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# INSPECTOR GENERAL

*U.S. Department of Defense*

MARCH 19, 2018



## Small Business Subcontracting at Two Army Contracting Command Locations



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# Results in Brief

## *Small Business Subcontracting at Two Army Contracting Command Locations*

March 19, 2018

### Objective

We determined whether Army Contracting Command (ACC)-Redstone and ACC-Warren contracting officials took appropriate actions to ensure prime contractors met their small business subcontracting goals. We reviewed a nonstatistical sample of 50 contracts with estimated completion dates in FYs 2015 or 2016 and 30 contracts awarded in FY 2016. This audit is the fourth and last in a series of our audits on DoD small business contracting.

### Finding

ACC-Redstone and ACC-Warren contracting officials ensured that prime contractors provided small businesses with adequate subcontracting opportunities for 27 of 50 contracts we reviewed, valued at \$693.5 million and \$1.6 billion, respectively.

However, ACC-Redstone and ACC-Warren contracting officials did not ensure that prime contractors provided small businesses with adequate subcontracting opportunities for the remaining 23 contracts, valued at \$914.8 million. Specifically, ACC-Redstone and ACC-Warren contracting officials:

- awarded six contracts, valued at \$330.7 million, without a subcontracting plan or a contracting officer's determination that no subcontracting possibilities existed;
- did not monitor prime contractors' compliance with subcontracting plans for 11 contracts, valued at \$480.3 million;

### Finding (cont'd)

- did not determine why prime contractors with individual subcontracting plans did not meet their small business subcontracting goals for five contracts, valued at \$81.6 million; and
- accepted an individual subcontracting report for one contract, valued at \$22.1 million, that may have misreported subcontract awards.

ACC-Redstone and ACC-Warren contracting officials stated that this occurred because contracting officials did not understand subcontracting plan requirements and because administering subcontracting plans was not a high priority. In addition, ACC-Redstone and ACC-Warren had high turnover among their contracting staffs, and subcontracting plan administration guidance at both locations did not address the transfer of duties from one contracting officer to another. Also, ACC-Redstone contracting management did not provide adequate training or standard operating procedures on requirements for administering subcontracting plans.

As a result, small businesses may have been denied subcontracting opportunities that prime contractors were required to make a good-faith effort to provide. ACC-Redstone and ACC-Warren contracting officials did not obtain subcontracting reports, did not follow up on reports that showed contractors were not meeting their small business goals, and did not determine whether prime contractors made good-faith efforts to comply with negotiated subcontracting goals. Therefore, ACC-Redstone and ACC-Warren may have missed opportunities to recoup liquidated damages (the amount paid by a contractor that fails to make a good-faith effort to comply with its subcontracting plan) of up to \$82.3 million.

### Recommendations

We recommend that the ACC-Redstone and ACC-Warren Executive Directors determine whether the contractor made a good-faith effort to meet its subcontracting goals for 16 contracts and assess liquidated damages, as appropriate.



# Results in Brief

## *Small Business Subcontracting at Two Army Contracting Command Locations*

We also recommend that the Deputy Assistant Secretary of the Army for Procurement, in coordination with the Director, Army Office of Small Business Programs:

- train contracting officials on Federal Acquisition Regulation Subpart 19.7 responsibilities for administering subcontracting plans,
- revise Army Federal Acquisition Regulation Supplement Subpart 5119.7 to incorporate guidance on administering subcontracting plans and procedures for transferring subcontracting plan administration duties when a contract is transferred from one contracting officer to another, and
- issue a policy alert to notify contracting officials of the revision to Army Federal Acquisition Regulation Supplement Subpart 5119.7 incorporating guidance on administering subcontracting plans and procedures for transferring subcontracting plan administration duties when a contract is transferred from one contracting officer to another.

### Management Actions Taken

The Executive Directors agreed with our recommendations and took corrective action for some of the contracts. ACC-Redstone and ACC-Warren contracting officials determined that the contractors met, exceeded, were on pace to meet, or made a good-faith effort to meet their small business subcontracting goals for 9 of 16 contracts.

### Management Comments and Our Response

The ACC Deputy to the Commanding General, responding for the ACC-Redstone and ACC-Warren Executive Directors, agreed with the recommendations. Specifically, ACC-Redstone and ACC-Warren will determine whether the contractor made a good-faith effort to meet its subcontracting goals for the remaining seven contracts. Therefore, the recommendations are resolved but remain open. We will close the recommendations once we verify that ACC-Redstone and ACC-Warren completed their good-faith effort determinations and assessed liquidated damages, as appropriate.

The Army Office of Small Business Programs Director, responding for the Deputy Assistant Secretary of the Army for Procurement, agreed with the recommendations. The Army Office of Small Business Programs implemented training and is developing a schedule to train contracting officials and small business professionals. In addition, the Army Office of Small Business Programs, in coordination with the Deputy Assistant Secretary of the Army (Procurement), is drafting the revised language for incorporation into the Army Federal Acquisition Regulation Supplement and the policy alert to notify all contracting officials and small business professionals of the revision to the Army Federal Acquisition Regulation Supplement Subpart. Therefore, the recommendations are resolved but remain open. We will close the recommendations once we verify that the training has been provided and the policy change and alert have been issued.

Please see the Recommendations Table on the next page for the status of the recommendations.

## ***Recommendations Table***

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Director, Army Office of Small Business Programs	None	3.a, 3.b., 3.c	None
Executive Director, Army Contracting Command–Redstone	None	1.a, 1.b	None
Executive Director, Army Contracting Command–Warren	None	2.c	2.a, 2.b

Note: The following categories are used to describe agency management’s comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – OIG verified that the agreed upon corrective actions were implemented.





**INSPECTOR GENERAL**  
**DEPARTMENT OF DEFENSE**  
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ALEXANDRIA, VIRGINIA 22350-1500

March 19, 2018

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,  
TECHNOLOGY, AND LOGISTICS  
ASSISTANT SECRETARY OF THE ARMY (FINANCIAL  
MANAGEMENT AND COMPTROLLER)

SUBJECT: Small Business Subcontracting at Two Army Contracting Command Locations  
(Report No. DODIG-2018-086)

We are providing this report for review and comment on the recommendations and the report's public release. We conducted this audit in accordance with generally accepted government auditing standards.

We considered management comments on a draft of this report when preparing the final report. Comments from the Army Contracting Command and the Army Office of Small Business Programs conformed to the requirements of DoD Instruction 7650.03; therefore, we do not require additional comments.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9187 (DSN 664-9187).

  
Michael J. Roark  
Assistant Inspector General  
Readiness and Global Operations



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# Introduction

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## Objective

We determined whether Army Contracting Command (ACC)–Redstone and ACC–Warren contracting officials took appropriate actions to ensure that prime contractors met their small business subcontracting goals. This audit is the fourth and last in a series of audits on DoD small business contracting. See Appendix A for scope, methodology, and prior audit coverage.

## Background

### **Army Contracting Command**

The Army Contracting Command (ACC) is a major subordinate command of the Army Materiel Command. ACC performs contracting work for the Army and consists of two subordinate commands and six contracting centers responsible for installation and expeditionary services. We visited two ACC contracting centers located in Redstone, Alabama, and Warren, Michigan. ACC–Redstone supports the development, acquisition, and fielding of aviation and missile systems. ACC–Warren supports the development, acquisition, and fielding of soldier and ground systems.

### **Small Business Subcontracting**

Contracts over \$700,000, awarded to an other than small business must have a small business subcontracting plan if there are subcontracting opportunities so that small businesses can get work on larger contracts.<sup>1</sup> There are three types of subcontracting plans.

- **Individual Subcontracting Plan.** This type of plan covers the entire contract period, applies to a specific contract, and has goals that are based on the contractor’s planned subcontracting efforts. A contractor may also develop a “master subcontracting plan,” which is a template that includes all the information required for an individual plan except subcontracting goals. A master plan may be incorporated into an individual subcontracting plan, but a master plan cannot itself serve as a subcontracting plan for a contract.<sup>2</sup>
- **Commercial Subcontracting Plan.** This type of plan covers a contractor’s fiscal year and applies to the entire production of commercial items sold by the contractor.<sup>3</sup> It applies to all Government contracts in effect during

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<sup>1</sup> Federal Acquisition Regulation (FAR) Part 19, “Small Business Programs,” Subpart 19.7, “The Small Business Subcontracting Program,” 19.702, “Statutory Requirements.” The threshold changed from \$650,000 to \$700,000, effective October 1, 2015.

<sup>2</sup> FAR Part 19, “Small Business Programs,” Subpart 19.7, “The Small Business Subcontracting Program,” 19.701, “Definitions,” and 19.704, “Subcontracting Plan Requirements.”

