

CUI



# INSPECTOR GENERAL

*U.S. Department of Defense*

JULY 21, 2022

## (U) Audit of Sole-Source Depot Maintenance Contracts

**Controlled by:** DeD-OIG

**Controlled by:** Audit/Acquisition, Contracting, and Sustainment

**CUI Category:** PROCURE/OPSEC/PRIVILEGE

**LDC:** FEDONLY

INTEGRITY ★ INDEPENDENCE★ EXCELLENCE

CUI





# (U) Results in Brief

## *(U) Audit of Sole-Source Depot Maintenance Contracts*

**(U) July 21, 2022**

### **(U) Objective**

(U) The objective of this audit was to determine whether the Military Services and Defense agencies negotiated fair and reasonable prices for sole-source depot maintenance contracts performed at contractor facilities.

(U) This audit was in response to a reporting requirement included in House Report 116-333, the conference report to accompany Public Law 116-92, the “National Defense Authorization Act for Fiscal Year 2020,” December 20, 2019. The conference report required the DoD Office of Inspector General to audit each Military Service and Defense agency to determine whether there had been any excess cost escalation for sole-source depot maintenance contracts.

### **(U) Background**

(U) The DoD assigns different levels of maintenance to repair parts depending on the skill level, tooling, and facilities needed to execute the repairs. Depot-level repair is the most sophisticated level of maintenance. Depot-level repair consists of repairing a major end item, such as an aircraft or ship, by performing repairs and replacing parts on the system.

(U) To accomplish depot maintenance, the DoD has 17 Government-owned, Government-operated depot maintenance facilities to repair aircraft, ships, electronics and communications equipment, missiles, and other weapon systems. When the DoD does not have the capacity or technical expertise to perform depot maintenance, it contracts the work to contractor-owned and contractor-operated depots. Due to the complexity and extensive level of work required for depot maintenance, these contracts are often sole-source contracts.

### **(U) Background (cont'd)**

(U) Sole-source contracts are contracts for the purchase of supplies or services that are entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source. Justifications for sole-source acquisitions include unusual or compelling urgency, only one responsible source is available to meet the Government's needs, or national security. According to the Federal Acquisition Regulation, only one responsible source is available if:

- (U) an award to any other source would result in substantial duplication of cost to the Government;
- (U) the acquisition will be conducted under a follow-on contract for the continued development or production of a major system or highly specialized equipment; or
- (U) the services are available from only one source or a limited number of sources.

(U) Similarly, single-source contracts occur when multiple companies can provide the supply or service, but only one company bids on the contract. We included both sole-source and single-source contracts in our sample because Federal and Defense acquisition regulations require contracting officials to follow similar procedures for sole-source and single-source contracts.

### **(U) Findings**

(U) DoD contracting officials negotiated fair and reasonable prices for 13 of 34 sole-source and single-source depot maintenance contracts we reviewed, valued at \$1.7 billion, by complying with Federal and DoD acquisition regulations, and implementing sole-source pricing best practices during contract planning, proposal evaluation, and negotiations.

(U) However, DoD contracting officials may not have negotiated fair and reasonable prices for 21 of 34 sole-source and single-source depot maintenance contracts we reviewed, valued at \$4.6 billion, because DoD officials did not provide well-defined requirements, in accordance with Federal and DoD acquisition regulations. In addition, factors beyond



# (U) Results in Brief

## *(U) Audit of Sole-Source Depot Maintenance Contracts*

### **(U) Findings (cont'd)**

(U) the control of the DoD contracting officials limited their ability to negotiate fair and reasonable prices. For example:

- (U) the nature of sole-source contracting led to DoD contracting officials accepting late or incomplete proposals, which added pressure on DoD contracting officials to meet award date deadlines and accept higher prices;
- (U) Federal and Defense acquisition policies limited the amount of cost or pricing data that DoD contracting officials could obtain for commercial contracts;
- (U) contractor direct and indirect labor and overhead rates increased beyond industry inflation; and
- (U) aging weapon systems required more frequent and unexpected repairs, and the parts needed became scarce or obsolete, which resulted in increased costs.

(U) Although the DoD realized cost reductions of at least \$12.0 million, and cost escalation of less than 1 percent for 13 of the 34 contracts, the DoD paid at least \$71.9 million in cost escalation for 21 of 34 contracts and experienced schedule delays that impacted the ability of the Military Services to meet their mission and affected DoD readiness worldwide.

(U) In addition, although Naval Sea Systems Command (NAVSEA) contracting officials solicited dry-dock ship repair contracts using competitive procedures in accordance with Federal and Defense acquisition regulations, NAVSEA contracting officials awarded 17 of 49 contracts as single-source contracts from FY 2017 through FY 2021. According to major defense ship contractor officials, they did not bid on ship maintenance contracts because they did not have available dry docks. In addition, officials from major defense ship contractors stated that they did not bid on ship maintenance contracts because of NAVSEA's

(U) contracting procedures, which included applying additional fees for costs incurred and not meeting contract award timelines. As a result, single-source contracts increased the risk of higher costs and contributed to schedule delays. Any schedule delays in returning ships to the Navy's fleet could affect the Navy's readiness worldwide.

### **(U) Recommendations**

(U) Among other recommendations, we recommend that the Executive Director of the Army Contracting Command (ACC)-Redstone Arsenal and the Commanders of the Air Force Life Cycle Management Center (AFLCMC) and Naval Supply Systems Command (NAVSUP) require the contracting officials responsible for specific contracts in our sample to work with program offices to determine whether the existing processes can be improved.

(U) In addition, we recommend that the Commander of the Air Force Sustainment Center (AFSC) and the ACC Commanding General require contracting officers to request uncertified cost and pricing data that is sufficient to support the contracting officers' determination of fair and reasonable prices when negotiating sole-source commercial contracts. In addition, we recommend that the AFSC Commander and the ACC Commanding General require contracting officers to document the contractor's response to the request, and report any refusals of data to the Principal Director of Defense Pricing and Contracting, in accordance with the Defense acquisition regulations.

(U) Furthermore, we recommend that the NAVSEA Commander and the Commander of the Navy Regional Maintenance Center:

- (U) collaborate with major defense contractors to continue to discuss and document potential initiatives to increase the number of contractor-owned dry docks;



# (U) Results in Brief

## *(U) Audit of Sole-Source Depot Maintenance Contracts*

### **(U) Recommendations (cont'd)**

- (U) review the policies and procedures for developing requirements for ship repair maintenance to identify best ways to reduce the number of change orders issued; and
- (U) review work item packages to develop clear requirements for routine depot maintenance tasks.

(U) As a result of management comments, we redirected one recommendation to the Commanding General of the U.S. Army Aviation and Missile Command. We request that the Commanding General provide comments in response to this recommendation.

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

### **(U) Management Comments and Our Response**

(U) The Procurement/Insight Oversight Director, on behalf of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology); the Air Force Materiel Command Executive Director, responding for the AFSC and AFLCMC Commanders; the NAVSUP Weapon Systems Support Commander, responding for the NAVSUP Commander; and the NAVSEA Commander agreed with our 13 recommendations and provided comments and corrective actions to address the recommendations. Therefore, the recommendations are resolved but remain open. We will close the 13 recommendations when we verify that the information provided and agreed-upon actions fully address the recommendations.

## (U) Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
(U) Commander, Naval Sea Systems Command	None	B.1.a, B.1.b, B.2.a, B.2.b, B.2.c, B.2.d	None
(U) Commander, Naval Supply Systems Command	None	A.1.a, A.1.b	None
(U) Commander, Navy Regional Maintenance Center	None	B.1.a, B.1.b	None
(U) Commanding General, Army Contracting Command	None	A.5	None
(U) Commander, Air Force Life Cycle Management Center	None	A.6	None
(U) Commander, Air Force Sustainment Center	None	A.4	None
(U) Commanding General, Army Aviation and Missile Command	A.2	None	None
(U) Executive Director, Army Contracting Command-Redstone Arsenal	None	A.3.a, A.3.b	None

(U) Please provide Management Comments by August 22, 2022.

**(U) Note:** The following categories are used to describe agency management's comments to individual recommendations.

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





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

July 21, 2022

(U) MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION  
AND SUSTAINMENT

DIRECTOR, MISSILE DEFENSE AGENCY  
AUDITOR GENERAL, DEPARTMENT OF THE ARMY  
AUDITOR GENERAL, DEPARTMENT OF THE NAVY  
AUDITOR GENERAL, DEPARTMENT OF THE AIR FORCE

(U) SUBJECT: Audit of Sole-Source Depot Maintenance Contracts  
(Report No. DODIG-2022-104)

(U) 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.

(U) This report contains one recommendation that we consider unresolved because we redirected the recommendation to the Commanding General of the U.S. Army Aviation and Missile Command based on comments received on the draft report. We will track this recommendation as unresolved and open until an agreement is reached on the actions that the Commanding General will take to address the recommendation. DoD Instruction 7650.03 requires that recommendations be resolved promptly. Therefore, please provide us within 30 days your response concerning specific actions in progress or alternative corrective actions proposed on the recommendation. Send your response to [audacs@dodig.mil](mailto:audacs@dodig.mil).

(U) DoD contracting leadership agreed to address the remaining recommendations presented in the report; therefore, we consider 13 recommendations resolved and open. As described in the Recommendations, Management Comments, and Our Response section of this report, we will close the recommendations when you provide us documentation and we verify that all agreed-upon actions to implement the recommendations are completed. Therefore, please provide us within 90 days your response concerning specific actions in process or completed on the recommendations. Send your response to either [followup@dodig.mil](mailto:followup@dodig.mil) if unclassified or [REDACTED] if classified SECRET.

(U) If you have any questions please contact me at [REDACTED].

A handwritten signature in black ink, appearing to read "T M Wimette".

Timothy M. Wimette  
Deputy Assistant Inspector General for Audit  
Acquisition, Contracting, and Sustainment

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# (U) Introduction

## (U) Objective

(U) The objective of this audit was to determine whether the Military Services and Defense agencies negotiated fair and reasonable prices for sole-source depot maintenance contracts performed at contractor facilities.

(U) This audit is in response to a reporting requirement included in House Report 116-333, the conference report to accompany Public Law 116-92, the “National Defense Authorization Act for FY 2020,” December 20, 2019. The conference report required the DoD Office of Inspector General (DoD OIG) to audit each Military Service and Defense agency to determine whether there has been any excess cost escalation for sole-source depot maintenance contracts.<sup>1</sup> The depot maintenance contracts include costs for parts, supplies, equipment, and labor rates for maintenance services. See Appendix A for our scope and methodology and Appendix B for our prior coverage related to the objective.

## (U) Background

(U) Maintenance of the DoD’s weapon systems and mission support assets is a critical element in the readiness and sustainability of combat forces. The DoD executes maintenance as a core logistics function and employs a maintenance structure of field-level and depot-level maintenance that use various functional capabilities and processes to achieve objectives. Specifically, the DoD designates field-level maintenance or depot-level maintenance depending on the skill level, tooling, and facilities needed to execute the repairs.

(U) Field-level maintenance comprises two sub-levels, shop-type work (intermediate), as well as on-equipment maintenance (organizational). Intermediate maintenance consists of calibration, repair, or replacement of damaged or unserviceable parts, components, or assemblies. Organizational maintenance consists of inspecting, servicing, lubricating, and adjusting, as well as replacing parts, minor assemblies, and subassemblies.

(U) Depot-level maintenance entails materiel maintenance requiring the major repair, overhaul, or complete rebuilding of weapon systems, end items, parts, assemblies, and subassemblies; manufacture of parts; technical assistance; and testing. Depot-level maintenance is the most sophisticated level of maintenance, and consists of repairing a major end item, such as an aircraft or ship, by performing repairs on repairable parts and replacing consumable parts on the system.

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<sup>1</sup> (U) Federal and Defense acquisition regulations do not define cost escalation. Therefore, we defined cost escalation as a cost increase beyond reported Bureau of Labor Statistics inflation rates, when comparing contract prices in our sample to previous contracts for the same services and performed by the same contractor.

(U) The distribution of maintenance workloads among the public and private sectors is instrumental in maintaining a robust and viable industrial base. Specifically, to conduct the DoD's core depot-level maintenance requirements, the DoD maintains 17 Government-owned, Government-operated depot maintenance facilities to repair weapon systems.<sup>2</sup> When the DoD does not have the capacity or technical expertise to perform depot-level maintenance, it issues contracts for depot-level maintenance performed at contractor-owned and contractor-operated depots. These contracts are often sole-source.

(U) Sole-source acquisitions are contracts for the purchase of supplies or services that are entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source. Justifications for sole-source acquisitions include unusual or compelling urgency, only one responsible source available, or national security. According to the Federal Acquisition Regulation (FAR), only one responsible source is available if:

- (U) an award to any other source would result in substantial duplication of cost to the Government;
- (U) the acquisition will be conducted under a follow-on contract for the continued development or production of a major system or highly specialized equipment, or the source offers unique supplies; or
- (U) services are available from only one source or a limited number of sources.<sup>3</sup>

(U) Similarly, single-source contracts occur when multiple companies can provide the supply or service, but only one company bids on the contract. We included both sole-source and single-source contracts in our sample because the FAR and Defense Federal Acquisition Regulation Supplement (DFARS) require contracting officials to follow similar procedures for sole-source and single-source contracts.

### ***(U) Roles and Responsibilities***

(U) The Office of the Under Secretary of Defense for Acquisition and Sustainment is responsible for all matters pertaining to acquisition, logistics, materiel readiness, and the defense industrial base. The Assistant Secretary of Defense (Sustainment) serves as the principal advisor to the Under Secretary of Defense for Acquisition and Sustainment on logistics and materiel readiness in the DoD. The Office of the

<sup>2</sup> (U) The DoD's 17 Government-owned, Government-operated depots are Anniston Army Depot; Corpus Christi Army Depot; Letterkenny Army Depot; Red River Army Depot; Tobyhanna Army Depot; Fleet Readiness Center East; Fleet Readiness Center Southeast; Fleet Readiness Center Southwest; Norfolk Naval Shipyard; Pearl Harbor Naval Shipyard; Portsmouth Naval Shipyard; Puget Sound Naval Shipyard; Ogden Air Logistics Complex; Oklahoma City Air Logistics Complex; Warner Robins Air Logistics Complex; Marine Corps Logistics Base Albany; and Marine Corps Logistics Base Barstow.

<sup>3</sup> (U) FAR 6.302-1, "Only One Responsible Source and No Other Supplies or Services will Satisfy Agency Requirements."

(U) Assistant Secretary of Defense (Sustainment) is responsible for monitoring and reviewing all logistics, maintenance, materiel readiness, and sustainment support programs within the DoD.

(U) The Office of the Deputy Assistant Secretary of Defense (Materiel Readiness) serves under the Office of the Assistant Secretary of Defense (Sustainment).

The Deputy Assistant Secretary of Defense (Materiel Readiness) is the principal advisor for policies and procedures for maintenance support of major weapon systems and military equipment. The Office of the Deputy Assistant Secretary of Defense (Materiel Readiness) provides the functional expertise for centralized maintenance policy and management oversight for all weapon systems and military equipment maintenance programs and related resources within the DoD.

(U) Defense Pricing and Contracting (DPC) is under the Office of the Under Secretary of Defense for Acquisition and Sustainment. DPC is responsible for all pricing, contracting, and procurement policy matters in the DoD. DPC executes policy through the update of DFARS and DFARS Procedures, Guidance, and Information (PGI). In 2021, DPC published its Sole-Source Pricing Best Practices to provide suggestions and recommendations for sole-source acquisitions to contracting officers and acquisitions teams across the DoD.<sup>4</sup> The best practices serve as guidance to consider when developing acquisition strategies, preparing requests for proposals (RFPs), performing proposal evaluations, and conducting negotiations.

### ***(U) Army Depot Maintenance Governance***

(U) The U.S. Army Materiel Command (AMC) is the Army's primary logistics and sustainment command. Headquartered at Redstone Arsenal (RSA), Alabama, the AMC has 11 major subordinate commands that include the Army Contracting Command (ACC), headquartered at RSA. The ACC is the Army's principal buying agent, with core competencies in contracting and life cycle management. The ACC's primary locations include ACC-RSA, Alabama; ACC-Aberdeen Proving Ground, Maryland; and ACC-Detroit Arsenal, Michigan.

### ***(U) Navy Depot Maintenance Governance***

(U) The Naval Sea Systems Command (NAVSEA) is the largest of the Navy's five system commands and accounts for nearly a quarter of the Navy's entire budget. NAVSEA, headquartered at Washington Navy Yard, Washington D.C., is responsible for building, buying, and maintaining the ships, submarines, and combat systems that meet the fleet's current and future operational

<sup>4</sup> (U) DPC, "Sole Source Pricing Best Practices/Lessons Learned," June 14, 2021.

(U) requirements. NAVSEA field activities include the Commander, Navy Regional Maintenance Center (CNRMC), which is responsible for coordinating the depot- and intermediate-level maintenance of the Navy's surface fleet.<sup>5</sup> The CNRMC oversees the operation and management of the Navy's Regional Maintenance Centers (RMCs) in their execution of surface ship maintenance and modernization. The Navy has five RMCs in the United States. The CNRMC leads the RMCs in developing and executing standardized maintenance and modernization processes, instituting common policies, standardizing training for a consistent business model across the RMCs, and providing cost-effective readiness to the Navy's surface ship fleets.

(U) The Naval Supply Systems Command (NAVSUP), headquartered in Mechanicsburg, Pennsylvania, manages supply chains that provide material for Navy aircraft, surface ships, and submarines, and their associated weapons systems. NAVSUP provides a wide range of services, including contracting for supplies and services, and providing material management and warehousing services.

(U) The Naval Information Warfare Systems Command (NAVWAR), headquartered in San Diego, California, identifies, develops, delivers, and sustains information warfighting capabilities supporting naval, joint, coalition, and other national missions. NAVWAR focuses on capable and secure communications and networks that span platforms and facilities.

### **(U) Air Force Depot Maintenance Governance**

(U) The Air Force Materiel Command is responsible for providing and overseeing depot repair, supply, and distribution processes, and for providing integrated life cycle management support to the Air Force. The Air Force Materiel Command, headquartered at Wright-Patterson Air Force Base, Ohio, commands six centers, including the Air Force Sustainment Center (AFSC) and the Air Force Life Cycle Management Center (AFLCMC). The AFSC, headquartered at Tinker Air Force Base, Oklahoma, is responsible for advocating for the provision of logistics operations, supply chain management, and depot maintenance and modification. The AFLCMC, headquartered at Wright-Patterson Air Force Base, is the center responsible for total life cycle management of all aircraft, engines, munitions, and electronic systems for the Air Force.

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<sup>5</sup> (U) In this report, we use Commander, Navy Regional Maintenance Center, to refer to the field activity, and Commander of the Navy Regional Maintenance Center to refer to the commander of the field activity.

## **(U) Defense Contract Management Agency**

(U) The Defense Contract Management Agency (DCMA) provides contract administration services for the DoD and other Federal organizations. The DCMA is an essential part of the acquisition process, from pre-award to sustainment, ensuring that Federal agencies get the equipment and services they need, delivered on time, at the projected cost, and meeting all performance requirements. In addition, the DCMA evaluates and establishes pricing agreements with contractors for direct and indirect labor rates and overhead to help DoD contracting officials negotiate fair and reasonable pricing.

## **(U) Criteria**

(U) The FAR requires contracting officers to purchase supplies and services from responsible sources at fair and reasonable prices.<sup>6</sup> The FAR and DFARS prescribe policies and procedures for requesting and analyzing data from contractors and negotiating fair and reasonable prices.

(U) The FAR requires contracting officers to obtain certified cost or pricing data for acquisitions that exceed the Truthful Cost or Pricing Data Act (formerly known as the Truth in Negotiations Act) threshold and do not meet certain exceptions, such as contracts based on competition, or the purchase of commercial items.<sup>7</sup> The National Defense Authorization Act for FY 2018 increased the Truthful Cost or Pricing Data Act threshold from contracts valued at \$750,000 to \$2 million for contracts awarded after June 30, 2018. The Truthful Cost or Pricing Data Act requires contractors to certify their cost and pricing data as accurate, complete, and current.

(U) The FAR prohibits contracting officers from requesting “certified cost or pricing data” when prices are based on adequate price competition, when commercial items or services are acquired; or when a waiver has been granted.<sup>8</sup> In these instances, the FAR allows contracting officers to request “data other than certified cost or pricing data” to determine whether prices are fair and reasonable. However, DFARS PGI states that for sole-source commercial contracts it is critical to obtain sufficient data from the offeror, such as commercial sales data, to determine whether prices are fair and reasonable.<sup>9</sup>

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<sup>6</sup> (U) FAR 15.402, “Pricing Policy.”

<sup>7</sup> (U) FAR 15.403-4, “Requiring Certified Cost or Pricing Data.”

<sup>8</sup> (U) FAR 15.403-1, “Prohibition On Obtaining Certified Cost or Pricing Data.”

<sup>9</sup> (U) DFARS PGI 215.402, “Pricing Policy.”

(U) According to the FAR, a commercial item means any item that is of a type customarily used by the general public or by non-Government entities for the purposes other than governmental purposes; and has been offered for sale or sold, leased, or licensed to the general public. Commercial services are services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices. The FAR states that commercial maintenance or repair services must be purchased to support a commercial item and must be sold in significant quantities to the general public under similar terms and conditions.<sup>10</sup>

(U) In addition, the FAR states that DoD contracting officials have a responsibility to perform reviews of contractor proposals to establish the Government negotiation position and to determine fair and reasonable prices. Specifically, the FAR requires contracting officers to perform a cost analysis to evaluate the reasonableness of individual cost elements when certified cost or pricing data are required. The FAR defines cost analysis as the review and evaluation of individual cost elements and profit or fee in an offeror's or contractor's proposal. Conversely, contracting officers must perform a price analysis when certified cost or pricing data are not required. A price analysis includes a comparison of proposed prices to historical prices paid for the same or similar items. However, the historical prices paid must be adjusted to account for materially differing terms and conditions, quantities, and market and economic factors. Although the FAR only requires a price analysis when data other than certified cost or pricing data is required, contracting officers may also perform a cost analysis if it is needed to determine fair and reasonable prices.<sup>11</sup>

(U) The FAR states that the purpose of performing a cost or price analysis is to develop a negotiation position that allows the contracting officer to reach agreement on a fair and reasonable price. According to the FAR, a fair and reasonable price does not require that agreement be reached on every element of cost, nor is it mandatory that the agreed price be within the contracting officer's initial negotiation position. Instead, the contracting officer is responsible for exercising the requisite judgment needed to reach a negotiated settlement with the offeror and is solely responsible for the final price agreement.<sup>12</sup>

<sup>10</sup> (U) FAR 2.101, "Definitions of Words and Terms."

<sup>11</sup> (U) FAR 15.404, "Proposal Analysis."

<sup>12</sup> (U) FAR 15.405, "Price Negotiation"

(U) The DCMA is required to help DoD contracting officials negotiate fair and reasonable pricing by establishing Forward Pricing Rate Agreements (FPRAs) and Forward Pricing Rate Recommendations (FPRRs). An FPRA is a written agreement negotiated between a contractor and the Government to make direct and indirect labor, overhead, and general and administrative rates available during a specified period for use in pricing contracts or modifications. These rates represent reasonable projections of specific costs that are not easily estimated for, identified with, or generated by a specific contract, contract end item, or task. An FPRR is a rate set unilaterally by DCMA administrative contracting officers for use by the Government in negotiations or other contract actions when an FPRA is not available. FPRRs or FPRAs are required for all contractors whose sales to the Government, during the contractor's next fiscal year, are expected to exceed \$200 million. Contracting officials are required to use FPRAs, if available, as the basis for pricing all contracts, modifications, and other contractual actions.

(U) The Military Services and Defense agencies used several different types of contracts for depot maintenance, including firm-fixed-price contracts, cost-reimbursement contracts, indefinite-delivery indefinite-quantity (IDIQ) contracts, and basic ordering agreements. According to the FAR, a firm-fixed-price contract provides a price that is not subject to any adjustment. Firm-fixed-price contracts are most suitable when there are definite and detailed specifications, because these types of contracts place maximum risk and responsibility for costs on contractors.

(U) The FAR defines cost-reimbursement contracts as contracts that provide for payment of allowable incurred costs, to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at the contractor's own risk) without the approval of the contracting officer. Cost reimbursement contracts are appropriate when the Government cannot sufficiently define requirements.<sup>13</sup>

(U) Contracting officials can use IDIQ contracts to acquire supplies or services when the exact times and exact quantities or both for future deliveries are not known at the time of contract award. IDIQ contracts typically have prices set in the contract, and delivery orders are placed at those prices.<sup>14</sup>

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<sup>13</sup> (U) FAR 16.3, "Cost Reimbursement Contracts."

<sup>14</sup> (U) FAR 16.5, "Indefinite-Delivery Contracts."

(U) A basic ordering agreement is not a contract negotiated between the Government and a contractor. Instead, it is a written understanding that contains terms and clauses, which are applied to future contracts (orders). The parties negotiate all pricing under basic ordering agreements on individual delivery orders, which then become independent contracts.<sup>15</sup>

### **(U) Our Sample**

(U) For our audit, we identified 244 sole-source and single-source contracts for depot maintenance across all of the Military Services and Defense agencies that exceeded the Truthful Cost or Pricing Data Act threshold. We determined that none of the Defense agencies awarded sole-source contracts for depot maintenance performed at a contractor facility because either the Defense agencies used competitive procedures, or the depot maintenance was performed at a DoD-owned depot. We selected a nonstatistical sample of 34 contracts across the Services that correlated proportionately with the DoD's FY 2020 depot maintenance budget request by dollar value and weapon system type. Our review of depot maintenance work included reviews of contract line item numbers (CLINs), parts, labor rates, or hours.

(U) See Appendix A for a breakdown of our sample compared to the DoD's FY 2020 Depot Maintenance Budget Request and additional information related to our sample and methodology for the report. See Appendix C for a table that depicts the Service, contract number, total dollar value, dollar value of depot maintenance, and weapon system type of our contract sample.

### **(U) Review of Internal Controls**

(U) 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>16</sup> We identified internal control weaknesses when DoD contracting officers planned, evaluated, and negotiated sole-source and single-source depot maintenance contracts that may have impacted fair and reasonable determinations. Specifically, we identified that DoD contracting officials did not comply with FAR and DFARS policy when defining contract requirements. In addition, we identified that NAVSEA contracting officials limited competition when soliciting and awarding depot maintenance ship repair contracts. We will provide a copy of the report to the senior officials responsible for internal controls at the AMC, ACC, NAVSEA, NAVSUP, and AFLCMC.

