

Inspector General

United States
Department of Defense



Summary of DoD Office of Inspector General Audits of
Acquisition and Contract Administration

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Acronyms and Abbreviations

CAE	Component Acquisition Executive
CENTCOM	Central Command
COR	Contracting Officer Representative
DAU	Defense Acquisition University
DFARS	Defense Federal Acquisition Regulation Supplement
DIA	Defense Intelligence Agency
DoDI	Department of Defense Instruction
DPAP	Director, Procurement and Acquisition Policy
FAR	Federal Acquisition Regulation
GAO	Government Accountability Office
GWOT	Global War on Terror
IG	Inspector General
MIPR	Military Interdepartmental Purchase Request
OEF	Operation Enduring Freedom
OIF	Operation Iraq Freedom
OUSD(AT&L)	Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics
SPOT	Synchronized Predeployment and Operational Tracker
UCA	Un definitized Contract Action
UCMJ	Uniform Code of Military Justice
U.S.C.	United States Code



INSPECTOR GENERAL
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April 22, 2009

MEMORANDUM FOR DISTRIBUTION:

SUBJECT: Summary of DoD Office of Inspector General Audits of Acquisition and Contract Administration (Report No. D-2009-071)

We are providing this report for your information and use. We did not issue a draft report because this report summarizes material that was already published. This report is a summary of the DoD Office of Inspector General audit reports related to DoD's acquisition and contract administration functions that were issued during FY 2003 through FY 2008. This report contains no recommendations; therefore, written comments are not required.

Questions should be directed to me at (703) 604-9071.

A handwritten signature in black ink that reads "Bruce A. Burton".

Bruce A. Burton
Deputy Assistant Inspector General
Acquisition and Contract Management

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Results in Brief: Summary of DoD Office of Inspector General Audits of Acquisition and Contract Administration

What We Did

Our overall objective was to summarize the DoD Inspector General reports that discussed deficiencies in the acquisition and contract administration process within DoD. Specifically, we reviewed and summarized acquisition- and contract administration-related audit reports that the DoD Inspector General issued from FY 2003 through FY 2008. These reports discussed issues related to the Government Accountability Office high-risk areas of weapon systems acquisition, contract management, and Management of interagency contracts. This summary could be used by DoD acquisition and contract managers as lessons learned in drafting key initiatives that address these high-risk areas or provide a resource for training personnel in the Defense Acquisition Workforce Improvement Act career fields.

What We Found

The DoD Inspector General issued 142 reports during FY 2003 through FY 2008 that pertain to the acquisition and contract administration process. We grouped the deficiencies discussed in these reports into the following 12 issue areas:

1. Completeness of Acquisition Support Data
2. Sufficiency of Requirements
3. Adequacy of Contract Pricing

4. Commercial Acquisition
5. Sole-Source Selection
6. Past Performance
7. Multiple-Award Contracting
8. Performance-Based Service Contracts
9. Oversight and Surveillance
10. Inter-Agency Contracting/Military Interdepartmental Purchase Requests
11. Potential Antideficiency Act Violations
12. Material Internal Control Weaknesses

What We Recommend

We are not making any recommendations in this report because the recommendations made in the respective individual reports, if implemented, should correct the issues identified. Appendix D and E lists the initiatives that DoD has taken within the last two years to address many of the challenges noted in these reports. Appendix F provides a status of the recommendations contained in the 142 reports.

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Introduction

Objectives

Our overall objective was to provide DoD acquisition and contract managers with a summary of major issue areas identified in DoD Inspector General (IG) audit reports issued during the period from FY 2003 through FY 2008 that involve the Government Accountability Office (GAO) high-risk areas of weapons systems acquisition and contract management, and management of interagency contracting. We believe that this summary could be helpful in drafting key initiatives to improve acquisition and contract management or provide a resource for training personnel in the Defense Acquisition Workforce Improvement Act career fields.

Background

The DoD is the world's largest purchaser of goods and services. DoD spending on contracts in FY 2008 was approximately \$390 billion. This level of spending is more than double the level of spending in FY 2001. The difference in the DoD budget from FY 2001 to FY 2008 is just as significant. The DoD budget for FY 2008, including supplemental and bridge funding, is almost \$700 billion. The budget for FY 2001 was more than \$335 billion. Each acquisition dollar that is not prudently spent results in the unavailability of that dollar to fund the top priorities of the Secretary of Defense to support our warfighters and wastes valuable taxpayer dollars. Most significantly, the DoD acquisition and contracting community continues to face the stress of managing the increasing Defense budget with a smaller and less capable workforce. The increased need for contracting in an expeditionary environment with an emphasis on urgency only adds to the stress and strain on the workforce.

DoD Directive 5000.1, "Defense Acquisition System," May 12, 2003, and DoD Instruction (DoDI) 5000.2, "Operation of the Defense Acquisition System," May 12, 2003, provide management principles and mandatory policies for managing all acquisition programs. DoD Directive 5000.1 requires that milestone decision authorities and program managers tailor program strategies and oversight; including documentation of program information, acquisition phases, the timing and scope of decision reviews, and decision levels; to fit the particular conditions of that program, consistent with applicable laws and regulations and the time-sensitivity of the capability need. Once a decision has been made to procure a system or satisfy a requirement, the Federal Acquisition Regulation (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS), and the DoD Regulation 7000.14-R, "The DoD Financial Management Regulation," provide the policies, directives, guidance, and instructions for awarding and administering contracts.

Government Accountability High-Risk Area

GAO has identified DoD weapon systems acquisition, contract management, and management of interagency contracting as areas of high-risk for fraud, waste, abuse, and

mismanagement. According to GAO, DoD management has limited assurance that it is following sound business practices to acquire the goods and services needed to meet the warfighter's needs.

Recent DoD Management Actions

Although the lack of adequate controls over acquisition programs and compliance with DoD and FAR guidance continues to challenge the Department as many programs exceed cost and schedule estimates, DoD has taken a number of initiatives within the last year to address these challenges. These initiatives and actions are listed in Appendix D and E. Appendix F provides a status of the recommendations contained in the 142 reports.

Review of Internal Controls

DoDI 5010.40, "Managers' Internal Control (MIC) Program Procedures," January 4, 2006, defines a material internal control weakness as a reportable condition that is significant enough to report to the next higher level. Material internal control weaknesses were identified in 58 of the 142 reports issued from FY 2003 through 2008. We discuss these issues in more detail as the last issue area in this report. We are making no recommendations because the recommendations made in the respective individual reports, if implemented, should correct the material weaknesses identified.

Audit Coverage of Acquisition and Contract Administration Functions

Between FY 2003 and the end of FY 2008, the DoD IG issued 142 reports that discussed issues pertaining to the acquisition and contract administration process. The reports covered a wide variety of acquisition programs and issues. The DoD IG also reviewed many aspects of DoD adherence to laws and regulations, specifically the FAR and the DFARS, in the award and administration of contracts.

The DoD IG audits were initiated based on internal DoD management requests, Hotline suggestions, statutory requirements, congressional requests, referrals from investigative agencies, or internal research. As a result, the multiplicity of audit topics disclosed a wide array of problems involving compliance with DoD Directives and FAR regulations that are designed to ensure DoD receives what it needs at the best price. We grouped the deficiencies discussed in the reports into the following 12 issue areas:

1. Completeness of Acquisition Support Data (65 reports),
2. Sufficiency of Requirements (50 reports),
3. Adequacy of Contract Pricing (52 reports),
4. Commercial Acquisition (10 reports),
5. Sole-Source Selection (32 reports),
6. Past Performance (8 reports),
7. Multiple-Award Contracting (10 reports),
8. Performance-Based Service Contracts (13 reports),
9. Oversight and Surveillance (55 reports),
10. Inter-Agency Contracting/Military Interdepartmental Purchase Requests (20 reports),
11. Potential Antideficiency Act Violations (27 reports), and
12. Material Internal Control Weaknesses (58 reports).

Appendix A explains the methodology we used in reviewing these reports and how we determined the issue areas to summarize for this report. Appendix B contains a list of the issues areas by report number. Most of the reports identified more than one issue area. Appendix C is a list of all of the reports and the hyperlink to obtain copies.

From FY 2003 through FY 2008, DoD management has taken a number of steps to strengthen the acquisition and contract administration process and to develop a better trained and more experienced Defense acquisition work force. Appendices D and E summarize these initiatives and actions. Appendix F provides a status of actions taken on recommendations contained in the 142 reports.

Each issue area and specific examples of problems identified in individual reports are discussed in the following sections.

Acquisition and Contract Award Decisions

DoD Directive 5000.1 and DoDI 5000.2 provide management principles and mandatory policies for managing all acquisition programs. DoDI 5000.2 also establishes a simplified and flexible management framework for translating approved mission needs and technology opportunities into stable, affordable, and well-managed acquisition programs. FAR 4.801, “General,” requires the head of each office performing contracting, contract administration, or paying functions to establish files containing records of all contractual actions.

Issue Area 1. – Completeness of Acquisition Support Data

Criteria

FAR 4.801 state that the documentation in the file should provide a complete history of the transaction to provide a complete background as a basis for decisions at each step of the acquisition process. This history should provide support for action taken, information for reviews and investigations, and provide essential facts in the event of litigation or congressional inquiries. FAR 4.803, “Contents of contract files,” specifies the following examples of the records normally contained, if applicable, in the contracting office contract files:

- purchase request, acquisition planning information, and other pre-solicitation documents;
- cost or pricing data and Certificates of Current Cost or Pricing Data or a required justification for waiver, or information other than cost or pricing data;
- contract completion documents; and
- any additional documents on what action was taken or that reflect actions by the contracting office pertinent to the contract.

Results

In 65 of the 142 reports, we discussed problems with inadequate acquisition support data. As a result, DoD agencies were unable to document why acquisition decisions were made and whether DoD received the best item at the lowest price and acquisitions were appropriate. The following are examples of inadequate acquisition support data.

