

Audit



Report

OFFICE OF THE INSPECTOR GENERAL

REFUNDS DUE TO DOD FOR
ECONOMY ACT ORDERS ISSUED TO A
CENTRAL INTELLIGENCE AGENCY COMPONENT

Report No. 97-038

December 4, 1996

Department of Defense

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Acronyms

AFMC	Air Force Materiel Command
ASD(C ³ I)	Assistant Secretary of Defense (Command, Control, Communications, and Intelligence)
CIA	Central Intelligence Agency
DFAS	Defense Finance and Accounting Service
DISA	Defense Information Systems Agency
FAN	Financial Account Number
FAR	Federal Acquisition Regulation
MSIC	Missile and Space Intelligence Center
MIPR	Military Interdepartmental Purchase Request
NPIC	National Photographic Interpretation Center



INSPECTOR GENERAL
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December 4, 1996

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (COMMAND,
CONTROL, COMMUNICATIONS, AND INTELLIGENCE)

SUBJECT: Audit Report on Refunds Due to DoD for Economy Act Orders Issued to a
Central Intelligence Agency Component (Report No. 97-038)

We are providing this audit report for information and use. We performed the audit in response to a request from the Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence). We considered comments on a draft of this report in preparing the final report.

Comments on the draft of this report conformed to the requirements of DoD Directive 7650.3. Therefore, no additional comments are required.

We appreciate the courtesies extended to the audit staff. Questions on the audit should be directed to Ms. Mary Lu Ugone, Audit Program Director, at (703) 604-9529 (DSN 664-9529) or Ms. Cecelia A. Miggins, Audit Project Manager, at (703) 604-9542 (DSN 664-9542). See Appendix F for the report distribution. The audit team members are listed inside the back cover.

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Office of the Inspector General, DoD

Report No. 97-038
(Project No. 5RE-0049.01)

December 4, 1996

Refunds Due to DoD for Economy Act Orders Issued to a Central Intelligence Agency Component

Executive Summary

Introduction. This report is the second report that discusses the DoD Components' use of National Photographic Interpretation Center contracts with Sun Microsystems Federal, Incorporated. Report No. 96-018, "DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component," October 27, 1995, states that the DoD Components did not follow statutory and regulatory guidance for the 1,211 Economy Act orders they issued at an estimated value of \$374 million and that they also were unaware of the contract terms and conditions. Since the DoD Components placed the orders without having full disclosure of the contract terms for which the DoD received no benefits, the Office of the Assistant Secretary Defense (Command, Control, Communications, and Intelligence) requested that the Office of the Inspector General determine whether DoD is due a refund. We evaluated the financial records of the DoD Components; Central Intelligence Agency; National Photographic Interpretation Center; and Sun Microsystems Federal, Incorporated, in an attempt to determine the refund due the DoD Components.

Audit Objectives. The audit objective was to determine the actual cost of the computer equipment the DoD Components purchased from Sun Microsystems Federal, Incorporated. For our purposes, actual cost includes but is not limited to the amount DoD Components paid the National Photographic Interpretation Center, less any rebates for the annual credits and contractor allowance, and prompt payment discounts. We did not review the management control program because we determined that 192 DoD Components circumvented regulations and without proper approval, purchased computer equipment using the National Photographic Interpretation Center contracts.

Audit Results. We were unable to determine the refund that the National Photographic Interpretation Center owed the DoD Components. Also, the DoD Components; Central Intelligence Agency; National Photographic Interpretation Center; and Sun Microsystems Federal, Incorporated, did not maintain adequate financial records to substantiate the costs the National Photographic Interpretation Center paid to Sun Microsystems Federal, Incorporated. As a result, the DoD Components lost control, visibility, and use of their information and technology funds for economy act orders.

Summary of Recommendations. We recommend that the Office of the Assistant Secretary Defense (Command, Control, Communications, and Intelligence) notify all the DoD Components to discontinue use of the National Photographic Interpretation Center contract with Sun Microsystems Federal, Incorporated.

Management Comments. The Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) directed that the DoD Components discontinue the use of the National Photographic Interpretation Center contract. The Central Intelligence Agency disagreed with our audit conclusions, stating that its financial records detailing the use of DoD funds on the contract were complete and accurate.

See Part I for a discussion of management comments and Part III for the complete texts of management comments.

Audit Response. We considered the Assistant Secretary's action to be responsive. Although it nonconcurred, the Central Intelligence Agency acknowledged that its accounting system could not correlate DoD funds to the delivery orders made under the National Photographic Interpretation Center contract. The Central Intelligence Agency acknowledgement reaffirms our position that the DoD lacks adequate accountability over its funds when using the National Photographic Interpretation Center contract.

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Part I - Audit Results

Audit Background

This report is the second report that discusses the DoD Components' use of Economy Act* orders placed against two contracts the National Photographic Interpretation Center (NPIC), a component of the Central Intelligence Agency (CIA), had with Sun Microsystems Federal, Incorporated (Sun Microsystems). The first report, Inspector General, DoD, Report No. 96-018, "DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component," October 27, 1995, states that DoD Components may not have received the best value by using the NPIC contracts for the computer equipment ordered. Report No. 96-018 recommends that the DoD Components:

- o stop using the NPIC contracts,
- o determine the actual cost of the computer equipment purchased, and
- o determine whether refunds were due because of overpayments to NPIC.

On October 11, 1995, we met with personnel from the Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) (ASD[C³I]). We informed them that the DoD Components could not determine the actual cost of the computer equipment obtained from Sun Microsystems and were not aware of any prompt payment discounts, annual credits, or contractor allowance NPIC received. Also, we showed the ASD(C³I) personnel the DoD Components' comments on Report No. 96-018, which stated that they could not calculate the actual cost because they did not have needed contractual documentation.

