



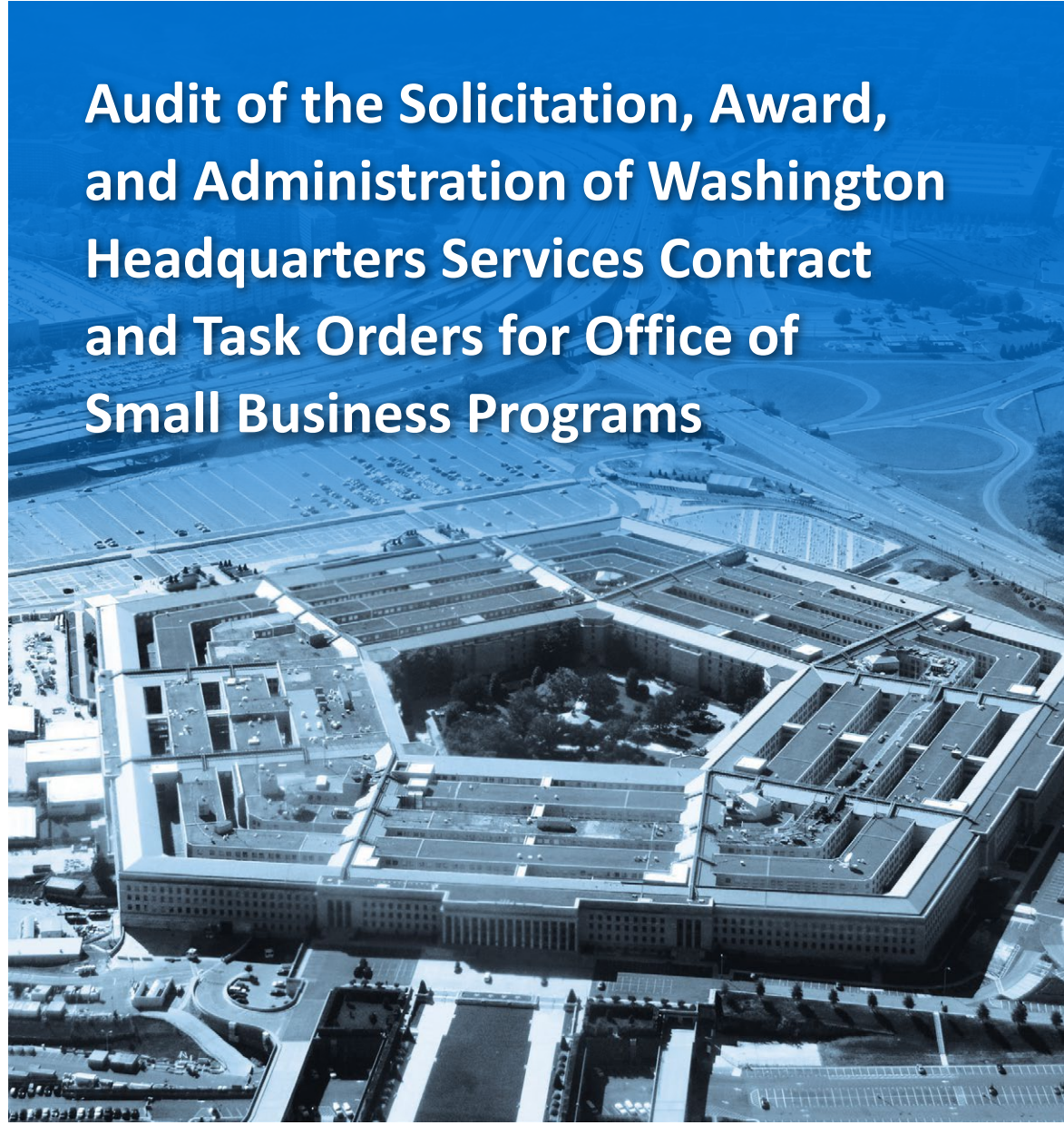
# INSPECTOR GENERAL

*U.S. Department of Defense*

OCTOBER 7, 2020



## Audit of the Solicitation, Award, and Administration of Washington Headquarters Services Contract and Task Orders for Office of Small Business Programs









# Results in Brief

## *Audit of the Solicitation, Award, and Administration of Washington Headquarters Services Contract and Task Orders for Office of Small Business Programs*

October 7, 2020

### Objective

We determined whether the Washington Headquarters Services Acquisition Directorate (WHS AD) solicited, awarded, and administered task orders issued under a program development and support contract for the DoD Office of Small Business Programs (OSBP) in accordance with the Federal Acquisition Regulation (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS), and WHS policies. In addition, we determined whether the OSBP justified the requirement for the development of a Mentor Protégé Program (MPP) web portal and whether the WHS AD and the OSBP adequately administered the contract to ensure that the web portal met contract requirements.

### Background

We conducted this audit in response to an allegation to the DoD Hotline regarding a contract awarded by the WHS AD in support of the OSBP. The hotline allegation stated that for contract HQ0034-14-D-0026, task orders 1 and 3, which were for market research tools and the Small Business Innovation Research and Small Business Technology Transfer program support, WHS AD contracting officials and OSBP officials did not:

- adequately solicit task orders;
- establish clear performance requirements;
- ensure that two task orders did not have duplicative requirements;

### Background (cont'd)

- adequately address Government data rights and cybersecurity requirements;
- establish clear security clearance requirements for the contractor; or
- adequately monitor contractor performance.

In addition, the former OSBP Director raised concerns that a potential duplication of efforts for the development of a web portal occurred between contract HQ0034-14-D-0026, task order 1, and contract GS-35F-115GA, task order HQ0034-18-F-0574, which was for OSBP Mentor Protégé Program support services.

The WHS AD provides acquisition services, such as award and administration of supplies and services contracting, to all OSD components. The OSBP provides advice and oversight of DoD component small business programs and proposes Defense-wide small business program initiatives to the DoD.

The FAR states that contract performance work statements must establish contract requirements in clear, specific, and objective terms with measurable outcomes. In addition, the performance work statement must include measureable performance standards and the methodology for assessing contractor performance against these performance standards. A quality assurance surveillance plan (QASP) should be prepared in coordination with the performance work statement and should identify all work requiring surveillance and the type of surveillance to be performed. The FAR also requires contracting officers to appoint a properly trained contracting officer's representative (COR) in writing for all contracts and orders other than firm-fixed price contracts, and that the COR must maintain a contract file for each assigned contract.

The DFARS states that CORs must maintain an electronic file with all documentation related to their duties and responsibilities, including documentation of actions performed during the performance of their duties. Contracting officers and the program office must annually review the COR file for accuracy and completeness.



# Results in Brief

## *Audit of the Solicitation, Award, and Administration of Washington Headquarters Services Contract and Task Orders for Office of Small Business Programs*

### Finding

We found that the WHS AD adequately solicited and awarded contract HQ0034-14-D-0026, task orders 1 and 3. However, WHS AD contracting officials and OSBP officials did not establish clear and complete performance requirements and measurable performance standards or clearly establish security requirements for information technology and contractor personnel before awarding the task orders. In addition, WHS AD contracting officials and OSBP officials did not properly administer the task orders. Specifically, WHS AD contracting officials did not adequately monitor the COR; ensure that the COR appointment letter and QASPs were specific and tailored to the task orders; properly exercise contract option periods; or ensure that contractor performance assessments were entered into the Contractor Performance Assessment Reporting System. In addition, the OSBP COR did not adequately monitor or document contractor performance. For task order HQ0034-F-18-0574, OSBP officials did not justify the duplication of efforts to develop an MPP web portal, and WHS AD contracting officials did not appoint a COR.

This occurred because WHS AD contracting officers did not execute their responsibilities when awarding and administering contracts and task orders in accordance with Federal, Defense, and WHS internal regulations and policies. In addition, the OSBP did not have established policies or procedures for the development of requirements and the administration of contracts to ensure that its officials complied with Federal and DoD guidance, and they operated without an appointed director and with limited Government staff.

As a result, the DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$60 million.<sup>1</sup> In addition, the DoD had increased security risks

associated with uncleared contractor personnel and unsecured web portals, and Government contracting officials will not have complete past performance histories of contractor performance before awarding future contracts or exercising options periods.

### Management Comments on the Finding and Our Response

The WHS Director did not agree with the finding that the DoD may not have received all services in accordance with requirements for which it paid \$60 million. The Director stated that the WHS AD provided the audit team evidence that it received the deliverables supporting \$59,375,094. We acknowledge in the report that the contractor provided most of the deliverables required by the task orders. However, we disagree that the receipt of contract deliverables alone, such as monthly progress reports, support and validate that the DoD received the services in accordance with the requirements.

The COR did not document the review and analysis of the monthly progress reports received from the contractor supporting that the services and tasks described in those reports were validated as received and adequate. In addition, WHS AD contracting officials did not appoint a COR for task order HQ0034-18-F-0574 when awarded and did not ensure that the appointed COR for task orders 1 and 3 adequately performed the contract administration duties assigned to ensure and support the contractor's performance. Therefore, we maintain that the DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$60 million.

See Appendix C for the full text of WHS AD comments and our responses.

<sup>1</sup> The \$60 million is the value of contracts and not the value of the services that the DoD may not have received.



# Results in Brief

## *Audit of the Solicitation, Award, and Administration of Washington Headquarters Services Contract and Task Orders for Office of Small Business Programs*

### Recommendations

We recommend that the Director of the Washington Headquarters Services Acquisition Directorate issue a Memorandum directing contracting officials to comply with FAR, DFARS, and WHS policies and procedures when awarding and administering contracts. Further, the Director should initiate an internal review of currently active contracts awarded by the WHS AD to determine whether contracting officials awarded and administered contracts in accordance with the FAR, DFARS, and WHS policy. Based on the results of the review, the Director should require operational directors to take appropriate action to address identified systemic deficiencies and initiate administrative action for accountable personnel, as appropriate.

We recommend that the Deputy Assistant Secretary of Defense (DASD) for Industrial Policy establish controls for higher level review and approval of OSBP contracting requirements, including an adequate segregation of duties; review the actions of the MPP Program Manager related to the unjustified duplication of efforts for the development of an MPP web portal; and initiate administrative action, as appropriate.

We recommend that the OSBP Director develop and implement policies and procedures to:

- verify and ensure that program officials develop performance work statements with contract requirements that are clear, specific, and have objective terms and measurable outcomes;
- require that CORs maintain a contract file documenting contractor performance and the review and approval of contract deliverables;
- verify and ensure that CORs perform required contract administration duties and hold them accountable; and
- ensure that future information technology acquisitions have the appropriate FedRAMP security level.

### Management Comments and Our Response

The Director, Washington Headquarters Services Acquisition Directorate, agreed with all three recommendations. Comments from the Director addressed the recommendations; therefore, the recommendations are resolved but will remain open.

The Deputy DASD for Industrial Policy, responding for the DASD, agreed with the two recommendations. Comments from the Deputy DASD addressed the recommendations; therefore, the recommendations are resolved but will remain open.

The Director, DoD Office of Small Business Programs, agreed with the recommendations. Comments from the Director addressed the recommendations; therefore, the recommendations are resolved but will remain open.

Please see the Recommendations Table on the next page for the status of recommendations.

## Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Deputy Assistant Secretary of Defense for Industrial Policy		2.a, 2.b	
Director, DoD Office of Small Business Programs		3.a, 3.b, 3.c, 3.d	
Director, Washington Headquarters Services Acquisition Directorate		1.a, 1.b, 1.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.





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

October 7, 2020

**MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR  
INDUSTRIAL POLICY  
DIRECTOR, OFFICE OF SMALL BUSINESS PROGRAMS  
DIRECTOR, WASHINGTON HEADQUARTERS SERVICES  
ACQUISITION DIRECTORATE**

**SUBJECT: Audit of the Solicitation, Award, and Administration of Washington Headquarters Services Contract and Task Orders for Office of Small Business Programs (Report No. DODIG-2021-001)**

This final report provides the results of the DoD Office of Inspector General's audit. We previously provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

The Deputy to the Deputy Assistant Secretary of Defense for Industrial Policy, responding for the Deputy Assistant Secretary of Defense, agreed to address Recommendations 2.a and 2.b presented in the report; therefore, we consider the recommendations resolved and open. The Director, DoD Office of Small Business Programs, agreed to address Recommendations 3.a, 3.b, 3.c, and 3.d presented in the report; therefore, we consider the recommendations resolved and open. The Director, Washington Headquarters Services Acquisition Directorate, agreed to address Recommendations 1.a, 1.b, and 1.c presented in the report; therefore, we consider the recommendations resolved and open. As described in the Recommendations, Management Comments, and Our Response section of this report, the recommendations may be closed when we receive adequate documentation showing that all agreed-upon actions to implement the recommendations have been completed. Therefore, please provide us within 90 days your response concerning specific actions in process or completed on the recommendations. Your response should be sent to either [followup@dodig.mil](mailto:followup@dodig.mil) if unclassified or [rfunet@dodig.smil.mil](mailto:rfunet@dodig.smil.mil) if classified SECRET.

If you have any questions, please contact [REDACTED].

A handwritten signature in black ink, reading "Theresa S. Hull", is positioned above the printed name.

Theresa S. Hull  
Assistant Inspector General for Audit  
Acquisition, Contracting, and Sustainment

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# Introduction

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## Objective

The objective of this audit was to determine whether the Washington Headquarters Services Acquisition Directorate (WHS AD) solicited, awarded, and administered task orders issued under a program development and support contract for the Office of Small Business Programs (OSBP) in accordance with the Federal Acquisition Regulation (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS), and WHS policies. In addition, we determined whether the OSBP justified the requirement for the development of a Mentor Protégé Program web portal and whether the WHS AD and the OSBP adequately administered the contract.

## Background

### ***Hotline Allegation***

We conducted this audit in response to an allegation to the DoD Hotline regarding an indefinite-delivery indefinite-quantity contract awarded by the WHS AD to provide support services to the OSBP. According to the allegation, issues were identified with the contract and task orders after the reorganization of the Office of the Under Secretary of Defense (OUSD) for Acquisition, Technology, and Logistics (AT&L) into the OUSD for Research and Engineering (R&E) and the OUSD for Acquisition and Sustainment (A&S) in 2018. During the reorganization, the OSBP was aligned with OUSD(A&S), and the Small Business Innovation Research and Small Business Technology Transfer (SBIR/STTR) Program and a portion of the OSBP support contract were realigned with OUSD(R&E). The hotline allegation stated that for contract HQ0034-14-D-0026, task orders 1 and 3, WHS AD contracting officials and OSBP officials did not:

- adequately solicit task orders;
- establish clear performance requirements in the Performance Work Statement (PWS);
- ensure that the two task orders did not have potential duplicative requirements;
- adequately address Government data rights and cybersecurity requirements;
- establish clear security clearance requirements for the contractor; and
- adequately monitor contractor performance to verify that the contractor satisfied task order requirements and invoiced amounts accurately.

In addition, to the allegations in the hotline complaint, during the audit team's entrance conference with the OSBP, the OSBP Director raised concerns about task order HQ0034-18-F-0574, which was awarded before the Director's employment with the OSBP. The contract supported the Mentor-Protégé Program (MPP), an OSBP program that helps small businesses expand their presence in the Defense Industrial Base by partnering them with large companies. The OSBP Director was concerned that there was a potential duplication of work on the development of an MPP web portal between task order HQ0034-18-F-0574 and contract HQ0034-14-D-0026, task order 1. The Director further stated that he did not intend to exercise the first option period for task order HQ0034-18-F-0574 due to his concerns. However, the Director did exercise the first option period for services such as providing subject matter expertise to assist the OSBP with administering Mentor Protégé Program agreements. According to OSBP officials, they did not exercise the option for the development of the web portal. For task order HQ0034-18-F-0574, the audit team solely reviewed the justification for the requirements and the contract administration.

### ***Washington Headquarters Services***

WHS serves as the operational arm of the Office of the Secretary of Defense, providing facility management; centralized contracting and procurement; executive support to the Secretary of Defense; centralized financial management; history, library and research capabilities; human resources; and the operational continuity of the Government.

The WHS Acquisition Directorate (AD) is the Single Enterprise Contracting Office providing acquisition services to all OSD components. The WHS AD is responsible for the award and management of grants, cooperative agreements, special programs, and supplies and services. The WHS AD plans, coordinates, and manages the procurement of supplies and services valued at over \$1.75 billion annually to support its customers.

### ***DoD Office of Industrial Policy***

The Office of Industrial Policy provides the OUSD(A&S) with detailed analyses and understanding of the complex industrial supply chain for the DoD and matters such as executing small businesses programs and policy. The DoD Office of Industrial Policy is the principal advisor to the OUSD(A&S) for executing small business programs and policy. The OSBP falls under the DoD Office of Industrial Policy. From September 26, 2019, through March 15, 2020, the Principal Director of the Office of Industrial Policy was also the Acting Director of the OSBP.

## ***DoD Office of Small Business Programs***

The DoD's OSBP provides small business program policy advice and oversight of DoD component small business program activities and proposes Defense-wide small business program initiatives to the DoD. The OSBP's mission is to maximize opportunities for small businesses to contribute to national security by providing combat power for the troops and economic power for the Nation. The OSBP managed programs such as the SBIR/STTR, Indian Incentive Program, Rapid Innovation Fund, and the MPP. During this audit, we reviewed contract actions supporting the SBIR/STTR and MPP programs. The SBIR program is a Government program in which all Federal agencies with research budgets in excess of \$100 million have a percentage reserved for contracts or grants to small businesses. The STTR program expands funding opportunities in Federal innovation research and development that require small business collaboration with research institutions. The MPP helps expand small business participation in the Defense Industrial Base by partnering them with larger companies.