<sup>15</sup> (U) FAR 16.703, "Basic Ordering Agreements."

<sup>16</sup> (U) DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013.

## (U) Finding A

### (U) DoD Officials Implemented Best Practices to Obtain Fair and Reasonable Prices, but Challenges in Sole-Source Contracting Remain

(U) DoD contracting officials negotiated fair and reasonable prices for 13 of 34 sole-source and single-source depot maintenance contracts, valued at \$1.7 billion, because DoD contracting officials complied with Federal and DoD acquisition regulations, and used best practices during contract planning, proposal evaluation, and negotiations. However, DoD contracting officials may not have negotiated fair and reasonable prices for 21 of 34 sole-source and single-source depot maintenance contracts, valued at \$4.6 billion, because DoD officials did not provide well-defined requirements, in accordance with Federal and DoD acquisition regulations. In addition, factors beyond the control of the DoD contracting officials limited their ability to negotiate fair and reasonable prices. For example:

- (U) the nature of sole-source contracting led to DoD contracting officials accepting late or incomplete proposals, which added pressure on DoD contracting officials to meet contract award date deadlines and accept higher prices;
- (U) Federal and Defense acquisition policies limited the amount of cost or pricing data that DoD contracting officials could obtain for commercial contracts;
- (U) contractor direct and indirect labor and overhead rates increased beyond industry inflation; and
- (U) aging weapon systems required more frequent and unexpected repairs, and encountered obsolescence challenges, resulting in increased costs.

(U) Although the DoD realized cost reductions of at least \$12.0 million, and cost escalation of less than 1 percent for 13 of the 34 contracts, the DoD paid at least \$71.9 million in cost escalation for 21 of 34 contracts and experienced schedule delays that impacted the ability of the Military Services to meet their mission and affected DoD readiness worldwide.

## (U) DoD Contracting Officials Used Best Practices to Negotiate Fair and Reasonable Prices

(U) DoD contracting officials negotiated fair and reasonable prices for 13 of 34 sole-source and single-source depot maintenance contracts, valued at \$1.7 billion. This occurred because DoD contracting officials complied with Federal and DoD acquisition regulations, and implemented several best practices during contract planning, proposal evaluation, and negotiations. The FAR provides policies and procedures for contracting officers to use when planning, analyzing proposals, and negotiating contracts, such as early exchanges of information with interested parties before acquisitions.<sup>17</sup> In addition, the DPC published Sole-Source Pricing Best Practices to provide suggestions and recommendations for contracting officers to consider when developing acquisition strategies, preparing RFPs, performing proposal evaluations, and conducting negotiations.<sup>18</sup> For 13 of 34 sole-source and single-source depot maintenance contracts reviewed, DoD contracting officials complied with the FAR and implemented DPC sole-source best practices, which resulted in fair and reasonable prices.<sup>19</sup> Specifically, DoD contracting officials demonstrated early communication of contract requirements, identified and coordinated proposal evaluation teams, obtained actual costs incurred for recent acquisitions, engaged in fact-based negotiations, and maintained positive working relationships with contractors. As a result, contracting officials for 12 of the 13 contracts negotiated cost reductions valued at \$12.0 million, and contracting officials for 1 of 13 contracts negotiated minimal cost escalation of one percent or less.<sup>20</sup> To identify changes in price, we compared our sample contract prices to other contracts with the same contractor for the same service. To account for the differences in Bureau of Labor Statistics estimated inflation compared to actual inflation incurred, conservatively, we considered that cost escalation of 1 percent or less compared to the portion of the contract that we reviewed was minimal.<sup>21</sup> See Table 1 for a summary of the contracts with cost reductions. See Table 2 for a summary of the contracts with minimal cost escalation.

<sup>17</sup> (U) FAR 15.201, "Exchanges with Industry Before Receipt of Proposals"; FAR 15.404.1, "Proposal Analysis Techniques."

<sup>18</sup> (U) DPC, "Sole Source Pricing Best Practices/Lessons Learned," June 14, 2021.

<sup>19</sup> (U) DoD contracting officials practiced multiple best practices for some of the contracts in our sample, which resulted in minimal cost escalation or cost reductions. Therefore, the contracts discussed in our DoD Contracting Officials Used Best Practices to Negotiate Fair and Reasonable Prices section will equal more than 13 contracts.

<sup>20</sup> (U) Some of our contracts included work outside our scope. Therefore, we limited our review to the depot maintenance-specific CLINs.

<sup>21</sup> (U) We applied U.S Bureau of Labor Statistics inflation rates to the prior contract prices. However, the U.S Bureau of Labor Statistics captures actual inflation that occurred, after the fact. Therefore, this information would not have been available at the time of contract negotiations and award.

(U) Table 1. Summary of Contracts With Cost Reductions by Percentage

Command	Contract/ Delivery Order	Total Contract Value	Portion of Contract Reviewed	Value of Cost Reduction From Portion of Contract Reviewed	Cost Reduction as Percentage of Value Reviewed
ACC	W56HZV-18-C-0062	\$ 11,912,719	\$ 1,318,713	\$ (208,626)	15.82
NAVSEA	N00024-18-C-4440	162,215,997	24,694,619	(3,765,625)	15.25
AFLCMC	FA8620-20-F-4817	33,963,760	16,065,395	(2,309,510)	14.38
NAVWAR	N00039-16-C-0050	504,418,837	1,269,268	(142,807)	11.25
NAVSUP	N00104-14-G-A102	2,077,315	2,077,315	(163,737)	7.88
NAVSEA	N00024-18-C-4432	58,805,203	10,654,769	(604,272)	5.67
AFLCMC	FA8620-18-F-4062	90,472,443	49,957,183	(1,914,550)	3.83
NAVSEA	N00024-18-C-5407	243,141,029	63,474,021	(1,890,251)	2.98
AFSC	FA8517-15-D-0006	40,500,000	29,286,977	(649,565)	2.22
ACC	W56JSR-16-D-0016	20,409,000	2,496,305	(49,982)	2.00
NAVWAR	N00039-15-C-0013	24,653,068	3,922,414	(26,622)	0.68
ACC	W58RGZ-19-C-0024	393,798,248	53,338,507	(251,842)	0.47
<b>Total</b>		<b>\$1,586,367,620</b>	<b>\$258,555,486</b>	<b>\$(11,977,389)</b>	<b>(4.63)*</b>

\*(U) Figure represents an average.

(U) Source: The DoD OIG.

(U) Table 2. Summary of Contracts With Minimal Cost Escalation by Percentage

Command	Contract/ Delivery Order	Total Contract Value	Portion of Contact Reviewed	Value of Cost Escalation From Portion of Contract Reviewed	Cost Escalation as Percentage of Value Reviewed
ACC	W58RGZ-18-D-0111	\$109,948,005*	\$121,710,528*	\$486,133	0.40
<b>Total</b>		<b>\$109,948,005</b>	<b>\$121,710,528</b>	<b>\$486,133</b>	<b>0.40</b>

\*(U) The total contract value was calculated based on delivery orders awarded as of September 2021.

We reviewed flight hour costs, which included estimated costs for the two remaining years of the contract.

(U) Source: The DoD OIG.

## (U) Contracting Officials Properly Planned for Contracts

(U) DoD contracting officials demonstrated proper planning for three contracts by discussing contract requirements with program offices and contractors before issuing an RFP, in accordance with the FAR, and by establishing and maintaining a positive working relationship with sole-source contractors. The FAR encourages the exchange of information among industry, the program manager, contracting officer, and other participants early in the acquisition process to identify and resolve concerns regarding the contract, such as contract type, terms and conditions, requirements, and statements of work, to increase efficiency in proposal preparation, proposal evaluation, negotiation, and contract award.<sup>22</sup> When DoD contracting officials communicated contract requirements with interested parties before issuing the RFP, the contracting officials were able to negotiate a cost reduction, or minimal cost escalation. In addition, AFLCMC contracting officials stated that having open communication and a positive working relationship with sole-source contractors generally resulted in accurate and reasonable

*(U) Early engagement with the contractor contributed to obtaining sufficient data.*

contractor proposals. For example, the ACC-RSA contracting officials who planned, evaluated, and negotiated a contract to support the AH-64 Apache

fleet, conducted early engagements within ACC-RSA and with the contractor to ensure that the Government and contractor had a common understanding of contract requirements and expectations.<sup>23</sup> The ACC-RSA contracting officials stated that their early engagement with the contractor contributed to obtaining sufficient data from the contractor, conducting effective proposal evaluations, and the successful negotiations that led to cost reductions. Actions that ACC-RSA contracting officials took were also in accordance with DPC's Sole-Source Pricing Best Practices, which recommend that the Government discuss requirements with the sole-source contractor to ensure a common understanding and to address any questions the contractor might have. ACC-RSA contracting officials stated that early communication helped establish a common understanding of contract requirements, improved the contracting process, and contributed to the \$251,842 (0.47 percent) cost reduction.<sup>24</sup>

<sup>22</sup> (U) FAR 15.201.

<sup>23</sup> (U) The AH-64 is the Army's twin-engine, four-blade attack helicopter, which is capable of destroying armor, personnel, and material targets in obscured battlefield conditions.

<sup>24</sup> (U) Our analysis for contract W58RGZ-19-C-0024 reviewed only a portion of the contract. Specifically, ACC-RSA awarded contract W58RGZ-19-C-0024 with a not to exceed value of \$694 million. However, we reviewed only \$53.3 million of the contract's value.

## **(U) Contracting Officials Effectively Evaluated Proposals**

(U) DoD contracting officials effectively evaluated proposals for two contracts by identifying and coordinating proposal evaluation teams, in accordance with the FAR and DPC Sole-Source Best Practices. The FAR requires the source selection authority to establish an evaluation team that is tailored for the particular acquisition and includes appropriate contracting, technical, and other expertise to ensure a comprehensive evaluation of offers.<sup>25</sup> In addition, DPC's Sole-Source Best Practices encourage contracting officials to develop a proposal evaluation plan that identifies each member of the proposal evaluation team and their responsibilities. For example, Air Force contracting officials developed an evaluation plan before conducting proposal evaluations for a sole-source contract to support the Gorgon Stare Program.<sup>26</sup> According to the Air Force contracting officials, they developed and coordinated an evaluation plan that leveraged the expertise of each member of the evaluation team early in the planning process. Specifically, the contracting officials requested "negotiation support," instead of a full audit from the Defense Contract Audit Agency, which was a tailored review of specific, higher-risk cost elements from the contractor's proposal. The officials stated that requesting negotiation support instead of a full audit resulted in a more timely report. The contracting officials concluded that the evaluation plan contributed to a thorough proposal evaluation and effective negotiations. In addition, the Air Force contracting officials attributed the \$1.9 million (3.83 percent) cost reduction we identified for this delivery order, in part to establishing and coordinating the evaluation plan before conducting proposal evaluations.

(U) In addition, DoD contracting officials effectively evaluated proposals for eight contracts by obtaining actual costs incurred from prior acquisitions to sufficiently evaluate proposals, in accordance with the Federal and DoD acquisition regulations and DPC Sole-Source Best Practices. The Federal and DoD acquisition regulations require contracting officials to evaluate the reasonableness of offered prices and provides price and cost analysis techniques and procedures, such as comparison of the proposed prices to historical prices paid or actual costs previously incurred.<sup>27</sup> In addition, DPC's Sole-Source Pricing Best Practices suggest that contracting officials obtain historical actual costs from recent acquisitions to help develop the Government's negotiation position. The Air Force contracting officials responsible for a sole-source depot maintenance delivery order awarded to support RC-135 V aircraft stated that the Air Force has awarded multiple

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<sup>25</sup> (U) FAR 15.303(b).

<sup>26</sup> (U) The Gorgon Stare weapon system is motion-image system that includes a ground station, which provides command and control, processing, storage, and dissemination of system data.

<sup>27</sup> (U) FAR 15.404-1 and DFARS 215.404-1 "Proposal Analysis Techniques."

(U) iterations of this specific delivery order to the same contractor.<sup>28</sup> According to the contracting officials, they requested and obtained an abundance of actual cost data from the prior iterations of the delivery order, which the officials used to evaluate the contractor's proposal and develop the Government's negotiation position. Specifically, the Air Force conducted a technical evaluation that compared actual costs incurred during the four most recent delivery orders, to the contractor's proposal. The Air Force contracting officials concluded that obtaining historical actual costs contributed to successful negotiations and the Air Force's price reasonableness determination. In addition, we determined that obtaining historical actual costs, in accordance with the FAR and DPC's Sole-Source Pricing Best Practices, contributed to the \$2.3 million (14.38 percent) cost reduction we identified for this delivery order.

### ***(U) Contracting Officials Effectively Negotiated Contracts***

(U) DoD contracting officials effectively negotiated 10 contracts by using DCMA FPRAs and FPRRs to facilitate negotiations, as required by the Federal and DoD acquisition regulations and DCMA guidance. The Federal and DoD acquisition regulations states that contracting officials must use FPRAs, if available, as the basis for pricing all contracts, modifications, and other contractual actions.<sup>29</sup> In addition, according to DCMA guidance, FPRAs and FPRRs are designed to help DoD contracting officials negotiate fair and reasonable prices. For example, the NAVWAR contracting officials who negotiated a sole-source depot maintenance contract used to support the Navy's Multiband Terminal Communications Group (a satellite communications system) stated that FPRAs were critical during price negotiations. Specifically, the officials stated that they used the FPRA developed between the contractor and the DCMA to determine the Government's negotiation position for direct labor rates and indirect rates. The NAVWAR contracting officials stated that using the FPRA provided assurances that the rates included in the contract were fair and reasonable. In addition, we determined that NAVWAR contracting officials' use of the FPRA, in accordance with the FAR, contributed to the \$142,807 (11.25 percent) cost reduction that we identified for the contract.

(U) Finally, DoD contracting officials effectively negotiated four contracts by using data obtained to conduct fact-based negotiations, as suggested in DPC Sole-Source Best Practices. DPC's Sole-Source Best Practices encourage contracting officers to engage in fact-based, or data-driven negotiations. The Sole-Source Best Practices state that engaging in fact-based negotiations provides contracting officials assurance that agreed to prices are fair and reasonable. During the audit,

<sup>28</sup> (U) The RC-135V aircraft is a reconnaissance aircraft used to provide near real-time intelligence collection, analysis, and dissemination capabilities.

<sup>29</sup> (U) FAR 15.407-3 and DFARS 215.407-3, "Forward Pricing Rate Agreements."

(U) contracting officials discussed the impact that fact-based negotiations can have on negotiations. For example, the NAVSEA contracting officials who negotiated a sole-source depot maintenance contract for the Navy's Standard Missile weapon system required the contractor to provide historical data, with supporting documentation, specific to the labor, equipment, and material costs in its proposal.<sup>30</sup> In addition, according to the NAVSEA contracting officials, before the start of negotiations, NAVSEA submitted multiple requests for information and "fact-finding questions" to the contractor that were based on leveraging specific prior work requirements for negotiating the contract. The NAVSEA contracting officials stated that because of their significant fact-finding efforts, negotiations lasted only 1 day, which, according to the contracting officials, was drastically different from other sole-source negotiations that they have experienced. In addition, the contracting officials stated that the facts obtained before negotiations contributed to NAVSEA's price reasonableness determination and the \$1.9 million (3.0 percent) cost reduction we identified for this contract. See Figure 1 for a photo of NAVSEA's Standard Missile 2.



(U) Figure 1. Launch of a Standard Missile 2 From the *USS Zumwalt*  
(U) Source: The U.S. Navy.

<sup>30</sup> (U) The Standard Missile weapon system consists of missile variants used to provide air defense against aircraft and missiles in flight, at varying altitudes.

## (U) DoD Contracting Officials May Not Have Negotiated Fair and Reasonable Prices

(U) DoD contracting officials may not have negotiated fair and reasonable prices for 21 of 34 sole-source and single-source depot maintenance contracts in our sample, valued at \$4.6 billion, as required by the FAR. The FAR requires contracting officials to award contracts with fair and reasonable prices.<sup>31</sup> The FAR and DFARS prescribe policies and procedures for DoD program officials and contracting officials to develop detailed contract requirements, solicit contracts, obtain cost and pricing data with proposals, perform a proposal analysis, and negotiate prices.<sup>32</sup> However, DoD officials did not provide well-defined contract requirements for 9 of 34 contracts, in accordance with the FAR and DFARS. In addition, longstanding, known factors beyond the control of the DoD contracting officials, discussed in the following sections, limited their ability to negotiate fair and reasonable prices for 15 of 34 sole-source depot maintenance contracts.<sup>33</sup> See Table 3 for a summary of the contracts with excessive cost escalation.

*(U) Table 3. Summary of Contracts With Excessive Cost Escalation by Percentages*

Command	Contract/ Delivery Order	Total Contract Value	Portion of Contract Reviewed	Value of Cost Escalation From Portion of Contract Reviewed	Cost Escalation as Percentage of Value Reviewed
AFSC	FA8121-19-C-0023	\$3,219,675	\$3,219,675	\$1,125,229	34.95
ACC	W58RGZ-17-D-0118	34,688,061	10,141,594	3,348,364	33.02
NAVSEA	N55236-19-F-5080	41,454,796	24,225,351	4,672,953	19.29
NAVSUP	N00383-13-G-005N	29,528,353	15,759,588	2,236,947	14.19
ACC	W58RGZ-19-D-0062	52,297,790	51,759,024	6,956,080	13.44
AFLCMC	FA8620-18-F-4003	77,836,796	20,982,658	2,680,219	12.77
AFLCMC	FA8528-19-D-0015	2,630,000,000	53,467,604	6,440,850	12.05
AFLCMC	FA8678-18-C-0002	120,039,208	12,727,897	1,475,497	11.59
NAVSUP	N00383-19-D-V001	15,123,483	15,123,483	1,398,621	9.25
NAVSUP	N00383-17-D-BA01	176,668,707	176,668,707	15,530,091	8.79
NAVSEA	N00024-20-C-4446	200,868,971	69,972,063	5,726,146	8.18
ACC	W58RGZ-19-C-0051	45,936,147	45,520,209	3,642,194	8.00

<sup>31</sup> (U) FAR 15.402, "Pricing Policy."

<sup>32</sup> (U) FAR 11.002, "Policy"; FAR 15.402; FAR 15.404-1, "Proposal Analysis Techniques"; FAR 15.405, "Price Negotiations"; DFARS 215.404-1, "Proposal Analysis Techniques"; DFARS 215.403, "Obtaining Certified Cost or Pricing Data."

<sup>33</sup> (U) DoD contracting officials may not have negotiated fair and reasonable prices for some of the contracts in our sample for multiple reasons, which resulted in excessive cost escalation. Therefore, the contracts discussed in our DoD Contracting Officials May Not Have Negotiated Fair and Reasonable Prices section will equal more than 21 contracts.

(U) Table 3. Summary of Contracts With Excessive Cost Escalation by Percentages (cont'd)

Command	Contract/ Delivery Order	Total Contract Value	Portion of Contract Reviewed	Value of Cost Escalation From Portion of Contract Reviewed	Cost Escalation as Percentage of Value Reviewed
ACC	W56HZV-17-C-0052	57,393,219	4,663,559	335,051	7.18
NAVSEA	N00024-18-C-4443	41,418,939	5,996,107	364,321	6.08
AFLCMC	FA8675-19-C-0004	63,803,179	55,892,015	3,186,023	5.70
ACC	W58RGZ-18-D-0014	19,126,906	19,126,906	792,365	4.14
NAVSUP	N00383-19-D-P901	71,291,775	71,291,775	2,136,347	3.00
AFLCMC	FA8620-19-F-4024	258,520,946	25,899,424	650,829	2.51
NAVSEA	N00024-20-C-4464	92,535,737	37,037,906	886,461	2.39
AFLCMC	FA8620-19-F-4000	448,650,531	435,319,110	7,699,397	1.77
NAVSEA	N00024-18-C-4438	104,757,437	40,852,563	673,372	1.65
<b>Total</b>		<b>\$4,585,160,656</b>	<b>\$1,195,641,215</b>	<b>\$71,957,357</b>	<b>6.02*</b>

(U) Figure represents an average.

(U) Source: The DoD OIG.

### **(U) Complex Repairs Led to Poorly Defined Contract Requirements**

(U) DoD officials did not develop well-defined requirements for 9 of 34 sole-source and single-source depot maintenance contracts. According to the FAR, acquisitions begin when agency needs are established, including a description of requirements.<sup>34</sup> The FAR requires DoD officials to develop requirements, including a description of the requirements, before initiating the contracting process. However, according to DoD contracting officials, the complexity of repairs required for depot maintenance presents challenges for developing well-defined requirements. Specifically, DoD officials and contractor officials stated that they typically did not know the extent of repairs necessary until after DoD contracting officials awarded depot maintenance contracts. In addition, we identified instances when DoD officials procured more materials than required, and where inaccurate forecasting of contract requirements resulted in unclear contract requirements. When DoD officials did not provide well-defined, accurate contract requirements, contractors were more likely to include additional costs in their proposal to account for the increased risk, which can result in DoD contracting officials agreeing to prices that may not be fair and reasonable.

<sup>34</sup> (U) FAR 2.101, "Definitions."

### **(U) Contracting Officials Did Not Know the Extent of Repairs When Awarding Contracts**

(U) DoD contracting officials stated that they did not know the extent of damages or necessary repairs when awarding seven sole-source or single-source depot maintenance contracts. The DoD refers to depot maintenance as major overhauls or the complete rebuild of parts, assemblies, subassemblies, and end items. In addition, the DoD recognizes depot maintenance as the most complex and extensive level of maintenance. Several DoD contracting officials and defense contractors stated that because of the complexity of depot maintenance, they would not know the extent of damage or necessary repairs at the time contracts were awarded. The officials stated that they would not know the extent of damages until a weapon system or item arrived for repair. For example, the AFLCMC awarded a delivery order for repairs to reusable aerial targets. The Air Force launches reusable aerial targets over training ranges or water to evaluate air-to-air programs. Although the aerial targets use parachutes when descending on the training range or in the water, the impact upon landing causes damage to the targets. Because each launch and landing is unique, the Air Force is unable to predict the level of damage that targets will encounter, which limits the ability of Air Force officials to develop well-defined contract requirements. Without well-defined requirements, the Government assumed additional risk. According to AFLCMC contracting officials, because they were unable to forecast the number or extent of repairs required they used a time-and-materials contract CLIN with a not-to-exceed dollar value for these repairs. According to the FAR, time-and-materials contracts may be used only when it is not possible to accurately estimate the extent or duration of the work, or anticipate the costs with any reasonable degree of confidence at the time the contract was awarded.<sup>35</sup> However, time-and-material contracts do not provide incentive for the contractor to control costs, and appropriate government oversight is required to give reasonable assurance that work is performed efficiently. Therefore, while the AFLCMC contracting officials relied on historical information to form the basis of their negotiation position, not knowing the extent of damages or necessary repairs at the time the contract was awarded hindered the Air Force's ability to develop well-defined requirements and increased its risk.

<sup>35</sup> (U) FAR 16.601, "Time-and-materials contracts."

(U) In addition, according to NAVSEA officials, they did not know the extent of repairs when awarding contracts for ship depot maintenance. Specifically, NAVSEA officials stated that while they provide detailed requirements in solicitations, changes are an inevitable part of ship maintenance. For example, NAVSEA officials stated that the contracts include open and inspect requirements, which result in changes to work requirements. Adding to this challenge, NAVSEA contracting officials awarded firm-fixed-price contracts or delivery orders to support ship depot maintenance. According to the FAR, contracting officials should award firm-fixed-price contracts only when requirements are well defined.<sup>36</sup> While the FAR requires that firm-fixed-price contracts have definite and detailed specifications, several NAVSEA contracting officials explained that the unknown condition of ships, and extent of repairs on ships, created challenges when developing ship maintenance requirements. The ship repair contractors also acknowledged the challenges with the unknown condition of ships. In addition, multiple ship repair contractors, including the contractor that performed ship repair on the *USS Cole*, stated that Navy requirements were vague or inaccurate, or the Navy used boilerplate language that did not reflect the required repairs.

According to ship repair contractors, they did not have an “acceptable degree of certainty” when developing proposals. Ship repair contractors stated that because of the uncertainty surrounding requirements, combined with the award of firm-fixed-price contracts, contractors assumed high levels of risk, which they reflected in their proposed prices. In a November 2021 Government Accountability Office (GAO) decision, the GAO acknowledged that unknown ship maintenance requirements placed additional

risk on ship maintenance contractors. The GAO further stated that contractors could factor the additional risk into their labor rates.

Because NAVSEA contracting officials awarded firm-fixed-price contracts when the extent or quantity of repairs was unknown, ship repair contractors increased their proposed costs, which contributed to \$12.3 million in cost escalation for five NAVSEA contracts.<sup>37</sup> As a result, without clear, consistent, and timely requirements for firm-fixed-price contracts, contractors assumed additional risk that items could require more repairs than anticipated, which contributed to the contractors charging the Government higher costs. We discuss additional challenges with requirements for NAVSEA ship repair contracts in Finding B. See Figure 2 for a photo of the *USS Cole*.

*(U) Without clear, consistent, and timely requirements for firm-fixed-price contracts, contractors assumed additional risk.*

<sup>36</sup> (U) FAR 16.202, “Firm-Fixed-Price Contracts.”

<sup>37</sup> (U) NAVSEA contracts or delivery order N55236-19-F-5080, N00024-20-C-4446, N00024-18-C-4443, N00024-20-C-4464, and N00024-18-C-4438.

(U) Figure 2. *USS Cole*

(U) Source: Naval History and Heritage Command.

### **(U) Procured Material That Exceeded Contract Requirements**

(U) NAVSUP contracting officials procured materials that exceeded contract requirements for a 5-year IDIQ long-term contract, which may not have been in the Government's best interest. Contracting officers are responsible for safeguarding the interests of the United States and for exercising business judgement when performing their responsibilities.<sup>38</sup> Although NAVSUP contracting officials used working capital funds, which do not have an expiration date or fiscal year limitations, purchasing 6 years of material on a 5-year contract and including the cost of material that would be used beyond the contract's period of performance within the fixed repair prices, may not have been in the Government's best interest.

<sup>38</sup> (U) FAR 1.602 "Contracting Officers."

