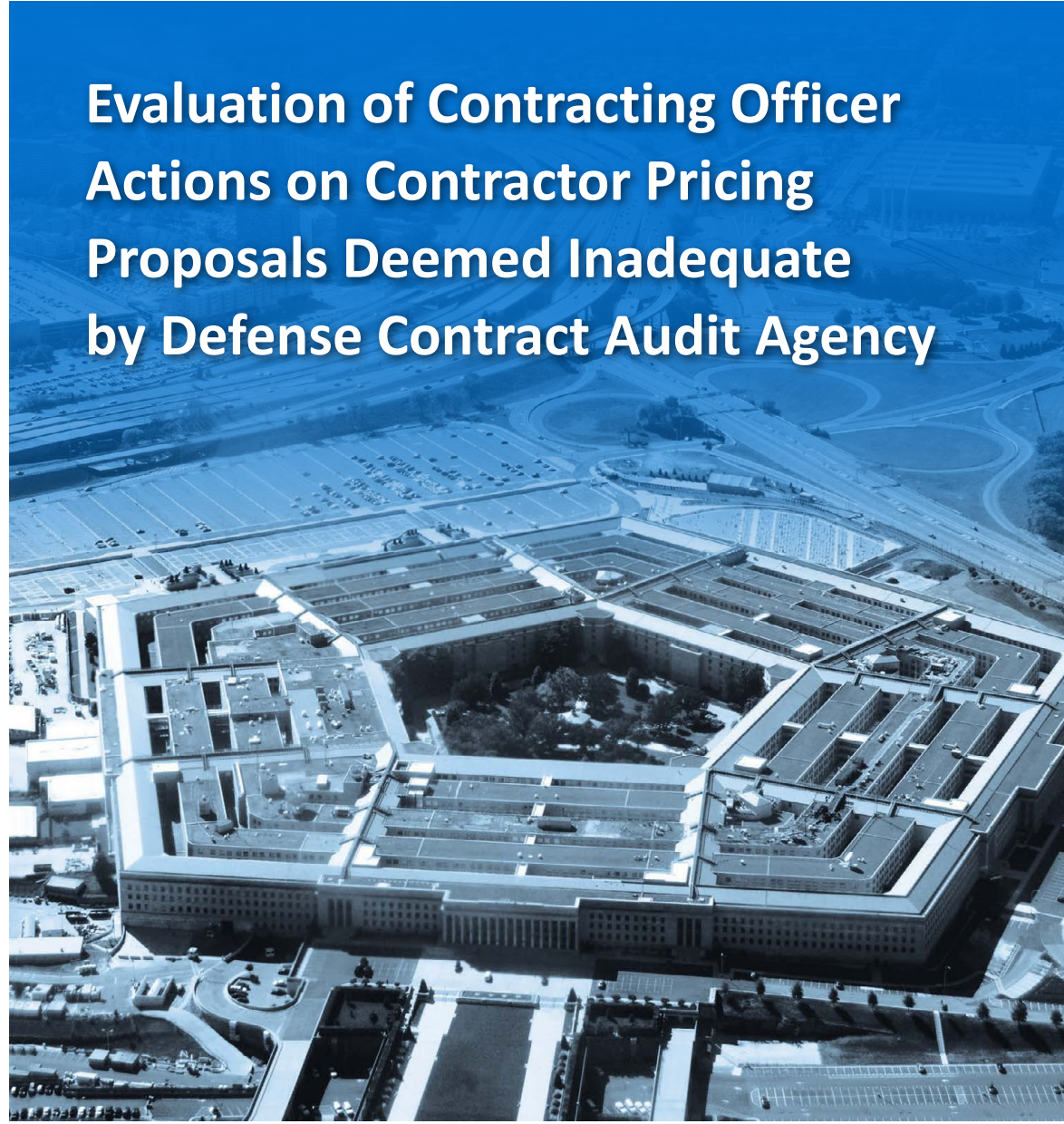




INSPECTOR GENERAL

U.S. Department of Defense

NOVEMBER 14, 2018



Evaluation of Contracting Officer Actions on Contractor Pricing Proposals Deemed Inadequate by Defense Contract Audit Agency

INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE





Results in Brief

Evaluation of Contracting Officer Actions on Contractor Pricing Proposals Deemed Inadequate by Defense Contract Audit Agency

November 14, 2018

Objective

We evaluated whether contracting officer actions were appropriate and consistent with the Federal Acquisition Regulation (FAR) when Defense Contract Audit Agency (DCAA) determined that a contractor price proposal was inadequate. As part of the evaluation, we selected 23 contractor price proposals valued at \$6.4 billion that Air Force, Army, Navy, and Defense Logistics Agency contracting officers negotiated. DCAA determined that all 23 contractor price proposals were inadequate because they did not comply with FAR Subpart 15.4, "Contract Pricing."

Background

When contractors are required to submit certified cost or pricing data in accordance with FAR 15.403-4, "Requiring Certified Cost or Pricing Data," contracting officers must obtain accurate, complete, and current data from a contractor to establish fair and reasonable prices for Government contracts. Generally, the cost or pricing data that the contractor submits in support of its price proposal must comply with the requirements in FAR Table 15-2, "Instructions for Submitting Cost/Price Proposals When Certified Cost or Pricing Data are Required." The table provides general instructions for preparing price proposals, including how to identify basic cost elements and line item summaries.

The contracting officer is responsible for determining the extent of support required to evaluate a contractor's price proposal,

Background (cont'd)

including whether the contracting officer should request a DCAA audit. If the contracting officer requests an audit, DCAA first determines whether the contractor's price proposal complies with the FAR requirements. If it does not, DCAA issues a memorandum to the contracting officer that outlines the noncompliances and the actions required to correct the noncompliances.

For all 23 contractor price proposals we evaluated, DCAA advised the contracting officers that the proposals did not comply with the FAR requirements, including FAR Table 15-2.

FAR 15.406-3, "Documenting the Negotiation," requires that contracting officers document in the contract file the principal elements of the negotiated agreement. For example, FAR requires that contracting officers document any cost or pricing data inadequacies identified by DCAA and the actions taken to address the inadequacies.

Findings

For all 23 contractor price proposals, the contracting officers took appropriate actions to address the proposal inadequacies identified by DCAA. However, for 9 of the 23 proposals, contracting officers did not comply with the FAR requirements for documenting the negotiation because they did not adequately document the contractor price proposal inadequacies or the actions taken to address the inadequacies in the contract file. Without adequate documentation, the contracting officers could not readily demonstrate that they had appropriately addressed the contractor price proposal inadequacies before they negotiated a fair and reasonable price with the contractor. We determined that a lack of DoD policy and instruction contributed to contracting officers not adequately documenting their actions. Establishment of a DoD policy or instruction should provide reasonable assurance that contracting officers will comply with the FAR requirements for adequately documenting the actions taken to address contractor price proposal inadequacies.



Results in Brief

Evaluation of Contracting Officer Actions on Contractor Pricing Proposals Deemed Inadequate by Defense Contract Audit Agency

Findings (cont'd)

Additionally, during our evaluation of one of the contractor price proposals, we determined that the Logistics Civil Augmentation Program (LOGCAP) Chief at the Army Contracting Command in Rock Island, Illinois (ACC-RI) increased a contract cost ceiling by \$92 million without including adequate justification in the contract file. The LOGCAP Chief could not demonstrate that the contractor needed the increase to fulfill the contract terms.

The negotiation memorandum is a critical part of the contract file because it serves as the primary means of contracting officers documenting the actions they took during price negotiations. For 10 of 23 proposals, we determined that contracting officers did not comply with the FAR requirement to distribute negotiation memorandums to the agencies that provided support. Further, for 8 of 23 proposals, we determined that contracting officers did not comply with the Defense Federal Acquisition Regulation Supplement (DFARS) requirement to upload negotiation memorandums to DoD's Contract Business Analysis Repository. A majority of the contracting officers were not aware of the FAR and DFARS requirements for distributing and uploading the negotiation memorandum.

Recommendations

We recommend that Defense Pricing and Contracting develop and issue guidance to ensure contracting officials document actions taken to address contractor price proposal inadequacies.

Also, we recommend the ACC-RI Commander implement controls to ensure that contracting actions are adequately documented and supported in accordance with FAR. In addition, the Commander should review the LOGCAP Chief's actions to determine whether any administrative action should be taken.

Finally, we recommend that DoD Component management provide refresher training to contracting personnel on the requirements of FAR and DFARS for filing and distributing negotiation memorandums.

Management Comments and Our Response

DoD Component management agreed with the recommendations. The comments and planned corrective actions addressed all specifics of the recommendations, and no additional comments are required. All recommendations are resolved, but will remain open until DoD Component management furnish the DoD Inspector General with evidence that the planned corrective actions have been implemented.

Defense Pricing and Contracting Principal Director agreed to implement guidance that requires contracting officers to document the actions they take on contractor price proposal inadequacies. ACC-RI Commander agreed to implement controls that ensure contracting officials adequately document and justify contract funding increases. Eight DoD commands agreed to provide refresher training on the requirements for filing and distributing negotiation memorandums.

We request that DoD Component management furnish the DoD Office of Inspector General with documentation supporting the corrective actions taken once completed.

Please see the Recommendations Table on the following page.

Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Defense Pricing and Contracting Principal Director		A	
Army Contracting Command – Rock Island Commander		B, C	
Army Contracting Command – Redstone Commander			C
Army Contracting Command – Warren Commander			C
Naval Air Systems Command Commander		C	
Naval Sea Systems Command Commander		C	
Space and Naval Warfare Systems Command Commander		C	
Air Force Sustainment Center Commander		C	
Air Force Life Cycle Management Center Commander		C	

Note: The following categories are used to describe agency management’s comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – OIG verified that the agreed upon corrective actions were implemented.





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November 14, 2018

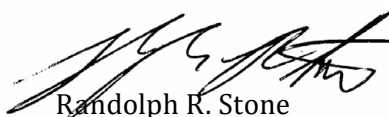
MEMORANDUM FOR DIRECTOR, DEFENSE PRICING AND CONTRACTING
INSPECTOR GENERAL, DEPARTMENT OF THE ARMY
NAVAL INSPECTOR GENERAL
ASSISTANT SECRETARY OF THE AIR FORCE (FINANCIAL
MANAGEMENT AND COMPTROLLER)
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY

SUBJECT: Evaluation of Contracting Officer Actions on Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency (Report No. DODIG-2019-019)

We are providing this report for your information and use. We evaluated whether contracting officer actions were appropriate and consistent with the Federal Acquisition Regulation when Defense Contract Audit Agency determined that a contractor price proposal was inadequate. We conducted this evaluation in accordance with the "Quality Standards for Inspections and Evaluations," published in January 2012 by the Council of the Inspectors General on Integrity and Efficiency.

We considered management comments on a draft of this report when preparing the final report. Comments from the DoD Components conformed to the requirements of DoD Instruction 7650.03; therefore, we do not require additional comments.

