

February 26, 2004



Acquisition

Sole-Source Awards for Quick
Disconnect Silencers
(D-2004-052)

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Acronyms

FAR	Federal Acquisition Regulation
KAC	Knight Armament Corporation
NAVICP	Naval Inventory Control Point
NSWC	Naval Surface Warfare Center
SOPMOD	Special Operations Peculiar Modification
USSOCOM	United States Special Operations Command



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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ARLINGTON, VIRGINIA 22202-4704

February 26, 2004

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,
TECHNOLOGY, AND LOGISTICS
COMMANDER, U.S. SPECIAL OPERATIONS COMMAND
NAVAL INSPECTOR GENERAL

SUBJECT: Report on Sole-Source Awards for Quick Disconnect Silencers
(Report No. D-2004-052)

We are providing this report for review and comment. We performed the audit in response to a congressional request. We considered management comments on a draft of this report when preparing the final report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. We revised Recommendation 3 to specify that the existing sole-source contract should only be used for an urgent and compelling need until a new competitive contract is in place. We request that the Deputy Assistant Secretary of the Navy (Littoral and Mine Warfare) provide additional comments on Recommendation 1. and revised Recommendation 3. Additional comments should be received by March 26, 2004.

If possible, please send management comments in electronic format (Adobe Acrobat file only) to Audam@dodig.osd.mil. Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Questions should be directed to Mr. Bruce A. Burton at (703) 604-9071 (DSN 664-9071) or Ms. Eleanor A. Wills at (703) 604-8987 (DSN 664-8987). See Appendix E for the report distribution. The team members are listed on the back cover.

By the direction of the Deputy Inspector General for Auditing:

A handwritten signature in black ink, appearing to read "Mary L. Ugone", is written over the typed name.

Mary L. Ugone
Director

Acquisition Management Directorate

Office of the Inspector General of the Department of Defense

Report No. D-2004-052

February 26, 2004

(Project No. D2003AD-0095)

Sole-Source Awards for Quick Disconnect Silencers

Executive Summary

Who Should Read This Report and Why? DoD procurement and contracting personnel involved in acquisition and sustainment planning should read this report. The report discusses the allegations concerning sole-source awards and operational capability of the quick-detach silencer. Officials reading this report will better understand the planning needed to comply with competition requirements under section 2304 of title 10, United States Code. The terms silencer and suppressor are synonymous and here after suppressor will be used in the narrative.

Background. The audit was performed in response to a congressional request concerning allegations about the award process for recent sole-source contracts to Knight Armament Corporation for the quick-detach suppressor. The complaint also raised questions about the accuracy, cost, loudness, and operational suitability of the subject suppressor as compared to the complainant's suppressor.

The suppressor and muzzle brake are part of an accessory kit used by Special Operations Forces on the M4A1 Carbine. The suppressor decreases the M4A1 Carbine flash and sound without significantly changing the point of impact and makes it more difficult to discern the direction of fire. There have been four sole-source contracts for an estimated total value of \$4,396,810, awarded to the Knight Armament Corporation for quick-detach suppressors. In addition, another solicitation was published in January 2003 for a competitive award with an estimated purchase of 22,000 suppressors for the M4A1 Carbine; however, the contract has not been awarded.

Results. We substantiated the portion of the allegation concerning questionable sole-source awards. Naval Surface Warfare Center, Crane Division did not adequately plan procurements for the M4A1 Carbine suppressors to meet future mission requirements. As a result, the Naval Inventory Control Point inappropriately justified the award of sole-source contracts and did not meet the intent of the "Competition in Contracting Act" and section 2304 of title 10, United States Code. In addition, the Naval Inventory Control Point awarded an additional sole-source contract at the same time a competitive solicitation was open. Those awards may not have been in the best interest of the Government. To improve acquisition planning and increase competition, the Naval Surface Warfare Center, Crane Division should establish procedures to ensure acquisition planning is performed in accordance with the Federal Acquisition Regulation, reevaluate whether to continue with the current competitive solicitation or recompute the award, and only place delivery orders on Knight Armament Corporation sole-source contract N00164-03-D-L003, to support compelling urgency. The complainant's concerns about characteristics of the quick-detach suppressor were not substantiated. Quality comparisons of the complainant's suppressor to the subject suppressor were not meaningful because they involved different weapons. See Appendix B for complete details.

Management Comments. The Deputy Assistant Secretary for the Navy (Littoral and Mine Warfare) provided comments for the Navy and generally agreed with the recommendations. Although not required to comment, the U.S. Special Operations Command Deputy Commander and the U.S. Army, Special Operations Command Chief of Staff also provided comments that generally concurred with the recommendations. All three responses agreed that adequate acquisition planning was necessary and should include funding issues. They also agreed that the decision to continue with the competitive solicitation needed to be reevaluated. The Navy and the U.S. Special Operations Command stated that established procedures for planning already exist with funding considered. The Navy further stated that competitive solicitation had been reevaluated and that it was in the best interest of the Government to continue the current solicitation because the new Family of Muzzle Brakes and Suppressors will provide increased capabilities. The Navy and U.S. Special Operations Command non-concurred with the recommendation to refrain from placing orders against the existing sole-source contract. The Navy stated that until a new contract is established, refraining from use of the existing contract could create a suppressor shortage that presents an unacceptable risk to our forces. See the Finding section of the report for a discussion of management comments and the Management Comments section for the complete text of the comments.

Audit Response. Although the Navy and the U.S. Special Operations Command stated that established procedures exist for planning, their comments were not fully responsive. We believe that those procedures were not used in actual practice for the sole-source awards that we reviewed. The 4 sole-source awards were made over a period of less than 10 months at an estimated value of approximately \$4.4 million and were justified based on urgent need. There was a known requirement for suppressors, and the Navy had sufficient time to plan for competitive awards. The Navy did not document issues related to funding or consideration of funding alternatives as part of its planning. The Navy's comments on reevaluating the competition solicitation for the new Family of Muzzle Brakes and Suppressors met the intent of our recommendation and no additional comments are required. Based on the comments from the Navy and U.S. Special Operations Command, we revised our recommendation on refraining from the use of the existing contract to allow for orders under urgent circumstances. Accordingly, we request additional comments from the Navy on the final report by March 26, 2004.