- Air Force program managers had not prepared, updated, or obtained all required documentation before scheduling program reviews with milestone decision authorities for entry into the system development and demonstration or production phase of the acquisition process for 12 of 17 programs. As a result, milestone decision authorities did not have information needed to make fully informed milestone decisions. (D-2007-047, 1/23/2007)
- For a major aircraft program, the Air Force did not include in its acquisition plan a requirement to obtain accurate, complete, and current cost and pricing data to determine the reasonableness of the contractor's proposed price for the noncompetitive portion of the aircraft acquisition. As a result, the Air Force did not have an approach for ensuring price reasonableness for the remaining acquisition of aircrafts. (D-2007-103, 5/30/2007)
- During the Hurricane Katrina recovery effort, DoD and the Federal Emergency Management Agency did not obtain or maintain supporting documents that were later needed to reconcile payments with the contractor's invoices, resulting in Government overpayments to contractors. (D-2007-118, 8/24/2007)
- For the acquisition of the EA-6B Improved Capability III Program, the program manager provided a limited presentation of the Commander, Operational Test and Evaluation Force test results for the operational assessment to the Assistant Secretary of the Navy (Research, Development, and Acquisition) for Navy milestone decision meetings. Although the limited presentation concluded that the Improved Capability III was potentially operational, effective, and suitable based on the ratings for the critical operational issues and a listing of the 50 additional deficiencies; the presentation did not describe how the deficiencies affected operational effectiveness and suitability. As a result, the Assistant Secretary of the Navy approved the program manager's request to procure 10 Improved Capability III systems for low-rate initial production, although the Navy had increased the risk that it will incur costly retrofit expenses to correct the design deficiencies for those systems at the completion of the dedicated operational test and evaluation phase. (D-2004-113, 8/31/2004)

Issue Area 2. – Sufficiency of Requirements Determinations

Criteria

DoDI 5000.2 requires each increment in an evolutionary acquisition program includes a system development and demonstration decision followed by a production and deployment decision. The Instruction identifies the mandatory, statutory, and regulatory documents that the program manager is required to submit in support of the system development and demonstration decision review. Some of the required documents for submission include an independent cost estimate, a manpower estimate, a technology development strategy, and an acquisition program baseline. Some of the required regulatory documents include an initial capabilities document, a capability development document, an acquisition strategy, an analysis of alternatives, an affordability assessment, a cost analysis requirements description, and a test and evaluation master plan.

Results

In 50 of the 142 reports, we discussed the lack of sufficient requirements planning for major acquisitions. The following are examples of deficiencies in requirement sufficiency that include not defining capability requirements, not justifying brand name requirements, and not re-soliciting bids when requirements changed significantly.

- For the Navy Rapid Airborne Mine Clearance System, the program manager planned to hold the low-rate initial production decision review with the milestone decision authority in August 2008 before completing needed testing and program documentation. Until the program manager completed and obtained the needed testing and program documentation, the Navy was at risk of acquiring four low-rate initial production units of unknown operational performance at an estimated cost of \$15 million. These units have not satisfied warfighter requirements and could require costly retrofits. Furthermore, the Navy Surface Weapons Center staff did not fully define significant system capability requirements, the required number of production units, and the expected life-cycle costs in the draft capability production document prepared to support the low-rate initial production decision. As a result, the Navy will not be able to effectively plan and budget for the system and verify through testing that the system will satisfy essential warfighter capability requirements. (D-2007-084, 4/11/2007)
- A Defense Threat Reduction Agency contracting official negotiated a \$375 million single-source contract using flawed techniques. The agency official negotiated contract prices and terms using the final revised proposal after informing the contractor that it was the only company in negotiation. The contracting official based the contract award on a revised final proposal developed by the contractor with agency assistance that was substantially different from requirements contained in the contract solicitation. Defense Threat

Reduction Agency officials also accepted “other direct costs” in the revised final proposal that would have changed the competitive environment if those requirements had been included in the initial request for proposal. As a result, the Defense Threat Reduction Agency paid more than necessary for advisory and assistance service tasks. (D-2007-128, 9/26/2007)

- The World Wide Satellite System program officials did not have written justification for the use of brand name products for 10 of the 16 orders that were reviewed. Program officials cited specific brand names for delivery requirements including hardware, software, and ancillary equipment for 10 orders valued at \$12 million, instead of encouraging the contractor to provide products that met the necessary attributes or performance qualities of the user’s requirement. Using brand name requirements without justification potentially precludes consideration of similar or better products manufactured by other companies, thus limiting competition. (D-2007-112, 7/23/2007)
- On the audit of contracting for and performance of the C-130J Aircraft, the Air Force conditionally accepted 50 C-130J aircraft at a cost of \$2.6 billion although none of the aircraft met commercial contract specifications or operational requirements. The Air Force also paid Lockheed Martin more than 99 percent of the C-130J aircraft’s contracted price for the delivered aircraft. As a result, the Government fielded C-130J aircraft that could not perform their intended mission, which forced the users to incur additional operations and maintenance costs for older C-130 mission-capable aircraft because the C-130J aircraft could only be used for training. (D-2004-102, 7/23/2004)

Contract Types and Pricing

Section 2304, title 10, United States Code (10 U.S.C. 2304) and 41 U.S.C. 253 require agency officials to procure goods and services through full and open competition in accordance with the FAR except in situations where (1) particular sources must be excluded, (2) the solicitation is restricted to small business concerns, (3) noncompetitive procedures must be used to satisfy needs, and (4) simplified procedures are used for small purchases. This section discusses the issue areas pertaining to the adequacy of contract pricing, use of commercial acquisition, use of sole-source/directed-source selection, consideration of contractor’s past performance, use of multiple-award contracts, and appropriate use of performance-based services contracts.

Issue Area 3. – Adequacy of Contract Pricing

Criteria

DoD is generally required to obtain “fair and reasonable” prices for the goods and services it procures from responsible sources. The FAR provides procedures for making price determinations. Based on FAR 15.402, “Pricing Policy,” the contracting officer

must not obtain more information than necessary in establishing the reasonableness of the offered price. If the price is based on adequate price competition, then no additional information should be obtained unless adequate information cannot be obtained from the source. The contacting officer may request cost and pricing data to determine the fair and reasonable price. Information other than cost and pricing includes information related to prices such as established catalog or market prices or previous contract prices, information available within the Government, information from other than the sources, and cost information that does not meet the cost and pricing data definition.

Results

In 52 of the 142 reports, we discussed the lack of adequate pricing data and insufficient analysis by contracting personnel to ensure DoD received the best price. The following are examples of inadequate contract pricing.

- The Air Force C-17 program officials may not have achieved the best price by basing the price on a revalidation effort that produced unreliable results. The revalidation effort may have produced unreliable results because program officials inappropriately included an earned value management approach for revalidating the reasonableness of the negotiated fixed-price costs prior to definitization. In addition, program officials did not sufficiently investigate available data prepared by others that did not agree with the data the program office prepared and that may not support the decision by the program office to definitize the originally negotiated contract. As a result, not only did the Government not achieve the best price, it also cannot ensure that exercising priced options at the original negotiated prices are most advantageous to the Government. (D-2007-078, 4/9/2007)
- DoD used Department of the Interior contracting officials who did not adequately document and support that the prices were fair and reasonable. Multiple deficiencies were found in the area of sufficient support for decisions, technical reviews, legal reviews, Government cost estimates, and Government surveillance. Competition was not usually obtained. As a result, DoD has no assurance that it is obtaining the best value for its purchases. (D-2007-044, 1/16/2007)

Issue Area 4. – Use of Commercial Acquisition

Criteria

The Federal Acquisition Streamlining Act of 1994 (Public Law 103-355, October 13, 1994) establishes a statutory preference for commercial items and the procedure to be used when acquiring commercial items. The Act enables the Government to have maximum access to competitive commercial markets and to commercial technologies. In

addition, it simplifies the process for acquiring goods and services, with the intention of reducing acquisition costs. These changes were incorporated into a revision of FAR Part 12.

Section 4201 of the National Defense Authorization Act for FY 1996 (Public Law 104-106, February 10, 1996) amended the commercial item exception for contracting officers to obtain “certified cost and pricing data” to substantiate price reasonableness determinations. This amendment broadened the exception to apply to all commercial items. Previously, it applied only to those commercial items where there was an “established catalog or market price” through sales “in substantial quantities to the general public.” The commercial item definition is broad. In general, goods can be obtained as commercial items if they are not real property and have been sold, or offered for sale, to the general public or to nongovernmental entities for nongovernmental purposes. In addition, the definition includes items that are not yet available in the commercial market but will be available in time to satisfy the Government’s delivery requirements.

The commercial item definition also includes items that have modifications of a type available in a commercial marketplace or minor Government-unique modifications that will not alter the nongovernmental function of the commercial item. Finally, the commercial item definition includes services if the services are being provided to support an item that has been designated commercial and similar services are being provided to the general public and the Government at the same time under similar terms and conditions.

Results

In 10 of the 142 reports, we discussed the inappropriate use of commercial item acquisitions. The following are examples of inappropriate use of commercial item acquisitions.

- The Government negotiating team used questionable commercial item determinations that exempted the contractor from the requirement to submit “cost and pricing” data on a commercial contract for noncompetitive spare parts used on Defense weapon systems. The Government did not establish an effective means to determine price reasonableness of the exempt “commercial” items. As a result, the Government officials relied primarily on price analysis of previous Government prices that had not been determined as “fair and reasonable.” As a result the Government had a high risk of paying excessive prices and profits. (D-2006-122, 9/29/2006)
- Contracting officials did not adequately justify the commercial nature of products bought for 35 of 42 DoD commercial contracts for Defense systems

and subsystems awarded in FYs 2003 and 2004. As a result, the Government may not achieve the visibility of “fair and reasonable” price. (D-2006-115, 9/29/2006)

- The Government was not able to terminate an aircraft delivery contract because the contracting officer determined that the aircraft were commercial items and adopted a commercial acquisition strategy; therefore, the Government did not have “cost and pricing” data to develop an estimate of the contractor additional costs related to the reduction and acceleration of the aircraft procurement. (D-2006-093, 6/21/2006)
- The Government awarded a training aircraft systems contract as a commercial item under FAR Part 12, “Acquisition of Commercial Items”; however, there was no commercial market and limited foreign sales for these systems. As a result, the Government increased the risk of paying excessive prices because the Government did not obtain “cost and pricing” information from the contractor. (D-2006-075, 4/12/2006)

Issue Area 5. – Use of Sole-Source/Directed-Source Selection

Criteria

Negotiation for a sole-source contract should not be done without providing for full and open competition unless the contracting officer justifies the need in writing as required by FAR 6.302, “Circumstances permitting other than full and open competition”; certifies the accuracy and completeness of the justification; and obtains the approval required by FAR 6.304, “Approval of the justification.” Agencies must conduct market research before developing new requirements documents for acquisitions and determine through use of the results of the market research if sources capable of satisfying the requirements exist. If a contract is awarded on a sole-source basis, a sole-source justification will include an account of the market research conducted.

