUP kit, with \$[REDACTED] in purchases, or nearly [REDACTED] percent of the total purchases;
- [REDACTED] parts with total purchases of \$[REDACTED] or nearly [REDACTED] percent of the total purchases excluding the C-PUP kit;
- [REDACTED] parts with no commercial sales identified by the contracting officer's option year 3 price analysis; and
- [REDACTED] parts that represent [REDACTED] percent of the C-PUP kit's unit price.

## **Price Analysis**

To determine whether the contracting officer negotiated fair and reasonable prices, we conducted a price analysis on the [REDACTED] sample parts. To analyze the prices, we requested commercial and Government sales data from CFM on May 28, 2015. Specifically, we requested commercial and Government sales for the [REDACTED] sample parts from 2011 through 2015. CFM provided the sales data on June 12, 2015. We used the data CFM provided to compare DLA's option year 3 prices to CFM's commercial catalog and commercial sales data prices. For each part, we identified sales to a single customer in a 12-month period with comparable quantities to DLA's planned purchases in option year 3. If the sales data did not contain recent sales with comparable quantities, we selected the most recent 12-month period sale to a single customer with comparable quantities. We inflated all 2011 through 2013 prices to November 2014 levels using the Bureau of Labor Statistics Producer Price Index 336412, Aircraft Engines and Engine Parts, which was used by the contracting officer in her analysis.

Our price analysis identified that CFM's sales data did not support fair and reasonable prices for [REDACTED] of [REDACTED] parts. On June 22, 2015, we requested cost data for the parts not supported by the commercial sales data. CFM denied our requests for cost data on July 1, 2015; July 17, 2015; and July 27, 2015. We elevated the denials to our senior leadership.<sup>30</sup> Although CFM denied the requests for cost data, CFM

<sup>30</sup> DFARS PGI 215.404-1(a) requires contracting officers to elevate denials for data through the contracting activity.

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provided technical and sales data for parts it believed were similar (of-a-type) to the contract parts in August and October 2015. We reviewed the data provided but did not evaluate whether the parts were similar to the contract parts, or if the data supported the contract prices because the contract classified the parts as COTS.

## Use of Computer-Processed Data

We assessed the reliability of computer-processed data from two DoD repository systems and one contractor provisioning system. The audit team used Electronic Document Access and Contract Business Analysis Repository to obtain contract and price negotiation data. Electronic Document Access is a web-based system that provides secure access and storage of contracts and contract modifications to users throughout DoD. We obtained and analyzed the contract, modifications, and delivery orders for contract SPRTA1-12-D-0021. Contract Business Analysis Repository is also a web-based application, established to assist the procurement contracting officers with access to timely and comprehensive contractor information to support effective price negotiations. We obtained price negotiation documentation from the Contract Business Analysis Repository. We used both Electronic Document Access and Contract Business Analysis Repository data to select the non-statistical sample of parts. We compared data from the Electronic Document Access and Contract Business Analysis Repository systems with documents from the DLA Aviation contract file and determined the data was sufficiently reliable for the purposes of our audit.

In addition, we used sales and [REDACTED] data from CFM's [REDACTED] [REDACTED] System. CFM uses the system to [REDACTED] [REDACTED]. To assess the reliability of CFM's sales data, we compared it to a random sample [REDACTED] to validate the customers, quantities, and unit prices. As a result, we determined the sales data was sufficiently reliable for the purposes of this audit.

## Use of Technical Assistance

We consulted with the DoD Office of Inspector General Quantitative Methods Division in determining data reliability and non-statistical analysis audit samples.

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## Appendix B

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### Prior Coverage

During the last 5 years, the Department of Defense Inspector General (DoD IG) issued 14 reports discussing spare parts pricing issues. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/pubs/index.cfm>.

#### **DoD IG**

DoDIG 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

DoDIG Report No. DODIG-2015-137, “Improvements Needed on DoD Procurements from Robertson Fuel Systems,” June 25, 2015

DoDIG 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

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

DoDIG Report No. DODIG-2015-058, “U.S. Air Force May Be Paying Too Much for the F117 Engine Sustainment,” December 22, 2014

DoDIG 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

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

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

DoDIG 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

DoDIG 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

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

DoDIG Report No. DODIG-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

DoDIG 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

DoDIG 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

### DLA Contracting Officer and DoD OIG Analysis Comparison

The table below shows the steps contracting officers should follow to obtain and review data, as required by FAR 15.4, “Contract Pricing” and DFARS PGI 215.4, “Contract Pricing.” In addition, the table shows the steps and data the DLA contracting officer and audit team followed and obtained to determine whether the prices on the CFM contract were fair and reasonable. The table focuses on the contracting officer’s option year 3 analysis.