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Background

The audit was performed in response to a congressional request. The Congressman was concerned about a complaint from one of his constituents that recent sole-source awards to another contractor may have been inappropriate. See Appendix D for the congressional letter.

Allegation. OPS Inc., a suppressor manufacturer in Shingletown, California, alleged that recent sole-source awards to Knight Armament Corporation (KAC), a manufacturer of a different suppressor, may have been inappropriate. Specifically, the complainant raised issues about performance metrics and costs of the selected suppressor. The complainant also indicated that the OPS Inc. suppressor was superior to the selected suppressor. Finding A addresses the sole-source contracts awarded to KAC. The remaining issues of the complainant are discussed in Appendix B.

Sole-Source Acquisitions. The Naval Surface Warfare Center (NSWC), Crane Division, Crane Indiana, authorized the Naval Inventory Control Point (NAVICP), Mechanicsburg, Pennsylvania, to award a sole-source firm fixed price sustainment contract for 1,395 suppressors, with a potential value of \$891,405 to KAC on October 31, 2002, because the prior competitive contract expired in September 2001. The Justification and Approval stated there was an urgent and unique need. Two other sole-source contracts were awarded to KAC. Both of those contracts were awarded under the simplified acquisition threshold for small amounts (\$8,946 and \$60,062). In addition, NAVICP issued another sole-source 5-year contract award to KAC for an estimated value of \$3,436,397 dated August 25, 2003, even as officials were aware that we were reviewing the appropriateness of prior awards and while a competitive solicitation was open. The estimated contract value for the four sole-source contracts totaled \$4,396,810. The following table depicts the sole-source and competitive contracts awarded or planned for the M4A1 suppressor.

**Summary of NAVICP and NSWC, Crane Division
Contract Actions for M4A1 Carbine Suppressors**

Issuing Office	Contract/Solicitation Number	Contract Award Date	Competitive/Sole-Source
NSWC	N00164-96-D-0010	September 18, 1996	Competitive
NAVICP	N00104-03-C-LA05	October 31, 2002	Sole-Source
NAVICP	N00104-03-P-LA17	November 1, 2002	Sole-Source
NAVICP	N00104-03-P-LD27	May 19, 2003	Sole-Source
NSWC	N00164-02-R-0065	Award Pending	Competitive
NAVICP	N00104-03-D-L003	August 25, 2003	Sole-Source

Use of Suppressors. A suppressor and muzzle brake are used to decrease M4A1 flash and sound during firing without significantly changing the point of impact. The purpose of the suppressor is to increase the difficulty in locating the position from which the live fire occurred. The M4A1 suppressor is part of an accessory kit that is used by Special Operations Forces and managed by the NSWC, Crane

Division. The terms silencer and suppressor are synonymous for the purposes of this audit and the term suppressor will be used in our report narrative. The following picture depicts the M4 accessory kit.



Special Operations Peculiar Modification M4 Accessory Kit Items

Objectives

Our overall audit objective was to determine whether recent sole-source awards for the quick-detach suppressor were appropriate, specifically, the validity of the allegations. See Appendix A for a discussion of the scope and methodology.

Acquisition Planning for M4A1 Carbine Suppressors at the Naval Surface Warfare Center, Crane Division

We substantiated the allegation that inappropriate sole-source awards were made for the M4A1 Carbine suppressors. Specifically, the NSWC, Crane Division did not adequately plan procurements for the M4A1 Carbine suppressors to meet future mission requirements because the Federal Acquisition Regulation (FAR) was not followed. As a result, the NAVICP inappropriately justified the award of sole-source contracts and did not meet the intent of the “Competition in Contracting Act,” and section 2304 of title 10, United States Code, (10 U.S.C. 2304). In addition, the NAVICP awarded an additional sole-source contract at the same time a competitive solicitation was open. Those awards may not have been in the best interest of the Government.

Acquisition Regulation

Section 253 of title 41, United States Code, (41 U.S.C. 2304) “Competition in Contracting Act,” and 10 U.S.C. 2304 “Competition Requirements,” requires that the agency shall obtain full and open competition through the use of competitive procedures in accordance with the FAR requirements.

FAR Part 7, “Acquisition Planning,” requires that acquisition planning should begin as soon as the agency need is identified, preferably well in advance of the fiscal year in which the contract award is necessary. It further specifies that requirements and logistics personnel should avoid issuing requirements on an urgent basis or with unrealistic delivery or performance schedules, since it generally restricts competition and increases prices. As part of acquisition planning, FAR requires acquisition planners to describe how competition will be sought, promoted, and sustained for the procurement of spares. Agencies are also required to procure supplies in such quantities that will result in the total cost and unit cost most advantageous to the Government. Early in the planning process, the planner should consult with requirements and logistics personnel who determine type, quality, quantity, and delivery requirements.

Adequacy of Planning

We substantiated the allegation that inappropriate sole-source awards were made. Specifically, NSWC, Crane Division did not adequately plan procurements for suppressors to meet future requirements because FAR Part 7.104, “General Policies” for planning requirements was not followed once it was determined that a valid requirement existed.

Mission Requirements. NSWC, Crane Division did not adequately plan for future contracts for M4A1 suppressors, even though contracting officials knew a valid requirement existed. In October 1999, the operational requirements for the Special Operations Peculiar Modifications (SOPMOD) kit for the M4A1 Carbine were revalidated, indicating that a valid suppressor requirement continued to exist. However, no advance planning was conducted to ensure a contract would be in place to meet this requirement.

