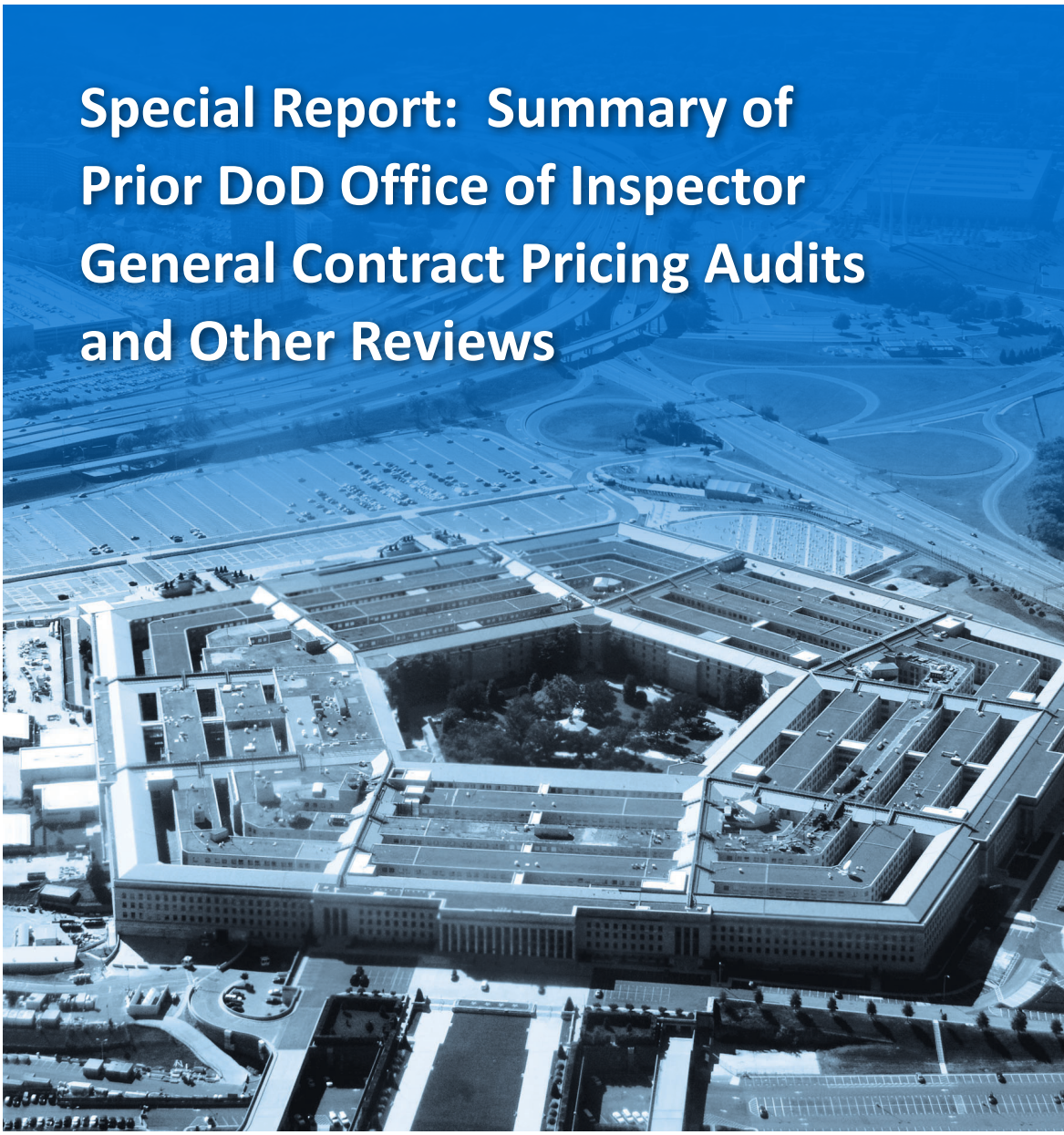
Report No. DODIG-2024-092

INSPECTOR GENERAL

U.S. Department of Defense

JUNE 4, 2024

Special Report: Summary of Prior DoD Office of Inspector General Contract Pricing Audits and Other Reviews



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DEPARTMENT OF DEFENSE

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

June 4, 2024

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND SUSTAINMENT
UNDER SECRETARY OF DEFENSE FOR POLICY
UNDER SECRETARY OF DEFENSE (COMPTROLLER)/CHIEF FINANCIAL OFFICER, DOD
AUDITOR GENERAL, DEPARTMENT OF THE ARMY
AUDITOR GENERAL, DEPARTMENT OF THE NAVY
AUDITOR GENERAL, DEPARTMENT OF THE AIR FORCE

SUBJECT: Special Report: Summary of Prior DoD Office of Inspector General Contract Pricing Audits and Other Reviews (Report No. DODIG-2024-092)

We are providing this report for your information and use. We did not make any recommendations and did not issue a draft report; therefore, no management comments are required. We conducted the work on this special report with integrity, objectivity, and independence, as required by the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Federal Offices of Inspector General. We did not conduct this summary work in accordance with generally accepted government auditing standards because the report only summarizes previously released reports.

The House Report 118-301, conference report to accompany H.R. 2670, the National Defense Authorization Act for Fiscal Year 2024, required the DoD Office of Inspector General to provide a briefing on status and findings of the oversight that the Office of Inspector General has conducted related to fair and reasonable costs in contracting. In the interest of transparency, we produced this report to share our insights more broadly. This report is based on our consolidation of 19 reports prepared by DoD Office of Inspector General personnel and issued from October 1, 2018, through January 31, 2024, regarding fair and reasonable pricing. These reports identified a variety of challenges relating to price reasonableness determinations made by DoD officials and whether those determinations were in accordance with Federal and DoD policies.

If you have any questions, please contact me at [redacted]

FOR THE INSPECTOR GENERAL:

Carmen J. Malone
Assistant Inspector General for Audit
Acquisition, Contracting, and Sustainment

Contents

Introduction

Congressional Request to Provide the Inspector General Report on DoD Acquisitions and Contract Management 1

Background 1

Summary

Pricing and Contracting Oversight Performed by the DoD Office of Inspector General 5

Price Reasonableness Challenges for DoD Contracting Officials 8

Potential Monetary Benefits Identified by the DoD Office of Inspector General Reports 13

DoD Office of Inspector General Contract Pricing Recommendations 15

Appendix

Summary of DoD Office of Inspector General Contract Pricing Findings and Recommendation Status 19

Acronyms and Abbreviations 63

Introduction

Congressional Request to Provide the Inspector General Report on DoD Acquisitions and Contract Management

This summary report was in response to a reporting requirement included in House Report 118-301, conference report to accompany H.R. 2670, the National Defense Authorization Act for FY 2024. The conference report noted the importance of the DoD's ability to obtain fair and reasonable costs in contracting and required the DoD Office of Inspector General (OIG) to provide a briefing on status and findings of the oversight that the OIG has conducted related to this area. The briefing was provided to congressional oversight committees prior to the March 31, 2024 deadline. The following is an excerpt from the conference report.

> The conferees note the importance of the Department of Defense's ability to obtain fair and reasonable costs in contracting. Therefore, not later than March 31, 2024, the Inspector General of the Department of Defense, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the status and findings of the oversight, reviews, audits, and inspections the Inspector General has conducted regarding Department-wide acquisitions and contract management, including:
>
> (1) Findings regarding the effectiveness of the Department in obtaining the best value for the lowest reasonable costs when acquiring goods and services, including by reducing contract costs and ensuring that the profit of contractors for the provision of such goods and services is reasonable;
>
> (2) An assessment of allowable, allocable, and reasonable costs and pricing for contracts;
>
> (3) The authorities and resources for contracting officers of the Department to obtain certified cost and pricing data from contractors of the Department; and
>
> (4) The authorities and resources of the Comptroller of the Department of Defense, the Office of Defense Pricing and Contracting, the Defense Contract Audit Agency, and the Defense Contract Management Agency to determine allowable, allocable, and reasonable costs and pricing for contracts.

Background

Fair and Reasonable Prices on DoD Contracts

The DoD is the world's largest purchaser of goods and services. In FY 2023, the DoD spent $456 billion on contracts for goods and services, which includes weapon systems, spare parts, fuel, maintenance, and healthcare. The Government Accountability Office has included DoD contract management in its High-Risk List since 1992, and the DoD has long-standing challenges with obtaining goods and services at fair and reasonable prices.

The Federal Acquisition Regulation (FAR) requires contracting officers to evaluate the reasonableness of offered prices to help ensure the final agreed-to price is fair and reasonable.[1] Contracting officers have a variety of methods they can use to determine price reasonableness. Comparing competitive quotes or offers and comparing prices to historical prices from previous purchases (historical price comparisons) are the two preferred methods for contracting officers to use. However, the Defense FAR Supplement (DFARS) states that contracting officers shall not determine the price of a contract to be fair and reasonable based solely on historical prices paid by the Government.[2] Contracting officers may also use the following methods if they determine those are insufficient to determine prices reasonableness:

- estimating methods to identify inconsistencies in price;
- comparing prices to current price lists, catalogs, or advertisements;
- comparing prices to an independent Government estimate;
- comparing prices to those identified through market research for the same or similar items; or
- conducting analysis using certified or data other-than-certified (uncertified) cost or pricing data (cost analysis).[3]

Resources for Contracting Officers when Determining Price Reasonableness

Certified or uncertified cost or pricing data are the two most reliable sources of information that a contracting officer can use to ensure that the U.S. Government obtains the best prices when negotiating contracts for goods and services. Certified cost or pricing data refers to cost or pricing data that contractors are required to certify as accurate, complete, and current as of the price agreement date. Uncertified cost or pricing data are pricing data, cost data, and judgmental information necessary for the contracting officer to determine a fair and reasonable price. Such data may include the identical types of data as certified cost or pricing data, but without the certification. When the contracting officer has obtained certified or uncertified cost or pricing data, the contracting officer can perform cost analysis.

Cost analysis is the review of both the cost elements and the profit or fee in an offeror's or contractor's proposal to determine a fair and reasonable price. Profit represents that element of the potential reward that contractors may receive for contract performance over and above allowable costs. The FAR states that it is in the U.S. Government's best interest to offer contractors opportunities for financial rewards sufficient to stimulate efficient contract performance, attract the best capabilities of qualified large and small business concerns to U.S. Government contracts, and maintain a viable industrial base.[4]

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[1] FAR Part 15, "Contracting by Negotiation," Subpart 15.4, "Contract Pricing."

[2] DFARS Part 215, "Contracting by Negotiation," Subpart 215.403-3, "Requiring data other than certified cost or pricing data."

[3] FAR Part 15, "Contracting by Negotiation," Subpart 15.4, "Contract Pricing," Section 15.404, "Proposal Analysis."

[4] FAR Part 15, "Contracting by Negotiation," Subpart 15.4, "Contract Pricing," Section 15.404, "Proposal Analysis."

The FAR states that contracting officers must obtain certified cost or pricing data for acquisitions exceeding the Truthful Cost or Pricing Data Act threshold, unless a valid exception applies or acquisitions are at or below the simplified acquisition threshold.[5] The FY 2018 National Defense Authorization Act increased the certified cost or pricing data threshold from $750,000 to $2 million on July 1, 2018. The FAR prohibits contracting officers from requesting certified cost or pricing data for acquisitions at or below the simplified acquisition threshold, which was increased to $250,000 as of August 31, 2018. The FAR allows contracting officers the discretion to request "data other than certified cost or pricing data" for acquisitions that do not require certified cost or pricing data to determine whether prices are fair and reasonable if adequate data from other sources is not available.

Agencies Supporting Contracting Officers

While contracting officers should determine the level of detailed analysis needed based on the complexity and circumstances of each acquisition, they can request the advice and assistance of other experts to ensure that they perform appropriate analysis. The contracting officer can request assistance from the Defense Contract Audit Agency (DCAA) or the Defense Contract Management Agency (DCMA).

The DCAA provides audit and financial advisory services to the DoD and other federal entities responsible for acquisition and contract administration. The DCAA's primary function is to conduct contract audits and related financial advisory services. Contract audits are independent, professional reviews of financial representations made by defense contractors, and the DCAA helps determine whether contract costs are allowable, allocable, and reasonable.

The DCMA works directly with defense contractors to ensure that the contractors meet all performance requirements and deliver supplies and services on time and at projected cost. The DCMA is an essential part of the acquisition process from pre-award to sustainment, and it provides contract administration services for the DoD, other federal organizations, and international partners.

Generally, the DCAA evaluates estimates of cost and profit supporting contract price proposals and the DCMA can provide technical support for labor hours, labor mix, and procurement quantities. Contracting officers should bring the DCAA and DCMA into the process early and use them throughout the life of the contract.

[5] Previously known as the Truth In Negotiations Act. FAR Part 15, "Contracting by Negotiation," Subpart 15.4, "Contract Pricing," Section 15.403, "Obtaining Certified Cost or Pricing Data."

Oversight of DoD Contract Pricing

Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD

The Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD (USD[C]/CFO) is the principal advisor to the Secretary of Defense for budgetary and fiscal matters, including financial management, accounting policy and systems, management control systems, budget formulation and execution, contract and audit administration, and general management improvement programs. The Office of the USD(C)/CFO consists of the following organizations.

- Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD
- DCAA
- Defense Finance and Accounting Service
- Program/Budget Organization
- Office of the Deputy Chief Financial Officer
- Enterprise Financial Transformation
- Budget and Appropriations Affairs
- Human Capital and Resource Management

Defense Pricing and Contracting

Defense Pricing and Contracting (DPC) is under the Office of the Under Secretary of Defense for Acquisition and Sustainment and is responsible for all pricing, contracting, and procurement policy for the DoD, including updates to the DFARS and its Procedures, Guidance, and Information. The DPC's mission includes ensuring effective delivery of goods and services to meet the needs of the Military Services, while ensuring that these acquisitions are in the best interests of the taxpayer, through oversight and implementation of pricing policies, strategies, and initiatives. The DPC is the focal point for developing new acquisition policies and improving existing DoD acquisition policies that are in the best interest of the DoD.

Summary

Pricing and Contracting Oversight Performed by the DoD Office of Inspector General

To address the congressional requirement, we reviewed DoD OIG reports from the previous 5 fiscal years, totaling 19 reports, to identify any information directly related to the four sections, or areas of interest, discussed in the final conference report. Below are the areas of interest discussed throughout this report.

- Obtaining the best value for the lowest reasonable costs
- Assessment of allowable, allocable, and reasonable contract costs and prices
- Authorities and resources for contracting officers to obtain certified data from contractors
- Authorities and resources to determine allowable, allocable, and reasonable contract costs and prices

We compiled relevant DoD OIG reports in several tables throughout this report. We analyzed the relevant DoD OIG reports and judgmentally determined which of the four areas of interest applied to each report. Additionally, we reviewed these reports to identify challenges faced by DoD contracting officials in obtaining goods and services at fair and reasonable prices and provided the status of prior DoD OIG recommendations related to price reasonableness.

We determined that some reports addressed all four areas of interest, while others only addressed one or two areas of interest. Table 1 identifies 3 reports that are applicable to all four areas of interest and 10 reports that are only applicable to one area of interest which discussed obtaining the best value for the lowest reasonable cost. See Table 1 for a breakout of the areas of interest that apply to the 19 reports we identified as appropriate for review.

Table 1. Pricing Oversight Areas of Interest Applicable to Completed DoD OIG Reports

Report Number	Obtaining the best value for the lowest reasonable costs	Assessment of allowable, allocable, and reasonable contract costs and prices	Authorities and resources for contracting officers to obtain certified data from contractors	Authorities and resources to determine allowable, allocable, and reasonable contract costs and prices
DODIG-2019-019		X	X	X
DODIG-2019-060	X	X	X	X
DODIG-2019-070	X	X		
DODIG-2019-109	X			
DODIG-2019-112	X			

Table 1. Pricing Oversight Areas of Interest Applicable to Completed DoD OIG Reports (cont'd)

Report Number	Obtaining the best value for the lowest reasonable costs	Assessment of allowable, allocable, and reasonable contract costs and prices	Authorities and resources for contracting officers to obtain certified data from contractors	Authorities and resources to determine allowable, allocable, and reasonable contract costs and prices
DODIG-2020-036		X		
DODIG-2020-049	X	X	X	X
DODIG-2020-060	X			
DODIG-2020-095	X			
DODIG-2021-045	X			
DODIG-2021-047	X	X		
DODIG-2021-050	X			
DODIG-2021-053	X			
DODIG-2021-056	X	X		X
DODIG-2021-129	X			
DODIG-2022-043	X	X	X	X
DODIG-2022-104	X			
DODIG-2023-006	X			
DODIG-2023-069		X	X	X

Source: The DoD OIG.

