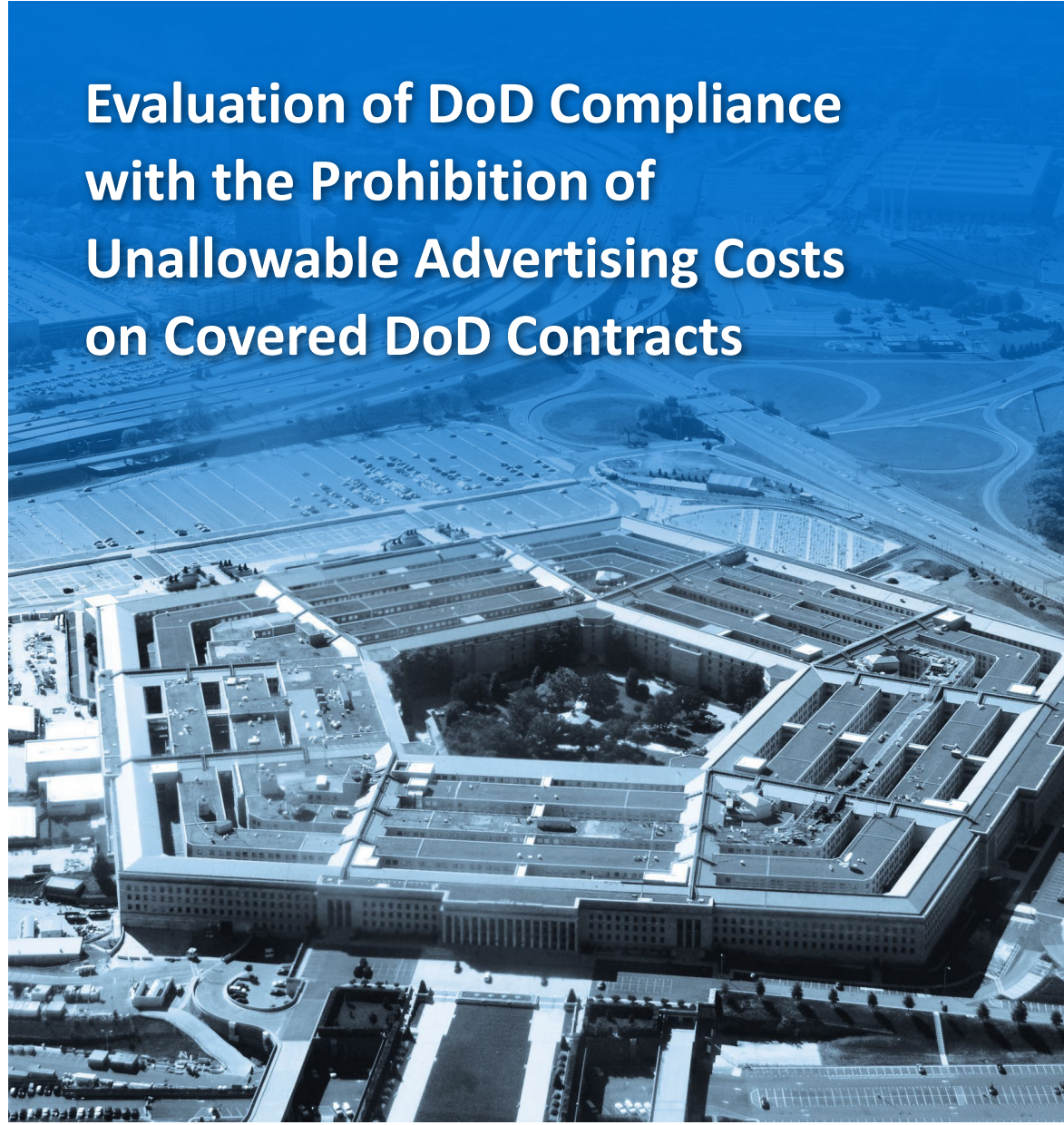




# INSPECTOR GENERAL

*U.S. Department of Defense*

JUNE 30, 2025



## Evaluation of DoD Compliance with the Prohibition of Unallowable Advertising Costs on Covered DoD Contracts

INDEPENDENCE ★ INTEGRITY ★ EXCELLENCE ★ TRANSPARENCY







# Results in Brief

## *Evaluation of DoD Compliance with the Prohibition of Unallowable Advertising Costs on Covered DoD Contracts*

**June 30, 2025**

### **Objective**

The objective of this evaluation was to determine the extent to which the DoD reimbursed contractors for unallowable advertising costs on covered DoD Contracts.