(U) NAVSUP contracting officials awarded a 5-year IDIQ contract in 2019 to support the repair and modifications of the APN-245 system.<sup>39</sup> The prior iteration of the contract was a basic ordering agreement. During the prior contract, the contracting officials stated that NAVSUP determined that the use of a basic ordering agreement limited the contractor's ability to purchase long-lead materials ahead of repairs. In addition, the contracting officials stated that under the basic ordering agreement, the contractor was unwilling to purchase long-lead materials in advance because there was no guarantee that NAVSUP would award future delivery orders on the basic ordering agreement. Without the advance purchase of the long-lead materials, the NAVSUP and contractor officials stated that it took up to 2 years to repair the items on the previous contract, which resulted in 62 backorders.

(U) According to NAVSUP contracting officials, when awarding the 2019 contract, NAVSUP leadership's goal was to reduce repair turnaround times to fewer than 240 days and eliminate backorders. To achieve this goal, NAVSUP contracting officials elected to award the current contract as a 5-year IDIQ contract and include 6 years' worth of material on the 5-year contract.<sup>40</sup> According to the NAVSUP contracting officials, during negotiations they verbally instructed the contractor to procure a sixth year of material in the final year of the contract to support the future follow-on contract. Specifically, the contractor was instructed to purchase materials for years one and two in year one, materials for year three in year two, materials for year four in year three, and materials for year five in year four, with materials for the first year of the follow-on contract in year five. The contracting officials stated that they would recognize the advance procurement as Government-furnished material (GFM) for the follow-on contract. However, the future follow-on contract is not guaranteed to be awarded, and a contractor official stated that the APN-245 system should be redesigned soon to upgrade obsolete parts.

(U) While NAVSUP contracting officials awarded the contract with working capital funds, which do not have an expiration date or fiscal year limitations, the contract specifically stated that the prices would be for the repair and modification of the items for a period of 5 years. In addition, the NAVSUP contracting officials instructed the contractor to include the cost of the sixth year of material within

<sup>39</sup> (U) The APN-245 system is a communication equipment system used for long-range precision guidance of aircraft to carrier decks.

<sup>40</sup> (U) An indefinite-quantity contract provides an indefinite quantity, within stated limits, of supplies or services during a fixed period.

(U) the fixed repair prices, and a NAVSUP official stated that the material would be used beyond the period of performance of the contract. Therefore, by directing the contractor to include the cost of the sixth year of long-lead material within the fixed repair prices, the NAVSUP contracting officials limited NAVSUP's ability to cancel the material purchase if the Navy decides not to award the follow-on contract or if the Navy upgrades the APN-245 system, reducing, or eliminating

*(U) By directing the contractor to include the cost of the sixth year of long-lead material within the fixed repair prices, the NAVSUP contracting officials limited NAVSUP's ability to cancel the material purchase.*

the need for the material. For example, if the NAVSUP contracting officials had separated the long-lead material from the repair prices using a separate contract line item, or as an option to the contract, they would have created more flexibility to cancel the purchase if the long-lead material became unnecessary. Consequently, purchasing

6 years of materials on a 5-year contract, and including the price of the sixth year of material in a fixed repair price, was not a good business practice and may not have been in the Government's best interest. In addition, although the NAVSUP contracting officials and the contractor stated that the advance procurement of long-lead material reduced repair turnaround time and eliminated the backorders, it contributed to \$1.4 million (9.25 percent) in cost escalation. Therefore, the NAVSUP Commander should require the contracting officials responsible for contract N00383-19-D-V001 to work with the program office to review the process and identify alternative options for procuring the long-lead materials, as appropriate.

### **(U) Inaccurate Forecasting Created Poorly Defined Contract Requirements**

(U) Officials from the U.S. Army Aviation and Missile Command Logistics Center (ALC) did not develop accurate forecasting requirements for sole-source depot maintenance contracts for the repair of UH-60 helicopter blades.<sup>41</sup> The FAR requires agencies, to the maximum extent practicable, to define requirements in terms that enable and encourage offerors to supply commercial items or non-developmental items, in response to the agency solicitation.<sup>42</sup> Furthermore, DPC's Sole-Source Pricing Best Practices state that the contracting officer and program manager should ensure that the CLIN structure of an RFP accurately reflects requirements, supports the program's needs, and is not subject to change. Generally, Army officials stated that program offices forecast repair

<sup>41</sup> (U) The UH-60 helicopter is a tactical transport aircraft that provides multiple capabilities, such as air assault and medical evaluation.

<sup>42</sup> (U) FAR 7.103, "Agency-Head Responsibilities."

(U) quantities and develop contract requirements. Therefore, contracting officials typically are not responsible for developing forecasting requirements for the contracts they award. Material managers and supply providers are required to collaborate with their customers to project future demand for requirements. For example, ALC officials stated that they developed requirements for UH-60 helicopter blades based on an average monthly demand. The ALC officials stated that they then multiplied the average monthly demand by 12 months to determine the yearly requirement. However, the ALC officials did not effectively forecast the maximum quantity of repairs when they developed requirements for IDIQ contracts to repair the UH-60 helicopter blades.

(CUI) ACC-RSA contracting officials awarded an IDIQ contract in 2015 for repairs of the UH-60 helicopter blade. Although the contract was an IDIQ contract, the ALC and ACC-RSA contracting officials included a maximum quantity of repairs in the contract's requirements. Therefore, the IDIQ contract reached its maximum quantity of [REDACTED] repairs in 2017, only 2 years into the 5-year contract.

*(U) The IDIQ contract reached its maximum quantity of repairs only 2 years into the 5-year contract.*

Reaching the maximum repair quantities only 2 years into the 5-year contract contributed to a gap in the Army's ability to request repairs for the helicopter blade and caused [REDACTED] backorders for repairs. This contributed to an urgent need to issue a follow-on contract, which ACC-RSA contracting officials did not award until 2019. The 2019 contract included an estimated average of [REDACTED] repairs per year with repair prices that were up to 24.15-percent higher than the prior contract, which resulted in \$7.0 million (13.44 percent) of cost escalation. However, the Army again purchased [REDACTED] of the maximum [REDACTED] repairs for the entire 4-year contract within the first year. The ALC officials stated that an increase in flight hours and an unanticipated maintenance issue that resulted in more repairs could have contributed to underestimating the number of repairs necessary. However, because the 2019 contract also reached its maximum quantity significantly early in the contract term, as of October 2021 the ALC did not have a contracting vehicle in place to continue ordering repairs of the UH-60 blade.

(U) While ALC officials provided requirements that encouraged an offeror to supply repairs in response to the solicitation, the inaccurate forecasting of repairs and the use of a maximum quantity on an IDIQ contract led to a gap in the Army's ability to request additional repairs of the UH-60 helicopter blade. Because the ACC-RSA awarded two consecutive contracts that reached their maximum quantities early in the contract term, an additional gap in contract coverage for repair of a critical

(U) UH-60 item remains, which could cause backorders for repairs and potentially result in grounded UH-60 helicopters, hindering the readiness of the UH-60 helicopter fleet. Therefore, the Commanding General of the U.S. Army Aviation and Missile Command should direct the ALC officials responsible for forecasting UH-60 helicopter blade repairs to review the forecasting process used to generate estimated quantities for IDIQ depot maintenance contracts to determine whether the existing method can be improved for follow-on contracts. Furthermore, the ACC Commanding General should require the ACC-RSA contracting officials to review the use of IDIQ contract types for UH-60 blade repair requirements and determine whether a different contract type is more appropriate. Additionally, the ACC Commanding General should require contracting officials to work with the program office officials to review the execution of contracts for the UH-60 helicopter blade repairs to identify and document lessons learned for application in future procurements.

### ***(U) Fair and Reasonable Prices Were Limited by Factors Beyond the Control of Contracting Officials***

(U) DoD contracting officials faced challenges with sole-source depot maintenance contracts that limited their ability to negotiate fair and reasonable prices. Specifically, the nature of sole-source contracting caused DoD contracting officials to accept late or incomplete proposals and limited the amount of cost or pricing data that DoD contracting officials could obtain for commercial contracts. Furthermore, contractor direct and indirect labor and overhead rates increased beyond industry inflation. Also, DoD contracting officials negotiated the added costs of aging weapon systems that required more repairs. While these challenges limited the ability of DoD contracting officials to negotiate fair and reasonable prices, they are not new challenges to the DoD. For example, the DoD OIG has identified longstanding problems with pricing sole-source contracts, which included using incomplete cost or pricing data for proposal analysis and not obtaining sufficient data for sole-source commercial contracts.<sup>43</sup> Additionally, according to DoD and contractor officials, operating costs for older systems continue to rise due to fatigue, corrosion, and the obsolescence of parts as systems pass their initial years of operation and begin to age. Accordingly, we determined that these recurring or known challenges were beyond the control of the DoD contracting officials and limited their ability to negotiate fair and reasonable prices for the sole-source depot maintenance contracts.

<sup>43</sup> (U) DoD OIG, "Fiscal Year 2020 Top DoD Management Challenges," October 15, 2019.

### (U) DoD Contracting Officials Accepted Late Proposals

(U) DoD contracting officials accepted late or incomplete proposals for three sole-source contracts, which caused them to expedite their proposal analysis. The FAR states that offerors are responsible for submitting proposals, and any revisions and modifications, by the time specified in the solicitation. In addition, the FAR states that any proposal received

after the time specified in the solicitation is considered “late” and will not be accepted by the Government.<sup>44</sup> While

*(U) In competitive markets, late or incomplete proposals are not considered for award.*

in competitive markets, late or incomplete proposals are not considered for award, sole-source contracting presents unique challenges for DoD contracting officials that result in DoD contracting officials accepting late proposals. Specifically, in the sole-source environment, when there are no alternative sources, contracting officials must accept late proposals to ensure that programs receive the appropriate support. Because the contracts in our sample supported major DoD weapon systems, the contracting officials responsible for evaluating and awarding these contracts faced strict deadlines to award contracts. Therefore, when contractors provided late or incomplete proposals, it added additional pressure for DoD contracting officials to maintain award date deadlines and accept higher prices.

(U) In June 2018, AFLCMC contracting officials awarded a sole-source depot maintenance contract to support the BQM-167A Target program.<sup>45</sup> The RFP was due on December 2, 2016. According to AFLCMC contracting officials, the contractor requested an extension to submit its proposal on November 21, 2016. Then, over the next 6 months, the contractor provided incomplete and noncompliant proposals. Specifically, the AFLCMC contracting officials stated that the contractor disclosed additional cost data four times to provide sufficient supporting documentation for its subcontractors. Finally, on July 24, 2017, AFLCMC contracting officials received a fully compliant proposal, 234 days after the original due date. The BQM-167A target drones provide adequate threat representative targets that the Air Force uses to test the lethality of its major aircraft weapon systems. These critical Air Force missions require evolving weapon systems must undergo survivability and lethality testing before entering production. The BQM-167A satisfies the testing requirement for major aircraft and missile systems survivability testing and, therefore, contract award delays could negatively impact the Air Force’s mission requirements. Although the contractor took more than 7 months to provide a fully compliant proposal, the AFLCMC contracting officials had an urgency to award the contract. As a result, the contracting officials had less time to complete their proposal analysis, which may have contributed to the \$1.5 million (11.59 percent) in cost escalation. See Figure 3 for an example of a BQM-167A target drone.

<sup>44</sup> (U) FAR 15.208, “Submission, Modification, Revision, and Withdrawal of Proposals.”

<sup>45</sup> (U) The BQM-167A is a multi-mission capable, aerial target used to support live air-to-air missile testing.



(U) Figure 3. BQM-167A Target Drone  
(U) Source: The U.S. Air Force.

### ***(U) Acquisition Regulations Limited Contracting Officials' Ability to Obtain Data for Commercial Contracts***

(U) Federal and Defense commercial contracting procedures limited the ability of DoD contracting officials to obtain sufficient cost or pricing data to negotiate fair and reasonable prices for five of seven commercial contracts that we reviewed. The DoD identified acquisition and contract management as an FY 2022 Top DoD Management Challenge and highlighted the importance of obtaining accurate and current data to establish fair and reasonable pricing for contracts. The DoD OIG has identified longstanding problems with pricing sole-source commercial contracts for spare parts, primarily because of the lack of adequate data. The FAR and DFARS limit the amount of data that contracting officials can obtain for commercial contracts.<sup>46</sup> Specifically, the FAR prohibits contracting officers from obtaining certified cost and pricing data for commercial contracts, including sole-source commercial contracts. Instead, the FAR provides the following order of precedence, for contracting officials to obtain:

- (U) no additional data from the offeror, if adequate price competition exists;
- (U) data other than certified cost or pricing data, which could include data related to prices, such as established catalogs, or sales to non-governmental and governmental entities; or
- (U) uncertified cost data to the extent necessary for the contracting officer to determine fair and reasonable price.

<sup>46</sup> (U) FAR 15.403-1; DFARS 215.403, "Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35.)"

(U) The FAR states that when relying on data other than certified cost or pricing data, contracting officials must first use data available within the Government; second, data obtained from sources other than the offeror; and, if necessary, data obtained from the offeror.<sup>47</sup> The DFARS PGI states that obtaining sufficient data from the offeror is particularly critical in sole-source commercial situations. This includes obtaining commercial sales data of items sold in similar quantities and, if such data is insufficient, cost data to support the proposed price.<sup>48</sup> Typically, for sole-source commercial contracts, contracting officers must rely on commercial sales data or other than certified cost and pricing data to determine whether an offered price is fair and reasonable.<sup>49</sup> Although the FAR and DFARS state that contracting officials can request cost or pricing data to determine fair and reasonable prices when necessary, the DoD OIG previously reported that the FAR and DFARS do not compel contractors to provide the requested data.<sup>50</sup> However, if contractors decline to provide requested data, the DFARS PGI provides guidance for contracting officers to elevate the denials within their organization and report the denials to DPC.<sup>51</sup>

(CUI) For example, in 2019, AFSC contracting officials awarded a sole-source commercial contract for repairs to an F100 engine part.<sup>52</sup> The 2019 contract was a follow-on to a 2017 contract for the same repairs to the F100 engine part. Under the 2019 contract, the contractor proposed a rate of \$ [REDACTED] per repair, which represented a 53.72-percent cost escalation per repair when compared to the 2017 contract price of \$ [REDACTED] per repair adjusted for inflation. Due to the significant price increase, and concerns that the proposed prices may not have been fair and reasonable, AFSC contracting officials requested data other than certified cost or pricing data from the contractor. The contractor provided sales data to the AFSC contracting officials, including one purchase order and three commercial sales invoices.

The contractor officials stated that the invoices were for the contractor's only other customer for the repairs, which is another Government contractor. After receiving the sales data,

AFSC contracting officials were still unable to determine price reasonableness. Therefore, AFSC contracting officials requested additional data to support the price increase, as allowed by the FAR. However, the contractor refused to provide

*(U) AFSC contracting officials requested additional data to support the price increase. However, the contractor refused to provide the requested data.*

<sup>47</sup> (U) FAR 15.402.

<sup>48</sup> (U) DFARS PGI 215.402, "Pricing Policy."

<sup>49</sup> (U) FAR 15.403-3, "Requiring Data Other Than Certified Cost or Pricing Data."

<sup>50</sup> (U) Report No. DODIG-2019-060, "Review of Parts Purchased From TransDigm Group, Inc.," February 25, 2019.

<sup>51</sup> (U) DFARS PGI 215.404-1, "Proposal Analysis techniques," and DFARS PGI 215.403-3(6).

<sup>52</sup> (U) The F100 engine is a propulsion system used within operational Air Force aircraft.

(CUI) the requested data, stating that the previously provided sales data met the FAR requirement for appropriate data on the prices at which the same or similar items have been sold previously. Because the FAR and DFARS limit the amount of data contracting officers are able to obtain for commercial contracts, the AFSC contracting officials were unable to develop a strong negotiation position and agreed to the contractors proposed rate of \$ [REDACTED] per repair. As a result, the FAR and DFARS limitations for the AFSC contracting officials to obtain sufficient cost or pricing data for the commercial contract, contributed to the AFSC paying \$1.1 million (34.95 percent) in cost escalation for this contract.

(CUI) In addition, DoD contracting officials for five sole-source commercial contracts did not request or receive cost data from the sole-source contractors, and instead relied on historical prices from prior contracts or sales invoices.<sup>53</sup> For example, ACC-RSA contracting officials awarded a follow-on sole-source commercial contract for the maintenance and overhaul of the CH-47 Chinook T55-GA-714A engine.<sup>54</sup> The contractor proposed a unit price of \$ [REDACTED] which the contractor supported using a single, redacted sales invoice and quote that had a price of \$ [REDACTED]. Although the contractor provided the sales invoice and quote, the ACC-RSA contracting officials responsible for the 2019 contract did not find the proposed costs to be fair and reasonable based on the prior contract's 2018 price of \$ [REDACTED] per unit. However, due to FAR commercial contracting procedures that limit the amount of cost or pricing data that contractor officials are required to provide for commercial contracts, the ACC-RSA contracting officials did not request additional data. Instead, the ACC-RSA contracting officials elected to develop a negotiation position by [REDACTED] [REDACTED]. Using this approach, ACC-RSA contracting officials identified a negotiation position of \$ [REDACTED] per unit, which the contractor accepted. While the negotiated price is lower than the contractor-proposed price, the unit price increased \$ [REDACTED] per unit ([REDACTED]) or \$ [REDACTED] per unit ([REDACTED]) adjusted for inflation. During this same time, the Bureau of Labor Statistics reported that inflation between 2018 and 2019 for the aircraft repair industry was only 1.43 percent. Therefore, the limitations in the FAR to obtain cost and pricing data for commercial contracts contributed to the ACC-RSA paying \$3.3 million (33.02 percent) in cost escalation. Therefore, the AFSC Commander and ACC Commanding General should require contracting officers to request

<sup>53</sup> (U) Refer to the following contracts in Table 3: FA8121-19-C-0023, W58RGZ-17-D-0118, N00383-13-G-005N, W58RGZ-19-C-0051 and W58RGZ-18-D-0014.

<sup>54</sup> (U) The CH-47 Chinook is a heavy-lift cargo helicopter used to support combat and non-combat operations.

(CUI) uncertified cost and pricing data, when needed, to support the contracting officers' determination of fair and reasonable prices when negotiating sole-source commercial contracts. In addition, we recommend that the AFSC Commander and ACC Commanding General require contracting officers to document the contractor's response to the request, and report to the DPC Principal Director whenever contractors refuse to provide requested cost data and the contractor's rationale for the refusal, in accordance with DFARS PGI 215.403-3(6).

### ***(U) Contractor Labor and Overhead Rates Increased Beyond Industry Averages***

(U) Contractor direct and indirect labor and overhead rates increased beyond industry inflation for seven sole-source depot maintenance contracts. DCMA contracting officials are required to establish FPRRs and FPRAs for all contractors whose sales to the Government are expected to exceed \$200 million during the contractor's fiscal year. To ensure that FPRRs and FPRAs are fair and reasonable, the DCMA continuously monitors contractors' business costs and labor rates. When contractors submit Forward Pricing Rate Proposals, which could be annually or more frequently, DCMA contracting officials conduct proposal evaluations, with assistance from the Defense Contract Audit Agency. Specifically, the DCMA takes into account factors such as the contractor's basis for estimates, business volume, projections, and allocation bases. After evaluating the proposed rates, DCMA officials provide interim FPRRs to DoD contracting officials before the DCMA negotiates the FPRAs. While FPRRs and FPRAs provided DoD contracting officials assurance that the contractor's direct and indirect labor, overhead, and general administrative rates were fair and reasonable, DoD contracting officials used DCMA issued FPRRs and FPRAs that increased beyond industry inflation. As a result, FPRRs and FPRAs limited DoD contracting officials' ability to negotiate prices that aligned cost increases from previous contracts with industry inflation. In particular, DCMA, DoD, and contractor contracting officials stated that FPRA and FPRAs increased beyond industry inflation because of company mergers, changes to projected sales quantities, or in one case, because a company increased its labor rates to more competitively hire and retain staff compared to other companies in its industry.

(U) For example, in 2017, NAVSUP contracting officials awarded a contract for repairs of UH-1 and AH-1 helicopter parts, which incurred \$15.5 million in cost escalation based predominately on increased overhead rates from an FPRR.<sup>55</sup> According to the NAVSUP, DCMA, and contractor contracting officials, the contractor's overhead rates increased significantly based on changes in business conditions. Specifically, reductions in sales quantities for Government, commercial, and foreign military sales, unrelated to the NAVSUP contract for UH-1 and

*(U) Reductions in sales quantities for Government, commercial, and foreign military sales, caused significant increases to the contractor's overhead rate, which were then applied to the NAVSUP contract.*

AH-1 helicopter part repairs, caused significant increases to the contractor's overhead rate, which were then applied to the NAVSUP contract. In 2016, before NAVSUP contracting officials awarded the contract for repairs of UH-1 and AH-1 helicopter parts, the DCMA and Defense Contract Audit Agency officials reviewed the contractor's Forward

Pricing Rate Proposal to ensure that the proposed rates were fair and reasonable. Based on the DCMA and Defense Contract Audit Agency's reviews, the DCMA developed an FPRR with labor and overhead rates that were lower than the contractor's Forward Pricing Rate Proposal. However, the DCMA issued an FPRR, which included the contractor's assumptions based on changes in the contractor's business conditions, such as updates to direct and indirect labor rates and the overhead rates that resulted from an unrelated contract for aircraft production quantities. Therefore, because NAVSUP contracting officials used the DCMA's FPRR, as required, they negotiated contractor labor and overhead rates that increased beyond industry inflation, which contributed to price increases and \$15.5 million (8.79 percent) in cost escalation for the repair of the UH-1 and AH-1 parts.<sup>56</sup>

(U) In addition to the cost escalation we identified, when reviewing the contract files, we found administrative errors with NAVSUP contracting officials' awards for 2 of the 10 delivery orders, which led to the Government paying higher prices than other delivery orders. Specifically, the contract required NAVSUP contracting officials and the contractor to apply a 3-percent discount to the price of each part repaired. The discount accounted for GFM that the Defense Logistics Agency provided to the contractor. The contractor officials stated that they retain the

<sup>55</sup> (U) The UH-1 helicopter is a rotary-wing aircraft capable of providing air, fire, and assault support in adverse conditions. The AH-1 helicopter is another rotary-wing aircraft that provides a variety of capabilities such as air support, armed escort, and reconnaissance.

<sup>56</sup> (U) We did not audit the accuracy of the DCMA FPRR for the UH-1 and AH-1 contractor.

(U) GFM property for use on repairs, as needed. The contract states that when each delivery order is closed out, the contractor and NAVSUP officials reconcile the amount of GFM used and adjust the cost of the 3-percent discount applied, as necessary. However, NAVSUP contracting officials did not apply a 3-percent decrement to account for the GFM on 2 of the 10 delivery orders. By not applying the 3-percent decrement on the two delivery orders, NAVSUP contracting officials overpaid \$919,613.44 on the two delivery orders. As of September 2021, NAVSUP contracting officials confirmed that they have not finalized the two delivery orders. The NAVSUP contracting officer stated that they are currently in the reconciliation process, where

they would still be able to recuperate the cost of the GFM used by the contractor. Therefore, the NAVSUP Commander should require the contracting officer for contract N00383-17-D-BA01 to reconcile and recover the cost of the 3-percent GFM discount that should have been applied to delivery orders N00383-18-F-BA04 and N00383-19-F-BA00 totaling \$919,613.44.

*(U) By not applying the 3-percent decrement on the two delivery orders, NAVSUP contracting officials overpaid \$919,613.44 on the two delivery orders.*

### **(U) Aging Systems Require Additional Repairs**

(U) Aging systems that required more repairs and encountered obsolescence challenges may have prevented DoD contracting officials from negotiating fair and reasonable prices for 4 of 34 contracts. As systems age, more frequent and unexpected repairs occur, and the parts needed become scarce or obsolete. According to DoD and contractor officials, they expect operating costs to rise due to fatigue and corrosion, more frequent and unexpected repairs, and the obsolescence of parts as systems pass their initial years of operation and begin to age. Specifically, diminishing sources of supply are market-driven as technology is phased out, access to sources of supply becomes limited, or functional items become obsolete, among other factors that might cause maintenance costs to increase. Accordingly, we identified that 4 of 34 contracts had cost increases that were the result of aging systems.

(U) For example, the AFLCMC contracting officials awarded a contract to support and repair the Air Force's U-2 aircraft that incurred \$6.4 million in cost escalation because of the age of the weapon system. The U-2 aircraft was covertly developed in the mid-1950s for a short mission, but the program evolved over the years to become a highly specialized, sophisticated weapon system. According to a

(U) DoD guide, the expected service life of an aircraft ranges from 20 to 40 years.<sup>57</sup> While the U-2 aircraft has undergone multiple modernizations to the airframe, some of the airframe designs are more than 60 years old with the rest being older than 40 years, which exceeds the DoD guide for expected service life for an aircraft. According to the contracting officials responsible for awarding the contract, because of the age of the U-2 aircraft, many of the parts needed to repair it have become obsolete. The contractor agreed that aging aircraft require more frequent depot maintenance repairs, which can be more extensive and costly, and require the contractor to repair more than just typical wear and tear conditions. In addition, the contracting officials stated that most of the skilled workforce familiar with the repairs and maintenance of the U-2 aircraft have retired. As a result, the age of the U-2 aircraft increased maintenance costs and contributed to the \$6.4 million (12.05 percent) cost escalation. Therefore, the AFLCMC Commander should direct AFLCMC contracting officials to work with U-2 program officials to identify alternative cost-effective maintenance options for maintaining the aging U-2 aircraft. See Figure 4 for a photo of an Air Force U-2 aircraft.



(U) Figure 4. U-2 Aircraft  
(U) Source: The U.S. Air Force.

<sup>57</sup> (U) Office of the Secretary of Defense, Cost Assessment and Program Evaluation, "Operating and Support Cost-Estimating Guide," September 2020.

## (U) Contracting Officials Paid \$71.9 Million in Cost Escalation

(U) The DoD paid at least \$71.9 million in cost escalation on 21 of 34 sole-source and single-source depot maintenance contracts, which represented a 6.02-percent escalation above industry inflation.<sup>58</sup> Multiple audit reports over the past 20 years have highlighted the challenges that the DoD encounters with sole-source contracts, including sole-source depot maintenance contracts. Depot maintenance is the most extensive, labor-intensive maintenance category and includes inspection, repair, overhaul, or the modification or rebuild of end items, assemblies, subassemblies, and parts. This type of work is costly and complex, and requires DoD contracting officers to do their due diligence when awarding contracts to ensure that the Government obtains fair and reasonable prices. In addition, the DoD has reported that the acquisition of major weapon systems remains a challenge and falls short of cost, schedule, and performance expectations. Our review of 34 depot maintenance contracts confirmed these challenges. Specifically, DoD contracting officers faced challenges associated with sole-source contracting that hindered their ability to obtain sufficient cost or pricing data, which is needed to establish fair and reasonable prices. In addition, the DoD did not define requirements for acquisitions consistently, which resulted in cost overruns, schedule delays, and capabilities that are not delivered or available to meet DoD mission requirements.