<sup>3</sup> FAR 19.701.

the contractor's fiscal year. The contracting officer who approves the plan administers the plan.<sup>4</sup>

- **Comprehensive Subcontracting Plan.** This type of plan is similar to a commercial subcontracting plan in that it applies to all of the contractor's DoD contracts in effect during the Government fiscal year. A comprehensive plan is administered by the Defense Contract Management Agency.<sup>5</sup>

## Electronic Subcontracting Reporting System

The Electronic Subcontracting Reporting System (eSRS) is a Government-wide, web-based system used by Federal contractors to report subcontracting program information. Contractors are required to enter their subcontracting accomplishments for Federal contracts into the eSRS rather than provide them to the contracting officer. However, before a contractor can enter a subcontracting report into the eSRS, the contracting officer must correctly code the contract with the proper type of subcontracting plan in the Federal Procurement Data System–Next Generation (FPDS-NG) to indicate that a subcontracting plan was required.<sup>6</sup> When the contractor enters a subcontracting report into the eSRS, the report includes the e-mail address of the contracting officer responsible for administering the plan. The contracting officer then receives an e-mail notification that the contractor has submitted a report. If the contractor enters the e-mail address incorrectly, or the e-mail address is for the wrong contracting officer or for a contracting officer no longer with the organization, then the current contracting officer does not receive a notification that the contractor has submitted a report.

## Contracts Reviewed

We used the FPDS-NG to identify the universe of Army contracts. According to the FPDS-NG, the Army awarded 1,336 contracts, valued at \$24.9 billion, with estimated completion dates in FYs 2015 or 2016, to other than small businesses.<sup>7</sup> We selected three contracting offices to audit: two ACC-Redstone contracting offices and one ACC-Warren contracting office, based on the number of contracts awarded and the dollar value of contracts. The two ACC-Redstone contracting offices awarded 121 contracts, valued at \$5.4 billion, and the ACC-Warren contracting office awarded 95 contracts, valued at \$2.2 billion.

<sup>4</sup> FAR 19.704.

<sup>5</sup> Defense Federal Acquisition Regulation Supplement, Part 252, "Solicitation Provisions and Contract Clauses," Clause 252.219-7004, "Small Business Subcontracting Plan (Test Program)."

<sup>6</sup> The FPDS-NG is a web-based tool that contracting personnel use to report contract actions.

<sup>7</sup> For this audit, we limited our universe to definitive contracts, indefinite-delivery indefinite-quantity contracts, and purchase orders performed within the United States. In addition, we limited our universe to contracts awarded during FY 2010 through 2015.

We nonstatistically selected 50 contracts, valued at \$1.6 billion, with estimated completion dates in FYs 2015 or 2016 to determine whether contracting officials ensured prime contractors provided small businesses with adequate subcontracting opportunities.<sup>8</sup> We selected 30 contracts, valued at \$1.3 billion, awarded by ACC-Redstone and 20 contracts, valued at \$318.0 million, awarded by ACC-Warren. We selected the highest dollar value contracts because these contracts could have a high risk of non-compliance with Federal Acquisition Regulation (FAR) Subpart 19.7, “The Small Business Subcontracting Program.” Specifically, we selected contracts that:

- required a small business subcontracting plan, but had no reports in the eSRS;
- contained reports in the eSRS that showed the contractor did not meet its small business subcontracting percentage goals; and
- did not require a subcontracting plan.

See Appendix B for a summary of the 50 contracts we reviewed.

In addition, we nonstatistically selected 30 contracts, valued at \$4.3 billion, awarded in FY 2016 to determine whether the contracts had an approved subcontracting plan or a determination that no subcontracting possibilities existed. We selected 20 contracts, valued at \$2.8 billion, awarded by ACC-Redstone and 10 contracts, valued at \$1.5 billion, awarded by ACC-Warren. We selected the highest-dollar value contracts from each contracting office. See Appendix C for a summary of the 30 contracts we reviewed.

## Review of Internal Controls

DoD Instruction 5010.40 requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls.<sup>9</sup> We identified internal control weaknesses in ACC-Redstone and ACC-Warren contracting officials’ compliance with requirements for awarding and administering contracts that require subcontracting plans. Specifically, ACC-Redstone and ACC-Warren contracting officials did not ensure that prime contractors provided small businesses with adequate subcontracting opportunities for 23 of 50 contracts with estimated completion dates in FYs 2015 or 2016. We will provide a copy of the final report to the senior official responsible for internal controls in the Department of the Army.

<sup>8</sup> When contracts are completed, contracting officials can determine whether the contractor met its small business subcontracting goals and, if not, whether the contractor made a good-faith effort to meet the goals. If the contractor did not make a good-faith effort to meet its goals, then contracting officials can assess liquidated damages.

<sup>9</sup> DoD Instruction 5010.40, “Managers’ Internal Control Program Procedures,” May 30, 2013.

## Finding

### **ACC-Redstone and ACC-Warren Did Not Consistently Ensure Subcontracting Opportunities Were Provided for Small Business**

ACC-Redstone and ACC-Warren contracting officials ensured that prime contractors provided small businesses with adequate subcontracting opportunities for 27 of 50 contracts, valued at \$693.5 million and \$1.6 billion respectively, with estimated completion dates in FYs 2015 or 2016. However, ACC-Redstone and ACC-Warren contracting officials did not ensure that prime contractors provided small businesses with adequate subcontracting opportunities for the remaining 23 contracts, valued at \$914.8 million. Specifically, ACC-Redstone and ACC-Warren contracting officials:

- awarded six contracts, valued at \$330.7 million, without a subcontracting plan or a determination that no subcontracting possibilities existed;
- did not monitor prime contractors' compliance with subcontracting plans for 11 contracts, valued at \$480.3 million;
- did not determine why prime contractors with individual subcontracting plans did not meet their small business subcontracting goals for five contracts, valued at \$81.6 million; and
- accepted an individual subcontracting report (ISR) for one contract, valued at \$22.1 million, that may have misreported subcontract awards.

ACC-Redstone and ACC-Warren contracting officials stated that this occurred because contracting officials did not understand subcontracting plan requirements and because administering subcontracting plans was not a high priority.

In addition, ACC-Redstone and ACC-Warren had high turnover among their contracting staffs, and subcontracting plan administration guidance at both locations did not address the transfer of duties from one contracting officer to another. Also, ACC-Redstone contracting management did not provide adequate training or standard operating procedures on requirements for administering subcontracting plans.

As a result, small businesses may have been denied subcontracting opportunities that prime contractors were required to make a good-faith effort to provide.<sup>10</sup> In addition, ACC-Redstone and ACC-Warren contracting officials did not determine whether prime contractors made good-faith efforts to comply with negotiated

<sup>10</sup> According to FAR 19.702(b)(1), small businesses are not required to provide small business subcontracting plans. Therefore, we reviewed only prime contractors that were other than small businesses.

subcontracting goals on 17 contracts and whether up to \$82.3 million in potential liquidated damages should be assessed.<sup>11</sup> For nine contracts, ACC-Redstone and ACC-Warren contracting officials determined that prime contractors met their small business subcontracting goals or made a good-faith effort to comply with negotiated subcontracting goals; therefore, no liquidated damages are due.<sup>12</sup>

## The Army Ensured Small Businesses Had Adequate Subcontracting Opportunities for 27 Contracts

ACC-Redstone and ACC-Warren contracting officials ensured that prime contractors provided small businesses with adequate subcontracting opportunities for 27 of 50 contracts, valued at \$693.5 million and \$1.6 billion respectively, with estimated completion dates in FYs 2015 or 2016. Specifically, ACC-Redstone and ACC-Warren contracting officials:



- verified that prime contractors met their small business subcontracting goals or made a good faith effort for three contracts, valued at \$258.6 million, with individual subcontracting plans;<sup>13</sup>
- awarded 11 contracts, valued at \$253.5 million, with approved comprehensive subcontracting plans;<sup>14</sup>
- awarded three contracts, valued at \$17.7 million, with commercial subcontracting plans approved by other contracting offices;<sup>15</sup> and
- awarded nine contracts, valued at \$148.8 million, that did not require subcontracting plans.<sup>16</sup>

In addition, an ACC-Warren contracting official rejected an ISR for one contract, valued at \$14.9 million. On the rejected ISR, the contracting official noted that the contractor may have inappropriately included indirect costs in its subcontracting awards.

<sup>11</sup> FAR 19.705-7 states that when a contractor does not make a good-faith effort to comply with a subcontracting plan, the contractor will pay liquidated damages equal to the amount by which the contractor failed to achieve its subcontracting goals.

<sup>12</sup> ACC-Redstone contracting officials awarded three contracts, and ACC-Warren contracting officials awarded six contracts.

<sup>13</sup> ACC-Redstone contracting officials awarded one contract, and ACC-Warren contracting officials awarded two contracts.

<sup>14</sup> ACC-Redstone contracting officials awarded nine contracts, and ACC-Warren contracting officials awarded two contracts.

<sup>15</sup> ACC-Redstone contracting officials awarded one contract, and ACC-Warren contracting officials awarded two contracts.

<sup>16</sup> ACC-Redstone contracting officials awarded six contracts, and ACC-Warren contracting officials awarded three contracts. Contract W56HZV-12-C-0286.