The explanatory statement for Division C of the Consolidated Appropriations Act, 2023, directed the DoD Office of Inspector General to submit a report on contractor compliance with the advertising cost criteria in 10 U.S.C. § 3744(a)(8).

### **Background**

We evaluated a nonstatistical sample of nine incurred cost audits the Defense Contract Audit Agency performed. We selected our sample from audits of costs incurred from FY 2018 through FY 2022 for the

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

five largest DoD contractors. While most advertising costs are unallowable, the Federal Acquisition Regulation specifies exceptions for which the DoD can reimburse the contractor.

### **Findings**

For the sample of nine incurred cost audits we reviewed, we determined that the DoD did not reimburse contractors for unallowable advertising costs.

This report includes no recommendations.





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

June 30, 2025

MEMORANDUM FOR DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY  
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY

SUBJECT: Evaluation of DoD Compliance with the Prohibition of Unallowable Advertising  
Costs on Covered DoD Contracts (Report No. DODIG-2025-122)

This final report provides the results of the DoD Office of Inspector General's evaluation. We considered management's comments on a discussion draft copy of this report when preparing this final report. We did not make any recommendations; therefore, no management comments are required.

We appreciate the cooperation and assistance received during the evaluation. If you have any questions, please contact [REDACTED]

A handwritten signature in black ink, appearing to read "Randolph R. Stone", is positioned above the printed name.

Randolph R. Stone  
Assistance Inspector General for Evaluations  
Space, Intelligence, Engineering, and Oversight

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# Introduction

## Objective

The objective of this evaluation was to determine the extent to which the DoD reimbursed contractors for unallowable advertising costs on covered DoD contracts.

The explanatory statement for Division C of the Consolidated Appropriations Act, 2023, states, “The agreement directs the Office of Inspector General to submit a report on covered contractors’ compliance with the prohibition of advertising contained in 10 U.S.C. § 3744(a)(8) and provides no further direction under this heading.”<sup>1</sup>

## Background

We evaluated a nonstatistical sample of nine incurred cost audits of costs DoD contractors incurred from FY 2018 through FY 2022 for the five largest DoD contractors. We selected our sample from audits that the Defense Contract Audit Agency (DCAA): (1) completed with questioned advertising costs disallowed at a low rate by the Defense Contract Management Agency (DCMA) or (2) completed with no questioned costs, including advertising costs.<sup>2</sup> In this report, we refer to the five DoD contractors as Contractor A, B, C, D, and E.

### ***The DCAA Performs Audits of DoD Contractors***

The DCAA is responsible for performing audits of DoD contractors. In accordance with DoD Directive 5105.36, “Defense Contract Audit Agency,” the DCAA operates under the authority, direction, and control of the Under Secretary of Defense (Comptroller)/Chief Financial Officer.<sup>3</sup> The DCAA performs several types of contract audits, including incurred cost audits, to assess the allowability of a contractor’s annual costs on DoD contracts. Federal Acquisition Regulation (FAR) subsection 52.216-7d(2)(i) requires these DoD contractors to submit an incurred cost proposal to the Government each fiscal year.<sup>4</sup>

<sup>1</sup> Consolidated Appropriations Act, 2023, Pub. L. No. 117–328, “Division C—Department of Defense Appropriations Act, 2023,” “Division C—Explanatory Statement,” “Office of the Inspector General Audits and Reports.”