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


Randolph R. Stone
Deputy Inspector General
Policy and Oversight

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Introduction

Objective

We evaluated whether contracting officers took actions that were appropriate and complied with Federal Acquisition Regulation (FAR) Subpart 15.4, “Contract Pricing,” when Defense Contract Audit Agency (DCAA) determined that a contractor’s price proposal was inadequate.

As part of the evaluation, we selected 23 contractor price proposals valued at \$6.4 billion to determine whether contracting officer actions were appropriate and complied with the FAR. Air Force, Army, Navy, and the Defense Logistics Agency contracting officers negotiated these contractor price proposals as sole-source contracts.¹ Before the contracting officers initiated negotiations, DCAA determined that all 23 contractor price proposals were inadequate because they did not comply with FAR Subpart 15.4. See Appendix A for a discussion of our scope and methodology.

Background

Federal Acquisition Regulation Subpart 15.4

FAR Subpart 15.4 and Defense Federal Acquisition Regulation Supplement (DFARS) 215.4, “Contract Pricing,” describe the responsibilities and functions for the audit, analysis, and negotiation of contractor price proposals, and related policies and procedures for pricing negotiated Government contracts. FAR 15.403-4, “Requiring Certified Cost or Pricing Data,” requires contractors to submit certified cost or pricing data if the contractor price proposal exceeds a dollar-value threshold and none of the exceptions to certified cost or pricing data requirements apply.² All 23 contractor price proposals we evaluated were subject to the cost or pricing data requirements.³

When certified cost or pricing data are required, the contracting officer must obtain accurate, complete, and current data from the contractor to establish a fair and reasonable price. Generally, the contractor price proposals must follow the instructions in Table 15-2 of FAR 15.408, “Instructions for Submitting Cost/Price Proposals When Certified Cost or Pricing Data are Required,” (hereafter referred

¹ A sole-source contract is awarded without competition, usually based on a justification that only one known contractor exists or that only one contractor can fulfill the requirements.

² Certified cost or pricing data refers to data that contractors must submit and certify in accordance with FAR 15.403 or 15.406. Generally, this includes all facts existing up to the time of agreement on price which prudent buyers and sellers would reasonably expect to affect price negotiations significantly.

³ Effective July 1, 2018, the threshold for cost or pricing data changed from \$750,000 to \$2 million.

to as Table 15-2). Table 15-2 provides general instructions for preparing price proposals, including how to identify basic cost elements and line item summaries. The contractor is responsible for providing adequate supporting data and demonstrating the reasonableness of proposed costs. Contractors are also responsible for providing rationale for all proposed costs so that the Government can determine if the proposed costs are accurate, complete, and current.

FAR 15.404-2, "Data to Support Proposal Analysis," states contracting officers are responsible for determining the extent of field pricing support required to evaluate a contractor price proposal and encourages contracting officers to team with appropriate field experts. Field pricing support consists of all audit and other specialist assistance necessary for the contracting officer to determine the reasonableness of a contractor price proposal. DCAA provides any audit support that the contracting officer requests. Any other requested specialist support can be furnished by Defense Contract Management Agency (DCMA) or an internal pricing team established by the contracting officer. For all 23 contractor price proposals we evaluated, the contracting officers requested field pricing support from DCAA.

FAR 15.406, "Documentation," outlines documentation requirements for each phase of the negotiation process. For example, FAR 15.406-3, "Documenting the Negotiation," requires contracting officers to document in the contract file the principal elements of the negotiated agreement, including the requirement that contracting officers document cost or pricing data inadequacies and the actions contracting officers took to address the inadequacies.

Defense Contract Audit Agency

DCAA performs contract audits for the DoD and operates in accordance with DoD Directive 5105.36, "Defense Contract Audit Agency," January 4, 2010. DCAA performs several types of contract audits, including audits of DoD contractor price proposals when requested by the contracting officer. DCAA audits a contractor price proposal to determine whether the contractor price proposal complies with FAR Part 15, "Contracting by Negotiation;" FAR Part 31, "Contract Cost Principles;" and applicable Cost Accounting Standards.

Prior to initiating a contractor price proposal audit, DCAA determines if the price proposal complies with the Table 15-2 requirements. If the proposal does not comply with the requirements, DCAA issues a memorandum to the contracting officer detailing the noncompliances and the actions required to make the contractor price proposal adequate. For all 23 contractor price proposals we selected, DCAA determined that the proposals did not comply with Table 15-2.

Defense Pricing and Contracting

Defense Pricing and Contracting (formerly known as Defense Procurement and Acquisition Policy) is a directorate under the authority, direction, and control of the Under Secretary of Defense for Acquisition and Sustainment.⁴ Defense Pricing and Contracting establishes contracting and procurement policy within the DoD. Additionally, Defense Pricing and Contracting provides support to the FAR Council, which assists in the direction and coordination of Government-wide procurement policy and regulatory activities.

⁴ In February 1, 2018, the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics was restructured and the authority, direction, and control of Defense Pricing and Contracting transferred to the Office of the Under Secretary of Defense for Acquisition and Sustainment.

Finding A

Contracting Officers Took Appropriate Actions on Contractor Price Proposal Inadequacies, but They Did Not Adequately Document Their Actions

An adequate contractor price proposal enables Government contracting officials to evaluate a contractor price proposal and negotiate a fair and reasonable price. Based on our sample evaluation of 23 inadequate contractor price proposals, we determined that the contracting officers took appropriate actions in response to contractor price proposal inadequacies identified by DCAA.

However, for 9 of the 23 proposals, we determined that the contracting officers did not comply with the requirements in FAR 15.406-3, “Documenting the Negotiation.” For example, the contracting officers did not comply with FAR 15.406-3(a)(7) because they did not document in the negotiation memorandum the contractor price proposal inadequacies identified by DCAA. In addition, the contracting officers did not comply with FAR 15.406-3(a)(6) because they did not adequately document in the negotiation memorandum the actions they took to address the proposal’s cost or pricing data inadequacies.

Without adequate documentation, the contracting officers had to provide us with extensive documents and verbal explanations of the actions they took to address the contractor price proposals inadequacies. Adequate documentation helps to demonstrate that the contracting officer took appropriate action to address the inadequacies and reach a fair and reasonable price with the contractor. It is also essential to protect the Government’s interests in the event of future disputes.

We determined that a lack of DoD policy or instruction contributed to contracting officers not adequately documenting their actions. Establishing a DoD policy or instruction will help to provide reasonable assurance that contracting officers adequately document their actions to address contractor price proposal inadequacies.

FAR Proposal and Documentation Requirements

Table 15-2 outlines how contractors must prepare price proposals when contractors are required to submit certified cost or pricing data. It includes:

- general instructions, such as the requirements for the first page of the price proposal, the need for an index, and the requirement for certified cost or pricing data;

- breakdowns of basic cost elements; and
- formats for line item summaries.

Before DCAA initiates an audit of a contractor price proposal, the DCAA auditor completes a checklist to determine if the proposal complies with Table 15-2 and other applicable FAR requirements. DCAA then notifies the contracting officer of its determination, including any noncompliances with Table 15-2.

FAR 15.406-3 requires that contracting officers document significant elements of the negotiated agreement in the negotiation memorandum. For example, FAR 15.406-3(a)(7) requires that contracting officers document in the negotiation memorandum any field pricing recommendations received from DCAA or others, including the reasons for not following the recommendations.

In addition, FAR 15.406-3(a)(6) requires that contracting officers document in the negotiation memorandum the extent to which they,

(i) Relied on the cost or price data submitted and used them in negotiating the price;

(ii) **Recognized as inaccurate, incomplete, or noncurrent any certified cost or pricing data submitted; the action taken by the contracting officer and the contractor as a result; and the effect of the defective data on the price negotiated; or**

(iii) Determined that an exception applied after the data were submitted and, therefore, considered not to be certified cost or pricing data. (emphasis added)

FAR 15.407-1(a), “Defective Certified Cost or Pricing Data,” similarly requires that contracting officers document in the negotiation memorandum cost or pricing data inadequacies and actions the contracting officers took to address the inadequacies.

It states:

If, before agreement on price, the contracting officer learns that any certified cost or pricing data submitted are inaccurate, incomplete, or noncurrent, the contracting officer shall immediately bring the matter to the attention of the prospective contractor... The contracting officer shall consider any new data submitted to correct the deficiency, or consider the inaccuracy, incompleteness, or noncurrency of the data when negotiating the contract price. **The price negotiation memorandum shall reflect the adjustments made to the data or the corrected data used to negotiate the contract price.** [emphasis added]

Contracting Officers Took Appropriate Action on Contractor Price Proposal Inadequacies

Appropriately addressing contractor price proposal inadequacies ensures the contractor accurately estimated its costs and allows the Government and contractor to reach a fair and reasonable price. We evaluated contracting officer actions on 23 contractor price proposals to determine if the contracting officer took appropriate action in response to the proposal inadequacies that DCAA identified. In most instances, DCAA determined that the contractor price proposals did not comply with Table 15-2 because the contractor failed to include adequate:

- summary cost schedules and cost element breakdowns;
- consolidated summaries of individual material and services; or
- contractor evaluations of subcontractor cost estimates in accordance with FAR 15.404-3, "Subcontractor Pricing Considerations."

For all 23 proposals, we determined that the contracting officers appropriately addressed the proposal inadequacies identified by DCAA. For example, the contracting officers:

- required contractors to provide adequate summary cost schedules and cost element breakdowns;
- used the contractor's actual historical costs to estimate future costs; or
- used internal pricing teams to conduct evaluations of subcontractor cost estimates.

We determined that the contracting officer actions eliminated or sufficiently reduced the Government's risk associated with the proposal inadequacies, which allowed the Government and the contractor to negotiate a fair and reasonable price.

The DoD Needs a Policy for Documenting Actions on Inadequate Contractor Price Proposals

Although we determined that the contracting officers took appropriate action, some of the contracting officers did not comply with the FAR requirements for documenting the negotiation.

Inadequately Documented Contracting Officer Actions

The contracting officer is responsible for preparing and maintaining clear, accurate, and complete contract file documentation to demonstrate that their actions were appropriate and complied with applicable law, regulations, and DoD policies.

Adequate written documentation demonstrates how the contracting officer developed and negotiated a fair and reasonable price. Adequate documentation is also essential to protect the Government's interests in the event of future disputes.

For 9 of the 23 proposals, we determined that contracting officers did not comply with some of the requirements in FAR 15.406-3 for documenting the negotiation. Specifically, the nine contracting officers did not adequately document in the contract file either the contractor price proposal inadequacies identified by DCAA or the actions they took to appropriately address the inadequacies. The documentation inadequacies we found involve all four DoD Components we selected for evaluation, including the Air Force, Navy, Army, and Defense Logistics Agency (See Appendix C).