Awards under other than full and open competition are permitted in the following circumstances:

- only one responsible source and no other supplies or services will satisfy agency requirements;
- unusual and compelling urgency;
- industrial mobilization; engineering, developmental, or research capability; or expert services;
- international agreement;
- authorized or required by statute;

- national security;
- public interest.

Approval of the justification for other than full and open competition will be in writing except when a contract is awarded under the authority of “Public Interest,” which is defined as a situation where full and open competition need not be provided because the agency head determines that it is not in the public interest for that particular acquisition.

Results

In 32 of the 142 reports, we identified instances where sole-source contracts may have been unjustified or caused additional problems with the contracts. The following are some examples.

- The Marine Corps Systems Command awarded sole-source contracts to Force Protection, Inc., for the Joint Explosive Ordnance Disposal Rapid Response Vehicle although Marine Corps Systems Command officials knew other sources were available for competition. As a result, the awards may have limited the Government’s ability to ensure that it paid fair and reasonable prices for the contracts. Furthermore, Marine Corps Systems Command officials did not adequately document their rationale for using commercial acquisition procedures. (D-2007-107, 6/27/2007)
- Defense Logistics Agency contracting officials were unable to effectively negotiate prices for spare parts from the contractor due to the constraints of a sole-source environment. (D-2006-055, 2/23/2006)

Issue Area 6. – Considerations of Contractor’s Past Performance

Criteria

As part of the source selection process under FAR 15.304, “Evaluation factors and significant sub factors,” the prospective contractor’s past performance should always be evaluated for negotiated competitive acquisitions that are expected to exceed the simplified acquisition threshold. The exception is if the contracting officer documents the reason why the past performance is not an appropriate evaluation factor for the acquisition.

Under FAR Part 15.305 (a) (2), “Past performance evaluation,” past performance is one indication of an offeror’s ability to perform the contract successfully. The currency and relevance of the information, source of the information, context of the data, and general trends in the contractor’s performance must also be considered. The solicitation must describe the approach used for evaluating the past performance to include offerors with

no relevant performance history and provide them an opportunity to identify past or current contracts for efforts similar to the Government requirements as well as any issues encountered and resolution of these issues. The Government must also consider and evaluate information from other sources.

The evaluation should take into consideration past performance information regarding predecessor companies, key personnel who have relevant experience, or subcontractors who will perform major or critical aspects of the requirement. The evaluation should also include the past performance of offerors in complying with subcontracting plan goals for small disadvantaged business concerns.

Results

In 8 of the 142 reports, we discussed either the lack of past performance data or the inappropriate use of past performance data to justify an acquisition. The following are some examples.

- Marine Corps Systems Command continued to award contracts to a contractor although the contractor did not perform as a responsible contractor and repeatedly failed to meet contractual delivery schedules. (D-2007-107, 6/27/2007)
- The Air Force Principal Deputy for the Assistant Secretary of the Air Force for Acquisition and Management, acting as the source selection authority, directed that the past performance rating for a contractor be upgraded to aid it in winning the contract. The source selection authority chose to ignore the poor performance when justifying the contract award, and the contract file contained limited documentation to support the decision. (D-2006-104, 8/3/2006)
- The Air Force source selection authority did not choose relevant contracts from one contractor for the past performance evaluation in the source selection process. This resulted in the contractor winning the contract award unfairly. (D-2006-097, 7/10/2006)
- Naval Facilities Engineering Command did not consider relevant past performance information in the award of a construction contract. The Army and the Navy had not input data related to the past performance under the Logistics Civil Augmentation Program and Construction Capabilities contracts into their respective automated contractor past performance collection systems. As result, the Navy may not have obtained a fair and reasonable price on the contract award. (D-2006-061, 3/3/2006)

Issue Area 7. – Use of Multiple-Award Contracts

Criteria

FAR 16.504(c), “Multiple-Award Preference,” requires that contracting officers must, to the maximum extent practicable, give preference to making multiple-awards of indefinite-quantity contracts under a single solicitation for the same or similar supplies or services to two or more sources. It also requires that contracting officers document the decision whether or not to use multiple-awards in the acquisition plan or contract file. For contracts for advisory and assistance services that exceed 3 years and \$10 million (\$11.5 million as of January 19, 2009), contracting officers are required to use multiple-award contracts. Furthermore, FAR 16.505(b)(1), “Fair Opportunity,” states that when multiple-award orders are awarded, contracting officials must give each contractor a fair opportunity to be considered for each order or cite an exception to fair opportunity.

Results

In 10 of the 142 reports, we discussed the inappropriate use of contracts with multiple-awards or found that contracting officials did not always allow fair opportunity to be considered. The following are some examples.

- DoD contracting officials awarded 69 orders against the NASA Scientific and Engineering Workstation Procurement contracts in FY 2005 valued at \$49.5 million without providing fair opportunity to all contractors under the multiple-award contracts. (D-2007-023, 11/13/2006)
- U.S. Army Corps of Engineers offices were awarding contracts for the same type of work and were not making optimal use of a multiple-award contract mechanism. (D-2006-007, 10/14/2005)
- The Defense Threat Reduction Agency used the multiple-award process to efficiently streamline Cooperative Threat Reduction Program procurements. However, on three task orders for subsequent phases of multi-phased requirements, Defense Threat Reduction Agency used a contractor down-select process* that did not provide each contractor supporting the Cooperative Threat Reduction Program fair opportunity to be considered for the task orders and did not cite an exception to the fair opportunity requirement. (D-2004-111, 8/25/2004)

* The down-select process is a process in which the program office evaluates all the estimated work plans submitted by multiple contractors that outline the concept and approach to satisfy the technical and performance requirements of the Government for a task order. Based on criteria that were provided to the contractors, the program office then selects one contractor to receive the task order. The down-selected contractor must submit a full technical and cost proposal.

Issue Area 8. – Appropriate Use of Performance-Based Service Contracts

Criteria

The FAR Part 37, “Service Contracting,” requires the use of performance-based acquisitions for services to the maximum extent practicable and states that services should be obtained in the most cost-effective manner, without barriers to full and open competition. A service contract is defined as a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply. The FAR requires performance-based contracts for services to include a performance work statement; measurable performance standards in terms of quality, timeliness, and quantity; method of assessing contractor performance against performance standards; and performance incentives where appropriate.

Results

In 13 of the 142 reports, we discussed the inappropriate use of performance-based service contracts. The following are some examples.

- Navy Public Works Center, San Diego awarded a performance-based service contract to a contractor although Navy Public Works Center was unable to adequately assess the contractor’s performance on all performance requirements or relate workload to payments because actual workload during the 6-month base and the 1-year option period was significantly less than established in the performance work standards though the fixed payment remained the same. As a result, with the contract as currently structured, the Navy Public Works Center is not fully realizing the benefit of performance-based service acquisition, which is to maximize contractor performance and innovation at lower costs. (D-2007-079, 4/3/2007)
- The Army and the Air Force have increased environmental insurance use; the Navy originally used environmental insurance, but has chosen to limit its use to early transfers of sites closed because of Base Realignment and Closure efforts. As early as February 2000, the Navy incorporated the use of environmental insurance with firm-fixed-price contracts awarded for environmental cleanups to encourage the application of performance-based contracting principles. Performance-based contracting is a contracting method that defines a service requirement in terms of performance objectives and provides the contractor with the latitude to determine how to meet those objectives. Using environmental insurance allows DoD to transfer portions of the risk of cost overruns and unexpected schedule changes to the contractor and the insurance provider. By DoD shifting the risk, the contractor is strongly motivated to complete the environmental cleanups in a timely and cost-efficient manner. (D-2006-080, 4/27/2006)

- Warner Robins Air Logistics Center contracting officials did not separately solicit the overhaul requirements included on the contract and did not consider a low-cost partnership with the Marine Corps Logistics Command in accordance with performance-based logistics policy. Marine Corps Logistics Command and Air Force cost analyses indicated that the Marine Corps Logistics Command could perform the vehicle overhaul for less than the contractor. (D-2006-059, 3/3/2006)
- DoD contracting officials continue to award and administer contracts for professional, administrative, and management support services without following prescribed procedures. As a result, contractors continued to receive noncompetitive contract awards to perform the same services they have provided for years. The Government often guarantees a profit by paying contractors on a cost-reimbursable basis without adequately determining whether prices are reasonable or whether contractors efficiently performed the contracted tasks. (D-2004-015, 10/31/2003)

Contract Administration and Funding

This part of the report will discuss the oversight and surveillance, inter-agency contracting – military interdepartmental purchase requests, and potential Antideficiency Act violations issues.

Issue Area 9. – Oversight and Surveillance

Criteria

The FAR covers oversight and surveillance in many sections depending on the type of contract. Oversight ensures that contractors are providing timely and quality services and helps mitigate any contractor performance problems. Surveillance is ongoing action throughout the performance period of the contract to ensure the Government receives the goods and services it contracted for in a timely manner, including creating an official record documenting that the contractor’s performance was acceptable or unacceptable.

The following are some FAR regulations that address oversight and surveillance.

- FAR 4.803(b), “Contract Administration Office,” states that production surveillance records and quality assurance records should be a part of the contract file.
- FAR 16.301-3(a) (2), “Limitations,” states that cost reimbursement contracts may be used only when appropriate Government surveillance during performance will provide reasonable assurance that efficient methods and effective cost controls are used.

- FAR 42.101, “Contract Administration and Audit Services,” prescribes the policies and procedures for assigning and performing contract administration and audit services.
- FAR 46.103, “Contracting Officer Responsibilities,” states that contracting offices are responsible for receiving technical requirements and any specifications for inspection, testing, and other contract quality requirements essential to ensure the integrity of the supplies or services prescribing contract quality requirements.
- FAR 46.401(a), “Government Contract Quality Assurance,” states that a quality assurance surveillance plan should be prepared in conjunction with the preparation of the statement of work.
- DFARS 201.6, “Contracting Authority and Responsibilities,” states that contracting officers may designate qualified personnel as their authorized representatives to assist in either technical monitoring or administration of the contract. To assist in administrative duties, contracting officers are authorized to designate qualified personnel as contracting officer representatives. The designated representative must act as eyes and ears for the contracting officer. The designated representative must be properly trained and designated in writing and maintain contract surveillance files. The designation letter must specify the extent and limitations of the technical representative’s authority to act on behalf of the contracting officer. The primary role of the contracting officer representative is to provide technical clarification and to monitor contract performance closely to ensure the Government pays only for the services and materials under the contract. The Government should ensure that all contracting officer representative directions are in writing to avoid misunderstandings, disagreements, unnecessary costs; and to maintain proper control of the contract and adequate file documentation.