The conference report noted the importance of the DoD's ability to obtain fair and reasonable costs in contracting. Our reports highlighted Department-wide acquisitions and contract management issues or deficiencies related to obtaining or negotiating fair and reasonable prices. Specifically, our reports determined whether the DoD was able to obtain a fair and reasonable price for items or services, such as spare parts, bulk fuel, equipment and supplies in support of the coronavirus disease-2019 (COVID-19) pandemic, depot maintenance, and hurricane recovery costs at Navy installations. For example, in two reports, we analyzed cost models to determine whether the costs the contractor charged were allowable and reasonable.[6] The DoD OIG auditors also interviewed contracting officers to determine

[6] Report No. DODIG-2019-060, "Review of Parts Purchased from TransDigm Group, Inc.," February 25, 2019, and Report No. DODIG-2022-043, "Audit of the Business Model for TransDigm Group Inc. and Its Impact on Department of Defense Spare Parts Pricing," December 13, 2021.

whether the contracting officers used existing authorities and resources to obtain the best value for the lowest reasonable costs when negotiating contracts and whether they were able to obtain cost data from the contractor. In one of the reports, we determined that contracting officers used price analysis methods authorized by the FAR and DFARS, but still did not obtain fair and reasonable prices.[7] Specifically, we determined that the authorized methods were not effective for identifying excessive pricing in a sole-source environment without competition, and the contractor earned excess profit of at least $20.8 million on 105 spare parts from 150 contracts. In another report, we found that contracting officers did not document adequate rationale for disagreeing with questioned contractor costs and, as a result, the contracting officers may have reimbursed DoD contractors up to $219 million in unallowable costs.[8]

Ongoing Audits and Evaluations Addressing Price Reasonableness

In addition to the completed reports identified above, the DoD OIG has ongoing projects addressing price reasonableness. As of March 2024, when the DoD OIG provided its briefing to congress, the DoD OIG had seven ongoing projects. Table 2 shows those projects and their announced objectives.

Table 2. Ongoing DoD OIG Audit and Evaluations Projects

Project Number	Project Title and Objective	Date Announced
D2022-D000AH-0142.000	Audit of C-17 Spare Parts Pricing – determine whether the Air Force purchased commercial spare parts at fair and reasonable prices to sustain the C-17 military transport aircraft	June 21, 2022
D2023-DEV0SO-0010.000	Evaluation of Incurred Cost Audits Performed by Non-Federal Auditors for Compliance with the Government Auditing Standards – determine the extent to which non-Federal auditors complied with the Government Auditing Standards and other professional standards when they performed audits of DoD contractor incurred costs	November 9, 2022
D2023-D000AT-0143.000	Audit of Repair Pricing on the F/A-18 Hornet Radar Systems – determine whether the Department of the Navy obtained fair and reasonable prices for the F/A-18 Hornet Airborne Fire Control Radar Systems repairs	July 17, 2023
D2023-DEV0SO-0161.000	Evaluation of DoD Compliance with the Prohibition of Unallowable Advertising Costs on Covered DoD Contracts – determine whether DoD is reimbursing contractors for unallowable advertising costs on DoD contracts	September 25, 2023

[7] Report No. DODIG-2022-043, "Audit of the Business Model for TransDigm Group Inc. and Its Impact on Department of Defense Spare Parts Pricing," December 13, 2021.

[8] Report No. DODIG-2020-036, "Evaluation of Contracting Officer Actions on Defense Contract Audit Agency Reports that Disclaim an Opinion," November 26, 2019.

Table 2. Ongoing DoD OIG Audit and Evaluations Projects (cont'd)

Project Number	Project Title and Objective	Date Announced
D2024-D000AW-0026.000	Audit of the Defense Health Agency's Monitoring Efforts of TRICARE Payments – determine whether Defense Health Agency officials are effectively monitoring TRICARE payments and taking appropriate actions to limit incorrect and unreasonable payments	November 27, 2023
D2024-D000AX-0037.000	Audit of the Army's Management of Undefinitized Contract Actions Awarded to Provide Ukraine Assistance – determine whether Army contracting officials properly managed undefinitized contract actions awarded to assist Ukraine by obligating funds and definitizing actions within the required limits and adjusting profit for costs incurred, or properly waiving the requirements in accordance with Federal and DoD policies	December 6, 2023
D2024-D000AX-0042.000	Audit of DoD Lowest Price Technically Acceptable Contracts – determine whether DoD contracting officials awarded lowest price technically acceptable contracts in accordance with Federal laws and DoD policies and regulations	December 13, 2023

Source: The DoD OIG.

Price Reasonableness Challenges for DoD Contracting Officials

DoD contracting officials are responsible for evaluating the reasonableness of offered prices to ensure the final agreed-to price is fair and reasonable, referred to as determining price reasonableness.[9] We reviewed DoD OIG reports listed in Table 1 and identified challenges DoD contracting officials faced in obtaining goods and services at fair and reasonable prices. Table 3 identifies the challenges our reports identified related to price reasonableness, which are further discussed after the table.[10]

[9] FAR Part 15, "Contracting by Negotiation," Subpart 15.4, "Contract Price," Section 15.404, "Proposal Analysis," Subsection 15.404-1, "Proposal Analysis Techniques."

[10] Of the 19 reports listed in Table 1, there were 2 reports that did not identify any challenges related to price reasonableness.

Table 3. Challenges to Price Reasonableness Determination Identified by DoD OIG Reports

Report Number	Sole-Source	Statutory Limitations on Obtaining Cost/Price Data	Inadequate Internal Controls	Guidance Not Followed	Inadequate Policies and Procedures	Inadequate Contract File Documentation	Lack of Supervision of Contracting Officials	Did Not Request Second Opinion or Audit
DODIG-2019-019				X	X	X		
DODIG-2019-060	X	X			X			
DODIG-2019-070				X	X	X		X
DODIG-2019-109		X						
DODIG-2019-112			X					
DODIG-2020-036				X				
DODIG-2020-049				X			X	X
DODIG-2020-060			X	X				
DODIG-2020-095	X	X			X			
DODIG-2021-047					X		X	
DODIG-2021-053	X	X	X					
DODIG-2021-056						X	X	X
DODIG-2021-129			X					
DODIG-2022-043	X	X			X			
DODIG-2022-104	X	X						
DODIG-2023-006			X					
DODIG-2023-069				X	X	X	X	X

Source: The DoD OIG.

Sole-Source Environment

We identified five reports that found challenges with making price reasonableness determinations for contracts awarded in a sole-source environment. The FAR enables sole-source providers and manufacturers to avoid providing uncertified cost data, even when requested, because of the less stringent requirements for awarding small dollar value contracts and commercial item contracts. Therefore, when it comes to sole-source providers, contracting officers face the options of buying an item without receiving uncertified cost data or not buying an item needed to meet mission requirements. Instead of using cost analysis, the FAR encourages contracting officers to determine whether prices are fair and reasonable using price analysis methods, such as comparing competitive offers and historical price comparison.[11] However, contracting officers cannot determine price reasonableness based solely on historical price comparison.[12]

The FAR enables sole-source providers and manufacturers to avoid providing uncertified cost data.

However, our reports have shown that when these price analysis methods are used to determine price reasonableness, they allowed sole-source contractors to earn excess profits without detection by contracting officers. For example, in two reports, we determined that TransDigm earned excess profits on parts purchased by the DoD because contracting officers were prevented from obtaining uncertified cost data due to statutory limitations.[13] In both reports, the DoD OIG found that contracting officers used price analysis methods authorized by the FAR and DFARS to determine whether offered prices were fair and reasonable. In both instances the contracting officers used historical price comparisons; however, they were comparing to inflated prices, which limited their ability to determine fair and reasonable prices. This occurred because Federal and DoD policies did not compel contractors to provide uncertified cost data for contracts below the Truthful Cost or Pricing Data Act threshold, when requested by the contracting officer.

Statutory Limitation on Obtaining Cost and Price Data

We identified six reports that found challenges with making price reasonableness determinations due to statutory limitations on obtaining cost and price data. In accordance with FAR 15.403-1, contractors do not have to provide certified cost or pricing data for contracts under $2 million, unless a valid exception exists, or for contracts below $250,000.[14]

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[11] FAR Part 15, "Contracting by Negotiation," Subpart 15.4, "Contract Pricing," Section 15.404, "Proposal Analysis," Subsection 15.404-1, "Proposal Analysis Techniques." Paragraph 15.404-1(b), "Price Analysis."

[12] DFARS Part 215, "Contracting by Negotiation," Subpart 215.403-3, "Requiring data other than certified cost or pricing data."

[13] Report No. DODIG-2019-060, "Review of Parts Purchased from TransDigm Group, Inc.," February 25, 2019, and Report No. DODIG-2022-043, "Audit of the Business Model for TransDigm Group Inc. and Its Impact on Department of Defense Spare Parts Pricing," December 13, 2021.

[14] FAR Part 15, "Contracting by Negotiation," Subpart 15.4, "Contract Pricing," Section 15.403, "Obtaining Certified Cost or Pricing Data," Subsection 15.403-1, "Prohibition on Obtaining Certified Cost or Pricing Data," prohibits contracting officers from requesting "certified cost or pricing data" for acquisitions at or below the simplified acquisition threshold of $250,000 when prices are based on adequate price competition or are set by law or regulation; when a commercial item is being acquired; or when a waiver has been granted. Prior to August 31, 2018, certified cost or pricing data was not required for contracts below $150,000.

This created challenges for the contracting officer when negotiating prices for sole-source contracts or for modified commercial items. For example, two reports determined that TransDigm earned excess profits on parts purchased by the DoD because contracting officers were prevented from obtaining uncertified cost data due to statutory limitations.[15] The FAR enables sole-source providers and manufacturers of spare parts to avoid providing uncertified cost data, even when requested, because of the less stringent requirements for awarding small dollar value contracts and commercial item contracts. As a result, both reports identified excess profits valued at over $36 million.

Inadequate Internal Controls

We identified five reports that found challenges with making price reasonableness determinations due to inadequate internal controls. We identified that some agencies did not use industry pricing, such as manufacturer pricing, retail pricing, Medicare reimbursement rates, or did not identify maximum allowable reimbursement rates. For example, in one report we determined that the Defense Health Agency (DHA) paid more than other industry prices for services and equipment for which it did not establish or use existing TRICARE maximum allowable reimbursement rates.[16] Specifically, the DHA paid higher prices for 70,248 (65.1 percent) of the 107,953 vaccines and 1,341 (24.6 percent) of the 5,450 contraceptive systems. As a result, the DHA paid $3.9 million more than other industry prices for vaccines and contraceptive systems provided to TRICARE beneficiaries.

Guidance Not Followed

We identified six reports that found challenges with making price reasonableness determinations due to not adhering to established guidance. Specifically, contracting officials chose not to follow guidance and developed their own procedures. For example, in one report we determined that Naval Facilities Engineering Command (NAVFAC) Southeast contracting officials chose not to implement NAVFAC contracting procedures when planning, awarding, and administering the task order for the initial recovery work. NAVFAC Southeast contracting officials developed their own procedures to convert the cost-plus-award-fee task order to firm-fixed price.[17] Furthermore, the procedures that NAVFAC Southeast used may have created an illegal cost-plus-percentage-of-cost contracting system that did not incentivize the contractor to complete the contract efficiently or effectively. As a result, NAVFAC Southeast incorrectly paid profits to the prime contractor, which increased the contractor's costs.

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[15] Report No. DODIG-2019-060, "Review of Parts Purchased from TransDigm Group, Inc.," February 25, 2019, and Report No. DODIG-2022-043, "Audit of the Business Model for TransDigm Group Inc. and Its Impact on Department of Defense Spare Parts Pricing," December 13, 2021.

[16] Report No. DODIG-2019-112, "Audit of TRICARE Payments for Health Care Services and Equipment That Were Paid Without Maximum Allowable Reimbursement Rates," August 20, 2019.

[17] Report No. DODIG-2020-060, "Audit of Contract Costs for Hurricane Recovery Efforts at Navy Installations," February 12, 2020.

Inadequate Policies and Procedures

We identified seven reports that found challenges with making price reasonableness determinations due to inadequate or no policies and procedures. Federal and DoD acquisition policies limited the amount of cost data that DoD contracting officials could obtain for commercial contracts. In addition, the DoD does not have a policy to reinforce requirements for contracting officers to document actions taken to address contractor price proposal inadequacies. In some cases, contracting officials followed the FAR, but still were not able to obtain a fair and reasonable price. For example, in one report we determined that DoD contracting officials may not have negotiated fair and reasonable prices for 21 (61.8 percent) of the 34 sole-source and single-source depot maintenance contracts, valued at $4.6 billion, because of factors beyond the control of DoD contracting officials.[18] Specifically, Federal and DoD acquisition policies limited the amount of cost or pricing data that DoD contracting officials could obtain for commercial contracts. 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. For five sole-source commercial contracts, DoD contracting officials requested data from the contractor, but when the data was not sufficient to determine price reasonableness, the contracting officials did not request additional cost data because it was a commercial contract. Instead, they relied on historical prices from prior contracts or sales invoices. As a result, the Army Contracting Command paid $3.3 million in cost escalation.

Inadequate Contract File Documentation

We identified four reports that found challenges with supporting price reasonableness determinations due to inadequate contract file documentation. Specifically, contracting officials did not include negotiation memorandums, explain why they disagreed with the DCAA's questioned costs, provide justification for a contract ceiling increase, or enter accurate information in the Contract Audit Follow-Up (CAFU) system regarding questioned costs. For example, in one report we determined that DCMA contracting officers did not adequately document or explain why they disagreed with questioned costs from DCAA-incurred cost audit reports.[19] The FAR requires the contracting officer to prepare, sign, and place in the contract file a negotiation memorandum covering reasons why any recommendations of the auditor or other Government advisors were not followed.[20] DCMA contracting officers did not maintain documents provided by the contractor during negotiation to support not upholding DCAA audit report findings and recommendations. As a result, DCMA contracting officers may have improperly reimbursed DoD contractors up to $97 million.

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[18] Report No. DODIG-2022-104, "Audit of Sole-Source Depot Maintenance Contracts," July 21, 2022.

[19] Report No. DODIG-2021-056, "Evaluation of Defense Contract Management Agency Actions Taken on Defense Contract Audit Agency Report Findings Involving Two of the Largest Department of Defense Contractors," February 26, 2021.

[20] FAR Part 42, "Contract Administration and Audit Services," Subpart 42.705-1, "Contracting Officer Determination Procedure."

Lack of Supervision of Contracting Officials

We identified four reports that found challenges with making price reasonableness determinations due to a lack of supervision. Specifically, supervisors did not adequately review contracting officials' actions, including settling questioned direct costs. For example, in one report we determined that the DCMA's supervisors and DCMA OIG did not provide effective oversight of DCMA Divisional Administrative Contracting Officers' (DACOs) actions to settle questioned direct costs.[21] Addressing all audit findings and recommendations in a timely manner, including questioned direct costs, is critical for ensuring that contractors are not inadvertently reimbursed for unallowable costs. As a result of not settling the DCAA's questioned direct costs, DCMA contracting officers may have reimbursed DoD contractors up to $231.5 million in costs that may be unallowable on Government contracts.

Contracting Officials Not Requesting a Second Opinion or Audit

We identified four reports that found challenges with making price reasonableness determinations with contractor reimbursement because contracting officials did not obtain a legal review, a DCAA opinion, or request DCAA audits for terminated contracts. For example, in one report we determined that DoD contracting officers did not document adequate rationale to support their reimbursement of $22.3 million in contractor proposed termination costs for 17 (27.0 percent) of the 63 terminations, which is not in compliance with FAR Part 49, "Termination of Contracts," and DoD Instruction 7640.02, "Policy for Follow-Up on Contract Audit Reports."[22] DoD contracting officers did not document adequate rationale because they did not obtain a required legal review or request an audit of the contractor's termination proposal from the DCAA when required. As a result, DoD contracting officers may have inappropriately reimbursed DoD contractors up to $22.3 million in unallowable termination costs.

Potential Monetary Benefits Identified by the DoD Office of Inspector General Reports

DoD contracting officials not obtaining fair and reasonable prices on goods and services may result in an overpayment, an inefficient use of contracting dollars, or a violation of law related to the expenditure of funds, which are classified as potential monetary benefits (PMBs). Within the 19 DoD OIG reports that we reviewed, 11 reports identified at least $570.1 million in PMBs. PMBs are classified as "Questioned Costs" or "Funds Put to Better Use."[23]

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[21] Report No. DODIG-2021-047, "Evaluation of Department of Defense Contracting Officer Actions on Questioned Direct Costs," January 21, 2021.

[22] Report No. DODIG-2023-069, "Evaluation of DoD Contracting Officer Actions on DoD Contracts Terminated for Convenience," May 9, 2023.

[23] DoD Manual 7600.07, "DoD Audit Manual," August 3, 2015.