Table 3. DLA Contracting Officer and DoD OIG Data Reviewed

<del>(FOUO)</del> FAR 15.4 and DFARS 215.4 Requirements	DLA Contracting Officer’s Option Year 3 Data Review	Our Data Review
	<b>Part Selection</b>	
	Initially selected █ of █ parts representing about █ percent of the annual demand dollars before the option year was awarded on November 1, 2014.	Non-statistically selected █ of █ parts DoD purchased as of May 8, 2015, and additional parts with no commercial sales.
	<b>Other-Than-Certified-Cost or Pricing Data Reviewed</b>	
<b>Data available to the Government</b>	The contracting officer compared the proposed prices to current prices on contract SPRTA1-12-D-0021 adjusted for inflation. The contracting officer found the proposed prices were around █ percent higher than adjusted current prices.	We analyzed the price negotiation memorandums and attachments to understand the contracting officer’s analysis performed to determine fair and reasonable prices.
<b>Data obtained from sources other than the contractor</b>	The contracting officer did not obtain data from sources other than CFM.	We only requested data from DLA Aviation and CFM.
<b>Request data from the contractor</b>	The contracting officer obtained and reviewed the 2014-2015 CFM price catalog, pricing for parts listed as “Quote” in the catalog, and recent sales history from CFM.	We obtained and reviewed Government and commercial sales data from CFM for █ non-statistically selected parts.  <del>(FOUO)</del>

Table 3. DLA Contracting Officer and DoD OIG Data Reviewed (cont'd)

<b>(FOUO)</b> FAR 15.4 and DFARS 215.4 Requirements	DLA Contracting Officer's Option Year 3 Data Review	Our Data Review
<b>(a) Commercial Sales Data</b>	The contracting officer reviewed recent sales [REDACTED] with redacted customer names comparing the prices paid to the CFM catalog price for [REDACTED] of [REDACTED] parts reviewed. The contracting officer removed the remaining [REDACTED] parts from her analysis because CFM did not provide commercial sales data.	We performed price analysis on the [REDACTED] parts, reviewing the sales data. If sales data did not contain comparable quantities, we requested cost data for the parts.
<b>(b) If sales data were not sufficient, obtain additional data from the contractor, including cost data</b>	The contracting officer did not request any additional data from CFM.  The contracting officer did not request cost data from CFM, because she knew CFM would not provide cost data.	As a result of the price analysis, we requested cost data for [REDACTED] of [REDACTED] parts not supported by the commercial sales data. CFM denied the cost data request three times, but provided technical and sales data for comparable parts. However, we did not evaluate the data for similar parts because the contract defined the parts as COTS.  <b>(FOUO)</b>

# Management Comments

## Defense Logistics Agency



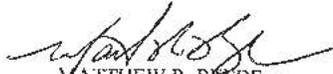
DEFENSE LOGISTICS AGENCY  
HEADQUARTERS  
8725 JOHN J. KINGMAN ROAD  
FORT BELVOIR, VIRGINIA 22060-6221

DEC 14 2015

MEMORANDUM FOR THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Response to DoD IG Draft Report "Defense Logistics Agency Did Not Appropriately Determine Fair and Reasonable Prices from CFM International for Sole-Source Commercial Parts" (Project No. D2015-D000AH-0180.000)

Attached is DLA's response to the subject Draft Report. We appreciate the opportunity to review and comment on the finding and recommendations. The point of contact for this audit is [REDACTED]

  
MATTHEW R. BEEBE  
Director, DLA Acquisition

Attachment:  
As stated

## Defense Logistics Agency (cont'd)

The Department of Defense Inspector General recommends that the Director, Defense Logistics Agency (DLA):

Recommendation a: Require the contracting officer to review the parts with no commercial sales and determine whether the commercial-off-the-shelf classification is appropriate before awarding the next contract with CFM International (CFMI) in 2016. If the classification is changed from commercial off-the-shelf to commercial, request technical assistance to determine the similarity of parts CFM proposes to support the commercial parts that have no commercial sales, in accordance with Defense Federal Acquisition Regulation Supplement Procedure, Guidance, and Information (DFARS PGI) 215.404-1(e).

DLA Response Recommendation a: Concur. Prior to awarding the next contract with CFMI for the national stock numbers on contract SPRTA1-12-D-0021, the contracting officer will review the parts with no commercial sales and determine whether the commercial-off-the-shelf classification is appropriate. If the classification is changed from commercial off-the-shelf to commercial, the contracting officer will request technical assistance to determine the similarity of parts CFM proposes to support the commercial parts that have no commercial sales, in accordance with DFARS PGI 215.404-1(e).

Recommendation b: Review the existing controls for oversight of the DLA Aviation contracting officer for contract SPRTA1-12-D-0021. Specifically, develop procedures to strengthen oversight and involvement of DLA Aviation Strategic Division Chief during contract negotiations, taking into consideration the contracting officer's warrant and appropriate levels of review.

DLA Response Recommendation b: Concur. I have reviewed DLA Aviation Acquisition Workforce Guidelines, 1.690-1 G, "Establishment of Clearance Authority" and found it contains adequate controls for oversight and involvement of a DLA Aviation Strategic Division Chief.

While I concur with reviewing the existing controls for oversight, I do not agree with the assertion that oversight by the current DLA Aviation Strategic Division Chief was not adequate. DLA provided the auditors with the approval documents that show the current Division Chief was not in that position at the time of negotiations/award of the basic contract. The Division Chief in the position at the time the basic contract was awarded properly followed the oversight procedures in place at time of the award.