Without adequate documentation, the contracting officers could not readily demonstrate that they had appropriately addressed the contractor price proposal inadequacies and negotiated a fair and reasonable price with the contractor. As a result, the contracting officers had to provide us with extensive documents and verbal explanations of the actions they took to address the contractor price proposal inadequacies.

For example, DCAA determined that the contractor's price proposal for contract no. N00030-16-C-0005 was inadequate because the contractor failed to perform an analysis of subcontractor costs in accordance with Table 15-2. The contracting officer did not document in the negotiation memorandum or contract file the proposal inadequacies identified by DCAA, as FAR 15.406-3(a)(7) requires. The contracting officer also did not document the actions taken to correct the price proposal inadequacies, as FAR 15.406-3(a)(6) requires. After we held an extensive interview with the contracting officer and obtained relevant documents, we concluded that the contracting officer took appropriate action to address the contractor price proposal inadequacies. The contracting officer obtained subcontractor quotes that adequately supported the proposed subcontract costs. However, the contracting officer should have documented the DCAA identified inadequacies in the negotiation memorandum or another part of the contract file. The contracting officer should have also documented why the actions appropriately addressed the contractor price proposal inadequacies.

Insufficient DoD Guidance for Documenting Contracting Officer Actions

We determined the DoD has not established a policy or instruction that supplements and reinforces the FAR requirements for documenting the actions contracting officers take to address contractor price proposal inadequacies.

During our interviews of the nine contracting officers who did not comply with the FAR documentation requirements, the contracting officers told us they were not aware of any requirement for documenting their actions on contractor price proposal inadequacies. These contracting officers expressed their opinion that the requirement for documenting their actions on cost or pricing data inaccuracies in FAR 15.406-3(a)(6)(ii) did not apply because they had documented their reliance on the proposed cost or pricing data in accordance with FAR 15.406-3(a)(6)(i). However, FAR 15.406-3(a)(6)(ii) still applied because, before the contracting officers placed reliance on the cost or pricing data, they had taken actions to correct contractor price proposal inadequacies resulting from inaccurate, incomplete, or noncurrent cost or pricing data. The contracting officers did not adequately document the actions in the negotiation memorandum or another part of the contract file.

Therefore, a DoD policy that supplements and reinforces the FAR documentation requirements should help to avoid confusion among DoD contracting officers and provide reasonable assurance that contracting officers adequately document their actions on contractor price proposal inadequacies. A DoD policy or instruction is needed because we found instances of inadequate documentation at all four DoD Components we selected for evaluation.

We also held discussions with representatives of Defense Pricing and Contracting, which establishes contracting and procurement policy within the DoD. The Defense Pricing and Contracting representatives agreed that the DoD had not established a policy or instruction that requires contracting officers to document the actions they take to address contractor price proposals inadequacies. The representatives further stated that such a policy or instruction would benefit the DoD in helping to ensure contracting officers adequately document their actions on contractor price proposal inadequacies. Defense Pricing and Contracting also agreed to update the Contract Pricing Reference Guides developed to provide instruction and guidance to contracting personnel. See Appendix B.

Conclusion

For all 23 proposals we evaluated, contracting officers took appropriate actions that complied with the FAR when they addressed contractor price proposal inadequacies identified by DCAA. However, for 9 of the 23 contractor price proposals, the contracting officers did not adequately document the existence of the inadequacies or the actions they took to negotiate a fair and reasonable price with the contractor. We determined that the lack of DoD policy or instruction that supplements and reinforces the FAR documentation requirements contributed

to contracting officers not adequately documenting their actions. The DoD should establish a DoD policy or instruction to provide reasonable assurance that contracting officers will document their actions on contractor price proposal inadequacies.

Recommendation, Management Comments, and Our Response

Recommendation A

We recommend that the Defense Pricing and Contracting Principal Director develop and issue guidance requiring contracting officers to document the actions they take to address contractor price proposal inadequacies.

Defense Pricing and Contracting Comments

The Defense Pricing and Contracting Principal Director agreed and stated that the DoD needs guidance requiring contracting officers to document the actions they take on contractor price proposal inadequacies. The Defense Pricing and Contracting Principal Director anticipated implementing the guidance by November 25, 2018.

Our Response

Comments from the Defense Pricing and Contracting Principal Director addressed all specifics of the recommendation, and no further comments are required. Therefore, the recommendation is resolved, but will remain open. We will close the recommendation once we receive evidence that Defense Pricing and Contracting has implemented adequate guidance for documenting contracting officer actions taken on contractor price proposal inadequacies.

Finding B

An Army Contracting Official Increased a Contract Cost Ceiling by \$92 Million Without Adequate Justification

One of the 23 selected contractor price proposals involved a 12-month extension to the Logistics Civil Augmentation Program (LOGCAP) IV contract for northern Afghanistan.⁵

During our evaluation, we determined that the LOGCAP Chief at the Army Contracting Command in Rock Island, Illinois, (ACC-RI) approved a \$92 million increase to the contract cost ceiling. However, the contract file did not include adequate justification or documentation to support the need for the increase. The LOGCAP Chief approved the increase even though the contracting officer had established a ceiling 1 day earlier, which did not include the \$92 million. The LOGCAP Chief acknowledged that the contract file lacked sufficient documentation to justify the increase. However, he explained to us that he approved the increase to:

- preclude the loss of FY 2015 expiring funds and
- cover the contractor's estimated costs necessary to complete the contract.⁶

We disagree with the LOGCAP Chief's approval, because the increase should have been based on a valid contractual need, not whether the funds would expire. Further, the LOGCAP Chief did not verify the accuracy of any of the information in the contractor's spreadsheet of estimated costs, or give the assigned contracting officer an opportunity to evaluate the information before the LOGCAP Chief approved the increase.

The LOGCAP Chief should have documented an adequate justification for the increase to demonstrate that it was based on a valid contractual need and consistent with applicable law, regulations, and DoD policy. The LOGCAP Chief's decision to increase the ceiling may have resulted in making funds available to the contractor that were not needed to fulfill the contract terms.

⁵ Established in 1992, LOGCAP is an Army program that uses contractors to provide logistical and sustainment services for deployed forces. The Army has issued four LOGCAP contracts to provide sustainment support to U.S. operations around the world, including Afghanistan.

⁶ Expiring FY 2015 funds are funds that are only available for use during FY 2015, and will not be available for use beginning the first day of FY 2016.

LOGCAP IV Contract Cost Ceiling Increase

In May 2015, ACC-RI received a contractor price proposal for a 12-month extension of the LOGCAP IV cost-plus-fixed-fee contract for northern Afghanistan (covering July 2015 through June 2016).⁷ Between May and September 2015, the contractor and ACC-RI contracting officer attempted to negotiate the extension but were unable to reach an agreement. On September 29, 2015, based on field pricing support, the contracting officer unilaterally established a contract cost ceiling of \$534 million that he believed was fair and reasonable, in accordance with DFARS 252.217-7027, “Contract Definitization.” The next day, the LOGCAP Chief, who was the contracting officer’s second-line supervisor, approved a contract modification that increased the ceiling to \$626 million. This modification increased the ceiling by \$92 million.

Table 1 lists a chronology of key events relevant to the ceiling increase. Although the table does not contain every event, it provides a general timeline of key events that are relevant to the ceiling increase.

Table 1. Chronology of Significant Events

Date	Events
April 13, 2015	ACC-RI issued a Request for Proposal addressing a 12-month contract extension to the LOGCAP IV contract.
May 12, 2015	In response to the Request for Proposal, ACC-RI received a contractor price proposal totaling \$698 million, including a \$655 million contract cost ceiling and a \$43 million fee.
June 12, 2015	DCAA determined that the contractor price proposal was inadequate as a whole, but was able to initiate an audit of proposed subcontract costs.
June 12, 2015, through September 29, 2015	An Army internal pricing team initiated a cost analysis of the contractor’s price proposal. On a continuous basis, the team provided the contracting officer with informal advice on the establishment of a contract cost ceiling.
June 29, 2015	The contracting officer established a not-to-exceed ceiling price of \$698 million (the contractor’s proposed ceiling and fee) pending negotiations.
July 20, 2015, through August 10, 2015	DCAA issued its audit on the proposed subcontract costs. DCAA found that, on average, the proposed subcontract costs were 15 percent higher than historical subcontract costs. To assist the contracting officer, DCAA provided a comparison of the contractor’s proposed cost rates and historical cost rates.

⁷ A cost-plus-fixed-fee contract represents a type of cost reimbursable contract in which the Government reimburses the contractor for allowable costs it incurs plus a pre-determined fixed fee. It establishes an estimate of total contract cost for the purpose of obligating funds and establishing a contract cost ceiling that the contractor cannot exceed (except at its own risk) without the contracting officer’s approval.

Table 1. Chronology of Significant Events (cont'd)

Date	Events
August 10-14, 2015	The ACC-RI contracting officer conducted negotiations with the contractor. The contracting officer and the contractor could not reach an agreement on the ceiling.
September 17, 2015	In a letter to the contractor, the contracting officer explained the basis for the Government's approach in developing a fair and reasonable starting point for negotiations. The contractor did not respond to the letter.
September 24, 2015 4:21 p.m.	The contracting officer sent a follow-up email to the contractor that stated ACC-RI planned to discontinue negotiations and unilaterally establish a \$534 million ceiling based on field pricing support from DCAA and an Army internal pricing team. The contractor did not respond to the email.
September 24, 2015 5:19 p.m.	Because the contractor did not respond, the contracting officer drafted a unilateral contract modification to adjust the contractor's proposed ceiling from \$655 million to \$534 million, a \$121 million decrease. The LOGCAP Chief and ACC-RI Commander approved the modification.
September 28, 2015	The contracting officer notified the contractor that ACC-RI was discontinuing negotiations and establishing a unilateral contract price of \$564 million, including a \$534 million ceiling and a \$30 million fee.
September 29, 2015 3:00 p.m.	The contracting officer issued the approved modification, which established a \$534 million ceiling.
September 29, 2015 (exact time of day is unknown)	ACC-RI notified U.S. Army's financial management group that ACC-RI needed to return \$121 million of the \$698 million that the Army had obligated on June 29, 2015.
September 29, 2015 4:20 p.m.	U.S. Army's financial management group advised the ACC-RI Commander that it was unable to accept the \$121 million because only 1 day remained in FY 2015; therefore, insufficient time remained to obligate the funds for a different purpose.
September 29, 2015 Evening (exact time unknown)	The ACC-RI Commander asked the contractor if it could provide additional data to substantiate \$121 million in additional costs. If so, the Commander told the contractor that ACC-RI would attempt to approve an increase in the ceiling.
September 30, 2015 12:50 p.m.	The contractor provided a spreadsheet to the LOGCAP Chief to support a ceiling increase from \$534 million to \$626 million, a \$92 million increase.
September 30, 2015 Approximately 10:00 p.m.	The LOGCAP Chief signed a unilateral modification to increase the ceiling by \$92 million. The Chief did not award any additional fee associated with the \$92 million ceiling increase.