Historically, the OSBP was aligned with the OUSD(AT&L). On July 13, 2018, OUSD(AT&L) was reorganized into the OUSD(A&S) and the OUSD(R&E). As a result of this reorganization, the OSBP was aligned with the OUSD(A&S), and the SBIR/STTR Program was realigned under the OUSD(R&E).

## ***Contract for Market Research Center and Workforce Development***

This contract provided the OSBP with analytical, technical, technological, administrative, and program support to develop market research, data management, and data tools. In addition, the contractor was to develop DoD-wide procurement approaches; develop small business training for the Defense acquisition workforce; and manage client acquisition portfolios. The WHS AD awarded indefinite-delivery indefinite-quantity (IDIQ) contract HQ0034-14-D-0026 on September 30, 2014, as part of a multiple award contract for support services to the DoD OSBP. Four contractors were awarded an IDIQ contract in support of this multiple award contract. Contract HQ0034-14-D-0026 had a maximum dollar limit of \$65 million per year and included four 1-year option periods. The maximum contract award for the overall 5-year period of performance was \$325 million. During its period of performance, the WHS AD awarded seven task orders to contract HQ0034-14-D-0026, of which three were in support of the OSBP. We reviewed task orders 1 and 3 because these pertained to the hotline allegations.

### ***Task Order 1***

The WHS AD awarded task order 1, valued at \$1,165,416, on September 30, 2014, under contract HQ0034-14-D-0026. At the time of award, the task order was valued at \$6,052,754 for the base year and the four 1-year option periods. Contracting officials exercised all four option periods, and as of June 2020, had issued 25 task order modifications, increasing the value of the task order to \$15,326,059. The objective of this task order was for the contractor to provide market research tools to the OSBP. Some modifications increased the scope of the work, adding additional service requirements to the task order including maintenance of the SBIR/STTR web portal.

### ***Task Order 3***

The WHS AD awarded task order 3, valued at \$3,257,770, on February 2, 2015, under contract HQ0034-14-D-0026. At the time of award, the task order was valued at \$16,919,699 for the base year and the four 1-year option periods. Contracting officials exercised all four option periods, and as of June 2020, had issued 29 modifications, increasing the value of the task order to \$39,849,984. The objective of the task order was to support current and future requirements of the OSBP's SBIR/STTR programs and initiatives as they developed and matured to meet the requirements of the OSBP's mission. The contractor was required to assist the OSBP in developing, staffing, and managing the SBIR/STTR program. Since the SBIR/STTR programs were growing, the contractor would develop methods, processes, and procedures to meet the needs of these growing programs, including development of training programs, new websites, databases, and portals. A subsequent modification added the requirement to expand the functionality of the SBIR/STTR web portal.

### ***Contract for Mentor-Protégé Program Support***

This contract supports the current and future requirements of the OSBP Mentor-Protégé Program, including the development of an information technology interface for website content support and for the submission, intake, and review of MPP proposals. The WHS AD awarded task order HQ0034-18-F-0574 against General Services Administration contract GS-35F-115GA, on September 29, 2018.<sup>2</sup> At the time of award, the task order was valued at \$10,367,060.88 for the base year and the four 1-year option periods, if exercised. Contracting officials exercised the first option period on September 30, 2019, and issued two modifications, increasing the current value of the contract to \$4,774,616.

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<sup>2</sup> The General Services Administration awarded contract GS-35F-115GA to provide information technology services. Agencies may issue task orders for ordering services under this contract. The period of performance of the contract was from December 9, 2016, to December 8, 2021.



## ***Federal Acquisition Regulation***

The Federal Acquisition Regulation (FAR) states that the contracting officer must provide a fair opportunity to compete for every task order over \$3,500 to every contractor under a multiple award contract.<sup>3</sup> The contracting officer is required to document in the contract file the basis for the award and the rationale for any tradeoff between cost and non-cost considerations when deciding the award.<sup>4</sup> The performance work statement (PWS) must establish the contract requirements in clear, specific, and objective terms with measurable outcomes.<sup>5</sup> Additionally, the PWS must include measureable performance standards and the methodology for assessing contractor performance against these performance standards.<sup>6</sup> A QASP should be prepared in coordination with the PWS and should identify all work requiring surveillance and the type of surveillance to be performed.<sup>7</sup> In addition, the FAR requires contracting officers to appoint a properly trained contracting officer's representative (COR) in writing for all contracts and orders other than firm-fixed price contracts, and the COR must maintain a contract file for each assigned contract.<sup>8</sup>

The FAR also requires the agency head to ensure that the requirements for services are clearly defined and adequate performance standards are established, ensuring the contractor performance meets the agency's requirements. In addition, the agency head must ensure that contracts for services are awarded and administered in a way that will provide the agency's services within budget and in a timely manner.<sup>9</sup>

## ***Defense Federal Acquisition Regulation Supplement***

The Defense Federal Acquisition Regulation Supplement (DFARS) states that CORs must maintain an electronic file in the Contracting Officer Representative Tracking (CORT) tool with all documentation related to their duties and responsibilities, including documentation of actions performed during the performance of their duties.<sup>10</sup> Contracting officers and the program office

<sup>3</sup> FAR Part 16, "Types of Contract," Subpart 16.5, "Indefinite Delivery Contracts."

<sup>4</sup> FAR Part 16, "Types of Contract," Subpart 16.5, "Indefinite Delivery Contracts," Section 16.505, "Ordering" Subpart 16.505(b)(7) "Decision Documentation for orders."

<sup>5</sup> FAR Part 2, "Definitions of words and terms," Subpart 2.101, "Definitions."

<sup>6</sup> FAR Part 37, "Service Contracting," Subpart 37.6, "Performance-Based Acquisitions."

<sup>7</sup> FAR Part 46, "Quality Assurance," Subpart 46.4, "Government Contract Quality Assurance."

<sup>8</sup> FAR Part 1, "Federal Acquisition Regulations System," Subpart 1.6, "Career Development, Contracting Authority and Responsibilities," Section 1.602 "Contracting Officers" subsection 1.602-2, "Responsibilities"; FAR Part 1, "Federal Acquisition Regulations System," Subpart 1.6, "Career Development, Contracting Authority and Responsibilities," Section 1.604, "Contracting Officer's Representative."

<sup>9</sup> FAR Part 37, "Service Contracting," Subpart 37.5, "Management Oversight of Service Contracts."

<sup>10</sup> The Contracting Officer Representative Tracking tool was replaced by the Joint Appointment Module and the Surveillance and Performance Monitoring web-based modules on June 24, 2019.

must review the COR file annually for accuracy and completeness.<sup>11</sup> In addition, QASPs should be prepared in conjunction with the statement of work for service contracts and should be tailored to the specific services acquired by the contract.<sup>12</sup>

### ***Procurement Integrated Enterprise Environment***

On June 24, 2019, the OUSD(A&S) deployed the Procurement Integrated Enterprise Environment (PIEE). PIEE replaced the CORT tool with two separate web-based modules that meet DFARS 201.602-2 requirements for electronically tracking the COR appointments process and maintaining an electronic COR file: Joint Appointment Module (JAM) and Surveillance and Performance Monitoring (SPM). JAM is used for COR nomination and appointment functions. Either the contracting officers or the CORs must initiate the process, and the contracting officer reviews, approves, signs, stores, and terminates the CORs using JAM. The COR must use SPM to execute monitoring functions such as management, oversight, surveillance, and performance monitoring of service contracts. SPM provides the visibility and accountability necessary for leaders to manage CORs assigned throughout the DoD. COR management should use SPM to review COR surveillance and monitoring activities when evaluating COR performance.

### ***WHS Acquisition Directorate Acquisition Policy***

The WHS AD Acquisition Policy (ADAP) serves as WHS AD internal guidance covering acquisition procedures and internal reporting requirements, and applies to all acquisition and contracting functions performed by WHS AD officials. It implements and supplements the FAR, DFARS, and other DoD policy. The ADAP states that, before exercising a contract option, the contracting official must ensure that the COR completes and submits a signed ADAP Form 217.207 and submits a draft Contractor Performance Assessment Reporting System (CPARS) rating supported by objective and reasonably complete narratives. Contractors' past performance information in CPARS is important because contracting officials use the information when evaluating proposals for contracts awards. Additionally, the contracting officer must ensure that documentation from the previous COR file review is in the CORT tool and follow up with the COR on any unresolved items.

### ***Contracting Officer and Contracting Officer's Representative Responsibilities***

The contracting officer is the Government official with the authority to enter into, administer, or terminate contracts and make related determinations and findings. The contracting officer must ensure that all requirements of law, executive

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<sup>11</sup> DFARS PGI Part 201 "Federal Acquisition Regulations System," Subpart 201.6 "Career Development, Contracting Authority and Responsibilities," Section 201.602 "Contracting Officers," Subsection 201.602-2 "Responsibilities."

<sup>12</sup> DFARS Part 237 "Service Contracting," Subpart 237.1 "Service Contracts – General," Section 237.172, "Service Contracts Surveillance."

orders, regulations, and all other applicable procedures, including clearances and approvals, have been met before contracts are entered into. The contracting officer is the primary Government official responsible for ensuring compliance with the terms of the contract. The contracting officer is responsible for the oversight responsibilities of the contract, but may rely on an appointed COR to support their administration and surveillance of contractor performance.

The COR is a Government representative with limited authority to provide technical direction, clarification, and guidance with respect to existing specifications and statements of work as established in the contract. The COR monitors the progress and quality of contractor performance for payment purposes. The COR also promptly reports contractor performance discrepancies and suggests corrective actions to the contracting officer for resolution. The COR should maintain a file for each assigned contract. The file must include, at a minimum, a copy of the contracting officer's letter of designation and other documents describing the COR's duties and responsibilities; a copy of the contract administration functions delegated to a contract administration office which may not be delegated to the COR; and documentation of COR actions taken in accordance with the delegation of authority.

## Review of Internal Controls

DoD Instruction 5010.40 requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended, and to evaluate the effectiveness of the controls.<sup>13</sup>

We identified internal control weaknesses in the WHS AD and OSBP award and administration of services contracts. Specifically, WHS AD contracting officials did not ensure that the OSBP prepared an adequate PWS, did not monitor the COR, did not appoint a COR for a services contract, did not adequately exercise options, and did not ensure contractor performance was entered into CPARS in accordance with Federal regulation, DoD guidance, and WHS AD policy. In addition, the OSBP did not prepare adequate PWSs, did not ensure that the COR performed adequate contract monitoring to ensure that the Government received the services it paid for, and did not justify duplication of contract requirements.

We will provide a copy of the final report to the senior official responsible for internal controls in the WHS AD and the Office of the USD(A&S).

<sup>13</sup> DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013.

## Finding

### **WHS AD Solicited and Justified Contracts Appropriately but WHS AD and OSBP Did Not Adequately Develop the Performance Work Statements and Administer the Contracts**

WHS AD contracting officials solicited and justified the award of contract HQ0034-14-D-0026, task orders 1 and 3, in support of the OSBP, in accordance with the FAR and DFARS policy. However, WHS AD contracting officials and OSBP officials did not establish clear and complete performance requirements and measurable performance standards or clearly establish security requirements for information technology and contractor personnel, before awarding the task orders. In addition, WHS AD contracting officials and OSBP officials did not properly administer the task orders. Specifically, WHS AD contracting officials did not:

- adequately monitor the COR;
- ensure that the COR appointment letter and QASPs were specific and tailored to the task orders;
- properly exercise contract option periods; or
- ensure that contractor performance assessments were entered into CPARS.

Further, the OSBP COR did not adequately monitor or document contractor performance.

For task order HQ0034-18-F-0574, OSBP officials did not justify the duplication of efforts to develop an MPP web portal, and WHS AD contracting officials did not appoint a COR to monitor contractor performance.

This occurred because WHS AD contracting officers did not execute their responsibilities when awarding and administering contracts and task orders in accordance with Federal, DoD, and WHS internal regulations and policies. In addition, OSBP officials did not establish policies or procedures for the development of requirements and the administration of contracts to ensure OSBP officials complied with Federal and DoD guidance, and they operated without an appointed director and with limited Government staff, which impacted segregation of duties.



As a result, the DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$60 million.<sup>14</sup> In addition, the DoD had increased security risks associated with uncleared contractor personnel and unsecured web portals. Finally, Government contracting officials will not have a complete past performance history to assess whether the contractor performed satisfactorily before awarding future contracts or exercising option periods.

## **Task Orders Were Appropriately Solicited and Justified**

WHS AD contracting officials appropriately solicited and justified the award of contract HQ0034-14-D-0026, task orders 1 and 3, in support of the OSBP, in accordance with the FAR and DFARS. Specifically, the WHS AD provided a fair opportunity to compete to all contractors under the multiple-award contract. In addition, the WHS AD adequately documented the solicitation and award process. According to the FAR, when awarding task orders on a multiple award contract, contracting officers must provide a fair opportunity to compete to all multiple award contract holders, unless they determine the need for an exception.<sup>15</sup> Also, contracting officers must document the rationale and basis for the task order award in the contract file.<sup>16</sup>

WHS AD contracting officials established a multiple award contract, consisting of four IDIQ contracts, to provide services to the OSBP. For the award of task orders 1 and 3, all four selected IDIQ contract holders received the solicitations and provided proposals. Therefore, WHS AD contracting officials provided a fair opportunity to compete to all IDIQ contract holders. In addition, WHS AD contracting officials adequately documented the solicitation, negotiation, and award process as required. Specifically, WHS AD contract files for task orders 1 and 3 included the requirements packages received from the OSBP, including the PWS and the independent Government cost estimates. The contract files also included evidence of the solicitations for both task orders, IDIQ contract holders' offers, and technical reviews of the proposals.

Contracting officials awarded task orders 1 and 3 based on best value to the Government. A source selection board evaluated the proposals received based on their technical merits. Specifically, the source selection board evaluated the technical proposals on factors such as the proposals' description of the contractor's technical approach to satisfying the requirements, the management and organization plans for administering OSBP programs, key personnel résumés, and

<sup>14</sup> The \$60 million is the value of contracts and not the value of the services that the DoD may not have received.

<sup>15</sup> FAR subpart 16.5.

<sup>16</sup> FAR 16.505.

past experience working with small business socio-economic programs. The source selection board provided the WHS AD contracting officer with its ratings of the contractor's technical proposals and recommendations. The contracting officer combined the ratings from OSBP technical evaluations with their own price analysis to make their award decision based on the determination of the best value to the Government. The best value determinations were documented and maintained in the contract file. Therefore, we did not substantiate the hotline allegation that the WHS AD did not adequately solicit task orders.

## **Performance Requirements and Standards Were Inadequate, and Data Rights Were Not Addressed**

WHS AD and OSBP officials did not establish clear and complete performance requirements and measurable performance standards before awarding task orders 1 and 3. They did not clearly define performance requirements and establish associated measurable performance standards in PWSs or adequately address Government data rights and security requirements.

### ***Requirements Were Not Clear and Performance Standards Were Not Measureable***

WHS AD and OSBP officials did not clearly define PWS requirements and did not establish performance standards in the task orders' PWSs necessary to ensure the contractor was meeting contract requirements and to hold the contractor accountable when not meeting the requirements. Specifically, the requirements in the PWS for task order 1 were not clear, requirements for task orders 1 and 3 contained similar language, and both task orders 1 and 3 did not have adequate measurable performance standards. According to the FAR, the contracting officer will ensure that the PWS establishes the requirements in clear, specific, and objective terms with measurable outcomes.<sup>17</sup> Also, the performance standards establish the level of performance required by the Government to meet contract requirements. Furthermore, the performance standards must be measurable and structured to permit an assessment of the contractor's performance.<sup>18</sup> We substantiated the allegation that WHS AD contracting officials and DoD OSBP officials did not establish clear performance requirements and measurable performance standards.

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<sup>17</sup> FAR subpart 1.6.

<sup>18</sup> FAR subpart 37.6.

### ***Task Order 1 Performance Work Statement Requirements Were Not Clearly Defined***

The requirements in the PWS for task order 1 were not clearly defined. The FAR states that a PWS should define the requirements in clear, specific, and objective terms with measurable outcomes.<sup>19</sup> However, the requirements in task order 1 were not clear and too vague to determine what services the contractor was required to deliver to the Government. In September 2019, the current (during our audit) WHS AD contracting officer for task order 1 agreed that the PWS was vague, was written like a capabilities statement, and was not well defined, making it difficult to determine whether the contractor was performing as required. The contracting officer who awarded task order 1 in 2014 no longer worked for the WHS AD.

The PWS contained language that was confusing and difficult to measure. For example, the PWS stated that the contractor “proposes the implementation of a web-based dashboard that will provide the executive leadership of the OSBP the insights needed to make decisions about where to focus efforts to identify, cultivate, and engage small businesses.” In another instance, the PWS stated, “we propose a forecasting system, which will allow organizations within the DoD to share forecasts of future needs with industry.” The use of this unclear language made it difficult to understand the task order requirements because it was not clear whether the contractor was required to perform them. According to the current contracting officer in September 2019, the PWS left a lot of room for interpretation, which was frustrating for the WHS AD and made it difficult to evaluate whether the OSBP received the services for which it paid.