Questioned costs are incurred costs that are questioned because of an alleged violation of a provision of law, regulation, contract, grant, or other agreement or document governing the expenditure of funds. The cost is not supported by adequate documentation, or the expenditure of funds is unnecessary or unreasonable. Eight of the 11 DoD OIG reports identified at least $513.7 million in questioned costs. For example, in one report we determined that DCMA contracting officers did not take action in response to the DCAA's findings and recommendations to settle or resolve $231.5 million (89.7 percent) of the $258 million in reported DCAA questioned direct costs.[24] As a result, DCMA contracting officers' actions may have reimbursed DoD contractors up to $231.5 million in questioned direct costs that may not be allowable on Government contracts. As of March 2024, the DoD had realized $1.0 million in questioned costs recovered through management actions.

Funds put to better use are funds that could be used more efficiently if management takes action to implement and complete the recommendations in the report. This could include reducing outlays, de-obligating funds from programs or operations, implementing improvements to operations, or taking other identified actions that will avoid costs or more efficiently use funds. Funds put to better use could be a one-time savings or a recurring amount. Three of the 11 DoD OIG reports identified $56.4 million in funds that could be put to better use. For example, in one report we determined that TransDigm earned $16.1 million in excess profit for 46 (97.9 percent) of the 47 parts purchased by the Defense Logistics Agency (DLA) and the Army.[25] The profit levels on the 46 parts ranged from 17 to 4,451 percent. We recommended that DoD contracting officials request a voluntary refund from TransDigm in the amount of $16.1 million. TransDigm and their subsidiaries provided voluntary refunds for the requested amount. Table 4 identifies whether the DoD obtained a fair and reasonable price, PMB amount with its associated category, and the realized PMB by DoD OIG report number.[26]

Table 4. Potential Monetary Benefits Identified by DoD OIG Reports (in Millions)

Report Number	Obtained a Fair and Reasonable Price	Total Potential Monetary Benefit	Questioned Costs	Funds Put to Better Use	Realized Potential Monetary Benefit
DODIG-2019-019	No	$0	$0	$0	$0
DODIG-2019-060	No	16.1	0	16.1	16.1
DODIG-2019-070	No	0	0	0	0
DODIG-2019-109	No	137.1	137.1	0	0
DODIG-2019-112	No	19.5	0	19.5	15.3

[24] Report No. DODIG-2021-047, "Evaluation of Department of Defense Contracting Officer Actions on Questioned Direct Costs," January 21, 2021.

[25] Report No. DODIG-2019-060, "Review of Parts Purchased from TransDigm Group, Inc.," February 25, 2019.

[26] Realized PMBs are the actual amounts DoD achieves through management's actions.

Table 4. Potential Monetary Benefits Identified by DoD OIG Reports (in Millions) (cont'd)

Report Number	Obtained a Fair and Reasonable Price	Total Potential Monetary Benefit	Questioned Costs	Funds Put to Better Use	Realized Potential Monetary Benefit
DODIG-2020-036	No	0	0	0	0
DODIG-2020-049	No	0	0	0	0
DODIG-2020-060	No	See footnote[1]	See footnote[1]	0	See footnote[1]
DODIG-2020-095	Undetermined	0	0	0	0
DODIG-2021-045	Generally[2]	0.5	0.5	0	0
DODIG-2021-047	No	231.5	231.5	0	1.0
DODIG-2021-053	Undetermined	0	0	0	0
DODIG-2021-056	No	97	97	0	0
DODIG-2021-129	Generally[2]	0	0	0	0
DODIG-2022-043	No	20.8	0	20.8	0
DODIG-2022-104	No	0.9	0.9	0	0
DODIG-2023-006	No	24.3	24.3	0	See footnote[3]
DODIG-2023-069	No	22.3	22.3	0	0
Total		**$570.1[4]**	**$513.7[4]**	**$56.4**	**$32.4**

[1] The potential monetary benefit amount is controlled unclassified information.

[2] Prices were not always fair and reasonable due to challenges outside of the contracting officers' control.

[3] The realized potential monetary benefit is $4,342.

[4] Totals may not equal the actual sum because of rounding.

Source: The DoD OIG.

As of March 2024, the DoD has realized $32.4 million in PMBs associated with these 18 reports. The DoD may continue to achieve additional realized PMB as management implements more recommendations to take corrective action and contractors provide refunds.

DoD Office of Inspector General Contract Pricing Recommendations

Within the 19 DoD OIG reports we reviewed, we identified 119 recommendations related to contract pricing, of which 20 remain open as of May 1, 2024.[27] Recommendations in DoD OIG reports remain open until we receive documentation showing that the agreed-upon actions taken to address the recommendations were completed. See the Appendix for the details of each report recommendation and status.

[27] Some reports we reviewed included multiple findings; however, we included only recommendations associated with findings that addressed price reasonableness.

The following identifies the breakout of the 20 open recommendations sorted by the applicable areas of interest.

- Seven were related to best value for the lowest reasonable cost.
- Twelve were related to allowable, allocable, and reasonable costs.
- One was related to authorities and resources to obtain certified cost and pricing data.
- One was related to authorities and resources to determine allowable, allocable, and reasonable costs.

Table 5 shows the status of the recommendations along with the number of days open recommendations have been outstanding.

Table 5. Status of Prior DoD OIG Price Reasonableness Recommendations

Report Number	Number of Recommendations	Recommendation Status		
		Closed	Open	Days Open*
DODIG-2019-019	5	5	—	—
DODIG-2019-060	9	9	—	—
DODIG-2019-070	4	4	—	—
DODIG-2019-109	1	1	—	—
DODIG-2019-112	7	6	1	1,716
DODIG-2020-036	5	5	—	—
DODIG-2020-049	7	7	—	—
DODIG-2020-060	13	12	1	1,540
DODIG-2020-095	4	4	—	—
DODIG-2021-045	0	—	—	—
DODIG-2021-047	13	12	1	1,196
DODIG-2021-050	0	—	—	—
DODIG-2021-053	2	2	—	—
DODIG-2021-056	5	4	1	1,160
DODIG-2021-129	1	1	—	—
DODIG-2022-043	5	4	1	870
DODIG-2022-104	6	4	2	650
DODIG-2023-006	4	2	2	560
DODIG-2023-069	28	17	11	358
Total	**119**	**99**	**20**	

Note: A dash indicates there were no recommendations made or all recommendations have been closed.

*Days open was calculated from the date the DoD OIG issued the report through May 1, 2024.

Source: The DoD OIG.

Length of Time to Resolve Open *Recommendations*

Some recommendations may take years to resolve and close, especially if they involve policy changes or obtaining refunds from contractors. For example, one report from 2019 recommended that the DHA Director revise TRICARE policy to incorporate wording regarding reasonable costs and being a prudent buyer.[28] The DHA Director agreed with the recommendation, stating that the DHA is developing options for further guidance to contractors, including consideration of Medicare definitions and guidance regarding excessive charges. The Director stated that these changes may require rulemaking which would take about 3 years with an estimated completion date of January 1, 2023. Unfortunately, manual publication is a lengthy process and delays have caused a new estimated completion date of June 1, 2024.

In another example, a report from 2020 recommended that the NAVFAC Commander Mid-Atlantic require the contracting officer to request a refund or a price adjustment for excess payment.[29] The NAVFAC Atlantic Vice Commander agreed with the recommendation, stating that NAVFAC Mid-Atlantic would take appropriate action to request a refund or pricing adjustment once the DCAA completes its analysis and provides its report to NAVFAC Mid-Atlantic. After DCAA completed its report in May 2021, NAVFAC Mid-Atlantic requested a refund; however, the contractor disagreed with the DCAA's audit findings and did not issue a refund. The matter is under legal review with NAVFAC Headquarters Council due to the disparity between DCAA and the contractor. The estimated date of completion is May 31, 2024.

Impact of Recommendations

The recommendations that the DoD OIG has made in the area of contract pricing relate to updating or developing policy or procedures, recouping excess payments, implementing training for DoD contracting officers and personnel, ensuring DoD contracting officers and personnel comply with the FAR or other applicable guidance, and conducting reviews of questioned or unallowable costs. Despite some recommendations taking longer to be closed, the DoD OIG has been able to make impactful recommendations related to fair and reasonable pricing. For example, one report recommended that the DPC Principal Director review the DFARS and DFARS Procedures, Guidance, and Information to determine whether current policy adequately addresses when contracting officials should complete cost analysis

DoD OIG has been able to make impactful recommendations related to fair and reasonable pricing.

[28] Report No. DODIG-2019-112, "Audit of TRICARE Payments for Health Care Services and Equipment That Were Paid Without Maximum Allowable Reimbursement Rates," August 20, 2019.

[29] Report No. DODIG-2020-060, "Audit of Contract Cost for Hurricane Recovery Efforts at Navy Installations," February 12, 2020.

to determine price reasonableness for sole-source spare parts not subject to Truth in Negotiations Act (TINA).[30] While the status of this recommendation is still open, DPC has an open DFARS Case to address the recommendation, as well as, to implement section 803 of the FY 2023 National Defense Authorization Act. As part of the case, the Defense Acquisition Regulation Council Director tasked the acquisition team to draft a proposed DFARS rule. This rule proposes to modify the DFARS to clarify the data an offeror is required to provide when a major weapon subsystem, component, or spare part is proposed as a commercial product. This proposed rule would also clarify the data the contractor must provide to the contracting officer to determine price reasonableness. The need for the proposed rule was also highlighted in Congressional testimony, which stated that without legislative change, contracts awarded to sole-source manufacturers would continue to result in excess prices for spare parts and excess profit.[31]

In an example where the DoD OIG successfully recovered excess profits, we determined that the contractor, TransDigm, earned $16.1 million in excess profit for 46 (97.9 percent) of the 47 parts purchased by the DLA and the Army.[32] We recommended that DoD contracting officials request a voluntary refund from TransDigm in the amount of $16.1 million and TransDigm provided a voluntary refund for the full requested amount. In another report the DoD OIG recommended that DCMA recoup unallowable costs and penalties from multiple contractors; however, due to the statute of limitations on the contracts reviewed, the DCMA Director was unable to recover those costs.[33] While not all audits or evaluation recommendations result in recovery of funds, the DoD OIG has made recommendations over the past 5 years to recover funds when warranted. For other reports in this summary, the DoD OIG made recommendations for the review of questioned or unallowable contractor costs, reviews and adjustments of policy, or providing additional training to DoD contracting officials. The implementation of these recommendations helps ensure that DoD contracting officers and personnel are better postured to obtain fair and reasonable prices on goods and services needed by the DoD.

Implementation of these recommendations helps ensure that DoD contracting officers and personnel are better postured to obtain fair and reasonable prices.

[30] Report No. DODIG-2022-043, "Audit of the Business Model for TransDigm Group Inc. and Its Impact on Department of Defense Spare Parts Pricing," December 13, 2021.

[31] Testimony to the Committee on Oversight and Reform, U.S. House of Representatives, from Ms. Theresa Hull, Deputy Inspector General, DoD OIG, "Price Gouging in Military Contracts: New Inspector General Report Exposes Excess Profit Obtained by TransDigm Group," January 19, 2022.

[32] Report No. DODIG-2019-060, "Review of Parts Purchased from TransDigm Group, Inc.," February 25, 2019.

[33] Report No. DODIG-2020-049, "Evaluation of Defense Contract Management Agency Contracting Officer Actions on Penalties Recommended by the Defense Contract Audit Agency," January 10, 2020.

Appendix

Summary of DoD Office of Inspector General Contract Pricing Findings and Recommendation Status

This appendix provides details on the fair and reasonable pricing work conducted by the DoD OIG and the status of each recommendation.[34] For the purposes of this product, we only discussed the findings and recommendations related to contract pricing and price reasonableness. Any citations or references to the FAR or other DoD policies contained within these reports were made at the times of those reports' issuance.

Evaluation of Contracting Officer Actions on Contractor Pricing Proposals Deemed Inadequate by Defense Contract Audit Agency (DODIG-2019-019), November 14, 2018

Objective

The evaluation determined whether contracting officers took actions that were appropriate and complied with FAR Part 15, "Contracting by Negotiation," Subpart 15.4, "Contract Pricing," when the DCAA determined that a contractor's price proposal was inadequate.

Finding A

Based on our sample evaluation of 23 inadequate contractor price proposals, we determined that contracting officers took appropriate actions in response to contractor price proposal inadequacies identified by the DCAA. However, for 9 (39 percent) of the 23 proposals, the evaluation determined that the contracting officers did not comply with the requirements in FAR Subpart 15.4, "Contract Pricing," Section 15.406, "Documentation," Subsection 15.406-3, "Documenting the Negotiation." For example, contracting officers did not document in the negotiation memorandum the contractor price proposal inadequacies identified by the DCAA. In addition, contracting officers did not adequately document the actions they took to address the proposal's cost or pricing data inadequacies.

Adequate documentation helps to demonstrate that the contracting officer took appropriate action to address the inadequacies and reach a fair and reasonable price with the contractor. It is also essential to protect the Government's interests in the event of future disputes. As a result of our evaluation, we determined that a lack of DoD policy or instruction contributed to contracting officers not adequately documenting their actions. Establishing a DoD policy or instruction will help to provide reasonable assurance that contracting officers adequately document their actions to address contractor price proposal inadequacies.

[34] Days open was calculated from the date the DoD OIG issued the report through May 1, 2024.

Finding B

One (4 percent) of the 23 selected contractor price proposals involved a 12-month extension to the Logistics Civil Augmentation Program (LOGCAP) IV contract for Northern Afghanistan.[35] During our evaluation, we determined that the LOGCAP Chief at the Army Contracting Command in Rock Island, Illinois, approved a $92 million increase to the contract cost ceiling. However, the contract file did not include adequate justification or documentation to support the need for the increase. Although the contracting officer had established a ceiling 1 day earlier that did not include the $92 million, the LOGCAP Chief approved the increase to the contract cost ceiling. The LOGCAP Chief acknowledged that the contract file lacked sufficient documentation to justify the increase. However, he told us that he approved the increase to:

- preclude the loss of FY 2015 expiring funds, and
- cover the contractor's estimated costs necessary to complete the contract.[36]

We disagreed with the LOGCAP Chief's approval because the increase should have been based on a valid contractual need, not whether the funds would expire. Furthermore, the LOGCAP Chief did not verify the accuracy of any of the information in the contractor's spreadsheet of estimated costs or give the assigned contracting officer an opportunity to evaluate the information before the LOGCAP Chief approved the increase. The LOGCAP Chief should have documented an adequate justification for the increase to demonstrate that it was based on a valid contractual need and consistent with applicable law, regulations, and DoD policy. The LOGCAP Chief's decision to exceed the established ceiling may have resulted in making funds available to the contractor that were not needed to fulfill the contract terms.

Finding C

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

- 10 (43 percent) of the 23 contractor price proposals, the contracting officer did not furnish the negotiation memorandum to those providing field pricing support, the DCAA and the DCMA, as FAR 15.406(b), "Documentation," requires; and
- 8 (35 percent) of the 23 contractor price proposals, the contracting officer did not upload the negotiation memorandum into the Contract Business Analysis Repository, as DFARS Procedures, Guidance, and Information 215.406, "Documenting the Negotiation," requires.[37]

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

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

[37] The Contract Business Analysis Repository is an electronic tool used by DoD Components to retain negotiation documentation and capture contract-related information about contractors.

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

Recommendations

We recommended that the DPC Principal Director develop and issue guidance requiring contracting officers to document the actions they take to address contractor price proposal inadequacies. (*Recommendation A*) **Closed**

We recommended that the Army Contracting Command – Rock Island Commander:

a. Implement appropriate controls to help ensure that contracting officials adequately document and justify contract funding increases in accordance with FAR Subpart 4.8, "Government Contract Files." (*Recommendation B.1*) **Closed**

b. Review the actions of the LOGCAP Chief for increasing LOGCAP IV funding by $92 million without adequately documenting or justifying the need for the increase and determine whether any administrative action should be taken. (*Recommendation B.2*) **Closed**

We recommended that the Commanders at the eight DoD buying commands provide refresher training to contracting personnel on the requirements for:

a. Distributing the negotiation memorandum in accordance with FAR 15.406-3(b), "Documenting the Negotiation." (*Recommendation C.1*) **Closed**

b. Filing the negotiation memorandum in accordance with DFARS Procedures, Guidance, and Information 215.406-3(a)(11), "Documenting the Negotiation." *(Recommendation C.2*) **Closed**

Review of Parts Purchased from TransDigm Group, Inc. (DODIG-2019-060), February 25, 2019

Objective

The audit determined whether the DoD purchased parts at fair and reasonable prices from TransDigm Group, Inc.

Finding

The audit determined that TransDigm earned excess profit on 46 (97.9 percent) of 47 parts purchased by the DLA and the Army, even though the contracting officers followed FAR and DFARS–allowed procedures when they determined that prices were fair and reasonable for the 47 parts at the time of contract award. When we compared the

awarded prices for the 47 parts on 113 contracts to TransDigm's uncertified cost data, our analysis determined that only one part purchased under one contract was awarded with a reasonable profit of 11 percent.[38] The remaining 112 contracts had profit percentages ranging from 17 to 4,451 percent for 46 parts.[39]

Contracting officers used FAR and DFARS-allowed pricing methods, including historical price analysis, competition, and cost analysis to determine whether prices were fair and reasonable for the 47 parts. However, historical price analysis and competition were unreliable in identifying fair and reasonable prices when TransDigm was charging excess profit because:

- prices for parts had become inflated over time, and some parts appeared to be inflated at the time the Government purchased the part, further compounding the excess profits; and
- TransDigm was the only manufacturer at the time for most of the parts competitively awarded, giving TransDigm the opportunity to set the market price for those parts because competitors planned to buy the parts from TransDigm before selling them to the DLA.