### ***Contracting Officials Verified That Prime Contractors Met Their Small Business Subcontracting Goals or Made a Good-Faith Effort to Meet the Goals for Three Contracts***

(FOUO) ACC-Redstone and ACC-Warren contracting officials verified that prime contractors met their small business subcontracting goals or made a good-faith effort to meet the goals for three contracts, valued at \$258.6 million, with individual subcontracting plans. For example, ACC-Warren contracting officials awarded a contract for \$110.5 million, which included an individual subcontracting plan.<sup>17</sup> The plan stated that the contractor intended to subcontract [REDACTED] to small businesses ([REDACTED] percent of total planned subcontracting dollars of [REDACTED]).<sup>18</sup> The contractor submitted an ISR, which stated that the contractor subcontracted a total of [REDACTED] million to small businesses during performance of the contract. Although this only represented [REDACTED] percent of actual subcontracting dollars, the contractor exceeded the [REDACTED] million small business subcontracting goal by [REDACTED] million.

### ***Contracting Officials Awarded 11 Contracts With Approved Comprehensive Subcontracting Plans***

ACC-Redstone and ACC-Warren contracting officials awarded 11 contracts, valued at \$253.5 million, with comprehensive subcontracting plans approved and administered by the Defense Contract Management Agency. For example, ACC-Redstone contracting officials awarded a contract for \$22.7 million.<sup>19</sup> ACC-Redstone contracting officials verified that the Defense Contract Management Agency approved the contractor's comprehensive subcontracting plan for FY 2015, which covered all of the contractor's DoD contracts for the fiscal year.

### ***Contracting Officials Awarded Three Contracts With Commercial Subcontracting Plans Approved By Contracting Offices***

ACC-Redstone and ACC-Warren contracting officials awarded three contracts, valued at \$17.7 million, with commercial subcontracting plans approved by other contracting offices. For example, ACC-Warren contracting officials awarded a contract for \$9.2 million.<sup>20</sup> The contractor had a commercial subcontracting plan, which covered this contract as well as other contracts.

<sup>17</sup> Contract W56HZV-12-C-0286.

<sup>18</sup> The percentages depicted in the report were based on rounded numbers and may not equal the actual subcontracting goal percentage, unless otherwise noted.

<sup>19</sup> Contract W31P4Q-15-C-0104.

<sup>20</sup> Contract W56HZV-15-C-0019.

The Defense Logistics Agency approved and administered the plan; therefore, ACC-Warren contracting officials did not need to take any further action to administer the subcontracting plan.

### ***Contracting Officials Awarded Nine Contracts That Did Not Require a Subcontracting Plan***

ACC-Redstone and ACC-Warren contracting officials awarded nine contracts, valued at \$148.8 million, which did not require subcontracting plans because there were no subcontracting possibilities, the work was performed outside of the United States, or the contractor's business size changed from large to small after contract award. For example, ACC-Redstone contracting officials awarded a contract for \$55.6 million, which exceeded the threshold for contracts to require a subcontracting plan.<sup>21</sup> However, the FAR states that a subcontracting plan is not required for contracts where work is performed entirely outside of the United States and its outlying areas.<sup>22</sup> The work for this contract was performed in Iraq; therefore, a subcontracting plan was not required.

### ***Contracting Official Rejected the Individual Subcontracting Report for One Contract***

(FOUO) An ACC-Warren contracting official rejected the ISR for a contract, valued at \$14.9 million.<sup>23</sup> The contract had an individual subcontracting plan, which stated that the contractor intended to subcontract [REDACTED] million to small businesses ([REDACTED] percent of total planned subcontracting dollars of [REDACTED] million). On the rejected ISR, the contracting official noted that the contractor may have inappropriately included indirect costs in its reported subcontract awards. On October 31, 2017, the contractor submitted a revised final ISR showing that the contractor met its small business subcontracting goal. The ACC-Warren contracting official accepted the revised ISR.

## **ACC-Redstone and ACC-Warren Did Not Comply With Requirements for Subcontracting Plans for 23 Contracts**

ACC-Redstone and ACC-Warren contracting officials did not ensure that prime contractors provided small businesses with adequate subcontracting opportunities for 23 of 50 contracts, valued at



ACC contracting officials did not ensure that prime contractors provided small businesses with adequate subcontracting opportunities.

<sup>21</sup> Contract W58RGZ-15-C-0070.

<sup>22</sup> FAR 19.702.

<sup>23</sup> Contract W56HZV-14-C-0073.

\$914.8 million and \$1.6 billion respectively, with estimated completion dates in FYs 2015 or 2016. Specifically, ACC-Redstone and ACC-Warren contracting officials:

- awarded six contracts, valued at \$330.7 million, without a subcontracting plan or a determination that no subcontracting possibilities existed;<sup>24</sup>
- did not monitor prime contractors' compliance with subcontracting plans for 11 contracts, valued at \$480.3 million;<sup>25</sup>
- did not determine why prime contractors with individual subcontracting plans did not meet their small business subcontracting goals for five contracts, valued at \$81.6 million; and<sup>26</sup>
- accepted an ISR for one contract, valued at \$22.1 million, that may have misreported subcontract awards.

### ***Contracting Officials Awarded Six Contracts Without a Subcontracting Plan or a Determination That No Subcontracting Possibilities Existed***

ACC-Redstone and ACC-Warren contracting officials awarded six contracts, valued at \$330.7 million, without a subcontracting plan or a determination that no subcontracting possibilities existed. For contracts exceeding \$700,000 (\$650,000 prior to October 1, 2015), the FAR generally requires contracting officials to award the contract with a subcontracting plan or to make a determination that no subcontracting possibilities exist.<sup>27</sup> The subcontracting plan must include a statement of total dollars planned to be subcontracted and a statement of the total dollars planned to be subcontracted to small businesses as a percentage of total subcontract dollars.<sup>28</sup>

For example, ACC-Redstone contracting officials awarded a contract for \$234.7 million.<sup>29</sup> The original contracting officer awarded the contract without a subcontracting plan or a determination that no subcontracting possibilities existed. The current contracting officer stated that the contract was extended until May 2018. Because of this audit, the current contracting officer requested and was provided a proposed subcontracting plan from the contractor. The contractor and

<sup>24</sup> ACC-Redstone contracting officials awarded four contracts, and ACC-Warren contracting officials awarded two contracts.

<sup>25</sup> ACC-Redstone contracting officials awarded seven contracts, and ACC-Warren contracting officials awarded four contracts.

<sup>26</sup> ACC-Redstone contracting officials awarded two contracts, and ACC-Warren contracting officials awarded three contracts.

<sup>27</sup> FAR Part 19, "Small Business Programs," Subpart 19.7, "The Small Business Subcontracting Program," 19.705, "Responsibilities of the Contracting Officer Under the Subcontracting Assistance Program," 19.705-2, "Determining the Need for a Subcontracting Plan." FAR 19.702(b) states that subcontracting plans are not required from small businesses, for personal services contracts, or for contracts or modifications that will be performed entirely outside of the United States.

<sup>28</sup> FAR 19.704.

<sup>29</sup> W58RGZ-14-C-0082.

the contracting officer are currently negotiating the small business subcontracting goals in the subcontracting plan, and the contracting officer will incorporate the plan into the contract when negotiations are complete.

In another example, ACC-Redstone contracting officials awarded a contract for \$71.9 million.<sup>30</sup> The original contracting officer awarded the contract without an individual subcontracting plan or a determination that no subcontracting possibilities existed. The contractor did submit a master subcontracting plan, which the FAR defines as “a subcontracting plan that contains all the required elements of an individual subcontracting plan, except goals, and may be incorporated into individual subcontracting plans.”<sup>31</sup> However, the contract did not have an individual subcontracting plan with small business subcontracting goals as a part of the master plan. The contracting officer currently assigned to the contract believed that the original contracting officer did not understand the difference between a master subcontracting plan and a comprehensive subcontracting plan, which does include small business subcontracting goals.

### ***Contracting Officials Did Not Monitor Compliance with Small Business Subcontracting Goals for 11 Contracts With Subcontracting Plans***

ACC-Redstone and ACC-Warren contracting officials did not monitor prime contractors’ compliance with subcontracting plans for 11 contracts, valued at \$480.3 million. Specifically, the contracting officials were not aware that contractors did not submit subcontracting reports to the eSRS for their review.

The FAR requires contractors to enter subcontracting reports into the eSRS showing whether the contractor is meeting its small business subcontracting goals for the contract.<sup>32</sup> In addition, the FAR states that it is the responsibility of the contracting officer to acknowledge or reject the subcontracting reports in the eSRS.<sup>33</sup> The FAR also states that contractors that do not make a good-faith effort to meet their small business subcontracting goals may be liable for liquidated damages.<sup>34</sup> The FAR defines a failure to make a good-faith effort as a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan. The contracting officers who were initially responsible for

<sup>30</sup> W58RGZ-15-C-0085.

<sup>31</sup> FAR 19.701.

<sup>32</sup> FAR 19.704.

<sup>33</sup> FAR Part 19, “Small Business Programs,” Subpart 19.7, “The Small Business Subcontracting Program,” 19.705, “Responsibilities of the Contracting Officer Under the Subcontracting Assistance Program,” 19.705-6, “Postaward Responsibilities of the Contracting Officer.”