As a result of the October 1995 meeting, the ASD(C³I) personnel raised concerns about the \$374 million the DoD Components spent on computer equipment without having full disclosure of the contractual terms and requested that we perform a review to determine the refund due to DoD. We met with personnel from the Office of the ASD(C³I), CIA, and NPIC regarding access to the documentation needed to assess the costs related to the computer purchases the DoD Components made. The CIA and NPIC agreed to give DoD access to the documentation needed to determine refunds due the DoD Components. During our review, the CIA personnel stated and we verified that some DoD Components had not paid NPIC \$25 million in unliquidated obligations. See Appendix C for details on the associated unliquidated obligations.

*An Economy Act order is an agency order for goods and services that another agency can provide or can furnish by contract.

Audit Objective

The objective was to determine the actual cost of the computer equipment by considering the actual amount NPIC paid for the computer equipment, the rebates for annual credit and contract allowance, and the prompt payment discounts from Sun Microsystems to NPIC.

See Appendix A for a discussion of the audit scope and methodology. Appendix B summarizes the prior audit coverage related to Economy Act orders.

Refunds Due to DoD for Economy Act Orders Issued to a Central Intelligence Agency Component

We could not determine the refunds NPIC owed the DoD Components for the computer equipment the DoD Components purchased using the NPIC contracts with Sun Microsystems. The determination is not possible because the DoD Components, CIA, NPIC, and Sun Microsystems did not have complete and accurate financial records. Consequently, the DoD Components lost the control, visibility, and use of the information technology funds and did not obtain the best value for computer equipment.

CIA Acknowledgment of Refunds Due to DoD

In August 1995, the CIA acknowledged that the NPIC owed the DoD Components a refund totaling the amount the DoD Components paid NPIC in excess of the actual cost of purchased computer equipment. At that time, the CIA provided two lists, dated July 1994 and July 1995, which showed the CIA calculations for refunds due to the DoD Components for orders placed from as early as FY 1987. The CIA personnel stated that because of a shortage of personnel, the CIA was late in processing the refunds. In addition to the two lists, the CIA provided copies of Department of the Treasury checks for some refunds to DoD Components. However, our analysis of the refund lists showed that the information was inadequate to meet our audit objective. Therefore, we requested additional documentation to determine the refund due the DoD Components.

Determination of Refund Due DoD Components

The refund due the DoD Components is composed of three elements:

- o the difference between the advance payment the DoD Component made and the actual cost the NPIC paid Sun Microsystems,
- o the prompt payment discounts NPIC took on the DoD Component orders, and
- o the annual credits and contract allowance the NPIC earned based on the volume of orders the DoD Components placed.

Refunds Due to DoD for Economy Act Orders Issued to a Central Intelligence Agency Component

To determine the refund due the DoD, we asked the DoD Components, CIA, NPIC, and Sun Microsystems to provide the financial records for the three elements.

Financial Records Maintained by the DoD Components, CIA, NPIC, and Sun Microsystems

DoD Components' Financial Records. The DoD Components did not have complete and accurate financial records to support the actual cost of the equipment purchased. The Federal Acquisition Regulation subpart 4.705-1, "Financial and Cost Accounting Records," October 1, 1995 states that financial records should consist of accounts payable records to support the funds disbursed for equipment, the original or copies of the vendor invoice, distribution slips, receiving and inspection reports or comparable certifications of receipt, and debit and credit memorandums. The DoD Component financial records generally contained copies of the Sun Microsystems budgetary quote, the Military Interdepartmental Purchase Request (MIPR), and the MIPR acceptance. However, the DoD Components generally did not have copies of the Sun Microsystems final quote; the delivery order NPIC sent Sun Microsystems; the Standard Form 1080, "Vouchers for Transfers Between Appropriations and/or Funds," (SF 1080 voucher); the vendor invoices; and the DD 250 "Material Inspection and Receiving Report." Also, the DoD Components did not have documentation for the prompt payment discount or the annual credits and contract allowance. The DoD Components did not have complete and accurate documentation for us to determine any of the refund elements.

CIA and NPIC Financial Records. We asked the CIA and NPIC to provide us the financial records that show the actual cost the CIA paid Sun Microsystems, the amount of prompt payment discounts taken, and the annual credits and contract allowance NPIC received based on the volume of DoD Component orders.

Actual Cost the CIA Paid Sun Microsystems. The CIA provided General Ledger Account 2310 and 3211 accounting reports (the summary financial records) to show the amounts the CIA paid Sun Microsystems for the computer equipment. The CIA summary financial records are grouped by financial account number (FAN). A FAN can contain multiple delivery orders, or a delivery order can be divided among multiple FANs. Also, a delivery order and its associated cost cannot be identified. Because those records provided only summary information, we requested supporting documentation.

For supporting documentation, NPIC provided unsigned copies of the DD 250 receiving reports. However, the DD 250 receiving reports did not match the expenses shown on the summary financial records, and NPIC did not provide DD 250 receiving reports for all delivery orders.

Refunds Due to DoD for Economy Act Orders Issued to a Central Intelligence Agency Component

Prompt Payment Discounts Taken. The CIA summary financial records did not provide details of the prompt payment discounts taken. Although the DD 250 receiving reports showed some prompt payment discounts taken, NPIC did not have all DD 250 receiving reports. Thus, we could not determine the total amount of the prompt payment discounts taken by NPIC.

Annual Credits and Contract Allowance. The NPIC provided two letters showing that it earned \$3.5 million in FY 1992 and \$6.0 million in FY 1993 in annual credits from Sun Microsystems based on all orders placed on the contract. Also, NPIC stated that in FY 1995, it received the entire \$1.5 million contract allowance. However, the documentation did not show the detailed information needed for us to determine the annual credits and contract allowance related to the orders the DoD Components placed. Additionally, NPIC could not provide information on the annual credits and contract allowance for FYs 1987 through 1991 and FY 1994. Therefore, we could not determine the refund due the DoD Components related to the annual credits and contract allowance.

Because NPIC did not have complete and accurate documentation on the amount the CIA paid Sun Microsystems for the computer equipment, the prompt payment discounts taken, and the annual credits and contract allowance NPIC received based on the volume of DoD Component orders, we could not determine the refund based on the CIA and NPIC financial records.