Performing cost analysis using certified or uncertified cost data is the most reliable way to determine whether a price is fair and reasonable. However, contracting officers are often prevented from obtaining uncertified cost data because of the following reasons.

- The FAR enables sole-source providers and manufacturers of spare parts to avoid providing uncertified cost data, even when requested, because of the less stringent requirements for awarding small dollar value contracts and commercial item contracts.
- There is no specific requirement in the FAR or DFARS that requires or compels contractors to provide certified or uncertified cost data to the contracting officer when requested before the contract is awarded.
- Statutory and regulatory requirements discourage contracting officers from asking for uncertified cost data when determining whether a price is fair and reasonable.

When contracting officers requested cost data for 16 (34 percent) of the 47 contracts we reviewed, TransDigm denied 15 requests for uncertified cost data and fulfilled only the request for certified cost data for the one contract above the TINA threshold that had no exceptions. Contracting officers had limited options once TransDigm refused to provide the requested cost data for the 15 parts— either buy the parts without receiving cost data from TransDigm or not buy the parts needed to meet mission requirements.

[38] For the analysis, the audit used 15 percent or less as a reasonable profit and defined excess profit as anything greater than 15 percent. The audit identified 113 contracts in which the DLA and the Army purchased the 47 parts from January 2015 to January 2017.

[39] DLA and Army contracting officers purchased 16,947 individual parts with 46 unique national stock numbers.

The audit determined that for 112 contracts, TransDigm received a total of $42.2 million in excess profit, between January 2015 and January 2017, for 46 parts sold to the DLA and the Army, valued at $16.1 million and $26.2 million, respectively. In addition, the DoD could continue paying excess profits on parts purchased from sole-source manufacturers and providers of spare parts if statutory and regulatory requirements continue to discourage contracting officers from requesting uncertified cost data and allow contractors to avoid providing uncertified cost data when requested.

Recommendations

We recommended that the DLA Director direct Aviation contracting officers seek a voluntary refund from TransDigm of approximately $2 million in excess profit for the 13 purchases that contracting officers requested uncertified cost data for, but TransDigm refused to provide, and approximately $2.4 million in excess profit for the 23 purchases that we identified contained excess profit. (*Recommendation 1.a*) **Closed**

We recommended that the DLA Director direct Land and Maritime contracting officers seek a voluntary refund from TransDigm of approximately $0.4 million in excess profit for the one purchase that the contracting officer requested uncertified cost data for, but TransDigm refused to provide, and approximately $11.1 million in excess profit for the 72 purchases that we identified contained excess profit. (*Recommendation 1.b*) **Closed**

We recommended that the Army Contracting Command–Redstone Executive Director consider all available corrective actions with TransDigm, including directing the Army Contracting Command–Redstone contracting officer to seek a voluntary refund from TransDigm of approximately $0.2 million in excess profit for the one purchase that the contracting officer requested uncertified cost data for, but TransDigm refused to provide. (*Recommendation 2*) **Closed**

We recommended that the Army Contracting Command–Aberdeen Proving Ground Executive Director consider all available corrective actions with TransDigm, including directing the Army Contracting Command–Aberdeen Proving Ground contracting officer to seek a voluntary refund from TransDigm of $18,330 in excess profit for the two purchases that we identified contained excess profit. (*Recommendation 3*) **Closed**

We recommended that the DPC Principal Director:

a. Examine the United States Code, FAR, DFARS, and DFARS Procedures, Guidance, and Information to determine the changes needed in the acquisition process of parts produced or provided from a sole-source to ensure that contracting officers obtain uncertified cost data when requested and that the DoD receives full and fair value in return for its expenditures. (*Recommendation 4.a*) **Closed**

b. Immediately revise and update the November 7, 2007 policy reform memorandum, "Access to Records with Exclusive Distributors/Dealers," to expand the reporting requirements to all contractor denial of cost data for acquisitions of parts produced by one manufacturer, as well as for other sole-source acquisitions, regardless of whether the requirement is urgent. (R*ecommendation 4.b*) **Closed**

c. Establish a framework in the revised memorandum for the quarterly reporting and validation of consolidated information by the DoD Components to the DPC Principal Director based on the expanded requirements of the revised memorandum. (*Recommendation 4.c*) **Closed**

d. Incorporate the requirements from the revised memorandum into the DFARS and DFARS Procedures, Guidance, and Information. (Recommendation 4.d) **Closed**

e. Establish a team of functional experts to analyze data reported because of the revised and updated memorandum. The team of functional experts would assess parts and contractors deemed to be at high risk for unreasonable pricing and identify trends and perform price analysis and cost analysis of high-risk parts to identify lower cost alternatives or fair and reasonable pricing for future procurements. (*Recommendation 4.e*) **Closed**

Report on Evaluation of Defense Contract Management Agency Contracting Officer Actions on DoD Contractor Executive Compensation Questioned by the Defense Contract Audit Agency (DODIG-2019-070), March 29, 2019

Objective

The evaluation determined whether the actions taken by DCMA contracting officers on DoD contractor executive compensation questioned by the DCAA complied with the FAR, DoD Instructions, and agency policy.

Finding A

For 18 (51 percent) of the 35 audit reports we selected, DCMA contracting officers failed to document adequate rationale when they did not sustain DCAA questioned executive compensation totaling $22.5 million. The DCAA questioned the executive compensation as unreasonable in accordance with FAR 31.205-6(b)(2), "Compensation Not Covered by Labor-Management Agreements." DCMA contracting officers commonly documented one or more of the following three reasons for not sustaining the DCAA's recommendations.

- The DCAA's findings were not credible because two Armed Services Board of Contract Appeals cases had rejected the DCAA's use of a 10-percent range of reasonableness factor.

- The addition of locality pay to the DCAA's calculated survey average effectively eliminated the executive compensation that the DCAA identified as unreasonable.
- Grouping all DoD contractor executives into one job class offset the executive compensation that the DCAA identified as unreasonable.

However, none of these reasons adequately justify why the contracting officers did not sustain DCAA questioned executive compensation. As a result, the contracting officers may have inappropriately reimbursed DoD contractors up to $22.5 million in unreasonable executive compensation.

The evaluation identified the following three factors that contributed to the failure of DCMA contracting officers to document adequate rationale when they disagreed with the DCAA's audit findings.

- Contracting officers did not obtain a required legal review.
- DCMA management did not develop any executive compensation guidelines or training, and management did not provide contracting officers with specialist assistance to help them appropriately and consistently address DCAA questioned executive compensation.
- Contracting officers did not obtain the DCAA's opinion on additional information received from the contractor after audit report issuance.

Finding B

For 17 (49 percent) of the 35 audits the evaluation selected, the contracting officers did not maintain evidence that they had distributed the negotiation memorandum and indirect cost rate agreement to other contracting officials affected by the negotiation, as FAR Part 42, "Contract Administration and Audit Services," Subpart 42.706, "Distribution of Documents," and DCMA Instruction 125, "Final Overhead Rates," require. As a result, the affected contracting officers may not have been able to accurately determine final allowable costs on Government contracts. Twelve contracting officers acknowledged that they did not distribute the negotiation memorandum and indirect cost rate agreement. The remaining five contracting officers stated that they believed the documents had been distributed to the affected contracting officials, but they could not furnish any evidence that the documents had been distributed.

Additionally, for 9 (26 percent) of the 35 audits we selected, the contracting officers could not demonstrate that they had provided a copy of the negotiation memorandum to the DCAA, as DCMA Instruction 125 requires. Five contracting officers acknowledged that they did not distribute the negotiation memorandum and indirect cost rate agreement to the DCAA. Four contracting officers stated that they believed the documents had been distributed to the DCAA, but they could not furnish any evidence that the documents had been distributed.

Recommendations

We recommended that the DCMA Director:

a. Develop procedures and processes for addressing DCAA findings on executive compensation by implementing either a program for which contracting officers may seek advice and assistance or guidelines and training for contracting officers for taking action on executive compensation audit findings in an appropriate and consistent manner. (*Recommendations A.1.a and A.1.b*) **Closed**

b. Provide refresher training to contracting officers on the requirements to:

   1. Consult with Agency legal counsel when their disagreement with an audit finding is based on an interpretation of a law or regulation, in accordance with DoD Instruction 7640.02, "Policy for Follow-Up on Contract Audit Reports," April 15, 2015. (*Recommendation A.2.a*) **Closed**

   2. Obtain a DCAA opinion on additional information received from contractors after audit report issuance, in accordance with DCMA Instruction 125, "Final Overhead Rates," April 21, 2014. (*Recommendation* A.2.b) **Closed**

Audit of Defense Logistics Agency Troop Support Negotiation of Prices for the Pharmaceutical Prime Vendor–Global Program (DODIG-2019-109), August 9, 2019

Objective

The audit determined whether the DLA Troop Support could improve its negotiation of pharmaceutical prices.

Finding

Between November 2014 and May 2017, the DoD purchased 20,675 pharmaceutical National Drug Codes through the DLA Pharmaceutical Prime Vendor-Global program, valued at $5.1 billion. We determined that DLA Troop Support established prices based on Government prices, such as the Veterans Affairs Federal Supply Schedule or the prime vendor's pricing agreements, which allowed the prime vendor to distribute the supplier's products at an agreed-to price. DLA Troop Support officials compared the prices from the pharmaceutical prime vendor's pricing agreements to the average wholesale price, which is an industry pharmaceutical pricing benchmark. We determined that additional pricing data were available from the DHA that DLA Troop Support could have used to assist with negotiating lower prices for some pharmaceuticals.

DLA Troop Support stated that its ability to obtain the prices in the DHA's pricing data was affected by the Buy American Act and Trade Agreements Act, which limit potential sources of pharmaceuticals and reduces competition. The pharmaceutical prices from the DHA's pricing data were from retail pharmacies, which were not subject to the limitations of

these Acts. Another limitation affecting the DLA Troop Support's ability to negotiate lower prices was that it could not guarantee sales to its suppliers with distribution and pricing agreements in exchange for quantity discounts or price breaks.

Because DLA Troop Support had to comply with the Acts, DLA Troop Support may not have been able to achieve the same prices as reflected in DHA's pricing data. However, the DLA Troop Support could have used the pricing data from the DHA to assist with negotiating lower prices for some pharmaceuticals in the program. Based on our calculations, DHA median amounts paid for the same quantity of pharmaceuticals were $137.1 million less than DLA Troop Support prices for the 6,615 pharmaceutical National Drug Codes.

Recommendation

We recommended that the DLA Director require the DLA Troop Support Commander to coordinate with the DHA to obtain pricing data from the Military Health System Data Repository and use the data to evaluate existing and future prices when negotiating pharmaceuticals. (*Recommendation 1*) ***Closed***

Audit of TRICARE Payments for Health Care Services and Equipment That Were Paid Without Maximum Allowable Reimbursement Rates (DODIG-2019-112), August 20, 2019

Objective

The audit determined whether the DHA paid higher prices than necessary for TRICARE health care services and equipment in which it did not establish or use existing TRICARE maximum allowable reimbursement rates. A TRICARE maximum allowable reimbursement rate is the payment ceiling for reimbursement to providers.

Finding

The audit determined that the DHA paid more than other pricing benchmarks for services and equipment in which it did not establish or use existing TRICARE maximum allowable reimbursement rates. Specifically, the DHA paid more than other pricing benchmarks for vaccines, contraceptive systems, compression devices, oral appliances, costs associated with the installation of medical equipment, and stem cell acquisition provided to TRICARE beneficiaries in the three TRICARE regions in 2017. For example, the DHA paid higher prices for 70,248 (65 percent) of 107,953 vaccines and 1,341 (24.6 percent) of 5,450 contraceptive systems. The DHA paid higher prices because it did not:

- use existing TRICARE maximum allowable reimbursement rates or other industry pricing benchmarks to pay TRICARE claims for vaccines and contraceptive systems;
- identify services and equipment that were paid at prices that exceeded other pricing benchmarks;

- define in TRICARE guidance what would constitute an excessive payment for TRICARE services and equipment, and then provide instructions to its TRICARE contractors to identify and limit these charges; or
- consistently revise TRICARE reimbursement methodology to align with Medicare reimbursement methodologies when paying for TRICARE services and equipment.

Of the $18.1 million we reviewed, the DHA paid $3.9 million more than other pricing benchmarks for vaccines and contraceptive systems provided to TRICARE beneficiaries in the three TRICARE regions in 2017. If the DHA continues its current paid-as-billed practice, and prices and volume stay the same, the DHA will waste an additional $19.5 million for vaccines and contraceptive systems over the next 5 years.

Furthermore, the audit also identified instances in which the DHA paid more than other pricing benchmarks for durable medical equipment and costs associated with obtaining stem cells acquisition. Finally, DHA policy requires beneficiaries in certain TRICARE categories to pay cost shares for durable medical equipment. Therefore, TRICARE beneficiaries will continue to pay higher out-of-pocket costs if the DHA does not establish or use existing TRICARE maximum allowable reimbursement rates.

Recommendations

We recommended that the DHA Director:

a. Identify the reasons why TRICARE region contractors did not use existing TRICARE maximum allowable reimbursement rates and take immediate actions to confirm that TRICARE claims for vaccines and contraceptive systems are paid using the TRICARE maximum allowable reimbursement rates. Further, the Director should recoup overpayments for which the TRICARE contractors did not use existing TRICARE maximum allowable reimbursement rates. (*Recommendation 1.a*) **Closed**

b. Determine whether TRICARE region contractors applied TRICARE maximum allowable reimbursement rates to health care services, other than just vaccines and contraceptive systems. (*Recommendation 1.b*) **Closed**

c. Conduct a review to determine whether the DHA should adopt vaccine manufacturer rates as reported by the Centers for Disease Control when reimbursing TRICARE claims for vaccines. If adopted, the DHA should regularly update rates to stay current with the vaccine manufacturer rates as reported by the Centers for Disease Control. (*Recommendation 1.c*) **Closed**

d. Conduct annual reviews to identify health care services, supplies, and equipment for which TRICARE paid higher prices, and establish and implement new TRICARE maximum allowable reimbursement rates as necessary. (*Recommendation 1.d*) **Closed**

e. Revise TRICARE policy to incorporate wording regarding reasonable cost and being a prudent buyer, similar to the related clauses in 42 Code of Federal Regulation 405.502 and Centers for Medicare & Medicaid Services Publication 15-1, "Provider Reimbursement Manual." (*Recommendation 1.e*) **Open: The DHA has not issued a revised TRICARE policy. Days Open**: 1,716

f. Revise TRICARE reimbursement methodologies to align with the Medicare program, when practicable, and establish a process to identify future changes to Medicare reimbursement methodologies. (*Recommendation 1.f*) **Closed**

g. Seek voluntary refunds from TRICARE providers where the DHA paid more than other pricing benchmarks identified in this report. (*Recommendation 1.g*) **Closed**

Evaluation of Contracting Officer Actions on Defense Contract Audit Agency Reports that Disclaim an Opinion (DODIG-2020-036), November 26, 2019

Objective

The evaluation determined whether the actions taken by DoD contracting officers on DCAA audit reports that disclaimed an audit opinion complied with the FAR, DoD Instructions, and agency policy.

Finding A

For 19 (90 percent) of the 21 DCAA audit reports the evaluation selected, the DCMA and Naval Supply Systems Command contracting officers took appropriate action on the findings and recommendations in DCAA reports that disclaimed an opinion. The contracting officers either sustained DCAA questioned costs or documented adequate rationale for disagreeing with them. However, for 2 (10 percent) of the 21 DCAA audit reports selected for the evaluation, DCMA contracting officers did not document adequate rationale for disagreeing with DCAA questioned costs totaling $219 million. The DCAA primarily questioned the costs based on the contractor's failure to provide supporting documentation for the claimed costs, as FAR 31.201-2, "Determining Allowability," requires. DCMA contracting officers documented one or more of the following reasons for not sustaining the DCAA's recommendation to disallow the questioned costs.

- The required time periods for the contractor to retain any of the records had lapsed.[40]
- The questioned costs in the audit report were identical to those disputed before the Armed Services Board of Contract Appeals, which rendered an opinion against DCAA questioned costs.
- No action on the audit report was required because the DCAA had disclaimed an audit opinion.

[40] The records retention period refers to the amount of time the contractor is required to make available all records, materials, and evidence for an examination or audit.

However, none of these reasons adequately justify the contracting officers' decision not to sustain DCAA questioned costs. Regardless of the minimum record retention time periods specified in the FAR, the contractor had an obligation to support its costs claimed on Government contracts. Although the DCAA disclaims an audit opinion, contracting officers must take appropriate action in response to DCAA questioned costs. As a result, the contracting officers may have inappropriately reimbursed DoD contractors up to $219 million in costs that are not allowable on Government contracts.