Results

In 55 of the 142 reports, we discussed the lack of oversight or inadequate surveillance plans for DoD contracts. The following are some examples of oversight and surveillance issues.

- The Air Force Research Laboratory guidance for the management and oversight of the acquisition of services process is a generic document that does not specify how surveillance tasks are to be completed and does not address surveillance that would be necessary beyond reviewing and analyzing the contractor-provided reports. Air Force Research Laboratory contracting officers used a generic policy for contract surveillance that was based on past practices and involved accepting contractor-submitted project, technical, and fund status reports without verification. As a result, the laboratories put the Government at risk of spending more than necessary. (D-2007-130, 9/28/2007)
- U.S. Army Intelligence and Information Command awarded a time-and-materials contract action to provide information operations system engineering, integration, operational, program management, and technical support to the Army’s Land

Information Warfare Activity; however, the designated contracting officer representative did not prepare a surveillance plan or performance metrics. (D-2006-010, 10/28/2005)

- Air Force did not provide adequate oversight of the decentralized Network-Centric Solutions Contract task orders because the program officials did not establish an adequate oversight program in accordance with the Air Force Federal Acquisition Regulation Supplement section 5316.505-90, “Decentralized Ordering.” This section states that for contracts that authorize decentralized ordering, the contracting officer with the overall responsibility for the contract must ensure that adequate control procedures are in place before any orders are authorized and exercise oversight of decentralized ordering. The program officials stated the contracting office does not oversee the decentralized contracting officers because they are warranted and hold a high amount of integrity to ensure their work is accurate. As a result, the Air Force Network-Centric Solutions program office did not ensure that the decentralized task orders were within the scope of the contract and that the task orders followed applicable DoD and Federal policies. (D-2007-106, 6/29/2007)
- Contracting officials at the major range and test facilities base did not have evidence of adequate surveillance plans or that oversight had occurred for 6 of 10 contracts. This occurred because the contracting officials did not follow the FAR and other best practices for the service contracts. FAR 16.301-3(a) (2), “Limitations,” states that cost reimbursement contracts may be used only when “appropriate Government surveillance during performance will provide reasonable assurance that efficient methods and effective cost controls are used.” As a result, the Government continued to use high-risk cost reimbursement contracts without following regulations in place to control costs or monitor performance. (D-2007-036, 12/27/2006)

Issue Area 10. - Inter-Agency Contracting or Military Interdepartmental Purchase Requests

Criteria

The military interdepartmental purchase request (MIPR), DD Form 448, is issued by one Military Service to another to procure services, supplies, or equipment. The supplying Service provides a DD Form 448-2, “Acceptance of MIPR,” agreeing to provide the requested services or supplies. DoD may also issue the MIPR to non-DoD agencies. DoD typically issues MIPRs under the authority of the Economy Act, funded on a direct citation or reimbursable basis.

The Economy Act is defined in the FAR, Subpart 17.5, “Interagency Acquisitions Under the Economy Act.” The Act defines an interagency acquisition as one agency obtaining

supplies and services from another agency. The FAR states that the procedures for Economy Act orders, which are issued between major organizational units within an agency, are to be addressed in agency regulations.

Results

In 20 reports, we discussed the inappropriate use of MIPRs by DoD agencies and the Military Departments when ordering supplies from other Government agencies. The following are some examples of inappropriate management of MIPRs.

- The DoD Office of Inspector General and the General Services Administration conducted an interagency audit of DoD purchases made by the General Services Administration. The DoD Office of Inspector General determined that regulations were unclear and found mismanagement and lack of acquisition planning for the funds transferred to the General Services Administration, which resulted in DoD funds totaling between \$1 to \$2 billion expiring or otherwise becoming unavailable to support DoD operations. That finding prompted the Office of Inspector General management to conduct a series of audits. One of the audits was on the Missile Defense Agency use of MIPRs. The finding of the audit was that the Missile Defense Agency did not properly manage the outgoing and incoming MIPR processes and did not follow applicable regulations. (D-2007-007, 10/30/2006 and D-2007-117, 8/20/2007)
- Headquarters, Special Operations Command did not have adequate internal controls for initiation and approval for its outgoing MIPRs. Special Operations Command did not determine that Economy Act order purchases were in the best interest of the Government and served a bona fide need. (D-2007-109, 7/9/2007)
- Special Operation Forces Activity contract files did not contain either Determinations and Findings documents or support agreements (determination documents) for Economy Act orders received from requesting organizations for the 2003 contracts using MIPRs. This occurred because Special Operation Forces Support Activity contracting officials used outdated guidance and did not comply with Federal and DoD guidance to require determination documents. As a result, the Special Operation Forces Support Activity contracting officials did not have proof that the requesting organizations determined that the Economy Act orders were in the best interest of the Government before submitting the MIPRs. (D-2007-100, 5/18/2007)
- Defense Intelligence Agency (DIA) needed to improve acquisition planning documentation and ensure funds were properly used and accounted for correctly when using MIPRs for acquiring goods and services. The agency issued MIPRs without ensuring that the procurements were in the best interest of the Government. The agency did not always comply with established criteria for the procurement of, and accounting for, goods and services. DIA did not adequately plan the acquisitions, may have improperly used funds, and did not properly

record and account for transactions in its accounting system. The documentation should include written acquisition plans that address the total cost of the requirements and the criteria for acceptance of goods and services, cost comparisons between contractor and Government estimates for performance of services, and complete determination and finding documentation to demonstrate that the purchases were made in the best interest of the Government as required by the Economy Act. Defense Intelligence Agency may have inappropriately used Operational and Maintenance appropriations to fund four MIPRs. (D-2007-098, 5/18/2007)

- Defense Components did not always define requirements with sufficient specificity to meet legal requirements for forming a valid obligation. This practice permitted the MIPR to be used like a deposit slip for a bank rather than a well-defined list of supplies and services to be procured. (D-2007-044, 1/16/2007)

Issue Area 11. - Potential Antideficiency Act Violations

Criteria

Congress passed the Antideficiency Act to curb the fiscal abuses that frequently created so-called “coercive deficiencies” that required supplemental appropriations. The Antideficiency Act consists of several statutes that mandate administrative and criminal sanctions for the unlawful use of appropriate funds (31 U.S.C. 1342, 1350, 1351, and 1511-1519). Violations of other laws may trigger violations of Antideficiency Act provisions, such as the “bona fide” needs rule,” 31 U.S.C. 1502(a). Furthermore, 31 U.S.C. 1341, “Limitations on Expending and Obligating Amount,” January 1998, states that a violation of the Antideficiency Act occurs when the Government authorizes an obligation exceeding an amount available in an appropriation.

We have issued 27 reports that discussed potential violations of the Antideficiency Act. Of the 27 reports, 18 were the result of problems discussed in Issue Area 10, which is interagency contracting and the ineffective management of MIPRs. The other nine reports discuss potential violations of the Antideficiency Act at specific Defense agencies or Military commands that resulted from ineffective acquisition and contract management actions. The following are examples of potential violations of the Antideficiency Act.

- Various public laws have directed the DoD IG in conjunction with non-DoD agency IGs to assess the effectiveness of the policies, procedures, and internal controls applicable to the procurement of property and services on behalf of DoD by non-Defense agencies. Over the last 4 years, the DoD IG has issued 10 reports addressing these issues. Our reports identified non-DoD agencies that processed approximately 91,000 purchases for DoD from FY 2004 through FY 2007 valued at approximately \$12.0 billion. We reviewed 658 purchases valued at approximately \$1.3 billion and identified 493 potential Antideficiency Act

violations, valued at \$518.5 million relating to the funding of DoD purchases made at or by non-DoD agencies. Our audits revealed that DoD organizations continued to violate the bona fide needs rule and purpose statute when making purchase through non-DoD agencies. Specifically, DoD organizations used prior year funds to purchase current year requirements, and in some instances, used the wrong type of funds to procure goods and services. DoD organizations prepared vague and incomplete MIPRs when transferring funds to non-DoD agencies. Additionally, DoD organizations made advance payments to non-DoD agencies for goods and services not received. (D-2008-082, 4/25/2008)

- The Army did not adequately execute MIPRs and monitor account balances for 54 of the 118 outgoing requests. The requesting organizations are responsible for ensuring that fiscal limits of appropriations are followed, obligations are valid and timely, and authorized balances are not exceeded. Of the 54 requests, 16 had multiple execution and monitoring issues. Of the 118 requests, 2 were not executed within their applicable fiscal limitations. The Army did not record obligations for the requests in compliance with 31 U.S.C. 1502(a), which states that an appropriation is not available for expenditure beyond the period authorized by law. As a result, Army potentially violated the Antideficiency Act. A violation of the Antideficiency Act occurs when an obligation or expenditure exceeds the amount available in its apportionment. (D-2007-075, 3/22/2007)
- The National Geospatial-Intelligence Agency lacked adequate internal controls and supporting documentation over MIPRs. This significantly increased the risk that the 58 sampled purchase requests issued to acquire goods and services did not satisfy bona fide needs, were not based on best value, and did not comply with appropriation laws, and thus could have violated the Antideficiency Act. (D-2007-057, 2/13/2007)

Overarching Issues

Issue Area 12. - Material Internal Control Weaknesses

Criteria

DoDI 5010.40, "Managers' Internal Control (MIC) Program Procedures," dated January 4, 2006, defines internal controls as the organization, policies, and procedures that help program and financial managers to achieve results and safeguard the integrity of their programs. The Instruction also defines a material weakness in internal controls as a reportable condition that is significant enough to report to the next higher level.

Results

In 58 of the 142 reports, we identified material internal control weaknesses in the programs or operations. Examples of these weaknesses include:

- Lack of procedures to periodically review files to update, organize, and add or remove data as necessary to maintain complete files;
- No tracking systems to ensure pre-negotiation reviews were conducted in a timely manner;
- Lack of procedures to verify that undefinitized contract actions were approved only by authorized individuals; and
- Lack of policies and procedures to provide facilities to contractors only when approved in advance.

The following are examples of weaknesses that occurred.