Initial Suppressor Contract. On September 18, 1996, NSWC, Crane Division awarded an initial 5-year competitive contract, N00164-96-D-0010, to KAC for suppressors to support future operational needs. The contract expired in September 2001. Both the NSWC, Crane Division program office and contracting officials allowed the contract to lapse despite the valid and reoccurring requirements, as the suppressor has been acquired for more than 9 years. Contracting officials should have begun planning for a replacement competitive contract well in advance of the expiration of the first competitive contract; however, no effort was made. Instead, the NAVICP awarded four sole-source procurements to KAC without allowing competition.

Before the expiration of the FY 1996 contract, the NSWC, Crane Division could have issued a competitive solicitation for an indefinite delivery-indefinite quantity contract for a minimum amount of suppressors in order to have a competitive contract in place in case urgent requirements or the need for spares arose. FAR Subpart 16.504, "Indefinite-Quantity Contracts," states that when a recurring need is anticipated and the Government cannot predetermine the precise quantities of supplies that will be required during the contract period, an indefinite-quantity contract may be used. Instead, an indefinite delivery-indefinite quantity solicitation was not published until over a year later. This solicitation, N00164-02-R-0065, specified a minimum quantity of six suppressors, which would only obligate the NSWC, Crane Division to purchase six suppressors for an estimated total cost of \$4,400 for the contract period plus the cost of advertising and testing the proposed suppressors. Planning to award a competitive indefinite delivery-indefinite quantity contract before the expiration of the base contract would have eliminated the need to award sole-source contracts for urgent requirements and for sustainment purchases.

Suppressor Funding. The NSWC, Crane Division program office personnel stated that the United States Special Operations Command (USSOCOM), MacDill Air Force Base, Tampa, Florida, provides funding for the SOPMOD program. The funding is then divided among the 18 accessories within the SOPMOD program. When funding was reduced, the USSOCOM Program Executive Office Special Project, the Joint User Representatives, and the NSWC, Crane Division Program Management Office had to plan and list priorities based on the funding constraints within the SOPMOD program. The suppressor was not considered a priority item; therefore, suppressors were not allocated funding for FY 2000 and FY 2001.

Contracting personnel at NSWC, Crane Division stated that before the expiration of the FY 1996 base contract, advance planning was not conducted for a new solicitation because funding was not allocated to the purchase of suppressors; however, a solicitation could have been initiated with minimal funds. A lack of

funds does not exempt the program officials from continuing to plan if there continues to be a valid requirement. If funding was limited and a requirement still existed, selecting a contract type that would minimize the Government's obligation and still promote competition would be a viable solution. FAR Subpart 6.301(c)(2), "Policy," states that concerns related to availability of funds cannot be the basis to justify other than full and open competition. The contracting office and the users should have performed adequate advance planning to facilitate competitive solicitations within funding constraints, rather than having to award subsequent sole-source contracts. In a period of 10 months, from October 31, 2002 to August 25, 2003, contracting officials awarded four sole-source contracts.

Spares for Sustainment. NSWC, Crane Division also did not adequately plan for spares required for sustainment. NSWC, Crane Division, Materiel Fielding Plan, November 22, 1996, states that an amount equal to 10 percent of the suppressors issued to the field, regardless of service component, would be retained at the NSWC, Crane Division as spare and repair parts to support those fielded units in case of part failures and to meet replenishment needs. According to the documentation provided by the Life Cycle Sustainment Manager for the SOPMOD program, only 11 spares were available for sustainment purposes. The manager stated the inventory level did not meet the on-hand suppressor threshold of 326.

Sole-Source Contracts

Because acquisition planning was not performed as required, competition was avoided and the Naval Inventory Control Point inappropriately justified the award of four sole-source contracts. The NAVICP awarded sole-source contracts to meet mission requirements, including sustainment purchases. On June 19, 2002, the Department of the Army, Headquarters, U.S. Army Special Command (Airborne), Ft. Bragg, North Carolina, identified a need to field SOPMOD components to the 19th and 20th Army National Guard Special Forces Group. The Navy Inventory Control Point prepared and signed the Justification and Approval on October 24, 2002, and awarded the sole source contract October 31, 2002, to Knight Armament Corporation. The justification and approval was based on urgency, the need for standardization in the field as a result of Operation Enduring Freedom, and the lack of technical data. However, the urgency occurred because of a lack of acquisition and sustainment planning. Had proper planning occurred throughout the acquisition process, there would have been no need to justify an urgent procurement and NSWC, Crane Division would have had sufficient time to promote competition, reduce lead-time, ensure that funds would be made available for the solicitation, and provide the earliest delivery of the items to meet mission requirements.

Two other contracts were awarded in November 2002 and May 2003 on a sole-source basis using simplified acquisition procedures. FAR Subpart 13.106-1 "Soliciting Competition," states that the contracting officer must determine that only one source is reasonably available. Those awards were made without providing an adequate determination for awarding a sole-source contract. The

contracting officer stated that simplified acquisition procedures were used to acquire suppressors for sustainment and provided no further explanation.

A fourth sole-source contract, N00104-03-D-L003, was awarded to KAC in August 25, 2003. A review of contract documentation related to this award revealed inconsistencies between the solicitation, the justification and approval, and the contract award. Those discrepancies were brought to the attention of the NAVICP Division Contract Officer. The contracting officer acknowledged that discrepancies existed, and subsequently took the necessary actions to provide updated documentation.

Coordination for Suppressor Awards

NAVICP issued the sole-source contract to KAC in August 25, 2003 even though officials were aware that we were reviewing the appropriateness of prior awards and while a competitive solicitation was open.

Current Solicitations. On January 14, 2003, NSWC, Crane Division issued a competitive solicitation, N00164-02-R-0065, to acquire 22,000 suppressors for the M4A1 Carbine. Several proposals were received and the testing is complete; however, the contract had not been awarded. The solicitation stated that the SOPMOD program was not seeking alternate sources for the current Quick-Detach Sound Suppressor. Instead, the program was pursuing a Family of Muzzle Brakes and Suppressors that exhibited improved capabilities over the standard Quick-Detach Sound Suppressor. The operational test report indicates that the suppressors that remained in competition may not provide improved capabilities.