Finding B

For 11 (55 percent) of the 20 audit reports, DCMA contracting officers did not include at least one of the following three elements of the indirect cost rate agreement required by FAR 52.216-7(d)(3), "Final Indirect Cost Rates."

- Indirect cost bases for each indirect rate
- Applicable periods for the indirect rates
- Affected contracts[41]

These elements are important to ensure that the contractual agreement between the Government and the contractor accurately captures the agreed-upon rates, the correct time frame, and the affected contracts. As a result of not including some of the required elements, contracting officers may have reimbursed DoD contractors unallowable costs that cannot be recouped.

Additionally, for 5 (25 percent) of the 20 audit reports, DCMA contracting officers could not demonstrate that they had provided the negotiation memorandum to offices that provided field pricing support, as FAR 42.706-3(b), "Distribution of Documents," requires. Providing the negotiation memorandum to the DCAA helps the DCAA properly record the negotiation results, perform contract audits, and make future audit support more effective.

Finding C

DCMA and Naval Supply Systems Command contracting officers did not complete their actions on the reports we selected in a timely manner or enter accurate information in the CAFU system, as required by DoD Instruction 7640.02. Specifically, for:

- 10 audit reports, nine DCMA contracting officers and one Naval Supply Systems Command contracting officer did not complete their actions within the 6-month resolution or 12-month disposition time frames required by the DoD Instruction; and
- 15 audit reports, 14 DCMA contracting officers and 1 Naval Supply Systems Command contracting officer entered inaccurate information in the CAFU system.

[41] Finding B only includes the 20 audit reports for which DCMA contracting officers were responsible for taking action. An indirect cost base is used to allocate indirect expenses over multiple benefitting contracts.

Timely disposition of DCAA audit findings helps to ensure that the contractor corrects the reported noncompliance in a timely manner and that the Government promptly recoups unallowable costs, penalties, and interest. Errors within the CAFU system diminish its effectiveness as a tool for monitoring contracting officer actions on DCAA audit reports.

Recommendations

We recommended that the DCMA Director require the contracting officers to:

a. Determine if any of the $219 million in questioned costs reported by the DCAA are not allowable according to FAR Part 31, "Contracts with Commercial Organizations." (*Recommendation A.1.a*) **Closed**

b. Take steps to recoup any portion of the $219 million that is not allowed on Government contracts. (*Recommendation A.1.b*) **Closed**

c. Review the actions of the contracting officers to determine whether management action is necessary to hold those individuals accountable. (*Recommendation A.1.c*) **Closed**

We recommended that the DCMA Director require the contracting officer who took action on Audit Report Number 6341-2009A10100044 complete the Contract Management–Contract Administration and Pricing 210, "Contract Audit Follow-up," training course. (*Recommendation A.2*) **Closed**

We recommended that the Commander of the Naval Supply Systems Command provide contracting officers with training on DoD Instruction 7640.02, "Policy for Follow-Up on Contract Audit Reports," requirements to document, on a monthly basis, the cause for delays in resolving and dispositioning audit reports and the actions taken to achieve resolution or disposition and report accurate data in the CAFU system. (*Recommendation C*) **Closed**

Evaluation of Defense Contract Management Agency Contracting Officer Actions on Penalties Recommended by the Defense Contract Audit Agency (DODIG-2020-049), January 10, 2020

Objective

The evaluation determined whether DCMA contracting officer actions complied with the applicable FAR, DoD Instructions, and agency policy when the DCAA recommended penalties against DoD contractors for claiming unallowable indirect costs.

Finding A

For 18 (64 percent) of the 28 DCAA audit reports the evaluation selected, DCMA contracting officers did not adequately explain why they disagreed with the DCAA's recommendations to assess penalties on indirect costs of $43 million. The DCMA

contracting officers for the 18 audit reports provided the following explanations for not assessing penalties on the $43 million in expressly unallowable costs reported by the DCAA.

- For $32 million, the contracting officers determined that the costs were not subject to penalties as the DCAA had reported. However, the contracting officers' explanations for determining that the costs were not subject to penalties were inconsistent with FAR 31.205, "Selected Costs," which identifies the types of costs that are subject to penalties.
- For the remaining $11 million, the contracting officers determined that the contractors met the FAR criteria for waiving the penalties. However, the explanations for waiving the penalties were inconsistent with FAR 42.709-5, "Waiver of the Penalty," which identifies the criteria for waiving penalties.

These reasons do not adequately justify why the contracting officers disagreed with the DCAA on the assessment of penalties. Therefore, the contracting officers did not comply with FAR 42.705-1(b)(5)(iii)(C), "Contracting Officer Determination Procedure," which requires contracting officers to document adequate rationale for disagreeing with DCAA recommendations. This occurred because of:

- insufficient training in assessing penalties and interest;
- failure to obtain a required legal review;
- failure to obtain the DCAA's opinion on additional information received after audit report issuance, as FAR 42.705-1(b)(4)(i)(B) requires; and
- ineffective supervisory reviews of the contracting officers' actions.

As a result, the contracting officers did not collect penalties on $43 million in costs that may have been unallowable and subject to penalties, contrary to FAR 42.709. For $23 million (53 percent) of the $43 million, the contracting officers also did not disallow the costs that the DCAA had reported were expressly unallowable in accordance with FAR 31.205. The failure of contracting officers to assess and impose penalties, when appropriate, diminishes the incentive of DoD contractors to exclude expressly unallowable costs from incurred cost proposals and increases the risk or likelihood of the DoD paying for costs that are unallowable under public law.

Finding B

For 14 (50 percent) of the 28 DCAA audit reports the evaluation selected, the contracting officers appropriately decided to assess penalties against DoD contractors. However, 7 (50 percent) of the 14 contracting officers did not assess the correct amount of penalties in accordance with FAR 42.709-1(a)(1)(i), "General," which states that the penalty is equal to the amount of the disallowed (unallowable) costs allocated to Government

contracts that are subject to penalties.[42] Additionally, of the 14 contracting officers who assessed penalties, 7 did not calculate and collect the correct amount of interest due to the Government, and 1 did not calculate or collect any of the associated interest due to the Government, as FAR 42.709-4, "Assessing the Penalty," requires. These deficiencies occurred because DCMA contracting officers were not consistently trained on how to calculate penalties or interest. Of the eight contracting officers who incorrectly calculated penalties or interest, five of them did not receive training on the calculation of penalties or interest. As a result, the contracting officers did not collect the correct amount of penalties and interest due to the Government on expressly unallowable costs claimed by DoD contractors.

Recommendations

We recommended that the DCMA Director:

a. For the 18 audit reports in which the contracting officers did not document adequate rationale, review the contracting officers' decision to not assess penalties on $43 million of expressly unallowable costs reported by the DCAA to determine whether the costs are expressly unallowable in accordance with FAR 31.205, "Selected Costs," and subject to penalty in accordance with FAR 42.709, "Penalties for Unallowable Costs." (*Recommendation A.1.a*) **Closed**

b. Based on the results of the review in Recommendation A.1.a, take steps to recoup any expressly unallowable costs not previously disallowed and obtain payment from the contractor for any associated penalties due to the Government. (*Recommendation A.1.b*) **Closed**

c. Provide training to contracting officers and supervisors on the requirements for identifying unallowable costs and for assessing and waiving penalties, including FAR 31.205, "Selected Costs," and FAR 42.709, "Penalties for Unallowable Costs." (*Recommendation A.2*) **Closed**

d. Revise DCMA procedures to require that supervisors document their review comments on the contracting officers' actions in writing. (R*ecommendation A.3*) **Closed**

e. For the audit reports for which the contracting officers did not correctly calculate penalties and interest, review the contracting officers' calculation of penalty and interest due to the Government to determine the penalties and interest that should have been collected in accordance with FAR 42.709-1, "General," and 42.709-4, "Computing Interest." (*Recommendation B.1.a*) **Closed**

f. Based on the results of the review in Recommendation B.1.a, take steps to recoup the difference between the penalties and interest that should have been collected in accordance with the FAR and the amounts that were previously collected. (*Recommendation B.1.b*) **Closed**

[42] FAR 42.709-1(a)(1)(i), "General."

g. Provide training to contracting officers for calculating penalties in accordance with FAR 42.709-1(a)(1)(i), "General," and computing interest in accordance with FAR 42.709-4, "Computing Interest." (*Recommendation B.2*) **Closed**

Audit of Contract Costs for Hurricane Recovery Efforts at Navy Installations (DODIG-2020-060), February 12, 2020

Objective

The audit determined whether the Navy controlled costs for the Global Contingency Construction Contract task orders issued to support the military base recovery efforts from the 2017 and 2018 hurricanes.

Finding A

NAVFAC Southeast contracting officials did not control costs when awarding and administering the Global Contingency Construction–Multiple Award Contract task order issued to recover Naval Air Station Key West after Hurricane Irma. Specifically, NAVFAC Southeast contracting officials did not:

- include detailed and specific contract requirements in the task order;
- request, obtain, or analyze a cost proposal from the prime contractor;
- document their determination of fair and reasonable prices; or
- limit the task order to the initial recovery efforts.

This occurred because NAVFAC Southeast assigned three task orders for hurricane recovery to the same contracting officer within 2 weeks although the contracting officer was already responsible for other hurricane recovery contracts. In addition, NAVFAC Southeast contracting officials chose not to implement NAVFAC contracting procedures when planning, awarding, and administering the task order for the initial recovery work, and the NAVFAC Southeast contracting officials developed their own procedures to convert the cost-plus-award-fee task order to firm–fixed price. However, the NAVFAC Southeast contracting officials did not formally modify the contract using a Standard Form 30, "Modification of Contract," to convert any of the contract terms or conditions from cost-plus-award-fee to firm–fixed price, in accordance with the FAR.

As a result, the audit could not verify that the NAVFAC Southeast contracting officials obtained fair and reasonable prices for the initial $9.3 million (26 percent) of the $35.9 million hurricane recovery. Furthermore, the procedures that NAVFAC Southeast used may have created an illegal cost-plus-percentage-of-cost contracting system that did not incentivize the contractor to complete the contract efficiently or effectively. Consequently, NAVFAC Southeast incorrectly paid the prime contractor excess profit, which increased proportionally with the contractor's costs.

Finding B

NAVFAC Mid-Atlantic contracting officials and the Camp Lejeune Public Works Department implemented several best practices when developing, awarding, and overseeing the initial Global Contingency Construction-Multiple Award Contract task order issued to recover Camp Lejeune and Cherry Point after Hurricane Florence. However, the NAVFAC Mid-Atlantic contracting officials did not control costs when evaluating the prime contractor's proposal and negotiating the task order modifications. Specifically, the contracting officer did not effectively assess the prime contractor's cost and pricing proposals or verify that the proposals were complete and accurate, in accordance with Federal and DoD acquisition regulations.[43] This occurred because NAVFAC Mid-Atlantic contracting officials conducted an expedited proposal analysis without requesting expert assistance. As a result, NAVFAC Mid-Atlantic contracting officials paid excessive prices, which caused the Government to pay the prime contractor excess profit.

Recommendations

We recommended that the Commander of NAVFAC Atlantic:

a. Develop and implement a peer review process to verify that contracting officers from the NAVFAC regional commands, including NAVFAC Southeast and Mid-Atlantic, comply with FAR and NAVFAC procedures. (*Recommendation A.1.b*) **Closed**

b. Coordinate with all relevant stakeholders, including officials from NAVFAC Southeast, Mid-Atlantic, and the other regional commands, to reevaluate the Global Contingency Construction-Multiple Award Contract procedures for emergency construction and engineering services, and, if needed, develop clear and concise implementation guidance for use during a disaster. (*Recommendation A.1.c*) **Closed**

c. Review the task orders that NAVFAC Southeast issued for Hurricanes Matthew, Harvey, Irma, and Michael to determine whether Southeast contracting officials awarded and administered the contracts in accordance with the FAR and NAVFAC standard operating procedures for the Global Contingency Construction contract. (*Recommendation A.1.d*) **Closed**

d. Based on the results of Recommendation A.1.d, request a DCAA audit to review the allowability of all costs and profit paid to the prime contractors, and request a refund for any excess payments made to the prime contractors. (*Recommendation A.1.e*) **Closed**

[43] FAR 15.402; FAR 15.403; FAR 15.404, "Proposal Analysis," and DFARS 215.404, "Proposal Analysis." FAR 15.406 states that the contractor's pricing proposal must be complete, accurate, and current as of the price agreement date.

We recommended that the Commander of NAVFAC Southeast:

a. Request a DCAA audit to review the allowability of all costs and profit paid to URS Group under task order N69450-17-F-0077. (*Recommendation A.2.a*) **Closed**

b. Request a refund from URS Group for any excess payment identified by the DCAA's audit, which could include the excess profit incorrectly paid to the prime contractor. (*Recommendation A.2.b*) **Closed**

c. Review the concerns identified in this report, including the actions of the Acquisition Division Director and the contracting officer, and take administrative actions, if necessary. (*Recommendation A.2.c*) **Closed**

We recommended that the Commander of NAVFAC Atlantic establish or reiterate procedures to ensure that contracting officers for NAVFAC Atlantic regional commands can get assistance when performing cost and price analysis during contingency situations, which could include creating annual agreements with the Navy Price Fighters. (*Recommendation B.1*) **Closed**

We recommended that the Commander of NAVFAC Mid-Atlantic:

a. Request assistance from the DCAA to conduct a post-award audit that reviews all costs paid under task order N40085-18-F-6819. (*Recommendation B.2.a*) **Closed**

b. Require the contracting officer to request a refund or a price adjustment for the excess payment identified for Recommendation B.2.a. (*Recommendation B.2.b*) **Open: The DCAA conducted an independent audit of costs paid under task order N40085-18-F-6819. The contractor disagreed with the DCAA's audit findings, and the Navy is conducting further analysis and seeking additional clarification from the contractor to resolve the disagreement. Days Open**: 1,540

c. Review the actions of the contracting officer detailed in this report, and take administrative actions, if necessary. (*Recommendation B.2.c*) **Closed**

d. Request assistance from the DCAA to conduct a post-award audit that reviews all costs paid under task orders N40085-19-F-4464 and N40085-19-F-4465. (*Recommendation B.2.d*) **Closed**

e. Require the contracting officer to request a refund or a price adjustment for the excess payment identified for Recommendation B.2.d. (*Recommendation B.2.e*) **Closed**

Audit of Purchases of Ammonium Perchlorate Through Subcontracts With a Single Department of Defense-Approved Domestic Supplier (DODIG-2020-095), July 9, 2020

Objective

The audit determined whether DoD subcontractors properly evaluated the commercial item determination and whether DoD contracting officers properly evaluated fair and reasonable pricing determinations for Ammonium Perchlorate, Grade 1 (AP1).[44]

Finding

ATK Launch Systems Incorporated and Aerojet, first-tier rocket motor subcontractors, followed procedures and properly determined that AP1 was a commercial item. In addition, Army and Navy contracting officers appropriately relied on subcontractors' price analysis to determine that proposed AP1 prices supporting the Guided Multiple Launch Rocket System, Standard Missile, and Trident II D5 programs were fair and reasonable in accordance with the FAR.[45]

Army and Navy contracting officers did not evaluate the reasonableness of the AP1 subcontract cost as an individual cost element because AP1 represented a small portion of the prime production contracts and the FAR does not require the contracting officer to evaluate every cost element of the prime contract.[46] Although less expensive AP1 sources exist in the foreign marketplace, AMPAC is the only DoD-approved AP1 source.

Based on the audit's analysis of AP1 prices subcontractors paid, except for a purchase for an unplanned requirement in 2017, AP1 prices were stable from FYs 2014 to 2018. However, relying on previous prices alone presents a risk of paying excessive prices to a single supplier if previous prices have not been substantiated through competition.

Recommendations

We recommended that the Deputy Assistant Secretary of Defense for Industrial Policy monitor and assess the AP1 industrial base to identify cost-effective AP1 alternative sources and assist the Military Services and Defense agencies on strategies related to AP1 pricing, capability, and capacity. (*Recommendation 1*) **Closed**

We recommended that the Army Contracting Command-Redstone Executive Director require all contracting officers who negotiate a prime production contracts for weapon systems involving AMPAC subcontracts that provide AP1 under Government prime contracts to request uncertified cost data and perform a cost analysis of AP1

[44] AP1 is a chemical used in the U.S. Government's solid rocket propellants and sold as a commercial product to the public.

[45] FAR 15.404-3, "Subcontract Pricing Considerations."