Analysis of the Contract Cost Ceiling Increase

We evaluated the LOGCAP IV contract file and determined that the LOGCAP Chief did not document an adequate justification for approving the \$92 million contract cost ceiling increase.

Contract File Documentation

FAR Subpart 4.8, "Government Contract Files," requires that contract files contain a record of all contractual actions and the basis for the acquisition, the award, and any subsequent actions taken by the contracting officer. Our evaluation of the contract file disclosed that ACC-RI included only the contractor's spreadsheet of estimated costs to support the \$92 million ceiling increase. The contract modification did not include any additional rationale or explanation to justify the contractual need for the increase, or any documented analysis by ACC-RI officials to determine the accuracy or completeness of the contractor-furnished spreadsheet.

Contracting Officer Interview

The contracting officer told us that he believes the \$534 million ceiling he had established on September 29, 2015, was fair and reasonable and that he would not have agreed to the \$92 million increase. The contracting officer also explained that he fully documented his rationale for the \$534 million ceiling in his price negotiation memorandum and that ACC-RI management (including the LOGCAP Chief) approved his establishment of the ceiling. The contracting officer explained that he established the \$534 million ceiling after spending 5 months carefully analyzing the contractor price proposal estimates and appropriately considering the field pricing support he received from DCAA and the internal pricing team. Additionally, the contracting officer explained that the contractor's spreadsheet of estimated costs did not justify an additional ceiling increase because the spreadsheet reflected a summary of the contractor's estimate of costs that he had already evaluated.

LOGCAP Chief Interview

We interviewed the LOGCAP Chief to gain an understanding of the rationale behind his decision to increase the contract cost ceiling the day after the contracting officer had established the \$534 million ceiling. The Chief stated that he approved the ceiling increase to:

- preclude the loss of FY 2015 expiring funds and
- cover the contractor's estimate of costs necessary to complete the contract.

Although the LOGCAP Chief obtained the spreadsheet of estimated costs from the contractor, the contract file did not contain any documented evidence that ACC-RI had reviewed the estimates to determine if they were accurate, current, complete, or reasonable. Further, the LOGCAP Chief should have spoken with the contracting officer to obtain his assessment as to whether the contractor's spreadsheet adequately

demonstrated a need for the increase. The contracting officer was duly warranted, he was assigned to the LOGCAP IV contract, and he had spent 5 months leading a detailed evaluation of the contractor price proposal and establishing a ceiling 1 day earlier.

The LOGCAP Chief explained to us that, under the LOGCAP IV contract, the Government is obligated to reimburse the contractor for all the allowable costs it incurs regardless of the ceiling increase that he approved. In addition, he did not award any additional fee to the contractor as part of the ceiling increase. Therefore, the LOGCAP Chief believes that there was no impact on the Government associated with the ceiling increase. Further, the contractor ultimately incurred, and the Government reimbursed, the entire ceiling amount (including the \$92 million associated with the ceiling increase). The Chief believes that this is an indication the contractor actually needed the additional \$92 million to satisfactorily complete the contract.

We disagree with the LOGCAP Chief. According to FAR 16.306, "Cost-Plus-Fixed-Fee Contracts," under a cost-plus-fixed-fee contract, the Government reimburses a contractor for allowable costs it incurs up to the ceiling. To incur or claim reimbursement of costs in excess of the ceiling, the contractor must obtain the contracting officer's approval. The \$92 million increase in the LOGCAP IV contract ceiling constituted a significant contracting action. By increasing the LOGCAP IV ceiling, the contractor was no longer required to obtain the contracting officer's approval before incurring or claiming reimbursement for the additional \$92 million. Even though the contractor was not awarded fee on the \$92 million, the ceiling increase still diminished the incentive of the contractor to control its costs and fulfill the contract terms without spending the \$92 million. Although the contractor ultimately requested reimbursement for the additional \$92 million, this does not necessarily mean the contractor required the additional funds to fulfill the contract terms.

In accordance with FAR Subpart 4.8, Government contract files should contain adequate documentation supporting all contracting actions. The LOGCAP Chief's actions may have resulted in allowing more funds available to the contractor that were not needed on the contract. Implementing controls would help to ensure that contracting officers adequately document and justify contract funding increases.

Conclusion

The LOGCAP Chief at ACC-RI did not adequately document or justify the contractual need for increasing LOGCAP IV funding by \$92 million, 1 day after the contracting officer had established the contract cost ceiling. Although the LOGCAP Chief obtained a spreadsheet of estimated costs from the contractor to support the increase, the contract file did not contain any documented evidence that ACC-RI had reviewed the estimates to determine if they were accurate, current, complete, or reasonable. Therefore, the ACC-RI contract file does not include sufficient evidence that the contractor needed the increase to fulfill the contract terms.

Recommendations, Management Comments, and Our Response

Recommendation B.1

We recommend that the Army Contracting Command – Rock Island Commander implement appropriate controls to help ensure that contracting officials adequately document and justify contract funding increases in accordance with Federal Acquisition Regulation Subpart 4.8, “Government Contract Files.”

Army Contracting Command – Rock Island Comments

The Commander agreed and stated that the ACC-RI Executive Director will review the process for documenting contract files at ACC-RI to determine if the process complies with regulations and policy.

In a subsequent October 5, 2018, e-mail, the Commander stated that ACC-RI will use a quarterly internal tasker as a control to ensure contracting officers comply with negotiation documentation requirements. The Commander stated that ACC-RI will begin using the tasker in December 2018.

Our Response

Comments from the Commander addressed all specifics of the recommendation, and no further comments are required. Therefore, the recommendation is resolved, but remains open. We will close this recommendation once we receive evidence that the ACC-RI has reviewed the process and implemented an appropriate control to help ensure that contracting officials adequately document and justify contract funding increases.

Recommendation B.2

We recommend that the Army Contracting Command – Rock Island Commander review the actions of the LOGCAP Chief for increasing LOGCAP IV funding by \$92 million without adequately documenting or justifying the need for the increase and determine whether any administrative action should be taken.

Army Contracting Command – Rock Island Comments

The Commander agreed and stated that ACC-RI performed an initial review of the LOGCAP Chief’s actions and determined that no administrative action was necessary.

Our Response

Comments from the Commander addressed all specifics of the recommendation, and no further comments are required. Therefore, the recommendation is resolved, but remains open. The recommendation will remain open until we receive documentation showing the specifics of the initial review, including the scope, results, and reasons for determining that no administrative action was necessary.

Finding C

Negotiation Memorandums Were Not Appropriately Distributed or Filed

The negotiation memorandum is a critical part of the contract file because it serves as the primary means that contracting officers use to document the actions they took during negotiations to reach a fair and reasonable price. During our evaluation, we found that for:

- 10 of 23 contractor price proposals, the contracting officer did not furnish the negotiation memorandum to those providing field pricing support (DCAA and DCMA), as FAR 15.406(b), “Documentation,” requires and
- 8 of 23 contractor price proposals, the contracting officer did not upload the negotiation memorandum into the Contract Business Analysis Repository (CBAR), as DFARS Procedures, Guidance, and Information 215.406, “Documenting the Negotiation,” requires. The CBAR is an electronic tool used by DoD Components to retain negotiation documentation and capture contract-related information about contractors.

A majority of the contracting officers were not aware of the two requirements for distributing and filing the negotiation memorandum. DoD Components should provide refresher training on these requirements to ensure that contracting officials appropriately distribute and file the negotiation memorandum in accordance with the FAR and DFARS requirements.

Contracting Officers Did Not Distribute Negotiation Memorandums to DCAA or DCMA

FAR 15.406-3(b) requires that contracting officers distribute a copy of the negotiation memorandum to offices that provide field pricing support. DCAA and DCMA often provide field pricing assistance to DoD contracting officers. The negotiation memorandum serves as the official record of actions taken by the contracting officer and it demonstrates whether the actions were consistent with applicable regulations. It also serves to protect Government’s interests in the event of future disputes.

For 10 of the 23 contractor price proposals, contracting officers did not furnish a copy of the negotiation memorandum to either DCAA or DCMA even though DCAA and DCMA provided field pricing support to the contracting officer. Appendix D identifies the contracting officers that did not furnish a negotiation memorandum to either DCAA or DCMA. Of the 10 contracting officers, a majority of them were not aware of the FAR requirement.

Furnishing the negotiation memorandums to those agencies that provided field pricing support allows the agencies to record the negotiation results of the support and to report a summary of the results to Congress and other interested parties. It also helps the agencies determine how to make future field pricing support more effective. DoD Components should provide refresher training to ensure that contracting officers distribute negotiation memorandums in accordance with FAR 15.406-3(b).

Contracting Officers Did Not Upload the Negotiation Memorandum to the CBAR

The CBAR is an electronic filing tool that DoD Components use to retain the negotiation memorandum and capture other contract-related information. The CBAR facilitates the efficient sharing of information among contracting officers and helps prevent contracting officers from duplicating efforts. DFARS Procedures, Guidance, and Information 215.406-3(a)(11), “Documenting the Negotiation,” requires that the contracting officer upload the negotiation memorandum to the CBAR if a contract exceeds \$25 million.

For 8 of the 23 contractor price proposals we selected, contracting officers did not upload the negotiation memorandum to the CBAR as the DFARS requires. Appendix D identifies the contracting officers that did not upload the negotiation memorandum to the CBAR. A majority of the contracting officers explained that they were not aware of the requirement. DoD Components should provide refresher training to ensure that contracting officials upload negotiation memorandums to the CBAR as required.

Conclusion

In 10 of 23 contractor price proposals, we determined that contracting officers did not provide the negotiation memorandum to agencies that provided field pricing support, as FAR 15.406-3(b) requires. For 8 of 23 contractor price proposals, we also determined that contracting officers did not upload negotiation memorandums into the CBAR, as DFARS Procedures, Guidance, and Information 215.406-3(a)(11) requires.

We found these FAR and DFARS noncompliances at 8 of the 14 commands we selected for evaluation. Contracting officials at these commands should be provided refresher training on the FAR and DFARS requirements for distributing and filing negotiation memorandums.

Recommendations, Management Comments, and Our Response

Recommendation C.1

We recommend that the Commanders at the eight DoD buying commands, including the Air Force Sustainment Center, the Air Force Life Cycle Management Center, the Naval Air Systems Command, the Naval Sea Systems Command, the Space and Naval Warfare Systems Command, and the Army Contracting Commands at Redstone, Rock Island, and Warren, provide refresher training to contracting personnel on the requirements for distributing the negotiation memorandum in accordance with Federal Acquisition Regulation 15.406-3(b), “Documenting the Negotiation.”

DoD Command Comments

All eight DoD buying commands agreed to provide refresher training on the requirements for distributing the negotiation memorandums. Table 2 shows each DoD command’s anticipated date for completing the refresher training.