Sun Microsystems' Financial Records. We asked Sun Microsystems to provide us the financial records showing the amount the CIA paid Sun Microsystems for the computer equipment and the annual credits and contract allowance Sun Microsystems provided NPIC. In a letter dated April 17, 1995, Sun Microsystems stated that it could not provide the actual cost the CIA paid for the computer equipment because Sun Microsystems uses several incompatible data bases to store the financial information and that the cost could be provided only in a summary format (see Appendix D). Sun Microsystems did not provide all the final delivery orders, invoices, and DD 250 receiving reports for the 12 delivery orders in our initial sample. Further, Sun Microsystems could not provide complete records for any delivery orders or the documentation showing the annual credit NPIC received for FY 1993. Because Sun Microsystems did not have the necessary financial records, we could not determine the refund due the DoD Components.

Conclusion

We could not determine the refund NPIC owed the DoD because the DoD Components, CIA, NPIC, and Sun Microsystems did not maintain complete and accurate financial records to support the payments made for the computer equipment purchased.

Recommendation, Management Comments, and Audit Response

We recommend that the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) notify all DoD Components to discontinue use of the National Photographic Interpretation Center contract with Sun Microsystems Federal, Incorporated.

Management Comments. The Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) concurred and directed DoD Components to discontinue the use of National Photographic Interpretation Center contract 87-K-362300-000 and contract 95-K216600-000.

CIA Comments. Although not required to comment, the CIA disagreed with the stated objective, report conclusion, and recommendation. The CIA stated that:

- o the stated objective of the audit was incomplete and misleading;
- o the audit produced no instances in which a prompt payment discount taken by NPIC was not credited or acknowledged for credit to DoD;
- o the audit did not substantiate that the \$11 million in credits was diverted from DoD; and
- o the CIA financial records for the sample were complete and accurate and supported the payments made for computer equipment purchased under the contract.

The CIA stated that the documentation it provided shows that DoD did not overpay for computer equipment under the NPIC contract. Further, the CIA did not augment funds, and the differences between advance payments made by DoD and the actual cost paid by the CIA have been returned to DoD or acknowledged by the CIA for return to DoD. Additionally, the CIA stated that our audit approach in selecting delivery orders would be inconclusive because there is no precise financial trail since the CIA accounting system tracks other Government funds by individual authorization and not by CIA contract. For the complete text of the CIA comments, see Part III.

Audit Response. The comments of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) were responsive.

Even though the CIA stated that its financial records in support of DoD funds used on the NPIC contract are complete and accurate, the CIA also acknowledged that the delivery orders which NPIC sent to Sun Microsystems could not be tracked to the MIPR. Therefore, the CIA cannot correlate DoD funds to the NPIC contract. The CIA indicated that our audit approach of relating the DoD funds sent by a MIPR to the applicable delivery order for the purchase of computer equipment under the NPIC contract would be inconclusive because of the lack of a precise financial trail. Although the CIA maintains that

Refunds Due to DoD for Economy Act Orders Issued to a Central Intelligence Agency Component

its summary financial data was sufficient for us to determine what was actually purchased and paid for, supporting details rather than the summary data are needed to correlate what was delivered to the DoD Components under the NPIC contract and what the CIA charged the DoD.

The lack of adequate accountability over DoD funds is the fundamental reason for discontinuing the use of the NPIC contract. The financial records provided to the auditors in support of DoD funds used on the NPIC contract cannot be verified for accuracy or completeness and accordingly, determinations using those financial records, are inconclusive at best. The CIA comments reaffirm our position that the DoD discontinue using the NPIC contract.

Part II - Additional Information

Appendix A. Audit Process

Scope and Methodology

Scope and Methodology. We reviewed Economy Act orders the DoD Components placed with NPIC and the source documentation for selected Economy Act orders to determine the actual cost of the computer equipment and the refund due to DoD. Specifically, for the selected Economy Act orders, we reviewed:

- o the DoD Components' financial record files for the selected orders from July 1990 through May 1996 to determine the amount the DoD Components obligated for the orders and the payment status of the obligations;

- o the CIA accounting reports, dated from August 1990 through March 1995, for General Ledger Accounts 2310 and 3211 for the selected Economy Act orders and the DD 250 receiving reports to determine the amount NPIC paid Sun Microsystems and the annual credits and contract allowance NPIC received from Sun Microsystems; and

- o the Sun Microsystems financial records to determine the amount the CIA paid Sun Microsystems for the computer equipment and the annual credits and contract allowance Sun Microsystems gave NPIC.

In addition, we interviewed contracting officers, project office personnel, and accounting and finance personnel from five DoD Components; NPIC contracting and finance personnel; and Sun Microsystems financial and Government contracts personnel.

Universe and Sample. Personnel in the Office of the Inspector General, CIA, gave us a manual and automated data base of Economy Act orders that 17 major DoD Components placed on two contracts (contract 87-K362300-000 and contract 95-K216600-000) between NPIC and Sun Microsystems. That data base listed 1,211 Economy Act orders totaling \$374.2 million. We judgmentally selected 12 Economy Act orders for review. We increased the sample to 90 delivery orders because the CIA summary financial records combine delivery orders in FANs. The 90 delivery orders totaled \$92.7 million and were issued by 22 DoD Components. We did not make statistical projections based on the selected Economy Act orders.

Scope Limitation. We did not perform a review of the management control program because we identified more than 192 DoD Components that had purchased computer equipment using the NPIC contracts. To review all DoD Components' management control programs would not have been an efficient and effective use of audit resources.

Reliability of Computer-Processed Data. To derive the number of DoD contracting actions with Sun Microsystems, we relied on the data bases for the DoD Component Economy Act orders that personnel in the Office of the Inspector General, CIA, provided. We could not verify the accuracy of that information. However, not determining the accuracy of the data base did not affect the results of the audit.

Audit Period, Standards, and Locations. We performed this economy and efficiency audit from August 1995 through June 1996 in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD. Appendix E lists the organizations visited or contacted.