[46] FAR 15.404-1, "Proposal Analysis Techniques."

subcontract price, unless adequate pricing information is available, to establish that the price for AP1 included in the prime contractor's proposal is fair and reasonable. (*Recommendation 2*) **Closed**

We recommended that the Naval Sea Systems Command Commander require all contracting officers who negotiate a prime production contract for weapon systems involving AMPAC subcontracts that provide AP1 under Government prime contracts to request uncertified cost data and perform a cost analysis of AP1 subcontract price, unless adequate pricing information is available, to establish that the price for AP1 included in the prime contractor's proposal is fair and reasonable. (*Recommendation 3*) **Closed**

We recommended that the Navy Strategic Systems Program Director require all contracting officers who negotiate a prime production contract for weapon systems involving AMPAC subcontracts that provide AP1 under Government prime contracts to request uncertified cost data and perform a cost analysis of AP1 subcontract price, unless adequate pricing information is available, to establish that the price for AP1 included in the prime contractor's proposal is fair and reasonable. (*Recommendation 4*) **Closed**

Audit of Contracts for Equipment and Supplies in Support of the Coronavirus Disease–2019 Pandemic (DODIG-2021-045), January 15, 2021

Objective

The audit determined whether the DoD paid fair and reasonable prices for laboratory equipment and medical supplies, including personal protective equipment, procured in response to the COVID-19 pandemic.

Finding

The DoD paid fair and reasonable prices on 19 (83 percent) of the 23 contracts, valued at $4.1 million, for the eight items reviewed.[47] In addition, contracting personnel evaluated price reasonableness and determined that prices for all 23 contracts were fair and reasonable in accordance with DoD and FAR guidance. However, using commercially available and historical pricing, we identified items on four contracts for which the DoD did not pay fair and reasonable prices. This occurred because the COVID-19 pandemic caused an increase in demand for medical supplies that were not always available for purchase at the time contracting personnel made their determinations. Specifically, the DoD paid:

- $13.75 per mask for N95 masks, while the price published by the manufacturer for the same model was between $1.02 and $1.31 per mask;

[47] DoD contracting officials executed 861 contract actions for the eight items reviewed, totaling $27.8 million, in response to the COVID-19 pandemic. We reviewed 675 of the 861 contract actions, valued at $5 million, consisting of 29 contracts. Seven contract actions, consisting of six contracts and valued at $150,556, were canceled with no purchases completed.

- $4 per ounce for 8-ounce bottles of hand sanitizer ($32 per bottle) and $6 per ounce for 4-ounce bottles of hand sanitizer ($24 per bottle), while comparable prices for other contracts we reviewed were between $0.49 and $0.70 per ounce of hand sanitizer;
- $20 per viral transport tube, while comparable prices for other contracts we reviewed were between $0.88 and $3.68 per tube; and
- $8.99 per isolation gown, while comparable prices for other contracts we reviewed were between $0.88 and $2.80 per gown.

The DoD did not pay fair and reasonable prices for viral transport tubes and isolation gowns because there was an urgent need for these items and lower-priced options were not available due to the impact of the COVID-19 pandemic on supply availability. We referred the N95 and hand sanitizer contracts to the Defense Criminal Investigative Service for possible investigation, and consequently, we cannot discuss our oversight of these purchases in detail.

As a result, the DoD paid between $466,935 and $530,263 more than the manufacturer's list prices or other comparable prices on four contracts for N95 masks, hand sanitizer, viral transport tubes, and isolation gowns. While the DoD did not pay fair and reasonable prices for these items, contracting personnel had to purchase these urgently needed items due to supply shortages. Although the DoD was not able to spend these funds on other equipment and supplies, contracting personnel were able to procure the items to combat the pandemic and ensure the health and safety of Service members, their families, and other frontline health care workers.

Recommendation

Given the impact of the COVID-19 pandemic on commercially available supplies, contracting personnel took necessary actions to procure the urgently needed items, although the DoD did not pay fair and reasonable prices for some items. Therefore, the audit did not make any recommendations.

Evaluation of Department of Defense Contracting Officer Actions on Questioned Direct Costs (DODIG-2021-047), January 21, 2021

Objective

The evaluation determined whether the actions taken by DoD contracting officers on questioned direct costs reported by the DCAA complied with the FAR, DoD Instructions, and agency policy.

Finding A

For 12 (46 percent) of the 26 DCAA audit reports, DCMA contracting officers did not comply with DoD Instruction 7640.02, "Policy for Follow-Up on Contract Audit Reports," and DCMA policy because they did not settle, or coordinate the settlement of, $231.5 million in questioned direct costs. In addition, the DCMA DACOs closed the associated records in the CAFU system for the 12 audit reports, even though $231.5 million (90 percent) of the $258 million in reported questioned direct costs were not settled. Of the 12 DCAA audit reports, the DCMA contracting officers did not settle, or coordinate the settlement of, the:

- $193.1 million in questioned direct costs identified in 2 of the 12 audit reports; and
- $38.4 million in questioned direct costs identified in 10 of the 12 audit reports.

The DCMA DACOs received the 12 audit reports for settlement from the DCAA between February 2006 and September 2017, as of August 1, 2020. Although DoD Instruction 7640.02 requires contracting officers to settle a DCAA audit report within 12 months, the DCMA's contracting officers still have not settled, or coordinated the settlement of, the $231.5 million of the $258 million in questioned direct costs identified within the 12 audit reports.

For the remaining 14 (54 percent) of the 26 DCAA audit reports, the DoD contracting officers settled the $339.4 million in questioned direct costs and closed the CAFU system record in compliance with FAR Subpart 31.2, "Contracts with Commercial Organizations," DoD Instruction 7640.02, and agency policy, including the one audit report issued to the Navy that we selected for review.

The evaluation identified the following three factors that contributed to DCMA contracting officers not complying with DoD Instruction 7640.02 and DCMA policy for 12 of the 26 DCAA audit reports.

- The DCMA lacks adequate guidance for identifying and coordinating with other contracting officers who are responsible for settling questioned direct costs.
- DCMA supervisors and the DCMA OIG did not provide effective oversight of the DCMA DACOs' actions for settling questioned direct costs.
- DCMA Manual 2201-03, "Final Indirect Cost Rates," states that DCMA administrative contracting officers must settle questioned direct costs.

As a result, DCMA contracting officers may have reimbursed DoD contractors up to $231.5 million in costs that may be unallowable on Government contracts according to FAR Subpart 31.2. Appropriately addressing questioned direct costs in a timely manner by DCMA contracting officers is important for ensuring that the Government does not reimburse DoD contractors for costs that are unallowable.

Finding B

The DCMA DACOs have not taken all actions required to settle the questioned direct costs from three of the eight DCAA audit reports, as a report recommended in February 2017.[48] The DCMA DACOs continue to be in noncompliance with DoD Instruction 7640.02, DCMA Manual 2201-03, and DCMA Manual 2201-04, "Contract Audit Follow-Up," because $98.1 million (32 percent) of the $304.8 million questioned direct costs still needs to be settled.

In addition, two of the three DCMA DACOs assigned to the three reports closed the associated records in the CAFU system, even though they had not completed all the actions required to settle the questioned direct costs. For the remaining five reports, DCMA contracting officers settled, or coordinated the settlement of, the questioned direct costs and closed the CAFU system records when they completed all required actions.

The DCMA DACOs stated that they have not taken all the actions required to settle the questioned direct costs for the three audit reports in part because they experienced difficulties determining the other DoD contracting officers who were responsible for settling portions of the questioned direct costs. Nevertheless, the DCMA DACOs were still responsible for identifying who has responsibility to settle the questioned direct costs and to keep the record open in the CAFU system until all questioned direct costs are settled.

As a result, DCMA DACOs may have reimbursed DoD contractors up to $98.1 million in costs that may not be allowable on Government contracts in accordance with FAR Subpart 31.2. Appropriately addressing questioned direct costs in a timely manner by DCMA contracting officers is important for ensuring that the Government does not reimburse DoD contractors for costs that are unallowable.

Recommendations

We recommended that the DCMA Director require the DCMA DACOs to:

a. Reopen the 12 DCAA audit reports in the CAFU system because the questioned direct costs have not been settled. (*Recommendation A.1.a*) **Closed**

b. Coordinate the settlement of the questioned direct costs with the contracting officers with settlement responsibility. (*Recommendation A.1.b*) **Closed**

c. Consult with legal counsel for any concerns that the 6-year statute of limitations has expired or may expire soon. (*Recommendation A.1.c*) **Closed**

d. Explore available remedies for recovering any unallowable direct costs that were reimbursed to the contractor on DoD contracts. (*Recommendation A.1.d*) **Closed**

[48] In Report No. DODIG-2017-055, "Evaluation of Defense Contract Management Agency Contracting Officer Actions on Defense Contract Audit Agency Incurred Cost Audit Reports," February 9, 2017, we identified that contracting officers did not settle questioned direct costs in eight DCAA incurred cost audit reports, although the contracting officers closed the audit reports in the CAFU system.

e. Close the 12 records in the CAFU system after all questioned direct costs are settled. (*Recommendation A.1.e*) **Closed**

We recommended that the DCMA Director:

a. Review the contracting officers' actions for closing the 12 reports in the CAFU system without settling all questioned direct costs in noncompliance with DoD Instruction 7640.02. (*Recommendation A.2.a*) **Closed**

b. Based on the results of the review, take action as appropriate for the noncompliance, such as providing remedial training or initiating management action to hold personnel accountable. (*Recommendation A.2.b*) **Closed**

c. Require the supervisors of the DCMA DACOs responsible for the 12 DCAA audit reports to take the training on the requirements for settling questioned direct costs outlined in DoD Instruction 7640.02, "Policy for Follow-Up of Contract Audit Reports;" DCMA Manual 2201-03, "Final Indirect Cost Rates;" and Manual 2201-04, "Contract Audit Follow-Up." (*Recommendation A.3*) **Closed**

d. Update DCMA Manual 2201-03, "Final Indirect Cost Rates," and Manual 2201-04, "Contract Audit Follow-Up," to require that contracting officers:

   1. Identify contracting officers responsible for settling questioned direct costs by using the contracting officer locator form. (*Recommendation A.4.a*) **Closed**

   2. Require that contracting officers and supervisors use the CAFU checklist to help ensure that the findings and recommendations related to questioned direct costs have been settled before the record is closed in the CAFU system. (*Recommendation A.4.b*) **Open: The DCMA Acquisition Directorate issued C-Note 23-17, "Contract Audit Follow-Up Checklist use for Final Indirect Cost Rate Audits," which addresses the recommended use of the CAFU checklist and provided a notice that the CAFU checklist is posted on the resource page for DCMA Manual 2201-03. However, the DCMA has not updated the Manual because the Agency is moving toward automating more systems for additional checks and balances and CAFU is part of this automation process. This recommendation will remain open until the DCMA updates DCMA Manual 2201.03 to reference the checklist. Days Open:** 1,196

e. Require that the DCMA OIG perform internal reviews of divisional administrative contracting officer actions on questioned direct costs for compliance with DoD Instruction 7640.02, "Policy for Follow-Up of Contract Audit Reports," DCMA Manual 2201-03, "Final Indirect Cost Rates," and DCMA Manual 2201-04, "Contract Audit Follow-Up." (*Recommendation A.5*) **Closed**

f. Conduct a review of the Agency's policy on settling questioned direct costs to clarify the authority of divisional administrative contracting officers to settle questioned direct costs in DCAA audit reports. (*Recommendation A.6*) **Closed**

We recommended that the DPC Principal Director issue guidance to DoD Components to clarify who has the authority to settle DCAA questioned direct costs in accordance with FAR Subpart 42.3, "Contract Administration Office Functions." (*Recommendation A.7*) **Closed**

Audit of Contracts for DoD Information Technology Products and Services Procured by DoD Components in Response to the Coronavirus Disease–2019 Pandemic (DODIG-2021-050), February 12, 2021

Objective

The audit determined whether DoD Components, in accordance with Public Law 116-136, "Coronavirus Aid, Relief, and Economic Security Act," and other Federal and DoD requirements:

- procured information technology products and services to support operations in response to the COVID-19 pandemic;[49]
- paid fair and reasonable prices for those products and services;
- assessed whether known cybersecurity risks existed and developed risk mitigation strategies for the risks before procuring or using the information technology products; and
- accurately reported the required COVID-19-related codes to USAspending.gov.[50]

Finding

The Army, Navy, Air Force, DHA, and Defense Information Systems Agency procured information technology products and services in accordance with the Coronavirus Aid, Relief, and Economic Security Act and other Federal and DoD requirements. Specifically, for the 28 contract actions reviewed, the DoD Components:

- procured information technology products and services to support operations in response to the COVID-19 pandemic;
- paid fair and reasonable prices for products and services procured;
- assessed whether known cybersecurity risks existed and developed risk mitigation strategies for the risks before procuring or using the information technology products; and
- accurately reported the required COVID-19-related codes to USAspending.gov.

[49] A pandemic is a global outbreak of a disease that occurs when a new virus emerges to infect people and can spread between people sustainably.

[50] USAspending.gov is a public website that policy makers and taxpayers can access to track U.S. Government spending, contract, and grant data.

As a result, DoD stakeholders have assurance that the Army, Navy, Air Force, DHA, and Defense Information Systems Agency procured $81.5 million in information technology products and services in response to the COVID-19 pandemic at fair and reasonable prices and reduced the risk of cybersecurity vulnerabilities associated with those procurements.

Recommendation

The Army, Navy, Air Force, DHA, and Defense Information Systems Agency procured information technology products and services in accordance with the Coronavirus Aid, Relief, and Economic Security Act and other Federal and DoD requirements. Therefore, the audit did not make any recommendations.

Audit of the Defense Logistics Agency's Sole Source Captains of Industry Strategic Support Contracts (DODIG-2021-053), February 11, 2021

Objective

The audit determined whether the DLA's sole source, Captains of Industry strategic support contracts are achieving cost savings, value, and benefits for the DoD. Specifically, the audit reviewed Captains of Industry contracts awarded to The Boeing Company (Boeing) and Moog, Incorporated.

Finding

DLA officials expect to achieve improvements in material availability and cost savings under the Boeing Captains of Industry contract. For the three performance-based contract line item numbers that we reviewed, the DLA realized material availability improvements ranging from 4 to 14 percentage points under Boeing's management of consumable parts compared to the DLA's prior management of a similar effort. For these same three contract line item numbers, the DLA anticipates a 5-year cost savings of $430.1 million. The DLA calculated these savings by conducting a business case analysis for each contract line item number that compared negotiated prices to a baseline estimate based on the DLA's management of the same items. However, we identified an inconsistency regarding the DLA's consideration of a cost recovery rate within the business case analyses and found that the DLA potentially overstated cost savings estimates by $127.1 million.

In addition, as of December 2020, DLA contracting officials had not validated the contract line item number 0001 business case analyses with actual performance information to determine whether estimated savings were realized. Validating business case analysis estimates could improve the estimating and tracking of cost savings and help DLA contracting officials with future Captains of Industry price comparisons, contract price negotiations, and decisions on whether to proceed with additional performance-based

work. DLA Aviation should develop and implement procedures to validate cost savings estimates and share lessons learned regarding business case analyses. DLA Aviation should apply these actions to its 12 existing Captains of Industry contracts, with a total estimated value of $38.9 billion, as well as any future performance-based Captains of Industry contracts, to help determine whether those contracts are providing cost savings to the DLA.

The audit identified that the DLA did not have visibility of actual spare parts prices under the three performance-based contract line item numbers we reviewed. In March 2020, DLA officials developed a simulated pricing approach, which used cost information from Boeing's proposal to develop spare parts prices that represent what the DLA agreed to pay for the parts. DLA officials stated that they will use these representative prices as a basis for future cost comparisons.

Recommendations

We recommended that the DLA Aviation Commander, on completion of the incentive price revision process for contract line item number 0001 on contract SPRPA1-14-D-002U, validate the estimates from the business case analysis to identify actual savings and compare the results to the expected cost savings documented in the price negotiation memorandum. If there are significant differences between the expected and actual cost savings, identify the reasons for the differences and determine whether the business case analysis calculations and assumptions need to be changed to improve future estimates. (*Recommendation A.1*) **Closed**

We recommended that the DLA Aviation Commander develop and implement procedures for all Captains of Industry contracts to validate cost savings estimates from the business case analyses based on actual performance data; identify the reasons for any variances between the expected and actual cost savings; and share information and lessons learned regarding business case analyses to improve the estimating process across all DLA Aviation contracts. (R*ecommendation A.2*) **Closed**

Evaluation of Defense Contract Management Agency Actions Taken on Defense Contract Audit Agency Report Findings Involving Two of the Largest Department of Defense Contractors (DODIG-2021-056), February 26, 2021

Objective

The evaluation determined whether the actions taken by DCMA contracting officers on DCAA audit report findings complied with applicable FAR, DoD Instruction 7640.02, "Policy for Follow-Up on Contract Audit Reports," and DCMA policy.