Table 2. Estimated Completion Dates for Refresher Training

DoD Command	Estimated Completion Dates for Refresher Training
Air Force Sustainment Center	December 31, 2018*
Air Force Life Cycle Management Center	December 31, 2018*
Naval Air Systems Command	December 31, 2018*
Naval Sea Systems Command	30 days after DoD OIG Report issuance
Space and Naval Warfare Systems Command	December 31, 2018
Army Contracting Command-Redstone	September 10, 2018**
Army Contracting Command-Rock Island	January 2019*
Army Contracting Command-Warren	September 6, 2018**

* These commands provided estimated completion dates in separate e-mails after providing the management comments in this report.

** These commands have completed the refresher training.

In addition to the refresher training, the Space and Naval Warfare Systems Command will update its policies by December 31, 2018, to address the distribution and filing requirements. Also, ACC-RI indicated in a subsequent October 5, 2018, e-mail that ACC-RI will revise its Contract Pricing and Acquisition Instruction to reiterate the importance of negotiation documentation.

Our Response

Comments from the eight DoD commands addressed all specifics of the recommendation, and no further comments are required. Therefore, the recommendation is resolved, but will remain open. We will close this recommendation once we receive evidence that all eight DoD commands have completed the refresher training. We verified that the Army Contracting Commands at Redstone and Warren have already provided adequate refresher training.

Recommendation C.2

We recommend that the Commanders at the eight DoD buying commands, including the Air Force Sustainment Center, the Air Force Life Cycle Management Center, the Naval Air Systems Command, the Naval Sea Systems Command, the Space and Naval Warfare Systems Command, and the Army Contracting Commands at Redstone, Rock Island, and Warren, provide refresher training to contracting personnel on the requirements for filing the negotiation memorandum in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-3(a)(11), “Documenting the Negotiation.”

DoD Command Comments

All eight DoD commands agreed to provide refresher training on the requirements for distributing the negotiation memorandums. Table 2 shows each DoD command’s anticipated date for completing the refresher training.

In addition to the refresher training, the Space and Naval Warfare Systems Command will update its policies by December 31, 2018, to address the distribution and filing requirements. In addition, the Air Force Systems Command and the Air Force Life Cycle Management Center stated that its contracting officers uploaded the missing negotiation memorandums we identified at these DoD commands to CBAR.

The Naval Air Systems Command agreed that refresher training would be useful and, in a separate October 30, 2018, e-mail, stated that it plans to provide the training to all Naval Air Systems Command contracting personnel by December 31, 2018. However, Naval Air Systems Command did not agree

that the refresher training should be required. Finally, the Naval Air Systems Command stated that its contracting officers were aware of the requirement, but lacked the necessary login permissions to upload the negotiation documents to CBAR.

Our Response

Comments from the eight DoD commands addressed all specifics of the recommendation, and no further comments are required. Therefore, the recommendation is resolved, but will remain open. We will close the recommendation once we receive evidence that all contracting personnel have completed the refresher training. We verified that the Army Contracting Commands at Redstone and Warren have already provided adequate refresher training.

We appreciate the Naval Air Systems Command's recognition that refresher training would be useful. Although the Naval Air Systems Command commented that refresher training should not be required, it committed to providing the recommended refresher training by December 31, 2018. Naval Air Systems Command also indicated that, in advance of the training, it will also obtain any login permissions necessary for its contracting personnel to access CBAR.

Appendix A

Scope and Methodology

We conducted this evaluation from October 2017 through August 2018 in accordance with the “Quality Standards for Inspections and Evaluations” published in January 2012 by the Council of the Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that objectives are met and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusion, and recommendations. We believe that the evidence obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings, conclusions, and recommendations.

To accomplish the objectives addressed in this report, we:

- evaluated DoD-wide and DoD Component policies for taking action on contractor price proposal inadequacies;
- selected a reasonable cross-section of 23 instances where DCAA found a contractor price proposal to be inadequate, and the responsible contracting officer either completed negotiations or developed a plan for completing negotiations;
- gained an understanding of the basis by which DCAA determined that the contractor price proposal was inadequate;
- obtained and evaluated key documents in the responsible contracting officers’ contract files associated with the 23 selected contractor price proposals, including the negotiation memorandum, emails, field pricing reports, and relevant documents;
- interviewed the responsible contracting officers and other appropriate DoD Component officials; and
- evaluated the contracting officer’s actions for compliance with relevant FAR, DFARS, DoD policy, and DoD Component procedures.

We judgmentally selected the 23 contractor price proposals among proposals that DCAA determined to be inadequate between February 2014 and May 2017. We selected all proposals within this timeframe that exceeded \$20 million and awarded as a sole-source contract. As sole-source contracts greater than \$750 thousand, the contractors were required to submit cost or pricing data in accordance with FAR Subpart 15.4. We selected sole-source contracts because they did not involve competition and the contracting officers had to use the proposals as a basis for negotiating a fair and reasonable price.

Use of Computer-Processed Data

We did not rely on computer-processed data to perform this evaluation.

Prior Coverage

No prior coverage has been conducted on contracting officer actions in response to inadequate contractor price proposals during the last 5 years. Unrestricted DoD Office of Inspector General reports can be accessed at <http://www.dodig.mil/reports.html/>.

Appendix B

Other Matters of Interest

Outdated Contract Pricing Reference Guides

Defense Pricing and Contracting developed Contract Pricing Reference Guides to provide instruction and professional guidance for DoD contracting personnel. The Guides assist contracting officers in solving pricing problems through scenarios and examples.

During our evaluation, we found instances where the Guides are outdated. For example, some of the Guides reference sections of DCAA audit reports that no longer exist. Volume 4 of the guides state that DCAA audit reports document information on the contractor's organization and systems, but DCAA audit reports no longer contain this information. Additionally, in Volume 4, the Guides note that DCAA provides an audit opinion on a contractor's overall system as adequate, inadequate, or inadequate in part. However, DCAA policy no longer allows the issuance of an inadequate in part opinion.

We also noted that the guides are difficult to locate on the Acquisition Community Connection website. While the guides are referenced on the Defense Pricing and Contracting homepage, the user is required to navigate through at least five pages to access the Contract Pricing Reference Guides.

Appendix C

Insufficient Documentation of Contractor Price Proposal Inadequacies

Contract	DoD Command	Insufficient Documentation
AIR FORCE		
FA8208-07-C-0001/00102	AIR FORCE SUSTAINMENT CENTER, HILL AIR FORCE BASE	
FA8523-13-D-0002	AIR FORCE LIFE CYCLE MANAGEMENT CENTER, ROBINS AIR FORCE BASE	
FA8539-16-D-0003	AIR FORCE SUSTAINMENT CENTER, ROBINS AIR FORCE BASE	
FA8634-16-C-2653/00019	AIR FORCE LIFE CYCLE MANAGEMENT CENTER, WRIGHT-PATTERSON AIR FORCE BASE	X
FA8682-16-C-0004	AIR FORCE LIFE CYCLE MANAGEMENT CENTER, EGLIN AIR FORCE BASE	X
NAVY		
N00019-14-C-0037	NAVAL AIR SYSTEMS COMMAND, PATUXENT RIVER	X
N00019-17-C-0022	NAVAL AIR SYSTEMS COMMAND, PATUXENT RIVER	
N00024-11-C-2301	NAVAL SEA SYSTEMS COMMAND, NAVY YARD	X
N00024-15-C-6222	NAVAL SEA SYSTEMS COMMAND, NAVY YARD	X
N00024-17-C-5375	NAVAL SEA SYSTEMS COMMAND, NAVY YARD	X
N00024-17-C-5406	NAVAL SEA SYSTEMS COMMAND, NAVY YARD	
N00030-16-C-0005	NAVAL SEA SYSTEMS COMMAND, NAVY YARD	X
N00039-15-D-0008	SPACE AND NAVAL WARFARE SYSTEMS COMMAND, SAN DIEGO	
N00383-14-R-9561	NAVAL SUPPLY SYSTEMS COMMAND WEAPON SYSTEMS SUPPORT, PHILADELPHIA	
N00383-16-D-001F	NAVAL SUPPLY SYSTEMS COMMAND WEAPON SYSTEMS SUPPORT, PHILADELPHIA	
N68335-15-D-0019	NAVAL AIR WARFARE CENTER AIRCRAFT DIVISION, LAKEHURST	
DEFENSE LOGISTICS AGENCY		
SPRBL1-16-D-0041	DEFENSE LOGISTICS AGENCY LAND AND MARITIME, ABERDEEN PROVING GROUND	X

Insufficient Documentation of Contractor Price Proposal Inadequacies (cont'd)

Contract	DoD Command	Insufficient Documentation
ARMY		
W31P4Q-16-D-0018	ARMY CONTRACTING COMMAND, REDSTONE ARSENAL	
W52P1J-07-D-0008/0005	ARMY CONTRACTING COMMAND, ROCK ISLAND	
W56HZV-12-C-0344	ARMY CONTRACTING COMMAND, WARREN	
W56HZV-14-C-0102	ARMY CONTRACTING COMMAND, WARREN	X
W58RGZ-13-C-0109/P00222	ARMY CONTRACTING COMMAND, REDSTONE ARSENAL	
W58RGZ-15-C-0026	ARMY CONTRACTING COMMAND, REDSTONE ARSENAL	
Total		9

Appendix D

Negotiation Memorandums Not Furnished or Uploaded to CBAR

Contract	DoD Command	Negotiation Memorandum Not Furnished to DCAA/DCMA	Negotiation Memorandum Not Uploaded to CBAR
FA8208-07-C-0001/00102	Air Force Sustainment Center, Hill Air Force Base		X
FA8523-13-D-0002	Air Force Life Cycle Management Center, Robins Air Force Base	X	
FA8539-16-D-0003	Air Force Sustainment Center, Robins Air Force Base	X	X
FA8634-16-C-2653/00019	Air Force Life Cycle Management Center, Wright-Patterson Air Force Base	X	
FA8682-16-C-0004	Air Force Life Cycle Management Center, Eglin Air Force Base		
N00019-14-C-0037	Naval Air Systems Command, Patuxent River		X
N00019-17-C-0022	Naval Air Systems Command, Patuxent River	X	
N00024-11-C-2301	Naval Sea Systems Command, Navy Yard	X	
N00024-15-C-6222	Naval Sea Systems Command, Navy Yard	X	
N00024-17-C-5375	Naval Sea Systems Command, Navy Yard		
N00024-17-C-5406	Naval Sea Systems Command, Navy Yard		
N00030-16-C-0005	Naval Sea Systems Command, Navy Yard		X
N00039-15-D-0008	Space and Naval Warfare Systems Command, San Diego	X	X
N00383-14-R-9561	Naval Supply Systems Command Weapon Systems Support, Philadelphia		
N00383-16-D-001F	Naval Supply Systems Command Weapon Systems Support, Philadelphia		