Despite the competitive solicitation, NSWC, Crane Division directed that NAVICP publicize solicitation N00104-03-R-LB85 dated January 29, 2003, as a sole-source 5-year contract to KAC. On August 25, 2003, 7 months after the close of the solicitation, the contract was awarded to KAC. The sole-source contract has a potential cost of \$3,436,397 for up to 5,025 suppressors for the M4A1 Carbine weapon.

NSWC, Crane Division did not perform advance planning and coordination for suppressor acquisitions in the FY 2003 solicitation. Competition was avoided when several sole-source contracts were awarded. A lack of coordination occurred when NAVICP was tasked to award another sole-source contract and a competitive award was pending. Those actions further highlight concerns about the justification of a sole-source award because a competitive contract for the M4A1 Carbine suppressors was being planned for award during the same time frame.

Conclusion

We substantiated the allegation in the complaint that inappropriate sole-source contracts were awarded for the M4A1 Carbine suppressor. NSWC, Crane Division did not perform adequate acquisition planning nor did they prioritize the suppressor requirement to ensure funding was allocated for a competitive contract to be in place to meet future requirements before the expiration of the FY 1996 base contract. Specifically, NSWC, Crane Division did not meet the intent of “Competition in Contracting Act” and 10 U.S.C. 2304, and did not follow the FAR, which states that contracting without providing for full and open competition shall not be justified on the basis of a lack of advance planning by the requiring activity or concerns related to the amount of funds available to the agency. Adequate procurement planning should include the prioritization and allocation of funding to fill requirements. As a result, the justifications used for the award of sole-source contracts were not adequate. Also, the recent sole-source contract awarded to KAC is unjustified and unnecessary because there is a competitive suppressor award pending for the M4A1 Carbine.

Navy Comments on the Report and Audit Response

The Deputy Assistant Secretary of the Navy (Littoral and Mine Warfare) provided comments for the Navy on the finding and recommendations to the report. The Navy comments on the finding and the audit response are discussed in Appendix C. Although not required, the Department of Army (Special Operations Command) and the U.S. Special Operations Command also provided comments on the recommendation. The complete text of the Navy’s comments is in the Management Comments section of this report.

Recommendations, Management Comments, and Audit Response

Revised Recommendation. We revised Recommendation 3. to specify that in the interim, until actions are completed on Recommendation 2., and a new competitive contract is awarded, delivery orders should only be placed on the KAC sole-source contract, N00104-03-D-L003, when there is an event that would support an urgent and compelling need.

We recommend that the Commander, Naval Surface Warfare Center, Crane Division in coordination with the Commander, U.S. Special Operations Command:

- 1. Establish procedures to ensure acquisition planning is performed in accordance with the Federal Acquisition Regulation and consider funding needs as part of the planning.**

Naval Surface Warfare Center, Crane Division Comments. The Deputy Assistant Secretary of the Navy (Littoral and Mine Warfare) concurred, indicating that each Command currently has established procedures to ensure acquisition planning is in accordance with the Federal Acquisition Regulation and that funding needs are considered in the planning process.

Department of the Army (Special Operations Command) Comments. Although not required to comment, the Chief of Staff, U.S. Army Special Operations Command agreed that a maximum effort should be placed on effective acquisition planning.

U.S. Special Operations Command Comments. Although not required to comment, the Deputy Commander, U.S. Special Operations Command agreed in principle stating that procedures were established and funding is always considered.

Audit Response. The Deputy Assistant Secretary of the Navy comments were not fully responsive. Although the Navy stated that procedures were in place, our audit clearly indicated the procedures were not being practiced. The Navy also did not document consideration of funding alternatives that would have facilitated competition. The Navy should issue a written policy reminder that states that adequate acquisition planning must consider and document funding alternatives that will facilitate use of competition to the maximum extent possible.

2. Reevaluate whether to continue with the current competitive solicitation or re-compete the award because the new Family of Muzzle Brakes and Suppressors may not provide increased capabilities.

Naval Surface Warfare Center, Crane Division Comments. The Deputy Assistant Secretary of the Navy (Littoral and Mine Warfare) concurred. The Deputy Assistant Secretary of the Navy stated that the solicitation was reevaluated and was determined to be in the best interest of the Government. The Deputy Assistant Secretary of the Navy stated that developmental testing showed increased capabilities, and the newly competed suppressor is suitable for combat.

U.S. Special Operations Command Comments. Although not required to comment, the Deputy Commander, U.S. Special Operations Command agreed that the current competitive solicitation should be reevaluated to determine if capabilities are increased.

Audit Response. The Navy's response met the intent of the recommendation.

3. In the interim until a competitive award can be made, delivery orders should only be placed on the KAC sole-source contract, N00104-03-D-L003, when there is an event that would support an urgent and compelling need.

Naval Surface Warfare Center, Crane Division Comments. The Deputy Assistant Secretary of the Navy (Littoral and Mine Warfare) non-concurred with our original recommendation to refrain from placing orders on the sole-source contract until a decision was made to evaluate or re-compete the current

competitive solicitation. The Deputy Assistant Secretary of the Navy stated that the contract is necessary to provide a continuous source of suppressors to U.S. Special Operations Command units until the competitive contract begins. The Deputy Assistant Secretary of the Navy stated that canceling the award could create a shortage of suppressors.

U.S. Special Operations Command Comments. Although not required to comment, the USSOCOM disagreed with the original recommendation.

Audit Response. We revised this recommendation to allow procurements to continue for urgent and compelling needs only until a new competitive contract is in place.