Finding

For 14 (47 percent) of the 30 DCAA audit reports the evaluation reviewed, DCMA contracting officers did not comply with the FAR when they settled DCAA audit reports associated with two of the largest DoD contractors. Specifically, DCMA contracting officers did not:

- adequately document or explain why they disagreed with $97 million in questioned costs from eight DCAA incurred cost audit reports, as required by FAR Subpart 42.7, "Indirect Cost Rates;" and
- comply with FAR 30.605, "Processing Noncompliances," when they addressed six DCAA Cost Accounting Standard (CAS) audit reports.[51]

For the remaining 16 (53 percent) of the 30 DCAA audit reports we reviewed, DCMA contracting officers complied with the FAR, DoD Instruction 7640.02, and DCMA policy when they settled the $369 million in questioned costs, CAS noncompliances, and business system deficiencies reported by the DCAA. We determined that an effective working relationship with the DCAA—fostered by DCMA organizational changes to focus on the 40 largest DoD contractors—and the DCMA's performance of peer reviews contributed to DCMA contracting officers taking appropriate actions on the 16 reports.[52]

The evaluation identified the following three factors that contributed to DCMA contracting officers' noncompliance with the FAR when they settled the 14 DCAA audit reports.

- DCMA contracting officers did not obtain a required legal review.
- DCMA supervisors did not provide effective oversight of DCMA contracting officer actions to settle the DCAA's audit reports.
- DCMA contracting officers did not maintain detailed contract file documentation, such as documents provided by the contractor during negotiation, to support not upholding DCAA audit report findings and recommendations.

As a result, DCMA contracting officer actions on the 14 DCAA audit reports may have resulted in improperly reimbursing DoD contractors up to $97 million in costs that may be unallowable on Government contracts. In addition, because the DCMA contracting officers did not take action in a timely manner, they delayed the correction of CAS noncompliances and the recovery of any increased costs due to the Government for the reported CAS noncompliances.

[51] FAR Part 30, "Cost Accounting Standards Administration," Subpart 30.6, "CAS Administration," Section 30.605, "Processing Noncompliances."

[52] The objective of the DCMA's peer review is to ensure that negotiation documents, including the negotiation memorandum, appropriately apply the FAR, CAS, and DCMA's agency policy before the negotiation documents are issued. A peer review team may include other contracting officers, team supervisors, team leads, DCMA legal counsel, and others who were not involved in settling the DCAA questioned costs.

Recommendations

We recommended that the DCMA Director:

a. Take the following steps for the eight audit reports for which the contracting officer did not adequately document or adequately explain the reason for disagreeing with the DCAA:

   1. Reopen the audit report in the CAFU system until all findings are settled. (Re*commendation 1.a*) **Closed**

   2. Review the contracting officer's decision to not uphold the $97 million in DCAA questioned costs and determine whether the costs are unallowable in accordance with the FAR. (*Recommendation 1.b*) **Closed**

   3. Disallow and recoup any unallowable costs not previously disallowed. (*Recommendation 1.c*) **Closed**

b. Remind all DCMA contracting officers in writing of the requirement to issue a notice of potential CAS noncompliance within 15 days of receipt of a reported CAS noncompliance, in accordance with FAR 30.605(b)(1), "Notice and Determination;" and DCMA Instruction 108, "Cost Accounting Standards (CAS) Administration." (*Recommendation 2*) **Closed**

c. Require the contracting officers for Audit Report Numbers 6631-2016C19200001 and 6631-2016C19200002 to take the following actions in accordance with FAR 30.605 and DCMA Instruction 108:

   1. Reopen the audit report in the CAFU system until all findings are settled.

   2. Make a determination of CAS compliance (if applicable).

   3. Based on the results of the CAS compliance determination, take steps to:

      i. notify the contractor of the compliance determination;

      ii. make a determination on the cost impact; and

      iii. recoup any cost increase to the Government as a result of the noncompliances. (*Recommendation 3*) **Open: Actions for Recommendation 3 are ongoing. The audit monitor has scheduled regular monthly meetings with cognizant personnel to ensure a continued cadence of moving toward actionable progress and final resolution of this recommendation, but the DCMA still needs to provide evidence of the final determination letter and notification to the contractor. Days Open:** 1,160

d. Require the supervisors of the contracting officers for the 14 audit reports to receive training on the level of review necessary to provide an effective control for ensuring that contracting officers complete actions appropriately when addressing DCAA audit reports. (*Recommendation 4*) **Closed**

e. Implement a policy which requires contracting officers to retain key documents that support their actions on audit reports in the DCMA's Electronic Document Records Management System. (*Recommendation 5*) **Closed**

Audit of Defense Logistics Agency Award and Management of Bulk Fuel Contracts in Areas of Contingency Operations (DODIG-2021-129), September 23, 2021

Objective

The audit determined whether DLA Energy personnel awarded bulk fuel contracts and met bulk fuel requirements, in areas of contingency operations, as required by Federal and DoD guidance. In addition, the audit determined whether the DLA had processes in place to ensure contractors met contractual obligations and followed anticorruption practices.

Finding

DLA Energy contracting officials complied with FAR and DoD guidance and generally met bulk fuel requirements, valued at $212.9 million, in Afghanistan, Bahrain, Iraq, Jordan, Kuwait, the Philippines, Turkey, Qatar, and the United Arab Emirates. Of 180 orders, DLA Energy contracting officials ensured contractors fulfilled bulk fuel requirements for 164 orders and did not receive the required amount of bulk fuel in the time required for 16 orders.

DLA Energy contracting officers terminated 26 of 180 orders within 11 (16 percent) of the 68 contracts in the universe, which cost the DoD an additional $9.1 million for the new bulk fuel contracts due to price increases and other costs, in addition to the time needed to award new contracts.[53] In addition, one termination resulted in a cost savings of $2.7 million due to a lower price per gallon on the replacement contract.

Due to the frequency and nature of terminations in Iraq and the results of the sample testing related to order terminations, we expanded our review to include an analysis of an additional 36 terminated Iraq contracts.[54] These 36 contract terminations resulted in a price increase of $43.3 million to the DoD based on the original and replacement contract values.[55] DLA Energy contracting officials faced challenges, which were outside of their control, when fulfilling bulk fuel requirements in Iraq. First, contractors faced restrictions from the Iraqi government including the Prime Minister's National Operations Center and the Oil Products Distribution Center approval for exclusive purchasing of fuel. Second, the DoD encountered force protection risks. Although outside of the contracting officers' control, these challenges impacted bulk fuel deliveries. As a result of the contracting officers' actions, using one-time buys and the appropriate authorities necessary to deliver fuel, DoD customers received the necessary fuel to meet mission requirements.

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[53] Other costs included contractor purchased fuel that could not be resold at the price DLA Energy negotiated for originally or costs associated with storing the fuel before resale. We determined the additional cost based on the difference in the original contract value and the replacement contract value and any associated claims with the original contract.

[54] Since we identified issues with 10 of the 15 Iraq contract actions in the original sample, we reviewed an additional 36 Iraq contracts.

[55] DLA Energy officials stated that no funds were disbursed for the terminated contracts for nonperformance.

Additionally, DLA Energy had an adequate system in place to ensure its fuel contractors met contractual obligations and abided by anticorruption practices. Although DLA Energy contracting officers generally met bulk fuel requirements, contracting officers can use various source selection methods to obtain fuel in areas of contingency operations. The lowest price technically acceptable source selection process is appropriate when the expectation is the best value. However, in areas of contingency operations, the best value may require an evaluation of factors other than lowest price and technically acceptable. We identified that DLA Energy contracting officers used the lowest price technically acceptable source selection process for 14 (70 percent) of the 20 bulk fuel contracts we reviewed in Afghanistan and Iraq.

DLA Energy contracting officials met bulk fuel requirements for 164 orders, and fuel was delivered on time at the lowest price to meet mission needs. For the remaining 16 orders, DLA Energy officials ultimately ensured that DoD customers received the fuel needed to meet mission needs. However, to fulfill the requirement, DLA Energy officials needed to use one-time buys that resulted in deliveries later than the date in the original contract and at an additional cost to the DoD.

Recommendation

We recommended that the Commander of DLA Energy direct contracting officers to consider a tradeoff source selection and consider using past performance evaluation factors, in addition to other factors such as cost or price, for bulk fuel purchases in areas of overseas contingency operations. (*Recommendation 1*) **Closed**

Audit of the Business Model for TransDigm Group Inc. and Its Impact on Department of Defense Spare Parts Pricing (DODIG-2022-043), December 13, 2021

Objective

The audit determined whether the TransDigm business model impacted the DoD's ability to pay fair and reasonable prices for spare parts.

Finding

TransDigm executes a business model that results in the acquisition of companies that specialize in highly engineered, sole-source spare parts. The DoD generally purchases spare parts from these TransDigm operating units in small quantities, resulting in lower-dollar-value contracts. Contractors are required to provide certified cost or pricing data only for contracts valued at or above the TINA Threshold. From January 2017 to June 2019, more than 95 percent of the contracts that the DoD awarded to TransDigm, valued at $268.2 million, were below the TINA threshold.

Contracting officers used price analysis methods authorized by the FAR and DFARS, including historical price comparisons and competition, to determine whether prices were fair and reasonable for the 107 spare parts we reviewed. Price analysis methods can be effective in determining fair and reasonable prices; however, in this sole-source market-based pricing environment, the methods were not effective for identifying excessive pricing without competition. This occurred because section 2306a, title 10, United States Code (10 U.S.C. § 2306a), Federal, and DoD policies do not compel contractors to provide uncertified cost data for contracts below the TINA threshold when requested. Therefore, contracting officers were unable to use cost analysis to determine fair and reasonable prices for sole-source spare parts that were bought in small quantities at low dollar values and instead used other price analysis methods required by the FAR and DFARS, including historical price comparisons. In addition, 10 U.S.C. § 2306a, Federal, and DoD policies do not require contracting officers to use cost analysis when the DoD is making fair and reasonable price determinations for sole-source spare part contracts below the TINA threshold. However, we were able to obtain uncertified cost data from TransDigm for 152 of the 153 contracts in our sample. By using the uncertified cost data, which is one of the most reliable sources of information to perform cost analysis, we found that TransDigm earned excess profit of at least $20.8 million on 105 spare parts on 150 contracts.

Multiple audit reports over the past 23 years have highlighted the problem of the DoD paying excess profits on sole-source contracts where cost analysis was not used to determine fair and reasonable prices and this problem continues to occur. To address the lack of policy compelling contractors to provide uncertified cost data when requested, officials from the Office of the Under Secretary of Defense for Acquisition and Sustainment submitted two legislative proposals in the FY 2021 legislative cycle. The first proposal sought to ensure that the DoD had appropriate authority and flexibility to make commercial item determinations and obtain necessary cost or pricing data to negotiate fair and reasonable prices. The second proposal sought to include a paragraph amending an existing statute within the United States Code that requires the submission of uncertified cost data from offerors if the pricing data submitted is not sufficient to determine a fair and reasonable price. Neither proposal was included in the FY 2021 National Defense Authorization Act. The DoD is considering the submission of additional legislative proposals to address these issues in the FY 2023 legislative cycle.

Without the necessary legislative changes, the DoD will continue to be unable to perform adequate price reasonableness determinations because contractors are not compelled to provide uncertified cost data under the TINA threshold and the other price analysis methods are not always effective in identifying excessive prices. Additionally, the DoD will continue to pay higher prices if the DoD is not able to use cost analysis to determine price reasonableness for sole-source spare parts procured using market-based pricing on contracts valued under the TINA threshold.

Recommendations

We recommended that the DPC Principal Director review the DFARS and DFARS Procedures, Guidance, and Information to determine whether current policy adequately addresses when cost analysis should be required by contracting officials to determine price reasonableness for sole-source spare parts not subject to TINA. If the Principal Director determines that current policy is not sufficient, the Principal Director should initiate actions to revise and update policy and guidance. (*Recommendation 1*) **Open: The Office of DPC has corrective actions underway. There was an open DFARS Case to address the recommendation. As part of the case, the Defense Acquisition Regulation Council Director tasked the Systems Acquisition Team to draft a proposed DFARS rule. Days Open:** 870

We recommended that the DPC Principal Director work with the DLA Director to identify alternative contracting strategies for procuring items, from companies that sell sole-source spare parts in small quantities at low dollar values to the DoD, more efficiently and at a lower price. (*Recommendation 2*) **Closed**

We recommended that the DLA Director consider all available corrective actions with TransDigm, including the following.

a. Direct DLA Aviation contracting officers to seek a voluntary refund from TransDigm for approximately $9.6 million in excess profit for the 63 contracts that we identified contained excess profit. (*Recommendation 3.a*) **Closed**

b. Direct DLA Land and Maritime contracting officers to seek a voluntary refund from TransDigm for approximately $10.9 million in excess profit for the 84 contracts that we identified contained excess profit. (*Recommendation 3.b*) **Closed**

c. Direct DLA Troop Support contracting officers to seek a voluntary refund from TransDigm for approximately $0.4 million in excess profit for the 3 contracts that we identified contained excess profit. (*Recommendation 3.c*) **Closed**

Audit of Sole-Source Depot Maintenance Contracts (DODIG-2022-104), July 21, 2022

Objective

The audit determined whether the Military Services and Defense agencies negotiated fair and reasonable prices for sole-source depot maintenance contracts performed at contractor facilities.

Finding A

DoD contracting officials negotiated fair and reasonable prices for 13 (38 percent) of the 34 sole-source and single-source depot maintenance contracts reviewed, 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 (62 percent) of the 34 sole-source and single-source depot maintenance contracts 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 DoD contracting officials limited their ability to negotiate fair and reasonable prices, such as the following.

- 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.
- Federal and Defense acquisition policies limited the amount of cost or pricing data that DoD contracting officials could obtain for commercial contracts.
- Contractor direct and indirect labor and overhead rates increased beyond industry inflation.
- Aging weapon systems required more frequent and unexpected repairs and encountered obsolescence challenges, resulting in increased costs.

Although the DoD realized cost reductions of at least $12 million and cost escalation of less than 1 percent for 13 of the 34 contracts reviewed, the DoD paid at least $71.9 million in cost escalation for 21 of the 34 contracts and experienced schedule delays that impacted the ability of the of the Military Services to meet their mission and affected DoD readiness worldwide.

Finding B

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. Although Naval Sea Systems Command contracting officials solicited dry-dock ship repair contracts using competitive procedures in accordance with Federal and Defense acquisition regulations, Naval Sea Systems Command contracting officials awarded 17 (35 percent) of the 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 Naval Sea Systems Command'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 $12.3 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.

Recommendations

We recommended that the Commander of the Naval Supply Systems Command 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. (*Recommendation A.1.b*) **Open: The Navy stated that the contracting officer issued a reconciliation modification for $280,034.61 for one delivery order and stated no modification was necessary for the second delivery order. However, no estimated completion date for full implementation was provided. Days Open:** 650

We recommended 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 to 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. (*Recommendation A.2*) **Closed**

We recommended 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 DPC Principal Director whenever contractors refuse to provide requested cost data, with their rationale, in accordance with DFARS Procedures, Guidance, and Information 215.403-3(6). (*Recommendation A.4*) **Closed**

We recommended 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 DPC Principal Director whenever contractors refuse to provide requested cost data, with their rationale, in accordance with DFARS Procedures, Guidance, and Information 215.403-3(6). (*Recommendation A.5*) **Closed**

We recommended 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. (*Recommendation A.6*) **Closed**

We recommended that the Commander of the Naval Sea Systems Command 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. (*Recommendation B.2.d*) **Open: The Navy provided documentation, including a corrective action plan. The audit team declined closure, as sufficient documentation needed to satisfy the intent of the recommendation was not provided. The Navy is working to provide an additional response to the recommendation. Days Open:** 650

Audit of Department of Defense Federal Mall Purchases (DODIG-2023-006), October 19, 2022

Objective

The audit determined whether the DoD made purchases through Federal Mall (FedMall) in accordance with Federal and DoD policies.

Finding

The audit reviewed 157 items that eight activities purchased on FedMall and found that vendors added items to their FedMall catalogs and increased prices without the DLA Contracting Services Office's approval. Specifically, activities purchased 13 (8.2 percent) of the 157 items that vendors added to FedMall without approval from DLA Contracting Services Office officials. Activities purchased an additional 12 (8 percent) of the 157 items at prices that DLA Contracting Services Office officials never approved. This occurred because before December 2021, DLA program and contracting officials did not establish proper controls over vendor catalogs in FedMall.

Additionally, the eight activities purchased items on FedMall at prices that were higher than other commercially available prices for the same items. Specifically, activities purchased 52 (36 percent) of the 145 items at prices that were up to 533 percent higher than other commercially available prices. Activities paid higher prices because DLA Contracting Services Office officials made price reasonableness determinations based on the vendors' proposed catalog prices and discounts offered instead of other commercially available prices for the same items. In addition, DLA Contracting Services Office officials expected that purchasers would conduct price comparisons before placing an order on FedMall; however, FedMall program officials did not communicate this requirement to purchasers.

As a result, the audit identified $367,081 in questioned costs related to vendors that increased prices for 12 items without DLA Contracting Services Office approval, in violation of contract terms. Additionally, the audit identified $603,335 of wasted funds for 52 items for which lower prices were available from sources outside of FedMall.