<sup>34</sup> FAR Part 19, “Small Business Programs,” Subpart 19.7, “The Small Business Subcontracting Program,” 19.705, “Responsibilities of the Contracting Officer Under the Subcontracting Assistance Program,” 19.705-7, “Liquidated Damages.”

administering the plans were no longer assigned to 9 of the 11 contracts, so their responsibilities passed to the contracting officers who replaced them. However, the contracting officials who were currently assigned to the contracts were unaware that the contractors had not entered subcontracting reports into the eSRS. The following examples are contracts for which contractors had not entered subcontracting reports.

- **(FOUO) Contract W58RGZ-12-C-0010 (ACC-Redstone).** The contract, valued at \$373.1 million, had an individual subcontracting plan, which stated that the contractor intended to subcontract [REDACTED] million to small businesses ([REDACTED] percent of total planned subcontracting dollars of [REDACTED] million).
- **(FOUO) Contract W56HZV-14-C-0031 (ACC-Warren).** The contract, valued at \$1.9 million, had a commercial subcontracting plan, which stated that the contractor intended to subcontract [REDACTED] million to small businesses ([REDACTED] percent of all of its subcontracting dollars covered by the subcontracting plan, totaling [REDACTED] million during calendar year 2013). The FAR defines a commercial plan as “a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof.”<sup>35</sup> Contracts awarded under commercial subcontracting plans do not require the contractor to report on subcontracting activities for a specific contract. The contractor is required to submit one summary subcontracting report for all contracts covered by the commercial subcontracting plan at the end of the fiscal year. The contracting officer who approved the plan must review the summary subcontracting reports. Because an ACC-Warren contracting officer approved the subcontracting plan, that contracting officer was responsible for monitoring the plan. The contractor is no longer in business, so ACC-Warren cannot obtain the reports to determine whether the contractor met the plan’s small business subcontracting goals.<sup>36</sup>
- **(FOUO) Contract W31P4Q-15-C-0078 (ACC-Redstone).** The contract, valued at \$4.5 million, had an individual subcontracting plan, which stated that the contractor intended to subcontract [REDACTED] million to small businesses ([REDACTED] percent of total planned subcontracting dollars of [REDACTED] million).

ACC-Redstone contracting officials should ensure ISRs are entered into the eSRS for contracts W58RGZ-12-C-0010, W58RGZ-13-C-0086, W58RGZ-14-C-0037, W31P4Q-15-C-0078, W31P4Q-13-C-0023, W31P4Q-15-C-0002, and W31P4Q-13-C-0046. If the ISRs show that the contractors did not meet the

<sup>35</sup> FAR 19.701.

<sup>36</sup> We are not recommending any follow-up action for this contract because the contractor has gone out of business.

contract's subcontracting goals, the contracting officials should determine whether the contractor made a good-faith effort to meet its subcontracting goals and, if not, whether liquidated damages can be imposed against the contractor.

ACC-Warren contracting officials should ensure ISRs are entered into the eSRS for contracts W56HZV-15-C-0222, W56HZV-15-C-0213, and W56HZV-14-C-L713. If the ISRs show that the contractors did not meet the contract's subcontracting goals, contracting officials should determine whether the contractor made a good-faith effort to meet its subcontracting goals and, if not, whether liquidated damages may be imposed against the contractor.

### ***Contracting Officials Did Not Determine Why Subcontracting Goals for Five Contracts Were Not Met***

ACC-Redstone and ACC-Warren contracting officials did not determine why prime contractors did not meet their small business subcontracting goals for the following five contracts, valued at \$81.6 million.

ACC contracting officials did not determine why prime contractors did not meet their small business subcontracting goals.

- **(FOUO) Contract W58RGZ-13-C-0127 (ACC-Redstone).** The contract, valued at \$29.6 million, had an individual subcontracting plan which stated that the contractor intended to subcontract [REDACTED] ([REDACTED] percent of total planned subcontracting dollars of [REDACTED] million) to small businesses. Based on the ISR, the contractor did not meet the small business subcontracting goal. The contractor subcontracted [REDACTED] to small businesses, [REDACTED] percent of total subcontracting dollars of [REDACTED] million.
- **(FOUO) Contract W31P4Q-13-C-0069 (ACC-Redstone).** The contract, valued at \$7.1 million, had an individual subcontracting plan which stated that the contractor intended to subcontract [REDACTED] to small businesses for the base year of the contract ([REDACTED] percent of total planned subcontracting dollars of [REDACTED]). The contracting officer did not exercise the contract option year. Based on the ISR, the contractor did not meet the small business subcontracting goal. The contractor did not subcontract to any small businesses.
- **(FOUO) Contract W56HZV-14-C-0302 (ACC-Warren).** The contract, valued at \$12.6 million, had an individual subcontracting plan that stated that the contractor intended to subcontract [REDACTED] million ([REDACTED] percent of total planned subcontracting dollars of [REDACTED] million) to small businesses.<sup>37</sup> Based on the ISR, the contractor did not meet the small

<sup>37</sup> Difference due to rounding.

(FOUO) business subcontracting goal. The contractor subcontracted [REDACTED] million to small businesses, [REDACTED] percent of total subcontracting dollars awarded.

- **(FOUO) Contract W56HZV-12-C-0092 (ACC-Warren).** The contract, valued at \$17.1 million, had an individual subcontracting plan that stated that the contractor intended to subcontract a total of [REDACTED] million to small businesses ([REDACTED] percent of total planned subcontracting dollars of [REDACTED] million). From April 2015 to April 2016, the contractor entered ISRs into the eSRS, but the ISRs remained in “pending” status because no ACC-Warren contracting officials reviewed them. We brought the pending reports to the attention of the contracting officer currently assigned to the contract. He reviewed the final ISR and found that the goals on the ISR were for the base year of the contract instead of the period of performance for the base and option years of the contract. The contracting officer rejected the ISR and requested that the contractor submit a new ISR. According to the revised ISR, the contractor only awarded [REDACTED] million to small businesses ([REDACTED] percent of total subcontracting dollars of [REDACTED] million), falling short of its small business subcontracting goal by [REDACTED] million.
- **(FOUO) Contract W56HZV-14-C-0239 (ACC-Warren).** The contract, valued at \$15.2 million, had an individual subcontracting plan which stated that the contractor intended to subcontract [REDACTED] million ([REDACTED] percent of total planned subcontracting dollars of [REDACTED] million) to small businesses. Based on the ISR, the contractor did not meet the small business subcontracting goal. The contractor subcontracted [REDACTED] million to small businesses, [REDACTED] percent of total subcontracting dollars awarded.

ACC-Redstone contracting officials should determine whether the contractors for contracts W58RGZ-13-C-0127 and W31P4Q-13-C-0069 made a good-faith effort to meet the small business subcontracting goals in their subcontracting plans and, if not, contracting officials should determine whether liquidated damages can be imposed against the contractor.

ACC-Warren contracting officials should determine whether the contractors for contracts W56HZV-14-C-0302, W56HZV-12-C-0092, and W56HZV-14-C-0239 made a good-faith effort to meet the small business subcontracting goals in their

subcontracting plans and, if not, contracting officials should determine whether liquidated damages can be imposed against the contractor.

### ***Contracting Officials Accepted a Potentially Erroneous Subcontracting Report for One Contract***

(FOUO) ACC-Warren contracting officials accepted an ISR that may have misreported subcontract awards for one contract.<sup>38</sup> The contract, valued at \$22.1 million, had an individual subcontracting plan which stated that the contractor intended to subcontract █████ million to small businesses (████ percent of total planned subcontracting dollars of █████ million). The most recent ISR stated that the contractor had subcontracted a total of █████ million to small businesses. However, the contracting officer stated that the █████ million “had to be a mistake” because the ISR showed that the contractor awarded █████ million to service-disabled veteran owned small businesses, which seemed to be excessive. She stated that the contractor probably entered information from the wrong contract. The contracting officer stated that she would instruct the contractor to prepare a corrected ISR for the period ending September 30, 2017, when the next ISR is due. ACC-Warren contracting officials should instruct the contractor to enter a corrected ISR into the eSRS for contract W56HZV-15-C-0092 for the period ending September 30, 2017, when the next ISR is due. If the ISR shows the contractor did not meet the contract’s subcontracting goals, contracting officials should determine whether the contractor made a good-faith effort to meet its subcontracting goals and, if not, whether liquidated damages can be imposed against the contractor.

### **Contracting Officials Did Not Understand Subcontracting Plan Requirements**

ACC-Redstone and ACC-Warren contracting officials stated that some members of the contracting staff did not understand subcontracting plan requirements. For example:

- An ACC-Redstone contracting officer stated that a former contracting officer awarded a contract without an individual subcontracting plan because the former contracting officer did not understand the difference between the types of subcontracting plans. Specifically, the current contracting officer stated that she believed the former contracting officer thought that the contract did not need an individual subcontracting plan because the contractor had a master subcontracting plan.