Appendix A. Scope and Methodology

We performed this audit in response to a congressional request to determine whether the allegation we received in December 2002 had merit. To accomplish our audit objective, we identified, analyzed, and documented applicable FAR requirements for sole-source contracts and:

- interviewed NSWC, Crane Division and NAVICP contracting personnel to obtain contract documentation from FY 1996, FY 2002, and FY 2003, and to determine the adequacy of sole-source awards for the M4A1 suppressor.
- interviewed NSWC, Crane Division; USSOCOM; and U.S. Army Special Operations Command, Ft. Bragg, North Carolina, program management personnel to obtain program documentation including the operational requirements document, test and evaluation master plan, and test and evaluation reports. This documentation was reviewed to determine if additional contractors could potentially provide a similar product for a lower cost with greater reliability or accuracy.
- issued a memorandum dated September 12, 2003, to the Commander, NSWC; Commander, NAVICP; and the Naval Inspector General to cancel the FY 2003 sole-source solicitation at the NAVICP and reevaluate whether to continue with the current competitive solicitation.

We performed this audit from May 2003 through October 2003 in accordance with generally accepted government auditing standards. We did not review the management control program since this was not an announced audit objective.

Use of Computer-Processed Data. We did not use computer-processed data to perform this audit.

Use of Technical Assistance. We requested technical assistance from the Chief of the Mechanical Engineering Branch, Technical Assessment Division of the Office of the Deputy Inspector General for Auditing to review the current competitive solicitation test results for the M4A1 Carbine suppressor. The accuracy test results could not be understood or interpreted because the X and Y coordinate readings stated in the table did not match with the accompanying graphs and no explanation was provided on whether the Family of Muzzle Brakes and Suppressors tested met the accuracy requirements.

General Accounting Office High-Risk Area. The General Accounting Office has identified several high-risk areas in DoD. This report provides coverage of the DoD Contract Management high-risk area.

Prior Coverage

No prior coverage has been conducted on the award process of the quick-detach suppressor from the General Accounting Office, the Office of the Inspector General of the Department of Defense, or the Naval Audit Service during the last 5 years.

Appendix B. Additional Allegation Issues

The allegations made in a congressional request, concerned complaints on the current quick-detach suppressor. The complainant stated that NSWC, Crane Division recently awarded several unjustified sole-source contracts to KAC for the quick-detach suppressor. The complainant believed that the accuracy, cost, loudness, and operational suitability of the OPS Inc. Special Purpose Receiver suppressor was superior to the KAC Quick-Detach Sound Suppressor for the following reasons:

Accuracy. The current quick-detach suppressor demonstrates a degradation of accuracy and an excessive amount of shift from the zero of the unsilenced weapon after repeated installation and removal of the suppressor from the weapon.

Cost. The KAC Quick-Detach Sound Suppressor, with the required KAC compensator, costs the government a sum of nearly \$760.00 each.

Loudness. The KAC Quick-Detach Sound Suppressor is considerably louder than the OPS Inc. Special Purpose Receiver.

Operational suitability. The small clip that is used on the current quick-detach suppressor for attachment to the compensator is of such a design that the installation and removal of the suppressor is extremely difficult when it is necessary for the operator to wear gloves during cold weather conditions.

Conclusion. The allegations concerning the quality comparisons as outlined above, of the suppressors were not relevant because they involved different weapons that were not interchangeable. As a result, comparing the accuracy, cost, loudness, and operational suitability of the two suppressors would not have been meaningful. We reviewed and evaluated the technical results from the FY 1996 competitive award and KAC met the operational requirements. OPS Inc. did not submit a proposal for the M4A1 Carbine suppressor in FY 1996.

Appendix C. Additional Audit Response to Navy Comments on the Report

The Deputy Assistant Secretary of the Navy (Littoral and Mine Warfare) provided comments on the finding and suggested some editorial changes throughout the report that we considered and made as appropriate. We also provided our audit response to their comments on the finding.

Additional Navy Comments. The Navy stated that NSWC, Crane Division performed adequate acquisition planning based on the requirements prior to September 11, 2001. Several months before the expiration of the September 18, 1996, competitive contract in September 2001, NSWC, Crane Division and USSOCOM determined that competing a new contract was not cost effective given the limited funding. The cost of competing a new contract (\$240,000) compared to the extremely low demand for the Quick-Detach Sound Suppressor (13 to 50 or \$8,000 to \$28,000) dictated the use of simplified acquisition procedures. Following the expiration of the original indefinite delivery-indefinite quantity contract, and in order to meet the low demand for suppressors, NAVICP, Mechanicsburg awarded sole-source contracts. Two of the four sole-source contracts awarded on November 1, 2002, and May 19, 2003, used simplified acquisition procedures, which were not required to use Justifications and Approvals. NSWC, Crane Division stated that NAVICP, Mechanicsburg followed Part 6 of the FAR in awarding sole-source contracts by providing written justification (the suppressors are highly specialized parts, designed and manufactured by only one source, KAC, and the Government physically did not have in its possession sufficient, accurate, or legible data to purchase this part from someone other than KAC). NAVICP, Mechanicsburg also certified to the accuracy and completeness of the justification and obtained approval.

NSWC, Crane Division further stated that efforts for a competitive indefinite delivery-indefinite contract (N00164-02-R-0065) commenced within 3-months (December 2001) of the events of September 11, 2001, to meet the demand for suppressors, which increased well beyond earlier estimates.

Audit Response. We continue to question the adequacy of planning and the award of sole-source contracts. NAVICP, Mechanicsburg awarded the first of four sole-source contracts on October 31, 2002, 13 months after the events of September 11, 2001. The Justification and Approval for Contract N00104-03-C-LA05 stated that to make an award to anyone other than KAC would require various user developmental and operational testing, that would take approximately 6 months. NSWC, Crane Division had sufficient time after the events of September 11, 2001, to award a competitive indefinite delivery-indefinite contract to cover the unforeseen, unprecedented increase. The amount of time it took to award this sole-source contract would have been sufficient to advertise, test, and award a competitive contract. The Navy's lack of action to issue a competitive solicitation gives credence to the position that competition may have been intentionally restricted. In fact, the Navy's subsequent actions provide further support for this contention. The NAVICP, Mechanicsburg stated in its Justification and Approval that the suppressor would be reviewed under the

NAVICP Replenishment Parts Program. If it was determined the item could be broken out, the Navy stated that future acquisitions would be competitive. However, a determination was never made, and the Navy continued to award sole-source contracts.