(CUI) Although the DoD documented price reasonableness determinations, contracting officials did not consistently comply with Federal and DoD acquisition regulations, which impacted the DoD's mission by creating gaps in contract coverage and resulted in grounded weapon systems. For example, after a 2-year gap in coverage, the contract to support repairs to the UH-60 Black Hawk helicopter's main rotor blade was awarded with [REDACTED] backorders that resulted in grounded aircraft that were not available to perform their intended mission. Therefore, the poorly defined contract requirements, the gaps in coverage, and the grounded aircraft limited the Army's ability to meet its mission. While we identified that depot maintenance costs increased based on inadequate requirements or factors that were beyond the control of the DoD contracting officials, our review of 34 sole-source and single-source depot maintenance contracts validated the urgency to award these

*(U) Contracting officials did not consistently comply with Federal and DoD acquisition regulations, which impacted the DoD's mission by creating gaps in contract coverage and resulted in grounded weapon systems.*

<sup>58</sup> (U) Of the 21 contracts, we reviewed \$1.2 billion of the \$4.6 billion.

(CUI) contracts in a timely manner. When DoD contracting officials did not award contracts in a timely manner, it negatively affected the DoD's ability to meet its mission, which limits the DoD's readiness worldwide.

## **(U) Management Comments on the Finding and Our Response**

(U) The Commander, NAVSUP Weapon Systems Support, and the Director, Procurement/Insight Oversight, on behalf of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), provided the following comments on the Finding. For the full text of these comments, see the Management Comments section of the report.

### ***(U) NAVSUP Weapon Systems Support Comments on Procured Material That Exceeded Contract Requirements***

(U) The Commander, NAVSUP Weapon Systems Support disagreed with the report's finding that NAVSUP negotiated and procured materials that exceeded contract requirements for the 5-year IDIQ long-term contract. Specifically, the Commander stated that NAVSUP Weapon Systems Support did not procure 6 years of labor, material, and facilities on a 5-year contract. The Commander also stated that the contract does not contain language pertaining to GFM or advance material purchases. In addition, the Commander stated that all material costs supported an improved repair turnaround time in years two through five of the firm-fixed-price 5-year requirements contract. Finally, the Commander stated that the strategy to purchase long-lead material resulted in reductions to backorders.

(U) The Commander also disagreed with the report's finding that NAVSUP Weapon Systems Support potentially violated the Bona Fide Needs Rule when purchasing materials that exceeded contract requirements for a 5-year IDIQ long-term contract. The Commander stated that the contract was funded with the Navy Working Capital Fund, which is a revolving fund authorized to incur obligations without regard to fiscal year limitations, in accordance with section 2210(b), title 10, United States Code. The Commander reiterated that section 1502, title 31, United States Code, is the statute for the Bona Fide Needs Rule, which states that an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability to complete contracts properly made within that period of availability.

(U) The Commander stated that the GAO elaborated on the Bona Fide Needs Rule by stating that an appropriation is available for obligation only to fulfill a genuine bona fide need of the period of availability. The Commander also stated that in other words, an agency may obligate its fiscal year appropriation only to meet a legitimate, or bona fide, need arising in the fiscal year for which the appropriation was made. The Commander stated that if NAVSUP had funded contract requirements for a sixth year of material, the requirements are within the period of availability of the working capital funds used to procure them. In addition, the Commander stated that the GAO recognizes exceptions to the Bona Fide Needs Rule, including a lead-time exception and a stock-level exception. Specifically, the Commander stated that the DoD Financial Management Regulation explains that in determining a bona fide need of the period for which funds were appropriated, such determinations must consider estimated current consumption, the requirements that may be foreseen for future years based upon the procurement lead time, authorized stock levels, and authorized mobilization reserves. Consequently, the Commander stated that the GAO recognizes a lead-time exception and a stock-level exception to the Bona Fide Needs Rule. Therefore, the Commander stated that these exceptions would apply to the contract.

### **(U) Our Response**

(U) We disagree that NAVSUP did not purchase 6 years of material on a 5-year contract. Contracting officials from both NAVSUP and the contractor stated that NAVSUP officials instructed the contractor to include a sixth year of material in the final year of the contract to support the future follow-on contract. In addition, NAVSUP's post-business clearance memorandum states that the contractor would buy 2 years' worth of material in year one. For each of the subsequent years, years two through five, the memorandum states that the contractor would buy material at half the quantity purchased in year one. Therefore, the contract included 2 years of material in year one, and 1 year of material in years two, three, four, and five, for a total of 6 years of material. Finally, a NAVSUP contracting official stated that the long-lead material purchased in year 5, in 2024, would be used for a follow-on contract.

(U) Based on the comments from the Commander of NAVSUP Weapon Systems Support, we re-evaluated the guidance for the Bona Fide Needs Rule. Specifically, we found that the GAO reported that the Bona Fide Needs Rule does not apply to no-year funds.<sup>59</sup> Because the contract was purchased with Navy Working Capital Funds, which are no-year funds, the Bona Fide Needs Rule does not apply to this contract. Therefore, we updated the report to remove the statements about the Bona Fide Needs Rule. However, while the Bona Fide Needs Rule may not apply, purchasing 6 years of material on a 5-year contract and including the price of the sixth year of material in a fixed repair price is not a good business practice, and may not be in the Government's best interest.

(U) The contract specifically stated that the prices would be for repair and modification for a period of 5 years. The NAVSUP contracting officials instructed the contractor to include the cost of long-lead material in their price that would be used beyond the period of performance of the contract. Furthermore, a contractor official stated that the APN-245 system should be redesigned soon to upgrade obsolete parts. Therefore, by directing the contractor to include the cost of the sixth year of material within the fixed repair prices, NAVSUP contracting officials limited NAVSUP's ability to cancel the purchase of the long-lead material if NAVSUP does not award the follow-on contract or if the APN-245 system is upgraded, reducing or eliminating the need for the long-lead material. As an example, if the NAVSUP contracting officials had separated the long-lead material from the repair prices using a separate contract line item, or as an option to the contract, they would have created more flexibility to cancel the purchase if the long-lead material became unnecessary.

***(U) Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) Comments on Inaccurate Forecasting That Created Poorly Defined Contract Requirements***

(U) The Procurement/Insight Oversight Director, on behalf of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), stated that Program Executive Office, Aviation officials were not responsible for developing the contract requirements for contract W58RGZ-19-D-0062. The Director stated that the officials interviewed for contract W58RGZ-19-D-0062, and cited within the report, were from the Army Materiel Command and not the Utility Helicopter Program Office.

<sup>59</sup> (U) GAO Report No. GAO-04-261SP, "Principles of Federal Appropriations Law, Third Edition, Volume I," January 2004.

### **(U) Our Response**

(U) Based on comments from the Director, we verified and validated that the U.S. Army Aviation and Missile Command is responsible for developing contract requirements for the UH-60 helicopter blade repairs. Therefore, we updated the report where appropriate.

## **(U) Recommendations, Management Comments, and Our Response**

### **(U) Deleted, Renumbered, and Redirected Recommendations**

(U) As a result of management comments, we deleted Recommendation A.1.a., for the NAVSUP Commander to review contract N00383-19-D-V001 to determine whether contracting officials violated the Bona Fide Needs Rule. We renumbered Recommendation A.1.b as Recommendation A.1.a, and Recommendation A.1.c as Recommendation A.1.b. We also redirected Recommendation A.2 to the Commanding General of the U.S. Army Aviation and Missile Command, who has the authority to implement the recommendation.

### **(U) Recommendation A.1**

**(U) We recommend that the Commander of the Naval Supply Systems Command:**

- a. (U) Require the contracting officials responsible for contract N00383-19-D-V001 to work with the program office to review the process for procuring long-lead materials and identify alternative options for procuring long-lead materials, as appropriate.

### **(U) NAVSUP Comments**

(U) The NAVSUP Weapon Systems Support Commander, responding for the NAVSUP Commander, agreed with the recommendation and stated that NAVSUP will continue to develop acquisition strategies, including plans for long-lead material procurements, in conjunction with the Program Offices and Integrated Weapons Support Teams.

### **(U) Our Response**

(U) Comments from the Commander addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation when we obtain and verify the results of NAVSUP's review and strategies for purchasing long-lead material for contract N00383-19-D-V001.

- b. (U) Require the contracting officer for contract N00383-17-D-BA01 to reconcile and recover the cost of Government-furnished material that should have been applied to two delivery orders, valued at \$919,613.44.

### **(U) NAVSUP Comments**

(U) The NAVSUP Weapon Systems Support Commander, responding for the NAVSUP Commander, agreed with the recommendation and stated that the contracting officer is in the process of reconciling GFM parts used on the delivery orders. The Commander also stated that the contract amount and obligated funds will be reduced to reflect the value of GFM parts used. The Commander provided an estimated completion date of March 31, 2022.

### **(U) Our Response**

(U) Comments from the Commander addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation when NAVSUP provides documentation supporting contracting officials reconciled and recovered the cost of GFM for contract N000383-17-D-BA01.

### **(U) Recommendation A.2**

(U) We recommend that the Commanding General of the U.S. Army Aviation and Missile Command direct the U.S. Army Aviation and Missile Command Logistics Center officials responsible for forecasting UH-60 helicopter blade repairs review the forecasting process used to generate estimated quantities for indefinite-delivery indefinite-quantity depot maintenance contracts to determine whether the existing method can be improved for follow-on contracts.

### **(U) Management Comments Required**

(U) We request that the Commanding General of the U.S. Army Aviation and Missile Command provide comments on this recommendation in response to the final report.

### **(U) Recommendation A.3**

(U) We recommend that the Executive Director of the Army Contracting Command-Redstone Arsenal direct contracting officials to:

- a. (U) Review the use of indefinite-delivery indefinite-quantity contract types for UH-60 blade repair requirements and determine whether a different contract type is more appropriate.

### **(U) Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) Comments**

(U) The Procurement/Insight Oversight Director, on behalf of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), agreed with the recommendation. The Procurement/Insight Oversight Director stated that the ACC-Redstone Arsenal Executive Director will direct contracting officials to review the use of IDIQ contract types for UH-60 blade repair requirements and determine whether a different contract type is more appropriate. The Procurement/Insight Oversight Director also stated that the review will be completed, and the results provided to the DoD OIG by July 28, 2022.

### **(U) Our Response**

(U) Comments from the Procurement/Insight Oversight Director addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation once we obtain and verify documentation that contracting officials evaluated the use of IDIQ contract types for UH-60 blade repair and determined whether a different contract type is more appropriate.

- b. (U) Work with the program office officials responsible for the UH-60 helicopter to review the execution of contracts for the UH-60 helicopter blade repairs to identify and document lessons learned for application in future procurements.**

### **(U) Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) Comments**

(U) The Procurement/Insight Oversight Director, on behalf of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), agreed with the recommendation, stating that the ACC-Redstone Arsenal Executive Director will direct contracting officials to work with program office officials responsible for UH-60 helicopter blade repairs to identify and document lessons learned for application in future procurements. The Procurement/Insight Oversight Director also stated that the review will be completed, and the results provided to the DoD OIG by July 28, 2022.

### **(U) Our Response**

(U) Comments from the Procurement/Insight Oversight Director addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation after we obtain and review the documented lessons learned from the contracts for UH-60 helicopter blade repairs.

**(U) Recommendation A.4**

(U) We recommend that the Commander of the Air Force Sustainment Center require contracting officers to request uncertified cost and pricing data, when needed, to support the contracting officer's determination of fair and reasonable prices when negotiating sole-source commercial contracts. In addition, the Commander of the Air Force Sustainment Center should direct contracting officers to document the contractor's response to the request and report to the Defense Pricing and Contracting Principal Director whenever contractors refuse to provide requested cost data, with their rationale, in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.403-3(6).

**(U) Air Force Sustainment Center Comments**

(U) The Air Force Materiel Command Executive Director, responding for the AFSC Commander, agreed with the recommendation, stating that the AFSC will implement training to reinforce existing regulations and policy, which will address the concerns raised in the audit report and ensure compliance with FAR 15.403-3(a) and [DFARS PGI 215.403-3(6)]. The Executive Director stated that the AFSC will provide detailed training, as well as recurring annual training, that will focus on when it would be appropriate to request other than cost or pricing data. The Executive Director stated that the training would also focus on documenting and reporting contractor denials to submit requested data. Additionally, the Executive Director stated that the AFSC will develop and provide training for supervisors of contracting officers on recognizing and responding to undue influence by requiring activities or members of the contracting leadership team that serve to discourage contracting officers from complying with the requirements of FAR 15.403-3(a) and [DFARS PGI 215.403-3(6)]. Finally, the Executive Director stated that the training would be implemented no later than 90 days after the DoD OIG issues the final report.

**(U) Our Response**

(U) Comments from the Executive Director addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation once we obtain and verify that the AFSC training fully addresses the recommendation and we confirm AFSC is providing the training to contracting personnel.

### **(U) Recommendation A.5**

(U) We recommend that the Commanding General of the Army Contracting Command require contracting officers to request uncertified cost and pricing data, when needed, to support the contracting officer's determination of fair and reasonable prices when negotiating sole-source commercial contracts. In addition, the Commanding General of the Army Contracting Command should direct contracting officers to document the contractor's response to the request and report to the Defense Pricing and Contracting Principal Director whenever contractors refuse to provide requested cost data, with their rationale, in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.403-3(6).

### **(U) Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) Comments**

(U) The Procurement/Insight Oversight Director, on behalf of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), agreed with the recommendation, stating that the ACC Commanding General would affirm the Army's processes by including an article in the ACC "Hot off the Press" publication. The Director stated that the article would inform contracting officers of the requirement to request uncertified cost and pricing data, when needed, to support the contracting officer's determination of fair and reasonable prices when negotiating sole-source commercial contracts. The Director also stated that the article will reiterate the reporting process in the Army Regulation, and provided a completion date for these actions of June 30, 2022.

### **(U) Our Response**

(U) Comments from the Procurement/Insight Oversight Director addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. While the Director did not discuss the requirements from DFARS PGI 215.403-3(6) in his response, we verified that Army Federal Acquisition Regulation Supplement 5115.403 includes the same requirements for the head of contracting activity to make the determination when requiring data other than certified cost or pricing data, and to report contractor denials of data requested. We will close this recommendation when we obtain the ACC "Hot off the Press" publication that reiterates the requirement to request uncertified cost or pricing data, and verify that it also contains the reporting procedures if contractors refuse to provide requested data.

**(U) Recommendation A.6**

(U) We recommend that the Commander of the Air Force Life Cycle Management Center direct Air Force Life Cycle Management Center contracting officials to work with U-2 program officials to identify alternative cost-effective maintenance options for maintaining the aging U-2 aircraft.

**(U) AFLCMC Comments**

(CUI) The Air Force Materiel Command Executive Director, responding for the AFLCMC Commander, agreed with the recommendation and stated that the AFLCMC will continue to execute current, on-going, and enduring efforts that support the intent of the recommendation. The Executive Director stated that the efforts include, but are not limited to, reverse engineering of proprietary tech data to develop technical packages for qualifying other sources and creating competition. In addition, she stated that efforts also include reverse engineering and additive manufacturing of critical aircraft parts, and obtaining full data rights for maintenance requirements on future modifications and acquisitions.

The Executive Director also stated that the AFLCMC is [REDACTED]

[REDACTED]  
[REDACTED]. The Executive Director further stated that the AFLCMC is [REDACTED]  
[REDACTED]  
[REDACTED]. Lastly, the Executive Director stated  
that the [REDACTED]  
[REDACTED]. Specifically, the Executive Director stated that the [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

**(U) Our Response**

(U) Comments from the Executive Director addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation when we obtain and verify documentation of AFLCMC's current, on-going, and enduring efforts to reduce maintenance costs for the aging aircraft.

## (U) Finding B

### (U) NAVSEA Single-Source Contracts Affect Ship Repair Schedule

(U) The shipbuilding industrial base is vital to the Nation's ability to build and sustain the naval fleet. However, many suppliers are experiencing more demand than their available dry-dock capacity to perform ship maintenance.<sup>60</sup> Although NAVSEA contracting officials solicited dry-dock ship repair contracts using competitive procedures, in accordance with Federal and Defense acquisition regulations, NAVSEA contracting officials awarded 17 of 49 contracts as single-source contracts from FY 2017 through FY 2021. According to major defense ship contractor officials, they did not bid on ship maintenance contracts because they did not have available dry docks to perform ship repairs. In addition, officials from major defense ship contractors stated that they did not bid on ship maintenance contracts because of NAVSEA's contracting practices, which included applying additional fees to contractor proposals and awarding contracts later than planned. As a result, single-source contracts increased the risk of higher costs and contributed to schedule delays. For example, we identified cost escalation valued at \$12.30 million for our seven single-source ship maintenance contracts, and schedule delays that lasted up to 512 days. Any schedule delays in returning ships to the Navy's fleet could affect the Navy's readiness worldwide.

### (U) Background

(U) The shipbuilding industrial base is vital to the Nation's ability to build and sustain the naval fleet. The U.S. shipbuilding industrial base consists primarily of seven shipyards owned by a limited number of companies and their suppliers. Specifically, major defense ship contractors operate 21 dry docks within the United States (14 on the east coast and 7 on the west coast). Shipbuilding includes construction and maintenance of Navy aircraft carriers, submarines, surface ships, and their associated weapons and command and control systems. Shipyards, which are fixed facilities with dry docks, support ship construction, repair, conversion and alteration, and the production of refabricated ship sections and other specialized services. Diminishing competition within the industrial base forces the Navy to rely on single- and sole-source suppliers for critical maintenance and sustainment of all aspects within the shipyards, including the ships themselves.

<sup>60</sup> (U) Report to President Donald J. Trump by the Interagency Task Force in Fulfillment of Executive Order 13806, "Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States," September 2018.

(U) As of October 2021, the Navy has a 296-ship fleet, with a requirement to increase its fleet to 355 ships by 2030.<sup>61</sup> Therefore, according to an Interagency Task Force report, expanding the number of companies involved in Navy shipbuilding is imperative to maintaining a healthy industrial base that can fulfill the needs of the fleet and support the Navy's long-range shipbuilding plan.<sup>62</sup> According to NAVSEA officials, adherence to ship repair schedules is important to the Navy. Navy officials explained that the Navy plans for maintenance for a full carrier group to occur all at one time, meaning that all ships for that group are scheduled to begin and complete their planned maintenance simultaneously to limit the impact that maintenance could have on the group's mission and on other fleets. However, many suppliers are experiencing more demand to perform ship maintenance than their available dry-dock capacity. The combination of limited suppliers and increased workloads could increase costs and potentially create schedule delays. As highlighted recently by the GAO, if suppliers do not meet repair schedules, the Navy experiences reduced readiness and operational availability.<sup>63</sup>

(U) Adherence to contract award schedules is foundational to on-time delivery of ships from scheduled periods of repair. The Navy refers to scheduled periods of repair as availabilities. The Commander, Navy Regional Maintenance Center (CNRMC) is responsible for coordinating depot-level and field-level maintenance of the Navy's surface fleet, and resourcing requirements to meet the demanding schedule of ship maintenance availabilities.<sup>64</sup> For the CNRMC's execution of surface ship maintenance and modernization, the Navy has five Regional Maintenance Centers (RMCs) in the United States. The RMCs provide the surface fleet with maintenance and repair support to keep them operationally ready. NAVSEA plans to issue solicitations 315 days before ship repairs begin. Once proposals are solicited, NAVSEA plans to award both coast-wide and homeport contracts 120 days before the start of contract execution, as a metric to keep ship schedules on time.<sup>65</sup> In the past few years, Navy ship maintenance has been a main topic of audits and reviews. These audits and reviews have focused primarily on Government-owned, Government-operated shipyards. Recent reports have suggested that the Navy needs to rely more on private yards in the future.

<sup>61</sup> (U) The National Defense Authorization Act for Fiscal Year 2018 included a requirement that the Navy battle force increase to 355 ships.

<sup>62</sup> (U) Report to President Donald J. Trump by the Interagency Task Force in Fulfillment of Executive Order 13806, "Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States," September 2018.

<sup>63</sup> (U) GAO Report No. GAO-20-257T, "Navy Maintenance: Persistent and Substantial Ship and Submarine Delays Hinder Efforts to Rebuild Readiness," December 4, 2019.

<sup>64</sup> (U) Field-level maintenance includes both on-system and off-system maintenance, as well as repairs necessary for day-to-day operations.

<sup>65</sup> (U) The level of complexity of ship repair, maintenance, and modernization can affect the length of a maintenance availability, which can range from a few weeks to more than 6 months. The length of an availability determines whether the work will be competed among contractors only in the ship's homeport, referred to as a homeport availability, or competed among all ship repair yards on the east or west coasts, referred to as a coast-wide availability.

(U) and identified single-source contracts as a growing risk to traditional defense sectors such as aircraft and shipbuilding.<sup>66</sup> By relying more on single- and sole-source contracts, the Navy is experiencing more challenges in establishing price reasonableness.

## (U) NAVSEA Contracting Officials Used Competitive Procedures

(U) Although NAVSEA contracting officials solicited dry-dock ship repair contracts using competitive procedures, NAVSEA contracting officials awarded 17 of 49 contracts as single-source from FY 2017 through FY 2021. The FAR requires that full and open competition be used to the maximum extent practicable.<sup>67</sup> Navy ship maintenance availabilities can range from a few weeks to years, depending on the extent of work required and degree of complexity. When NAVSEA solicits maintenance and repair work during an availability, contracting officials determine whether such work is competed on a homeport or coast-wide basis. Federal and Navy policies require the award of an availability period lasting 10 months or fewer, referred to as “short-term availabilities,” to contractors at the homeport of a ship, if there is adequate competition.<sup>68</sup> The purpose of the Navy’s homeport policy is to, where possible, do ship repair and maintenance work at the ship’s homeport, improving the ship crew’s quality of life by reducing time away from home.

(U) The Navy has used IDIQ multiple-award contracts for short-term availabilities performed at the homeport. An IDIQ contract provides for an indefinite quantity, within stated limits, of supplies or services during a fixed period. The Government then places orders for individual requirements from the IDIQ contract. A multiple-award contract is a type of IDIQ contract that is awarded to several contractors from a single solicitation and provides a method to streamline ordering supplies or services. For availability periods lasting longer than 10 months, NAVSEA contracting officials issue a solicitation on a coast-wide basis, which allows for contractors outside of a ship’s homeport, but along that particular coast, to submit a bid. The differences in where these contracts are solicited impacts the prices that contractors propose. For example, a NAVSEA contracting official explained that one of the first coast-wide availabilities was awarded to a Pascagoula, Mississippi contractor that had lower labor rates than the homeport contractors in Norfolk, Virginia. This resulted in the Norfolk contractors proposing lower costs on subsequent contracts.

<sup>66</sup> (U) Report to President Donald J. Trump by the Interagency Task Force in Fulfillment of Executive Order 13806, “Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States,” September 2018.

<sup>67</sup> (U) FAR 6.1.

<sup>68</sup> (U) Section 8669a, title 10, United States Code; NAVSEA Contracts Handbook, Part 6, “Competition Requirements,” as of February 2021.

(U) The Navy currently uses firm-fixed-price contracts for availabilities longer than 10 months. Before 2015, the Navy primarily used cost-reimbursement contracts for ship repair work. Under a cost-reimbursement contract, the Government does not contract for the performance of a specified amount of work at a predetermined price, but instead agrees to pay the contractor's costs up to a ceiling price. With cost-reimbursement contracts, the Government negotiates the individual costs associated with the total completion of the solicited requirements, resulting in the ceiling price. In 2015, the Navy shifted its acquisition strategy to use firm-fixed-price contracts for repairs and overhauls to ships to create competition and reduce costs for ship repair contracts. Specifically, NAVSEA contracting officials stated that the intent of this policy change was to promote competition; and force the Navy to provide contractors with requirements that are complete, fully funded, and all at once instead of incrementally. However, competition efforts from NAVSEA contracting officials still resulted in the award of 17 of 49 (34.7 percent) dry-dock ship maintenance contracts as single-source contracts from FY 2017 through FY 2021 because only one company bid on the contract, when full and open competition was expected. See Table 4 for a comparison of the number of single-source contracts and total dry-dock ship maintenance contracts from FY 2017 through FY 2021.

(U) *Table 4. FY 2017 Through FY 2021 Single-Source Contracts and Overall Contracts*

Fiscal Year	Number of Single-Source Contracts	Total Dry-Dock Ship Maintenance Contracts	Percentage of Single-Source Contracts
2017	1	7	14.3
2018	7	12	58.3
2019	4	11	36.4
2020	3	9	33.3
2021	2*	10*	20.0
<b>Total</b>	<b>17</b>	<b>49</b>	<b>34.7</b>

\*(U) As of May 25, 2021.

(U) Source: The DoD OIG.

(U) While the intent of the policies that shifted contracts to firm-fixed-price and the use of IDIQ multiple-award contracts was to create competition and reduce ship maintenance costs and scheduling delays, NAVSEA contracting officials still awarded 34.7 percent of their major ship repair contracts without full and open competition from FY 2017 through FY 2021.

## (U) Limited Dry-Dock Capacity and Contracting Practices Created a Single-Source Environment

(U) NAVSEA contracting officials awarded 17 of 49 contracts as single-source contracts because of limited dry-dock capacity to perform ship repairs and NAVSEA contracting practices. According to major defense ship contractors, they did not bid on contracts because they did not have an available dry dock to conduct maintenance, or, they made business decisions not to bid. In addition, major defense ship contractors stated that because of NAVSEA contracting practices, such as adding additional fees the Navy incurs when evaluating proposals and issuing solicitations later than planned, contractors did not anticipate that their bid would be competitive and therefore, did not submit a proposal. Although NAVSEA contracting officials anticipated competition for 49 homeport and coast-wide dry-dock ship maintenance contracts, NAVSEA received only a single offer for 17 of the contracts.