<sup>38</sup> Contract W56HZV-15-C-0092.

- An ACC-Redstone contract specialist stated that she thought that the Defense Contract Management Agency was responsible for monitoring subcontracting plans. However, the FAR states that the contracting officer who awarded the contract is responsible for monitoring the plan.
- An ACC-Redstone contracting officer stated that she thought there were no subcontracting reports in the eSRS for one contract because the contract was complete. However, the eSRS does not delete subcontracting reports when a contract is completed.
- An ACC-Warren contracting officer was not aware that a contract's "Subcontract Plan" field in the FPDS-NG must state that a plan is required in order for the contractor to submit subcontracting reports to the eSRS.

In addition, ACC-Redstone contracting management did not provide adequate training or standard operating procedures on the administration of subcontracting plans. The FAR states that contracting officers' responsibilities include determining whether the contract requires a subcontracting plan, reviewing the subcontracting plan for adequacy, acknowledging receipt of subcontracting reports in the eSRS, and determining whether the contractor made a good-faith effort to meet its subcontracting goals.<sup>39</sup> Based on documentation provided by ACC-Redstone and discussions with ACC-Redstone personnel, the ACC-Redstone training and standard operating procedures focused primarily on pre-contract award evaluation of subcontracting plans and provided little guidance on a contracting officer's post-award responsibilities for administering subcontracting plans. Specifically, ACC-Redstone's standard operating procedures simply stated that the contracting officer who approved the plan was responsible for the post-award responsibilities outlined in FAR 19.705-6 and FAR 19.705-7. In addition, the Army Federal Acquisition Regulation Supplement (AFARS) did not include guidance on the contracting officers' responsibilities for administering subcontracting plans.<sup>40</sup>

During a meeting between the audit team and the Office of the Deputy Assistant Secretary of the Army for Procurement (DASA[P]), the Acting Deputy Director requested that all policy and training-related recommendations in this report be directed to her office for Army-wide implementation. The Army Office of Small Business Programs Deputy Director requested that all recommendations in this report related to small business subcontracting issues be coordinated with her office. In addition, the Army Office of Small Business Programs Deputy Director stated that her office plans to issue a policy alert and update AFARS 5119.7 to ensure that contracting officers are aware of their responsibilities for accepting individual subcontracting reports in the eSRS. The DASA(P), in coordination

<sup>39</sup> FAR Subpart 19.7, "The Small Business Subcontracting Program."

<sup>40</sup> AFARS Part 5119, "Small Business Programs," Subpart 5119.7, "The Small Business Subcontracting Program."

with the Director of the Army Office of Small Business Programs, should train contracting officials on their FAR Subpart 19.7 responsibilities for administering subcontracting plans. The DASA(P), in coordination with the Director of the Army Office of Small Business Programs, should revise AFARS Subpart 5119.7 to incorporate guidance on administering subcontracting plans. The DASA(P), in coordination with the Director of the Army Office of Small Business Programs, should issue a policy alert to notify contracting officials of the revision to AFARS Subpart 5119.7 incorporating guidance on administering subcontracting plans.

## **Administering Subcontracting Plans Was Not a High Priority**

ACC-Redstone and ACC-Warren contracting officials stated that administering subcontracting plans was not a high priority. Contracting officials stated that low priority was the reason their offices did not ensure that contractors entered subcontracting reports into the eSRS and why their offices did not determine whether contractors made good-faith efforts to meet small business subcontracting goals. One ACC-Redstone contracting officer stated that administering subcontracting plans is not a high priority because contracting officials are busy trying to fulfill customer requirements. Another ACC-Redstone contracting officer inherited a contract, which had been awarded as an undefinitized contract action without a subcontracting plan.<sup>41</sup> The contracting officer did not request a subcontracting plan from the contractor until this audit. Although it was an oversight by the contracting officer not to request a subcontracting plan, this also indicates that the subcontracting plan was not a high priority. One contract with an individual subcontracting plan was missing ISRs; the ACC-Warren contracting officer stated he overlooked the ISRs for the contract.

## **Guidance Did Not Address Transfer of Subcontracting Plan Administration Duties to a New Contracting Officer**

ACC-Redstone and ACC-Warren contracting officials experienced heavy turnover among their contracting officers. However, subcontracting plan administration guidance at both locations did not address the transfer of subcontracting plan administration duties described in the FAR when a contract is assigned to a new contracting officer.<sup>42</sup> In addition, the AFARS did not address the transfer of

<sup>41</sup> An undefinitized contract action is a contract action where the contracting officer and the contractor have not fully agreed on the contract terms, specifications, or price before performance begins.

<sup>42</sup> FAR 19.705-6 states that contracting officer administration duties include acknowledging receipt of or rejecting reports in the eSRS and assessing liquidated damages, if applicable.

subcontracting plan administration duties when a contract is assigned to a new contracting officer.<sup>43</sup> For several of the contracts we reviewed, the contracting officer who approved the subcontracting plan was no longer assigned to the contract, and a different contracting officer became responsible for monitoring the plan. For two contracts, administration of the plans stopped when new contracting officers were assigned to the contracts.<sup>44</sup> The contracting officers reviewed the contractors' subcontracting reports during the early periods of the contracts. However, when the contracts were transferred to new contracting officers, they did not review the reports for the later contract periods. Contracting officers not reviewing the subcontracting reports is particularly problematic because the report the contractor enters at contract conclusion is the one that shows whether the contractor ultimately met its small business subcontracting goals. The contracting officials currently assigned to the contracts that had missing ISRs for individual subcontracting plans typically were not aware that reports were missing. DASA(P), in coordination with the Director of the Army Office of Small Business Programs, should revise AFARS Subpart 5119.7 to incorporate guidance for transferring subcontracting plan administration duties when a contract is assigned from one contracting officer to another. DASA(P), in coordination with the Director of the Army Office of Small Business Programs, should issue a policy alert to notify contracting officials of the revision to AFARS Subpart 5119.7 incorporating guidance for transferring subcontracting plan administration duties when a contract is assigned from one contracting officer to another.

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<sup>43</sup> AFARS Subpart 5119.7.

<sup>44</sup> ACC-Redstone awarded one contract (W31P4Q-13-C-0069), and ACC-Warren awarded one contract (W56HZV-12-C-0092).

## Opportunities to Recoup Liquidated Damages May Have Been Missed

Small businesses may not have received subcontract work that prime contractors were required by the FAR to make a good-faith effort to provide.<sup>45</sup>

Small businesses may not have received subcontract work that prime contractors were required to make a good-faith effort to provide.

In addition, because ACC-Redstone and ACC-Warren contracting officials did not obtain subcontracting reports and did not follow up on reports that showed contractors were not meeting their small business goals, contracting officials did not determine whether prime contractors made good-faith efforts to comply with negotiated subcontracting goals. Therefore, ACC-Redstone and ACC-Warren may have missed opportunities to recoup liquidated damages of up to \$82.3 million. FAR Subpart 19.7 discusses the requirement

for complying with subcontracting plans, and provides the statutory basis for obtaining liquidated damages, stating:

Maximum practicable utilization of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone [Historically Underutilized Business Zone] small business, small disadvantaged business, and women-owned small business concerns as subcontractors in Government contracts is a matter of national interest with both social and economic benefits. When a contractor fails to make a good faith effort to comply with a subcontracting plan, these objectives are not achieved, and 15 U.S.C. 637(d)(4)(F) directs that liquidated damages shall be paid by the contractor.<sup>46</sup>

FAR Subpart 19.7 further states, “The amount of damages attributable to the contractor’s failure to comply shall be an amount equal to the actual dollar amount by which the contractor failed to achieve each subcontracting goal.” The following table shows that the contractors may owe up to \$82.3 million in liquidated damages to ACC-Redstone and ACC-Warren.

<sup>45</sup> FAR 19.702.

<sup>46</sup> FAR 19.705-7.