- Although the internal controls outlined in the DoD 5000 series and the FAR were adequate for controlling the Family of Medium Tactical Vehicles Program, the Army acquisition officials did not follow the guidance. Specifically, the administrative contracting officer did not adhere to contract provisions when conditionally accepting vehicles that had not completed first article testing and paying the contractor up to 100 percent for conditionally accepted vehicles that were authorized by the procuring contracting officer or authorized by the contract terms. As a result, the Army prematurely paid the contractor \$7.1 million for vehicles the Army could not immediately use. (D-2008-038, 12/21/2007)
- The Defense Logistics Agency did not have internal control procedures for procurement to determine the independence of offerors or dealers for noncompetitive items before relying on the offered prices to determine price reasonableness, perform an effective cost and price analysis of the subcontractors' price, and ensure that waivers from cost or pricing data are appropriate and comply with legislative and Departmental guidance. If these procedures are implemented, potential recurring monetary benefits of about \$2.7 million can be achieved. (D-2008-048, 2/6/2008)
- Military Departments did not have the internal controls over contractor past performance information including procedures to initiate registration of contracts in the Contractor Performance Assessment Reporting System, procedures to prepare performance assessment reports in a timely manner, and procedures to write detailed and qualified assessments of performance information. Improvements in these areas will improve relevance of contractor past performance information. (D-2008-057, 2/29/2008)
- DoD organizations are required to ensure the acquisition strategy is in the best interest of the Government. The sites visited encountered problems while implementing and executing policy. The contracting, financial, and accounting officials did not always comply with the regulations and statutes. Material internal control weaknesses were identified in market research because the most cost-effective contracting method to fulfill DoD requirements was not documented in price reasonableness, because inadequate analyses and support

existed for task order award prices, and in surveillance because DoD and Fed Source did not establish sound oversight plans to monitor contractor performance. (D-2008-050, 2/11/2008)

Although we identified the material weaknesses, we are making no recommendations because the recommendations in each report, if implemented, should correct the material weaknesses identified in each of the respective reports.

Conclusions

The DoD IG continues to demonstrate through audit coverage that a strong emphasis on management oversight, control, and enforcement of contracting policies and procedures is needed to ensure that DoD is properly awarding and administering contracts, acquiring goods and services, and using funds correctly. Furthermore, the DoD IG results continue to show that each acquisition dollar that is not prudently spent results in the unavailability of that dollar to fund the top priorities of the Secretary of Defense and waste of valuable taxpayer money.

Appendix A. Scope and Methodology

This non-audit services report summarizes 142 final audit reports issued by DoD IG from FY 2003 through FY 2008. Based on the audit objectives, scope, and conclusions, these 142 reports discussed issues that pertained to the acquisition or contract administration function within DoD. We also compared our results with the DoD IG's semiannual reports to Congress to ensure a consistency of approach.

We reviewed the findings, conclusions, and recommendations contained in these 142 reports; however, we did not review the supporting documentation from any of these reports. Based on our review, we grouped the deficiencies discussed in the 142 reports into the following 12 issue areas:

1. Completeness of Acquisition Support Data
2. Sufficiency of Requirements
3. Adequacy of Contract Pricing
4. Commercial Acquisition
5. Sole-source Selection
6. Past Performance
7. Multiple-Award Contracting
8. Performance-Based Service Contracts
9. Oversight and Surveillance
10. Inter-Agency Contracting/Military Interdepartmental Purchase Requests
11. Potential Antideficiency Act Violations
12. Material Internal Control Weaknesses

Use of Computer-Processed Data

We did not use computer-processed data to perform this audit.

Prior Coverage

During the last 5 years, the DoD IG issued one report on the summary of audit reports. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

DoD IG

DoD IG Report No. D-2008-086, “Challenges Impacting Operations Iraq Freedom and Enduring Freedom Reported by Major Oversight Organizations Beginning FY 2003 Through FY 2007,” July 18, 2008

Appendix B. Issue Areas by Audit Report

Report Numbers	1 Completeness of Acquisition Support	2 Sufficiency of Requirements	3 Adequacy of Contract Pricing	4 Commercial Acquisition	5 Sole-Source Selection	6 Past Performance	7 Multiple-Award	8 Performance-Based Service Contract	9 Surveillance and Oversight	10 Inter-Agency Contracting/MIPRS	11 Potential Antideficiency Act	12 Material Internal Control Weakness
D-2008-135								X				
D-2008-134		X										
D-2008-129		X						X				X
D-2008-127					X			X				X
D-2008-122	X		X							X		
D-2008-107	X		X									X
D-2008-100	X	X	X	X	X							X
D-2008-099			X									X
D-2008-097	X		X					X				X
D-2008-094	X		X		X							
D-2008-089		X										
D-2008-086								X				
D-2008-082									X	X	X	
D-2008-066			X		X		X		X	X	X	
D-2008-064							X					
D-2008-057	X		X			X						X
D-2008-051			X					X				
D-2008-050	X		X					X	X	X	X	
D-2008-048	X		X		X							X
D-2008-038								X				X
D-2008-037	X		X					X				
D-2008-036	X		X		X	X		X	X	X	X	
D-2008-032		X						X				X
D-2008-030								X				X
D-2008-022	X		X	X	X		X	X	X	X	X	
D-2008-007		X					X	X	X			X
26	11	6	14	2	7	2	4	2	13	6	5	17
D-2007-130	X							X				X
D-2007-128		X	X		X							
D-2007-124								X	X	X		
D-2007-119					X		X					X
D-2007-118	X											
D-2007-117	X	X							X			X
D-2007-115	X	X										X
D-2007-112	X	X										
D-2007-110		X										X
D-2007-109	X								X	X		X

	1	2	3	4	5	6	7	8	9	10	11	12
Report Numbers	Completeness of Acquisition Support	Sufficiency of Requirements	Adequacy of Contract Pricing	Commercial Acquisition	Sole-Source Selection	Past Performance	Multiple-Award	Performance-Based Service Contract	Surveillance and Oversight	Inter-Agency Contracting/MIPRS	Potential Antideficiency Act	Material Internal Control Weakness
D-2007-107	X		X	X	X	X						X
D-2007-106		X					X		X			X
D-2007-103	X		X									
D-2007-100										X	X	X
D-2007-098			X						X	X	X	X
D-2007-084	X	X							X			X
D-2007-079	X	X	X		X			X	X			
D-2007-078		X	X									
D-2007-075										X	X	X
D-2007-066	X	X							X			
D-2007-062										X		X
D-2007-057	X									X	X	X
D-2007-055					X				X			
D-2007-047	X											
D-2007-044	X		X		X		X		X	X	X	X
D-2007-042											X	X
D-2007-038												
D-2007-036	X		X						X			
D-2007-032	X		X		X				X	X	X	X
D-2007-026		X										X
D-2007-025		X	X						X		X	X
D-2007-023	X						X				X	X
D-2007-009									X			
D-2007-008									X			
D-2007-007	X				X				X	X	X	
D-2007-005	X	X										
36	19	13	10	1	8	1	3	2	16	11	12	22
D-2006-123	X	X										X
D-2006-122			X	X	X							
D-2006-115				X								
D-2006-111	X		X		X				X			X
D-2006-109												
D-2006-105		X						X				
D-2006-104	X					X						
D-2006-103								X	X			
D-2006-102										X	X	
D-2006-101	X											
D-2006-100		X										
D-2006-097	X					X						
D-2006-093	X			X					X		X	

Report Numbers	1 Completeness of Acquisition Support	2 Sufficiency of Requirements	3 Adequacy of Contract Pricing	4 Commercial Acquisition	5 Sole-Source Selection	6 Past Performance	7 Multiple-Award	8 Performance-Based Service Contract	9 Surveillance and Oversight	10 Inter-Agency Contracting/MIPRS	11 Potential Antideficiency Act	12 Material Internal Control Weakness
D-2006-088	X											
D-2006-087		X										X
D-2006-080			X					X				
D-2006-078		X										X
D-2006-075			X	X								
D-2006-073	X		X						X			
D-2006-066				X	X							
D-2006-065		X	X	X								
D-2006-061	X					X						
D-2006-059			X		X			X				
D-2006-058	X											
D-2006-055	X				X							
D-2006-029											X	X
D-2006-010						X		X	X			X
D-2006-007		X	X				X				X	
D-2006-006			X		X				X			
D-2006-004		X										X
D-2006-001		X							X			
31	11	9	9	6	6	4	1	5	7	1	4	7
D-2005-098												
D-2005-096	X	X								X	X	
D-2005-091					X				X			
D-2005-037	X											X
D-2005-028		X										
D-2005-027	X		X						X			
D-2005-009		X	X						X			
D-2005-005		X	X			X						
8	3	4	3	0	1	1	0	0	3	1	1	1
D-2004-113	X	X										
D-2004-112	X								X			X
D-2004-111	X		X				X					X
D-2004-110								X	X			
D-2004-104	X				X							X
D-2004-103	X		X		X							
D-2004-102		X							X			
D-2004-094									X			X
D-2004-093	X	X	X		X		X		X			X
D-2004-089		X							X			
D-2004-084											X	

Report Numbers	1 Completeness of Acquisition Support	2 Sufficiency of Requirements	3 Adequacy of Contract Pricing	4 Commercial Acquisition	5 Sole-Source Selection	6 Past Performance	7 Multiple-Award	8 Performance-Based Service Contract	9 Surveillance and Oversight	10 Inter-Agency Contracting/MIPRS	11 Potential Antideficiency Act	12 Material Internal Control Weakness
D-2004-073			X									
D-2004-070	X											
D-2004-069	X		X									
D-2004-064	X	X	X	X	X							
D-2004-060	X											
D-2004-057	X	X	X		X				X			
D-2004-056									X			
D-2004-055			X		X							
D-2004-052	X	X	X		X							
D-2004-047		X										
D-2004-046	X	X										
D-2004-037									X			
D-2004-020		X									X	
D-2004-015	X	X	X		X		X	X				X
D-2004-012	X				X							
D-2004-006									X			
27	15	11	10	1	9	0	2	2	11	0	2	6
D-2003-120	X		X					X				X
D-2003-115									X			
D-2003-113	X	X										
D-2003-112									X			X
D-2003-106		X						X				X
D-2003-099	X		X									
D-2003-090	X	X	X							X	X	X
D-2003-088									X			
D-2003-083		X										X
D-2003-082											X	
D-2003-077		X	X						X		X	
D-2003-056	X	X	X									
D-2003-029	X		X		X							
D-2003-016		X							X			
14	6	7	6	0	1	0	0	2	5	1	3	5
142	65	50	52	10	32	8	10	13	55	20	27	58

Appendix C. DoD Inspector General Reports

The DoD IG issued 142 audit reports that covered some aspect of the management of the acquisition and contract administration functions within the Military Departments and Defense agencies. To obtain electronic copies of DoD IG reports, please visit <http://www.dodig.mil/Audit/reports/index.html>.