### (U) Limited Dry-Dock Capacity

(U) Major defense ship contractors have a limited number of dry docks available to perform ship repairs, which led to single-source contracts. NAVSEA contracting officials awarded 49 contracts for depot ship maintenance from FY 2017 through FY 2021 that required a dry dock to conduct repairs. Major defense

(U) Major defense ship contractors stated that they are reluctant to build or acquire additional dry docks due to uncertainty in winning future bids.

ship contractors operate 21 dry docks within the United States (14 on the east coast and 7 on the west coast). NAVSEA contracting officials stated that because the Navy's requirements for ship maintenance exceed the capacity of contractor dry docks within the United States, dry-dock availability

is a challenge. While additional dry docks would have reduced the number of single-source depot maintenance contracts awarded by NAVSEA contracting officials, major defense ship contractors stated that they are reluctant to build or acquire additional dry docks due to uncertainty in winning future bids. Contractor officials stated that they could not forecast their future work. However, NAVSEA officials stated that the Navy publicly provides industry with the amount of anticipated work by port, quarterly. See Figure 5 for a photo of a dry dock.



(U) Figure 5. Example of a Dry Dock

(U) Source: The U.S. Navy.

(CUI) Within the past few years, the Navy has identified the need for increased dry-dock capacity. For example, the Navy identified that dry-dock capacity and capability within the San Diego area did not support the U.S. Pacific Fleet's forecasted ship maintenance requirements and requested additional floating dry docks from the Chief of Naval Operations as options to meet the U.S. Pacific Fleet's availability requirements. According to NAVSEA contracting officials, there have been no additional dry docks added within the last 20 years. Furthermore, the Navy, in conjunction with the major defense ship contractors, is developing private shipyard optimization initiatives that will focus on future requirements for dry docks needed to support availability maintenance work, in support of sustaining a 355-ship Navy, such as adding [REDACTED]

[REDACTED].<sup>69</sup> In addition, NAVSEA contracting officials stated that they have a Contracts Governance Council to discuss and resolve challenges related to ship repair requirements, contracting, scheduling, and increasing dry-dock capacity. The Council, which is co-chaired by NAVSEA's Deputy Commander for Surface Warfare, the Director of NAVSEA's Contracts Directorate, and the Commander of the Navy Regional Maintenance Center, with members across the RMCs and

<sup>69</sup> (U) NAVSEA's Report to Congress, "Long-Range Plan for the Maintenance and Modernization of Naval Vessels for FY 2020."

(CUI) program offices, implements and supports policy for ship maintenance and modernization contracting strategies. Although the Council plans to meet annually, NAVSEA contracting officials stated that the Council did not meet in 2019 and has since been paused because of the coronavirus-disease-2019 pandemic. As the Navy increases the size of its fleet, the impact of limited commercial dry docks will continue to be a challenge. Therefore, the NAVSEA Commander and the Commander of the Navy Regional Maintenance Center should continue to collaborate with major defense ship contractors to identify potential initiatives to increase the number of contractor-owned dry docks.

(U) In addition to having limited dry-dock capacity, NAVSEA and major defense ship contractor officials stated that poorly defined contract requirements and numerous change orders prevented on-time ship deliveries. Having ships delivered on time results in more available dry docks. Therefore, ensuring clear requirements, which leads to on-time deliveries, is essential to maximizing dry-dock capacity and would foster more competition.

### ***(U) Unclear Contract Requirements***

(U) Unclear contract requirements led to longer than anticipated availabilities, which affected dry-dock capacity. Specifically, NAVSEA contracting officials provided contractors requirements that often changed prior to and after awarding firm-fixed-price contracts. DPC's Sole-Source Pricing Best Practices state that the contracting officer and program manager should ensure that the CLIN structure in the RFP accurately reflects requirements, supports program needs, and is not subject to change. NAVSEA develops contract requirements from repair and maintenance work orders received from the fleet, and from modernization requirements provided by the Surface Ship Modernization Program Office. Officials from the RMCs and the office of Surface Ship Maintenance, Modernization, and Sustainment review and approve the work item packages. However, both NAVSEA

*(U) NAVSEA contracting officials did not provide clear, consistent, and timely work item packages for ship repair contracts.*

contracting officials and major defense ship contractors have stated that the work item packages are general and not clear. According to contractors, NAVSEA contracting officials did not provide clear, consistent, and timely work item packages for ship repair contracts. Specifically, NAVSEA contracting officials provided unclear work item packages that varied for the same or similar work items and NAVSEA often updated, added, or removed requirements throughout the contracting process. Specifically, NAVSEA officials stated that before award, NAVSEA officials issued amendments to solicitations, and after contract award, new requirements and growth to existing requirements occurred.

(CUI) According to NAVSEA contracting officials, the RMC officials did not provide NAVSEA contracting officials with clear and definite requirements. This resulted in significant unplanned work because neither the Navy nor major defense ship contractors fully understood the ships condition before starting maintenance. NAVSEA officials stated that, to mitigate the challenges caused by not knowing the condition of the ship, they provide contractor officials the opportunity conduct in-person walkthroughs of ships or “sister ships” before developing proposals, which helped contractor officials determine whether requirements were complete or accurate. NAVSEA and contractor officials stated that walkthroughs of ships helped contractors formulate bids with increased accuracy. However, according to some contractors, ship walkthroughs did not always occur, and configurations of sister ships of the same type still varied when actually performing the maintenance. For example when reviewing work item packages during our price analysis, we identified a work item for habitability and berthing enhancements, which for one contract cost \$ [REDACTED] for [REDACTED] hours of labor, or \$ [REDACTED] dollars per hour. However, in a comparable contract, the cost was \$ [REDACTED] for [REDACTED] hours, which was \$ [REDACTED] per hour, for the work with the same work item number and same description. This resulted in an escalation of approximately \$287,000 and further evidence that similarly described work on the same ship type can range significantly in actual work requirements.<sup>70</sup>

(CUI) To help mitigate schedule risk and to account for unknown, unplanned maintenance in the firm-fixed price contracts, referred to by the Navy as growth work, NAVSEA contracting officials stated that they include an estimated number of growth work hours in RFPs. NAVSEA officials stated that they estimate growth work hours using historical information for specific contract requirement categories. NAVSEA contracting officials ask contractors to propose a fully burdened rate for the performance of the estimated growth work. While some growth work is unavoidable, the Navy would need to have a better understanding of the condition of the ship to avoid most growth work and the resulting cost and schedule risk. Without knowing what work will be included as growth work, contractors have difficulty estimating how much it will cost. Contractor officials stated that even for routine jobs, each contract could have a different description, making it more difficult to develop their proposals and increasing the risk of higher costs and schedule delays. For example, the contract for the repair and modernization of the *USS Vicksburg*, included more than [REDACTED] hours of growth work that increased the cost of the contract by more than \$22 million.<sup>71</sup> This growth work delayed the return of the *USS Vicksburg* to the Navy’s fleet

<sup>70</sup> (U) Our review was specific to work item descriptions and numbers, and did not include detailed work specifications per work item.

<sup>71</sup> (U) Contract N00024-20-C-4446 was awarded on December 23, 2019, valued at \$200,868,971.

(CUI) by 438 days. In particular, NAVSEA contracting officials issued one modification to initiate growth work on a specific CLIN, which increased costs by more than \$8 million and requested [REDACTED] additional labor hours. In another example, NAVSEA contracting officials directed more than [REDACTED] additional labor hours of growth work that increased costs by more than \$9.3 million for the repairs and alterations onboard the *USS Wayne E. Meyer*.<sup>72</sup> On that contract, a single modification increased costs by \$4.0 million and required more than [REDACTED] additional labor hours. See Figure 6 for a photo of the *USS Vicksburg*.



(U) Figure 6. USS Vicksburg  
(U)Source: Naval Surface Force Atlantic.

(U) In April 2021, the GAO issued a report that discussed similar problems with clear requirements for the Littoral Combat Ship, a class of small surface ships.<sup>73</sup> The GAO report found that the Navy had to contract for more repair work than originally planned, which increased the risk to completing maintenance on schedule. The GAO found that unplanned work occurred because the Navy did not fully understand a ship's condition before starting maintenance. The report also highlighted actions the Navy has begun to perform to determine the causes of unplanned work, such as collecting and analyzing maintenance data. Clear requirements and an understanding of a ship's condition before starting maintenance would reduce the risk to completing maintenance on time. Therefore, the NAVSEA Commander should direct the Commander of the Navy Regional Maintenance Center to review and update work item packages to ensure clear and consistent requirements are used for routine depot maintenance tasks, as necessary.

<sup>72</sup> (U) Contract N00024-20-C-4464 was awarded on December 17, 2019, valued at \$92,537,737.

<sup>73</sup> (U) Report No. GAO-21-172, "Littoral Combat Ship: Unplanned Work on Maintenance Contracts Creates Schedule Risk as Ships Begin Operations," April 2021.

## (U) Change Orders Created Delays

(U) Because of challenges in knowing the condition of ships before an availability, NAVSEA contracting officials issued a significant number of change orders per depot ship maintenance contract. These change orders commonly resulted in schedule delays and decreased the number of available dry docks. A change order is a unilateral direction, signed by a contracting officer, to carry out requirements without the contractor's consent.<sup>74</sup> A change order may direct a contractor to perform additional work. For the seven dry-dock maintenance contracts in our sample, NAVSEA contracting officials issued between 278 and 962 change orders that caused up to 512 additional days occupying dry docks. See Table 5 for the number of change orders and number of days delayed per contract.

(U) Table 5. Number of Change Orders and Days Delayed

Contract Number	Number of Change Orders	Change in Contract Value Due to Change Orders (Millions)	Intended Number of Days in Period of Performance	Days Delayed Beyond Original Completion Date
N00024-16-D-4416	278	\$0.39	290	0
N00024-18-C-4432	646	2.25	368	161
N00024-18-C-4438	630	4.88	472	205
N00024-18-C-4440	930*	17.63	365	512
N00024-18-C-4443	394	2.54	375	14
N00024-20-C-4446	962*	22.62	427	438
N00024-20-C-4464	514*	9.35	248	70
<b>Average</b>	<b>622</b>	<b>8.52</b>	<b>364</b>	<b>200</b>
<b>Total</b>	<b>4,354</b>	<b>\$59.66</b>	<b>2,545</b>	<b>1,400</b>

\*(U) Number of change orders as of May 25, 2021.

(U) Source: The DoD OIG.

(U) The FAR states that firm-fixed-price contracts are suitable for reasonably definite or detailed specifications.<sup>75</sup> According to NAVSEA contracting officials, change orders are an inevitable part of ship maintenance contracts. However, the large number of change orders issued during the contracts' execution in our sample negatively affected ship repair schedules for six of the seven ships, and provide further evidence that NAVSEA officials did not have definite requirements when soliciting for ship repair. For example, according to the contract, the contractor should have completed work on the *USS Gettysburg* by March 2020. However, after NAVSEA officials issued 930 change orders, the *USS Gettysburg* was not

<sup>74</sup> (U) FAR 43.201.

<sup>75</sup> (U) FAR 16.202-2.

(U) completed until August 2021, delaying the next availability scheduled start date. While ship maintenance contracts experienced between 278 and 962 change orders, adding additional work requirements for the contractors to complete resulted in extensions up to 17 months

and reserving that dry-dock availability for longer than planned timeframes.

The longer a dry-dock availability extends past planned timeframes, the greater the risk that other planned and necessary ship repair is delayed. Delays of essential

repairs negatively impact the readiness of the Naval fleet. Therefore, the NAVSEA Commander should review the use of the firm-fixed-price contract type for future ship repair contracts and document the review. Additionally, the NAVSEA Commander and the Commander of the Navy Regional Maintenance Center should review the policies and procedures for developing requirements for ship repair maintenance to identify ways to reduce the number of change orders issued, and document the review.

*(U) The longer a dry-dock availability extends past planned timeframes, the greater the risk that other planned and necessary ship repair is delayed.*

### **(U) NAVSEA Used Contracting Practices That Limited Competition**

(U) While complying with FAR and DFARS regulations, NAVSEA contracting officials used contracting practices that limited competition. Contractor officials stated that they did not bid on contracts when they did not anticipate that their bids would be competitive to win the contract. Specifically, in compliance with the law, NAVSEA contracting officials considered interport differential costs when evaluating contractor proposals to account for costs the Navy incurs when moving vessels between their homeports and other locations.<sup>76</sup> NAVSEA contracting officials also awarded contracts later than planned, which contributed to contractors deciding against submitting bids when they initially expressed interest, leading to single-source contracts.

(U) The Navy incurs various additional costs above the contract price when performing maintenance availabilities away from the vessel's homeport. The Navy's goal is to perform repairs at a ship's homeport to allow crews to remain with family when not out at sea. However, when competing ship maintenance contracts coast-wide, the Navy considers the additional costs, beyond just the contract cost, when a company is not located within the homeport area. The Navy refers to these additional costs as "interport differential costs." The interport differential costs include the cost to move the vessel and crewmembers between their homeports

<sup>76</sup> (U) Section 7299a, Title 10, United States Code, "Construction of combatant and escort vessels and assignment of vessel projects."

(U) and other locations for overhaul and repair work, such as expenses for fuel, crew relocation, family separation allowance, and administrative travel. The interport differential costs can vary depending on the proximity and cost of relocating a ship from its homeport to another location. According to NAVSEA policy, NAVSEA contracting officials add interport differential costs to contractors' proposals when that contractor is outside of a ship's homeport (more than 50 miles from a ship's homeport).<sup>77</sup> As anticipated, the interport differential costs make some companies that are outside the homeport area less competitive, but NAVSEA officials stated that interport differential costs ensure that NAVSEA contracting officials account for all costs when evaluating proposals. Therefore, the Navy's policy to consider the interport differential resulted in companies not bidding on all contracts.

(U) Major defense ship contractor officials stated that they did not bid on dry-dock maintenance contracts if they thought that the interport differential would affect their ability to win the contract. While contractors do not incur interport differential costs, NAVSEA contracting officials apply these additional costs when evaluating proposals. This affects the Navy's award decisions because NAVSEA contracting officials may decide that a bid from a contractor outside of a ship's homeport may be less cost effective than a bid from the contractor's homeport, after considering interport differential costs. While NAVSEA contracting officials implemented this practice in response to a 1989 GAO report that found the Navy did not consider the costs of repairing ships at locations outside their homeport, applying the additional costs impacts the contractors from submitting proposals.<sup>78</sup>

(U) In addition, NAVSEA contracting officials did not adhere to contract award timelines, which also contributed to contractors not submitting bids. According to a NAVSEA memorandum, NAVSEA's goal is for contracting officials to:

- (U) issue the solicitation for ship repair contracts 315 days before contract execution;
- (U) address all questions from offerors 270 days before contract execution;
- (U) issue any amendments to the solicitation 255 days before contract execution;
- (U) receive proposals from offerors and begin proposal evaluations 240 days before contract execution;

<sup>77</sup> (U) NAVSEA Memorandum 4200, "Revision Two to the Schedule of Foreseeable Costs for Determination of Interport Differentials," February 16, 2017.

<sup>78</sup> (U) GAO/NSIAD-89-101, "Navy Ships: Evaluating Bids for Maintenance to Be Performed Away From Home Ports," February 1989.

- (U) complete negotiations 180 days before contract execution; and
- (U) award contracts at least 120 days before contract execution begins.<sup>79</sup>

(U) However, in some cases, NAVSEA planning and contracting officials were unable to meet planned milestones, which compressed proposal development, evaluation, negotiation, award, and the contractor's time to ensure that its workforce and resources were available. In addition, NAVSEA contracting officials usually issued multiple amendments to solicitations and often did not meet their goals. When NAVSEA contracting officials do not solicit ship repair contracts as planned, the compressed solicitation timelines affect whether major defense ship contractors want to risk committing resources to develop a proposal if they do not know that their bid will be accepted. As a result, this, along with applying additional costs to contractor proposals, often limits the number of contractors that are willing to bid to those that are within 50 miles of a ship's homeport and would have fewer business risks.

(U) One contracting practice NAVSEA contracting officials implemented to improve timely award of ship repair contracts was leveraging IDIQ multiple-award contracts for homeport availabilities. When the Navy shifted its acquisition strategy to use more firm-fixed-price contracts in 2015, it also began to use IDIQ multiple-award contracts as an initiative to improve ship maintenance costs and scheduling delays. IDIQ multiple-award contracts are awarded to multiple contractors. When NAVSEA contracting officials solicit a ship availability under a multiple-award contract, multiple contractors are expected to bid, increasing competition for each proposed contract. IDIQ multiple-award contracts do not specify exact times for delivery or precise quantities of supplies or services at contract award. According to NAVSEA contracting officials, the use of an IDIQ multiple-award contract is to provide consistency and streamline contracting actions for ship repair contracts. However, NAVSEA contracting officials stated that they have just started to award these types of contracts within the last few years, and they use them only for homeport availabilities. Because the NAVSEA contracting office plans to issue solicitations 315 days before ship repairs begin, leveraging any efficiency to streamline the lengthy process to meet NAVSEA's goal for awarding contracts 120 days before start date should be implemented. Therefore, the NAVSEA Commander should determine whether IDIQ multiple-award contracts should be used for future coast-wide availabilities, which could include a requirement for all contractors to bid on each solicitation or provide their rationale for not bidding on the contract.

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<sup>79</sup> (U) NAVSEA Memorandum 4700, "Surface Ship Availability Maintenance and Modernization Milestones and Change Control," August 5, 2019.

## (U) Single-Source Contracts Increased Risks of Higher Costs and Schedule Delays

(U) Although NAVSEA anticipated competition, only one company bid on 17 of 49 contracts for ship depot maintenance. According to the FAR, competition normally establishes fair and reasonable prices. Therefore, it is vital that NAVSEA promote competition in order to support the Navy's expanding fleet. Since 2015, NAVSEA has implemented procedures to increase competition, reduce ship repair costs, and improve schedules. However, despite efforts by NAVSEA contracting officials, NAVSEA awarded 17 of 49 ship depot maintenance contracts as single-source contracts without competition, which increased the risk of paying higher costs and encountering schedule delays.

(U) Single-source contracts increased the risk of NAVSEA paying higher costs. According to ship repair contractors, they monitor the status of their competition's dry docks and can reasonably predict when competition will exist. According to a contracting official at one of the ship repair contractors, when they expected competition for a contract, the company was willing to accept additional cost risk by submitting a lower, more competitive, proposed price. The official stated that the company offsets the lower price by more closely managing the project to prevent cost overruns and schedule delays. Conversely, the official stated that when the contractor expected to be the only bidder, in a single-source environment, the company was more reluctant to take on additional cost risk, and would propose higher, less competitive prices. As a result, single-source ship depot maintenance contracts resulted in NAVSEA paying higher prices. Specifically, we reviewed 7 of the 17 single-source ship depot maintenance contracts awarded from FY 2017 through FY 2021 and identified 5 contracts with at least \$12.3 million in cost escalation.

(U) Single-source contracts also increase the risk of schedule delays, which could affect readiness worldwide. The Navy maintains a mission to protect the United States at sea by remaining prepared to execute its role in a timely manner. The Navy relies on its fleet of 296 ships to be ready to operate when needed for the defense of the United States. We found that at least 6 of 17 single-source ship depot maintenance contracts experienced schedule delays ranging from 14 to 512 days.

(U) Maintenance delays can prevent each ship from returning to sea and negatively affects Navy readiness worldwide. Our sample included a variety of ship types, such as guided missile destroyers, dock-landing ships, and guided missile cruisers. Each ship has an important mission and function, such as providing anti-air warfare and anti-submarine capabilities, as well as transport and launch of aircraft and vehicles. If a ship is in dry dock for 512 days longer than anticipated, then that ship may not be available to deploy on time. For example, if a ship is in a carrier group, the Navy schedules all of the ships in the carrier group to enter and complete maintenance at the same time. Additionally, if a ship is in dry dock for an additional 512 days, this reduces the number of available dry docks for subsequent ships that require maintenance, further reducing the possibility of competition. Specifically, NAVSEA officials stated that increased availability durations and the magnitude of repair requirements have amplified the dry-dock capacity issue over time. These delays result in more time between maintenance for ships, less capacity from the industrial base, and potentially more single-source contracts that cost more than competitively sourced contracts. Therefore, the compounding effect of poorly defined contract requirements, change orders, and limited commercial dry-dock capacity could negatively affect Navy readiness worldwide.

*(U) Maintenance delays can prevent each ship from returning to sea and negatively affects Navy readiness worldwide.*

## **(U) Other Matter of Interest**

(U) During our audit, we identified an additional matter of interest. Specifically, multiple NAVSEA contracting officials expressed concerns regarding the information received from contractors in response to solicitations. For ship repair contracts, NAVSEA requires interested contractors to complete a pricing workbook. NAVSEA provides a copy of the pricing workbook that lists the work items planned for an availability, and requires contractors to fill in cost information related to each work item. Price information included in the pricing workbook for each work item include prime and subcontractor labor hours, and total labor and material costs.

(U) The FAR requires contracting officers to request certified cost or pricing data for contracts that exceed the \$2 million Truthful Cost or Pricing Data Act value threshold if exemptions do not apply.<sup>80</sup> For all seven single-source ship maintenance contracts in our sample, NAVSEA contracting officials expected competition, but received only one proposal in response to solicitations.

<sup>80</sup> (U) FAR subpart 15.403-1 outlines exemptions from requesting certified cost or pricing data. Such exemptions include pricing based on competition, prices established by law or regulation, and acquiring commercial items.

(U) The DFARS states that when contracting officers receive only one offer in response to a competitive solicitation, contracting officers are required to ensure that the price is fair and reasonable and to comply with the requirement for certified cost or pricing data. Therefore, when only one bid is received, contracting officers are required to go back to the contractor and request certified cost and pricing data, in accordance with the Truthful Cost or Pricing Data Act. However, for three of the seven ship repair contracts in our sample, contractors declined to provide certified cost or pricing data and stated that it was not required due to an expectation of competition, which is an exemption to the Truthful Cost or Pricing Data Act.<sup>81</sup> But, in 2019 DFARS 215.371-3 was amended to require certified cost or pricing data when only one offer is received, regardless of an expectation of competition.<sup>82</sup>

(U) For example, NAVSEA requested certified cost or pricing data from the contractor multiple times, for the contract for repairs and alterations onboard the *USS Gettysburg*, but the contractor refused to provide the certified data.<sup>83</sup> After 2 months, the contractor updated its proposal, which the NAVSEA contracting officer used to perform a price analysis to determine that proposed prices were fair and reasonable. However, the cost and pricing data the contractor provided included only a completed pricing workbook, which outlines the prices for each work item. The FAR states that cost and pricing data must be sufficient to the extent necessary to determine fair and reasonable price and include all facts that prudent buyers and sellers would reasonably expect to affect pricing negotiations. While NAVSEA contracting officials determined fair and reasonable prices, NAVSEA contracting officials did not obtain sufficient data from the contractor in accordance with Federal regulations. Specifically, NAVSEA contracting officials requested completed pricing workbooks, which did not include a detailed breakdown of labor categories and labor hours. Instead, NAVSEA contracting officials relied on prime and subcontractor labor hours totals for each work item, as well as total labor and material costs. According to the DFARS PGI, when contracting officials encounter contractors that refuse to provide requested data, the refusal should be elevated through the management chain, in accordance with procedures outlined in the DFARS PGI.<sup>84</sup> Once an issue is elevated through the management chain, the issue should be discussed with the contractor's management. If the issue is still not resolved, it is elevated to the head of the contracting activity for a decision. Therefore, the NAVSEA Commander should consider updating NAVSEA's contracting procedures to clearly state what information is required, such

<sup>81</sup> (U) Contracts N00024-16-D-4416, N00024-18-C-4440 and N00024-18-C-4438.

<sup>82</sup> (U) DFARS 215.371-3, "Fair and Reasonable Price and the Requirement for Additional Cost or Pricing Data."

<sup>83</sup> (U) Contract N00024-18-C-4440 was awarded on August 20, 2018, for \$146,342,267.

<sup>84</sup> (U) DFARS PGI 215.404-1.

(U) as a detailed breakdown of labor categories and labor hours, as well as cost and pricing data that is sufficient to support fair and reasonableness determinations for depot maintenance ship repair contracts.

## **(U) Management Comments on the Finding and Our Response**

(U) The Commander, Naval Sea Systems Command, provided the following comments on the Finding. For the full text of these comments, see the Management Comments section of the report.

### ***(U) NAVSEA Comments on Unclear Contract Requirements and Contracting Practices***

(U) The NAVSEA Commander stated that although the Commander, Navy Regional Maintenance Center, provides writing guidance for developing specifications; the Commander, Navy Regional Maintenance Center does not create contract requirements. The NAVSEA Commander also stated that the fleet identifies directed maintenance and repair requirements through work notifications and that the Surface Ship Modernization Office [PMS 407] is responsible for identifying modernization requirements for specification development.

### ***(U) Our Response***

(U) Based on the comments from the NAVSEA Commander, we verified and validated responsibilities for developing contract requirements for ship maintenance and updated the report. Specifically, we updated the report to reflect that NAVSEA develops contract requirements from maintenance work orders received from the fleet and modernization requirements from the Surface Ship Modernization Program Office. We also updated the report to state that RMC and office of Surface Ship Maintenance, Modernization, and Sustainment officials review and approve the work item packages.

### ***(U) NAVSEA Comments on Contracting Practices That Limited Competition***

(U) The NAVSEA Commander stated that interport differential costs are included in coast-wide solicitations to promote competition and equity for offerors. The Commander also stated that interport differential costs are included in the solicitation and industry may submit bidder's questions to address any concerns during the solicitation phase.

(U) The NAVSEA Commander stated that the report incorrectly depicted the milestones for awarding ship maintenance contracts. Specifically, the Commander stated that NAVSEA policy does not require solicitations be issued 315 days before the start of an availability or require award 120 days before availability start. The Commander stated that the Joint Fleet Maintenance Manual provides a target timeline for availability awards. Furthermore, NAVSEA officials establish acquisition timelines for each procurement taking into consideration the number of ships solicited, and the acquisition strategy applied. The Commander stated that the 195 days between the target solicitation and contract award equates to approximately 6.5 months, and NAVSEA may not provide that much time to contractors for proposal preparation. The Commander added that the requirements are not made available to be put on contracts until 328 days before availability start, at the earliest. Furthermore, the Commander said that providing 195 days of proposal preparation time would result in less than 2 weeks to meet the goal of an availability of 120-day award.

(U) The NAVSEA Commander stated that the Joint Fleet Maintenance Manual previously targeted availability contract awards 60 days before the work would begin. The Commander explained that up to 2019, awarding ship repair contracts 60 days before availability start was the Navy's target. The Commander added that in 2019, a NAVSEA Director for Surface Ship Maintenance, Modernization, and Sustainment memorandum updated the goal. Specifically, the memorandum established the goal to award contracts 120 days before work begins. However, the Commander also stated that the 120-day target did not account for strategy variations, including awarding contracts for repairs to multiple ships. The Commander further stated that the Joint Fleet Maintenance Manual has not been updated to incorporate the 120-day target.