### ***Task Orders 1 and 3 Contained Requirements With Similar Language***

Performance work statements in modifications to task orders 1 and 3 issued against contract HQ0034-14-D-0026 contained similar language. Task order 1 was for software solutions and market research tools to support the OSBP programs, including the SBIR/STTR program. A May 3, 2016, modification added requirements for developing additional features for the SBIR/STTR portal through September 13, 2016. Another modification issued on September 16, 2016, added requirements for more new portal features through September 29, 2017. A modification to task order 1, issued on September 30, 2017, continued requirements for development support and introduced maintenance and sustainment support for the SBIR/STTR portal. The modification also included requirements for new developments to the SBIR/STTR portal. For example,

<sup>19</sup> FAR subpart 2.101.

one modification required the contractor to “incorporate the addition of success stories into the SBIR search tool” and to “support discovery and requirements gathering in support of future SBIR system enhancements.”

Task order 3 was for developing and managing the SBIR/STTR program, including maintaining the information technology infrastructure that supported the administration and management of the program and providing minor functionality changes to existing information technology systems. A modification to task order 3, issued on June 27, 2017, added requirements to create a plan for the development and deployment of advanced information technology capabilities for the SBIR/STTR programs. A September 29, 2017, modification added \$10.4 million for the development and delivery of expanded SBIR/STTR portal functionality in areas such as topic development, source selection, reporting, and interaction with industry. According to the OSBP COR, the OSBP wanted to add capabilities and have one system for all DoD component and Defense agency OSBP offices to use for the SBIR/STTR Program. According to the COR and the contracting officer, the portal development under task order 3 was an enhancement to the existing portal, which was maintained and further developed under task order 1, and not an entirely new portal.

OSBP required the contractor to maintain and add features to the SBIR/STTR portal on task order 1, while also requiring the contractor to develop enhancements to the portal on task order 3. While the specific features may have been different, it is unclear what the distinctions were. Having portal development and support on separate task orders would make it difficult to know whether the contractor was billing to the correct task order, or whether the DoD paid twice for the same service received under the two task orders.

### ***Task Orders 1 and 3 Did Not Have Measurable Performance Standards***

The performance standards for task orders 1 and 3 were difficult to objectively measure. The FAR states that performance based contracts must include measurable performance standards and the method of assessing contractor performance against the performance standards.<sup>20</sup> However, task orders 1 and 3 did not have measurable performance standards to monitor contractor performance. Task order 1 included a list of deliverables, such as various reports the contractor had to provide on established dates, but did not include performance standards to measure contractor performance against, and the method to monitor the contractor. For example, task order 1 required the implementation of market research actions and reports, and the deliverable was a report generated by

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<sup>20</sup> FAR subpart 37.6.



the market research tool. However, the PWS did not include a methodology or performance standards to assess whether this report generated by the market research tool met OSBP requirements for quality and content.

Task order 3 included a list of requirements and deliverables, but did not include adequate performance standards and the method of assessing contractor performance. The performance standards in task order 3 were subjective and difficult to objectively measure. These standards included accuracy, appearance, clarity, consistency to requirements, file editing, format, and timeliness. For instance, “appearance” required work products to be neat and attractive. However, there was no objective methodology as to how the Government would evaluate and determine whether a product was neat and attractive. The Government’s and the contractor’s definition of neat and attractive might differ. Another performance standard was “consistency to requirement,” which stated that all work products must satisfy the requirements of the PWS. However, the PWS did not have a clear methodology on how to measure the performance of the contractor to confirm that it was consistent to the requirements.

While these performance standards might have been useful to help ensure that the contractor accomplished those specific aspects of the written deliverables, the task order did not include the required measurable performance standards for assessing and documenting the contractor’s performance of the actual task order requirements. For example, task order 3 clearly required the contractor to “assist OSBP in managing the receipt and processing of Phase I and Phase II proposals,” but did not establish how this task would be monitored and measured to ensure adequate performance.<sup>21</sup> Without measurable performance standards for the requirements, such as how many proposals should be processed per month, the COR would not have a basis to assess and rate the performance of the contractor. In addition, the contractor would not know if it was achieving its expected performance standards, nor make performance changes accordingly to accomplish contract requirements.

### ***Government Data Rights and Security Requirements Were Not Adequately Addressed***

WHS AD and OSBP officials did not adequately address data rights clauses in the task orders and did not include clear cybersecurity and security clearance requirements. In addition, task order 3 did not have clear security clearance requirements, which confused the contractor. It is important that contracting

<sup>21</sup> Awards for the SBIR/STTR Program are made through a three-phase process. Phase I determines the scientific, technical, and commercial merit and feasibility of the ideas proposed. Phase II awards are made to firms based on the results of Phase I and its scientific merit, technical merit, and commercialization potential. Finally, Phase III requires the contractor to develop the prototype into a viable product.

officials and program officials adequately protect Government data rights, especially when a contractor develops a new system exclusively with Government funds, as in task order 3. In addition, officials should establish clear security requirements appropriate for the acquisition to ensure that access to the data and systems is restricted as necessary. We substantiated the allegation that WHS AD contracting officials and OSBP officials did not adequately address data rights and security requirements.

### ***Task Orders 1 and 3 Did Not Adequately Address Government Data Rights***

The WHS AD and OSBP did not adequately address Government data rights under task orders 1 and 3. Specifically, data rights language was conflicting and caused confusion to the contractor as to which level of rights the Government would obtain for the information system developed. For example, a modification to task order 3 added a new requirement to the PWS for the development of enhancements to the SBIR/STTR web portal; however, the new PWS did not include any language related to ownership or rights to the data and had insufficient cybersecurity requirements. Task order 3 stated, “All analyses, reports, documentation, data, and briefings, in whatever medium or format, developed and conducted under this task order are Government property. The Government will retain unlimited rights to use, distribute, and publish the above as it sees fit.” This clause clearly stated that the Government owned all contractor deliverables. However, it also clearly stated that the Government had unlimited rights to the data. This language in the contract was unclear to the contractor, who said in a letter to the contracting officer that the contract stated that the Government would own the contract deliverables, but at the same time the Government would have unlimited rights to the data.

The Defense Information Systems Agency (DISA) provides guidance for including the appropriate DFARS contract clauses for the acquisition of technical data, computer software, and computer software documentation depending on acquisition circumstances. Specifically, DISA recommends the inclusion of DFARS 252.227-7013, “Rights in Technical Data – Noncommercial Items,” and DFARS 252.227-7014, “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation,” among other clauses.<sup>22</sup> Furthermore, DFARS 252.227-7013 is mandatory when technical data for noncommercial items, components, or processes is being procured, and DFARS 252.227-7014 is mandatory for the acquisition of noncommercial

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<sup>22</sup> DFARS 252.227-7013, “Rights in Technical Data – Noncommercial Items,” grants the Government unlimited rights in technical data for items, components, and processes created exclusively with Government funds. DFARS 252.227-7014, “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation,” grants the Government unlimited rights in noncommercial computer software developed exclusively with Government funds.

computer software. The base IDIQ contract included clause 252.227-7013 but not 252.227-7014. However, task orders 1 and 3 did not include the DFARS clauses for data rights. Furthermore, task order 1 had information technology requirements but did not include any language about data rights.

WHS AD and OSBP officials did not ensure that Government rights were protected by not including necessary clauses in the contract and task orders. The contractor requested that WHS AD contracting officials clarify the perceived contract ambiguity related to data rights in task order 3 by modifying the contract to include clauses 252.227-7013 and 252.227-7014. According to the contracting officer, the WHS AD was negotiating with the contractor as to which data rights the Government and the contractor would retain for the task order 3 deliverables.

WHS AD officials explained that after OUSD(R&E) became responsible for SBIR program oversight, Small Business and Technology Partnerships officials expressed concerns with the development of the SBIR/STTR web portal under task order 3 and stated that the portal could not be fully operational by the established deadline. In response to those concerns, in April 2019 the WHS AD organized a team to investigate deliverables for task orders 1 and 3 to identify contractor progress toward meeting the portal deadline. After multiple demonstrations of SBIR/STTR web portal functionality, OUSD(R&E) officials expressed dissatisfaction with the progress of SBIR/STTR web portal development, and on July 10, 2019, requested its termination. On July 11, 2019, the contracting officer terminated, for the convenience of the Government, the development of the SBIR/STTR web portal.<sup>23</sup> According to WHS AD contracting officials, they ultimately received the as-is source code for partial delivery of the SBIR/STTR web portal development under task order 3 as well as the source code and data for the web portal under task order 1, at no additional cost.

### ***Task Orders 1 and 3 Did Not Adequately Address Web Portal Cybersecurity Requirements***

WHS AD and OSBP officials did not properly address cybersecurity requirements for task orders 1 and 3 for the maintenance and enhancement of the SBIR/STTR web portal. Specifically, task order 1 did not include cybersecurity requirements for the SBIR/STTR web portal. The WHS AD issued task order 1 modification 8 on May 3, 2016, which included the DFARS clause 252.204-7012, "Safeguarding Covered Defense Information and Cyber Incident Reporting (DEC 2015)." The DFARS clause 252.204-7012 establishes the requirement to report cyber incidents and states that for a contractor information system that is part of an

<sup>23</sup> FAR Part 2.1 defines termination for convenience as the exercise of the Government's right to completely or partially terminate performance of work under a contract when it is in the Government's interest.

information technology service or system operated on behalf of the Government, the system or service shall be subject to the security requirements specified elsewhere in the contract. However, task order 1 included only DFARS clause 252.204-7012 and did not include security requirements elsewhere in the contract.

According to OUSD Research and Engineering (R&E) officials, the Defense Technical Information Center (DTIC) identified numerous cybersecurity vulnerabilities with the SBIR/STTR web portal that could only be partially addressed with updates, and the system had never received authority to operate.<sup>24</sup> Specifically, the DTIC identified vulnerabilities that could be exploited by anyone without training, specialized tools, or advanced knowledge. These vulnerabilities could have increased the risk of third parties accessing confidential information. On September 16, 2019, the contracting officer issued modification 25 to task order 1 to extend the support of operation and maintenance of the SBIR/STTR web portal for 4 months because the 5-year contract expired on September 29, 2019. Modification 25 included cyber security language that required the contractor to work with DTIC to maintain the security compliance of the web portal during the 4-month period of performance. The Department of Interior, Interior Business Center awarded a contract in support of the OUSD(R&E) to develop a new DoD SBIR/STTR portal.<sup>25</sup>

Furthermore, task order 3 modification for the development of the enhanced SBIR/STTR web portal required that it comply with Federal Risk and Authorization Management Program (FedRAMP) Impact Level 2 Government security requirements.<sup>26</sup> According to OUSD(R&E) officials, FedRAMP Impact Level 2 was not sufficient for the enhanced SBIR/STTR web portal, and this development should have required, at a minimum, FedRAMP Impact Level 4 Government security requirements. Based on this requirement, the contractor agreed to increase the security requirement to FedRAMP Level 4. However, OUSD(R&E) decided to terminate for convenience the requirement for the enhanced SBIR/STTR web portal before the contractor was able to increase the security level.

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<sup>24</sup> The administration of the contracts supporting the SBIR/STTR were transferred from the OSBP to the OUSD(R&E) in October 2018 due to OUSD(Acquisition, Technology and Logistics) reorganization.

<sup>25</sup> On July 31, 2019, the Department of the Interior awarded a contract for OUSD(R&E) for a new SBIR/STTR web portal valued at approximately \$2.5 million.

<sup>26</sup> FedRAMP Impact Level 2 is for information systems that manage DoD information that has been approved for public release and requires minimal access control, such as low confidentiality information. FedRAMP Impact Level 4 is for information systems that manage Impact Level 2 information plus DoD Controlled Unclassified Information.



### ***Clear Security Clearance Requirements Were Not Established for the Contractor***

WHS AD and OSBP officials did not establish clear security clearance requirements for task order 3. The base IDIQ contract stated that the security clearance requirements should be established at the task order level. Task order 3 stated that all contractor personnel were required to have and maintain a SECRET security clearance. However, task order modifications 3 and 5 added a new PWS that stated that contractor personnel were not required to have an active security clearance. This new requirement caused confusion for the contractor, which interpreted that modification 5 removed the SECRET clearance requirement for all the requirements in task order 3. However, the removal of the security clearance requirement only applied to the new requirements of modifications 3 and 5. The contracting officer identified four contractor personnel with no SECRET security clearance working on task order 3 requirements. The contractor agreed to remove the four contractors from task order 3 as requested by the contracting officer. Having unclear security clearance requirements could have put the DoD at risk of giving uncleared personnel access to sensitive information technology systems.

### **Task Orders 1 and 3 Were Not Properly Administered**

WHS AD contracting officials and OSBP officials did not properly administer task orders 1 and 3 to ensure that the contractor's performance satisfied the contract. Specifically, contracting officials did not monitor the COR's performance, ensure that the COR appointment letter and quality assurance surveillance plans (QASPs) were adequate, properly exercise contract option periods, or ensure that performance assessments were entered into CPARs. In addition, the OSBP COR did not adequately monitor or document contractor performance. According to the FAR, contracting officers are responsible for all the necessary actions to ensure compliance with the terms of the contract, but may rely on an appointed COR to support the contracting officer's administration and surveillance of contractor performance.<sup>27</sup> WHS AD contracting officials appointed the same COR to both task orders to assist them in administering the two task orders. However, the contracting officials did not perform adequate oversight of the appointed COR, and the COR did not properly oversee contractor performance. Therefore, we substantiated the allegation that WHS AD contracting officials and OSBP officials did not adequately monitor contractor performance.

<sup>27</sup> FAR 1.602-2; FAR 1.602-2(d); FAR 1.604.

### ***Contracting Officer's Representative for Task Orders 1 and 3 Was Not Adequately Monitored***

WHS contracting officials did not adequately monitor the COR for task orders 1 and 3 to ensure that the COR was performing assigned contract administration duties. The contracting officer must appoint a COR to assist in the technical monitoring and administration of contracts for services; however, contracting officers are responsible for all the necessary actions to ensure compliance with the terms of the contract.<sup>28</sup> Therefore, contracting officers must ensure that the COR is performing assigned contract administration duties. The contracting officers for task orders 1 and 3 did not have consistent communication with the COR during the performance of the contract. According to contracting officials, they communicated with the COR only if there were issues with the contractor. The contracting officers stated that the COR had not raised any issues to them, and they assumed that the contractor was performing adequately. The COR confirmed that she rarely communicated with the contracting officer during the performance of the contract. According to a WHS AD policy official, it is a best practice for contracting officers to communicate with the COR at least once a month.

CORs are required to maintain a contract file documenting contractor performance and the surveillance performed for each contract. The COR contract file documents and provides evidence that the COR is performing assigned contract administration duties. The DFARS requires contracting officers to annually review the COR contract file for accuracy, completeness, and accomplishment of duties.<sup>29</sup> According to a WHS AD policy official, contracting officers should review the COR contract file more than once a year if the COR is not performing adequately. The WHS AD policy official stated that annual COR file review should be detailed enough to ensure completeness and to verify that inspection is occurring. Also, the DoD COR Handbook states contracting officers should review whether the COR documented the results of the surveillance and inspections in the COR contract file.

The contracting officers stated that they met with the COR on an annual basis to review their contract files, and they generally had no concerns with the COR's performance because the files were complete. The COR file review checklist used by the WHS AD required the contracting officers to validate that all required items in the COR File Index were documented and of satisfactory quality, and validate that the items marked as "N/A" were truly not applicable. However, the contract files did not have evidence of the COR contract file annual reviews for 3 years for task order 3, and one annual review for task order 1, and the contracting officials were not able to provide the these checklists when requested. In addition, when

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<sup>28</sup> FAR 1.602-2; and FAR 1.604.

<sup>29</sup> FAR 1.604; and DFARS PGI 201.602-2.

contracting officers performed the annual reviews, they stated that their review of the COR contract file consisted of verifying the general contents of the file, such as the contract, modifications, COR designation letter, COR training certificates, invoices, and deliverables. One contracting officer stated that he did not look for documentation of surveillance or correspondence with the contractor unless the COR indicated that the contractor was performing poorly. Therefore, the contracting officers did not verify that the COR's file contained documentation supporting the COR's surveillance of contractor performance, such as evidence of review and acceptance of contract deliverables.

WHS AD provided six COR File Review Checklists for both task orders. For four of the six checklists that we received and reviewed, the contracting officer validated that the COR file included the required documents in the COR File Index, even though the COR's analysis, review, and acceptance of deliverables and surveillance records were not documented in the COR contract files. For one of the six checklists, the contracting officer did not review the completeness of the file. Finally, for the last of the six checklists, the contracting officer stated in the document that the COR was not required to perform contractor performance surveillance and was not required to document the results of the surveillance and inspections, which contradicts the purpose of appointing a COR.

We reviewed the COR contract file and determined that the COR used it as a documentation repository, since most of the contracts, modifications, and invoices in it could be easily downloaded from available database systems. The COR contract file also generally contained all of the contract deliverables provided by the contractor. However, the contract file did not have evidence of surveillance of contractor performance, such as analysis, reviews, and acceptance of contract deliverables and surveillance records and results. Receiving the monthly status reports from the contractors as required did not mean that the contractor performed the services required. The COR should have analyzed, reviewed, validated, and documented that the services described in the reports were actually provided. This would have ensured that the DoD had adequate evidence that services provided under HQ0034-14-D-0026, task orders 1 and 3, were assessed, met contract requirements, and satisfied the OSBP's needs. In addition, this would have allowed the contracting officer and the COR to demonstrate that the contractor met the requirements and standards, and support past performance ratings when prepared. Had the contracting officers performed adequate monitoring of the COR and COR contract file reviewed, they could have identified that the COR was not adequately performing monitoring duties and taken timely corrective action at the beginning of the contract performance.