Appendix B. Prior Audits and Other Reviews

Office of the Inspector General, DoD

Report No. 96-018, "DoD Use of Economy Act Orders Issued to a Central Intelligence Agency Component," October 27, 1995. The report states that the DoD had no assurance that Economy Act orders placed on the NPIC contract represent a "best value" for DoD. Further, the DoD Components overpaid for computer equipment, may have augmented NPIC funds, and contravened statutory and regulatory requirements for Economy Act orders. The report recommends that DoD Components stop issuing Economy Act orders, cancel any unfilled orders, and review the performance of and take appropriate actions against DoD officials who exceeded their authority. The report recommends that DoD obtain a refund from NPIC equal to the benefits accrued from the DoD Component orders.

The DoD Components generally concurred with the recommendations to stop issuing orders, cancel unfilled orders, and review officials' conduct. The Components concurred with the recommendation that a refund should be sought from NPIC. The components believed a single DoD office should seek the refund and the IG, DoD, was requested to perform this audit to determine if a refund was due to DoD.

Report No. 95-231, "Vendor Payments-Defense Accounting Office, Air Force District of Washington, Finance Washington," June 12, 1995. The report states that the Defense Accounting Office/Washington Headquarters Services made incorrect or improper payments, improperly certified vouchers, did not update the accounting system, and did not maintain proper supporting documentation. Further, the Defense Accounting Office/Washington Headquarters Services did not adequately use exception reports that identified accounting errors to ensure the integrity of accounting information, did not consistently perform certification of fund availability, and had not implemented a management control program. The report recommends that the Director, Defense Accounting Office/Washington Headquarters Services, improve the accounting procedures, recoup duplicate payments, maintain adequate source documentation, certify fund availability, and implement a management control program. The Deputy Director for Finance, Defense Finance and Accounting Service, agreed with all recommendations except the recommendation for requiring that the disbursing officer certify fund availability. Corrective actions taken include validating and recouping duplicate payments; correcting erroneous payments; and establishing procedures to minimize duplicate and erroneous payments, an accounting system training program, uniform filing procedures, and a management control program.

Appendix B. Summary of Prior Audits and Other Reviews

Report No. 94-008, "DoD Procurements Through the Tennessee Valley Authority Technology Brokering Program," October 20, 1993. The report states that DoD organizations issued Economy Act orders to the Technology Brokering Program, circumventing the Federal procurement process; that DoD organizations did not provide for adequate contract administration and contract audits to verify that work was performed in accordance with the Tennessee Valley Authority cooperative agreements; and that in FY 1992, the Tennessee Valley Authority earned about \$3.5 million in interest by requiring DoD to make payments before receiving the goods and services. The report recommends that the Deputy Under Secretary of Defense (Environmental Security) revise DoD Instruction 4000.19, "Interservice, Interdepartmental, and Interagency Support," to prevent DoD organizations' misuse of Economy Act orders, obtain a refund of unliquidated advance payments, and transfer funds based on incurred costs. The Army, Navy, and Air Force generally agreed with the recommendation. The Deputy Under Secretary of Defense (Environmental Security) agreed to review DoD Instruction 4000.19 to include the recommended procedures and controls. The draft instruction was issued in August 1995 with an effective date of October 1, 1995.

Report No. 93-068, "Procurement of Services for the Non-Acoustic Anti-Submarine Warfare Program Through the Tennessee Valley Authority," March 18, 1993. The report states that the Director, Defense Research and Engineering, and the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) did not properly control and administer the expenditure of \$18.6 million for the Non-Acoustic Anti-Submarine Warfare Program as a result of not following management controls. The report recommends that the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) direct that adequate contract administration be performed at the Tennessee Valley Authority, revise existing interagency agreements to reflect any agreement on contract administration and contract audits, request the Tennessee Valley Authority to recoup questioned costs, establish controls over classified data to ensure separation of duties, withdraw any remaining funds from the Tennessee Valley Authority that were not obligated on a cooperative agreement, and provide training. Management did not agree with all issues in the report, but concurred with all recommendations. Contract administration and future procurements are now performed in-house. In addition, a consolidated inventory list was to be established and maintained to ensure the proper handling of classified documentation.

Report No. 93-042, "Allegations of Improprieties Involving DoD Acquisition of Services Through the Department of Energy," January 21, 1993. The report states that the Military Departments did not adequately strengthen controls over the use of interagency agreements through the Department of Energy as recommended by a previous Inspector General, DoD, report. Report No. 93-042 recommends that DoD establish criteria for and specify details in interagency agreements, discipline DoD officials who knowingly exceeded their authority by placing Economy Act orders with the Department of Energy, establish management controls to ensure adequate administration of DoD Economy Act orders, and establish a system for tracking DoD procurements that use Economy Act orders. The report also recommends establishing a central point within DoD to oversee policy and administration of

Appendix B. Summary of Prior Audits and Other Reviews

interagency acquisitions. The Director of Defense Procurement nonconcurred with the need for an information system to track interagency acquisitions, but did agree to the need for contracting officer approval of Economy Act orders. The Military Departments and the Defense Logistics Agency agreed that interagency agreements and related orders should be reviewed, then ratified or terminated, but disagreed on whether the review was the responsibility of DoD contracting officers. The Comptroller of the Department of Defense (now the Under Secretary of Defense [Comptroller]) agreed to establish a requirement that finance and accounting officers would not authorize funds for interagency orders, unless a contracting officer had certified that the orders were proper. Oversight controls and strengthened policies are in place now to prevent the reoccurrence of having a program official without proper justification and approval make an agreement with a civil agency for contractor support. The Military Departments took no disciplinary action because they concluded that the responsible program officials did not knowingly exceed their authority or attempt to circumvent prescribed acquisition procedures. The Secretary of Defense issued a memorandum on February 8, 1994, that clarified responsibilities for review and approval of funds for interagency orders.