10 U.S.C. § 3744(a)(8) states that costs of advertising designed to promote the contractor or its products are not allowable. However, FAR 31.205-1(d), “Public Relations and Advertising Costs,” states that allowable advertising cost are those that are: (1) specifically required by contract, (2) to promote sales of products normally sold to the Government, or (3) allowable recruitment costs.

41 U.S.C. § 4301(2) defines a covered contract as any contract in excess of \$500,000, except fixed-price contracts without cost incentives or firm-fixed-price contracts for the purchase of commercial products or commercial services.

<sup>2</sup> For the nine incurred costs audits we selected, the DCMA disallowed 33 percent of questioned advertising costs, allowing the DoD to reimburse the contractor for 67 percent of questioned costs.

<sup>3</sup> DoD Directive 5105.36, “Defense Contract Audit Agency,” December 1, 2021.

<sup>4</sup> FAR Part 52, “Solicitation Provisions and Contract Clauses,” Subpart 52.2, “Text of Provisions and Clauses,” Section 52.216, “[Reserved],” Subsection 216-7, “Allowable Cost and Payment.”

### ***The DCMA Takes Action on DCAA Incurred Cost Audits***

The DCMA is responsible for taking action on DCAA incurred cost audits. In accordance with DoD Directive 5105.64, “Defense Contract Management Agency,” the DCMA functions under the authority, direction, and control of the Under Secretary of Defense for Acquisition and Sustainment.<sup>5</sup> The DCMA performs contract administration services for the DoD. After the DCAA issues an audit report, the DCMA considers the audit results. If necessary, the DCMA contacts the DCAA regarding its concerns with the audit results. If the DoD contractor provides additional documentation, the DCMA obtains a follow-up opinion from the DCAA. The DCMA negotiates with the DoD contractor and is responsible for ensuring that the DoD does not reimburse the DoD contractor for unallowable costs. If the DoD contractor proposes expressly unallowable costs, such as advertising costs designed to promote the contractor or its product, the DCMA assesses any penalties and interest.<sup>6</sup> Lastly, the DCMA establishes the final determination in a signed negotiation memorandum.

### ***The DoD Completed and Settled 56 Audits for the Top Five DoD Contractors for FY 2018 Through FY 2022 Incurred Costs***

As of April 23, 2024, the DoD completed and settled 56 audits for the top five DoD contractors for FY 2018 through FY 2022 incurred costs.<sup>7</sup> In total, the DCAA examined \$68.7 billion and questioned \$548.7 million. The DCMA disallowed \$150.2 million (27 percent) of the \$548.7 million in questioned costs. Table 1 summarizes the DCAA’s examined and questioned costs and the DCMA’s disallowed costs for settled incurred cost audits for the top five DoD contractors for FY 2018 through FY 2022 incurred costs.

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<sup>5</sup> DoD Directive 5105.64, “Defense Contract Management Agency,” January 10, 2013 (Incorporating Change 1, March 2, 2023). Office of the Under Secretary of Defense Acquisition and Sustainment Organization Chart, <https://www.acq.osd.mil/resources/acq/docs/AS-org-chart.pdf>, accessed April 28, 2025.

<sup>6</sup> FAR 31.001, “Definitions,” describes expressly unallowable costs as costs specifically named and stated to be unallowable under an applicable law, regulation, or contract. Furthermore, according to FAR subsections 31.201-6 (a) and (b), “Accounting for Unallowable Costs,” the contracting officer determines that a cost is expressly unallowable if the parties mutually agree or if the contracting officer stated that the cost was unallowable in a written decision.

<sup>7</sup> An audit is considered settled when the contracting officer prepared a post negotiation memorandum, negotiated all audit issues with the contractor, and completed required contract actions.



*Table 1. The Costs Examined, Questioned, and Disallowed with Disallowed Rate (by Contractor)*

Contractor	Audit Count	DCAA		DCMA	
		Costs Examined (in Thousands)	Costs Questioned (in Thousands)	Costs Disallowed (in Thousands)	Disallowed Rate (Percent)
A	11	\$14,250,002	\$173,768	\$45,149	26
B	8	36,611,659	60,269	24,518	41
C	7	884,150	2,810	1,827	65
D	10	3,270,790	55,317	12,449	23
E	20	13,699,949	256,514	66,280	26
<b>Total</b>	<b>56</b>	<b>\$68,716,550</b>	<b>\$548,678</b>	<b>\$150,223</b>	<b>27</b>

Source: The DoD OIG, based on data from the DCAA and DCMA.