DoD IG Report No. D-2008-135, “Requiring Radio Frequency Identification in Contracts for Supplies,” September 29, 2008

DoD IG Report No. D-2008-134, “Acquisition of the B-1 Fully Integrated Data Link,” September 22, 2008

DoD IG Report No. D-2008-129, “Acquisition of the Army Airborne Surveillance, Target Acquisition, and Minefield Detection System,” September 10, 2008

DoD IG Report No. D-2008-127, “Spider XM-7 Network Command Munition,” August 29, 2008

DoD IG Report No. D-2008-122, “Follow-up on DoD Purchases Made Through the Department of the Interior,” August 18, 2008

DoD IG Report No. D-2008-107, “Contracts Issued by TACOM Life Cycle Management Command to BAE Systems Land and Armaments, Ground Systems Division,” July 3, 2008

DoD IG Report No. D-2008-100, “Contract Procedures for Educational Support Services Acquired by the National Defense University,” June 13, 2008

DoD IG Report No. D-2008-099, “Effect of Payments Into Boeing Pension Funds on Economic Price Adjustment Clauses in DoD Contracts,” May 28, 2008

DoD IG Report No. D-2008-097, “Hurricane Relief Effort Costs on the Navy Construction Capabilities Contract,” May 23, 2008

DoD IG Report No. D-2008-094, “Air Force Air Combat Command Contracts,” May 20, 2008

DoD IG Report No. D-2008-089, “Planning Armor Requirements for the Family of Medium Tactical Vehicles,” May 9, 2008

DoD IG Report No. D-2008-086, “Challenges Impacting Operations Iraqi Freedom and Enduring Freedom Reported by Major Oversight Organizations Beginning FY 2003 through FY 2007,” July 18, 2008

DoD IG Report No. D-2008-082, "Summary Report on Potential Antideficiency Act Violations Resulting From DoD Purchases Made Through Non-DoD Agencies (FY 2004 Through FY 2007)," April 25, 2008

DoD IG Report No. D-2008-066, "FY 2006 and FY 2007 DoD Purchases Made Through the Department of the Interior," March 19, 2008

DoD IG Report No. D-2008-064, "Defense Hotline Allegations Concerning the Biometric Identification System for Access Omnibus Contract," March 18, 2008

DoD IG Report No. D-2008-057, "Contractor Past Performance Information," February 29, 2008

DoD IG Report No. D-2008-051, "Surface Deployment and Distribution Command Hawaii/Guam Shipping Agreement," February 19, 2008

DoD IG Report No. D-2008-050, "Report on FY 2006 DoD Purchases Made Through the Department of the Treasury," February 11, 2008

DoD IG Report No. D-2008-048, "Procuring Noncompetitive Spare Parts Through an Exclusive Distributor," February 6, 2008

DoD IG Report No. D-2008-038, "The Army's Procurement and Conditional Acceptance of Medium Tactical Vehicles," December 21, 2007

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Appendix D. Initiatives Taken by DoD to Address Acquisition and Contract Administration Challenges

DoD has taken numerous actions, whether required by public law, self-initiated or based on our audit report recommendations, to address challenges in DoD's acquisition and contract administration. The initiatives addressed two major areas: contract-related challenges resulting from operating in the contingency environment of Operation Enduring Freedom (OEF) and Operation Iraq Freedom (OIF), and the continuing problems throughout DoD to manage the substantial increases in Defense spending with a smaller and less capable workforce. We have not reviewed many of these actions and consequently we are not attesting to the adequacy or effectiveness of these initiatives.

Contingency Operations

DoD initiated many actions to address contract-related challenges in OEF and OIF. These initiatives included establishing and revising guidance, fielding a new contractor accountability system, adding new contingency contracting training at DoD academic institutions, and looking at contracting challenges through commissions and task forces.

The Under Secretary of Defense for Acquisition, Technology, and Logistics established the Task Force on Contracting and Contract Management in Expeditionary Operations. The Task Force actions implement Section 849 of the Fiscal Year 2008 National Defense Authorization Act, which directed the Secretary of Defense, in consultation with the Joint Chiefs of Staff, to evaluate the Gansler Commission's recommendations to determine the extent to which such recommendations are applicable to the other Armed Forces.¹ The Task Force is guided by senior leaders in the Acquisition, Technology, and Logistics organization, including the Deputy Under Secretary (Acquisition and Technology); the Director, Defense Procurement, Acquisition Policy, and Strategic Sourcing; and his Principal Deputy. These senior leaders are working closely with the Deputy Under Secretary (Logistics and Materiel Readiness) and the Assistant Deputy Under Secretary of Defense (Program Support). Membership of this Task Force includes representatives from all of the Services, the DCMA, the Joint Staff, the Joint Contingency Contracting Command for Iraq and Afghanistan, and various elements of the Office of the Secretary of Defense. The Task Force meets weekly for progress-tracking purposes, meets periodically with the Services and DCMA to ensure a coordinated and consistent DoD approach, and meets about once a month with Dr. Gansler to discuss any points of clarification regarding the Gansler Commission's recommendations.

¹ Mr. John Young, Under Secretary of Defense for Acquisition, Technology, and Logistics, before the House Committee on Armed Services, on April 2, 2008.

In addition, the Chairman of the Joint Chiefs of Staff has commissioned a Task Force on Dependence on Contractors in Contingency Operations. This Task Force is examining the use of DoD contractors in Iraq and Afghanistan as a focus, but is also analyzing across the Range of Military Operations supporting the Joint Force Commander to determine reliance and dependence on contractor support. It is tasked to determine areas of high reliance on contractors, develop more complete Joint Capability Areas and Universal Joint Task Lists, and provide recommendations for further changes to policy and regulations.

Guidance on Oversight of Contractors

DoD has issued additional guidance to address contract-related challenges in OEF and OIF, which includes exercising authority over contractors in contingency areas of operations, tracking contractors performing work outside the United States, as well as managing and integrating contractor support in joint and contingency areas of operations.

- On October 17, 2006, the Uniform Code of Military Justice (UCMJ) was amended to extend UCMJ jurisdiction over persons serving with or accompanying U.S. Armed Forces in the field in times of declared war or contingency operations. The Secretary of Defense's March 10, 2008, memorandum, "UCMJ Jurisdiction Over DoD Civilian Employees, DoD Contractor Personnel, and Other Persons Serving With or Accompanying the Armed Forces Overseas During Declared War and in Contingency Operation," provides additional guidance to commanders on exercising their UCMJ authority over civilians and contractors during contingency operations, including those supporting the Global War on Terror.
- In November 2006 and revised January 15, 2009, DoD issued DFARS Procedures, Guidance, and Information Subpart 225-74, "Solicitation and Award of Contracts for Performance in a Foreign Country or Delivery to any Unified Combatant Command Theater of Operation." It requires combatant command contracting offices to establish and maintain a Web page listing all prevailing regulations, policies, requirements, host nation laws, Orders/Fragmentary Orders, combatant commander's directives, unique clauses, and other considerations necessary for soliciting and awarding contracts for performance in or delivery to that combatant command area of responsibility. The Department had developed a standard organizational template to help Geographic Combatant Commanders meet this requirement. The Geographic Combatant Commanders are currently testing the electronic web template.
- In January 2007, the Deputy Under Secretary of Defense (Logistics and Materiel Readiness) and the Deputy Under Secretary of Defense (Program Support) issued guidance on the use of the Synchronized Predeployment and Operational Tracker (SPOT) as the central repository for information on contractors deploying with U.S. Forces. On March 19, 2007, the Director, Defense Procurement and Acquisition Policy issued implementing guidance on the use of SPOT. On January 28, 2008, the Director, Defense Procurement and Acquisition Policy issued guidance that requires that DoD contractor personnel data be entered into SPOT for the Central Command (CENTCOM) area of responsibility by August 1, 2008.

- In October 2007, the acting Under Secretary of Defense for Acquisition, Technology, and Logistics issued a memorandum with procedures for contracting, contract concurrence, and contract oversight for Iraq and Afghanistan. This memorandum and subsequent policy, procedures, and guidance, issued by the Director, Defense Procurement and Acquisition Policy, instructs contracting officers to have the Joint Contracting Command-Iraq and Afghanistan review and clear statements of work and terms and conditions of all contracts requiring performance in Iraq or Afghanistan before awarding a contract. This requirement, known as “Theater Business Clearance,” helps ensure unity of effort in the theater of operations. Also, upon award of any contract, the procuring contracting officer must assign to the Joint Contracting Command-Iraq and Afghanistan all FAR Part 42 and DFARS Part 242 contract administration functions for the portions of contracts that relate to performance in Iraq or Afghanistan.
- In March 2008, DoD issued DFARS 225.3, “Contracts Performed Outside the United States.” It requires contracting officers, when using the FAR clause 52.225-19, “Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States,” to inform the contractor that SPOT is the appropriate automated system to use for the list of contractor personnel required by paragraph (g) of the clause.
- DoD issued Joint Publication 4-10, “Operational Contract Support,” which contains detailed content on operational contract support and contractor management in joint operations. The joint publication defines key personnel involved in the contracting process and includes planning considerations and checklists for both Contract Support Integration and Contractor Management. The Contract Support Integration Checklist covers the key requirements associated with orchestrating and managing contracting efforts in a joint operational area, including a requirement to ensure that there are adequately trained Contracting Officer Representatives and Contracting Officer Technical Representatives to assist in managing contract performance. The Contractor Management Plan checklist covers the key requirements associated with managing contractor personnel in a joint operations area and providing Government-furnished support, when such support is required. DoD issued the joint publication in October 2008.
- DoD is updating DoDI 3020.41, “Program Management for Acquisition and Operational Contract Support in Contingency Operations” (formerly titled “Contractor Personnel Authorized to Accompany the U.S. Armed Forces”). The update provides an authoritative and comprehensive roadmap of policy and procedures applicable to contractor personnel authorized to accompany the U.S. Armed Forces. The revised version contains significant changes to the existing instruction including incorporating lessons learned from current operations, requirements for developing contractor oversight plans, and requirements for adequate military personnel needed to execute contract oversight.²
- DoD has issued a draft DODI on U.S. Government Private Security Contractors Operating in a Designated Area of Combat Operations. This

² Ginman.

draft DoDI prescribes the selection, accountability, training, equipping, and conduct of personnel performing private security functions under a covered contract in a designated area of combat operations. It also prescribes incident reporting, use of and accountability for equipment, rules for the use of force, and a process for the discipline or removal, as appropriate, of U.S. Government Private Security Contractor personnel. The DoDI responds to requirements of section 862 of the FY 2008 National Defense Authorization Act. It has been forwarded for publication in the Federal Register for a period of public comment.