Negotiation Memorandums Not Furnished or Uploaded to CBAR (cont'd)

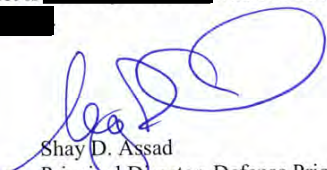
Contract	DoD Command	Negotiation Memorandum Not Furnished to DCAA/DCMA	Negotiation Memorandum Not Uploaded to CBAR
N68335-15-D-0019	Naval Air Warfare Center Aircraft Division, Lakehurst		
SPRBL1-16-D-0041	Defense Logistics Agency Land and Maritime, Aberdeen Proving Ground		
W31P4Q-16-D-0018	Army Contracting Command, Redstone Arsenal	X	X
W52P1J-07-D-0008/0005	Army Contracting Command, Rock Island		X
W56HZV-12-C-0344	Army Contracting Command, Warren	X	
W56HZV-14-C-0102	Army Contracting Command, Warren		
W58RGZ-13-C-0109/P00222	Army Contracting Command, Redstone Arsenal		X
W58RGZ-15-C-0026	Army Contracting Command, Redstone Arsenal	X	
Total		10	8

Management Comments

Defense Pricing and Contracting Principal Director

ACQUISITION
AND SUSTAINMENTOFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

SEP 25 2018

MEMORANDUM FOR PROGRAM DIRECTOR FOR CONTRACT MANAGEMENT AND
PAYMENTS, OFFICE OF THE INSPECTOR GENERALSUBJECT: Response to DoDIG Draft Report on Evaluation of Contracting Officer Actions on
Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency
(Project No. D2017-DAPOCF-0192.000)As requested, I am providing responses to recommendation (A) contained in the subject
report.**Recommendation A:**We recommend that the Defense Procurement and Acquisition Policy Director develop and issue
guidance that requires contracting officers to document the actions they take to address
contractor price proposal inadequacies.**DoD Response:** Concur. Defense Pricing and Contracting (formerly known as Defense
Procurement and Acquisition Policy) agrees that contracting officers need to properly document
their actions on contractor cost proposals deemed to be inadequate by the Defense Contract
Audit Agency (DCAA). My staff is in the process of preparing guidance and I anticipate signing
it in the next 60 days.My point of contact for this subject is [REDACTED] who can be reached at
[REDACTED] or [REDACTED]
Shay D. Assad
Principal Director, Defense Pricing
and Contracting

Army Contracting Command - Responding on Behalf of Army Contracting Commands at Rock Island, Redstone, and Warren



REPLY TO
ATTENTION OF:

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

26 SEP 2018

ASCC-IG

la
MEMORANDUM THRU Headquarters, U.S. Army Materiel Command, Executive Deputy to the Commanding General, 4400 Martin Road, Redstone Arsenal, AL 35898-5000

FOR Department of Defense, Inspector General, 4800 Mark Center Drive, Alexandria, VA 22350-1500

SUBJECT: Inspector General, Department of Defense (DoD), Evaluation of Contracting Officer Actions on Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency (Project No. D2017-DAPOCF-0192.000)

1. Reference DoD Inspector General Draft Report, Project No. D2017-DAPOCF-0192.000, dated 23 August 2018, subject: Evaluation of Contracting Officer Actions on Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency.
2. The subject draft report identified the objectives, findings and recommendations associated with the evaluation, and requested Army Contracting Command to provide comments. After review of the report, enclosed are the responses from Army Contracting Command-Redstone (Finding C), Army Contracting Command-Warren (Finding C) and Army Contracting Command-Rock Island (Findings B and C).
3. The Army Contracting Command point of contact for this memorandum is [REDACTED]

- 2 Encls
1. DoDIG Report
2. ACC Response

[Signature]
PAUL H. PARDEW
Major General, USA
Commanding

Army Contracting Command - Responding on Behalf of Army Contracting Commands at Rock Island, Redstone, and Warren (cont'd)

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HQ ACC COMMENTS

On Department of Defense Office of Inspector General Draft Report on "Evaluation of Contracting Officer Actions on Contractor Pricing Proposals Deemed Inadequate by Defense Contract Audit Agency" August 23, 2018 (Project No. D2017-DAPOCF-0192.000)

Following, quoted from the report, is the recommendation and Headquarters Army Contracting Command's (HQ ACC's) response to the recommendation.

Recommendation B: We recommend the Army Contracting Command – Rock Island (ACC-RI) Commander:

1. Implement appropriate controls to help ensure that contracting officials adequately document and justify contract funding increases in accordance with FAR Subpart 4.8, "Government Contract Files."
2. Review the actions of the LOGCAP Chief for increasing LOGCAP IV funding by \$92 million without adequately documenting or justifying the need for the increase and determine whether any administrative action should be taken.

Command Comments: Concur, With comments

1. **ACC-RI Response to Recommendation B(1):** The ACC-RI Executive Director will review current processes to ensure contract file content complies with regulatory and policy guidance.
2. **ACC-RI Response to Recommendation B(2):** Based on initial review, the ACC-RI Executive Director has reviewed the information and determined no administrative action is warranted.

Recommendation C: We recommend that the Commanders at the Air Force Sustainment Center, the Air Force Life Cycle Management Center, the Naval Air Systems Command, the Naval Sea Systems Command, the Space and Naval Warfare Systems Command, and the Army Contracting Commands at Redstone, Rock Island, and Warren provide refresher training to contracting personnel on the requirements for:

1. Distributing the negotiation memorandum in accordance with Federal Acquisition Regulation 15.406-3(b), Documenting the Negotiation, and
2. Filing the negotiation memorandum in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-3(a)(11)(c), Documenting the Negotiation.

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Army Contracting Command - Responding on Behalf of Army Contracting Commands at Rock Island, Redstone, and Warren (cont'd)

Command Comments: Concur, With Comments

1. **Army Contracting Command - Redstone Arsenal (ACC-RSA):** On 10SEP18, at the ACC-RSA Quarterly Town Hall (hosted by the ACC-RSA Executive Director), the ACC-RSA Director, Policy, Review, Compliance & Government Purchase Card Program, provided refresher training to ACC-RSA contracting personnel on the requirements for:

- a. Distributing the negotiation memorandum in accordance with Federal Acquisition Regulation 15.406-3(b), Documenting the Negotiation; and
- b. Filing the negotiation memorandum in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-3(a)(11)(c), Documenting the Negotiation.

Attachment: See attached PowerPoint presentation slide (ACC-RSA Town Hall (10Sep18)). The attachment does not contain information that is either critical or exempt from release under the Freedom of Information Act (FOIA).

This corrective action completes the ACC-RSA portion of the Inspector General's draft recommendation, and ACC-RSA requests the corrective action be documented in the final report.

2. **Army Contracting Command - Rock Island (ACC-RI):** ACC-RI will conduct refresher training addressing the audit findings to ensure the ACC-RI contracting workforce understands negotiation documentation requirements.

3. **Army Contracting Command - Warren (ACC-WRN):** On 06SEP18, the ACC-WRN Executive Director issued an email to all ACC-WRN contracting personnel that summarized DoD OIG's findings related to Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency, and provided refresher guidance on the following requirements, as recommended by DoD OIG:

- a. Distributing the negotiation memorandum in accordance with Federal Acquisition Regulation 15.406-3(b), Documenting the Negotiation; and
- b. Filing the negotiation memorandum in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-3(a)(11)(c), Documenting the Negotiation.

Attachment: ACC-WRN email (PDF) to contracting personnel regarding "Findings and recommendations related to DoD OIG report on Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency".

This corrective action completes the ACC-WRN portion of the Inspector General's draft recommendation and ACC-WRN requests the corrective action be documented in the final report.

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Army Contracting Command - Responding on Behalf of Army Contracting Commands at Rock Island, Redstone, and Warren (cont'd)



- Deputy Inspector General for Policy and Oversight, OIG DoD performed an evaluation, from October 2017 through August 2018, of Contracting Officer Actions on Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency

- ✓ ACC-RSA was deemed deficient in distributing the negotiation memorandum in accordance with FAR 15.406-3(b). Documenting the Negotiation, and filing the negotiation memorandum in accordance with DFARS, PGI 215.406-3(a)(11)(c); Documenting the Negotiation.
- ✓ As stipulated in DFARS PGI 215.406-3(a)(11), the contracting officer is responsible for ensuring that the approved pre- and post-negotiation sole source business clearance documents (e.g., price negotiation memoranda) are uploaded into the CBAR at http://www.dcmamilitary.com/cbar/1_6/index.cfm for the purpose of sharing negotiation experience with other contracting officers preparing to negotiate. This includes both sole source actions using the procedures at FAR part 12, Acquisition of Commercial Items, as well as actions using the procedures at FAR part 15, Contracting by Negotiation, that are valued in excess of \$ 25 million and awarded on or after June 24, 2013 (and for all definitized or awarded actions over \$100 million which occurred on or after October 1, 2012).
- ✓ In Section 15 of the ACC-RSA AI, the KO is reminded to use procedures in DFARS PGI 215.406-3 to upload the POM/PNM into the Contract Business Analysis Repository (CBAR). A request for assistance or additional information on CBAR should be directed to the ACC-RSA CBAR POC on the Pricing Directorate SharePoint under the CBAR link."
- ✓ IN ADDITION – the requirement at FAR 15.406-3(b) "Whenever field pricing assistance has been obtained, the contracting officer shall forward a copy of the negotiation documentation to the office(s) providing assistance. When appropriate, information on how advisory field support can be made more effective should be provided separately."
- ✓ This means that KOs are required to provide those organizations providing field pricing support, (usually ACC-RSA Pricing Directorate, DCMA and DCAA) a copy of the approved PNM.



UNCLASSIFIED

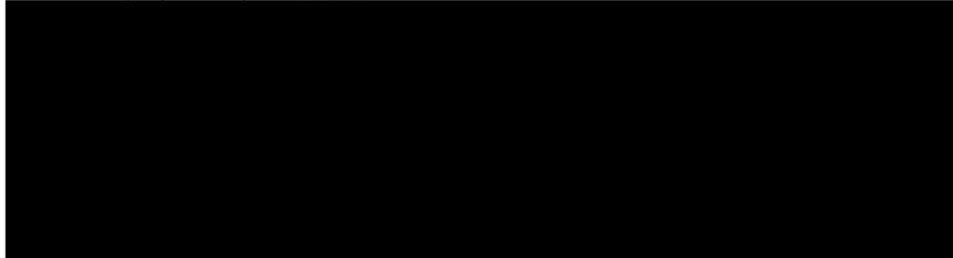
1

Army Contracting Command - Responding on Behalf of Army Contracting Commands at Rock Island, Redstone, and Warren (cont'd)

-----Original Message-----

From: Gallagher, Daniel J SES USARMY ACC (US)

Sent: Thursday, September 6, 2018 11:23 AM



Subject: Findings and recommendations related to DoDIG report on Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Notice to ACC-WRN Contracting Personnel,

BACKGROUND:

On 23 Aug 2018, the Department of Defense (DoD) Inspector General (IG) issued a project report regarding an "Evaluation of Contracting Officer Actions on Contractor Price Proposals Deemed Inadequate by the Defense Contract Audit Agency" (see attached).