### ***COR Appointment Letters and QASPs Were Inadequate***

WHS AD contracting officials used inadequate COR appointment letters for task orders 1 and 3. The DFARS requires contracting officers to appoint a COR for all service contracts.<sup>30</sup> The COR appointment letter must specify the administrative roles and responsibilities that the COR must perform, and it must be tailored to the specific contract requirements.<sup>31</sup> In addition, contracting officials did not ensure that the QASPs adequately ensured a proper contractor's performance assessment by the COR.

### ***COR Appointment Letters Were General and Did Not Include Specific Requirements***

WHS AD contracting officials appointed the same OSBP official for task orders 1 and 3 using COR appointment letters that had the same general language, even though the requirements of each task order were different. The letters were general and did not include all necessary monitoring responsibilities. For example, the letter did not direct the COR to document the review and acceptance of contract deliverables. According to WHS AD officials, WHS AD uses boilerplate templates for COR appointment letters that can be modified by the contracting official if needed. In addition, WHS AD officials stated that the COR appointment letters did not include all duties performed, and that CORs perform other duties not listed in the letter. However, the DoD COR Handbook states that all duties delegated to the COR must be in the appointment letter. Further, the COR is not authorized to perform any duty that is not in the appointment letter. Therefore, COR appointment letters must include all specific monitoring duties to be performed, and must be tailored to the specific requirements and contract type. In addition, an adequate and detailed COR appointment letter is a tool for the COR to use as a reference to ensure all assigned duties are being performed.

### ***Inadequate QASPs Were Used for Monitoring Contractor Performance***

Contracting officials approved inadequate QASPs prepared by OSBP officials for task orders 1 and 3. The FAR states that a QASP should be prepared in coordination with the PWS, and it should identify all work requiring surveillance and the type of surveillance to be performed.<sup>32</sup> The QASP is required for all service contracts and should be tailored to specific contract requirements.<sup>33</sup>

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<sup>30</sup> DFARS PGI Part 201 "Federal Acquisition Regulations System," Subpart 201.6 "Career Development, Contracting Authority and Responsibilities," Section 201.602 "Contracting Officers."

<sup>31</sup> DoDI 5000.72; DFARS PGI 201.602.

<sup>32</sup> FAR subpart 46.4.

<sup>33</sup> DFARS PGI 237.172.

The QASPs for task orders 1 and 3 were not tailored to the specific requirements in the PWSs. Furthermore, both QASPs included very similar boilerplate language. WHS AD officials stated that the program office is responsible for what is included in the QASP, and they relied on the OSBP for the preparation of the QASPs for task orders 1 and 3 because the customer generated the requirements and knew best what they wanted. However, contracting officials are responsible for ensuring that the QASPs prepared by the program office meet the standards required. Both QASPs included the same general performance standards, such as accuracy and clarity, but did not tie them to task orders 1 and 3. Also, both QASPs included the same general surveillance techniques, even though the requirements between the task orders were different and would need specific surveillance techniques. One of the surveillance techniques was random monitoring, but did not explain what to randomly monitor. For example, task order 3 required the contractor to review, evaluate, and prepare responses to all Government inquiries related to the SBIR program. However, the QASP did not explain what to randomly monitor for this specific task to ensure that the contractor successfully supported the OSBP as required. Because the requirements of task order 1 were different from the requirements of task order 3, the QASPs should not have been the same.

### ***Options Periods Were Not Properly Exercised***

WHS AD contracting officials did not properly exercise option periods for contract HQ0034-14-D-0026, task orders 1 and 3. According to the FAR, contracting officers may only exercise options after determining that past performance evaluations have been considered and that contractor performance on the specific contract has been acceptable, among other requirements.<sup>34</sup> In addition, WHS AD policies require contracting officers to review the status of CPARS reports and review the status of the COR contract file before exercising options. However, WHS AD contracting officials improperly exercised options on task orders 1 and 3 without reviewing the contractor's past performance reports in CPARS for six of eight option periods and did not always ensure the COR contract files were complete, which is required annually. Specifically, neither the contracting officer nor the COR performed and entered a past performance evaluation into CPARS for three of the four option periods for each task order. One contracting official stated that the CPARS submissions are not always made in a timely manner due to end of fiscal year activities, but contracting officers will require a statement from the COR regarding contractor performance before exercising options. The contracting official further stated that contracting officers may put less effort into exercising option periods than contract award because exercising option periods is considered low risk if the COR is satisfied and the contractor is not complaining.

<sup>34</sup> FAR Part 17, "Special Contracting Methods," Subpart 17.2, "Options," Section 17.207, "Exercise of Options."



### ***Contractor Performance Assessments Were Not Always Completed***

WHS contracting officials did not ensure that past performance information was entered into CPARS at the end of each year. The FAR requires agencies to prepare and enter past performance evaluations into CPARS for each contract at least annually.<sup>35</sup> Past performance information is one of the evaluation factors that a contracting officer must consider when reviewing proposals. Specifically, past performance information is one indicator of a contractor's ability to successfully perform the requirements.<sup>36</sup> In addition, the WHS ADAP states that the contracting officer will require the COR to submit past performance ratings into CPARS. WHS AD contracting officials stated that all CPARS ratings were good. However, we accessed CPARS, downloaded a list of all performance assessment reports for the contractor for task orders 1 and 3, and determined that the contracting officer had only entered one past performance assessment for each task order, for the periods ending September 29, 2015, and February 1, 2016. The performance ratings in CPARS for both task orders ranged from "satisfactory" to "exceptional." Both task orders had a period of performance of 1 base year and four 1-year option periods, which WHS AD contracting officials exercised. We requested WHS AD officials to provide all CPARS reports for task orders 1 and 3. WHS AD officials acknowledged that entering past performance information into CPARS annually was required, but they confirmed that contracting officers did not do it and stated it was probably due to an oversight.

### ***Task Orders 1 and 3 Were Not Adequately Administered***

The OSBP COR did not adequately administer task orders 1 and 3. Specifically, the COR did not perform contract administration duties as required in the COR appointment letter and by Federal regulation and DoD policy. The COR was not familiar with the services that the contractor was performing related to the task orders and stated that the audit team would need to speak to the OSBP subject matter expert, whom the COR improperly relied on for monitoring the contractor. In addition, the COR did not maintain a complete COR contract file documenting contractor performance and supporting review, inspection, and acceptance of contract deliverables. Therefore, we substantiated the allegation that the OSBP COR did not adequately monitor contractor performance.

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<sup>35</sup> FAR Part 42, "Contract Administration and Audit Services," Subpart 42.15, "Contractor Performance Information."

<sup>36</sup> FAR Part 15, "Contracting by Negotiation," Subpart 15.3 "Source Selection," Section 15.304, "Evaluation Factors and Significant Subfactors"; FAR Part 15, "Contracting by Negotiation," Subpart 15.3 "Source Selection," Section 15.305 "Proposal Evaluation." FAR Part 16, "Types of Contract" Subpart 16.5, "Indefinite Delivery Contracts," Section 16.505 "Ordering" Subpart 16.505(b) "Orders under multiple award contracts."

### ***The COR Improperly Relied on Other OSBP Officials for Monitoring***

The COR for task orders 1 and 3 improperly relied on other OSBP officials to monitor contractor performance. The COR appointment letter required the COR to perform inspection and acceptance of deliverables to ensure that the contractor was performing as required by the contract. In addition, the COR appointment letter and DoDI state that the COR may not delegate the contract administration authority and responsibilities to others.<sup>37</sup> According to the DoD COR Handbook, the COR must understand the requirements of the contract and should have technical expertise in the services being performed and outcomes required. The Handbook states that CORs may need to consult additional personnel for some technical issues, but the COR remains the official liaison for any technical communications with the contractor, including technical interpretations.

The OSBP COR stated that she was not an expert on the programs she was appointed to as COR and relied on the OSBP subject matter experts (SME) for the specific programs to monitor and ensure that the contractor was performing as required and to verify whether the contractor's invoices were accurate. The COR explained that she relied on verbal approvals from the SME for the acceptance of work performed for payment, but nothing was documented or supported. She further stated that she was not included in all meetings between the SMEs, contracting officer, and contractor personnel, where decisions were made regarding new or changed requirements. Even though the COR was not directly monitoring contractor performance, she was accepting invoices and deliverables, which resulted in payments. Having a COR accept the contractor's work and deliverables for payment without being directly involved in monitoring contractor performance increases the risk to the DoD of paying for services not received.

### ***The COR Contract File Was Incomplete and Did Not Support Review and Acceptance of Contract Deliverables***

The OSBP COR did not maintain a complete contract file that supported the review and acceptance of contract deliverables. The FAR requires CORs to maintain a contract file for each contract assigned.<sup>38</sup> According to the COR appointment letters, the COR contract files should include the contracts with the modifications, any communications with the contractor or contracting officer, minutes of all meetings, all contract deliverables, and documentation supporting all actions taken. The COR stated that she was unaware of the documentation required to be in the COR contract file. However, the contracting officer provided the COR with a

<sup>37</sup> DoDI 5000.72.

<sup>38</sup> FAR 1.604.

COR File Index that included the required documentation for the COR contract file which, if properly used, could have ensured the completeness and accuracy of the file (Appendix B). For instance, the COR File Index lists the COR's analysis and the acceptance or rejection of the deliverables, and surveillance records, results, and actions taken as documents that should be included in the COR contract file. Also, the DoD COR Handbook states that reports provided by the contractor and the COR's analysis and actions taken should be included in the COR contract file.

The contractor generally provided all the deliverables as required by the contract deliverables schedule, such as the monthly progress, status, and management reports, for each of the tasks in the PWS. However, the COR did not document in the COR contract file the analysis, review, and acceptance of the contractor reports to ensure and document that the information contained in the reports was accurate and that the contractor services noted in the reports were actually provided. Further, the QASPs required that the COR prepare a written report every month that summarized the overall quality assurance surveillance results. These monthly reports were required to include a performance assessment report recording the results of the inspections. The monthly reports were intended to enable the Government to demonstrate whether the contractor was meeting stated objectives and performance standards. In addition, the COR did not maintain her COR file in the CORT tool, which was required until June 2019 when the tool was replaced with PIEE.

We reviewed the COR file and identified contracts, contract deliverables, the QASP, and invoices. However, the COR did not have most of the required contract file documentation to support adequate contract administration and that the contractor was performing in accordance with contract requirements. For example, the COR contract file did not include any evidence supporting review and acceptance of the contract deliverables necessary to support adequate performance and the payment of invoices. The COR used the COR contract file as a document repository, where documents obtained from the contracting officer or the contractor were saved, but it did not have documentation supporting the review, analysis, and acceptance of contract deliverables. Most of the contents of the COR's files could have easily been obtained from Wide Area Workflow (WAWF).<sup>39</sup>

OUSD(R&E) and OSBP officials expressed concern with the progress of two different web portals developed by the contractor under task orders 1 and 3. In one instance, OUSD(R&E) officials expressed to WHS their dissatisfaction with the development of the SBIR portal under task order 3 after OUSD(R&E) took over responsibility for the SBIR program from the OSBP. OUSD(R&E) requested termination of the

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<sup>39</sup> WAWF is a secure web-based system for invoicing, receipt, and acceptance. Government vendors submit and track invoices and documents over the World Wide Web (the web), allowing the Government to process them in real time.

web portal requirement, which WHS officials did for the convenience of the Government. In another instance, discussed in the next section of this report, an OSBP official stated that he tasked another contractor with a new MPP web portal after the contractor for task order 1 was falling behind and would not be able to deliver the MPP web portal in accordance with the contract. For both of these task orders, the COR's files did not support or refute that the contractor was performing satisfactorily because either the COR was not adequately monitoring contractor performance or did not document her assessment.

In addition to not being able to support adequate monitoring and contractor performance, an incomplete COR file could affect the future of the contract if transferred to another organization, where the new COR would not know the history of the contractor's performance. In June 2019, the OUSD(A&S) implemented the SPM tool in PIEE, which must be used by CORs to perform and document all monitoring, surveillance, and contract administration performed.

## **Duplication of Efforts to Develop a Mentor-Protégé Program Web Portal Was Not Justified**

The OSBP did not justify the development of two MPP web portals. WHS AD contracting officials awarded task order HQ0034-18-F-0574 on September 29, 2018, to support the MPP program. In addition to administrative support for the program, the contract required the contractor to develop and sustain an MPP web portal to manage the submission of MPP proposals, the intake and review process for all participating agencies, website content support, and backend database development. However, the contractor for contract HQ0034-14-D-0026, task order 1 was also developing a new MPP web portal.

According to the OSBP MPP Program Manager, his intent was to have a prototype development competition between the two contractors and show the two web portals at an industry conference for feedback. However, neither the contract nor the task order and its modifications contained language on web portal prototyping; therefore, prototype development was not part of the scope of either contract. In addition, acquisition plans for both contract actions did not have language about the intent to perform a prototype competition. The MPP Program Manager stated that he verbally informed both contractors about the prototype competition.

The OSBP did not have an officially appointed director during the period of execution of the contract actions supporting the development of the MPP web portals. As a result, the MPP Program Manager was also appointed as the OSBP Acting Director. The MPP Program Manager stated that since he was both the MPP Program Manager and OSBP Acting Director at the time of contract award,

he was not required to obtain approval or provide a justification for the prototype competition. The OUSD(R&E) DoD Prototyping Guidebook defines “prototype” as a model built to evaluate and inform its feasibility and usefulness. Therefore, in the case of the MPP, a prototype development would have evaluated and assessed whether an MPP web portal could be created. However, the MPP Program Manager identified that similar web portals already existed, such as the Small Business Administration HUBZone program web portal, and therefore the development of web portal prototypes was not necessary or justified.

The MPP Program Manager explained that he decided to add the requirement for a second MPP web portal for a competition after he identified that the contractor for task order 1 was falling behind and was not going to be able to deliver an MPP web portal in accordance with the contract. However, the COR for task order 1 did not document contractor performance in the COR file; therefore, we did not find evidence of contractor delays. Poor acquisition planning and lack of adequate justification for the procurement of two web portals to support the MPP program put the DoD at risk of wasting money. Specifically, the MPP project manager stated that the only deliverable he received from the contractor for the MPP web portal under contract HQ0034-14-D-0026, task order 1 was a compact disc with some files that were not used because MPP web portal development was not completed.

The former OSBP director who informed us of the duplication of efforts stated that he was not aware of a contract to develop a new MPP web portal until one of the contractors let him know that another contractor was also developing a new MPP portal. In addition, WHS AD contracting officials who awarded and administered these contracts stated that they were unaware of the prototype competition and that the OSBP never informed them of plans to procure the development of two MPP web portals. After investigating further, the former OSBP director decided to terminate the MPP web portal requirement on task order HQ0034-18-F-0574 because he considered it to be a duplicative effort and a potential waste of money.

## **A COR Was Not Appointed for Task Order HQ0034-18-F-0574**

The contracting officer did not appoint a COR to monitor contractor performance for task order HQ0034-18-F-0574, awarded on September 29, 2018, in support of the MPP program. The DoDI and DFARS require the contracting officer to designate a COR for all service contracts, including both firm-fixed price and other than firm-fixed price contracts.<sup>40</sup>

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<sup>40</sup> DoDI 5000.72; DFARS PGI 201.602.



The WHS AD contracting officer relied on the OSBP MPP program manager to perform contractor surveillance and approve invoices without officially delegating authority to do so. The contracting officer exercised the first option period for task order HQ0034-18-F-0574 on September 30, 2019, even though there was no COR appointed to monitor contractor performance. The contracting officer who originally awarded the contract stated that he did not appoint a COR because he was transferred to a different branch immediately after the award. The current contracting officer stated that a previous contracting officer should have appointed a COR, and he was in the process of correcting the situation but was waiting for the OSBP MPP program manager to self-nominate or nominate another OSBP employee. According to the contracting officer, since a COR was not appointed, there was no COR contract file to review and no performance report entered into CPARS. Therefore, the contracting officer exercised the option without validating that contractor performance was adequate. The contracting officer officially appointed a COR for task order HQ0034-18-F-0574 on April 21, 2020.

According to the WHS AD Branch Chief of the division responsible for the contract, contracting officers awarded the contract and exercised the first option year without appointing a COR due to an oversight. However, a WHS AD policy official stated that there was no excuse for not appointing a COR for the contract. Having a contractor performing without a COR monitoring contractor performance put the DoD at risk of paying for services that were not received and did not comply with contract requirements.

### ***Contract Administration Duties Were Executed Without Proper Authority***

Task order HQ0034-18-F-0574 identified the MPP Program Manager as the COR. In addition, WHS AD contracting officials referred to the MPP Program Manager as the COR for the contract during communications with the contractor. However, the contracting officer never appointed a COR in writing as required; therefore, the MPP Program Manager performed contract administration duties without proper authority. Specifically, the contracting officer should have granted contract administration authority to the OSBP official through a COR appointment letter listing all specific duties and responsibilities. The MPP Program Manager stated that he performed the monitoring and contract administration duties for the contract. The MPP Program Manager also accepted contract deliverables and invoices for payment in WAWF. However, the MPP Program Manager should not have had the ability to approve invoices for payment in WAWF, without a written appointment letter. According to a WHS AD official, the WHS AD decided to limit the MPP Program Manager's access to WAWF, and that the contracting officer would retain the authority for inspections and approval of invoices until the official

appointment of a COR. In addition, WHS AD officials stated that they were trying to determine how the MPP Program Manager had access to approve invoices in WAWF. The WHS AD did not apply controls to ensure that only authorized officials accepted contract deliverables and invoices for payment.