(U) Finally, the NAVSEA Commander stated that single bids are received in response to homeport solicitations issued under the IDIQ multi-agency contracts. The Commander added that the issuance of a coast-wide IDIQ multi-agency contract would not remove the requirement to include an interport differential, and stated that both the coast-wide and homeport IDIQ multi-agency contracts are subject to the same requirements timeline as a stand-alone solicitation, which is at least 328 days. The Commander also stated that the timeline for industry preparation of proposals would not change because of soliciting under the IDIQ multi-agency contract.

### **(U) Our Response**

(U) We agree that interport differential costs create equity for offerors by accounting for all costs associated with performing a coast-wide availability that is outside the ship's homeport location. For example, if one company within the homeport location and one company outside the homeport location bid on an availability contract at comparable prices, then including the interport differential for the company that is outside the homeport location makes the competition more equitable by accounting for all of the costs to perform the availability away from the homeport. While including interport differential costs promotes competition, in some circumstances it might reduce the number of offerors. For example, a NAVSEA contracting official explained that one of the first coast-wide availabilities was awarded to a Pascagoula, Mississippi contractor that had lower labor rates than the homeport contractors in Norfolk, Virginia, which increased competition on the east coast. However, when the cost of living is comparable for different companies with dry docks, like on the west coast, the interport differential could result in companies outside the homeport not bidding on contracts.

(U) We reviewed the Joint Fleet Maintenance Manual and the 2019 Director for Surface Ship Maintenance, Modernization, and Sustainment memorandum and we agree that the updated milestones in the memorandum do not provide contractors 195 days to bid on contracts. Therefore, we updated the report to reflect the correct milestones.

(U) Finally, we agree with the Commander's statements that IDIQ multi-award contracts would not change the requirement to consider interport differential costs for coast-wide availabilities, and that multi-award contracts would not change the requirements timelines. However, multi-award contracts could help streamline solicitation and contract awards, and could help increase competition if the contracts included a requirement that each company is expected to bid on solicitations or justify why they are not bidding.

## (U) Recommendations, Management Comments, and Our Response

### (U) Recommendation B.1

(U) We recommend that the Commander of the Naval Sea Systems Command and the Commander of the Navy Regional Maintenance Center:

- a. (U) Collaborate with major defense ship contractors to identify potential initiatives to increase the number of contractor-owned dry docks.

### (U) NAVSEA Comments

(U) The NAVSEA Commander agreed with the recommendation, stating that NAVSEA continues to work with industry on a recurring basis. In addition, the Commander added that the NAVSEA Director for Surface Ship Maintenance, Modernization, and Sustainment, in collaboration with other Navy stakeholders, discusses potential solutions to the industry's shortfalls in supporting the Navy's ship repair requirements. The Commander reported that the Navy has collaborated with its industry partners to identify and pursue initiatives to add critical dry dock capacity on the west coast.

(CUI) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

(CUI) Finally, the Commander stated that the Navy also upgraded the [REDACTED] [REDACTED] to accommodate [REDACTED] and solicited for the construction of a floating dry dock [REDACTED]. The Commander added that the government owned dry docks will provide surge capability to the private sector's dry dock capacity and will be used to provide the opportunity, dependent on the results of coast-wide solicitations, for all [REDACTED]-based surface combatants to execute maintenance within their assigned homeport.

## (U) Our Response

(CUI) Comments from the Commander addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation after we validate NAVSEA collaboration with industry partners, [REDACTED]  
[REDACTED]  
[REDACTED].

- b. (U) Review the policies and procedures for developing requirements for ship repair maintenance to identify ways to reduce the number of change orders issued, and document the review.

## (U) NAVSEA Comments

(U) The NAVSEA Commander agreed with the recommendation, stating that requirements planning is integral to the success of ship repair contracts. The Commander also added that repair and maintenance requirements are identified over time, leading up to the start of a ship's availability period, and stated that the Fleet's priority is to include the maximum feasible repair and maintenance requirements during an availability period. In addition, the Commander stated that regardless of contract type, clear and final requirements must be established at least 1 year before the start of an availability to support timely contract award. The Commander stated that although requirements are set 1 year before an availability starts, requirements can evolve during the year leading up to the start of an availability period given the dynamic conditions of Navy ships.

(U) Additionally, the Commander stated that the NAVSEA Director for Surface Ship Maintenance, Modernization, and Sustainment is doing the following in an effort to continuously improve requirements identification:

- (1) (U) reviewing the timeline curves for Project Engineers to assign repair and maintenance work to ship repair availabilities, so the work can be added to the work item packages, which helps make sure that ship repairs are correctly assigned to the contract when the ship arrives for repair;
- (2) (U) reviewing total ship readiness assessment rates to make sure maintenance logs reflect the ship's condition and repairs required before planning and execution of ship availabilities;
- (3) (U) reviewing directed maintenance strategies continuously to assess effectiveness and to provide timed life-cycle maintenance actions to achieve expected service life;

- (4) (U) reviewing modernization tasking and funding timelines to make sure alignment with the 120-day target contract award timeline because delays in modernization tasking and funding result in delayed delivery of ship installation drawings that are required to be incorporated into availability work packages 365 days before work begins;
- (5) (U) regularly assessing work specification quality;
- (6) (U) regularly assessing growth and late changes, and requiring that a Flag Officer or Senior Executive Service official approve new work;
- (7) (U) assessing requests for contractual change both during and after availabilities to evaluate the effectiveness of maintenance requirements and to reduce execution variance; and
- (8) (CUI) conducting data analysis using the [REDACTED] [REDACTED] database to review leading indicators of poor work package quality. The Commander stated that analysis of ship installation drawings delivery dates, long lead-time material identification, and work specification additions and deletions provide insight into the Government's ability to define requirements in the appropriate planning cycle phases.

### **(U) Our Response**

(U) Comments from the Commander addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation once we obtain and review the results of NAVSEA's reviews, assessments, and analysis, and the estimated impact of the number of change orders.

### **(U) Recommendation B.2**

**(U) We recommend that the Commander of the Naval Sea Systems Command:**

- a. **(U) Direct the Commander of the Navy Regional Maintenance Center to review and update work item packages to ensure that clear and consistent requirements are used for routine depot maintenance tasks, as necessary.**

### **(U) NAVSEA Comments**

(U) The NAVSEA Commander agreed with the recommendation. The Commander stated that the efforts to improve the work item packages are addressed in response to Recommendation B.1.b.

## **(U) Our Response**

(U) Comments from the Commander addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation when we obtain and review the results of NAVSEA's reviews, assessments, and documentation for the:

- (1) (U) review of the repair and maintenance work notifications curves that the Project Engineers write into the availability work item packages,
  - (2) (U) review of the total ship readiness assessment rates to make sure maintenance logs reflect the ships condition and repairs required before planning and execution of ship availabilities,
  - (3) (U) review of directed maintenance strategies continuously to assess effectiveness and to provide timed life-cycle maintenance actions to achieve expected service life, and
  - (4) (U) regular assessments of work specification quality.
- b. **(U) Review the use of the firm-fixed-price contract type for future Naval Sea Systems Command ship repair contracts and document the review.**

## **(U) NAVSEA Comments**

(U) The NAVSEA Commander agreed with the recommendation, stating that ship requirements are complicated in nature, driving the need for changes as requirements increase, evolve, and are refined. The Commander also stated that the contract type determination distributes the risk for financial and technical performance, and said that NAVSEA will continue review the use of the firm-fixed-price contract type for future NAVSEA ship repair contracts and select a contract type appropriate to the circumstances of the acquisition. Additionally, the Commander stated that documentation to show why the particular contract type was selected is included in the acquisition plan per the FAR and agency-specific supplements.

## **(U) Our Response**

(U) Comments from the Commander addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We agree with the Commander's statement that FAR 16.103 requires that the rationale for the chosen contract types must be documented in an acquisition plan or contract file, and all seven NAVSEA ship contracts from our sample included the contract type rationale in the acquisition plan. However, the FAR also states that a firm-fixed priced contract provides a price that is not subject to any adjustment. As we stated

(U) in the report, we found growth work that ranged from 278 to 962 change orders, which increased the contract prices by up to \$22 million. Therefore, we will close this recommendation when we obtain and review an assessment from NAVSEA that evaluates the use of firm-fixed priced contracts for future ship repair contracts, considering the significant number of change orders identified.

- c. **(U) Determine whether indefinite-delivery indefinite-quantity multiple-award contracts should be used for future coast-wide availabilities, which could include a requirement for all contractors to bid on each solicitation or provide their rationale for not bidding on the contract.**

### **(U) NAVSEA Comments**

(U) The NAVSEA Commander partially agreed with the recommendation, stating that as requirements are defined, NAVSEA would determine whether IDIQ multiple-award contracts will be used for future coast-wide availabilities and select a contract type appropriate to the circumstances of the acquisition. The Commander also stated that NAVSEA will document the contract type determination in the acquisition plan as required by the FAR and its agency-specific supplements. However, the Commander stated that NAVSEA does not agree that IDIQ multiple-award contracts should include requirements for contractors to bid on each solicitation or provide a rationale for not bidding. The Commander added that if an execution conflict exists, such as pier or docking capacity constraints, contractors will not be able to bid regardless of contract type.

### **(U) Our Response**

(U) Although the Commander partially agreed with the recommendation, the comments addressed the specifics of the recommendation; therefore, the recommendation is resolved and open. We will close this recommendation once we obtain and review an assessment from NAVSEA that evaluates whether IDIQ multiple-award contracts should be used for future coast-wide availabilities.

- d. **(U) Update contracting procedures to clearly state what information is required, such as a detailed breakdown of labor categories and labor hours, as well as cost and pricing data that is sufficient to support fair and reasonableness determinations for depot maintenance ship repair contracts.**

### **(U) NAVSEA Comments**

(U) The NAVSEA Commander agreed with the recommendation, stating that contracting professionals receive direction regarding contracting procedures from the FAR and agency-specific supplements. The Commander also stated that NAVSEA would provide additional guidance to contracting professionals in an upcoming Contracting Policy Newsletter. The NAVSEA Commander explained that the policy newsletter will reinforce the instructions for the submission of certified cost or pricing data and other than certified cost or pricing data, and ensure that requests for proposals more clearly define data required after initial proposal in a single-bid scenario. In addition, the Commander stated that the newsletter will also emphasize the requirement that when the solicitation requires the submission of certified cost or pricing data, the contracting officer should include DFARS 252.215-7009, "Proposal Adequacy Checklist," in the solicitation to facilitate submission of a thorough, accurate, and complete proposal. The Commander stated that the estimated completion for issuance of the Contracting Policy Newsletter is June 3, 2023.

### **(U) Our Response**

(U) Comments from the Commander addressed the recommendation. The Commander did not address whether NAVSEA would update contracting procedures that would require detailed breakdowns of labor categories and labor hours. However, the Commander stated that NAVSEA would issue a contracting policy newsletter that reiterates the requirements to obtain certified cost or pricing data and other than certified cost or pricing data when only a single bid is received through solicitation. Issuing a contracting policy newsletter and requiring contracting officers to include DFARS 252.215-7009, "Proposal Adequacy Checklist" in solicitations to facilitate a thorough, accurate, and complete proposal meets the intent of the recommendation. Therefore, the recommendation is resolved and open. We will close this recommendation when we receive the Navy's Contracting Policy Newsletter and verify that it reinforces the FAR requirements to obtain certified cost or pricing data or other than certified cost or pricing data, and the requirement to include DFARS 252.215-7009 in solicitations.

## (U) Appendix A

### (U) Scope and Methodology

(U) We conducted this performance audit from June 2020 through January 2022 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.

### (U) Interviews and Documentation

(U) We interviewed officials from the AMC, NAVSEA, NAVSUP, NAVWAR, AFLCMC, and contracting offices of other Defense agencies. We met with contracting officials to discuss the process of solicitation, evaluation, and negotiation of fair and reasonable prices for depot maintenance contracts awarded from our sample. We interviewed DCMA officials to determine their involvement performing forward pricing rates contracting officers used to negotiate contracts. Finally, we interviewed select contractors to discuss pricing of sole-source depot-related items and contract negotiations.

(U) We obtained and reviewed contract documentation from each Military Services and select contractors. Specifically, we obtained and reviewed:

- (U) contracts,
- (U) modifications,
- (U) justification and approvals,
- (U) price negotiation memorandums,
- (U) contractors' proposals, and
- (U) pricing workbooks.

(U) In addition, we reviewed applicable regulations and guidance on contract pricing and price reasonableness, including the following regulations and guidance.

- (U) Title 41, Chapter 35, "Truthful Cost or Pricing Data"
- (U) FY 2020 National Defense Authorization Act Conference Report language
- (U) FAR Part 12, "Acquisition of Commercial Items"
- (U) FAR Part 15, "Contracting by Negotiation"
- (U) FAR Part 16, "Types of Contracts"
- (U) DFARS Part 215, "Contracting By Negotiation"

- (U) DFARS PGI 215, "Contracting by Negotiation"
- (U) DCMA Manual 2201-01, "Forward Pricing Rates" February 2019

## **(U) Nonstatistical Audit Sample of Sole-Source Depot Maintenance Contracts**

(U) Based on the congressional request, we requested that the Military Services' materiel commands and Defense agencies provide a listing of DoD depot maintenance contracts performed at the contractors' facilities. We received more than 5,000 contracts that included both commercial and noncommercial sole-source and single-source depot maintenance of aircraft, ships, electronics and communications equipment, missiles, and other weapons systems with performance in FY 2018 through FY 2020. Using the Electronic Document Access and Federal Procurement Data System databases, we reviewed the contracts and narrowed the list by removing contracts that were less than the Truthful Cost or Pricing Data Act threshold (formerly known as the Truth in Negotiations Act), which is \$2 million. In addition, we removed contracts with foreign military sales, contracts without comparable prior contracts, and contracts that did not meet the depot maintenance definition, such as integrated logistics support contracts and field maintenance contracts. Based on our parameters, we narrowed the contract list to 244 contracts.

(U) Working with technical assistance, the audit team nonstatistically selected 35 contracts that aligned with the distribution of the DoD's FY 2020 budget request for depot maintenance. However, during our audit, we removed 10 contracts from our sample because they did not meet the scope of our review, including the only sole-source depot maintenance contract for a Defense agency.

(U) We removed the following contracts from our sample.

- (U) W58RGZ-17-D-0094: This ACC-RSA contract was the first contract for this program and did not have a comparable contract.
- (U) W56HZV-19-D-0051: This ACC-Detroit Arsenal contract did not actually include depot maintenance.
- (U) N00104-13-G-A306: This NAVSUP contract did not meet the Truthful Cost or Pricing Data Act threshold.
- (U) N00383-18-G-PG01: This NAVSUP contract did not meet the Truthful Cost or Pricing Data Act threshold.
- (U) N00383-18-G-AY01: This NAVSUP contract had all depot maintenance work performed at a Government depot facility.

- (U) N00383-19-D-UK01: This NAVSUP contract had all depot maintenance work performed at a Government depot facility that was overseen by the contractor.
- (U) FA8621-19-C-0001: This AFLCMC contract did not include sole-source depot maintenance at contractor facilities.
- (U) FA8620-20-F-4835: This AFLCMC contract did not include sole-source depot maintenance at contractor facilities.
- (U) FA8504-16-D-0001: This AFLCMC contract's only comparison contract was 10 years old, and would not provide an appropriate, or reasonable, baseline for analyzing prices.
- (U) HQ0147-10-D-0001: This Missile Defense Agency contract had all depot maintenance work performed at a Government depot facility that was overseen by the contractor.

(U) We worked with the Military Services to identify replacement contracts to maintain our agreed-upon amount of 35 contracts. However, because of delays in receiving confirmation of depot maintenance work requirements for one contract, we did not remove the contract from our sample until June 2021 and we were unable to find a replacement contract and still meet our audit milestones. Therefore, we reviewed 34 commercial and noncommercial sole-source depot maintenance contracts. See Table 6 for our sample percentages by dollar value and weapon system type, and as it aligns with the DoD's FY 2020 budget. See Appendix C for a complete listing of the 34 contracts in our sample.

*(U) Table 6. Breakdown of Sample by Dollar Value and Percentages*

Weapon System Type	Initial Sample Dollar Value (Millions)	Initial Sample Dollar Value (Percent)	Final Sample Dollar Value (Millions)	Final Sample Dollar Value (Percent)	DoD's FY 2020 Depot Maintenance Budget Request (Percent)
Aircraft	\$1,316.1	52.1	\$1,199.4	76.0	56.0
Ships	679.4	26.9	213.4	13.5	23.3
Electronics and Communications Systems	388.6	15.4	\$36.0	2.3	15.3
Missiles	70.5	2.8	121.4	7.7	3.1
Other	69.2	2.7	8.6	0.5	2.3
<b>Total</b>	<b>\$2,523.9</b>	<b>100.0</b>	<b>\$1,578.8</b>	<b>100.0</b>	<b>100.0</b>

(U) Source: The DoD OIG

## (U) Price Analysis

(U) We reviewed information that contracting officers used to determine fair and reasonable prices for 34 contracts. We obtained comparable or prior contracts for the same depot maintenance work, on the same weapon system or components, including prior contracts, price negotiation memorandums, contractor proposals, customer invoices, and any other pricing information that identified the cost of parts, materials, equipment, and labor to perform a price analysis. Our price analysis included depot-related contract line item numbers, repair parts, labor rates, labor hours, material units, and equipment. We used the U.S. Bureau of Labor Statistics producer price index to normalize the historical contract prices paid to bring them to current prices. The U.S. Bureau of Labor Statistics measures labor market activity, working conditions, price changes, and productivity in the U.S. economy. The U.S. Bureau of Labor Statistics captures a holistic review of actual industry inflation that occurred, after the fact.

(U) According to the FAR, comparing proposed prices to historical prices paid is adequate for a price analysis. However, the historical price must be adjusted to account for differing market or economic factors. Therefore, to conduct our price analysis, we used the appropriate producer price indexes from the U.S. Bureau of Labor Statistics to identify the inflation factor. For a few contracts, U.S. Bureau of Labor Statistics factors were unknown; for example, on contracts that purchased option years, but those option years had not yet occurred. Therefore, we relied on the DoD inflation factors, which is a reference source of data of current and constant historical DoD budget estimates.<sup>85</sup> After normalizing the comparable contract prices, we then subtracted the current price paid from the inflated historical price paid to calculate the price difference. To determine the amount of overall cost escalation, we used the price difference and multiplied it by the quantity purchased on the current contract. We also compounded the cost escalation that occurred from each year, as applicable. In other instances, when specific hours of labors were not specified, we calculated the price changes in rates used, as well as overall depot-maintenance contract line item numbers. To conservatively account for the differences in estimated inflation compared to actual inflation, we used our audit results for the 34 contracts and identified that a break in percentages occurred at 1 percent. Therefore, we determined that 1 percent of inflation compared to the contract value that we reviewed as a benchmark for determining excessive cost escalation. We calculated cost reductions and escalation per contract and summarized the totals to report overall cost escalation for each contract.

<sup>85</sup> (U) Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, "Operations and Maintenance Overview Fiscal Year 2020 Budget Estimates," March 2019.

(U) In addition, for six of our seven NAVSEA ship repair contracts, we performed an additional analysis related to growth work by comparing the fully burdened ship repair labor rates from the comparison contract to our sample contract. Generally, each NAVSEA ship repair contract includes a fixed, fully burdened ship repair labor rate that is used for new work identified while performing depot maintenance repairs. We used the U.S. Bureau of Labor Statistics factors to adjust the fully burdened ship repair labor rates from the prior contract to the current contract's award dates. We combined our totals from the work item package price analysis with growth work analysis as our overall cost escalation for the seven NAVSEA ship repair contracts in our sample.

(U) Finally, officials from Bell Textron Inc., Chromalloy Gas Turbine, LLC, Sierra Nevada Corporation, Lockheed Martin Aeronautics Company, BAE Systems, and Vigor Shipyards Inc. were provided an opportunity to review and comment on relevant portions of the draft report, and any comments provided were considered in preparing the final report.

(U) This report was reviewed by the DoD Components associated with this oversight project to identify whether any of their reported information, including legacy FOUO information, should be safeguarded and marked in accordance with the DoD CUI Program. In preparing and marking this report, we considered any comments submitted by the DoD Components about the CUI treatment of their information.

## **(U) Internal Control Assessment and Compliance**

(U) We assessed internal controls and compliance with laws and regulations necessary to satisfy the audit objective. In particular, we assessed the control components and underlying principles related to the Army, Air Force, and Navy's processes when determining fair and reasonable prices for sole-source depot maintenance contracts. Specifically, we assessed the control activities within the established processes to determine whether DoD contracting officials solicited, evaluated, and negotiated contracts in accordance with Federal and Defense acquisition regulations. Control activities are the actions management establishes through policies and procedures to achieve objectives. We found that DoD contracting officials had implemented control activities for negotiating fair and reasonable prices. For example, DoD contracting officials relied on the DCMA's FPRA and FPRAs when negotiating depot maintenance contracts. As discussed, DCMA officials consider multiple business factors when negotiating these rates.

(U) Because DoD contracting officials are required to rely on FPRRs and FPRAs, DoD contracting officials negotiated prices that resulted in both cost escalation and reductions. However, we found instances where DoD contracting officials did not effectively evaluate proposals, such as not requesting sufficient cost and pricing data to support the contracting officer's determination, or the contractor's proposal was delayed and the contracting officer's proposal analysis was expedited by the urgent need. We also found that Navy officials did not complete the reconciliation process for contract closeout to recuperate \$919,613 on two delivery orders.

(U) In addition, we assessed information and communication within the established processes to determine whether DoD contracting officials implemented effective controls for communicating internally and with contractors. The information and communication component includes identification of quality requirements and appropriate methods of interaction within the entity and with external parties. We found that DoD officials have processes in place for developing depot maintenance work requirements and for communicating internally and with stakeholders. However, we found that DoD contracting officials could not provide clear work requirements because of challenges associated with knowing the extent of repairs required, inaccurate forecasting, or generalized or inconsistent work specifications. We also found that Navy contracting officials issued a significant amount of change orders for their depot maintenance ship repair contracts, resulting in scheduling delays and decreasing the already limited number of dry docks to perform the ship repair work.

(U) Furthermore, we assessed the risk assessment within the established processes to determine whether DoD contracting officials implemented controls to identify and analyze risks. The risk assessment control component assesses the risks facing the entity as it seeks to achieve its objectives. We found one instance that Navy contracting officials procured materials for a contract that was not yet awarded. According to Navy contracting officials, their goal was to reduce repair turnaround times to fewer than 240 days and eliminate backorders. Although Navy contracting officials stated that they achieved their goal to lower repair turnaround times, purchasing 6 years of material on a 5-year contract and including the price of the sixth year of material in a fixed repair price limited NAVSUP's ability to cancel the purchase if it decided the material was not needed. Consequently, purchasing 6 years of material on a 5-year contract and including the price of the material in a fixed repair price was not a good business practice and might not have been in the Government's best interest.

(U) Steps such as providing clear and accurate contract requirements, obtaining sufficient cost and pricing data to support the contracting officer's request, and developing alternative options for overcoming parts obsolescence can help ensure DoD contracting officials negotiated a fair and reasonable price. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

## **(U) Use of Computer-Processed Data**

(U) We used computer-processed data to perform this audit. Specifically, we used the Electronic Document Access System and the Army's Paperless Contract File System to obtain contract files and documents. The Electronic Document Access System is a web-based system that provides secure online access, storage, and retrieval of contracts and contract modifications to authorized users in the DoD. The Army's Paperless Contract File System is a secure, web-based database designed to replace the Army's hard copy contract files. To assess the reliability, we confirmed information stated within the documents directly with the contracting officials who prepared them. We determined that the Electronic Document Access System and the Army's Paperless Contract File System documents were sufficiently reliable because they both have internal controls to assure that only approved legal documents were posted. In addition, we used the Federal Procurement Data System to identify contracts for our sample and to identify the appropriate industry inflation index to use for our price analyses. The Federal Procurement Data System is an automated system used to collect and report on Federal procurement spending and is the single authoritative data repository for procurement award data. To determine whether the data pulled from the Federal Procurement Data System were sufficiently reliable for the purposes of our audit, we compared the documents obtained from the database to the documents obtained from the contracting offices' contract files and from the Electronic Document Access System in order to corroborate the data. As a result, we determined that the Electronic Document Access System, Paperless Contract File System, and Federal Procurement Data System computer-processed data were sufficiently reliable to support our findings and conclusions.

## **(U) Use of Technical Assistance**

(U) We used the technical expertise of our Quantitative Methods Division. The technical expert reviewed our universe of 244 contracts and provided us with our final nonstatistical sample of 35 contracts. The Quantitative Methods Division's nonstatistical sample reflected the DoD's FY 2020 depot maintenance budget request by dollar value and by equipment type. The Quantitative Methods

(U) Division's nonstatistical sample included sole-source commercial, noncommercial, and Performance-Based Logistics depot maintenance contract types awarded by the Army, Navy, Air Force, and the Missile Defense Agency. Specifically, our sample included contracts awarded by the ACC-RSA, ACC-Detroit Arsenal, ACC-Aberdeen Proving Ground, NAVSEA, NAVSUP, NAVWAR, AFSC, AFLCMC, and the Missile Defense Agency that represented depot maintenance for aircraft, ships, electronics and communications equipment, missiles, and other weapons systems.<sup>86</sup> Therefore, we believe the sample sufficiently represents the Military Services' and Defense agencies sole-source depot maintenance contracts. Because we selected a nonstatistical sample, we did not project the results of our review to the universe of all depot maintenance contracts.

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<sup>86</sup> (U) During our review, we determined that the one Missile Defense Agency contract did not meet the parameters for our scoped contracts and was therefore excluded. As a result, our review was limited to 34 contracts.

## (U) Appendix B

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### (U) Prior Coverage

(U) During the last 5 years, the GAO issued six reports and the DoD Office of Inspector General (DoD OIG) issued seven reports related to fair and reasonable prices within the DoD and depot maintenance. Unrestricted GAO reports can be accessed at <https://www.gao.gov/>. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

### (U) GAO

(U) Report No. GAO-21-388, "Spare Parts Contracts: Collecting Additional Information Could Help DoD Address Delays in Obtaining Cost or Pricing Data," May 26, 2021

(U) The GAO found that the Defense Logistics Agency obtained data other than certified data for 77 of 136 sole-source spare parts contracts it awarded. Because the 77 contracts were for commercial items, statute prohibits contracting officers from requiring certified cost or pricing data. The Defense Logistics Agency also waived the requirement to obtain certified cost or pricing data in two cases that were for spare parts.