Naval Audit Service

Report No. 003-95, "Interagency Acquisitions at Selected Naval Activities," October 28, 1994. The report states that 81 interagency acquisitions, valued at \$32.6 million, did not meet the requirements of Federal, DoD, and Navy procurement and financial policies. The report concluded that the Navy's actions to improve controls were not effective and needed strengthening. The report recommends that management controls be strengthened by establishing accountability and procedural controls; developing criteria for making determinations; and requiring the tracking, reporting, and monitoring of Economy Act orders placed outside DoD. The Assistant Secretary of the Navy (Research, Development and Acquisition) concurred with the findings and recommendations. The Comptroller of the Navy generally concurred with the recommendations. As of November 26, 1996, corrective actions were completed for all recommendations.

Appendix C. Other Matters of Interest

Upon giving us summary financial records, CIA financial liaison personnel stated that the CIA determined that the DoD Components had not reimbursed the CIA for 23 MIPRs valued at \$25 million. We reviewed nine of the MIPRs, valued at \$22.7 million, that were issued by five DoD Components. The DoD Component and Defense Finance and Accounting Service (DFAS) accounting records verified that the MIPRs had not been paid. We prepared information packages that included copies of the summary financial records, the relevant MIPRs, and the analysis of the amount the DoD Component obligated and the amount NPIC paid Sun Microsystems for the computer equipment. Details on the five DoD Components follow.

Requirement for Reconciliation of Advance Payment to Actual Cost

The unliquidated obligations occurred because the DoD Components did not reconcile the advance payments to the actual cost of the computer equipment purchased as required by the United States Code, title 31, section 1535, "Agency Agreements," (hereafter referred to as the Economy Act) and the Federal Acquisition Regulation (FAR).

The Economy Act section (d) states:

(d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is deobligated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in-

(1) providing goods or services; or

(2) making an authorized contract with another person to provide the requested goods or services.

The responsibility of contract administration for the Economy Act orders placed by the DoD Components resided with both NPIC and the DoD Components. Because NPIC initiated the contract and acted as the servicing agency, NPIC was accountable for satisfying the FAR requirements related to the Economy Act orders. However, the DoD Components, as the requesting agencies, are responsible to ensure that charges are appropriate and to perform contract administration. The FAR subpart 17.504, "Ordering Procedures," states:

The servicing agency is responsible for compliance with all other legal or regulatory requirements applicable to the contract, However, if the servicing agency is not subject to the Federal Acquisition Regulation, the requesting agency shall verify that

Appendix C. Other Matters of Interest

contracts utilized to meet its requirements contain provisions protecting the Government from inappropriate charges . . . and that adequate contract administration is provided.

The FAR Subpart 4.804-5, "Detailed Procedures for Closing Out Contract Files," states that closeout procedures shall ensure that a review of contract funds is completed and that excess funds are deobligated. Also, the completed contract file should include the status of the payment if the payment has been disbursed, but is still unknown.

Because the DoD Components did not reconcile the advance payments to the actual cost shown on DD 250 receiving reports or to the Sun Microsystems final quote and the delivery order NPIC sent to Sun Microsystems, the DoD Components consistently overpaid for computer equipment.

DoD Components' Unliquidated Obligations

Marine Corps Systems Command, Quantico, Virginia. As of August 1996, the Marine Corps Systems Command made no payments on MIPR M95450-93-24287, January 1993, for \$6,023,408. The CIA summary financial records showed that NPIC paid Sun Microsystems less than the amount on the SF 1080 voucher for the advance payment that NPIC sent the Marine Corps Systems Command. We asked the Marine Corps Systems Command to reconcile the records and to make payment to NPIC in accordance with the summary financial records. We contacted the Marine Corps Systems Command three times in June 1996 and again in August 1996 to determine the status of the reconciliation. Personnel at the command said that they had not performed the reconciliation and had not decided what position they would take regarding the payment of the SF 1080 voucher.

Missile and Space Intelligence Center, Defense Intelligence Agency, Huntsville, Alabama. As of April 1996, accounting records at the Missile and Space Intelligence Center (MSIC), Defense Intelligence Agency, and DFAS showed that MSIC had not paid MIPR DIAMSC-93-0018, January 1993, for \$4,166,820. We informed MSIC personnel that, according to the CIA, MSIC had not paid the SF 1080 voucher that requested advance payment of MIPR DIAMSC-93-0018. We informed MSIC that we would provide the financial information that showed that NPIC had paid Sun Microsystems less than the SF 1080 voucher amount. Also, we asked MSIC to review the financial information and to pay NPIC based on its review results and the CIA history of not generally sending refunds to the DoD Components. We then notified MSIC that the actual cost of the computer equipment was less than the SF 1080 voucher amount of \$4,166,820. Two days later, on May 8, 1996, before receiving the financial information, MSIC, at the direction of the Defense Intelligence Agency, paid the CIA the entire amount of the voucher. Our review of the MSIC accounting procedures showed that the MSIC accounting reports identified the unliquidated obligation as outstanding since FY 1993. Therefore, MSIC could have delayed making the payment until it received the

financial information. As of August 1996, the CIA, MSIC, and the Defense Intelligence Agency have made no effort to adjust the advance payment to the actual cost and to process the overpayment MSIC made to NPIC.

Electronic Systems Center Hanscom Air Force Base, Massachusetts. As of May 1996, the accounting records at the Electronic Systems Center and the DFAS showed that no payments had been made to NPIC for three MIPRs (FY7620-93-AVD80, FY7620-93-AVD81, and FY7620-93-AVD82) dated June 1993 and totaling \$4,169,000. The CIA summary financial records showed that NPIC paid Sun Microsystems less than the amount on the SF 1080 voucher that requested advance payment of \$4,169,000. The Electronic Systems Center financial staff stated that they would review the information to determine the amounts they would pay on the three MIPRs. In June 1996, the staff had not determined the cost of the computer equipment obtained from Sun Microsystems and had not paid the SF 1080 voucher. As of August 1996, the SF 1080 voucher had not yet been paid because the Electronic Systems Centers was still determining the amount to pay.