The WHS AD Director should determine how the OSBP MPP official had access to approve invoices in the WAWF for task order HQ0034-18-F-0574 without an official COR appointment designation and initiate corrective action to ensure that unauthorized personnel do not have access to approve invoices in the WAWF in the future.

## **WHS AD Did Not Comply with Federal, DoD, and Internal Regulations and Policies**

WHS AD contracting officers did not execute their responsibilities when awarding and administering contracts in accordance with Federal, DoD, and WHS internal regulations and policies. Many of the issues identified throughout the report are addressed by requirements in these regulations and policies that the contracting officials did not follow. For example, the FAR requires that contracting officers ensure the PWS establishes the requirements in clear, specific and objective terms with measurable outcomes. However, the requirements in the PWS for task order 1 were not clearly defined. In another example, the ADAP implemented a FAR requirement that required the contracting officer to designate a COR in writing for all service contracts and orders. However, the contracting officer failed to appoint a COR for task order HQ0034-18-F-0574. The WHS AD Branch Chief stated that the contracting officer did not appoint a COR due to an oversight. However, the Branch Chief should have implemented ADAP requirements to ensure that a Government official was monitoring the contractor and ensuring that the contractor was performing in accordance with contract requirements. Therefore, the WHS AD Director should direct contracting officials to comply with current policies and regulations for contract award and administration.

On March 22, 2018, the WHS AD issued an internal review report that identified similar deficiencies. The WHS ADAP requires an internal Procurement Management Review (IPMR) to be performed when directed by the Director. The IPMR serves as an evaluation and review of internal management controls on WHS AD acquisitions. The 2018 IPMR was coordinated by the Enterprise Acquisition Policy and Strategic Initiatives (EAPSI) Division, which is responsible for managing and monitoring the quality of WHS AD work products. The IPMR team reviewed 74 contract files from FYs 2016 and 2017. The report identified general findings and recommendations and attached a list of specific deficiencies in the contract files reviewed. Among the general findings identified in the IPMR,

some were related to issues we identified during our review. For example, the IPMR found that contracting officers were not ensuring that CORs performed the delegated duties and did not perform annual COR file reviews as required. In addition, CORs were often unaware of required COR file contract documentation. The IPMR recommended that contracting officers ensure that CORs perform their responsibilities and document the results of their surveillance. Also, the IPMR recommended that contracting officials review the COR contract files at least annually. The EAPSI Division requested written management comments to the IPMR and corrective action plans. According to EAPSI Division officials, the IPMR report was distributed to the WHS AD Director, Deputy Director, and operational directors.

The operational director for the division associated with contracts we reviewed provided comments and corrective actions to the specific deficiencies identified in that division's contract files, and not the general findings and recommendations. According to the EAPSI Division Director, the general findings and recommendations were across the different divisions, and EAPSI provided training to address those findings. Further, the EAPSI Division Director stated that operational division directors were not required to provide comments to the general recommendations because the recommendations were made for advisory information purposes. The IPMR may have been more effective if operational directors were required to develop and implement corrective action plans within their divisions to address the general findings and recommendations and hold their contracting officers accountable. For instance, had the operational division directors developed and implemented corrective actions to address the IPMR recommendation for improved COR performance surveillance, we may not have identified similar COR issues during our review. The IPMR, if properly enforced, is an effective internal control tool to identify issues and take timely corrective action. However, the effectiveness of the IPMR is negatively impacted if management is not engaged and committed to it. The contract actions we reviewed were not included in the 2018 IPMR. Therefore, some of the issues we identified during our review could be more widespread within the WHS AD.

Additionally, the Defense Contract Management Agency (DCMA) conducted a Procurement Management Review (PMR) from April 13, 2015, through May 1, 2015, on WHS AD acquisition operations. The DCMA issued the final report on November 23, 2015. Some of the findings in the PMR are similar to the findings identified during our audit. Specifically, the PMR identified that many PWSs did not establish measurable performance standards. The PMR recommended that the WHS AD ensure that their customers establish PWSs in accordance with FAR 37.601(b), which states that performance-based contracts must have a PWS with measurable performance standards and the method of assessing contractor performance against those performance standards.

The DCMA report also identified that the majority of the COR contract files did not have evidence of the COR's review. The COR contract files contained minimal evidence of contractor performance management. The vagueness of the performance measures made assessing contractor performance difficult. The PMR also stated that the quality of the surveillance and compliance with the contract standards were questionable because the file did not have documentary evidence to support that the COR conducted reviews. Finally, the PMR stated that the COR contract file had no documentation to support that the services provided were in accordance with contract requirements. The PMR recommended that contracting officials ensure that CORs perform their required duties and document surveillance appropriately.

The lack of documentation prevented the PMR team from determining if the surveillance was effective and if the quality of the services received met contract requirements. Based on the similarity of the issues identified in the 2015 PMR and our audit, we determined that the WHS AD did not take adequate corrective actions. Had the WHS AD taken adequate corrective action in 2015 when the DCMA issued the PMR, many of the issues we identified in the report may have been addressed.

The WHS AD Director should issue a memorandum directing contracting officials to comply with FAR, DFARS, and WHS policies and procedures when awarding and administering contracts. In addition, the WHS AD Director should initiate an internal review of currently awarded contracts awarded by WHS AD to determine whether contracting officials awarded and administered contracts in accordance with the FAR, DFARS, and WHS policy, require operational directors to take appropriate action to address systemic deficiencies identified, and initiate administrative action for accountable personnel, as appropriate.

## **Additional Policies and Procedures Are Needed for Requirements Development and Contract Administration**

The OSBP did not have established policies or procedures to ensure that its officials complied with Federal and DoD guidance for the development of requirements and the administration of contracts. Furthermore, according to the former OSBP Director, the OSBP did not have internal controls in place for developing requirements and overseeing contractor performance.<sup>41</sup> Also, the OSBP Deputy Director and associate directors stated that they were not aware of any OSBP policies or procedures for the generation of requirements, monitoring of contractor

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<sup>41</sup> OSBP Director from June 2019 to September 2019.

performance, and acceptance of invoices. While the FAR and DFARS provide criteria for contracting, OSBP supplemental guidance that focuses on contracting criteria as it relates to OSBP functions would help ensure that contracts in support of the OSBP are clear, complete, and measurable, and that OSBP oversight of contractor performance is adequate to ensure the agency gets what it pays for.

The OSBP Director should develop and implement policies and procedures to verify and ensure that program officials develop performance work statements with contract requirements that are clear, specific, and with objective terms and measurable outcomes; require that CORs maintain a contract file documenting contractor performance and the review and approval of contract deliverables; verify and ensure that CORs perform required contract administration duties and hold them accountable; and ensure that future information technology acquisitions have the appropriate FedRAMP security level.

In addition to the lack of policies or procedures, the OSBP operated without an appointed director from 2014 to June 2019, and with limited Government staff. From 2018 to June 2019, the OSBP staff consisted of three Government officials who provided oversight of all DoD OSBP programs. This limitation affected an adequate segregation of duties among different officials, which is an important internal control to reduce fraud, waste, and abuse. For example, the acquisition of two MPP portals was approved without an adequate review and approval process. In this case, the same OSBP official developed and approved the requirements and approved invoices for payment for the second contract, affecting the transparency and visibility of the acquisitions. The former OSBP Director stated that he was not aware of these acquisitions until a contractor employee informed him that two different contractors were working to develop the same MPP web portal. Had the OSBP adequately segregated the requirements development and its review and approval between two or more officials, it could have identified that the acquisitions were not adequately justified.

The Deputy Assistant Secretary of Defense for Industrial Policy should establish controls for higher level review and approval of OSBP contracting requirements, to include adequate segregation of duties. Also, the Deputy Assistant Secretary of Defense for Industrial Policy should review the actions of the MPP Program Manager related to the unjustified duplication of efforts for the development of an MPP web portal and initiate administrative action, as appropriate.



## **The DoD May Not Have Received All Services, and There Were Increased Security Risks and Incomplete Contractor Performance History**

The DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$60 million.<sup>42</sup> In addition, the DoD had increased security risks associated with uncleared contractor personnel and unsecured web portals. Finally, Government contracting officials will not have a complete past performance history to assess whether the contractor performed satisfactorily before awarding future contracts or exercising option periods.

### ***The DoD May Not Have Received All Services***

The DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$60 million. For example, the DoD does not know if the contractor performed all specific maintenance and enhancements of the SBIR/STTR portal as required by task orders 1 and 3, or if the contractor billed the appropriate labor hours for the support. The contractor generally provided monthly status reports, and a SBIR/STTR portal was in operation; however, the DoD does not have evidence validating that all of the services were received and in accordance with contract requirements. Also, contracting officials did not appoint a COR to monitor the performance of contract HQ0034-18-F-0574. Therefore, the DoD does not know whether the contractor was providing all required MPP Program support services that the DoD paid for.

### ***The DoD Had Increased Security Risks***

The lack of an adequate PWS increased DoD security risk. Specifically, WHS AD and OSBP officials did not properly address the cybersecurity requirements for the OSBP SBIR/STTR web portals in the PWSs for task orders 1 and 3. The security level applied to the OSBP SBIR/STTR web portals was lower than the level necessary to protect the information handled by the SBIR/STTR portals, increasing the risk that third parties could have access to confidential information. In addition, the lack of adequate personnel security clearance requirements could have put the DoD at risk of allowing uncleared personnel access to sensitive information technology systems.

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<sup>42</sup> The \$60 million is the value of contracts and not the value of the services that the DoD may not have received.

## ***Award of Future Contracts May Be Affected by Lack of Contractor's Past Performance Information***

Government contracting officers' awarding of future contracts may be affected by the lack of past contractor performance information. Specifically, WHS and OSBP officials did not ensure that personnel uploaded performance information to CPARS annually. A contractor's past performance information is one of the evaluation factors that contracting officials must consider when reviewing proposals for contracts awards. Because contracting officials did not ensure that CORs submitted CPARS input, another contracting official reviewing contract proposals or contract options could miss an important piece of criteria used to judge contractors. As a result, the Government may award future contracts to contractors who performed unsatisfactorily in the past.

## **Recommendations, Management Comments and Our Response**

Summaries of management comments on the finding and our responses are in Appendix C.

### ***Recommendation 1***

**We recommend that the Director, Washington Headquarters Services Acquisition Directorate:**

- a. determine how the Office of Small Business Programs Mentor Protégé Program official had access to approve invoices in the Wide Area Workflow for task order HQ0034-18-F-0574 without an official contracting officer's representative appointment designation and initiate corrective action to ensure that unauthorized personnel do not have access to approve invoices in the Wide Area Workflow in the future.**

### ***Washington Headquarters Services Comments***

The WHS AD Director agreed with the recommendation, stating that he will prepare an action plan to prevent unauthorized personnel from approving invoices in the Wide Area Work Flow. The Director stated that the Wide Area Workflow allows access to all personnel under a Defense Activity Address Code (DoDAAC) with an Active Service Acceptor role to review and approve invoices for all contracts under that DoDAAC. The Director stated that the WAWF system is managed and controlled by Defense Pricing and Contracting and the Defense Logistics Agency, and that contracting officers manage and monitor the invoice acceptance and approval. The Director stated that he is developing guidance that will incorporate its contract administration plan. The contract administration plan will address required elements of contract oversight and roles and responsibilities

of contracting officers and contracting officer's representatives (CORs). The plan will hold contracting officers accountable for ensuring that the assigned COR is the only individual, aside from the contracting officer and contracting specialist, approving invoices, and that the COR has a complete appointment letter and the COR nomination was properly executed. The Director also stated that he is in the process of procuring support services to assist with file maintenance to improve contract file management and increase oversight. The Director stated that the planned actions will be completed by October 15, 2020.

### ***Our Response***

Comments from the Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once we receive the newly developed guidance with the incorporated contract administration plan. We will confirm that the contract administration plan addresses required elements of contract oversight, roles and responsibilities, and accountability of contracting officers for ensuring that COR nomination is properly executed, the COR has a complete appointment letter, and that the COR is the only individual approving invoices, other than the contracting officer and contracting specialists.

- b. issue a Memorandum directing contracting officials to comply with FAR, DFARS, and WHS policies and procedures when awarding and administering contracts.**

### ***Washington Headquarters Services Comments***

The WHS AD Director agreed with the recommendation, stating that he will be issuing contract administrative policy and a contract administration plan to improve contract lifecycle management that includes COR appointment, contract surveillance, and COR file review requirements and procedures, among other requirements. The Director added that a cover memorandum will support the contract administration plan to remind contracting officials to follow regulations and that failure to follow regulations will affect their performance appraisal, and stated that the contract administration plan and cover memorandum will be completed by September 30, 2020. In addition, the Director stated that a mandatory FY 2021 contract administration training session for all WHS AD staff will be developed based on the findings of this report to share lessons learned and will be ready by October 30, 2020.

### ***Our Response***

Comments from the Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once we receive the contract administration policy,

contract administration plan and cover memorandum, documentation supporting distribution of the plan and memorandum to WHS AD contracting officials, and documentation of the training session based on lessons learned from this report. We will verify that the contract administration policy includes COR appointment procedures, contract surveillance requirements, and COR file review. In addition, we will verify that the contract administration plan addresses contract award, COR appointment, contract surveillance, and COR file review requirements and procedures. Further, we will also verify that the cover memorandum reiterates that failure to comply with contract regulations will affect their future performance and that the memorandum and plan was distributed to WHS AD contracting officials.

- c. **initiate an internal review of currently active contracts awarded by the Washington Headquarters Services Acquisition Division to determine whether contracting officials awarded and administered contracts in accordance with the FAR, DFARS, and WHS policy. Based on the results of the review, the Director should require Operational Directors to take appropriate action to address identified systemic deficiencies, and initiate administrative action for accountable personnel, as appropriate.**

### *Washington Headquarters Services Comments*

The WHS AD Director agreed with the recommendation, stating that, as of April 2020, WHS AD has implemented monthly contract file reviews based on a random sampling of active contracts to ensure that contracting officials award and administer contracts in accordance with the FAR, DFARS, and WHS policy. Based on the results of the reviews, the Director stated that he will require Operational Division Directors to address systemic deficiencies and initiate administrative action for accountable personnel, as appropriate. In addition, the Director stated that performance metrics will be included in every contracting official's contribution plan and that compliance or non-compliance with contract award and administration policies will be reflected in the annual appraisals.

The Director also stated that the WHS AD has already implemented initiatives to ensure compliance with the FAR, DFARS, and local guidance. One initiative is a mandatory minimum of 4 hours weekly dedicated to contract administration tasks such as uploading files in the official contract file management system, reviewing COR files, conducting peer reviews of contract files, and reviewing the status of invoices. Other initiatives include 100 percent peer review of all contract actions and contract administration updates at the Director's staff meetings. In addition, the Director stated that, in December 2015, which was after the award of contract HQ0034-14-D-0026, task orders 1 and 3, WHS AD created a contract review board

for pre-solicitation and pre-award review of contracts valued at over \$5 million (later changed to \$7 million). Further, the Director stated that the review board process assists in mitigating risks such as identifying missing data rights clauses, selecting the appropriate contract type, and ensuring COR appointments are being prepared. The Director stated that a review board process could have helped improve the task order 1 and 3 statements of work, security compliance, and data rights clauses prior to award.

### ***Our Response***

Comments from the Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once we verify that the WHS AD conducted monthly contract file reviews and formally incorporated the review process into current procedures. We request that the Director provide the results of the contract file reviews performed and associated corrective actions or corrective action plans for April 2020 through July 2020.

### ***Recommendation 2***

**We recommend that the Deputy Assistant Secretary of Defense, Industrial Policy:**

- a. establishes controls for higher level review and approval of OSBP contracting requirements, including an adequate segregation of duties.**

### ***DASD for Industrial Policy Comments***

The Deputy DASD for Industrial Policy, responding for the DASD, agreed with the recommendation, stating that the DASD has established controls for a higher level review and approval of DoD Office of Small Business Programs (OSBP) contracting requirements. The Deputy DASD also stated that contracting actions must now be reviewed and approved, prior to finalization, by senior leadership in the Office of DASD for Industrial Policy. In addition, the Deputy DASD stated that the OSBP is hiring additional staff to increase the levels of oversight and segregation of duties. Estimated completion date of all planned actions is by the second quarter of FY 2021.

### ***Our Response***

Comments from the Deputy DASD for Industrial Policy addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once the DASD provides the approved controls, which require higher level review and approval of OSBP contracting requirements, and adequate segregation of duties.



- b. review the actions of the MPP Program Manager related to the unjustified duplication of efforts for the development of a Mentor-Protégé Program web portal and initiate administrative action, as appropriate.

### ***Deputy Assistant Secretary of Defense for Industrial Policy Comments***

The Deputy DASD for Industrial Policy, responding for the DASD, agreed with the recommendation and stated that the DASD, in coordination with the OSBP Director, has begun to review the actions of the MPP Program Manager related to the unjustified duplication of efforts for the development of the MPP web portal. In addition, the Deputy DASD stated that, if appropriate, administrative actions would be initiated. Estimated completion date is by the first quarter of FY 2021.