- DoD has issued a draft DoD Directive on Orchestrating, Synchronizing, and Integrating Program Management of Contingency Acquisition Planning and its Operational Execution. This new Directive establishes policy and assigns responsibilities for program management for the preparation and execution of acquisitions for contingency operations, and for the accountability, integration and management of all contractors supporting the DoD and all U.S. Government Private Security Contractor personnel operating in an area of contingency operations. It was signed in March 2009.

SPOT

DoD developed SPOT, an automated system, to track contractors. SPOT, hosted in the Army network domain (<https://spot.altess.army.mil/default.aspx>) and operated by a contractor, has been designated as the Joint Enterprise contractor management and accountability system to provide a central source of contingency contractor information in accordance with DoDI 3020.41, “Contractor Personnel Authorized to Accompany the U.S. Armed Forces,” October 3, 2005. Contractor companies are required to maintain (by name of each employee) accountability in SPOT while Government representatives use SPOT for oversight of the contractors they deploy. Business Rules for the use of SPOT have been updated and distributed to the entire contracting community of interest.

Contingency Contracting: A Joint Handbook

Beginning the first quarter of FY 2008, DoD distributed *Contingency Contracting: A Joint Handbook* (the Contingency Contracting Joint Handbook) to the contingency contracting workforce.³ The Contingency Contracting Joint Handbook, authorized by the Director, Defense Procurement and Acquisition Policy, provides a consolidated source of information for contingency contracting officers conducting contingency contracting operations in a Joint environment. The hardcopy book and accompanying DVD are intended to be used for training at home stations, for reference during deployment, and for training while deployed. The handbook and DVD provide useful tools, templates, and training that enable the contingency contracting officer to be effective in any contracting environment. The Contingency Contracting Joint Handbook was prepared by the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics (OUSD [AT&L]); the Air Force Logistics Management Agency and the Joint Contingency Contracting Policy working group. This Handbook and associated DVD are refreshed

³ Panel on Contracting Integrity, Quarterly Progress Update, March 31, 2008.

annually. The 2008 update included enhanced tools, such as critical action checklists. In addition, the 2008 update included making the Handbook available electronically on the USD (AT&L)/DPAP web site. This added feature will enable the Department to incorporate lessons-learned and updated policies as they emerge. The Joint Contingency Contracting Handbook can be accessed at <http://www.acq.osd.mil/dpap/pacc/cc/jcchb/>⁴

Contingency Contract Training

Under the Fiscal Year 2007 National Defense Authorization Act, DoD has expanded contingency contracting training modules through the Defense Acquisition University (DAU) as required by Section 854 of the Act.⁵ DAU has redesigned the contingency contracting curriculum to improve training supporting “journeyman-level” contingency contracting operations. This will enable experienced contingency contracting officers to be deployable worldwide and be effective immediately upon arriving at the site.⁶ One example of specific training DAU already provides is the Construction Contract Management course prepared by DAU for the Joint Contracting Command-Iraq and Afghanistan. DAU has revised the program of instruction for the Joint Contingency Contracting Course, CON 234, using the Joint Contingency Contracting Handbook.⁷ DAU is also developing an advanced contingency contracting course.⁸ In addition, OSD is developing an on-line module to train non-acquisition personnel on operational contract support basics. This on-line module will equip non-acquisition personnel with information on how to manage and oversee contractors supporting military operations. It includes initial operational contract support predeployment joint training via Joint Knowledge Online.

DAU also hosts the Joint Contingency Contracting Community of Practice on its Web site to facilitate collaboration and sharing of learning and job support assets, which will result in improved efficiencies and support. This initiative also serves as a repository for policy and guidance information, predeployment information, tools, and after-action reports. This community of practice as a Web-based tool enables the contingency contracting community to share expertise and experience. Significant findings concerning contingency contracting from staff assistant visits or internal self-inspection programs, as well as after-action reports and lessons learned, must be posted to the DAU Web site.⁹ Additional information on DAU contingency contracting-related matters can be found at <https://acc.dau.mil/contingency>.

⁴ Contingency Contracting: A Joint Handbook.

⁵ Mr. Gary Motsek, Assistant Deputy Under Secretary of Defense, Office of Program Support, before the Subcommittee on Oversight and Investigations, U.S. House of Representatives, on April 25, 2007.

⁶ Honorable James Finley, Deputy Undersecretary of Defense for Acquisition, Technology, and Logistics before the Subcommittee on Readiness and Management Support, Senate Armed Services Committee, April 2, 2008.

⁷ Panel on Contracting Integrity, Quarterly Progress Update, March 31, 2008.

⁸ Mr. John Young, Under Secretary of Defense for Acquisition, Technology, and Logistics, before the House Committee on Armed Services, on April 2, 2008.

⁹ Ginman.

Acquisition Policy Memorandum

In April 2007, the Director, Procurement and Acquisition Policy (DPAP) issued a memorandum on the Proper Use of Award Fee Contracts and Award Fee Provisions. The memorandum discussed the increased use of cost-plus-award-fee contracts and award fee provisions, particularly for development efforts and low rate initial production efforts. The purpose of this memorandum is to state the Department's policy with regard to the proper use of award fee contracts and award fee provisions.

In May 2007 DPAP updated the memorandum on the Proper Use of Award Fee Contracts and Award Fee Provisions to require the Head of Contracting Activity (HCA) for each Other Defense Agency to retain the determination and finding (D&F) required by the April 2007 memorandum for (a) all ACAT programs, and (b) all non-ACAT contracts with an estimated value of \$50 million or more. The D&Fs for ACAT 1 programs shall be forwarded by the HCA to DPAP, as required by the DPAP memo. Copies of D&Fs on all contracts shall also be included in the contract file.

In July 2007, DPAP issued a memorandum on Acquisition of Services (AOS) Review and Decision Authority. The AOS Policy approved on October 2, 2006 requires the components to notify DPAP when they are planning an AOS with an investment value expected to exceed one billion dollars. This memo officially directs DPAP to conduct the reviews, prepare associated procedure, and, with USD (AT&L) approval, permits the Director, DPAP to authorize these acquisitions to proceed into source selection.

In August 2007, the Under Secretary of Defense for Acquisition, Technology, and Logistics issued a policy memorandum to structure all planned competitions with one or more Government feedback and dialogue points prior to receipt of final proposals. This effort is an attempt to avoid the potential increase in the number of protests for competitive source decisions.

In March 2008, the Director, Procurement and Acquisition Policy issued a memorandum on the proper use of time-and-materials (T&M) contract types. The memorandum addresses DoD's increasing reliance on T&M contracts, requires the military departments and defense agencies to establish procedures for analyzing whether T&M contracts are being used when other contract types are suitable and assess to the appropriate use of T&M contracts by any contracting activity that acquired more than 10 percent of its annual 2007 services acquisitions using T&M contracts or orders.

In May 2008, DPAP issued a memorandum that transmitted to Congress the implementation plan for the DoD-wide inventory and reviews of contracts for services. The phased plan includes the development of a prototype, utilizing the existing Department of the Army database, and the Contractor Manpower Reporting (CMR) System.

In May 2008, the Under Secretary of Defense for Acquisition, Technology, and Logistics issued a policy memorandum to enhance competition for task and delivery order

contracts. The provisions apply to orders issued on or after May 27, 2008, and implement the provisions of Section 843 of the National Defense Authorization Act.

In July 2008, the Under Secretary of Defense for Acquisition, Technology, and Logistics issued a memorandum to ensure that contracting officers are aware of current DoD policy and requirements for monitoring contractor performance under contract for services, especially when using time-and-materials and labor-hour type contracts including interagency acquisitions.

In July 2008, the Deputy Under Secretary of Defense for Acquisition and Technology issued a memorandum on DoD implementation of the electronic subcontracting reporting system and reporting functions.

In August 2008, the Deputy Secretary of Defense issued a policy memorandum on monitoring contract performance in contracts for services. The policy requires that all agencies ensure that properly trained and ready contracting officer representatives are assigned to provide surveillance of service contracts prior to contract award.

In August 2008, the Under Secretary of Defense for Acquisition, Technology, and Logistics issued a memorandum to provide enhanced management oversight of undefinitized contract actions (UCA). DoD agencies and Military Departments must provide UCA Management Plans and semiannual consolidated UCA reports to the Director, Defense Procurement, Acquisition Policy to provide key aspects of UCA use and management, including actions taken to ensure timely and effective definitization.

In September 2008, the Under Secretary of Defense for Acquisition, Technology, and Logistics issued a memorandum establishing DoD policy for peer reviews on contracts for supplies and services. The objective of peer reviews is threefold: 1) to ensure that contracting officers across the Department are implementing policy and regulations in a consistent and appropriate manner; 2) to continue to improve the quality of contracting processes across the Department; and 3) to facilitate cross sharing of best practices and lessons learned across the Department.

In October 2008, the Under Secretary of Defense for Acquisition, Technology, and Logistics issued a memorandum implementing Office of Federal Procurement Policy guidance to improve the effectiveness of agencies use of interagency acquisitions.

In January 2009, the Under Secretary of Defense for Acquisition, Technology, and Logistics approved a major revision to the DoD Acquisition System (DoDI 5000.02). The revision is the first major change to acquisition policy in more than 5 years and reflects the Department's determination to improve the effectiveness and efficiency of its enterprise-wide acquisition business processes so it can continue to provide warfighters with the best weapons systems and support in the world.

In February 2009, the Director, Defense Procurement and Acquisition Policy issued a memorandum which formally conveys to Military Departments, Defense Agencies and DoD Field Activities the criteria used to review service acquisition strategies submitted for approval and requires Military Departments, Defense Agencies and DoD Field

Activities to use the criteria provided and document results when reviewing acquisitions for services below the \$1 billion threshold.