### ***Advertising Costs Designed to Promote the Contractor or Its Products Are Not Allowable***

According to 10 U.S.C. § 3744(a)(8), advertising costs designed to promote the contractor or its products are not allowable. In addition, FAR subsection 31.205-1, “Public Relations and Advertising Costs,” describes the types of advertising costs that are allowable and unallowable.<sup>8</sup> For example, FAR subsection 31.205-1(f)(1) states that unallowable advertising costs include costs “to promote the sale of products or services by stimulating interest in a product or product line” with limited exceptions. The DCAA may identify unallowable advertising costs during incurred cost audits. Appendix B identifies the nine incurred cost audits we selected, DCAA costs examined, DCAA advertising costs questioned, DCMA advertising costs disallowed, and DCMA disallowed rate by contractor.<sup>9</sup>

<sup>8</sup> FAR Part 31, “Contract Cost Principles and Procedures,” Subpart 31.2, “Contracts with Commercial Organizations,” Section 205, “Selected Costs,” Subsection 205-1, “Public Relations and Advertising Costs.”

<sup>9</sup> The disallowed rate represents the percentage of costs the DCAA questioned that the DCMA disallowed.

## Finding

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### **The DoD Did Not Reimburse Contractors for Unallowable Advertising Costs**

For the sample of nine audits we reviewed, we determined that the DoD did not reimburse contractors for unallowable advertising costs on covered DoD contracts. Specifically, from May 26, 2020, through June 30, 2023, the DCAA questioned \$14.5 million as unallowable advertising costs on Government contracts for the top five DoD contractors. Of the \$14.5 million in questioned advertising costs, the DCMA disallowed \$4.8 million (33 percent) and allowed the DoD to reimburse the contractor for \$9.7 million of questioned costs. The DCAA adequately planned and executed the nine audits of the incurred cost proposals to reasonably detect and question unallowable advertising costs. In addition, the DCMA took adequate actions on the DCAA audit report findings by reviewing supporting documentation to validate the DCAA's questioned advertising costs and disallowing unallowable advertising costs.

### **The DoD Performed Adequate Procedures to Question and Disallow Unallowable Advertising Costs**

For the sample of nine incurred cost audits we reviewed, the DoD performed adequate procedures to question and disallow unallowable advertising costs on covered DoD contracts. Appendix B identifies selected audits, DCAA questioned costs, and DCMA disallowed costs by contractor.

### ***The DCAA Questioned \$14.5 Million in Unallowable Advertising Costs***

From May 26, 2020, through June 30, 2023, for the nine audits we reviewed, the DCAA questioned \$14.5 million as unallowable advertising costs on Government contracts for the top five DoD contractors. For each of the nine audits we reviewed, the DCAA completed the following procedures.

- Held meetings with the contractors to understand the incurred cost proposal
- Reviewed the contractors' incurred cost proposals for adequacy
- Performed a risk assessment to identify the risk areas and documented their understanding of the internal controls for the risk areas they identified

- Developed a sample plan for testing to include high risk and sensitive accounts
- Examined the selected transactions to determine compliance with the FAR
- Provided the results of the incurred cost audits to the contractor and DCMA contracting officers for negotiations

In addition, the DCAA identified unallowable advertising costs in accounts including labor, outside services, and professional services. The DCAA auditors conducted labor interviews and reviewed documents including work agreements, invoices, and purchase orders. As a result, the DCAA questioned advertising costs for unallowable activities including trade shows and sponsorships.<sup>10</sup>

For example, in the audit report ending in 2018I10100001, the DCAA questioned \$80,885 of the proposed indirect labor costs in accordance with FAR subsection 31.205-1. The DCAA interviewed two employees who stated that they attended trade shows. The DCAA determined that 14 of 47 tradeshow attendees by the two employees interviewed were not allowable to DoD contracts; therefore, the DCAA questioned the labor costs for the time spent attending the trade shows for the two employees.