When contractors are required to submit certified cost or pricing data in accordance with FAR 15.403-4, "Requiring Certified Cost or Pricing Data," contracting officers must obtain accurate, complete, and current data from a contractor to establish fair and reasonable prices for Government contracts.

The contracting officer is responsible for determining the extent of support required to evaluate a contractor's price proposal, including whether the contracting officer should request a DCAA audit. If the contracting officer requests an audit, DCAA first determines whether the contractor's price proposal complies with the FAR requirements. If it does not, DCAA issues a memorandum to the contracting officer that outlines the noncompliance's and the actions required to correct the noncompliance's.

As part of the evaluation, the IG selected 23 contractor price proposals valued at \$6.4 billion that Air Force, Army, Navy, and Defense Logistics Agency contracting officers negotiated. DCAA determined that all 23 contractor price proposals were inadequate because they did not comply with FAR Subpart 15.4, "Contract Pricing."

FINDINGS:

For all 23 contractor price proposals the IG evaluated, DCAA advised the contracting officers that the proposals did not comply with the FAR requirements, including FAR Table 15-2.

FAR 15.406-3, "Documenting the Negotiation," requires that contracting officers document in the contract file the principal elements of the negotiated agreement. For example, FAR requires that contracting officers document any cost or pricing data inadequacies identified by DCAA and the actions taken to address the inadequacies.

Army Contracting Command - Responding on Behalf of Army Contracting Commands at Rock Island, Redstone, and Warren (cont'd)

For all 23 contractor price proposals, the contracting officers took appropriate actions to address the proposal inadequacies identified by DCAA.

However, for 9 of the 23 proposals, contracting officers did not comply with the FAR requirements for documenting the negotiation because they did not adequately document the contractor price proposal inadequacies or the actions taken to address the inadequacies in the contract file. Without adequate documentation, such as the negotiation memorandum, the contracting officers could not readily demonstrate that they had appropriately addressed the contractor price proposal inadequacies before they negotiated a fair and reasonable price with the contractor.

For 10 of 23 proposals, the IG determined that contracting officers did not comply with the FAR requirement to distribute negotiation memorandums to the agencies that provided support. Further, for 8 of 23 proposals, the IG determined that contracting officers did not comply with the Defense Federal Acquisition Regulation Supplement (DFARS) requirement to upload negotiation memorandums to DoD's Contract Business Analysis Repository.

SUMMARY and GUIDANCE:

Based on the above noted IG evaluation's recommendations, to ensure compliance, provided below are applicable regulation requirements (along with corresponding ACC-WRN's Price Negotiation Memorandum (PNM) TPP (which can be found at: <https://acc.aep.army.mil/sites/acc-wrn/ERC/Pages/pnmtpp.aspx>) guidance location in parenthesis) Contracting Officers should be aware of:

When inadequacies are noted by DCAA (proposal does not comply with FAR requirements, including FAR Table 15-2), Contracting Officers are required per FAR 15.406-3(a)(6) to adequately document in the contract file, the contractor price proposal inadequacies and the actions taken to address the inadequacies (see TPP paragraph 3d(6)(b)).

Contracting Officers are required per FAR 15-406-3(a)(7) to address any significant differences between field pricing assistance recommendations, the Government negotiation objective, and the negotiated position (see TPP paragraph 3d(7)).

Contracting Officers are required per Defense Federal Acquisition Regulation Supplement (DFARS) PGI 215.406-3(a)(7)(11) to upload approved pre and post negotiation memorandums (for noncompetitive actions) to DoD's Contract Business Analysis Repository (see TPP paragraph 3e).

Contracting Officers are required per FAR 15.406-3(b) to provide a copy of the approved PNM to any field pricing offices that provided assistance during the evaluation process (see TPP paragraph 3c).

Although not part of the above noted report, Contracting Officers are required to provide a copy of the approved PNM to the servicing Small Business office for the awarded firm if action is an 8(a) set aside (see TPP paragraph 3f).

Please let me, [REDACTED] know if you have any questions.

VR
Dan

Daniel J. Gallagher
Executive Director
Army Contracting Command - Warren
6501 E. 11 Mile Road
Warren, MI 48397
Office: 586-282-7025
DSN: 786-7025

Naval Air Systems Command



DEPARTMENT OF THE NAVY

NAVAL AIR SYSTEMS COMMAND
RADM WILLIAM A. MOFFETT BUILDING
47123 BUSE ROAD, BLDG 2272
PATUXENT RIVER, MARYLAND, 20670-1547

7540
Ser AIR-00G4A/069A
25 Oct 18

From: Commander, Naval Air Systems Command
To: Naval Inspector General, Audit Liaison and Follow-Up Division (N4)
Subj: DODIG DRAFT REPORT AMENDED RESPONSE TO "EVALUATION OF CONTRACTING OFFICER ACTIONS ON CONTRACTOR PRICE PROPOSALS DEEMED INADEQUATE BY DEFENSE CONTRACT AUDIT AGENCY" (PROJECT NUMBER D2017-DAPOCF-0192.000);
Ref: (a) Department of Defense Inspector General Draft Report D2017-DAPOCF-0192.000 of 23 August 2018
Encl: (1) Amended Naval Air Systems Command Comments to Subject Draft Report
1. Per reference (a), this is an Amendment to the Naval Air Systems Command (NAVAIR), response dtd 25 September 2018 to subject Inspector General, Department of Defense draft report. The draft report was reviewed and comments are provided in enclosure (1).
2. Please refer questions to [REDACTED]

A handwritten signature in cursive script, appearing to read "W. A. McConvey", is positioned above the typed name.

W. A. McCONVEY
Inspector General

Copy to: AIR-2.0

Naval Air Systems Command (cont'd)

**NAVAL AIR SYSTEMS COMMAND AMMENDED RESPONSE
TO DODIG DRAFT AUDIT REPORT ON "EVALUATION OF CONTRACTING
OFFICER ACTIONS ON CONTRACTOR PRICE PROPOSALS DEEMED
INADEQUATE BY DEFENSE CONTRACT AUDIT AGENCY"
PROJECT # D2017-DAPOCF-0192.000,
DATED 23 AUGUST 2018**

Finding C: Negotiation Memorandums Were Not Appropriately Distributed or Filed

The negotiation memorandum is a critical part of the contract file because it serves as the primary means that contracting officers use to document the actions they took during negotiations. During our evaluation, we found that for:

- 10 of 23 contractor price proposals, the contracting officer did not furnish the negotiation memorandum to those providing field pricing support (DCAA and DCMA), as FAR 15.406(b), "Documentation," requires.
- 8 of 23 contractor price proposals, the contracting officer did not upload the negotiation memorandum into the Contract Business Analysis Repository (CBAR), as DFARS Procedures, Guidance, and Information 215.406, "Documenting the Negotiation," requires. The CBAR is an electronic tool used by DoD Components to retain negotiation documentation and capture contract-related information about contractors.

A majority of the contracting officers were not aware of the two requirements for distributing and filing the negotiation memorandum. DoD Components should provide refresher training on these requirements to ensure that contracting officials appropriately distribute and file negotiation memorandum in accordance with the FAR and DFARS requirements.

NAVAIR Response: Concur

Only two (2) NAVAIR contracts were included in this audit. Appendix C and D address the specific issues cited by the auditors.

Both of the NAVAIR PCOs involved in this audit were aware of the requirement to provide copies of the negotiation memorandums to DCAA/DCMA, as well as, upload them to DoD's Contract Business Analysis Repository (CBAR).

Although NAVAIR agrees that the refresher training would be useful, NAVAIR disagrees with the assumption that it be required.

Recommendation C: Commanders at the Air Force Sustainment Center, the Air Force Life Cycle Management Center, the Naval Air Systems Command, the Naval Sea Systems Command, the Space and Naval Warfare Systems Command, and the Army Contracting

Naval Air Systems Command (cont'd)

Commands at Redstone, Rock Island, and Warren provide refresher training to contracting personnel on the requirements for:

- 1. Distributing the negotiation memorandum in accordance with Federal Acquisition Regulation 15.406-3(b), Documenting the Negotiation, and**
- 2. Filing the negotiation memorandum in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-3(a)(11)(c), Documenting the Negotiation.**

NAVAIR Response: Concur

Although NAVAIR agrees that the refresher training would be useful, NAVAIR disagrees with the assumption that it be required because “a majority of PCOs are unaware of the requirements for uploading to CBAR or providing copies of negotiation memorandums to DCAA/DCMA.”

There was only one action that NAVAIR was identified as having not uploaded to CBAR, per Appendix D (i.e. contract N00019-14-C-0037). At the time of contract award, the PCO didn't have the permissions necessary to upload the document. The PCO advises that he was aware of the requirement to upload to CBAR - the action was just not performed in a timely manner.

Completed date: October 2018

Naval Sea Systems Command



DEPARTMENT OF THE NAVY
NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVE SE
WASHINGTON NAVY YARD DC 20376-0001

IN REPLY REFER TO
7501
Ser 00N/207
12 Sep 18

From: Commander, Naval Sea Systems Command
To: Assistant Secretary of the Navy, Research, Development and Acquisition

Subj: NAVAL SEA SYSTEMS COMMAND RESPONSE TO DEPARTMENT OF DEFENSE
DRAFT AUDIT REPORT: EVALUATION OF CONTRACTING OFFICER ACTIONS
ON CONTRACTOR PRICE PROPOSALS DEEMED INADEQUATE BY DEFENSE
CONTRACT AUDIT AGENCY (PROJECT NO. D2017-DAPOCF-0192)

Ref: (a) Department of Defense Draft Audit Report: Evaluation of Contracting Officer
Actions On Contractor Price Proposals Deemed Inadequate by Defense Contract
Audit Agency (Project No. D2017-DAPOCF-0192)

Encl: (1) Naval Sea Systems Command Response To Department of Defense Draft Audit
Report: Evaluation of Contracting Officer Actions on Contractor Price Proposals
Deemed Inadequate by Defense Contract Audit Agency (Project No. D2017-
DAPOCF-0192)

1. Per reference (a), Naval Sea Systems Command CONCURS with Recommendation I.c
(Enclosure 1).

2. For additional information, contact [REDACTED] or
[REDACTED].


JON NELSON
By direction

Copy to:
NAVINGEN (N14)

Naval Sea Systems Command (cont'd)

**NAVAL SEA SYSTEMS COMMAND RESPONSE
TO
DODIG Draft Audit Report: Evaluation of Contracting Officer Actions on Contractor
Price Proposals Deemed Inadequate by Defense Contract Audit Agency
(Project No. D2017-DAPOCF-0192)**

DODIG Audit Recommendation C:

We recommend that the Commanders at the Air Force Sustainment Center, the Air Force Life Cycle Management Center, the Naval Air Systems Command, the Naval Sea Systems Command, the Space and Naval Warfare Systems Command, and the Army Contracting Commands at Redstone, Rock Island, and Warren provide refresher training to contracting personnel on the requirements for:

1. Distributing the negotiation memorandum in accordance with Federal Acquisition Regulation 15.406-3(b), Documenting the Negotiation, and
2. Filing the negotiation memorandum in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-3(a)(11)(c), Documenting the Negotiation.