FAR Part 6 requires that each Justification shall contain sufficient facts and rationale to justify the use of the specific authority cited. The NAVICP, Mechanicsburg contracting office could not provide documentation on specific statements to support the Justification and Approval. For example, there was no current technical evaluation or market research performed.

NSWC, Crane Division and NAVICP, Mechanicsburg could also provide no supporting documentation for statements made in the management comments to this report. Specifically, the Navy could not provide:

- acquisition planning documents of NSWC, Crane Division to include notes, minutes of meetings, and market research conducted,
- documents on the determination made between NSWC, Crane Division and USSOCOM that competition was not cost efficient given the limited funding, or
- documentation for the cost estimate (\$240,000) to put a contract in place.

Appendix D. Congressional Request

<p>WALLY HERGER 2nd DISTRICT, CALIFORNIA</p> <p>PLEASE REPLY TO:</p> <p><input type="checkbox"/> WASHINGTON OFFICE: 2268 RAYBURN HOUSE OFFICE BUILDING (202) 225-3078</p> <p>DISTRICT OFFICES:</p> <p><input type="checkbox"/> 99 INDEPENDENCE CIRCLE, SUITE 104 CHICO, CA 95973 (530) 893-8363</p> <p><input type="checkbox"/> 410 HEMSTED DRIVE, SUITE 115 REDDING, CA 96002 (530) 223-5898</p>	 Congress of the United States House of Representatives Washington, DC 20515-0502	<p>COMMITTEE ON WAYS AND MEANS</p> <p>SUBCOMMITTEES: CHAIRMAN HUMAN RESOURCES TRADE</p>
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December 13, 2002

The Honorable Joseph Schmitz
Inspector General
Department of Defense
The Pentagon
Washington, DC 20301

Dear Inspector General Schmitz:

I recently received the following correspondence from a constituent of mine, [REDACTED] in Shingletown, CA.

I am deeply concerned about the information provided in the attached letters from two knowledgeable sources who deal extensively with weapons programs. These allegations are not merely the complaints of unsuccessful vendors. Indeed, one of the letters is from [REDACTED] who works for USSOCOM on the SPR-V silencer program.

The letters are self-explanatory and quite detailed. I believe that they merit very serious review. My only interest is in getting the best possible equipment to the field for the operators. If that is not happening, we need to know why. And we need to resolve it.

Thank you in advance for your thorough review of this troubling matter. I look forward to a complete response at your earliest convenience.

Sincerely,

WALLY HERGER
Member of Congress

WH.nr

Appendix E. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition, Technology, and Logistics
Under Secretary of Defense (Comptroller)/Chief Financial Officer
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)

Department of the Army

Assistant Secretary of the Army (Financial Management and Comptroller)
Auditor General, Department of the Army
Commander, U.S. Army Special Operations Command

Department of the Navy

Assistant Secretary of the Navy (Manpower and Reserve Affairs)
Naval Inspector General
Auditor General, Department of the Navy
Commander, Naval Inventory Control Point
Commander, Naval Surface Warfare Center

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, Department of the Air Force

Unified Command

Commander, U.S. Special Operations Command

Other Defense Organization

Director, Defense Contract Management Agency

Non-Defense Federal Organization

Office of Management and Budget

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Committee on Government Reform
House Subcommittee on Government Efficiency and Financial Management, Committee on Government Reform
House Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform
House Subcommittee on Technology, Information Policy, Intergovernmental Relations, and the Census, Committee on Government Reform

Department of Navy Comments



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON, DC 20350-1000

JAN 7 2004

MEMORANDUM FOR THE ASSISTANT INSPECTOR GENERAL FOR AUDITING,
DEPARTMENT OF DEFENSE

Subj: DRAFT DODIG AUDIT REPORT ON SOLE-SOURCE AWARDS FOR
QUICK DISCONNET SILENCERS (PROJECT NO. D2003AD-0095)

Ref: (a) DODIG Memo of 5 November 2003

Encl: (1) DON Response to DODIG Draft Report, Project No.
D2003AD-0095

I am responding to the draft audit report forwarded by
reference (a).

The Department of the Navy response is enclosure (1).

A handwritten signature in black ink, appearing to read "Roger M. Smith", is positioned above the typed name.

Roger M. Smith
Deputy Assistant Secretary of
the Navy (Littoral and Mine
Warfare)

Copy to:
NAVSEAINSGEN (N43)
COMNAVSEA (SEA 00N3)

DEPARTMENT OF THE NAVY
RESPONSE TO
DODIG DRAFT REPORT ON SOLE-SOURCE AWARDS
FOR QUICK DISCONNECT SILENCERS
Project No. D2003AD-0095, dated 05 November 2003

Special Note: References in the report to Naval Surface Warfare Center (NSWC) should read NSWC Crane Division, Crane, IN, vice the headquarters command, NSWC.

Background

USSOCOM validated the requirement for Quick Detach Sound Suppressors (QDSS) for the M4A1 Carbine in 1993. The original contract for the QDSS was awarded through competition to Knight's Armament Corporation (KAC) on 18 September 1996. The contract was for five years and would expire in September 2001. NSWC Crane managed the contract. Several months prior to the expiration of the contract, NSWC Crane and USSOCOM determined that competing a new contract was not cost efficient given the limited funding, the cost of competing a new contract (\$240,000), the extremely low demand for the QDSS (\$8,000-\$28,000/year), and that the demand could be effectively met using simplified acquisition procedures. Hence, the acquisition plan was to use the simplified acquisition procedures to purchase the few QDSS needed over the next several years from KAC as the "only one responsible source."

With the advent of terrorist attacks on 11 September 2001 and the subsequent war in Afghanistan, funding and demand for suppressors increased, making competing a new contract cost effective. Efforts to establish a newly competed suppressor contract began within three months. To cover the immediate demand following the expiration of the original contract with KAC and before delivery could be made under the contract-yet-to-be-awarded, Navy Inventory Control Point (NAVICP) Mechanicsburg used sole-source contracts with KAC as the "only one responsible source" as previously planned.