(U) Report No. GAO-21-172, "Littoral Combat Ship: Unplanned Work on Maintenance Contracts Creates Schedule Risk as Ships Begin Operations," April 29, 2021

(U) The GAO found that both Littoral Combat Ship variants carry smaller crews and rely more on contractors for maintenance than any other Navy ship. The GAO found that relying more on contractors for maintenance work resulted in challenges with contractor travel and a heavier reliance on original equipment manufacturers. The Navy began implementing a contracting procedure for the Littoral Combat Ship maintenance in order to help mitigate schedule risk, while taking steps to avoid it in the future. The GAO found that in the 18 Littoral Combat Ship maintenance delivery orders that GAO reviewed, the Navy had to contract for more repair work than originally planned, increasing the risk to completing maintenance on schedule.

(U) Report No. GAO-20-370, "Navy Ship Maintenance: Evaluating Pilot Program Outcomes Could Inform Decisions to Address Persistent Schedule Challenges," May 11, 2020

(U) The GAO found that since shifting to the multiple-award contract-multi order contracting approach for ship maintenance work in 2015, the Navy increased competition opportunities, gained flexibilities to ensure quality of work, and limited cost growth, but schedule delays persist. During this period, 21 of 41 ship availabilities for major repair work cost less than initially estimated, and average cost growth across the 41 availabilities was 5 percent. However, schedule outcomes were less positive and Navy regional maintenance centers varied in the performance. The GAO found that the Navy implemented lessons learned, including negotiating and funding undefined but expected increases in work at the time of contract award; however, these actions have not resolved the delays that result from the Navy's funding approval process.

(U) Report No. GAO-19-173, "Weapon System Sustainment: DOD Needs to Better Capture and Report Software Sustainment Costs," February 25, 2019

(U) The GAO found that the DoD has policies and organizations in place to manage the sustainment of operational system software. The DoD's policy defines software sustainment and software activities, which include any activities that change the software baseline, as well as any modifications or upgrades that add capabilities or functionality. However, while the Army and Air Force categorize and report software sustainment as part of core logistics, the GAO stated that the Navy does not. The Secretary of Defense and Secretary of the Navy agreed with the GAO's recommendations to include Navy software maintenance in depot maintenance reporting.

(U) Report No. GAO-18-530, "Defense Contracts: Improved Information Sharing Could Help DoD Determine Whether Items Are Commercial and Reasonably Priced," July 31, 2018

(U) The GAO found four interrelated factors, each with its set of challenges, that influenced how and whether the DoD determines whether an item is commercial and whether its price is reasonable. These factors are: (1) availability of marketplace information, (2) ability to obtain contractor data, (3) extent of modifications to an item, and (4) reliability of prior commercial item determinations.

(U) Report No. GAO-17-82R, "Depot Maintenance: Executed Workload and Maintenance Operations at DoD Depots," February 3, 2017

(U) The GAO reported on the capabilities and challenges at the DoD's organic 17 depots from FY 2012 through FY 2015. The GAO reported challenges at each of the DoD depots. The GAO reported that all five Army depots had challenges hiring and retaining a skilled workforce, due in part to hiring restrictions and budget cuts. The GAO reported that two Air Force depots also had hiring challenges and personnel gaps that they are mitigating. Finally, the GAO reported that the Navy found it difficult to attract and hire certain labor categories because they are competing with private industry.

### **(U) DoD OIG**

(U) Report No. DODIG-2021-134, "Audit of Depot-Level Reparables for Army, Navy, and Air Force Engines," September 30, 2021

(U) The DoD OIG determined that the Army, Navy, and Air Force did not consistently meet their stocking requirements for the nine engines in their sample. In addition, the DoD OIG determined that the three organic depots and one contractor depot that repaired the nine selected engines and engine modules did not consistently meet the Military Department's repair metrics for depot performance; however, the delay in repairing the nine selected engines and engine modules did not negatively impact readiness.

(U) Report No. DODIG-2020-108, "Audit of the Air Force Remotely Piloted Aircraft Operations and Maintenance Support Contract," August 3, 2020

(U) The DoD OIG determined that the Air Combat Command, Acquisition Management and Integration Center's ensured that the Remotely Piloted Aircraft contractor complied with contractually required maintenance procedures and performance requirements. Specifically, the DoD OIG determined that for all eight task orders awarded under the contract, Acquisition Management and Integration Center contracting officials properly:

- (U) appointed active duty Airmen with prior aircraft maintenance experience as contracting officer's representatives to perform observations of contractor performance and thoroughly document noncompliance;
- (U) established procedures in a performance work statement and quality assurance surveillance plan to ensure contracting officer's representative oversight of critical contract performance requirements; and
- (U) used award fees to motivate the contractor to meet contract requirements and continuously improve its performance.

(U) Furthermore, the DoD OIG determined that the Acquisition Management and Integration Center verified the accuracy of contractor invoices before payment and reimbursed the contractor for only contractually eligible costs. However, the DoD OIG determined that the Acquisition Management and Integration Center did not formally document its invoice review process.

(U) Report No. DODIG-2019-047, "Navy and Marine Corps Backup Aircraft and Depot Maintenance Float for Ground Combat and Tactical Vehicles," January 18, 2019

(U) The DoD OIG determined that the Navy and Marine Corps did not have a sufficient quantity of operational F/A-18 and T-45 aircraft available to replace all aircraft requiring depot maintenance. Specifically, 245 F/A-18 and 22 T-45 backup aircraft were in a non-operational status. In addition, the DoD OIG determined that the Navy had more MH-60R and MH-60S helicopters than it required to maintain readiness. And, the DoD OIG determined that the Marine Corps had sufficient quantities of depot maintenance float vehicles on hand for vehicles to maintain unit readiness.

(U) Report No. DODIG-2019-060, "Review of Parts Purchased from TransDigm Group, Inc." February 25, 2019

(U) The DoD OIG found that TransDigm earned \$16.1 million of excess profit on 46 of 47 parts purchased by the Defense Logistics Agency and the Army for \$26.2 million. The excess profit ranged from 17 to 4,451 percent per part. The report explains that TransDigm was a sole-source provider of the parts, which presented challenges for the contracting officers to negotiate fair and reasonable prices. The report notes that the FAR does not compel contractors to provide certified or uncertified cost data when requested.

(U) Report No. DODIG-2018-151, "Military Sealift Command's Maintenance of Prepositioning Ships," September 24, 2018

(U) The DoD OIG determined that the Military Sealift Command did not ensure its Government-owned contractor-operated prepositioning ships received the required maintenance. Specifically, Military Sealift Command personnel did not maintain complete and accurate preventative maintenance plans, which identify the contractors' maintenance responsibilities. In addition, the DoD OIG determined that the Military Sealift Command did not verify that contractor personnel completed the contract requirements related to the preventative maintenance of the government owned-contractor operated fleet.

(U) Report No. DODIG 2017-053, "The Air Force Did Not Adequately Determine or Document Fair and Reasonable Prices for Lot 7 Sole-Source Initial Spare Parts for the C-5 Aircraft," February 7, 2017

(U) The DoD OIG reported that the Air Force Life Cycle Management Center did not adequately determine fair and reasonable prices for the 11 commercial spare parts reviewed. The DoD OIG reported that this occurred because the contracting officer did not obtain sufficient commercial sales data needed to validate the prices for the commercial parts.

(U) Report No. DODIG 2017-003, "The Air Force Needs to Improve Cost-Effectiveness and Availability of the Joint Surveillance Target Attack Radar System," November 1, 2016

(U) The DoD OIG found that the Joint Surveillance Target Attack Radar System contracting officer did not promote cost-effectiveness on the Total System Support Responsibility contract for sustainment support for the aircraft. Among other reasons, this occurred because the contracting officer did not establish an aircraft availability metric requirement that was consistently achieved and satisfied, establish appropriate cost performance incentives that were designed to motivate the contractor to reduce contract costs, or properly manage portions of the award fee allocated.

# (U) Appendix C

## (U) Sample of Contracts

(U) Our contract sample included 34 contracts, valued at \$6,281,476,281.

Service	Command	Contract Number	Date Awarded	Contract Value
Army	ACC	W56JSR-16-D-0016	September 27, 2016	\$20,409,000
Army	ACC	W56HZV-17-C-0052	December 21, 2016	57,393,219
Army	ACC	W58RGZ-17-D-0118	September 29, 2017	34,688,061
Army	ACC	W58RGZ-18-D-0014	December 1, 2017	19,126,906
Army	ACC	W56HZV-18-C-0062	May 17, 2018	11,912,719
Army	ACC	W58RGZ-18-D-0111	October 1, 2018	109,948,005
Army	ACC	W58RGZ-19-D-0062	April 17, 2019	52,297,790
Army	ACC	W58RGZ-19-C-0024	April 26, 2019	393,798,248
Army	ACC	W58RGZ-19-C-0051	September 13, 2019	45,936,147
Navy	NAVSEA	N00024-18-C-4432	December 22, 2017	58,805,203
Navy	NAVSEA	N00024-18-C-5407	December 27, 2017	243,141,029
Navy	NAVSEA	N00024-18-C-4443	February 7, 2018	41,418,939
Navy	NAVSEA	N00024-18-C-4438	June 1, 2018	104,757,437
Navy	NAVSEA	N00024-18-C-4440	August 20, 2018	162,215,997
Navy	NAVSEA	N55236-19-F-5080	December 17, 2018	41,454,796
Navy	NAVSEA	N00024-20-C-4464	December 17, 2019	92,535,737
Navy	NAVSEA	N00024-20-C-4446	December 23, 2019	200,868,971
Navy	NAVSUP	N00104-14-G-A102	May 13, 2014	2,077,315
Navy	NAVSUP	N00383-13-G-005N	September 18, 2013	29,528,353
Navy	NAVSUP	N00383-17-D-BA01	June 21, 2017	176,668,707
Navy	NAVSUP	N00383-19-D-P901	April 11, 2019	71,291,775
Navy	NAVSUP	N00383-19-D-V001	April 18, 2019	15,123,483
Navy	NAVWAR	N00039-15-C-0013	March 13, 2015	24,653,068
Navy	NAVWAR	N00039-16-C-0050	December 29, 2015	504,418,837
Air Force	AFLCMC	FA8620-18-F-4003	December 1, 2017	77,836,796
Air Force	AFLCMC	FA8678-18-C-0002	June 29, 2018	120,039,208
Air Force	AFLCMC	FA8620-18-F-4062	July 30, 2018	90,472,443
Air Force	AFLCMC	FA8620-19-F-4000	October 31, 2018	448,650,531
Air Force	AFLCMC	FA8675-19-C-0004	December 1, 2018	63,803,179

*(U) Sample of Contracts (cont'd)*

Service	Command	Contract Number	Date Awarded	Contract Value
Air Force	AFLCMC	FA8528-19-D-0015	April 1, 2019	2,630,000,000
Air Force	AFLCMC	FA8620-19-F-4024	July 31, 2019	258,520,946
Air Force	AFLCMC	FA8620-20-F-4817	March 13, 2020	33,963,760
Air Force	AFSC	FA8517-15-D-0006	July 22, 2015	40,500,000
Air Force	AFSC	FA8121-19-C-0023	September 10, 2019	3,219,675
<b>Total</b>				<b>\$6,281,476,281</b>

(U) Source: The DoD OIG.

## (U) Management Comments

### (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology)



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

SAAL-ZP

MEMORANDUM FOR DEPARTMENT OF DEFENSE OFFICE OF INSPECTOR GENERAL DOD IG), 4800 MARK CENTER DRIVE, ALEXANDRIA, VA 22350-1500

SUBJECT: DoDIG Draft Report: (CUI) Sole-Source Depot Maintenance Contracts (D2020AH-0139)

1. On behalf of the Assistant Secretary of the Army (Acquisition, Logistics and Technology), the Office of the Deputy Assistant Secretary of the Army (Procurement) reviewed the subject report and I am providing the Official Army Position.
2. After reviewing the audit report and command comments, we concur.  
The point of contact for this action is [REDACTED]  
[REDACTED].

Controlled by: Army  
Controlled by: ASA(ALT)  
CUI Category: General Procurement and Acqusition  
Distribution/Limited Dissemination Control: FEDCON  
POC: [REDACTED]

COURTIS.JOHN [REDACTED]  
.T. [REDACTED] [REDACTED]

Encl

John T. Courtis, Director  
Procurement/Insight Oversight

## (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (cont'd)



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
4400 MARTIN ROAD  
REDSTONE ARSENAL, AL 35898-5000

01 MAR 2022

AMIR

MEMORANDUM FOR Department of Defense Inspector General (DoDIG, [REDACTED]), Program Director for Audit Acquisition, Contracting and Sustainment, [REDACTED]

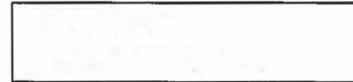
SUBJECT: Command Comments to Department of Defense Inspector General Draft Report: Audit of Sole-Source Depot Maintenance Contracts, Project D2020-D000AH-0139.000

1. U.S. Army Materiel Command has reviewed and endorses the subject draft report and response from the U.S. Army Contracting Command. Specific comments are included at the enclosure.

2. The U.S. Army Materiel Command point of contact is [REDACTED]  
[REDACTED]

Encl

*Lisha H. Adams*  
LISHA H. ADAMS  
Executive Deputy to the  
Commanding General



## (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (cont'd)



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

15 FEB 2022

AMCC-IR (RN 11-7a)

MEMORANDUM FOR [REDACTED] Internal Review and Audit Compliance  
Office, Headquarters, U.S. Army Materiel Command, [REDACTED]

SUBJECT: Department of Defense Inspector General (DoDIG) Audit Draft Report  
Project No. D2020-D000AH-0139 (CUI) Sole Source Depot Maintenance Contracts

1. Reference. DoDIG Audit Draft Report (CUI) "Sole Source Depot Maintenance Contracts" (Project Number D2020-D000AH-0139.000)
2. The Commanding General, U.S. Army Contracting Command (ACC) concurs with Recommendations A3a, A3b and A5.
3. Recommendations A3a and A3b; by 28 July 2022, ACC-RSA will:
  - a. Review the use of indefinite-delivery indefinite-quantity contract types for UH-60 blade repair requirements and determine whether a different contract type is more appropriate.
  - b. Work with the program office officials responsible for the UH-60 helicopter to review the execution of contracts for the UH-60 helicopter blade repairs to identify and document lessons learned for application in future procurements.
4. Recommendation A5; by 30 June 2022, the ACC Commanding General will reaffirm the Army's processes by including a supporting awareness article within the ACC "Hot off the Press" publication. The article will inform the contracting officers of the requirement to request uncertified cost and pricing data, when needed, to support the contracting officer's determination of fair and reasonable prices when negotiating sole-source commercial contracts. Additionally, a supporting article will reiterate the reporting process as stated in the regulation.
5. The ACC point of contact for this memorandum is [REDACTED]

Encl

CHRISTINE A. BEELER  
Brigadier General, USA  
Commanding

## (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (cont'd)



DEPARTMENT OF THE ARMY  
U.S. ARMY CONTRACTING COMMAND - REDSTONE  
BUILDING 5303, MARTIN ROAD  
REDSTONE ARSENAL, ALABAMA 35898-5000

CCAM-BCM-M

MEMORANDUM FOR [REDACTED] Internal Review and Audit Compliance  
Office, Headquarters, U.S. Army Contracting Command, [REDACTED]  
[REDACTED]

SUBJECT: Response to Department of Defense Inspector General Draft Audit Report  
on "Audit of Sole-Source Depot Maintenance Contracts," January 19, 2022 (Project No.  
D2020-D000AH-0139.000)

1. The Army Contracting Command-Redstone (ACC-RSA) provides the subject enclosed response.
2. The subject response has been reviewed for the inclusion of Critical Information and has been appropriately marked.
3. The point of contact for this action is [REDACTED]  
[REDACTED].

GIUNTA, JOSE  
PH. ANTHONY.  
JR. [REDACTED]  
[REDACTED]

JOSEPH A. GIUNTA JR.  
Executive Director  
Army Contracting Command-Redstone

Encl

## (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (cont'd)

ARMY CONTRACTING COMMAND - REDSTONE  
COMMENTS  
In Response to  
Department of Defense Inspector General (DoD IG) Draft Audit Report on  
"Audit of Sole-Source Depot Maintenance Contracts"  
January 19, 2022 (Project No. D2020-D000AH-0139.000)

Following, quoted from the report, is the recommendation addressed to the Army Contracting Command-Redstone (ACC-RSA); and ACC-RSA's response to the recommendation.

Recommendation A.3:

We recommend that the Executive Director of the Army Contracting Command-Redstone Arsenal direct contracting officials to:

- a. Review the use of indefinite-delivery indefinite-quantity contract types for UH-60 blade repair requirements and determine whether a different contract type is more appropriate.
- b. Work with the program office officials responsible for the UH-60 helicopter to review the execution of contracts for the UH-60 helicopter blade repairs to identify and document lessons learned for application in future procurements.

ACC-RSA Comments: Concur. The ACC-RSA Executive Director will direct contracting officials to:

- a. Review the use of indefinite-delivery indefinite-quantity contract types for UH-60 blade repair requirements and determine whether a different contract type is more appropriate. The review will be completed and the results provided to the DoD IG by July 28, 2022.
- b. Work with the program office officials responsible for the UH-60 helicopter to review the execution of contracts for the UH-60 helicopter blade repairs to identify and document lessons learned for application in future procurements. The review will be completed and the results provided to the DoD IG by July 28, 2022.

Note: This document does not contain information that is either critical or exempt from release under the Freedom of Information Act.

## (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (cont'd)

**Project:** D2020-D000AH-0139.000

**Audit Location:** Virtual

**Objective Title:** Audit of Sole-Source Depot Maintenance Contracts

**Objective:** The objective of this audit was to determine whether the Military Services and Defense agencies negotiated fair and reasonable prices for sole-source depot maintenance contracts performed at contractor facilities.

This audit was in response to a reporting requirement included in House Report 116-333, the conference report to accompany Public Law 116-92, the “National Defense Authorization Act for Fiscal Year 2020,” December 20, 2019. The conference report required the DoD Office of Inspector General to audit each Military Service and Defense agency to determine whether there had been any excess cost escalation for sole-source depot maintenance contracts.

**Conclusion:**

DoD contracting officials negotiated fair and reasonable prices for 13 of 34 sole-source and single-source depot maintenance contracts we reviewed, valued at \$1.7 billion, by complying with Federal and DoD acquisition regulations, and implementing sole-source pricing best practices during contract planning, proposal evaluation, and negotiations. However, DoD contracting officials may not have negotiated fair and reasonable prices for 21 of 34 sole-source and single-source depot maintenance contracts we reviewed, valued at \$4.6 billion, because DoD officials did not provide well-defined requirements, in accordance with Federal and DoD acquisition regulations. In addition, factors beyond the control of the DoD contracting officials limited their ability to negotiate fair and reasonable prices.

Although the DoD realized cost reductions of at least \$12.0 million, and cost escalation of less than 1 percent for 13 of the 34 contracts, the DoD paid at least \$71.9 million in cost escalation for 21 of 34 contracts and experienced schedule delays that impacted the ability of the Military Services to meet their mission and affected DoD readiness worldwide.

**Recommendation(s):**

**Recommendation A.5.** We recommend that the CG of the ACC require contracting officers to request uncertified cost and pricing data, when needed, to support the contracting officer's determination of fair and reasonable prices when negotiating sole-source commercial contracts. In addition, the CG of the ACC should direct contracting officers to document the contractor's response to the request and report to the Defense Pricing and Contracting Principal Director whenever contractors refuse to provide requested cost data, with their rationale, in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.403-3(6).

## (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (cont'd)

### Action taken or planned:

Concur. Consequently, ACC CONOPS on behalf of the ACC HCA / Commanding General will reaffirm the Army's processes by including a supporting awareness article published within the ACC "Hot off the Press publication." That informs the Command's Contracting Officers to request uncertified cost and pricing data, when needed, to support the contracting officer's determination of fair and reasonable prices when negotiating sole-source commercial contracts. Additionally, supporting article will reiterate the reporting process as stated in AFARS "5115.403-3-90 Process and Reporting Requirements Pertaining to Contractor Denials of Contracting Officer Requests for Data Other Than Certified Cost or Pricing Data." The article will be released by 30 June 2022.

## (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (cont'd)



DEPARTMENT OF THE  
ARMY PROGRAM EXECUTIVE  
OFFICE, AVIATION PROJECT  
MANAGER, UTILITY HELICOPTERS  
5308 MARTIN ROAD  
REDSTONE ARSENAL AL  
35898-5000

Final  
Report Reference

SFAE-AV-UH

February 04, 2022

### MEMORANDUM FOR RECORD

SUBJECT: Utility Helicopters Project Office Response to DoDIG Draft Report Audit of Sole-Source Depot Maintenance Contracts (Project No. D2020-D000AH-0139)

1. Reference DoDIG Draft Report Audit of Sole-Source Depot Maintenance Contracts (Project No. D2020-D000AH-0139).
2. The Utility Helicopters Project Office (UHPO) non-concurs with the Recommendation A.2 (page 32 within the report) and the data written about the UH-60 Program Office (Page 21-22). Subparagraphs 2.a and 2.b. describe the reason for the recommendation.
  - a. Recommendation A.2 is based upon the belief that data gathered from officials interviewed for contract W58RGZ-19-D-0062 were employees within the UHPO and provided requirements for the contract. The interviewed officials were employees of the Army Material Command (AMC) and were responsible for the contract award and its requirements package. Program Executive Office, Aviation officials are not responsible for the contract or the contract requirements development.
  - b. The report states, “[O]fficials from the UH-60 Program Office stated...they developed requirements for UH-60 helicopter blades...UH-60 Program Office officials did not properly forecast the...developed requirements for IDIQ contracts...” UHPO officials did not develop the requirements for the referenced IDIQ contract. The officials cited within the report were from AMC, not UHPO. This error led to an inaccurate Recommendation A.2.
3. POC is [REDACTED].

Page 38

Pages 22-24

Redirected

KELLEY.JOHN.STE [REDACTED]  
VEN. [REDACTED]  
JOHN S. KELLEY  
Deputy Project Manager, Utility Helicopters

**(CUI) Naval Sea Systems Command****DEPARTMENT OF THE NAVY  
NAVAL SEA SYSTEMS COMMAND  
1333 ISAAC HULL AVE SE  
WASHINGTON NAVY YARD DC 20376-0001**

IN REPLY REFER TO  
7510  
Ser 00N3-033/068  
8 Mar 22

From: Commander, Naval Sea Systems Command  
To: Inspector General, Department of Defense

Subj: NAVAL SEA SYSTEMS COMMAND COMMENTS ON DEPARTMENT OF DEFENSE INSPECTOR GENERAL DRAFT REPORT (Project No. D2020-D000AH.0139.000)

Ref: (a) DoD IG Draft Report, "Audit of Sole-Source Depot Maintenance Contracts" of 19 Jan 22 (Project No. D2020-D000AH-0139.000)

Encl: (1) Naval Sea Systems Command Response to Department of Defense Inspector General Draft Report Recommendations, "Audit of Sole-Source Depot Maintenance Contracts" of 14 Feb 22 (Project No. D2020-D000AH.0139.000)  
(2) Naval Sea Systems Command Technical Comments on Department of Defense Inspector General Draft Report Recommendations, "Audit of Sole-Source Depot Maintenance Contracts" of 14 Feb 22 (Project No. D2020-D000AH.0139.000)

1. Per reference (a), the Naval Sea Systems Command's partial concurrence with report recommendations and technical comments on DoD IG Draft Report, "Audit of Sole-Source Depot Maintenance Contract," of 19 January 2022 (Project No. D2020-D000AH.0139.000) is contained within enclosures (1) and (2).

2. My point of contact for this matter is [REDACTED]  
[REDACTED].

W. U. GALINIS

## (CUI) Naval Sea Systems Command (cont'd)

CUI

**NAVAL SEA SYSTEMS COMMAND RESPONSE TO DEPARTMENT OF DEFENSE  
OFFICE OF INSPECTOR GENERAL DRAFT REPORT RECOMMENDATIONS,  
“AUDIT OF SOLE-SOURCE DEPOT MAINTENANCE CONTRACTS” OF 14 Feb 22,  
(PROJECT NO. D2020-D000AH-0139.000)**

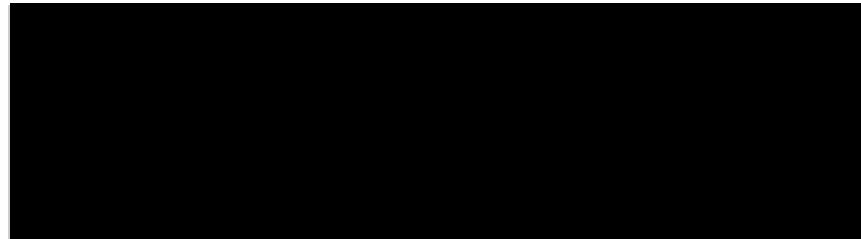
**Recommendation B.1**

We recommend that the Commander of the Naval Sea Systems Command and the Commander of the Navy Regional Maintenance Center:

- a. Collaborate with major defense ship contractors to identify potential initiatives to increase the number of contractor-owned dry docks.

**NAVSEA Response:** NAVSEA concurs with the recommendation. NAVSEA continues to work with industry on a recurring basis. SEA21 created a Director of Industrial Assessment (SEA21A) position and branch within its organization responsible for industry outreach and industrial base health. SEA21A in collaboration with other Navy stakeholders discusses potential solutions to the Industry's shortfalls in supporting the Navy's ship repair requirements.

The Navy has collaborated with industry partners to identify and pursue initiatives to add critical dry dock capacity on the west coast. For example, two years ago the Navy worked with industry to lease land at [REDACTED] for a potential dry dock financed by industry to support ships in the region.



In addition, the Navy also upgraded the [REDACTED] to accommodate [REDACTED] and solicited for the construction of a floating dry dock to be operated [REDACTED]. These government owned dry docks provide surge capability to the private sector's dry dock capacity and will be used to provide the opportunity, dependent on the results of coast-wide solicitations, for all [REDACTED] based surface combatants to execute maintenance within their assigned homeport.