~~(FOUO)~~ Table. Potential Liquidated Damages

Contract Number	Total Value	Small Business Subcontracting Goal (FOUO)	Actual Subcontracting Dollars (FOUO)	Potential Liquidated Damages
<b>ACC Redstone</b>				
W58RGZ-12-C-0010	\$373,110,857	██████████	Unknown <sup>1</sup>	\$50,391,031
W58RGZ-13-C-0086	51,350,000	██████████	Unknown <sup>1</sup>	6,917,045
W58RGZ-13-C-0127	29,608,061	██████████	██████████	298,008
W58RGZ-14-C-0037	22,359,137	██████████	Unknown <sup>1</sup>	478,437
W31P4Q-13-C-0069	7,082,738	██████████	█	122,120
W31P4Q-15-C-0078	4,536,627	██████████	Unknown <sup>1</sup>	1,105,463
W31P4Q-13-C-0023	4,005,584	██████████	Unknown <sup>1</sup>	35,185
W31P4Q-13-C-0046	1,996,749	██████████	Unknown <sup>1</sup>	651,516
W31P4Q-15-C-0002	1,262,892	██████████	Unknown <sup>1</sup>	108,946
<b>Subtotal</b>	<b>\$495,312,645</b>	<b>\$60,246,652</b>	<b>\$138,901</b>	<b>\$60,107,751</b>
<b>ACC Warren</b>				
W56HZV-15-C-0092	22,142,270	██████████	Unknown <sup>2</sup>	13,614,242
W56HZV-12-C-0092	17,139,296	██████████	██████████	1,005,639
W56HZV-15-C-0222	15,285,190	██████████	Unknown <sup>1</sup>	727,943
W56HZV-14-C-0239	15,221,495	██████████	██████████	454,444
W56HZV-14-C-0302	12,576,270	██████████	██████████	326,519
W56HZV-15-C-0213	2,279,999	██████████	Unknown <sup>1</sup>	254,863
W56HZV-14-C-L713	2,187,841	██████████	Unknown <sup>1</sup>	22,233
W56HZV-14-C-0031	1,906,980	██████████ <sup>3</sup> (FOUO)	Unknown <sup>1</sup> (FOUO)	5,750,000
<b>Subtotal</b>	<b>\$88,739,341</b>	<b>\$35,224,947</b>	<b>\$13,069,064</b>	<b>\$22,155,883</b>
<b>Total</b>	<b>\$584,051,986</b>	<b>\$95,471,599</b>	<b>\$13,207,965</b>	<b>\$82,263,634</b>

Note: All figures in this table are rounded to the nearest dollar.

<sup>1</sup> The contracting officer did not ensure that the contractor entered subcontracting reports into the eSRS. Therefore, the amount of actual subcontracting dollars is unknown.

<sup>2</sup> The contractor submitted an ISR; however, the contracting officer stated that the contractor may have entered incorrect information. Therefore, the actual subcontracting dollars are unknown until the contractor submits a revised ISR for the period ending September 30, 2017.

<sup>3</sup> Commercial Subcontracting Plan.

Source: The DoD OIG.

~~(FOUO)~~

During the audit, we notified ACC-Redstone and ACC-Warren contracting officials about the contracts with potential liquidated damages that we identified. Contracting officials determined that the prime contractors met their small business subcontracting goals or made a good-faith effort to comply with negotiated subcontracting goals for nine contracts and no liquidated damages are due for those nine contracts.<sup>47</sup> Additionally, the contractor for one contract was out of business; therefore, ACC-Warren contracting officials could not determine whether the contractor met its small business subcontracting goals.<sup>48</sup> ACC-Redstone and ACC-Warren still need to assess whether liquidated damages are due for the other seven contracts.<sup>49</sup>

## Other Matters of Interest on Subcontracting With Small Businesses for Contracts Awarded in FY 2016

ACC-Redstone and ACC-Warren contracting officials ensured that 29 of 30 contracts, valued at \$3.7 billion, had an approved subcontracting plan or a justification that a subcontracting plan was not required.<sup>50</sup>

~~(FOUO)~~ For example, ACC-Redstone contracting officials awarded a contract for \$71.2 million.<sup>51</sup> The contract had a 3-year period of performance. The contract included an individual subcontracting plan, which stated that the contractor would subcontract a total of █████ million to small businesses during the contract. This represented █████ percent of total planned subcontracting dollars of █████ million.

In another example, ACC-Redstone contracting officials awarded a contract for \$73.0 million.<sup>52</sup> Contracting officials prepared a memorandum explaining that there were no subcontracting possibilities because the requirement was based upon the contractor's role as sole developer of the software and its in-depth knowledge of interoperability requirements that could not be provided to another contractor.

~~(FOUO)~~ In another example, ACC-Warren contracting officials awarded a contract for \$60.2 million.<sup>53</sup> The contract included an individual subcontracting plan, which stated that the contractor would subcontract a total of █████ million to small businesses. This represented █████ percent of total planned subcontracting dollars of █████ million.

<sup>47</sup> Contracts W58RGZ-13-C-0086, W58RGZ-13-C-0127, W58RGZ-14-C-0037, W56HZV-12-C-0092, W56HZV-15-C-0222, W56HZV-14-C-0239, W56HZV-14-C-0302, W56HZV-15-C-0213, and W56HZV-14-C-L713.

<sup>48</sup> Contract W56HZV-14-C-0031.

<sup>49</sup> Contracts W58RGZ-12-C-0010, W31P4Q-13-C-0069, W31P4Q-15-C-0078, W31P4Q-13-C-0023, W31P4Q-13-C-0046, W31P4Q-15-C-0002, and W56HZV-15-C-0092.

<sup>50</sup> For one of the 29 contracts, the contracting officer did not approve the subcontracting plan in a timely manner. For another of the 29 contracts, the justification that a subcontracting plan was not required was missing a signature.

<sup>51</sup> Contract W31P4Q-16-D-0018.

<sup>52</sup> Contract W31P4Q-16-D-0040.

<sup>53</sup> Contract W56HZV-16-D-0061.

## Recommendations, Management Comments, and Our Response

### Recommendation 1

We recommend that the Executive Director, Army Contracting Command-Redstone:

- a. **Ensure individual subcontracting reports are entered into the Electronic Subcontracting Reporting System for contracts W58RGZ-12-C-0010, W58RGZ-13-C-0086, W58RGZ-14-C-0037, W31P4Q-15-C-0078, W31P4Q-13-C-0023, W31P4Q-15-C-0002, and W31P4Q-13-C-0046. If the individual subcontracting reports show that the contractors did not meet the contract's subcontracting goals, contracting officials should determine whether the contractors made a good-faith effort to meet their subcontracting goals and, if not, whether liquidated damages can be imposed against the contractors.**

#### *Management Actions Taken During the Audit for Recommendation 1.a*

We verified that ACC-Redstone contracting officials obtained information from the contractors that included their subcontracting achievements for two of the seven contracts. The information showed that the contractors met or exceeded their small business subcontracting goals.

(FOUO) For contract W58RGZ-14-C-0037, ACC-Redstone contracting officials obtained information that showed that the contractor met its small business subcontracting goal of [REDACTED] percent. Specifically, the contractor subcontracted a total of [REDACTED] all of which was awarded to small businesses. The amount was less than the small business subcontracting goal of \$[REDACTED]. The contracting officer stated that the contract scope of work was reduced by [REDACTED] million and the contractor completed the work in 7.5 months rather than 12; therefore, there were fewer subcontracting opportunities than originally anticipated.

(FOUO) For contract W58RGZ-13-C-0086, ACC-Redstone contracting officials obtained an ISR showing that the contractor subcontracted a total of [REDACTED] million to small businesses ([REDACTED] percent of total subcontracting dollars of [REDACTED] million), which exceeded the subcontracting goal of [REDACTED] million ([REDACTED] percent of total planned subcontracting dollars of [REDACTED] million). In addition, the contracting officer prepared a memorandum, which stated that he reviewed the ISR and confirmed that the contractor met all of the small business subcontracting goals in its small business subcontracting plan.

ACC-Redstone contracting officials still need to obtain the ISRs for the remaining five contracts.

### *Army Contracting Command Comments*

The ACC Deputy to the Commanding General, responding for the ACC-Redstone Executive Director, agreed, stating that ACC-Redstone will ensure that ISRs are entered into the Electronic Subcontracting Reporting System for the five contracts. If the ISRs show that the contractors did not meet any contract's subcontracting goals, the cognizant contracting officer will determine whether the contractors made a good-faith effort to meet their subcontracting goals and, if not, whether liquidated damages can be imposed against the contractors.

### *Our Response*

Comments from the Deputy to the Commanding General addressed all specifics of the recommendation. This recommendation is resolved but remains open. We will close the recommendation once we verify that the ISRs are entered into the Electronic Subcontracting Reporting System and that the contracting officers determined whether the contractors made a good-faith effort to meet the small business subcontracting goals in their subcontracting plan and, if not, whether liquidated damages can be imposed against the contractors.

- b. Determine whether the contractors for contracts W58RGZ-13-C-0127 and W31P4Q-13-C-0069 made a good-faith effort to meet the small business subcontracting goals in their subcontracting plans and, if not, determine whether liquidated damages can be imposed against the contractors.**

### *Management Actions Taken During the Audit for Recommendation 1.b*

We verified that ACC-Redstone contracting officials determined that the contractor for contract W58RGZ-13-C-0127 made a good-faith effort to meet the small business subcontracting goals and, therefore, did not assess liquidated damages against the contractor. Specifically, the contractor explained to the ACC-Redstone contracting officials that the project went through a series of configurations and design changes that adversely affected the opportunities to utilize the small business subcontractors the contractor had originally planned to use.

ACC-Redstone contracting officials still need to determine whether the contractor for contract W31P4Q-13-C-0069 made a good-faith effort to meet the small business subcontracting goals in its subcontracting plan and, if not, determine whether liquidated damages may be imposed against the contractor.

### *Army Contracting Command Comments*

The ACC Deputy to the Commanding General, responding for the ACC-Redstone Executive Director, agreed, stating that the cognizant ACC-Redstone contracting officer will determine whether the contractor for contract W31P4Q-13-C-0069 made a good-faith effort to meet the small business subcontracting goals in its subcontracting plan and, if not, determine whether liquidated damages can be imposed against the contractor.