### ***Our Response***

Comments from the Deputy DASD for Industrial Policy addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once the DASD for Industrial Policy and the OSBP Director provide the results of their review and their decisions regarding any administrative actions.

## ***Recommendation 3***

**We recommend that the Director, DoD Office of Small Business Programs, develop and implement policies and procedures to:**

- a. verify and ensure that program officials develop performance work statements with contract requirements that are clear, specific, and with objective terms and measurable outcomes;
- b. require that CORs maintain a contract file documenting contractor performance and the review and approval of contract deliverables;
- c. verify and ensure that CORs perform required contract administration duties and hold them accountable; and
- d. ensure that future information technology acquisitions have the appropriate FedRAMP security level.

### ***Office of Small Business Programs Comments***

The DoD OSBP Director agreed with our recommendations. The Director stated that the OSBP has taken action to improve PWS development in coordination with the WHS, and that recent PWSs and supporting documents have been expertly reviewed for improvement and clarification of task, deliverables, and quality control elements. The Director stated that PWSs and other acquisition documents will continue to be reviewed moving forward. The Director also stated that the

OSBP is working to ensure that its CORs perform contract administration duties, to include maintaining contract files with correct documentation of work and deliverables, by confirming that the CORs are certified and properly trained and have adequate time to complete COR responsibilities. The Director further stated that the OSBP is adding additional staff at the leadership and action officer level to address appropriate levels of oversight and workload balance. Additionally, the Director stated that the OSBP will ensure that future information technology acquisitions have the appropriate FedRAMP security level.

### ***Our Response***

Comments from the DoD OSBP Director addressed the specifics of the recommendations; therefore, the recommendations are resolved but will remain open. We will close the recommendations once we obtain and review the:

- recent PWSs and supporting documents to ensure that contract requirements are clear, specific, and with objective terms and measurable outcomes;
- COR file to ensure that the COR is adequately documenting contractor performance and review and approval of deliverables;
- supporting documentation that details efforts to ensure that CORs are performing contract administration duties; and
- documented policies or procedures to ensure that for future contracts, PWSs include contract requirements that are clear, specific, and with objective terms and measurable outcomes; CORs continue to adequately document contractor performance and review and approval of deliverables; and information technology acquisitions have the appropriate FedRAMP security level.

## Appendix A

### Scope and Methodology

We conducted this performance audit from August 2019 through July 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### ***Contract and Task Orders Reviewed***

To answer our audit objective, we selected contract HQ0034-14-D-0026, task orders 1 and 3 because they were the subject of the hotline allegation that resulted in the announcement of this audit. The WHS AD awarded these two task orders for support services for the DoD OSBP. The hotline allegation identified a total of six concerns. Specifically, the allegations identified concerns that WHS AD contracting officials and OSBP officials:

- did not adequately solicit task orders;
- did not establish clear performance requirements and deliverables;
- issued task orders with potentially duplicative requirements;
- did not adequately address Government data rights and cybersecurity requirements;
- did not establish clear security clearance requirements for the contractor; and
- did not adequately monitor contractor performance.

In addition, we selected task order HQ0034-18-F-0574 as part of the review. We reviewed the generation and justification of its requirements and administration. The audit team added this contract after the former OSBP Director raised concerns about it. The total combined value of contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574 is \$60 million

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

We conducted interviews with the originators of the allegations, contracting officials from the Washington Headquarters Services Acquisition Directorate (WHS AD), and the leadership of the Office of Small Business Programs (OSBP). We interviewed the originators of the hotline allegation to gain a better understanding of the events that led to the identification of, and reasons for, the concerns raised.

We also obtained documentation that the originators of the hotline allegations had gathered supporting their concerns, including e-mail communications with WHS AD contracting officials and the OSBP COR.

We conducted interviews of the WHS AD contracting officials responsible for contract HQ0034-14-D-0026, task orders 1 and 3 and task order HQ0034-18-F-0574 to determine their involvement with, and responsibility for the award and administration of the contract and task orders. We also discussed the WHS AD's policies and procedures for the solicitation, award, and administration of contracts. We obtained and reviewed copies of the contract files and WHS AD's Acquisition Policy for our review.

We also interviewed OSBP leadership and the designated COR to determine the OSBP's mission, their process for generating contract requirements, and how they oversaw contractor performance for the three contract actions. We obtained and reviewed copies of the COR files from the OSBP COR responsible for overseeing contractor performance.

To evaluate WHS AD and OSBP award and administration of contracts, we reviewed and analyzed the following criteria.

- FAR Parts 4, 16, 32, 37, and 46
- DFARS Parts 227 and 237
- DFARS PGI 201.6
- DoDI 5000.72
- COR Handbook
- WHS AD Acquisition Policy

### ***Work to Substantiate Hotline Allegations***

We used the results of our interviews and reviews of contract documentation to determine whether we could substantiate the hotline allegations. Specifically, for the concerns related to the contract and task orders, we reviewed the contracting officers' files and contract documentation to determine whether the contract clearly described the work that the contractor was required to accomplish and how the Government would determine that the contractor had accomplished the work. We also determined whether the terms and conditions of the contract adequately protected Government data rights (by reviewing the contract clauses and consulting with our Office of General Counsel), and whether the contract properly addressed security requirements.

### ***Administration and Oversight of Contractor Performance***

For the concerns related to the administration and oversight of contractor performance, we reviewed the COR Appointment Letter and the COR's contract files to determine whether they performed their delegated responsibilities and adequately documented their oversight of contractor performance. We also interviewed the WHS AD contracting officers and reviewed their contract files to determine whether they properly monitored COR performance for the administration of the task orders. This included determining whether the contracting officer officially appointed a COR and whether the contracting officer reviewed the COR contract files to ensure the COR was properly documenting oversight of the contractor.

### ***Duplication of Requirements***

For the allegation that two task orders had duplicate requirements, the audit team reviewed the task order PWSs. Specifically, the audit team analyzed and compared the PWSs to determine whether requirements were duplicated.

### ***Use of Computer-Processed Data***

We used computer-processed data from the Electronic Data Access (EDA) website during this audit. Specifically, we obtained contract data, including task order HQ0034-F-0574 and IDIQ contract HQ0034-14-D-0026, and their respective task orders and contract modifications from the EDA website. To assess the reliability of the EDA data, we downloaded every contract, task order, and modification from the system. In addition, the audit team determined that the EDA contract documents were sufficiently reliable for use of background and context information, because EDA has internal controls to assure that only approved legal documents are posted. As a result, we determined that EDA computer-processed data was sufficiently reliable to support our findings and conclusions.

### ***Prior Coverage***

From 2014 to 2019, the DoD Office of Inspector General (DoD OIG) issued two reports discussing Washington Headquarters Services administration of multiple-award contracts, contract payments, and oversight.

Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

## **DoD OIG**

Report No. DODIG-2018-103, "Payments to Electromagnetic Pulse Commission Support Contractor," April 6, 2018

This report identified that the WHS contracting officer did not effectively review contractor invoices for work performed under the support contract. Specifically, WHS contracting officials directed the COR to approve payment requests for a contractor SME that included hours beyond an 8-hour per day, 40-hour week, including hours claimed on holidays and weekends, even though the COR had concerns about the reasonableness of those hours. The WHS contracting officer did not require the contractor to submit payment requests to the Defense Contract Audit Agency (DCAA) for review and approval. The contracting officer stated that this was an oversight, and relied on the signatures from the EMP Commission III Chair and the contractor to support all hours submitted by one SME, without obtaining documentation supporting the hours worked.

Report No. DoDIG-2014-099, "Solicitation, Award and Management of Two Washington Headquarters Services Multiple-Award Contracts and Task Orders," August 13, 2014

This report determined that WHS AD contracting officials generally solicited, awarded, and managed two multiple-award contracts and two task orders in accordance with the FAR and other rules and regulations. However, contracting officials did not properly solicit, award, or manage nine task orders, valued at \$155.1 million. For three task orders, contracting officials did not prepare performance reviews in the Contractor Performance Assessment Reporting System. WHS AD contracting officials did not properly perform contracting functions and document contracting decisions because WHS AD management did not have adequate quality assurance procedures. As a result, on one task order, the DoD potentially wasted \$271,358 and spent \$2.4 million more than expected.



## Appendix B

### Example of WHS ADAP Form 201-604-5 COR File Index

COR File Index (DECEMBER 2015)		
Project Name:	Market Research Tool Of Excellence	
Contract Number:	HQ0034-14-D-0026-0001	
Solicitation Number:	HQ0286-4189-0876-000	
Contractor:	[REDACTED]	
Tab	In File?	DOCUMENTS
		<b>BASIC DOCUMENTS</b>
A01	X	CONTRACT
A02		NOTICE OF AWARD / NOTICE TO PROCEED
A03	X	POINTS OF CONTACT <i>Names, position titles, contact information for contractor and government personnel</i>
A04		QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)
A05		QUALITY CONTROL PLAN
A06		CONTRACT DATA REQUIREMENTS LISTS (CDRLS) <i>To include analysis and actions taken</i>
A07		MODIFICATION REQUESTS <i>To include purchase request packages with certified funding documents</i>
A08	X	CONTRACT MODIFICATIONS
A09	X	COR APPROVALS TO CONTRACTOR
A10		MEMORANDA FOR RECORD <i>Minutes of any meetings, site visits, telephone conversations, and other discussions</i>
A11		GENERAL CORRESPONDENCE
		<b>TASK ORDER (TO) DOCUMENTS</b>
B01		TO REQUEST <i>To include purchase request packages with certified funding documents</i>
B02		TO PROPOSAL
B03		TO PROPOSAL REVIEW
B04	X	TO AWARD
B05	X	TO POINTS OF CONTACT <i>Names, position titles, contact information for contractor and government personnel</i>
B06	X	TO QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)
B07		TO QUALITY CONTROL PLAN

Note: Do not leave any box blank. Mark 'X,' 'N/A,' or 'See [cross-reference],' as appropriate.

Page 1 of 4

ADAP FORM 201-604-5 COR FILE INDEX (DEC 2015)

## Example of WHS ADAP Form 201-604-5 COR File Index (cont'd)

B08		TO DATA REQUIREMENTS LISTS (DRLs) <i>To include analysis and actions taken</i>
B09		TO MODIFICATION REQUESTS <i>To include purchase request packages with certified funding documents</i>
B10	X	TO MODIFICATIONS
B11	X	TO COR APPROVALS TO CONTRACTOR
B12		TO MEMORANDA FOR RECORD <i>Minutes of any meetings, site visits, telephone conversations, and other discussions</i>
B13		TO GENERAL CORRESPONDENCE
		<b>COR DOCUMENTS</b>
C01	X	COR LETTER OF DESIGNATION <i>To include any changes to the original letter</i>
C02	X	COR TRAINING CERTIFICATES
C03	N/A	CONTRACT-SPECIFIC TRAINING
C04	N/A	EVIDENCE OF OGE FORM 450 SUBMISSIONS <i>If required per COR letter of designation or other CO communication</i>
C05	WHS	PREVIOUS COR FILE REVIEWS <i>Performed annually by the Contract Specialist and/or Contracting Officer</i>
C06	N/A	TERMINATION OF COR DESIGNATION
		<b>DELIVERABLES</b>
D01	In CONTRACT	LIST OF DELIVERABLES REQUIRED
D02	X	COPIES OF EACH DELIVERABLE
D03		COR'S ANALYSIS OF DELIVERABLES <i>To include actions taken and the date of action</i>
D04	N/A	EVIDENCE OF DELIVERY OF ANY PRODUCTS <i>(Hardware, licenses, software, etc.)</i>
		<b>PERFORMANCE DOCUMENTS</b>
E01		ACCEPTANCE / REJECTION OF DELIVERABLES
E02		SURVEILLANCE SCHEDULE <i>As required by the QASP</i>
E03		SURVEILLANCE RECORDS, RESULTS, ACTIONS TAKEN
E04		PROGRESS SCHEDULES
E05		RECORDS OF ANY GOVERNMENT ACTIONS THAT AFFECTED / INFLUENCED CONTRACTOR PERFORMANCE

Note: Do not leave any box blank. Mark 'X,' 'N/A,' or 'See [cross-reference],' as appropriate.

Page 2 of 4

ADAP FORM 201-604-5 COR FILE INDEX (DEC 2015)

*Example of WHS ADAP Form 201-604-5 COR File Index (cont'd)*

E06	N/A	RECORDS OF WEATHER CONDITIONS <i>For contracts with outdoor performance</i>
E07	N/A	LABORATORY TEST REPORTS
E08	N/A	RESULTS OF CONTRACTOR QUALITY CONTROL
E09	N/A	DEFICIENCY REPORTS
E10	N/A	SAMPLES, PHOTOGRAPHS, WITNESS STATEMENTS, OTHER FACTUAL DATA
E11	N/A	COR'S MONTHLY PERFORMANCE REPORT
E12	N/A	ANNUAL PERFORMANCE REPORT
E13	N/A	ANNUAL CHECK OF ELECTRONIC CONTRACTOR MANPOWER REPORTING APPLICATION (ECMRA) <i>Services only</i>
		<b>PAYMENT DOCUMENTS</b>
F01	X	INVOICES
F02	WAWF	CERTIFICATION OF INVOICES
F03	X	RUNNING TALLY OF EXPENDITURES
		<b>GOVERNMENT-FURNISHED PROPERTY (GFP) DOCUMENTS</b> <i>To include facilities and information</i>
G01	N/A	LIST OF GFP PROVIDED TO CONTRACTOR
G02	X	DOCUMENTED CHANGES TO INVENTORY
G03	N/A	FINAL INVENTORY RETURNED TO GOVERNMENT
		<b>SECURITY DOCUMENTS</b>
H01	X	LIST OF CONTRACTOR EMPLOYEES REQUIRING ACCESS TO GOVERNMENT INSTALLATION
H02	X	CAC AND BADGE REQUESTS
H03	N/A	COLLECTION OF CACs AND BADGES
		<b>TRAVEL DOCUMENTS</b>
I01	X	TRAVEL REQUESTS AND APPROVAL
I02	N/A	TRIP REPORTS <i>For each visit to site and/or contractor facility to include expenditures</i>
		<b>CLOSEOUT DOCUMENTS</b>

Note: Do not leave any box blank. Mark 'X,' 'N/A,' or 'See [cross-reference],' as appropriate.

Page 3 of 4

ADAP FORM 201-604-5 COR FILE INDEX (DEC 2015)

Example of WHS ADAP Form 201-604-5 COR File Index (cont'd)

J01		REQUEST FROM CO TO CLOSE OUT CONTRACT
J02		EVIDENCE PERFORMANCE IS COMPLETE
J03		EVIDENCE OF FINAL PAYMENT
J04		DOCUMENTATION OF ANY EXCESS FUNDS
J05	N/A	FINAL INVENTORY OF GFP RETURNED TO GOVERNMENT
J06		FINAL CONTRACT EVALUATION REPORT
J07		TRANSFER COR FILE TO CO TO BE INCLUDED AS PART OF CONTRACT FILE
Comments / Notes:		

Note: Do not leave any box blank. Mark 'X,' 'N/A,' or 'See [cross-reference],' as appropriate.

## Appendix C

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### Management Comments on the Finding and Our Response

#### ***Washington Headquarters Services Acquisition Directorate Comments***

The WHS AD Director provided the following comments on the finding. For the full text of the Washington Headquarters Services Acquisition Directorate comments, see the Management Comments section of the report.

#### ***WHS AD Comments***

The WHS AD Director disagreed with the report statement “The DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$59.7 million.” The Director stated that the total value of the contracts is \$60,023,733.34, as previously presented to the audit team, and that the overall statement is misleading.

The Director explained that the WHS AD provided the audit team with evidence supporting that it received deliverables valued at \$59,375,094.74 (or 98.92 percent) of the total contract value (\$60,023,733.34) under contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574. The Director added that the documentation provided mitigated or eliminated the audit report claim that the DoD did not receive services in accordance with contract requirements, except for \$648,638. Finally, the Director said that the audit team has not provided any information demonstrating that the DoD did not receive the deliverables, and the report does not accurately represent WHS AD’s efforts to ensure that the DoD received value for services rendered. The Director suggested replacing the report statement with “DoD could not account for deliverables for \$648,638.60 out of the \$60 million total value for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574.”

#### ***Our Response***

We acknowledge the Director’s comments. We revised the total value of contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574 to \$60 million. This value is based on HQ0034-14-D-0026, task order 1, modification 25; HQ0034-14-D-0026, task order 3, modification 29; and task order HQ0034-18-F-0574, modification 2. As a result, we updated the report accordingly.

We maintain that the DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$60 million. As stated in the report, we agree that the contractor provided most of the deliverables required by the task orders. We did not question in the report whether the OSBP received the deliverables, as WHS AD stated in their response. However, we disagree that the receipt of contract deliverables alone, such as the monthly progress, status, and management reports, support and validate that the contractor performed and the DoD received the services in accordance with the requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574. These contractor provided reports informed the contracting officer and the COR which PWS services requirements were accomplished during the reporting period. However, the COR should have documented in the COR contract file the review and analysis of the contractor provided reports to verify services were adequately performed. The COR, as a representative of the contracting officer for the administration of the task orders, received the reports but did not document the analysis, review, and acceptance of the reports. This action would have supported that the services and tasks described in those reports were adequately performed. The documentation of the analysis, review, and acceptance of the reports would also provide support for the annual past performance evaluation ratings. Even though the deliverables were required by the contract, the Government paid \$60 million to obtain specific services required in the PWS. In addition to ensuring the receipt of the deliverables, the contracting officer and the COR must ensure and validate that the actual services and tasks in the PWS were performed.