Air Force Materiel Command, Wright-Patterson Air Force Base, Ohio. As of May 1996, the Air Force Materiel Command (AFMC) had not paid two MIPRs (AFMCCIRA-94-074 and AFMCCIRA-94-109) that totaled \$2,338,062. AFMC personnel compared the cost in the summary financial records to the DD 250 receiving report cost and found that the amounts differed, as our comparison determined. After review of AFMC financial records and the information we provided, AFMC personnel determined that the amount NPIC paid Sun Microsystems is less than MIPR AFMCCIRA-94-074 and that they will pay the lesser amount. Additionally, the cost documented on the CIA summary financial records for MIPR AFMCCIRA-94-109 is also less, and AFMC will pay NPIC the lesser amount.

Defense Information Systems Agency (DISA), Arlington, Virginia. As of April 1996, neither DISA nor DFAS accounting records showed any payments made on two MIPRs, DFMR51606 and DJRO32263, totaling \$5,960,000, that were issued in August 1993 and December 1994, respectively. However, because DISA was concerned that the unpaid SF 1080 voucher amount exceeded the amount NPIC paid to Sun Microsystems, DISA sent a memorandum to NPIC requesting full disclosure of the cost of computer equipment. The memorandum requested that NPIC identify and provide documentation to support the actual amount NPIC paid Sun Microsystems for all orders DISA placed. DISA personnel intended to reconcile the payments and pay NPIC any differences in the amount paid and the amount owed. As of August 1996, DISA had not received a response from NPIC regarding the memorandum and had not made any payments.

Appendix D. Sun Microsystems Letter Regarding Payment Records

Finance
2550 Garcia Avenue, MS UM1106-92
Mountain View, CA 94043-1100



April 17, 1996

DODIG
400 Army Navy Drive
CGN 114
Attention: Cecelia Miggins
Arlington, Virginia 22202

Dear Ms. Miggins:

Regretfully, Sun Microsystems was unable to provide you with the amounts paid NPIC to Sun Microsystems. The reasons we were unable to comply with your request are:

1. The data is stored in a combination of several separate databases and they do not "talk" well to each other.
2. Some of the payment data is summarized and we cannot obtain the detailed information.
3. The details on any particular order/invoice are readily available on-line. The problem lies with trying to obtain a complete payment history of a customer from prior fiscal years. It should be noted that this is the first time in my eight years at Sun that I am aware of such a request being made. This is an unusual request for us and one our systems are not equipped to handle.

Sun is able to provide you the invoice history for the periods requested.

Very truly yours,

A handwritten signature in black ink, appearing to read "W.F. Cook, III".

William F. Cook, III
Manager, Government Compliance

Appendix E. Organizations Visited or Contacted

Office of the Secretary of Defense

Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence), Washington, DC

Department of the Navy

Office of the Marine Corps Systems Command, Quantico, VA

Department of the Air Force

Air Force Materiel Command, Wright-Patterson Air Force Base, OH
Electronic Systems Center, Hanscom, MA

Defense Agencies

Defense Finance and Accounting Service, Arlington, VA
Defense Information Systems Agency, Arlington, VA
Defense Intelligence Agency, Washington, DC
Missile and Space Intelligence Center, Redstone Arsenal, AL

Non-Defense Federal Organizations

Central Intelligence Agency, Vienna, VA
National Photographic Interpretation Center, Washington, DC

Non-Government Organization

Sun Microsystems Federal, Incorporated, Milpitas, CA

Appendix F. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition and Technology
Director, Defense Logistics Studies Information Exchange
Under Secretary of Defense (Comptroller)
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)
Assistant Secretary of Defense (Command, Control, Communication, and Intelligence)
Assistant to the Secretary of Defense (Public Affairs)

Department of the Army

Auditor General, Department of the Army

Department of the Navy

Commandant of the Marine Corps
Commander, Marine Corps Systems Command
Auditor General, Department of the Navy

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Commander, Air Force Materiel Command
Commander, Air Force Systems Command
Commander, Electronic Systems Center
Auditor General, Department of the Air Force

Defense Organizations

Director, Defense Contract Audit Agency
Director, Defense Intelligence Agency
Inspector General, Defense Intelligence Agency
Director, Missile and Space Intelligence Center
Director, Defense Information Systems Agency
Director, Defense Logistics Agency
Director, National Security Agency
Inspector General, National Security Agency

Non-Defense Federal Organizations and Individuals

Office of Federal Procurement Policy, Office of Management and Budget
Technical Information Center, National Security and International Affairs Division,
General Accounting Office
Inspector General, Central Intelligence Agency

Chairman and ranking minority member of each of the following congressional committees and subcommittees:

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
Senate Select Committee on Intelligence
House Committee on Appropriations
House Subcommittee on National Security, Committee on Appropriations
House Committee on Government Reform and Oversight
House Permanent Select Committee on Intelligence
House Subcommittee on National Security, International Affairs, and Criminal
Justice, Committee on Government Reform and Oversight
House Committee on National Security

Non-Government Organization

Sun Microsystems Federal, Incorporated

Part III - Management Comments

Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) Agency Comments



COMMAND, CONTROL,
COMMUNICATIONS, AND
INTELLIGENCE

ASSISTANT SECRETARY OF DEFENSE
6000 DEFENSE PENTAGON
WASHINGTON, DC 20301-6000
November 4, 1996



MEMORANDUM FOR INSPECTOR GENERAL

SUBJECT: Draft DoDIG Audit Report "Refunds Due to DoD for
Economy Act Orders Issued to a Central Intelligence
Agency Component," September 3, 1996

Based on the sole recommendation contained in subject draft
DoDIG audit report, I have directed that the DoD Components
discontinue use of National Photographic Interpretation Center
contract 87-K362300-000 and contract 95-K216600-000.


Emmett Paige, Jr.

Attachment



Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) Agency Comments



COMMAND, CONTROL,
COMMUNICATIONS, AND
INTELLIGENCE

ASSISTANT SECRETARY OF DEFENSE
6000 DEFENSE PENTAGON
WASHINGTON, DC 20301-6000

November 4, 1996



MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
UNDER SECRETARIES OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTOR OF INFORMATION SYSTEMS (C4), ARMY
ASSISTANT SECRETARY OF THE NAVY (RESEARCH,
DEVELOPMENT AND ACQUISITION)
ASSISTANT SECRETARY OF THE AIR FORCE (ACQUISITION)
DIRECTOR, JOINT STAFF
DIRECTORS OF DOD FIELD ACTIVITIES

SUBJECT: Discontinuance of Use of the National Photographic
Interpretation Center Contract 87-K362300-000 and
Contract 95-K216600-000

Effective immediately, I direct that the DoD Components
discontinue use of National Photographic Interpretation Center
contract 87-K362300-000 and contract 95-K216600-000.