In another example, in the audit report ending in 2018T10100001, the DCAA questioned \$17,524 of the proposed labor costs in accordance with FAR subsection 31.205-1. The DCAA interviewed one employee who stated that they spent 20 percent of their time on sponsorships. As a result, the DCAA questioned 20 percent of labor costs for the time spent on sponsorships for the employee.

### ***The DCMA Disallowed \$4.8 Million in DCAA Questioned Advertising Costs***

Of the \$14.5 million in questioned advertising costs, the DCMA disallowed \$4.8 million (33 percent). Of the nine audits that we reviewed, the DCAA questioned costs in four audits. As the designated contract administration office, for the four audits with questioned costs, the DCMA reviewed the DCAA reports and workpapers to settle the questioned advertising costs. Specifically, the DCMA held meetings with the DCAA to understand the questioned costs and obtained supporting documentation, as applicable. In addition, the DCMA requested legal assistance from its counsel, as needed. Lastly, the DCMA documented its negotiation position in a signed negotiation memorandum, including any supporting

<sup>10</sup> A trade show is a large exposition to promote awareness and sales of new products in an industry. A sponsorship is an arrangement under which a company helps fund a radio or television program, a convention or other event, or a charitable organization in return for an opportunity to advertise.

documentation used as the basis of its conclusions. The DCMA took adequate actions on the DCAA audit report findings by obtaining evidence to determine whether the DCMA should disallow the questioned unallowable advertising costs. Therefore, we are not making any recommendations.

For example, in the audit report ending in 2018I10100001, the DCAA questioned \$5.1 million in advertising costs. The DCMA met with the DCAA to discuss findings and obtain copies of invoices, interview questionnaires, and applicable workpapers the DCAA used during the audit. The DCMA reviewed contractor invoices and conducted its own research to determine if the questioned costs should be disallowed. The DCMA used the DCAA analysis to recalculate the DCAA questioned costs using the results of DCAA interviews and unallowable labor costs the contractor accounted for. Lastly, the DCMA consulted with legal counsel on the questioned advertising costs. Based on the DCMA's additional procedures to validate the DCAA's audit results, the DCMA disallowed \$1.9 million of the \$5.1 million questioned costs, and allowed the remaining \$3.2 million.

## Appendix A

### Scope and Methodology

We conducted this evaluation from April 2024 through May 2025 in accordance with the “Quality Standards for Inspection and Evaluation,” published in December 2020 by the Council of the Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that we meet the objectives and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusions, and recommendations. We believe that the evidence we obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings and conclusions.

#### ***We Evaluated a Nonstatistical Sample of Nine Incurred Cost Audits***

We selected a nonstatistical sample of nine incurred cost audits, valued at \$10.1 billion, from a population of 590 audits, valued at \$401.2 billion.

We used the following rationale and criteria in selecting our sample. For the top five DoD contractors, we selected audits of costs incurred from FY 2018 through FY 2022 that the DCAA:

- completed with questioned advertising costs disallowed at a low rate by the DCMA or
- completed with no questioned costs, including advertising costs.

Our results are based on a nonstatistical sampling methodology and, therefore, cannot be used to calculate estimates (projections) for the population. See Appendix B for a list of the nine incurred cost audits we selected.

To accomplish our evaluation objective, for the sample of nine audits, we:

- reviewed the DCAA audit plan to determine if the DCAA adequately planned an audit to reasonably detect unallowable costs;
- reviewed the DCAA audit findings, recommendations, and supporting records to determine the DCAA's basis for questioning the advertising costs;
- interviewed the DCAA auditors as needed to clarify and confirm our understanding of their findings;
- determined whether the DCAA auditors complied with applicable laws, acquisition regulations, and DoD and DCAA policies;
- reviewed the DCMA contracting officer's negotiation memorandum and any other contract files to understand their negotiation position;



- interviewed the DCMA contracting officer as necessary to clarify and confirm our understanding of their negotiation position; and
- determined whether the DCMA contracting officer actions complied with applicable laws, acquisition regulations, and DoD and DCMA policies.