Recommendation c: Provide additional training to the contracting officer on sole-source commercial acquisitions.

DLA Response Recommendation c: Concur. The contracting officer received additional training on commercial acquisitions on March 4, 2015.

Recommendation d: Review the performance of the DLA contracting officer to include considering her warrant and responsibilities, and take administrative action, as appropriate, for not following applicable Federal and defense acquisition guidance when awarding contract SPRTA1-12-D-0021, to include:

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## Defense Logistics Agency (cont'd)

- (1) not verifying the integrity of the commercial sales data, in accordance with DFARS PGI 215.403-3(1);
- (2) not obtaining additional data, which could include other market data, cost data, or sales data of similar (of-a-type) parts when sales data is insufficient to determine fair and reasonable prices or if there are no commercial sales, in accordance with Federal Acquisition Regulation (FAR) 15.403-3 and DFARS PGI 215.404-1;
- (3) not comparing contract quantities to sales data quantities in accordance with DFARS PGI 215.404-1(b)(iii)(B); and
- (4) any additional non-compliance with applicable guidance when awarding the contract, based upon your review.

DLA Response to Recommendation d: Non-concur with Recommendation "d" overall. I disagree with the assertion that the contracting officer did not follow applicable Federal and defense acquisition guidance when awarding contract SPRTA1-12-D-0021. However, the contracting officer has received additional training on commercial acquisitions, including in the areas of evaluating sales data and using historical prices when performing price analysis.

DLA Response Recommendation d (1): Non-concur. The report does not recognize that the "primary estimating technique used by the DLA price analyst to determine price reasonableness was the comparison of the proposed prices to prices previously determined fair and reasonable on prior contracts for the same stock numbered items," as stated in the Final Price Negotiation Memorandum (FPNM). The contracting officer followed the price analysis steps at FAR 15.404-1(b)(2) to determine prices as fair and reasonable: "The Government may use various price analysis techniques and procedures to ensure a fair and reasonable price. Examples of such techniques include, but are not limited to: (ii) Comparison of proposed prices to historical prices paid, whether by the Government or other than the Government, for the same or similar items. This method may be used for commercial items including those "of a type" or requiring minor modifications."

DFARS PGI 215.403-3(1) would apply if there were no other means for the contracting officer to determine prices as fair and reasonable and was relying on the contractor's sales pricing data for the price reasonableness determination. "When TINA does not apply and *there is no other means of determining that prices are fair and reasonable*, the contracting officer must obtain appropriate data." (emphasis added) Since the contracting officer used price analysis of prior government contract pricing to determine the prices as fair and reasonable, further data was not required for that purpose. Sales data was obtained to determine if the government received the largest discount available, not as the basis of price reasonableness. The contracting officer documented in the FPNM that she requested and received assistance from the Defense Contract Management Agency verifying that the government received the most favorable discount. The DCMA Report was attached to the FPNM, which verified the government is the only CFMI customer that receives any discounts.

DLA Response Recommendation d (2): Non-concur. Since the contracting officer did not rely on sales data to determine prices as fair and reasonable, the issue of whether sales were or were not sufficient is not relevant. The contracting officer followed FAR 15.403-3(c)(1), which states,

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## Defense Logistics Agency (cont'd)

"Commercial Items. At a minimum, the contracting officer must use price analysis to determine whether the price is fair and reasonable." The contracting officer's price reasonableness determination was based on the price analysis steps at FAR 15.404-1(b)(2)(ii)(A) and (B). As stated in the FPNM, "The primary estimating technique used . . . to determine price reasonableness was the comparison of the proposed prices to prices previously determined fair and reasonable on prior contracts for the same stock numbered items . . . . Prior price determination of price fair and reasonableness were documented as price reasonable code "C" (price comparison based on catalog or market price) . . . . The prices were not adjusted for quantity because CFMI historically has not offered quantity discounts."

Moreover, FAR 15.402(a)(3), Pricing Policy, states the contracting officer shall "obtain the type and quantity of data necessary to establish a fair and reasonable price, but not more data than is necessary. . . . *Use techniques such as, but not limited to, price analysis* . . . to establish a fair and reasonable price" (emphasis added).

DLA Response Recommendation d (3): Non-concur. As stated in DLA's Response Recommendation d (1) above, the sales data was used to determine if the government received the largest discount available, not as the basis of price reasonableness. Further, as stated in the FPNM, "prices were not adjusted for quantity because CFMI historically has not offered quantity discounts."

DLA Response Recommendation d (4): Because the contract file documents that the contracting officer followed applicable federal and defense acquisition guidance when awarding contract SPRTA1-12-D-0021, no further action is required.

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## Acronyms and Abbreviations

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- COTS** Commercial Off-The-Shelf
- C-PUP** Commercial-Propulsion Upgrade Program
- DFARS** Defense Federal Acquisition Regulation Supplement
- DLA** Defense Logistics Agency
- FAR** Federal Acquisition Regulation
- GE** General Electric
- PGI** Procedures, Guidance, and Information

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# Whistleblower Protection

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