### *Our Response*

Comments from the Deputy to the Commanding General addressed all specifics of the recommendation. This recommendation is resolved but remains open. We will close the recommendation once we verify that the contracting officer determined whether the contractor made a good-faith effort to meet the small business subcontracting goals in its subcontracting plan and, if not, whether liquidated damages can be imposed against the contractor.

## **Recommendation 2**

**We recommend that the Executive Director, Army Contracting Command–Warren:**

- a. **Ensure that individual subcontracting reports are entered into the Electronic Subcontracting Reporting System for contracts W56HZV-15-C-0222, W56HZV-15-C-0213, and W56HZV-14-C-L713. If the individual subcontracting reports show that the contractors did not meet the contract’s subcontracting goals, contracting officials should determine whether the contractors made a good-faith effort to meet their subcontracting goals and, if not, whether liquidated damages may be imposed against the contractors.**

### *Management Actions Taken During the Audit for Recommendation 2.a*

We verified that ACC-Warren contracting officials obtained the ISRs for the three contracts. The contracting officials determined that the contractors for those three contracts exceeded their small business subcontracting goals or were on pace to meet the goals if the contract was ongoing.

- ~~(FOUO)~~ For contract W56HZV-15-C-0222, ACC-Warren contracting officials contacted the contractor and obtained a final ISR. The ISR showed that the contractor subcontracted a total of [REDACTED] to small businesses ([REDACTED] percent of total subcontracting dollars of [REDACTED] million) which exceeded the small business subcontracting goal of [REDACTED] ([REDACTED] percent of total planned subcontracting dollars of [REDACTED] million).

- ~~(FOUO)~~ For contract W56HZV-15-C-0213, ACC-Warren contracting officials contacted the contractor and obtained an ISR for the most recent reporting period. The contract is still ongoing. The small business subcontracting goal was [REDACTED] ([REDACTED] percent of total planned subcontracting dollars of [REDACTED]). The ISR showed that the contractor subcontracted a total of [REDACTED] to small businesses as of March 31, 2017 ([REDACTED] percent of total subcontracting dollars of [REDACTED]).
- ~~(FOUO)~~ For contract W56HZV-14-C-L713, ACC-Warren contracting officials obtained summary subcontracting reports which showed that the contractor subcontracted a total of [REDACTED] to small businesses ([REDACTED] percent of total subcontracting dollars of [REDACTED]), which exceeded the small business subcontracting goal of [REDACTED] [REDACTED] percent of total planned subcontracting dollars of [REDACTED]). The contracting officer stated that the subcontract awards were significantly higher than the goals because the contractor identified additional subcontracting opportunities after the contract was awarded.

### *Our Response*

The management actions taken adequately addressed Recommendation 2.a; therefore, this recommendation is closed.

- b. Determine whether the contractors for contracts W56HZV-14-C-0302, W56HZV-12-C-0092, and W56HZV-14-C-0239 made a good-faith effort to meet the small business subcontracting goals in their subcontracting plans and, if not, determine whether liquidated damages can be imposed against the contractors.**

### *Management Actions Taken During the Audit for Recommendation 2.b*

We verified that ACC-Warren contracting officials determined that the contractors for the three contracts made a good-faith effort to meet the small business subcontracting goals and, therefore, did not assess liquidated damages against the contractors.

- For contract W56HZV-14-C-0302, ACC-Warren contracting officials determined that the contractor did not meet its small business subcontracting goals as a result of a series of contract modifications that changed the contract scope of work and reduced small business subcontracting opportunities.
- For contract W56HZV-12-C-0092, the ACC-Warren contracting officer currently assigned to the contract requested information from the contractor to determine if the contractor made a good-faith effort to meet the subcontracting goals. The contractor stated that it could provide

only limited information because the contractor personnel responsible for subcontracting on this contract were no longer with the company. Based on the available information, the contracting officer determined that the contractor made a good-faith effort to meet the small business subcontracting goals.

- For contract W56HZV-14-C-0239, the ACC-Warren contracting officer determined that the contractor based its small business goals on past commitments which did not include former Government furnished equipment. In addition, the contractor met or exceeded subcontracting goals for women-owned small businesses and veteran-owned small businesses. The contracting officer determined that the contractor made a good-faith effort to comply with its subcontracting goals.

### *Our Response*

The management actions taken adequately addressed Recommendation 2.b; therefore, this recommendation is closed.

- c. Require the contractor to submit a corrected individual subcontracting report in the Electronic Subcontracting Reporting System for contract W56HZV-15-C-0092 for the period ending September 30, 2017, when the next report is due. If the individual subcontracting report shows the contractor did not meet the contract's subcontracting goals, determine whether the contractor made a good-faith effort to meet its subcontracting goals and, if not, whether liquidated damages can be imposed against the contractor.**

### *Army Contracting Command Comments*

The ACC Deputy to the Commanding General, responding for the ACC-Warren Executive Director, agreed, stating that ACC-Warren will request the contractor to submit a corrected final ISR, to include the option year subcontracting goals, in the Electronic Subcontracting Reporting System for the contract. Once ACC-Warren has the corrected ISR, the contracting officer will determine whether the contractor made a good-faith effort to meet the small business subcontracting goals in its subcontracting plan.

### *Our Response*

Comments from the Deputy to the Commanding General addressed all specifics of the recommendation. This recommendation is resolved but remains open. We will close the recommendation once we verify that the ISR is entered into the Electronic Subcontracting Reporting System and that the contracting officer determined whether the contractor made a good-faith effort to meet the small business

subcontracting goals in its subcontracting plan, and if not, whether liquidated damages can be imposed against the contractor.

### ***Recommendation 3***

**We recommend that the Deputy Assistant Secretary of the Army for Procurement, in coordination with the Director, Army Office of Small Business Programs:**

- a. Train contracting officials on Federal Acquisition Regulation Subpart 19.7 responsibilities for approving and administering subcontracting plans.**
- b. Revise Army Federal Acquisition Regulation Supplement Subpart 5119.7 to incorporate guidance on administering subcontracting plans and procedures for transferring subcontracting plan administration duties when a contract is transferred from one contracting officer to another.**
- c. Issue a policy alert to notify contracting officials of the revision to Army Federal Acquisition Regulation Supplement Subpart 5119.7 incorporating guidance on administering subcontracting plans and procedures for transferring subcontracting plan administration duties when a contract is transferred from one contracting officer to another.**

#### *Army Office of Small Business Programs Comments*

The Army Office of Small Business Programs Director, responding for the Deputy Assistant Secretary of the Army for Procurement, agreed with the recommendations. The Director stated that the Army Office of Small Business Programs, in coordination with the DoD Office of Small Business Programs, implemented training and is developing a schedule to train contracting officials and small business professionals. The Director stated that the Army Office of Small Business Programs, in coordination with the Deputy Assistant Secretary of the Army (Procurement), is drafting the revised language for incorporation into the AFARS Subpart 5119.7 and the policy alert to notify all contracting officials and small business professionals of the revision to the AFARS.

#### *Our Response*

Comments from the Army Office of Small Business Programs Director addressed all specifics of the recommendations. The recommendations are resolved but remain open. We will close the recommendations once we verify that the training has been provided and the AFARS change and policy alert have been issued.

## Appendix A

### Scope and Methodology

We conducted this performance audit from April 2017 through January 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We determined what actions the Army Contracting Command contracting officials took to ensure prime contractors met their small businesses subcontracting goals. We reviewed 80 Army Contracting Command contracts, valued at \$5.9 billion.<sup>54</sup>

### Universe and Sample

We used the FPDS-NG to identify the universe of Army contracts. According to the FPDS-NG, the Army awarded 1,336 contracts, valued at \$24.9 billion, with estimated completion dates in FYs 2015 or 2016, to other than small businesses.<sup>55</sup> We selected three contracting offices to audit: two ACC-Redstone contracting offices and one ACC-Warren contracting office, based on the number of contracts awarded and the dollar value of contracts awarded, for a total of 216 contracts, valued at \$7.6 billion. The two ACC-Redstone offices awarded 121 contracts, valued at \$5.4 billion, and the ACC-Warren office awarded 95 contracts, valued at \$2.2 billion. We eliminated five contracts that were duplicate entries in the FPDS-NG.

To refine our universe, we reviewed the remaining 211 contracts to determine whether the contracting officer's business size selection in the FPDS-NG was accurately coded as "other than small business." We determined that the contracting officer miscoded 10 of the 211 contracts as being awarded to "other than small businesses." We eliminated those 10 contracts from our audit universe. We queried the eSRS for the remaining 201 contracts to determine whether there were subcontracting reports in the system and whether the report indicated that the contractor met its small business subcontracting goals.

We nonstatistically selected 50 contracts, valued at \$1.6 billion, from the 201 contracts with estimated completion dates in FYs 2015 or 2016, to determine whether contracting officials ensured prime contractors provided small businesses

<sup>54</sup> Value includes not-to-exceed values of undefinitized contract actions. This amount may not reflect the actual base and all options value once the contract is definitized.