NAVSEA Response: CONCUR.

NAVSEA will provide training after the final report is issued.

Target completion date is: 30 days after the publication of the final report for this audit.

Note: Appendix C has an error in the identification of Contract N00030-16-C-0005 to NAVSEA. It should be Navy Strategic Systems Programs.

Encl (1)

Space and Naval Warfare Command



DEPARTMENT OF THE NAVY
SPACE AND NAVAL WARFARE SYSTEMS COMMAND
4301 PACIFIC HIGHWAY
SAN DIEGO, CA 92110-3127

7502
Ser 014/ 570
14 Sep 18

From: Commander, Space and Naval Warfare Systems Command
To: Inspector General, Department of Defense
Via: (1) Assistant Secretary of the Navy (Research, Development, and Acquisition)
(2) Deputy Assistant Secretary of the Navy - Acquisition and Procurement

Subj: DEPARTMENT OF DEFENSE INSPECTOR GENERAL DRAFT REPORT D2017-DAPOCF-0192.000 "EVALUATION OF CONTRACTING OFFICER ACTIONS ON CONTRACTOR PRICE PROPOSALS DEEMED INADEQUATE BY DEFENSE CONTRACT AUDIT AGENCY"

Ref: (a) Department of Defense Inspector General Draft Report D2017-DAPOCF-0192.000 of 23 August 2018

Encl: (1) Space and Naval Warfare Systems Command Response to Department of Defense Inspector General Draft Report D2017-DAPOCF-0192.000 "Evaluation of Contracting Officer Actions on Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency"

1. Per reference (a), this is the Space and Naval Warfare Systems Command (SPAWAR) response to subject Inspector General, Department of Defense draft report. The draft report was reviewed and comments are provided in enclosure (1).

2. Questions concerning this correspondence may be directed to [REDACTED].


Patrick M. Sullivan
Executive Director

Space and Naval Warfare Command (cont'd)

**Space and Naval Warfare Systems Command
Response to Department of Defense Inspector General Draft Report D2017-DAPOCF-
0192.000 "Evaluation of Contracting Officer Actions on Contractor Price Proposals
Deemed Inadequate by Defense Contract Audit Agency"**

The Department of Defense Inspector General (DoDIG) draft audit report included the following recommendation for Commander, Space and Naval Warfare Systems Command (SPAWAR):

Recommendation C. We recommend that the Commander at the Space and Naval Warfare Systems Command provide refresher training to contracting personnel on the requirements for:

1. distributing the negotiation memorandum in accordance with Federal Acquisition Regulation 15.406-3(b), Documenting the Negotiation, and
2. filing the negotiation memorandum in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-3(a)(11)(c), Documenting the Negotiation.

SPAWAR Response: Concur.

1. The SPAWAR Contracts Policy Branch is in the process of updating SPAWAR's Business Clearance Memorandum policy to specifically point out the distribution and filing requirements in accordance with the Federal Acquisition Regulation (FAR) as noted below:

- Contracting Officers shall document in the contract file the principal elements of the negotiated agreement as set forth in FAR 15.406-3 "Documenting the Negotiation." The documentation shall include the requirements in FAR 15.406-3 (a)(1) through (11) and Defense Federal Acquisition Regulation Supplement (DFARS) and Procedures, Guidance, and Information (PGI) 215.406-3.

- Contracting Officers using field pricing assistance shall forward a copy of the negotiation documentation to the office(s) that provides the assistance in accordance with FAR 15.406-3(b).

- DFARS PGI 215.406-3(a)(11)(c) requires Contracting Officers to upload the documentation to the Contract Business Analysis Repository (CBAR) no later than 30 days after award of the contract action associated with the negotiation and shall include both the pre-negotiation objectives required by FAR 15.406-1 and PGI 215.406-1 (DFARS/PGI view), and the record of negotiations (i.e., the Price Negotiation Memoranda required by FAR 15.406-3 and PGI 215.406-3 (DFARS/PGI view)). The Contracting Officer shall complete the "description of acquisition" field with keywords and searchable terms to identify the products and services acquired. Additionally, the Contracting Officer shall complete the "comments" field of the CBAR record to summarize unique features and aspects of the negotiation in order to prompt other contracting teams to inquire further to learn from their peers' prior experience.

2. The SPAWAR Contracts Policy Branch plans to provide training on this subject by the end of calendar year 2018.

3. The estimated completion date for all planned corrective actions is 31 December 2018.

Enclosure (1)

Air Force Contracting – Responding on Behalf of Air Force Life Cycle Management and Air Force Sustainment Center



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

SEP 2 4 2018

OFFICE OF THE ASSISTANT SECRETARY

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

FROM: SAF/AQ

SUBJECT: Air Force Life Cycle Management Center (AFLCMC) & Air Force Sustainment Center (AFSC) Requested Comments on DoDIG Project Report No. D2017-DAPOCF-0192.000

1. This memorandum is to document comments regarding the finding listed in Draft DoDIG report "Evaluation of Contracting Officer Actions on Contractor Price Proposals Deemed Inadequate by Defense Contract Audit Agency," dated 23 Aug 18.
2. AFLCMC and AFSC were tasked to provide comments on the Findings/Recommendations in regards to "Recommendation C," (pages 17-19) of the report. The findings concluded that Negotiation Memorandums were not appropriately distributed or filed, Contracting Officers did not distribute the Negotiation Memorandum to DCAA or DCMA (IAW FAR 15), and Contracting Officers did not upload the Negotiation Memorandum to CBAR IAW DFARS 215.406-3(a)(1).
3. Comments provided in response to the draft DoDIG Report are as follows:

The 3 AFLCMC contracts reviewed and included in the report are as follows:

FA8682-16-C-0004 Eglin (EJJK Long Range Systems),
FA8523-13-D-0002 Robins (WNKC ACS),
FA8634-16-C-2653/00019 Wright Patterson AFB (WWQ F-15)

The 2 AFSC contracts reviewed and included in the report are as follows:

FA8208-07-C-0001/00102 (Hill AFB),
FA8539-16-D-0003 (Robins AFB)

Comments for each individual contract are listed below:

FA8682-16-C-0004 Eglin (EJJK Long Range Systems) -
Appendix C - No Finding
Appendix D - No Finding

FA8523-13-D-0002 Robins (WNKC ACS)-
Appendix C -No Finding
Appendix D-Comment on Finding C - Negotiation Memorandums Were Not Appropriately Distributed or Filed - The Negotiation Memorandum was not furnished to DCAA/DCMA at the time of award but has subsequently been provided to DCAA/DCMA. The Negotiation

Air Force Contracting – Responding on Behalf of Air Force Life Cycle Management and Air Force Sustainment Center (cont'd)

2

Memorandum was uploaded to CBAR. This issue will be addressed with the PCOs through refresher training as recommended by "Recommendation C" and ensure that future memorandums are both furnished to DCAA/DCMA IAW FAR 15.406-3(b) and uploaded to CBAR IAW DFARs 215.406-3(a)(1).

FA8634-16-C-2653/00019 Wright Patterson AFB (WWQ F-15) -

Appendix C - No comments

Appendix D - Comment on Finding C - The Negotiation Memorandum was not furnished to DCAA/DCMA at the time of award but has subsequently been provided to DCAA/DCMA on 31 May 18. The CO uploaded the memorandum to CBAR and thought that by uploading to CBAR the requirement of submitting to DCAA was met. This issue will be addressed with the PCOs through refresher training as recommended by "Recommendation C" and ensure that future memorandums are both furnished to DCAA/DCMA IAW FAR 15.406-3(b) and uploaded to CBAR IAW DFARs 215.406-3(a)(1).

FA8208-07-C-0001/00102 (Hill AFB)

Appendix C - No Finding

Appendix D - Comment on Finding C - The Negotiation Memorandum was not uploaded into CBAR at the time of award but has subsequently been uploaded into CBAR. This issue will be addressed with the PCOs through refresher training as recommended by "Recommendation C" and ensure that future memorandums are both furnished to DCAA/DCMA IAW FAR 15.406-3(b) and uploaded to CBAR IAW DFARs 215.406-3(a)(1).

FA8539-16-D-0003 (Robins AFB)

Appendix C-No Finding

Appendix D - The Negotiation Memorandum was not furnished to DCAA/DCMA at the time of award but has subsequently been provided to DCAA/DCMA. The CO did not upload the memorandum to CBAR as required but has subsequently uploaded the PNM to CBAR. This issue will be addressed with the PCOs through refresher training as recommended by "Recommendation C" and ensure that future memorandums are both furnished to DCAA/DCMA IAW FAR 15.406-3(b) and uploaded to CBAR IAW DFARs 215.406-3(a)(1).

Additional Comments:

- AFLCMC and AFSC has no comments regarding For Official Use Only (FOUO) being appropriately marked or any FOIA exemptions that should be specified.
 - AFLCMC and AFSC to no exception to Finding C (contracts identified in Appendix D) and notes corrective action for distribution going forward.
4. AFLCMC and AFSC Senior Contracting leadership do not take exception to the findings and will provide refresher training to contracting personnel on distributing the negotiation memorandum in accordance with Federal Acquisition Regulation 15.406-3(b), and filing the negotiation memorandum in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.406-3(a)(1)(c), as recommended in "Recommendation C" of the report.

Air Force Contracting – Responding on Behalf of Air Force Life Cycle Management and Air Force Sustainment Center (cont'd)

3

5. For any questions regarding the above mentioned comments please contact [REDACTED]

[REDACTED].



CAMERON G. HOLT, Maj Gen (Sel), USAF
Deputy Assistant Secretary (Contracting)
Assistant Secretary of the Air Force
(Acquisition, Technology, & Logistics)

Attachment:

1. AFLCMC & AFSC Specific Findings from DoDIG Project No. D2017-DAPOCF-0192.000

Acronyms and Abbreviations

ACC-RI	Army Contracting Command-Rock Island
CBAR	Contract Business Analysis Repository
DCAA	Defense Contract Audit Agency
DCMA	Defense Contract Management Agency
DFARS	Defense Federal Acquisition Regulation Supplement
FAR	Federal Acquisition Regulation
LOGCAP	Logistics Civil Augmentation Program
OIG	Office of Inspector General

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U.S. DEPARTMENT OF DEFENSE

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For more information about DoD OIG reports or activities, please contact us:

Congressional Liaison

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