## ***Criteria***

We reviewed criteria from Federal laws and regulations and DoD directives, instructions, and manuals. Also, we reviewed criteria from DoD Component policies the DCAA and DCMA established. The following criteria were most relevant to our evaluation and conclusions in this report.

## ***Laws and Regulations***

- Joint Explanatory Statement to the Consolidated Appropriations Act of 2023
- 41 U.S.C. § 4301, “Allowable Costs”
- 10 U.S.C. § 3744, “Specific Costs Not Allowable”
- FAR Part 1, “Federal Acquisition Regulations System,” Subpart 1.1, “Purpose, Authority, Issuance”
- FAR Part 31, “Contract Cost Principles and Procedures”
- FAR Part 31, “Contract Cost Principles and Procedures,” Subpart 31.2, “Contracts with Commercial Organizations,” Section 205, “Selected Costs,” Subsection 205-1, “Public Relations and Advertising Costs”
- FAR Subsection 31.205-34, “Recruitment Costs”
- FAR Subsection 31.205-38, “Selling Costs”
- FAR Part 42, “Contract Administration and Audit Services,” Subpart 42.7, “Indirect Cost Rates,” Section 42.705, “Final Indirect Costs Rates”
- FAR Section 42.709, “Penalties for Unallowable Cost”
- FAR Part 52, “Solicitation Provisions and Contract Clauses”
- Cost Accounting Standards Part 9904, “Cost Accounting Standards”

## ***DoD Directives, Instructions, Manuals, and Policy Memorandums***

- DoD Instruction 7050.03, “Office of the Inspector General of the Department of Defense Access to Records and Information,” March 22, 2013 (Incorporating Change 1, April 24, 2020)
- DoD Instruction 7640.02, “Policy for Follow-up on Contract Audit Reports,” April 15, 2015
- DoD Directive 5106.01, “Inspector General of the Department of Defense (IG DoD),” April 20, 2012 (Incorporating Change 2, May 29, 2020)

- DoD Directive 5105.36, “Defense Contract Audit Agency,” December 1, 2021
- DoD Directive 5105.64, “Defense Contract Management Agency,” January 10, 2013 (Incorporating Change 1, March 2, 2023)

### ***DCAA Instructions, Guidance, and Manuals***

- DCAA Activity Code 10100, “Audit Program: Post Year End Incurred Cost Audit–Large,” Version 11.0, February 2024
- DCAA Selected Areas of Cost Guidebook, “Chapter 1–Advertising and Public Relations,” September 7, 2016
- DCAA Manual 7640.1, “DCAA Contract Audit Manual,” Chapter 4, “General Audit Requirements,” March 2024
- DCAA Manual 7640.1, Chapter 6, “Incurred Cost Procedures,” December 2023
- DCAA Manual 7640.1, Chapter 10, “Report Writing,” June 2024
- DCAA Manual 7640.1, Chapter 2, “Auditing Standards,” June 2024

### ***DCMA Instructions, Guidance, and Manuals***

- DCMA Manual 2201-03, “Final Indirect Cost Rates,” December 20, 2021
- DCMA Manual 2501-10, “Contract Debts,” January 3, 2022
- DCMA Manual 2201-04, “Contract Audit Follow-up,” November 25, 2022

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

We used computer-processed data from the DCAA, which listed incurred cost audits completed for the top five DoD contractors for FY 2018 through FY 2022. We verified that the DCAA prepared the list from data in the DCAA Management Information System. We tested the validity of the list by tracing details of the selected reports to source documents. We further validated the completeness and accuracy of each audit package. Therefore, we determined that the computer-processed data from the DCAA was reliable.

We used computer-processed data from the DCMA, which listed incurred cost audits settled for the top five DoD contractors for FY 2018 through FY 2022. We verified that the DCMA prepared the list from data in the Contract Audit Follow-up system. As a result, we determined that the computer-processed data from the DCMA was reliable.