Appendix E. Panel on Contracting Integrity 2008 Report, Actions Implemented in 2008, and Actions for Implementation in 2009

On February 16, 2007, the Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) established the Panel on Contracting Integrity in accordance with the requirements of Section 813 of the National Defense Authorization Act for Fiscal Year 2007 (Section 813). As required by Section 813, the panel is reviewing DoD's progress to eliminate areas of vulnerability that allow fraud, waste, and abuse to occur. The panel established 10 subcommittees to support the review of contracting integrity issues: Current Structure of Contracting Integrity, Sustained Senior Leadership, Capable Contracting Workforce, Adequate Pricing, Appropriate Contracting Approaches and Techniques, Sufficient Contract Surveillance, Contracting Integrity in a Combat/Contingent Environment, Procurement Fraud Indicators, Contractor Employee Conflicts of Interest, and Recommendations for Change. Each subcommittee completed a review of its designated focus areas and presented recommendations to enhance contracting integrity. The panel reviewed the requirements of Section 813, the findings and 20 recommendations in the March 2005 Report of the Defense Science Board, and the recommendations of GAO Report GAO-06-838R, "Contract Management: DoD Vulnerabilities to Contracting Fraud, Waste and Abuse," July 7, 2006.

In its second annual report to Congress (December 2008), the panel reported that it had completed 20 of the 21 recommendations listed in the panel's 2007 report. Those accomplishments and an additional 28 actions the panel expects to implement in 2009 are listed below.

21 Initial Actions for Implementation in 2008

Current Structure of Contracting Integrity

- Director, Defense Procurement and Acquisition Policy (DPAP) to reinforce the reporting and evaluation requirements in DoDI 5000.66.
- Component Acquisition Executive (CAE) to self-certify compliance with the reporting and evaluation requirements in DoDI 5000.66 and provide certifications to DPAP every 2 years.
- CAEs to self-certify compliance with the separation of duties described in DFARS 203.170 every 2 years.

Sustained Senior Leadership

- Develop metrics for senior leadership positions in contracting for applying DoD-wide. OUSD(AT&L) will issue policy memorandum to require DoD Components to monitor and report these positions on a semiannual basis to preclude allowing long-term “acting” leaders in senior leadership positions in contracting. Using the metrics, OUSD(AT&L) should develop succession lists for temporary “acting” positions to monitor projected vacancies and initiate selection and nomination processes before vacancies occur.
- Include in the performance plans for all senior contracting leaders in the Department, whether under Senior Executive Service Pay for Performance System or National Security Personnel System, an integrity or ethics objective.
- Implement processes to measure the consistency of tone at the top.

Capable Contracting Workforce

- DPAP and senior contracting leaders determine appropriate workforce size.
- DPAP and senior contracting leaders develop initial human capital-planning addendum to OUSD(AT&L) Human Capital Strategic Plan.
- DPAP and senior contracting leaders’ resource and implement responsive human capital strategies and support recruiting, hiring, and retention initiatives (including intern/cooperative programs).

Adequate Pricing

- Develop a coordinated Contract Policy Execution Review Plan that recognizes Department-wide risks, promotes consistency in procurement policy execution across all components, and encourages peer review.
- Assess need for revised/additional training on competition requirements and differing pricing alternatives.
- Change commercial item definition by deleting the “of a type” phrase and revising the language, “offered for sale” to “has been sold.” If this requires a change to law, consider developing a legislative proposal. (*On hold for analysis of the effect of recent legislation on 2008 sole-source contracts*)

Appropriate Contracting Approaches and Techniques

- In interagency contracting, strengthen pre- and post-award oversight processes to consider fees charged by assisting agencies during the business planning process.
- Examine DoD-wide strategy to assess reliance on interagency contracts.

- Explore means for strengthening competition advocate programs for multiple-award indefinite-delivery, indefinite-quantity contracts DoD-wide, with focus on increasing competition at task order level.

Sufficient Contract Surveillance

- Review contracting officer representative (COR) functions/responsibilities, develop DoD certification standard.
- Mandate COR assignment prior to contract award.
- Process COR appointment through management, ensure performance reviews include COR performance.

Contracting Integrity in a Combat/Contingent Environment

- Improve training by leveraging Marine Corps and Air Force training capabilities.
- Improve training on how to run a contracting office in a combat/contingent environment.
- Require subgroups to review Fraud Indicator Training and Continuity Book/Contracting Office Transition Plan.

Actions for Implementation in 2009

Current Structure of Contracting Integrity

- Publish a DPAP memorandum directing CAEs to designate and publicize an ombudsman for procurement integrity in their organizations.
- Incorporate in Section 5.3.12 of DoDI 5000.66, “CAEs of organizations with warranted contracting officers will self-certify compliance with this requirement every 2 years.”

Sustained Senior Leadership

- Help new leaders communicate expectations for contracting integrity to leaders and employees.
- Use case studies in contracting integrity to promote discussion and communicate standards in areas of ambiguity.

Capable Contracting Workforce

- Require senior contracting leaders in the Components to participate in Component processes/efforts to submit workforce changes in the President's Budget Exhibit PBR-23 for both the Program and Budget Review Submission and the President's Budget processes. Consider contracting competency assessment results and other data, as appropriate.
- Require DPAP and senior contracting leaders in the Components to update the contracting human capital-planning section of the OUSD(AT&L) Human Capital Strategic Plan.
- Require DPAP and senior contracting leaders in the Components to develop and implement gap closure strategies and initiatives to address competency gaps, such as recruiting, hiring, and retention and document them in the Contracting Human Capital Strategic Plan. Submit strategies and initiatives for consideration by the Defense Acquisition Workforce Development Fund Steering Board established under Section 852 of the National Defense Authorization Act 2008.

Adequate Pricing

- Establish a working group to assess the need for establishing thresholds for higher level approval of commercial item determinations based on "of a type" and develop recommendations. This is an interim measure pending a legislative change proposal.
- Establish a working group to assess the current regulations and guidance (DoD IG Report D-2008-097, 5/23/2008) covering prime contract surveillance and pricing of its subcontracts and develop recommendations.
- Establish a working group to review approval levels for contracting officers' determination that a time-and-materials contract is the best type for procurement and develop recommendations.

Appropriate Contracting Approaches and Techniques

- Establish a Component cross-functional working group to identify and report on source selection deficiencies, best practices and lessons learned, and recommendations to increase accountability and oversight and to decrease complexity.
- Assess effectiveness of Departmental guidance and training for executing performance-based acquisition and perform gap analysis in conjunction with Defense Acquisition University (DAU).
- Provide updated guidance and training on competition initiatives and continue emphasis on enhancing competition for contracts and orders placed under multiple-award contracts.

Sufficient Contract Surveillance

- Require DAU, with support from the Defense Components, to evaluate current COR training (Government and commercial).
- Develop a COR certification process.
- Develop an implementation plan for a COR certification process.

Contracting Integrity in a Combat/Contingent Environment

- Publish expeditionary contracting policy in DFARS as a consolidated effort of the Emergency Procurement Committee.
- Lead a multi-Service and agency Emergency Procurement Conference in spring 2009 open to stakeholders in DoD and other Government agencies.
- Revise the Joint Contingency Contracting Handbook and Contingency Contracting training curriculum to build upon current efforts.

Procurement Fraud Indicators

- Complete a Podcast regarding procurement fraud indicators.
- Draft an AT&L Journal article on procurement fraud indicators.
- Communicate with contracting officers, auditors, and the Defense Contract Management Agency representatives regarding an advanced course on procurement fraud indicators and determine the feasibility of developing it during 2009.

Contractor Employee Conflicts of Interest

- Issue an OUSD(AT&L) policy memorandum stating that advice from contractors' employees should be free from personal conflicts of interest.
- Draft a DFARS clause prohibiting contractor employee conflicts of interest.
- Recommend DoD implementation of actions in response to Government Accountability Office reports "Post Government Employment of Former DoD Officials Needs Greater Transparency," GAO-08-485, May 21, 2008 and "Army Case Study Delineates Concerns with the Use of Contractors as Contract Specialists," GAO-08-360, March 26, 2008.

Recommendations for Change

- Submit for DoD coordination a legislative proposal to permit Federal agencies to retain fraud recovery funds.
- Establish a DoD-wide value-based ethics program.

- Draft a legislative proposal to amend the Program Fraud Civil Remedies Act of 1986 or draft a stand-alone statute.

Appendix F. Status of Recommendations

Implementation of Recommendations

There were 973 recommendations in the 142 reports discussed in this summary report. As of September 30, 2008, sufficient actions had been taken on 800 of the 973 recommendations (82.2 percent); these recommendations are considered completed. The Table below shows the overall status of recommendations as of September 30, 2008.

	Recommendations	Closed	Percent Closed	Open	Percent Open
FY 2003	107	102	95.3	5	4.7
FY 2004	225	221	98.2	4	1.8
FY 2005	33	29	87.9	4	12.1
FY 2006	184	148	80.4	36	19.6
FY 2007	272	201	73.9	71	26.1
FY 2008	152	99	65.1	53	34.9
Total	973	800	82.2	173	17.8

Standards for Followup on Recommendations

Office of Management and Budget Circular A-50 “Audit Followup,” September 29, 1982, states that audit followup is an integral part of good management and is a shared responsibility of agency management officials and auditors. Each agency must establish systems to ensure the prompt and proper resolution and implementation of audit recommendations. These systems must provide for a complete record of action taken on both monetary and nonmonetary findings and recommendations.

GAO-07-731G Government Auditing Standards, July 2007, Chapter 7 “Field Work Standards for Performance Audits,” Section 7.36 “Previous Audits and Attestation Engagements” states that generally accepted government auditing standards prescribe followup requirements for audit findings and recommendations. Accordingly, for performance audits, generally accepted government auditing standards state that auditors should evaluate whether the audited entity has taken appropriate corrective action to address findings and recommendations from previous engagements that are significant. Auditor should use this information in assessing risk and determining the nature, timing, and extent of current work, including determining the extent to which testing the implementation of the corrective actions applies to the current engagement objectives.

DoD Directive 7650.3, “Follow-up on General Accounting Office (GAO), DoD Inspector General (DoD IG), and Internal Audit Reports,” October 18, 2006, provides guidance for

GAO, DoD OIG, and other DoD internal audit organizations. Followup is an integral part of good management and is a responsibility shared by DoD managers and auditors. Each agency implements its own followup program in accordance with the prescribed standards. Further, as described by DoD OIG officials, in general DoD OIG attempts to follow up on open recommendations semiannually to provide current data in the required semiannual reports to Congress.



Inspector General Department of Defense