Recommendations

We recommended that the Director of the DLA Contracting Services Office:

a. Review all FedMall transactions from FY 2019 through FY 2021 and determine whether any vendors violated the terms of their contracts by adding items or increasing prices without approval. If so, contracting officials should determine whether any actions against the vendor, such as catalog removal or recoupment of excess costs, are appropriate and carry out these actions. The Director should provide us the results of the review. (*Recommendation A.1.a*) **Open: DLA officials identified approximately 287,000 transactions to review and are developing the methodology necessary to perform the review. Days Open:** 560

b. Initiate action to recover the $367,081 in questioned costs from five FedMall vendors that violated contract terms by increasing prices without approval. (*Recommendation A.1.b*) **Open: DLA contracting officials issued demand letters to the five FedMall vendors in August 2022. DLA officials have not yet reported on the outcome of the demand letters, including the amount of any funds recovered. Days Open:** 560

c. Direct contracting officials to prioritize competitive price comparisons, particularly among existing FedMall vendors, in their price analysis and price reasonableness determinations to comply with FAR Subpart 15.404-1(b)(3), "Price Analysis." (*Recommendation A.1.c*) **Closed**

We recommended that the Director of the DLA direct the FedMall Program Manager to update FedMall user guides and training to instruct ordering activities to compare prices from three vendors and place orders with the vendor that provides the best value. (*Recommendation A.2*) **Closed**

Evaluation of DoD Contracting Officer Actions on DoD Contracts Terminated for Convenience (DODIG-2023-069), May 9, 2023

Objective

The evaluation determined the extent to which DoD contracting officers complied with the FAR, DoD policy, and DoD Component policy when they settled contractor proposed termination costs on DoD contracts that were terminated for convenience.

Finding A

For 17 (27 percent) of the 63 terminations the evaluation selected, DoD contracting officers did not document adequate rationale for reimbursing a total of $22.3 million in contractor proposed termination costs, in noncompliance with FAR Part 49, "Termination of Contracts," and DoD Instruction 7640.02, "Policy for Follow-Up on Contract Audit Reports." This occurred because DoD contracting officers did not:

- maintain adequate documentation in the case file to support their settlement of the proposed costs;
- obtain a required legal review;
- obtain management approval of the final negotiation memorandum;
- receive related training on the FAR and DoD Instruction 7640.02; or
- request an audit of the contractor's termination proposal from the DCAA when required.

As a result, DoD contracting officers may have inappropriately reimbursed DoD contractors up to $22.3 million in unallowable termination costs.

Finding B

For 38 (60 percent) of the 63 terminations the evaluation reviewed, the DoD contracting officers requested a DCAA audit of the DoD contractor's termination proposal and were required to comply with DoD Instruction 7640.02. For the remaining 25 (40 percent) of the 63 terminations, the DoD contracting officers were not required to comply with DoD Instruction 7640.02 because they did not request an audit.

Of the 38 terminations, DoD contracting officers for 21 terminations did not comply with DoD Instruction 7640.02 by not completing the disposition of the audit report findings within 12 months or not documenting the actions they took to achieve settlements monthly when they did not settle or disposition the report within 12 months. Furthermore, for 28 of the 38 terminations, the DoD contracting officers did not maintain accurate CAFU system records in accordance with DoD Instruction 7640.02.

The DoD contracting officers did not maintain accurate CAFU system records because:

- the Army, Navy, and Air Force lacked CAFU-related policies and procedures;
- DoD contracting officers did not receive training on entering and maintaining accurate CAFU system records; and
- four Army and Air Force contracting officers were not provided access to the CAFU system.

The untimely settlement of audit findings can result in the delayed recovery of unallowable costs due to the Government. The data inaccuracies in the CAFU system diminishes the reliability of it as a tool for management to monitor, and for DoD contracting officers to track, the status of actions taken in response to contract audit reports.

Finding C

For 45 (71 percent) of the 63 terminations, DoD contracting officers did not perform one or more important duties after issuing the notice of termination in accordance with FAR Part 49, and FAR 15.406, "Documentation." In total, the evaluation found 75 instances among the 45 terminations where DoD contracting officers did not perform an important duty. Specifically, DoD contracting officers for:

- 33 terminations did not estimate funds required to settle the termination or recommend the release of excess funds of $75 million in accordance with FAR 49.105-2, "Release of Excess Funds;"
- 8 terminations did not determine the accuracy of the Government property account in accordance with FAR 49.109-3, "Government Property;"
- 22 terminations did not document prenegotiation objectives in accordance with FAR 15.406-1(b), "Prenegotiation Objectives;" and
- 12 terminations did not provide the DCAA with a copy of the final negotiation memorandum in accordance with FAR 15.406-3, "Documenting the Negotiation," and DoD Instruction 7640.02.

This occurred because:

- DoD contracting officers did not receive training on FAR 49.105, "Duties of Termination Contracting Officer After Issuance of Notice of Termination;"
- the previous DCMA Termination Group Director did not enforce the requirement to document prenegotiation objectives in accordance with FAR 15.406-1(b) and DCMA Manual 2501-06, "Terminations;" and
- DCMA Manual 2501-06, which addresses the release of excess funds, is unclear.

As a result, $75 million in excess funds were not available for use on other DoD contracts and DoD contracting officers may not have settled the termination for a fair and reasonable price because they did not verify the accuracy of the Government property account.

Recommendations

We recommended that the DCMA Director:

a. Review the contracting officers' decision to reimburse the contractors $9.2 million in termination costs and, based on the results of the review, take the necessary steps to recover any unallowable costs reimbursed to contractors. (*Recommendation A.1.a*) **Open: The DCMA Director agreed to review the DoD contracting officers' decisions identified in the report to determine whether they were accurate and reasonable. If the DCMA determines any of the termination costs were unallowable, the DCMA will request the contractor to voluntarily refund the Government for payments made for those costs. Days Open:** 358

b. Develop and implement a requirement to provide periodic training to termination contracting officers in the following areas:

   1. Preparing final negotiation memorandums in accordance with FAR 49.110.
   2. Maintaining adequate termination case files in accordance with FAR 49.105-3.
   3. Documenting adequate rationale for disagreeing with DCAA findings and recommendations in final negotiation memorandums in accordance with DoD Instruction 7640.02 and DCMA Manual 2201-04.
   4. Obtaining and documenting legal review and management approval of prenegotiation objectives and final negotiation memorandum in accordance with DCMA Manual 2201-04 and DCMA Manual 2501-06. (R*ecommendation A.1.b*) **Closed**

We recommended that the Deputy Assistant Secretary of the Army (Procurement):

a. Review the contracting officers' decision to reimburse the contractors $6.8 million in termination costs and, based on the results of the review, take the necessary steps to recover any unallowable costs reimbursed to contractors. (*Recommendation A.2.a*) **Open: The Army stated that the contracting officer reviewed the termination proposal, and it was determined that the contract was incorrectly subject to the threshold for obtaining cost and pricing data. The Army stated the contracting officer reached out to the DCMA and DCAA for support but neither office was able to assist in the review. However, the Army implemented corrective actions requiring training that would help contracting officers obtain resources and regulatory references and established a working group that syncs with both the DCMA and DCAA to support ongoing audit resolution and disposition. In addition, the Office of the Deputy Assistant Secretary of the Army (Procurement) stated that four of five contracts with termination costs in question have since been closed, which prevented the Army from recovering potentially unallowable payments. The Army did not identify any material missteps by the contracting office for the fifth contract. Days Open:** 358

b. Develop and implement a requirement to provide periodic training to termination contracting officers in the following areas.

   1. Preparing final negotiation memorandums in accordance with FAR 49.110.
   2. Maintaining adequate termination case files in accordance with FAR 49.105-3.
   3. Documenting adequate rationale for disagreeing with DCAA findings and recommendations in final negotiation memorandums in accordance with DoD Instruction 7640.02.
   4. Obtaining and documenting legal review and management approval of prenegotiation objectives and final negotiation memorandums in accordance with Army FAR Supplement 5115.406-1. (*Recommendation A.2.b*) **Closed**

c. Issue guidance covering the FAR 49.107 threshold for requesting an audit of contractor termination proposals. (*Recommendation A.2.c*) **Closed**

d. Direct the U.S. Army Corps of Engineers, Sacramento District, to develop procedures that implement the requirement in Army FAR Supplement 5115.406-1 for obtaining management approval of prenegotiation objectives. (R*ecommendation A.2.d*) **Closed**

We recommended that the Deputy Assistant Secretary of the Air Force (Contracting):

a. Review the DoD contracting officers' decision to reimburse contractors $6.3 million in termination costs and, based on the results of the review, take the necessary steps to recover any unallowable costs reimbursed to contractors. (*Recommendation A.3.a*) **Closed**

b. Develop and implement a requirement to provide periodic training to termination contracting officers on preparing final negotiation memorandums in accordance with FAR 49.110 and maintaining adequate termination case files in accordance with FAR 49.105-3. (*Recommendation A.3.b*) **Closed**

c. Issue guidance on the FAR 49.107 threshold requiring an audit of contractor termination proposals. *(Recommendation A.3.c*) **Closed**

We recommended that the DCMA Director develop and implement a requirement to provide periodic training on the DoD Instruction 7640.02 reporting requirements to contracting officials involved in CAFU system reporting. The training should emphasize the DoD contracting officer's responsibility to maintain CAFU records; enter accurate data in the CAFU system data fields, including the Questioned Costs Sustained, Resolution Date, Disposition Date, and Status data fields; and emphasize the importance of timely disposition of audit reports within 12 months of the audit report date. (*Recommendations B.1.a, B.1.b and B.1.c*) **Open: The DCMA established a requirement for the DCMA Termination Group to take Defense Acquisition University training every 2 years and new employees are required to complete the training within 6 months of onboarding. The requirement also states that the DCMA Termination Group will complete the first CAFU training by July 31, 2023. However, the DCMA has not provided evidence that they have a signed training plan or policy and procedures that incorporates the requirement for periodic training. Days Open:** 358

We recommended that the Deputy Assistant Secretary of the Army (Procurement) to:

a. Develop and implement a requirement to provide periodic training on the DoD Instruction 7640.02 reporting requirements to contracting officials involved in CAFU system reporting. The training should emphasize the DoD contracting officer's responsibility to maintain CAFU records; enter accurate data in the CAFU system data fields, including the Questioned Costs Sustained, Resolution Date, Disposition Date, and Status data fields; and emphasize the importance of timely disposition of audit reports within 12 months of the audit report date. (*Recommendation B.2.a*) **Closed**

b. Provide access to the CAFU system to DoD contracting officers and management. (*Recommendation B.2.b*) **Closed**

c. Develop and implement procedures covering the record-keeping requirements in DoD Instruction 7640.02, "Reporting Requirements for Reportable Contract Audit Reports," and the 12-month disposition requirement in DoD Instruction 7640.02, "Disposition of Reportable Contract Audit Reports." (*Recommendation B.2.c*) **Closed**

We recommended that the Deputy Assistant Secretary of the Navy (Procurement) to:

a. Develop and implement a requirement to provide periodic training on the DoD Instruction 7640.02 reporting requirements to contracting officials involved in CAFU system reporting. The training should emphasize the DoD contracting officer's responsibility to maintain CAFU records; enter accurate data in the CAFU system data fields, including the Questioned Costs Sustained, Resolution Date, Disposition Date, and Status data fields; and emphasize the importance of timely disposition of audit reports within 12 months of the audit report date. (*Recommendation B.3.a*) **Open: The Navy indicated that the DCMA eTools CAFU system was scheduled to migrate to a module in the Procurement Integrated Enterprise Environment. The Navy will begin to incorporate CAFU in its biannual interactive training to address the issues on navigating through the DCMA CAFU eTools system once it is active to ensure accurate data is reported and audits are dispositioned and resolved in accordance with DoD Instruction 7640.02. Days Open:** 358

b. Develop and implement procedures covering the record-keeping requirements in DoD Instruction 7640.02, "Reporting Requirements for Reportable Contract Audit Reports." (*Recommendation B.3.b*) **Open: The Deputy Assistant Secretary of the Navy (Procurement) will continue to demonstrate commitment to overseeing each Head of the Contracting Activity's compliance with the DoD Instruction 7640.02, including identifying any unique challenges and skills gaps in resolving and dispositioning contract audit reports, beginning in FY 2024. The Procurement Performance Management Assessment Program team will review and examine all relevant local policies related to CAFU; assess the extent the contracting organization fully implements relevant policies; develop or deploy procedures; manage and monitor for compliance through self-assessment activities; track corrective action plans; and implement lessons learned to ensure compliance throughout the organization. Days Open:** 358

We recommended that the Deputy Assistant Secretary of the Air Force (Contracting) to:

a. Develop and implement a requirement to provide periodic training on the DoD Instruction 7640.02 reporting requirements to contracting officials involved in CAFU system reporting. The training should emphasize the DoD contracting officer's responsibility to maintain CAFU records; enter accurate data in the CAFU system data fields, including the Questioned Costs Sustained, Resolution Date, Disposition Date, and Status data fields; and emphasize the importance of timely dispositioning of audit reports within 12 months of the audit report date. (*Recommendation B.4.a*) **Closed**

b. Provide access to the CAFU system to DoD contracting officers and management. (*Recommendation B.4.b*) **Closed**

c. Develop and implement procedures covering the recording keeping requirements in DoD Instruction 7640.02, "Reporting Requirements for Reportable Contract Audit Reports" and the 12-month disposition requirement in DoD Instruction 7640.02, "Disposition of Reportable Contract Audit Reports." (*Recommendation B.4.c*) **Closed**

We recommended that the DCMA Director:

a. Develop and implement a requirement to provide periodic training to termination contracting officers that covers the requirement to:

    1. Estimate funds required to settle the termination and recommend the release of excess funds.

    2. Determine the accuracy of Government property accounts.

    3. Document prenegotiation objectives in accordance with FAR 15.406-1(b).

    4. Provide a copy of the final negotiation memorandum to the DCAA. (*Recommendation C.1.a*) **Closed**

b. Revise DCMA Manual 2501-06 to require that termination contracting officers estimate the funds required for a termination when contractors do not provide an estimate. (*Recommendation C.1.b*) **Open: The DCMA is updating DCMA Manual 2501-06, Termination for the Convenience of the Government, to clarify that the termination contracting officer is responsible for estimating the funds required to settle a terminated contract. In addition, the update will include the procedures termination contracting officers must perform when contractors do not provide an estimate. Days Open:** 358

c. Provide final negotiation memorandums to the DCAA for nine audit reports. (*Recommendation C.1.c*) **Open: The DCMA sent five of nine final negotiation memorandums to the DCAA in February 2023. The DCMA Director stated that the Army Contracting Command settled one of the nine contracts and plans to send the remaining three final negotiation memorandums to the DCAA. Days Open:** 358

We recommended that the Deputy Assistant Secretary of the Army (Procurement):

a. Develop and implement a requirement to provide periodic training to termination contracting officers that covers the requirements to estimate funds required to settle the termination and recommend the release of excess funds, as well as provide a copy of the final negotiation memorandum to the DCAA. (*Recommendation C.2.a*) **Closed**

b. Provide final negotiation memorandums to the DCAA for two audit reports. (*Recommendation C.2.b*) **Closed**

We recommended that the Deputy Assistant Secretary of the Navy (Procurement), develop and implement a requirement to provide periodic training to termination contracting officers that covers the requirement to estimate funds needed for settling the termination and recommend the release of excess funds and document prenegotiation objectives in accordance with FAR 15.406-1(b). (*Recommendations C.3.a and C.3.b*) **Open: The Navy has determined that there are two Continuous Learning training modules available on Defense Acquisition University online that adequately meet the DoD OIG's recommended training requirements and will remind the contracting activities that this training is available to all Navy contracting officers. Furthermore, the Navy will require all termination contracting officers complete the training modules within 36 months before performing termination contracting officer duties. These training requirements will serve as an accountability initiative to ensure compliance with DoD Instruction 7640.02. However, the Navy has not provided evidence that Defense Acquisition University courses are required within 36 months before performing termination contracting officer duties. Days Open:** 358

We recommended that the Deputy Assistant Secretary of the Air Force (Contracting) develop and implement a requirement to provide periodic training to termination contracting officers that covers the requirement to estimate funds needed for settling the termination and recommend the release of excess funds. (*Recommendation C.4*) **Closed**

Acronyms and Abbreviations

AP1	Ammonium Perchlorate, Grade 1
CAFU	Contract Audit Follow-Up
COVID	Coronavirus Disease
CAS	Cost Accounting Standard
DCAA	Defense Contract Audit Agency
DCMA	Defense Contract Management Agency
DFARS	Defense Federal Acquisition Regulation Supplement
DHA	Defense Health Agency
DLA	Defense Logistics Agency
DPC	Defense Pricing and Contracting
DACO	Divisional Administrative Contracting Officer
FAR	Federal Acquisition Regulation
LOGCAP	Logistics Civil Augmentation Program
NAVFAC	Naval Facilities Engineering Command
PMB	Potential Monetary Benefits
TINA	Truth in Negotiations Act

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703.604.8324

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