The Director, Joint Staff is requested to forward this
correspondence to the Unified Combatant Commands for appropriate
action.


Emmett Paige, Jr.

Attachments



Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) Agency Comments



ASSISTANT SECRETARY OF DEFENSE

6000 DEFENSE PENTAGON
WASHINGTON, DC 20301-6000

February 6, 1996



MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Contracts for Sun Products

Attached for your use are two pages of possible sources for Sun Products comparable to those on the National Photographic Interpretation Center Sun Contract.

The prohibition to use the National Photographic Interpretation Center Sun Contract is still in place.


Emmett Paige, Jr.

Attachment

Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) Agency Comments

CONTRACTS FOR SUN PRODUCTS

CONTRACT/AGENCY Defense Intelligence Agency

WHO CAN USE? Limited acquisition Dept. Of Defense IIS
(DODIIS) Community

REASON TO USE: Sun Secure Products are available. Program
provides excellent prices on a wide selection
of product and services.

WHAT IS AVAILABLE? SPARC 4, SPARC5, SPARC 20, SPARC 1000E, SPARC
2000E, Options, Arrays, Service, Training.
Most software and upgrade options. Full
SunService suite of products.

CONTRACT/AGENCY NAVFAC (Naval Facilities Command)

WHO CAN USE? Contract is open to all Government Agencies.

REASON TO USE: Easy to justify and order off contract.
Discounts are competitive with other federal
vehicles.

WHAT IS AVAILABLE? SPARC5, SPARC 20, SPARC 1000E, SPARC 2000E,
Options, Arrays, Service, Training.

CONTRACT/AGENCY ICASE (Integrated Computer Aided
Software Environment)

WHO CAN USE? All Government agencies

REASON TO USE: Hardware and software turnkey solutions
provided. Excellent service plans.
Easy justification and ordering
procedures.

WHAT IS AVAILABLE? All Sun products and services are
available. Consulting services
provided. Third party products
provided.

Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) Agency Comments

CONTRACT/AGENCY: CHS2 (Computer Hardware System)

WHO CAN USE? All Government users who qualify for the Warner Exemption.

REASON TO USE: Very Competitive life-cycle cost which includes hardware warranty for life of contract. Analysis of pricing must include maintenance and support for accurate comparison.

WHAT IS AVAILABLE? SPARC 4, SPARC 1000E, Software, SPARC 20

CONTRACT/AGENCY: AFCAC 305 (Air Force Computer Acquisition Center)

WHO CAN USE? All Government agencies can buy off this contract. However, the configuration must be a database configuration.

REASON TO USE: Very competitive life-cycle cost. Analysis of pricing must include maintenance and support for accurate comparison of value. Worldwide support is provided.

WHAT IS AVAILABLE? SPARC1000E, SPARC 2000E, SunNet Manager, OSI.

CONTRACT/AGENCY: GENERAL SERVICES ADMINISTRATION MULTIPLE AWARD SCHEDULES

WHO CAN USE? All Government agencies can buy off this contract. However, the MAXIMUM AWARD AMOUNT is \$500,000

REASON TO USE: Multiple sources, including SUN and other third party vendors. Competitive prices. Specific Make and Model must be justified and pricing must be least overall cost to.

WHAT IS AVAILABLE? All SUN products

Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) Agency Comments



COMMAND, CONTROL,
COMMUNICATIONS, AND
INTELLIGENCE

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
6000 DEFENSE PENTAGON
WASHINGTON, DC 20301-6000

6 DEC 1995



MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDITING

SUBJECT: DoD Use of Economy Act Orders Issued to a Central
Intelligence Agency Component

The Assistant Secretary of Defense for Command, Control, Communications and Intelligence (ASD(C3I)) will be the single focal point in the Office of the Secretary of Defense for orchestrating the remaining corrective actions recommended in the report.

My office will be the action office and will provide the lead in developing, tracking and ensuring that the corrective actions are completed.

I have had preliminary discussions with the Central Intelligence Agency's Deputy Comptroller and she has stated a willingness in behalf of their agency to work with us to ensure no new violations occur and to assist in the recovery of the money owed to the Department of Defense. My office will develop a plan of action to ensure that this happens and to ensure that the remaining recommendations of the report are acted upon.

Mr. Samuel Worthington of my office will act as my representative in seeing that the plan of action is created and executed in a timely fashion. I request that Ms. Cecelia A. Miggins from your office assist us. It is my intent to have the plan of action in place and working in the next 30 days. Mr. Worthington can be contacted on (703) 614-1779. His e-mail address is sam.worthington@osd.mil.

Anthony M. Valletta
Deputy Assistant Secretary of Defense
(C3I Acquisition)



Central Intelligence Agency Comments

Central Intelligence Agency

Washington, D.C. 20505

30 OCT 1996

Ms. Eleanor Hill
Inspector General
Department of Defense
400 Army Navy Drive
Arlington, VA 22202-2884

Dear Ms. Hill:

This letter responds to the draft audit report, Project No. 5RE-0049.01, on DoD Management and Financial Control For Economy Act Orders Issued To A Central Intelligence Agency Component, which recommends that the Department of Defense (DoD) discontinue use of the National Photographic Interpretation Center (NPIC) Sun Microsystems contract.

The DoD IG's recommendation is based on the audit's conclusion that "DoD components lost control, visibility, and use of its information and technology funds because the Central Intelligence Agency (CIA), NPIC, Sun Microsystems, and DoD components did not maintain adequate financial records to substantiate the costs paid to Sun Microsystems by NPIC and the auditors were unable to determine the refund that NPIC owed DoD components." My acquisition staff and I have reviewed the draft audit report and strongly disagree with its stated objective, conclusion, and recommendation. Our disagreements are based on the erroneous and incomplete information presented throughout the audit report as detailed in the following paragraphs.