DoDIG conducted an audit on the awarding of the sole-source awards to KAC in response to a congressional request concerning allegations made by OPS Inc., a suppressor manufacturer in Shingletown, California.

Enclosure (1)

DoDIG Audit Conclusion

NSWC did not perform adequate acquisition planning nor did they prioritize the suppressor requirement to ensure funding was allocated for a competitive contract to be in place to meet future requirements before the expiration of the FY 1996 base contract.

DON Response

Inadequate acquisition planning

NSWC Crane did perform adequate acquisition planning based on the requirements identified prior to 11 September 2001. More than a year before the original 1996 contract was to expire, NSWC Crane began an effort to re-establish a competitive IDIQ contract (N00164-00-R-0135) for suppressors. The cost of putting that contract in place was estimated to be \$240,000 (to include the cost of advertising and testing). The estimated future demand for the suppressor was low based on past consumption. Moreover, USSOCOM had limited funds with which to purchase 18 SOPMOD accessories of which the suppressor was only one. In prioritizing the items, USSOCOM put the suppressors at the bottom. Prudent acquisition planning dictated the use of simplified acquisition procedures in lieu of a long-term contract inasmuch as (1) the anticipated purchases would not exceed the simplified acquisition threshold and (2) the cost of putting a long-term IDIQ contract in place (\$240,000) exceeded the anticipated purchases to be made over the life of the contract (at the most \$140,000).

Contrary to the DoD IG report, validation of a requirement does not dictate that a contract be in place to meet the requirement. Part 13 of the FAR prescribes the policies and procedures for the acquisition of supplies where the aggregate amount does not exceed a particular threshold. The FAR encourages the use of simplified acquisition procedures to reduce administrative cost, promote efficiency and economy in contracting, and avoid unnecessary burdens for agencies and contractors; all of which were met when NSWC Crane decided to utilize simplified acquisition procedures at the expiration of the original contract.

The acquisition plan also called for purchasing the anticipated 13 - 50 suppressors needed each year from KAC as the "only one responsible source." (FAR 6.302-1) The suppressors are highly specialized parts, designed and manufactured by only one source-

KAC—and the Government physically did not have in its possession sufficient, accurate, or legible data to purchase this part from someone other than KAC.

The events of 11 September 2001 and the subsequent war in Afghanistan increased the demand for suppressors well beyond the earlier estimates and well over the simplified acquisition threshold. Hence, NSWC Crane initiated a competitive IDIQ contract (N00164-02-R-0065) to meet the new unprecedented demand for suppressors. Putting this contract in place (preparing the competitive solicitation, developmental testing, operational testing and finalizing the contract) will cost an estimated \$240,500. More than \$2,500,000 worth of suppressors will be purchased on the contract.

To meet the demand for the suppressors following the expiration of the original IDIQ contract until delivery under the new competitive IDIQ contract being awarded, sole-source contracts were used. NAVICP Mechanicsburg followed Part 6 of the FAR in awarding the sole source contracts, providing written justification (the suppressors are highly specialized parts, designed and manufactured by only one source—KAC—and the Government physically did not have in its possession sufficient, accurate, or legible data to purchase this part from someone other than KAC), certifying the accuracy and completeness of the justification, and obtaining approval.

Inadequate prioritization

The conclusion that NSWC Crane did not prioritize the suppressor requirement to ensure funding was allocated for a competitive contract incorrectly assumes that NSWC Crane had the authority to prioritize the suppressors. As stated above, USSOCOM prioritized the suppressors and in doing so determined that it was not as important as 17 other competing needs.

The conclusion also implies that a competitive contract was necessary to meet future requirements. A competitive contract **is necessary** to meet current and future needs as determined **after 11 September 2001**. However, prior to 11 September 2001, the simple acquisition procedures would have been adequate to meet the **peace-time operational** need of up to 50 suppressors per year at a yearly cost of no more than \$28,000.00.

Contrary to the report's conclusions, advance acquisition planning was conducted and the resultant plan—simplified acquisition procedures vice a long-term IDIQ contract—was

economically sound. That planning was adequate based on the requirements identified prior to 11 September 2001. The competitive IDIQ contract being awarded and the sole-source contracts used in the interim are in response to the **unforeseen astronomical increase in demand** resulting from the terrorist attacks against the United States and the subsequent wars in Afghanistan or Iraq.

DODIG Audit Recommendation & DON Response

We recommend that the Commander, Naval Surface Warfare Center in coordination with the Commander, U.S. Special Operations Command:

1. Establish procedures to ensure acquisition planning is performed in accordance with the Federal Acquisition Regulation and consider funding needs as part of the planning.

DON Response: Concur in principle. Each Command presently has established procedures to ensure acquisition planning is performed in accordance with the Federal Acquisition Regulation. Funds are always considered as part of the planning process.

2. Reevaluate whether to continue with the current competitive solicitation or recompet the award because the new Family of Muzzle Brakes and Suppressors may not provide increased capabilities.

DON Response: Concur. The current solicitation was reevaluated and it was determined that it would be in the best interest of the government to continue with the current competitive solicitation. The Operational Test (OT) report finds the newly competed suppressor suitable for combat. The Developmental Testing found it had significantly increased capabilities in the areas of noise reduction and accuracy over that of the current QDSS.

3. Not place delivery orders on the KAC sole-source contract, N00104-03-D-L003, and provide results of the legal review on this contract.

DON Response: Do not concur: The intention of the KAC sole source solicitation issued by NAVICP, which was awarded in August 2003, is to provide USSOCOM units a continuous source of suppressors until delivery of the improved suppressors under the competitive contract begins. The NAVICP contract will function as a "bridge" to meet demand until the competitive award for an

Revised

improved suppressor can be made. Canceling the NAVICP sole source contract before the award of the NSWC competitive contract could create a shortage of suppressors, which presents an unacceptable risk to our forces. Once the NSWC competitive award becomes a viable option for (or with) delivery of suppressors, orders against the sole source contract will be discontinued.