In addition to the lack of evidence of the analysis and reviews of deliverables supporting that the services were received, WHS AD contracting officials did not appoint a COR to monitor the contractor for task order HQ0034-18-F-0574 and did not ensure that the appointed COR for HQ0034-14-D-0026, task orders 1 and 3 adequately performed the contract administration duties assigned to ensure and support contractor's performance. The COR did not perform adequate contract administration during the performance of the task orders. We identified that the COR was not familiar with all of the services that the contractor provided and did not maintain a complete COR contract file to support surveillance of contractor performance. Therefore, we maintain that the DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$60 million. We also emphasized that the \$60 million is the total value of the three contract actions reviewed based on the modifications, and not the value of the services not received.



### ***WHS AD Comments***

The WHS AD Director disagreed with the report statement “On March 25, 2020, WHS AD officials stated that the WHS AD had stopped data rights negotiations because the customer had no interest in the source code for the portal” and reiterated that the negotiations ended because the vendor did not dispute WHS AD’s most recent letter on August 29, 2019. The Director explained that in the letter to the vendor, the Government asserted its unilateral rights to all deliverables for task orders 1 and 3. In addition, the Director stated that based on discussions with the customer, the WHS AD refocused negotiations to ensure maintenance of the SBIR portal under task order 1 and ceased development of the enhanced portal under task order 3. The Director added that the Government received the source code and data for the web portal under task order 1 and for partial delivery of the web portal under task order 3.

Additionally, the WHS AD Director disagreed with the report statement “In response, in April 2020, the WHS AD organized a team to investigate deliverables for task orders 1 and 3 to identify contractor progress towards meeting the portal deadline” and stated that the date provided in the report should have been April 2019, and not April 2020. Finally, the WHS AD Director disagreed with the report statement “However, the contractor provided the Government the source code for the SBIR/STTR web portals” and stated that it could be misinterpreted and requested clarification. The Director stated that the Government received the as-is code for a partial delivery of the SBIR One portal under task order 3 on June 27, 2019, and the source code for the SBIR portal under task order 1 on July 1, 2019, both at no additional cost.

### ***Our Response***

We acknowledge the Director’s comments that the WHS AD did not entirely stop data rights negotiations based on customer disinterest in web portal and deleted the statement in the report. We also acknowledge that, despite conflicting contract language on data rights, WHS AD contracting officials stated that they ultimately received the as-is source code for the SBIR/STTR web portals, at no additional cost, and added this information to the report. We also agree that the date that the WHS AD organized a team to investigate deliverables submitted under task orders 1 and 3 was in April 2019 rather than April 2020, and corrected the report accordingly. However, we maintain that contract language on data rights for task orders 1 and 3 was conflicting and was confusing for the contractor, and negotiations with the contractor for data rights could have been avoided if the task orders included clear data rights language.

### ***WHS AD Comments***

The WHS AD Director disagreed with the report statement “Specifically, task order 1 did not include any cybersecurity requirements for the SBIR/STTR web portal” and stated that task order 1 included the contract clause DFARS 252.204-7012, “Safeguarding Covered Defense Information and Cyber Incident Reporting (DEC 2015).” The Director stated that in addition to the DFARS clause, the PWS of task order 1 included a “SBIR Portal Security Validation” requirement.

### ***Our Response***

We maintain that task order 1 did not include cybersecurity requirements for the SBIR/STTR web portal. We agree that the WHS AD issued modification 8 on May 3, 2016, which included the DFARS clause 252.204-7012, “Safeguarding Covered Defense Information and Cyber Incident Reporting (DEC 2015),” and added this to the report. However, DFARS clause 252.204-7012 does not establish specific security requirements. The clause establishes the requirement to report cyber incidents and states that the contractor shall provide adequate security on all covered contractor information systems. The clause further states that adequate security for a contractor information system that is part of an information technology service or system operated on behalf of the Government means that the contractor will implement, at a minimum, the security requirements specified elsewhere in the contract. However, as stated in the report, task order 1 did not include specific security requirements elsewhere in the contract. Therefore, including DFARS clause 252.204-7012 in task order 1 without also specifying information security requirements did not establish minimum security requirements for the contractor.

In addition, we agree that the PWS for task order 1 included a “SBIR Portal Security Validation” requirement, which required the contractor to work with DTIC to maintain SBIR Portal security IT compliance during the period of performance. The WHS AD awarded task order 1 on September 30, 2014 and it was set to expire five years later, on September 29, 2019. Before the task order expired, the WHS AD issued modification 25 on September 16, 2019, extending the period the performance for four months, from September 30, 2019, to January 29, 2020. Modification 25 also added the SBIR Portal Security Validation requirement to the PWS, which applied to the 4-month extension. Task order 1 was extended to maintain the SBIR/STTR web portal operation for four months while a new portal was developed, and to transfer the data to the new portal, after the development of the SBIR/STTR web portal under task order 3 was terminated. Modification 25 was the first modification to include the “PWS SBIR Portal Security Validation”

language. Therefore, we maintain that WHS AD and OSBP officials did not properly address cyber security requirements for task order 1 until modification 25 issued on September 16, 2019.

### ***WHS AD Comments***

The WHS AD Director disagreed with the report statement “However, the contract files did not have evidence of the COR contract file annual reviews...” and stated that there was evidence of contract file reviews in the contract files provided to the audit team. The Director recognized that some documentation supporting COR file reviews was not in the contract files, but stated that the contract files included three instances of contract file reviews for task order 1, two instances for task order 3, and one instance for the task order HQ0034-18-F-0574.

### ***Our Response***

We revised the report to clarify that the contract files did not have evidence of the COR contract file annual reviews specifically for three years for task order 3, and one annual review for task order 1. As stated in the report, we identified six instances of COR contract file reviews in the WHS AD contract files.

### ***WHS AD Comments***

The WHS AD Director partially disagreed with the report statement “WHS AD contracting officials did not properly exercise option periods for contract HQ0034-14-D-0026, task orders 1 and 3. According to the FAR, contracting officers may only exercise options after determining that past performance evaluations have been considered and that contractor performance on the specific contract has been acceptable, among other requirements.” The Director stated that the WHS AD provided the audit team with document references supporting that contractor performance was verified to be “satisfactory” (i.e. acceptable) prior to the exercise of option periods, as required by FAR 17.207(c)(7). The Director stated the COR confirmed in these documents that the contractor’s performance was satisfactory, and contracting officers reviewed and would have relied on this performance information before exercising the options. The Director recognized that several CPARS past performance reports were not completed but added that the WHS AD has significantly improved contract past performance reporting in the past 2 years, and that a July CPARS system data pull indicated that WHS had increased its CPARS compliance rating to 93% of contracts.

### *Our Response*

We acknowledge that WHS AD contracting officials considered past performance evaluations for the first options periods for task orders 1 and 3. We revised the report to clarify that the contracting officers did not consider the past performance evaluations before exercising the remaining three option periods for both task orders 1 and 3 as required by the FAR. In addition, contracting officers did not perform adequate COR contract files reviews to ensure completeness and accuracy before exercising the option periods. Therefore, we maintain that WHS AD contracting officials did not properly exercise option periods for contract HQ0034-14-D-0026, task orders 1 and 3.

FAR 17.207 requires contracting officers to review past performance evaluations supporting that the contractor's performance has been acceptable before exercising options. According to WHS AD Acquisition Policy, the COR must submit a draft CPARS rating that is supported by objective and reasonably complete narratives. Additionally, the DFARS requires contracting officers to annually review the COR contract file for accuracy, completeness, and accomplishment of duties. However, as discussed in the report, contractor performance assessments were not always completed and COR contract files were not always reviewed.

The Director stated in the comments that the WHS AD provided documents supporting that the contractor performance was confirmed to be acceptable before exercising the option periods, as confirmed by the COR. The documents the WHS AD cites are memoranda that a customer uses to express a continuing need and justify exercising an option. These memoranda include a question for the COR overseeing the contract to confirm "the contractor's performance has been satisfactory" and the COR can check "yes" or "no" to address whether the contractor is performing satisfactorily. This is the only place in the document where the COR can attest to the contractor's performance and does not constitute a performance evaluation. Furthermore, this document emphasizes the requirement for the initiation of a CPARS performance evaluation before the option can be exercised. The COR did not perform a CPARS assessment for three of the four options years for both task orders and therefore the WHS AD exercised six options without a CPARS assessment.

# Management Comments

## Washington Headquarters Services Acquisition Directorate



ACQUISITION  
DIRECTORATE

DEPARTMENT OF DEFENSE  
WASHINGTON HEADQUARTERS SERVICES  
1155 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1155



August 13, 2020

██████████  
Program Director for Audit  
Acquisition, Contracting, and Sustainment  
U.S Department of Defense Office of Inspector General  
4800 Mark Center Drive  
Alexandria, VA 22350-1500

Dear ██████████,

I am in receipt of the Department of Defense Office of Inspector General's (DoD OIG's) Draft Report No. Project No D2019-D000AH-0195.000 ("Draft Report"), entitled "Audit of the Solicitation, Award, and Administration of Washington Headquarters Services Contract and Task Orders for Office of Small Business Programs", dated 15 July 2020. The Washington Headquarters Services, Acquisition Directorate (WHS/AD) appreciates the opportunity to provide comments to the DoD OIG's draft proposed report.

WHS/AD concurs with Recommendation (1a): Determine how the Office of Small Business Programs Mentor Protégé Program official had access to approve invoices in the Wide Area Workflow for task order HQ0034-18-F-0574 without an official contracting officer's representative appointment designation and initiate corrective action to ensure that unauthorized personnel do not have access to approve invoices in the Wide Area Workflow in the future; concurs with Recommendation (1b): Issue a Memorandum directing contracting officials to comply with FAR, DFARS, and WHS policies and procedures when awarding and administering contracts; and concurs with Recommendation (1c): Initiate an internal review of currently active contracts awarded by the Washington Headquarters Services Acquisition Division to determine whether contracting officials awarded and administered contracts in accordance with the FAR, DFARS, and WHS policy. Based on the results of the review, the Director should<sup>1</sup> require Operational Directors to take appropriate action to address identified systemic deficiencies, and initiate administrative action for accountable personnel, as appropriate.

Although WHS/AD concurs with the DoD OIGs three recommendations (1a, 1b and 1c), WHS/AD strongly objects to the DoD OIG overarching statement that "DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$59.7 million". WHS/AD requests that the statement in the DoD OIG Draft Report be replaced with "DoD could not account for deliverables for \$648,638.60 out of the \$60 million total value for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574". On 12 June 2020, WHS/AD provided the DoD OIG with a summary entitled "Contract Surveillance and Deliverables table", which contained evidence of receiving deliverables for \$59,375,094.74 (or 98.92%) out of the \$60 million. Although WHS/AD expressed its objection to the DoD OIG's overarching statement, the DoD OIG has not provided evidence that it considered these submissions as provided in the Draft Report. Please find enclosed WHS/AD's summary response to the audit findings and recommendations.

<sup>1</sup> WHS/AD agrees with this recommendation and therefore will implement.

Washington Headquarters Services Acquisition Directorate (cont'd)

Thank you for the opportunity to review and respond to the draft recommendations. WHS/AD is committed to complying with all statutes, regulations and strengthening its internal controls to ensure full compliance with the OIG's recommendations. The assigned point of contact for this topic is [REDACTED], Division Director, Enterprise Acquisition Policy and Strategic Initiative. [REDACTED] can be reached at [REDACTED]

Thank you for providing WHS/AD the opportunity to provide comments to the draft proposed report.

Respectfully,  
SANDERS.DAVID.  
DELANO [REDACTED]  
[REDACTED]  
David D. Sanders  
Director

Attachment:  
WHS/AD Summary Response to the DoD OIG Report D2019-D000AH-0195.000



## Washington Headquarters Services Acquisition Directorate (cont'd)

AD Summary Response to DoD IG Draft Report Project No. D2019-D000AH-0195.000

Due by 14 August 2020

Washington Headquarters Services, Acquisition Directorate (WHS/AD) provides the below responses to the DoD IG Draft Report Project No. D2019-D000AH-0195.000 in two sections. The first section includes responses to three findings (items 1, 5 and 7) and four statements (2-4 and 6). The second section includes responses to the three part recommendations.

First Section: Response to Findings/ Statements	Description/Issue DoD IG	Page	Official Proposed AD Response
1.	<p>Finding and overarching statement:</p> <p>DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$59.7 million.</p> <p>Corresponding Footnote: The \$59.7 million is the value of contracts and not the value of the services that the DoD may not have received.</p>	ii; 9-10; 32-33; other instances.	<p>Non-concur.</p> <p>Per WHS/AD's Contract Surveillance Summary and Deliverables table dated 12 June 2020 and presented to the DoD OIG, the total value of all contracts is \$60,023,733.34.</p> <p>The statement, as written, is misleading. The Agency objects to the following statement, as previously explained to the OIG: "DoD may not have received all services for which it paid \$58.3 million." WHS/AD provided the OIG with evidence that it received deliverables the value of which reflects \$59,375,094.74 (or 98.92%) of the total contract value (\$60,023,733.34) under HQ0034-14-D-0026 Task Order 0001, Task Order 0003 and the task order HQ0034-18-F-0574. As demonstrated in the validation of deliverables, WHS/AD was able to produce documentation that mitigated or eliminated the claim that the Government did not receive services in accordance with requirements with the exception of \$648,638.60. OIG has not provided WHS/AD with any information from the record or otherwise that demonstrates the Agency did not receive the deliverables highlighted in the record and previously provided to the OIG. As such, WHS/AD believes the statement by the OIG does not accurately represent the Agency's efforts to ensure the Government received value for services rendered.</p> <p>WHS/AD suggests that the OIG statement "DoD may not have received all services in accordance with requirements for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574, valued at \$59.7 million" be replaced with the following: "DoD could not account for deliverables for \$648,638.60 out of the \$60 million total value</p>

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## Washington Headquarters Services Acquisition Directorate (cont'd)

			for contract HQ0034-14-D-0026, task orders 1 and 3, and task order HQ0034-18-F-0574."
2.	OIG makes the statement: On March 25, 2020, WHS AD officials stated that the WHS AD had stopped data rights negotiations because the customer had no interest in the source code for the portal.	16 (4th para)	<p>Non-Concur.</p> <p>WHS/AD disagrees with the statement, reiterating the following statement in the Summary of Data Rights provided to the OIG on 25 March 2020, which stated that negotiations ended because the vendor did not dispute the Government's most recent letter on 29 August 2019. On 29 August 2019, the Government asserted its unilateral rights to all deliverables for Task Order 1 (SBIR legacy portal) and Task Order 3 (SBIR One portal). The Government stated clearly in this same letter that should the parties not agree, the Government reserves its right to assert ownership consistent with the terms of the base IDIQ. Additionally, the Government took a holistic approach to the deliverables required under Task Order 1 and Task Order 3 to meet the customers' needs. After discussions with the customer, negotiations were refocused at the time to ensure maintenance of the SBIR legacy portal under Task Order 1 for which the Government received source code and data in accordance with the contract deliverables. Moreover, the customer decided to cease development of the SBIR One Portal under Task Order 3, and the Government received the source code and data in accordance with the contract deliverables for partial delivery of the SBIR One Portal.</p>
3.	OIG makes the statement: In response, in April 2020 the WHS AD organized a team to investigate deliverables for task orders 1 and 3 to identify contractor progress towards meeting the portal deadline.	16 (4th para)	<p>Non-Concur.</p> <p>The statement presented by the OIG contains an inaccuracy. As WHS/AD explained on 25 March 2020 in its Summary of Data Rights provided to the OIG, WHS/AD organized a team to investigate deliverables submitted for both TO 1 and TO3 on 4 April <b>2019</b> to identify progress made to meet the customer's deadline; nearly a year prior to the date stated in the draft report and more than four months prior to the OIG initially contacting WHS/AD (12 August 2019) in regards to these contracts.</p>
4.	The OIG makes the statement, "However, the contractor provided the Government the source code for the SBIR/STTR web portals."	17 (1st para)	<p>Non-concur.</p> <p>WHS/AD is concerned that the statement may be misinterpreted and requests to clarify and provides the following statement in the Summary of Data Rights provided to the IG on 25 March 2020, "It is noted that the Government received, at no</p>