## Prior Coverage

During the last 5 years, the DoD Office of Inspector General (DoD OIG) issued four reports addressing DCAA audits with questioned costs. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

### **DoD OIG**

Report No. DODIG-2025-062, “Evaluation of Incurred Cost Audits Performed by Non-Federal Auditors for Compliance with Government Auditing Standards,” January 21, 2025

The DoD OIG evaluated whether non-Federal auditors complied with Government Auditing Standards and other professional standards when they performed audits of DoD contractor-incurred costs. For 11 of 16 audits, the DoD OIG identified noncompliances with Government Auditing Standards.

Report No. DODIG-2023-069, “Evaluation of DoD Contracting Officer Actions on DoD Contracts Terminated for Convenience,” May 9, 2023

The DoD OIG evaluated the extent to which DoD contracting officers complied with the FAR and DoD and Component policies when they settled contractor-proposed termination costs on DoD contracts that were terminated for convenience. For 17 of 63 terminations, the DoD contracting officers did not document adequate rationale for reimbursing \$22.3 million in proposed termination costs.

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 DoD Contractors,” February 26, 2021

The DoD OIG evaluated the appropriateness of DCMA contracting officer actions on DCAA findings reported in audit reports. For 14 of 30 audits, contracting officers did not address costs the DCAA questioned, which totaled \$97 million.

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

The DoD OIG evaluated the appropriateness of DoD contracting officer actions on DCAA findings reported in incurred cost audit reports with direct costs questioned of at least \$1 million. For 12 of 26 audits, DCMA contracting officers did not comply with DoD Instruction 7640.02 and DCMA policy because they did not settle, or coordinate the settlement of, \$231.5 million in questioned direct costs.

## Appendix B

Table 2 lists the nine DCAA incurred cost audits that we selected for our evaluation, including the audit report number and date, DCAA examined costs, DCAA advertising questioned costs, DCMA advertising disallowed costs, and DCMA disallowed rate by contractor.

*Table 2. DCAA Incurred Cost Audits That We Selected for Our Evaluation*

Contractor	Audit Report Number (Ending in)	Audit Report Date	DCAA		DCMA	
			Costs Examined (in Thousands)	Advertising Costs Questioned (in Thousands)	Advertising Costs Disallowed (in Thousands)	Disallowed Rate (Percent)
A	2018T10100001	6/5/2020	\$2,122,035	\$9,019	\$2,697	29
A	2018I10100001	6/26/2020	348,324	5,067	1,905	37
B	2018K10100002	5/26/2020	4,283,459	392	200	51
C	2018A10100007	8/25/2020	57,062	8	4	50
B	2021K10100002	5/15/2023	308,971	0	0	0
D	2021B10100002	5/25/2023	1,063,630	0	0	0
A	2021E10100001	5/25/2023	833,715	0	0	0
E	2021D10100001	6/30/2023	976,025	0	0	0
C	2021A10100005	6/27/2023	118,643	0	0	0
<b>Total</b>			<b>\$10,111,864</b>	<b>\$14,486</b>	<b>\$4,806</b>	<b>33</b>

Source: The DoD OIG, based on data from the DCAA.

# Acronyms and Abbreviations

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- DCAA** Defense Contract Audit Agency
- DCMA** Defense Contract Management Agency
- FAR** Federal Acquisition Regulation



## **Whistleblower Protection**

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

*Whistleblower Protection safeguards DoD employees against retaliation for protected disclosures that expose possible fraud, waste, and abuse in Government programs. For more information, please visit the Whistleblower webpage at [www.dodig.mil/Components/Administrative-Investigations/Whistleblower-Reprisal-Investigations/Whistleblower-Reprisal/](http://www.dodig.mil/Components/Administrative-Investigations/Whistleblower-Reprisal-Investigations/Whistleblower-Reprisal/) or contact the Whistleblower Protection Coordinator at [Whistleblowerprotectioncoordinator@dodig.mil](mailto:Whistleblowerprotectioncoordinator@dodig.mil)*

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