Department of Army Comments

Final Report
Reference



REPLY TO
ATTENTION OF:

AOIR (36-2c)

1 DEC 2003

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY
SPECIAL OPERATIONS COMMAND
FORT BRAGG, NORTH CAROLINA 28310

MEMORANDUM FOR Program Director, Acquisition Management
Directorate, Department of Defense Inspector General, 400 Army
Navy Drive, Arlington, VA 22202-4704

SUBJECT: Draft Report on Sole-Source Awards for Quick
Disconnect Silencers (Project No. D2003AD-0095)

1. Thank you for the opportunity to comment on the subject draft report. We can't effectively comment on the report conclusions without seeing the entire contract file maintained by the Naval Surface Warfare Command. One comment in the report stands out, however. On page 5, under the heading "Sole-Source Contracts," the report states "The System Acquisition Manager and representatives from the Special Forces Command at Ft. Bragg, North Carolina, made the decision to award a sole-source contract to KAC for the Quick-Detach Sound Suppressor." This could be misleading.

2. The U.S. Army Special Operations Command and U.S. Army Special Forces Command would not have been the decision maker on such a contract. The Competition Advocate, Project Manager, and almost certainly the Contracting Officer [all from the Navy] would have been the approval authorities. We may have supplied information [as appropriate] that would cause the Navy to conclude that there was an urgent and compelling need for the items, but we would not have "made the decision" to use other than full and open competition in obtaining those items.

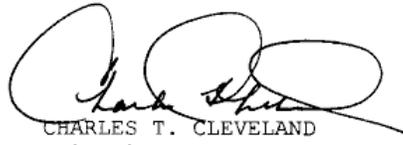
3. We concur with the report's comments regarding the need to fully comply with all Federal Acquisition Requirements and ensure that the maximum effort is placed on effective acquisition planning for future needs.

4. The command greatly appreciates the professionalism of your audit team and the thorough analysis of the subject.

Revised

AOIR (36-2C)
SUBJECT: Draft Report on Sole-Source Awards for Quick
Disconnect Silencers (Project No. D2003AD-0095)

5. The point of contact at Internal Review is Mr. Peter Swan,
(910) 432-8733.



CHARLES T. CLEVELAND
Colonel, GS
Chief of Staff

United States Special Operations Command Comments



UNITED STATES SPECIAL OPERATIONS COMMAND
OFFICE OF THE DEPUTY COMMANDER
7701 TAMPA POINT BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5323

12 DEC 2003

MEMORANDUM FOR: PROGRAM DIRECTOR, ACQUISITION MANAGEMENT
DIRECTORATE, DEPARTMENT OF DEFENSE INSPECTOR GENERAL, 400 ARMY
NAVY DRIVE, ARLINGTON, VA 22202-4704

SUBJECT: Report on Sole-Source Awards for Quick Disconnect Silencers (Project No.
D2003AD-0095)

1. Thank you for the opportunity to comment on the subject draft report. We cannot effectively comment on the report conclusion and recommendations without reviewing all pertinent contract files maintained by the Naval Surface Warfare Center (NSWC), Crane, IN. Our comments below, therefore, are limited to United States Special Operations Command's (USSOCOM's) knowledge of this acquisition.

2. USSOCOM concurs in principle with Recommendation 1, "Establish procedures to ensure acquisition planning is performed in accordance with the Federal Acquisition Regulation and consider funding needs as part of the planning."

USSOCOM has established procedures to ensure acquisition planning is performed in accordance with the Federal Acquisition Regulation (FAR). Funds are always considered as part of the planning process. In fiscal year 2000 (FY00) and FY01, the suppressor portion of the Special Operations Peculiar Modifications (SOPMOD) program had no funding due to resource constraints and mission requirements and priorities. In FY02, funding for the suppressor was only \$13,000. The estimated administrative cost to compete and award a replacement indefinite delivery/indefinite quantity (ID/IQ) contract for the 1996 five-year contract was \$240,000. The low consumption rate of suppressors at the time met the requirements for small purchase and simplified acquisition procedures. After September 11, 2001, the war in Afghanistan and concurrent counter-terrorism operations dramatically increased the requirements beyond what was practical or permissible for small purchases and FY03 suppressor funding increased to \$2,800,000. Given the increased requirements and funding, it was decided a long-term competed contract using FAR Part 15 procedures was needed.

3. USSOCOM concurs in principle with Recommendation 2, "Reevaluate whether to continue with the current competitive solicitation or re compete the award because the new Family of Muzzle Brakes and Suppressors may not provide increased capabilities."

The source selection authority for the current competitive solicitation is at Headquarters, USSOCOM. In the process of making a source selection decision for

SODC

SUBJECT: Report on Sole-Source Awards for Quick Disconnect Silencers (Project No. D2003AD-0095)

contract award, USSOCOM will evaluate whether the contract will satisfy suppressor requirements.

4. USSOCOM concurs in principle with Recommendation 3, "Not place delivery orders on the KAC sole-source contract, N00104-03-D-L003, and provide results of the legal review on this contract."

It is anticipated there will be no suppressor requirements prior to award of the current competitive solicitation that would dictate placing delivery orders against the existing contract. If requirements materialize before contract award, FAR procedures will be followed in any acquisition, to include placing orders against the existing contract. USSOCOM cannot address the legal review requirement as contract award and legal review of any contract documents were not done by USSOCOM.

5. This command is a firm believer in meeting all competition and contracting requirements. Again, the command appreciates this opportunity to comment. Our point of contact is Lieutenant Colonel Deac Heilig, (813) 828-5586, DSN 299-5586.



ERIC T. OLSON
Vice Admiral, U.S. Navy
Deputy Commander

Team Members

The Acquisition Management Directorate, Office of the Deputy Inspector General for Auditing of the Department of Defense prepared this report. Personnel of the Office of the Inspector General of the Department of Defense who contributed to the report are listed below.

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