## Washington Headquarters Services Acquisition Directorate (cont'd)

			additional cost, the as-is source code for a partial delivery of HQ0034-14-D-0026-0003 (TO 3 SBIR One portal) on 27 June 2019 and the source code and data for HQ0034-14-D-0026-0001 (TO 1 SBIR legacy portal) on 1 July 2019."
5.	OIG states the finding: WHS AD and OSBP officials did not properly address cybersecurity requirements for task orders 1 and 3 for the maintenance and enhancement of the SBIR/STTR web portal. <b>Specifically, task order 1 did not include any cybersecurity requirements for the SBIR/STTR web portal.</b>	17 (2nd para)	<p>Partially concur.</p> <p>WHS/AD disagrees with part of the finding that states "Specifically, task order 1 did not include any cybersecurity requirements for the SBIR/STTR web portal." WHS/AD reiterates its response to the DoD OIG from 4 May 2020 which disagreed that Task Order 0001 did not include any cybersecurity requirements. As mentioned, Task order 0001 included DFARS clause 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (DEC 2015). In addition, Task order 0001 includes section 2.8 in PWS SBIR Portal Security Validation - The Contractor shall work with the Defense Technical Information Center (DTIC) to maintain the SBIR Portal security information technology (IT) compliance during the period of performance to include the following tasks:</p> <p>[omitted paragraph a. because not relevant for discussion]</p> <p>b. In accordance with DoD Cyber Security polic[i]es, the Contractor shall conduct static scans of all code for vulnerabilities utilizing HP Fortify, or any scan provided by DTIC. The Contractor shall mitigate any findings as necessary by submitting Plans of Action and Milestones (POA&amp;Ms) to DTIC, using the provided DTIC POA&amp;M template with timelines to correct any outstanding security issues."</p>
6.	OIG statement is not accurate:  "However, the contract files did not have evidence of the COR contract file annual reviews, and the contracting officials were not able to provide the WHS AD COR File Review Checklist for two years for task order 3, and one annual review for task order 1."	19 (3rd para)	<p>Partially concur.</p> <p>WHS/AD disagrees with the first part of the sentence: "However, the contract files did not have evidence of the COR contract file annual reviews". Although AD recognizes that some documentation of COR file review in the contract file was missing, there was nevertheless evidence of contract file reviews in the contract files provided to the OIG on the SharePoint site during the fall of 2019, from approximately 18 September 2019 to 11 December 2019, and reiterated on 12 June 2020 in the Contract Surveillance Summary and Deliverables table. Per WHS/AD's Contract Surveillance Summary and Deliverables table dated 12 June 2020, the summary of deliverables included three</p>

## Washington Headquarters Services Acquisition Directorate (cont'd)

			instances of a file review for task order 1, two instances for task order 3 and one instance for the task order HQ0034-18-F-0574.
7.	OIG stated the finding, "WHS AD contracting officials did not properly exercise option periods for contract HQ0034-14-D-0026, task orders 1 and 3. According to the FAR, contracting officers may only exercise options after determining that past performance evaluations have been considered and that contractor performance on the specific contract has been acceptable, among other requirements".	22 (2nd para)	<p>Partially concur.</p> <p>WHS/AD disagrees with the description of this finding. On 12 June 2020, WHS/AD provided the OIG with a Contract Surveillance Summary and Deliverables table, which contained document references where contractor performance was verified to be "satisfactory" (i.e. acceptable) prior to the exercise of option periods per FAR 17.207 (c) (7). The contracting officers review and would have relied upon this performance information before proceeding with the exercise of the option. The summary also contained information where the COR confirmed that the contractor performance has been satisfactory (see summary of deliverables on p. 22 and p. 35 as examples).</p> <p>WHS/AD recognizes that several CPARS were missing for contract HQ0034-14-D-0026, task orders 1 and 3. WHS/AD has significantly improved contract past performance reporting over the past 2 years, appointing a CPARS Program Manager to assist Contracting Officers, Contract Specialists and Contracting Officer Representatives with contractor past performance reporting. Based on the attached July data pull from the CPARS system, WHS/AD has increased its CPARS compliance rating to 93% of its contracts.</p>

## Washington Headquarters Services Acquisition Directorate (cont'd)

Second Section: Response to Recommendations	DoD IG Recommendation 1 to AD	Page	Official Proposed AD Response
a.	Determine how the Office of Small Business Programs Mentor Protégé Program official had access to approve invoices in the Wide Area Workflow for task order HQ0034-18-F-0574 without an official contracting officer's representative appointment designation and initiate corrective action to ensure that unauthorized personnel do not have access to approve invoices in the Wide Area Workflow in the future;	34	<p>Concur.</p> <p>AD Director will prepare the action plan described below.</p> <p>WHS/AD provides background regarding how the Wide Area Workflow (WAWF) is configured in order to clarify how unauthorized personnel had access to approve invoices. WAWF is currently managed under the Procurement Integrated Enterprise Environment (PIEE). The WAWF roles are aligned by Department of Defense Activity Address Code (DoDAAC) which is a six position code that uniquely identifies a Department of Defense unit, activity, or organization that has the authority to requisition, contract for, receive, have custody of, issue, or ship DoD assets, or fund/pay bills for materials and/or services, which allows all personnel with an Active Service Acceptor role in WAWF, under their own DoDAAC, the ability to see and accept/reject invoices. This system is flexible and allows for program officials who are given access to this system to review and approve invoices for all contracts under their DoDAAC. This system is managed and controlled by both Defense Pricing and Contracting and Defense Logistics Agency. Contracting Officers manage and monitor invoice acceptance and approval.</p> <p>For this action plan in the near-term, AD is in the process of developing guidance that will incorporate its contract administration plan. The AD Contract Administration Plan will address the required elements of contract oversight with roles and responsibilities for the Contracting Officer and Contracting Officer Representatives.</p> <p>Under the plan, Contracting Officers will be held accountable for ensuring that the assigned COR is the only individual, other than the Contract Specialist or Contracting Officer, approving contract invoices in addition to verifying that the COR appointment letter is complete and that the COR nomination was properly executed.</p>

## Washington Headquarters Services Acquisition Directorate (cont'd)

			<p>Additionally, AD is in the process of procuring support services to assist with file maintenance and improve its ability to manage contract files and increase oversight.</p> <p>Complete by 15 October 2020.</p>
b.	Issue a Memorandum directing contracting officials to comply with FAR, DFARS, and WHS policies and procedures when awarding and administering contracts; and	34	<p>Concur.</p> <p>WHS/AD Director will issue a contract administration policy document, a Contract Administration Plan, to improve contract lifecycle management. This new policy will include, but is not limited to, COR appointment procedures, contract surveillance requirements and COR file review.</p> <p>A cover memorandum will be drafted in support of the Contract Administration Plan to remind all the contracting officials to follow regulations. This memorandum will also remind all contracting officials that failure to follow regulations will impact their performance appraisal.</p> <p>Complete by 30 September 2020.</p> <p>Additionally, the findings in the DoD OIG report will be used as the basis to design a mandatory contract administration training session for the entire staff of WHS/AD to share lessons learned. This training session will be included in the Fiscal Year 21 Training Plan.</p> <p>Complete by 30 October 2020.</p> <p>Other measures to improve compliance with guidance include:</p> <p>Leveraging guidance and templates for compliance through local policy, Acquisition Portal, Acquisition Community of Practice (AWCoP) training, and the Virtual Acquisition Office tool. In addition, AD has constructed a robust virtual training environment to assist the acquisition community to identify and assist with understanding compliances and roles and responsibilities for contract award and administration.</p> <p>Complete on ongoing basis.</p>



## Washington Headquarters Services Acquisition Directorate (cont'd)

c.	Initiate an internal review of currently active contracts awarded by the Washington Headquarters Services Acquisition Division to determine whether contracting officials awarded and administered contracts in accordance with the FAR, DFARS, and WHS policy. Based on the results of the review, the Director should require Operational Directors to take appropriate action to address identified systemic deficiencies, and initiate administrative action for accountable personnel, as appropriate.	34	<p>Concur.</p> <p>As of April 2020, the Washington Headquarters Services, Acquisition Directorate has implemented independent monthly file reviews of active contracts based on random sampling to ensure contracting officials award and administer contracts in accordance with the FAR, DFARS, and WHS policy. Based on the results of the review, the Director will require Operational Division Directors to take appropriate action to address identified systemic deficiencies, and initiate administrative action for accountable personnel, as appropriate. Performance metrics will be included in every contracting official's contribution plan. The results, including the compliance or non-compliance of the contracts awarded and administered within each Division, will be reflected in the annual appraisal.</p> <p>Develop performance metrics by 15 October 2020.</p> <p>WHS/AD has already implemented initiatives to ensure compliance with FAR, DFARS and local guidance. These initiatives include:</p> <ul style="list-style-type: none"> <li>• Mandatory weekly organization-wide contract administration where the entire organization collectively dedicates 100% time to carry out task for at least 4 hours each week such as uploading files in official contract file management system (RMA), reviewing COR files, conducting peer reviews of contract files, reviewing the status of invoices, etc.</li> <li>• 100% peer review of all contract actions</li> <li>• Contract administration updates at Director's staff meeting</li> </ul> <p>Moreover, in December 2015, WHS/AD created a pre-solicitation and pre-award contract review board (CRB) for contracts valued over \$5M (threshold later changed to \$7M). The CRB is a presentation from the acquisition team to AD senior leadership, including the Operational Division Director, Policy Director, Small Business</p>
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Washington Headquarters Services Acquisition Directorate (cont'd)

			Director, Deputy Dir, and HCA. The CRB process is continuously being updated to ensure contracts are awarded following the FAR, DFARS and local policy. These reviews assist in mitigating risks such as identifying missing data rights clauses, selecting the appropriate contract type, and ensuring COR appointments are being prepared. This CRB process was not in place at the time when contract HQ0034-14-D-0026, task orders 1 and 3 were awarded but could have been helpful to improve the statements of work, security compliance, and data rights clauses prior to award.
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## Deputy Assistant Secretary of Defense for Industrial Policy and DoD Office of Small Business Programs



ACQUISITION  
AND SUSTAINMENT

### OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

AUG 21 2020

██████████  
Program Director for Audit  
Acquisition, Contracting, and Sustainment  
Department of Defense, Office of Inspector  
4800 Mark Center Drive  
Alexandria, VA 22350-1500

Dear ██████████,

The Deputy Assistant Secretary of Defense for Industrial Policy (DASD (INDPOL)) and the Director, DoD Office of Small Business Programs (OSBP), both appreciate the opportunity to respond and comment on the Department of Defense Office of the Inspector General (DoDIG) Draft Report, *Audit of the Solicitation, Award, and Administration of Washington Headquarters Services Contract and Task Orders for Office of Small Business Programs* (Project No. D2019-D000AH-0195.000), dated June 15, 2020.

The DASD (INDPOL) has asked me to respond on his behalf, and I am also responding as the OSBP Director. Attached to this letter are DASD (INDPOL) and OSBP's responses to the recommendations in the Draft Report. DASD (INDPOL) and OSBP concur with all of the recommendations the DoDIG addressed to their organizations in its Draft Report, and in the attachments set forth actions that have either already been taken or will be taken in response to these recommendations, as well as the target dates by which they intend to complete such actions.

My point of contact is ██████████

Sincerely,

8/21/2020

X Amy Murray

Amy Murray

Amy Y. Murray  
Deputy DASD (INDPOL) and  
Director, OSBP

## Deputy Assistant Secretary of Defense for Industrial Policy and DoD Office of Small Business Programs (cont'd)

Attachments:  
As stated

Cc: [REDACTED]

## Deputy Assistant Secretary of Defense for Industrial Policy and DoD Office of Small Business Programs (cont'd)

**DEPARTMENT OF DEFENSE OFFICE OF THE INSPECTOR GENERAL (DODIG)  
DRAFT REPORT, DATED JUNE 15, 2020  
PROJECT NO. D2019-D000AH-0195.000**

**“Audit of the Solicitation, Award, and Administration of Washington Headquarters Services Contract and Task Orders for Office of Small Business Programs”**

The Deputy Assistant Secretary of Defense for Industrial Policy’s (DASD (INDPOL)) comments to the DoDIG’s recommendations are as follows:

**RECOMMENDATION 2:** We recommend that the Deputy Assistant Secretary of Defense, Industrial Policy:

- a. establishes controls for higher level review and approval of OSBP contracting requirements, including an adequate segregation of duties; and
- b. review the actions of the MPP Program Manager related to the unjustified duplication of efforts for the development of a Mentor-Protégé Program web portal and initiate administrative action, as appropriate.

**DASD (INDPOL) RESPONSE, RECOMMENDATION 2(a):** Concur.

DASD (INDPOL) has established controls for higher level review and approval of DoD Office of Small Business Programs (OSBP) contracting requirements. OSBP contracting actions must now be reviewed and approved by senior leadership in ODASD (INDPOL) prior to finalization. Additionally, OSBP is hiring additional staff at both the leadership and action officer levels to ensure both appropriate levels of oversight and segregation of duties of the civilian staff.

Estimated Completion: Many of the changes associated with this recommendation have been put in place. Remaining actions are expected to be complete by Q2 Fiscal Year (FY) 2021.

**DASD (INDPOL) RESPONSE, RECOMMENDATION 2(b):** Concur.

DASD (INDPOL) and Director, OSBP, have begun to review the actions of the MPP Program Manager related to the unjustified duplication of efforts for the development of a Mentor-Protégé Program web portal. Administrative actions will be initiated, if appropriate.

Estimated Completion: Efforts related to this recommendation began in Q3 FY 2020 and are anticipated to be completed by Q1 FY 2021.

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## Deputy Assistant Secretary of Defense for Industrial Policy and DoD Office of Small Business Programs (cont'd)

**DEPARTMENT OF DEFENSE OFFICE OF THE INSPECTOR GENERAL (DODIG)  
DRAFT REPORT, DATED JUNE 15, 2020  
PROJECT NO. D2019-D000AH-0195.000**

**“Audit of the Solicitation, Award, and Administration of Washington Headquarters Services Contract and Task Orders for Office of Small Business Programs”**

The Director, DoD Office of Small Business Programs’ (OSBP) comments to the DoDIG’s recommendations are as follows:

**RECOMMENDATION 3:** We recommend that the Director, DoD Office of Small Business Programs, develop and implement policies and procedures to:

- a. verify and ensure that program officials develop performance work statements with contract requirements that are clear, specific, and with objective terms and measurable outcomes;
- b. require that CORs maintain a contract file documenting contractor performance and the review and approval of contract deliverables;
- c. verify and ensure that CORs perform required contract administration duties and hold them accountable; and
- d. ensure that future information technology acquisitions have the appropriate FedRAMP security level.

**OSBP RESPONSE, RECOMMENDATION 3(a):** Concur.

OSBP, working with Washington Headquarters Service (WHS), has taken action to refine and improve the development of performance work statements (PWSs). Recent PWS and support documents underwent expert review for improvement and clarification of tasks, deliverables, and quality control elements, and OSBP PWSs and other acquisition documents will continue to be so reviewed moving forward.

Estimated Completion: Complete. PWS creation is an ongoing activity in any program office; work to improve requirements generation began in Fiscal Year (FY) 2020.

**OSBP RESPONSE, RECOMMENDATION 3(b):** Concur.

OSBP is working to ensure that contracting officer’s representatives (CORs) supporting its contract actions maintain contract files with the correct documentation of work and deliverables. Two important elements of this effort are ensuring that CORs are certified and properly trained to maintain contract files and ensuring that CORs have adequate time in which to complete COR functions and responsibilities.

Estimated Completion: OSBP estimates that this effort can be completed by Q2 FY 2021.

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## Deputy Assistant Secretary of Defense for Industrial Policy and DoD Office of Small Business Programs (cont'd)

**OSBP RESPONSE, RECOMMENDATION 3(c): Concur.**

OSBP is working to ensure that CORs supporting its contract actions perform contract administration duties. Two important elements of this effort are ensuring that CORs are certified and properly trained to perform these duties and ensuring that CORs have adequate time in which to complete COR functions and responsibilities. Additionally, OSBP is adding additional staff at both the leadership and action officer levels to allow for appropriate levels of oversight and workload balance for the civilian staff.

Estimated Completion: OSBP estimates that this effort can be completed by Q2 FY2021.

**OSBP RESPONSE, RECOMMENDATION 3(d): Concur.**

OSBP will ensure that future information technology acquisitions have the appropriate Federal Risk and Authorization Management Program (FedRAMP) security level.

Estimated Completion: OSBP estimates that this effort can be completed by the end of Q1 FY 2021, when the next information technology (IT) acquisition activity is planned to begin.

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## Acronyms and Abbreviations

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<b>AD</b>	Acquisition Directorate
<b>ADAP</b>	Acquisition Directorate Acquisition Policy
<b>A&amp;S</b>	Acquisition & Sustainment
<b>AT&amp;L</b>	Acquisition, Technology, and Logistics
<b>COR</b>	Contracting Officer's Representative
<b>CPARS</b>	Contractor Performance Assessment Reporting System
<b>DFARS</b>	Defense Federal Acquisition Regulation Supplement
<b>DoD</b>	Department of Defense
<b>DoDI</b>	Department of Defense Instruction
<b>FAR</b>	Federal Acquisition Regulation
<b>FedRAMP</b>	Federal Risk and Authorization Management Program
<b>IDIQ</b>	Indefinite - Delivery Indefinite Quantity (lowercase in text)
<b>IPMR</b>	Internal Procurement Management Review
<b>MPP</b>	Mentor Protégé Program
<b>OSBP</b>	Office of Small Business Programs
<b>OUSD</b>	Office of the Under Secretary of Defense
<b>PMR</b>	Procurement Management Review
<b>QASP</b>	Quality Assurance Surveillance Plans
<b>PGI</b>	Procedures, Guidance, and Information
<b>PWS</b>	Performance Work Statement
<b>R&amp;E</b>	Research & Engineering
<b>SBIR/STTR</b>	Small Business Innovation Research and Small Business Technology Transfer
<b>SME</b>	Subject Matter Expert (lowercase in text)
<b>WAWF</b>	Wide Area Workflow
<b>WHS</b>	Washington Headquarters Services

# **Whistleblower Protection**

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

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