The stated objective of the audit (which was to "determine the actual cost of the computer equipment....so that DoD could obtain a refund from NPIC") is incomplete and misleading. This audit was agreed to in principle by the Deputy DoD Inspector General, Mr. Derek Vander Shaaf, and the CIA Inspector General, Mr. Frederick P. Hitz, to resolve the allegations made in DoD IG Audit Report 96-018 that the

CIA/NPIC diverted DoD funds and improperly augmented its own appropriation. CIA views this audit as an extension of Audit Report 96-018 and it is reviewed in this context and with reference to our conviction that CIA/NPIC did not augment its appropriations in any manner. The CIA's only purpose in participating in this follow-on random sample audit of CIA financial records was to resolve the unsubstantiated allegations that CIA/NPIC had augmented its appropriations by diverting for its own use \$3.7 million in prompt payment discounts and approximately \$11 million in credits from Sun Microsystems from the Economy Act orders processed on behalf of DoD components. DoD IG auditors stated repeatedly that, since they were not provided access to CIA financial records for Audit Report 96-018, they could only speculate as to what CIA/NPIC did with the unexpended DoD funds. Allegations concerning violations of appropriation law, substantiated or not, are taken seriously by CIA/NPIC.

As mutually agreed to by DoD IG and CIA/NPIC, DoD IG requested and was provided access to a random sample of financial records, which sample was sufficient to determine whether or not CIA/NPIC had diverted DoD prompt payment discounts and augmented its own appropriations. It is CIA's position that the sample data audited by DoD IG confirmed that the prompt payment discounts taken by NPIC were returned to DoD or were acknowledged by CIA as due DoD. This audit has produced no instances where a discount had been taken by NPIC and not credited or acknowledged for credit to DoD. CIA fails to understand why the DoD IG kept this finding from the audit report and did not rescind the original allegation that CIA/NPIC had diverted \$3.7 million in DoD funds.

As for the \$11 million in credits that the DoD IG alleged were diverted from DoD, it is the CIA's position that this allegation remains unsubstantiated. We note that the DoD IG declined the NPIC Contracting Officer's offer to provide the DoD IG with justification and documentation supporting administrative costs of approximately \$11 million for processing DoD Economy Act orders that were not reimbursed by DoD. The DoD IG advised the NPIC Contracting Officer that the issue of administrative costs was outside the scope of this audit.

Central Intelligence Agency Comments

We completely disagree with the DoD IG's conclusion that CIA/NPIC did not maintain complete and accurate financial records to support the payments made for computer equipment purchased. The financial records for the project numbers randomly audited by the DoD IG were complete and accurate and supported the payments made for the computer equipment purchased under the project number. In June 1996, the DoD IG stated that the financial records provided by the CIA were insufficient and inconclusive. The CIA Finance Liaison Division had previously advised the DoD IG that their audit approach of selecting Delivery Orders under the Sun Contract and attempting to track back to the authorizing project order (MIPR) would be inconclusive because there is no precise financial trail since the CIA's accounting system tracks other government funds by individual authorization (MIPR) and not by CIA contract. The DoD IG was formally advised of this in June 1996 by the CIA Finance Liaison Division, and the DoD IG finally agreed to randomly select specific DoD authorizations (MIPRs) and track them using the summary financial documentation provided. Although this audit was to be completed by April 1996, CIA/NPIC nevertheless agreed to provide the newly requested financial documentation, even though the originally agreed to sample size had grown substantially.

In summary, it appears to CIA that the DoD IG is attempting to replace one flawed audit with another. DoD IG's original Audit Report 96-018 concluded that DoD may not have received the best value for computer equipment under the NPIC Sun contract and that CIA/NPIC had augmented their funds. Unable to substantiate its original allegation, DoD IG now alleges that neither DoD, CIA, nor Sun Microsystems maintained complete and accurate records because the DoD IG could not determine the refund NPIC owed DoD. The fact is that the documentation provided by CIA to the DoD IG clearly shows that DoD **did not** overpay for computer equipment under the NPIC Sun contract, **did not** augment CIA/NPIC funds, and that differences between the advance payment made by DoD and the actual cost paid by CIA/NPIC have been returned to DoD or have been acknowledged by the CIA for return to DoD.

Based on the above exceptions, we are also in complete disagreement with the audit's recommendation. The DoD IG has presented an incomplete and flawed case against CIA/NPIC and its Sun contract. During the past two years, the DoD IG

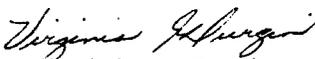
has not substantiated that DoD has either overpaid for computer equipment, augmented NPIC funds, or is owed any additional refunds by NPIC. In fact, the CIA is quite confident that contrary to the DoD IG's assertions, DoD has obtained the best value in acquiring Sun workstations under the NPIC contract. Notwithstanding, the DoD IG is recommending that the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) notify all DoD Components to discontinue use of the NPIC contract with Sun. While CIA recognizes that it has no role in internal DoD affairs, we feel obligated to point out to ASD (C3I) that the Office of the Secretary of Defense (OSD) has recently entered into a Memorandum of Understanding (MOU) with NPIC to purchase Sun equipment. We are confident that OSD would not misuse the Economy Act, overpay for computer equipment, or do business with an Agency that did not maintain complete and accurate records.

As stated previously, CIA/NPIC believes that they have provided significant price savings, administrative cost avoidance, and benefit to a large number of DoD components within the Intelligence Community over the past nine years with its Sun contract.

We will continue to provide common goods and services in a superior manner to Intelligence Community customers, such as the National Imagery and Mapping Agency, where we are dedicating extensive acquisition support.

Questions regarding this matter may be addressed to the undersigned.

Sincerely,


Virginia E. Durgin
Associate Deputy Director for
Acquisition/OFL

Audit Team Members

This report was prepared by the Readiness and Operational Support Directorate, Office of the Assistant Inspector General for Auditing, DoD.

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