**Estimated Date of Completion:** Completed

CUI

Encl (1)

## (CUI) Naval Sea Systems Command (cont'd)

CUI

### NAVAL SEA SYSTEMS COMMAND'S COMMENTS TO DODIG DRAFT REPORT (Project No. D2020-D000AH-0139.000)

- b. Review the policies and procedures for developing requirements for ship repair maintenance to identify ways to reduce the number of change orders issued, and document the review.

**NAVSEA Response:** NAVSEA concurs with the recommendation. NAVSEA currently has self-identified that requirements planning is integral to the successful execution of ship repair contracts. Repair and maintenance requirements are identified over time leading up to the start of a ship's availability period. The Fleet's priority is to include maximum feasible repair and maintenance requirements during an availability period. Regardless of contract type, clear and final requirements must be established at least one year (A-365) prior to the start of an availability to support timely contract award. Requirements can evolve during the year leading up to the start of an availability period given the dynamic conditions of Navy ships.

In an effort to continuously improve requirements identification, SEA21 is doing the following:

- (1) Repair and Maintenance work notifications are submitted by ships force and brokered to be written into the availability work package by the Project Engineer. NAVSEA is reviewing work notification brokering curves to ensure immediate brokering upon ship induction. Active and incremental brokering ensures the 100% Work Package Lock Date is achieved and quality requirements are generated (TYCOM requirement responsibility, Regional Maintenance Center Project Manager quality responsibility and Surface Maintenance Engineering Planning Program (SURFMEPP) oversight responsibility);
- (2) Reviewing Total Ship Readiness Assessment Rates to ensure ships maintenance logs reflect the ships condition and the repairs required – prior to planning and execution of ship availabilities.
- (3) Reviewing Directed Maintenance Strategies continuously to assess effectiveness and to provide properly timed life-cycle maintenance actions to achieve Expected Service Life (ESL).
- (4) Delays in modernization tasking and funding result in delayed delivery of Ship Installation Drawings (SIDs), which are required to be incorporated into availability work packages at A-365. Reviewing modernization tasking and funding timelines to ensure alignment with the A-120 Target Award timeline.
- (5) Regularly assessing Work Specification Quality;
- (6) Regularly assessing Growth/Late Changes and requiring New Work to be approved at Flag Level/SES Level.

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## (CUI) Naval Sea Systems Command (cont'd)

Final  
Report Reference



### NAVAL SEA SYSTEMS COMMAND'S COMMENTS TO DODIG DRAFT REPORT (Project No. D2020-D000AH-0139.000)

(7) Institutionalized assessments of Requests for Contractual Change (RCC) both during and post-availability to evaluate effectiveness of maintenance requirements and to reduce execution variance.

(8) Conducting data analysis using the Ship Maintenance Data Improvement Initiative (SMDii) database to review leading indicators of poor work package quality. Analysis of SID delivery, Long Lead Time Material (LLTM) identification and work specification errata and addendum provides insight into the government's ability to define requirements by the appropriate phases in the planning cycle.

**Estimated Date of Completion:** Completed

#### Recommendation B.2

We recommend that the Commander of the Naval Sea Systems Command:

- a. Direct the Commander of the Navy Regional Maintenance Center to review and update work item packages to ensure that clear and consistent requirements are used for routine depot maintenance tasks, as necessary.

**NAVSEA Response:** NAVSEA partially concurs with the recommendation due to factual inaccuracy cited below. NAVSEA concurs with the overall recommendation, and efforts to improve are referenced in B.1.b.

*Note: Page 50 has an error in the identification of CNRMC as responsible for specification development. As provided in Technical Comments to the draft Audit document: While CNRMC provides specification writing guidance, CNRMC officials do not create requirements. The fleet identifies directed maintenance and repair requirements through work notifications to be planned into specifications. PMS 407 identifies modernization requirements for specification development.*

Page 64

**Estimated Date of Completion:** Completed

- b. Review the use of the firm-fixed-price contract type for future Naval Sea Systems Command ship repair contracts and document the review.

**NAVSEA Response:** NAVSEA concurs with the recommendation. Ship Repair requirements are complicated in nature, driving the need for changes as requirements increase, evolve and are



Encl (1)

## (CUI) Naval Sea Systems Command (cont'd)

CUI

**NAVAL SEA SYSTEMS COMMAND'S COMMENTS TO  
DODIG DRAFT REPORT  
(Project No. D2020-D000AH-0139.000)**

refined. The contract type is used to apportion the risk for financial and technical performance. NAVSEA will continue review of the use of the firm-fixed-price contract type for future NAVSEA ship repair contracts and select a contract type appropriate to the circumstances of the acquisition. Documentation to show why the particular contract type was selected is included in the Acquisition Plan (AP) per direction from the FAR and its agency specific supplements. For example, FAR 16.103(d) requires documentation to show why the particular contract type was selected.

**Estimated Date of Completion:** Complete.

- c. Determine whether indefinite-delivery indefinite-quantity multiple-award contracts should be used for future coast-wide availabilities, which could include a requirement for all contractors to bid on each solicitation or provide their rationale for not bidding on the contract.

**NAVSEA Response:** NAVSEA partially concurs with the recommendation. NAVSEA concurs with the recommendation to determine whether indefinite-delivery indefinite-quantity multiple-award contracts should be used for future coast-wide availabilities. As requirements are defined, NAVSEA will make that determination and select a contract type appropriate to the circumstances of the acquisition. This will be documented in the Acquisition Plan (AP) per direction from the FAR and its agency specific supplements. For example, FAR 16.103(d) requires documentation to show why the particular contract type was selected. NAVSEA does not concur that contracts should include requirements for contractors to bid on each solicitation or provide a rationale for not bidding. If an execution conflict (such as pier, docking or workload capacity constraint) exists, contractors will not be able to bid regardless of contract type.

**Estimated Date of Completion:** Complete.

- d. Update contracting procedures to clearly state what information is required, such as a detailed breakdown of labor categories and labor hours, as well as cost and pricing data that is sufficient to support fair and reasonableness determinations for depot maintenance ship repair contracts.

**NAVSEA Response:** NAVSEA concurs with the recommendation. While contracting professionals receive direction regarding contracting procedures from the FAR and its agency specific supplements, NAVSEA will provide additional guidance to contracting professionals in an upcoming Contracting Policy Newsletter to reinforce the instructions for submission of certified cost or pricing data and other than certified cost or pricing data are clearly specified in

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Encl (1)

## (CUI) Naval Sea Systems Command (cont'd)

CUI

### NAVAL SEA SYSTEMS COMMAND'S COMMENTS TO DODIG DRAFT REPORT (Project No. D2020-D000AH-0139.000)

requests for proposals or requests for data in a one-bid scenario after initial proposal receipt. Further, the Newsletter will also emphasize the requirement that when the solicitation requires the submission of certified cost or pricing data, the contracting officer should include DFARS 252.215-7009, Proposal Adequacy Checklist, in the solicitation to facilitate submission of a thorough, accurate, and complete proposal. This will be communicated in an upcoming Contracting Policy Newsletter.

Of note: Contract Actions reviewed in support of the subject audit were executed both before and after the 31 JULY 2019 change to DFARS 215.371-3. The required contracting procedures were distinct based on the date of the Contract Action.

Prior to 31 JULY 2019, DFARS 215.371-3 identified “if there was a “reasonable expectation ...that...two or more offerors, competing independently, would submit priced offers” but only one offer is received, this circumstance does not constitute adequate price competition unless an official at a level above the contracting officer approves the determination that the price is reasonable (see FAR 15.403-1(c)(1)(ii).”

Effective 31 JULY 2019, DFARS 215.371-3 was revised to require “if only one offer is received when competitive procedures were used and it is not necessary to resolicit in accordance with 215.371-2(a), then the contracting officer shall comply with the following:

(a) If no additional cost or pricing data are required to determine through cost or price analysis that the offered price is fair and reasonable, the contracting officer shall require that any cost or pricing data provided in the proposal be certified if the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403-1(b)(2) through (5) does not apply.

(b) Otherwise, the contracting officer shall obtain additional cost or pricing data to determine a fair and reasonable price. If the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403-1(b)(2) through (5) does not apply, the cost or pricing data shall be certified.

(c) If the contracting officer is still unable to determine that the offered price is fair and reasonable, the contracting officer shall enter into negotiations with the offeror to establish a fair and reasonable price. The negotiated price should not exceed the offered price.

(d) If the contracting officer is unable to negotiate a fair and reasonable price, see FAR 15.405(d).

**Estimated Date of Completion:** June 3, 2023

CUI

Encl (1)

## (CUI) Naval Sea Systems Command (cont'd)

Final  
Report Reference



**NAVAL SEA SYSTEMS COMMAND TECHNICAL COMMENTS ON DEPARTMENT OF DEFENSE OFFICE OF INSPECTOR GENERAL DRAFT REPORT, "AUDIT OF SOLE-SOURCE DEPOT MAINTENANCE CONTRACTS" OF 14 FEB 22  
(PROJECT NO. D2020-D000AH-0139.000)**

Page 50 has an error in the identification of CNRMC as responsible for specification development.

**Page 64**

As provided in Technical Comments to the draft Audit document: While CNRMC provides specification writing guidance, CNRMC officials do not create requirements. The fleet identifies directed maintenance and repair requirements through work notifications to be planned into specifications. PMS 407 identifies modernization requirements for specification development.

Starting on Page 54, throughout the "NAVSEA Used Contracting Practices that Impacted Competition" Section, the Technical Comments provided by NAVSEA on 07DEC2021 still apply. Specifically:

**Page 53**

1) Interport differential costs are specifically included in coast-wide solicitations in order to promote competition and equity for offerors. The interport differential costs are included in the solicitation and industry may submit bidder's questions to address any concerns during the solicitation phase.

(2) NAVSEA policy does not require solicitations to be issued 315 days prior to the start of an availability nor does it require award 120 days before availability start. The Joint Fleet Maintenance Manual (JFMM) provides a target timeline for availability awards. Acquisition timelines are established on a procurement by procurement basis and consider the number of ships being solicited and acquisition strategy being applied. 195 days equates to approximately 6.5 months and that amount of time may not be allotted to proposal preparation. Fundamentally, the requirements are not even made available to Contracts until 328 days prior to availability start (at earliest). Providing 195 days of proposal preparation time would result in less than two weeks to meet the goal of an A-120 award. 195 days is the entire period of time between A-315 and A-120.

(3) The JFMM previously targeted A-60 awards. Up to 2019, awarding ship repair availability execution contracts 60 days prior to availability start was the Navy's target. In 2019, an updated goal was established, but only in a memorandum from SEA21. The A-120 target did not account for strategy variations (to include multi-ship awards and best value trade-off evaluation strategies, for example). The JFMM has yet to be officially updated to incorporate the A-120 target.

(4) One-bids are received in response to Homeport Solicitations issued under the indefinite-delivery indefinite-quantity (IDIQ) multi-agency contract (MAC) as well. The issuance of a



ENCL (2)

**(CUI) Naval Sea Systems Command (cont'd)**

CUI

**NAVAL SEA SYSTEMS COMMAND'S COMMENTS TO  
DODIG DRAFT REPORT  
(PROJECT NO. D2020-D000AH-0139.000)**

Coast-wide IDIQ-MAC would not remove the requirement to include an Interport Differential. A Coast-wide IDIQ-MAC (and the Homeport IDIQ MAC) would be subject to the same requirements timeline as a stand-alone solicitation. Requirements would not be ready until at least A-328. The same acquisition timeline requirements would apply to a solicitation issued under and IDIQ-MAC: timeline would be subject to number of ships solicited and acquisition strategy applied. Timeline for industry preparation of proposals would not change simply as a result of soliciting under the IDIQ-MAC.

CUI

Encl (2)

# (U) Naval Supply Systems Command Weapon Systems Support



DEPARTMENT OF THE NAVY  
NAVSUP WEAPON SYSTEMS SUPPORT  
700 ROBBINS AVENUE 5450 CARLISLE PIKE  
PHILADELPHIA PA 19111-5098 MECHANICSBURG PA 17050-2411

Final Report Reference

4200  
Ser N7/76  
08 Feb 22

## MEMORANDUM

From: Commander, NAVSUP Weapon Systems Support  
To: Auditor, Department of Defense Office of Inspector General, Alexandria Field Office  
Subj: DoD OIG Draft Report – “Audit of Sole-Source Depot Maintenance Contracts” (Project No. D2020-D000AH-0139.000)  
Ref: (a) DoD IG e-mail of 19 Jan 2022

1. As requested, I am providing comments in response to the recommendations contained in the subject draft report.

a. Recommendation A.1.a: Review contract N00383-19-D-V001 to determine whether contracting officials violated the Bona Fide Needs Rule and if necessary, take appropriate actions to modify the contract.

Deleted Recommendation

NAVSUP WSS Response: While NAVSUP WSS does not concur with all findings contained within the report that led to this recommendation, NAVSUP WSS concurs with the recommendation that the contract be reviewed.

31 U.S.C. § 1502(a) provides the statutory underpinning for the bona fide needs rule. It states “an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability.” GAO has elaborated on the statute explaining that under “the bona fide needs rule, an appropriation is available for obligation only to fulfill a genuine bona fide need of the period of availability for which it is made.” U.S. Small Business Administration, B-321640 (2011). In other words, “an agency may obligate its fiscal year appropriation only to meet a legitimate, or bona fide, need arising in the fiscal year for which the appropriation was made.” Id. citing Library of Congress, B-318046, (2009). N00383-19-D-V001 was funded via Navy Working Capital Fund (NWCF). NWCF is a revolving fund, created pursuant to 10 U.S.C. 2208, and as such is authorized to incur obligations “without regard to fiscal year limitations” per 10 U.S.C. 2210(b). Therefore, even if NAVSUP WSS had funded requirements that were a need of a sixth fiscal year, it would not have constituted a violation of the bona fide needs rule as those sixth-year needs would have still arisen within the period of availability of the naval working capital funds used to procure them.

Additionally, two GAO recognized exceptions to the Bona Fide Needs Rule, specific to supplies, are the lead-time exception (for both delivery and production) and the stock-level exception. See DoD 7000.14-R, Volume 3, Chapter 8. Financial Management regulation 080303 states, “DoD Components shall determine that the goods, supplies, or

## (U) Naval Supply Systems Command Weapon Systems Support (cont'd)

Final Report Reference

services required under contracts entered into, or orders placed obligating an annual or multiple-year appropriation, are intended to meet a bona fide need of the period for which funds were appropriated. Such determinations shall consider estimated current consumption, the requirements that may be foreseen for future years based upon the procurement lead time, authorized stock levels, and authorized mobilization reserves.” Consequently, even if an appropriation, rather than the NWCF, was used, NAVSUP WSS would still not be in violation of the Bona Fide Needs rule as the procurement leadtime and/or stock level exception(s) would apply.

However, both of these points are academic because the contract did not include requirements beyond the five year ordering period.

The contract does not contain language pertaining to GFM or advance material purchases. All negotiated material costs were in support of improved RTATs for years 2-5 of the Firm, Fixed Price (FFP) 5-year requirements contract. Quantifiable F/A-18 backorder reductions have resulted. In addition, the labor costs were negotiated on a per unit basis and applied to best estimated quantities (BEQs) over the 5-year LTC performance period. In conclusion, NAVSUP WSS did not procure 6 years of labor, material, and facilities on a 5-year contract.

Notwithstanding the above, to allay concern, NAVSUP WSS concurs with the recommended review.

- b. Recommendation A.1.b: Require the contracting officials responsible for contract N00383-19-DV001 to work with the program office to review the process for procuring long-lead materials and identify alternative options for procuring long-lead materials, as appropriate.

NAVSUP WSS Response: NAVSUP WSS concurs with this recommendation. We will continue to develop acquisition strategies, including plans for long lead material procurements, in conjunction with the Program Offices and Integrated Weapons Support Teams (IWSTs).

- c. Recommendation A.1.c: Require the contracting officer for contract N00383-17-D-BA01 to reconcile and recover the cost of Government-furnished material that should have been applied to two delivery orders, valued at \$919,613.44.

NAVSUP WSS Response: NAVSUP WSS concurs with this recommendation. The Contracting Officer is in the process of reconciling GFM parts used on these delivery orders. Contract amount and obligated funds will be reduced to reflect the value of GFM parts used. Estimated completion date 31 March 2022.

2. The point of contact is [REDACTED]



K. W. EPPS

Renumbered as  
Recommendation A.1.a

Renumbered as  
Recommendation A.1.b

## (U) Air Force Materiel Command



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE MATERIEL COMMAND  
WRIGHT-PATTERSON AIR FORCE BASE OHIO

MEMORANDUM FOR SAF/AG

FROM: AFMC/CA

SUBJECT: DoDIG Draft Report - Request for Management Comments, Audit of Sole-Source Depot Maintenance Contracts (Project No. D2020-D000AH-0139.000)

1. We agree with the audit results with a slight request for rewrite on Recommendation A.4 for the DoDIG Draft Report, Project D2020-D000AH-0139.000. The requested change, as well as the replies to the recommendations, are on the attachments to this reply (AFLCMC reply is separate due to it containing CUI information).
2. If you have any questions or concerns with our comments, please contact [REDACTED].

Young, Staff. Suppo [REDACTED]  
rt.IV [REDACTED]

PATRICIA M. YOUNG  
Executive Director

**2 Attachments:**

1. AFSC Reply
2. AFLCMC Reply (CUI)

One AFMC ... Powering the World's Greatest Air Force

## (U) Air Force Materiel Command (cont'd)

Air Force Audit Agency  
Audit of Sole-Source Depot Maintenance Contracts  
(Project No. D2020-D000AH-0139.000)

Audit Results (Sole-Source Depot Maintenance Contracts): Agree (with minor update in wording).

### **Recommendation.**

Recommendation A.4 We recommend that the Commander of the Air Force Sustainment Center require contracting officers to request uncertified cost and pricing data, when needed, to support the contracting officer's determination of fair and reasonable prices when negotiating sole-source commercial contracts. In addition, the Commander of the Air Force Sustainment Center should direct contracting officers to document the contractor's response to the request and report to the Defense Pricing and Contracting Principal Director whenever contractors refuse to provide requested cost data, with their rationale, in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.403-3(6).

### **MAJCOM/CA Comments:**

AFSC recommended minor rewrite for the report (changes only to the bolded wording below):  
Recommendation A.4. We recommend that the Commander of the Air Force Sustainment Center remind contracting officers of the requirement to request uncertified cost and pricing data, when needed, to support the contracting officer's determination of fair and reasonable prices when negotiating sole-source commercial contracts. In addition, the Commander of the Air Force Sustainment Center should remind contracting officers to document the contractor's response to the request and report to the Defense Pricing and Contracting Principal Director whenever contractors refuse to provide requested cost data, with their rationale, in accordance with Defense Federal Acquisition Regulation Supplement, Procedures, Guidance, and Information 215.403-3(6).

We concur with the audit findings, but suggest the recommendation be modified to remind the contracting officers of the requirements that already exist, versus using the word "require" as found in the report. See the proposed report narrative changes above. The AFSC response will be to implement training to reinforce existing regulations and policy to address the concerns raised in the audit and ensure compliance with FAR 15.403-3(a) and DFARS PGI 215.403(6). AFSC/PK will provide detailed training, as well as recurring annual training that will focus on pricing techniques applicable to acquisitions not subject to submittal of cost or pricing data, when it would be appropriate to request other than cost or pricing data, and documenting and reporting contractor denials. Additionally, AFSC/PK will develop and provide training for supervisors of contracting officers to recognize and respond appropriately in the event of any undue influence being applied by requiring activities and/or members of the contracting leadership team that serve to discourage contracting officers from complying with the requirements of FAR 15.403-3(a) and DFARS PGI 215.403(6). AFSC/PK corrective actions will be implemented not later than 90 days after issuance of the final report.

## (CUI) Air Force Life Cycle Management Center

CUI



**DEPARTMENT OF THE AIR FORCE  
AIR FORCE LIFE CYCLE MANAGEMENT CENTER  
WRIGHT-PATTERSON AIR FORCE BASE OHIO**

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

FROM: AFLCMC/WIA

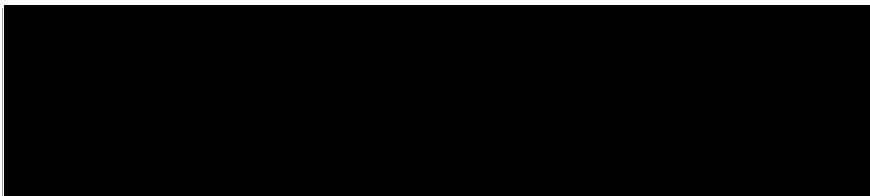
SUBJECT: Air Force Response to DoD Office of Inspector General Draft Report, "Audit of Sole-Source Depot Maintenance Contracts" (Project No. D2020-D000AH-0139.000)

1. This is the U-2 Program Office (AFLCMC/WIAU) response to the DoDIG Draft Report, "Audit of Sole-Source Depot Maintenance Contracts" (Project No. D2020-D000AH-0139.000). AFLCMC/WIAU concurs with the report as written.
2. The AFLCMC/WIAU will correct issues identified in this report and develop and implement a corrective action plan outlined in the following recommendations:

**RECOMMENDATION 1:** The DoDIG recommends that the Air Force Life Cycle Management Center Commander should direct AFLCMC contracting officials to work with U-2 program officials to identify alternative cost-effective maintenance options for maintaining the aging U-2 aircraft.

**AFLCMC/WIAU RESPONSE:** AFLCMC/WIAU, in conjunction with its assigned direct supporting contracting organization (AFLCMC/WIKA) and higher level AFLCMC Contracting officials, will continue executing current, on-going and enduring efforts which support the intent of the DoDIG Draft Report's Recommendation A.6.

These efforts include, but are not limited to: reverse engineering of proprietary tech data to develop technical packages for competitive contracting and qualification of other sources, reverse engineering and additive manufacturing of critical on and off aircraft parts and, ensuring all future modification and acquisition efforts include the Government receiving full data rights for future maintenance requirements. As these are enduring efforts, there is no estimated date of completion.



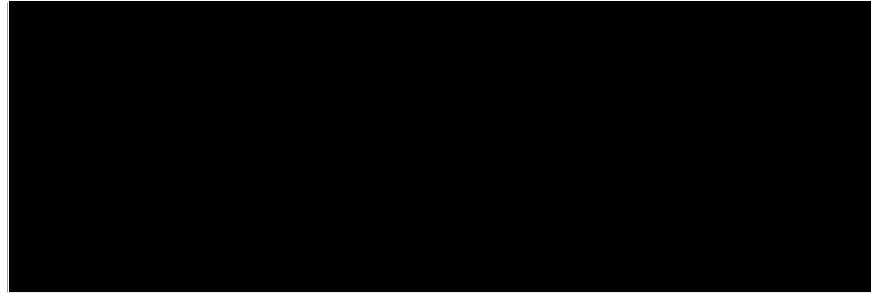
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3. The AFLCMC/WIAU point of contact is [REDACTED]  
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WILLIAM T. COLLINS JR., Colonel, USAF  
Senior Materiel Leader  
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Attachment:  
DoD OIG Draft Report

1<sup>st</sup> Ind, AFLCMC/WI

22 Feb 22

MEMORANDUM FOR AFLCMC/CA

Concur with WIA.

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RD.M. [REDACTED]

EDWARD M. STANHOUSE, NH-04  
Deputy Program Executive Officer for  
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**(CUI) Air Force Life Cycle Management Center (cont'd)****CUI**

2<sup>nd</sup> Ind, AFLCMC/CA

MEMORANDUM FOR DOD IG

Concur with AFLCMC/WIA.

WATERN.KATH [REDACTED]  
Y.L. [REDACTED]

KATHY L. WATERN, SES  
Executive Director

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**CUI**

## (U) Acronyms and Abbreviations

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- ACC** Army Contracting Command  
**AFLCMC** Air Force Life Cycle Management Center  
**AFSC** Air Force Sustainment Center  
**ALC** U.S. Army Aviation and Missile Command Logistics Center  
**AMC** Army Materiel Command  
**CLIN** Contract Line Item Number  
**CNRMC** Commander, Navy Regional Maintenance Center  
**DCMA** Defense Contract Management Agency  
**DFARS** Defense Federal Acquisition Regulation Supplement  
**DPC** Defense Pricing and Contracting  
**FAR** Federal Acquisition Regulation  
**FPRA** Forward Pricing Rate Agreement  
**FPRR** Forward Pricing Rate Recommendation  
**GAO** Government Accountability Office  
**GFM** Government-Furnished Material  
**IDIQ** Indefinite-Delivery Indefinite-Quantity  
**NAVSEA** Naval Sea Systems Command  
**NAVSUP** Naval Supply Systems Command  
**NAVWAR** Naval Information Warfare Systems Command  
**PGI** Procedures, Guidance, and Information  
**RFP** Request for Proposal  
**RMC** Regional Maintenance Center  
**RSA** Redstone Arsenal

## (U) Glossary

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**Availability.** Scheduled periods, of varying length, where a ship undergoes necessary maintenance, modernization, and other types of repairs.

**Basic Ordering Agreement.** A written instrument of understanding, negotiated between an agency, contracting activity, or contracting office and a contractor, that contains terms and clauses applying to future contracts, a description of supplies or services to be provided and methods for pricing, issuing and delivering future order under the agreement. A basic ordering agreement is not a contract.

**Contractor Logistics Support.** Support that is integral to providing services and material solutions to the warfighter for sustained operations. Contractor logistics support may be contracted for a product or service for a specified period.

**Cost-Plus-Fixed-Fee Contract.** A cost-reimbursement contract that provides for payment to the contractor of a negotiated fee that is fixed at the inception of the contract.

**Cost-Reimbursement Contract.** A type of contract that provides for payment of allowable incurred costs, according to contract terms and conditions.

**Depot Maintenance.** Materiel maintenance requiring major overhaul or complete rebuilding of parts, assemblies, subassemblies, and end items.

**Field Maintenance.** Encompasses the organizational and on-system maintenance and repairs necessary for day-to-day operations.

**Firm-Fixed-Price Contract.** A contract that provides a price that is not subject to any adjustment.

**Indefinite-Delivery Indefinite-Quantity Contract.** A contract that provides for an indefinite quantity, within stated limits, of supplies or services during a fixed period.

**Multiple-Award Contract.** A type of indefinite-delivery indefinite-quantity contract that is awarded to several contractors from a single solicitation and provides a method to streamline ordering supplies or services

**Single-Source Acquisitions.** Contracts for the purchase of supplies or services that occur when multiple companies can provide the supply or service, but only one company bids on the contract.

**Sole-Source Acquisitions.** Contracts for the purchase of supplies or services that are entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source.

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