<sup>55</sup> For this audit, we limited our universe to definitive contracts, indefinite-delivery indefinite-quantity contracts, and purchase orders performed within the United States because the small business competition requirements in FAR Part 19 apply to these types of contracts. In addition, we limited our universe to contracts awarded in FY 2010 through 2015.

with adequate subcontracting opportunities.<sup>56</sup> We selected 30 contracts, valued at \$1.3 billion, awarded by ACC-Redstone and 20 contracts, valued at \$318.0 million, awarded by ACC-Warren.

We selected the highest dollar value contracts that could have a high risk of non-compliance with FAR subpart 19.7, “The Small Business Subcontracting Program.” Specifically, we selected contracts that:

- required a small business subcontracting plan, but had no reports in the eSRS;
- contained reports in the eSRS which showed that the contractor did not meet its small business subcontracting percentage goals; and
- did not require a subcontracting plan or had an individual subcontracting plan with 0 percent goals.

In addition, we nonstatistically selected 30 contracts, valued at \$4.3 billion, awarded in FY 2016 to determine whether the contracts had an approved subcontracting plan or a determination that no subcontracting possibilities existed. We selected 20 contracts, valued at \$2.8 billion, awarded by ACC-Redstone and 10 contracts, valued at \$1.5 billion, awarded by ACC-Warren. We selected the highest-dollar value contracts from each contracting office.

## Work Performed

We collected, reviewed, and analyzed documents for 80 contracts to determine whether ACC-Redstone and ACC-Warren contracting officials held prime contractors accountable for meeting small business subcontracting goals. We reviewed documentation dated between November 2001 and November 2017.

### ***Review of Subcontracting Plans for Contracts Estimated to Be Completed in FYs 2015 or 2016***

To determine whether ACC-Redstone and ACC-Warren contracting officials monitored compliance with small business subcontracting goals, we reviewed 50 prime contracts, valued at \$1.6 billion, with estimated completion dates in FYs 2015 or 2016. We reviewed documents from those contract files, including:

- small business coordination records;
- solicitations or request for proposals;
- small business subcontracting plans;

<sup>56</sup> When contracts are completed, contracting officials can determine whether the contractor met its small business subcontracting goals and, if not, whether the contractor made a good-faith effort to meet the goals. If the contractor did not make a good-faith effort to meet its goals, then contracting officials can assess liquidated damages.

- determinations of no subcontracting possibilities, if applicable; and
- contract action reports.<sup>57</sup>

In addition, we interviewed ACC-Redstone and ACC-Warren contracting officials and obtained subcontracting reports from the eSRS. We also met with officials in the Office of the Deputy Assistant Secretary of the Army for Procurement and the DoD Office of Small Business Programs to discuss subcontracting deficiencies we identified during our review of contracts and meetings with ACC-Redstone and ACC-Warren contracting officials.

### ***Review of Subcontracting Plans for Contracts Awarded in FY 2016***

To determine whether contracts awarded in FY 2016 had an approved subcontracting plan or a determination that no subcontracting possibilities existed, we reviewed 30 contracts, valued at \$4.3 billion. We reviewed small business coordination records, solicitations or request for proposals, small business subcontracting plans or a determination of no subcontracting possibilities, and contract action reports. In addition, we interviewed ACC contracting officials.

### ***Criteria***

We reviewed the following sections of the FAR relevant to our audit objectives.

- FAR Subpart 19.7, “The Small Business Subcontracting Program,” establishes requirements for contracting officials to provide subcontracting opportunities for small businesses.
- FAR Clause 52.219-9, “Small Business Subcontracting Plan,” requires contractors to submit a small business subcontracting plan and to upload periodic subcontracting reports to the eSRS.
- FAR Clause 52.219-16, “Liquidated Damages - Subcontracting Plan,” requires the contracting officer to assess liquidated damages if the contractor did not make a good-faith effort to comply with its subcontracting plan.

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

We relied on the contracting officer’s business size selection field in the FPDS-NG to select contracts awarded to other than small businesses. We reviewed documentation from the Electronic Document Access system and the System for Award Management to determine whether the contracts were awarded to other

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<sup>57</sup> A contract action report contains data that is required to be reported in the FPDS-NG.

than small businesses.<sup>58</sup> To assess the accuracy of computer-processed data, we compared the FPDS-NG data to documents in the contract files and to data from the System for Award Management. Of the 211 contracts we reviewed, the contracting officers miscoded 10 contracts as being awarded to other than small businesses. We notified ACC-Redstone and ACC-Warren contracting officials about the 10 coding errors, and we verified that they made the corrections to the FPDS-NG.

We also used computer-processed data from the eSRS to determine whether the contractor uploaded ISRs into the system for the contracts we reviewed. We reviewed the ISRs to identify whether the contractor met its subcontracting goals and compared the ISRs to the subcontracting plans obtained from the contract file. We determined that the data obtained from the FPDS-NG and eSRS were sufficiently reliable to accomplish our audit objectives.

## Prior Coverage

During the last 5 years, the Department of Defense Office of Inspector General (DoD OIG) issued four reports discussing small business contracting. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

### **DoD OIG**

Report No. DODIG-2017-072, “Two Air Force Centers Adequately Considered Small Businesses When Awarding Prime Contracts, but Small Business Subcontracting Needs Improvement,” March 31, 2017

Air Force Life Cycle Management Center (AFLCMC) and Air Force Nuclear Weapons Center (AFNWC) contracting officials generally ensured that prime contractors provided small businesses with adequate subcontracting opportunities for 13 of 20 contracts, valued at \$325.3 million and \$350.2 million respectively, with estimated completion dates in FY 2014 or FY 2015. However, AFLCMC contracting officials did not ensure that prime contractors provided small businesses with adequate subcontracting opportunities for the other seven contracts, valued at \$24.9 million. The report recommended that AFLCMC contracting officials correct the FPDS-NG and require the contractors to submit ISRs in the eSRS for three contracts; the Chief, Product Support Contracting Division, AFLCMC, determine whether the contractors for three contracts made a good-faith effort to meet the small business subcontracting goals in their subcontracting plans and, if not, assess liquidated damages

<sup>58</sup> The System for Award Management is a Federal Government-owned and operated website where a contractor makes several self-certifications, including self-certification of its small business status. The system transmits contractor data to the FPDS-NG, but contracting personnel must manually input the contractor’s business size.

against the contractor; and the Director, Contracting Directorate, Air Force Sustainment Center, Hill Operating Location, direct his staff to train AFLCMC and AFNWC, contracting officials on FAR subpart 19.7 responsibilities for administering subcontracting plans, and update the FPDS-NG training to include how to complete the “Subcontract Plan” field in the FPDS-NG.

Report No. DODIG-2016-117, “Marine Corps Installations National Capital Region–Regional Contracting Office Generally Implemented Recommendations,” July 29, 2016

This audit determined whether the Marine Corps Installations National Capital Region–Regional Contracting Office (MCINCR-RCO) implemented the recommendations in Report No. DODIG-2015-095. MCINCR-RCO contracting officials addressed all four recommendations in the report and, therefore, those recommendations are closed.

Report No. DODIG-2016-019, “Small Business Contracting at Marine Corps Systems Command Needs Improvement,” November 10, 2015

Marine Corps Systems Command (MCSC) contracting officials generally provided small businesses an adequate opportunity to compete for prime contracts, but did not ensure prime contractors provided small businesses with adequate opportunities for prime contracts. The report recommended that MCSC officials determine whether the contractors for the six specified contracts made a good-faith effort to meet their subcontracting goals and, if not, whether liquidated damages may be imposed against the contractor; establish guidance for contracting officers for reviewing, approving, and administering subcontracting plans; and train contracting officials on their responsibilities for evaluating and administering subcontracting plans.

Report No. DODIG-2015-095, “Small Business Contracting at Regional Contracting Office–National Capital Region Needs Improvement,” March 20, 2015

Regional Contracting Office–National Capital Region (RCO-NCR) contracting officials generally provided small businesses an adequate opportunity to compete for prime contracts, but did not ensure prime contractors provided small businesses with adequate subcontracting opportunities. The report recommended that RCO-NCR officials establish policy requiring contracting officials to obtain adequate subcontracting plans from contractors when the FAR requires subcontracting plans and verify that contractors submit the required subcontracting reports to the eSRS; implement training to ensure that contracting officials understand their responsibilities; and determine whether

the contractors for the two specified contracts made a good-faith effort to meet the small business subcontracting goals in their subcontracting plans and, if not, determine whether liquidated damages can be imposed against the contractor.

## Appendix B

### Summary of Contracts Estimated to Be Completed in FYs 2015 or 2016

Contract Number	Base & Options Value (rounded to nearest dollar)	Type of Subcontracting Plan	Ensured Subcontracting Opportunities Provided
<b>ACC-Redstone</b>			
1. W58RGZ-12-C-0010	\$373,110,857 <sup>1</sup>	Individual Plan	No
2. W58RGZ-14-C-0082	234,700,000 <sup>1</sup>	No Plan	No
3. W58RGZ-15-C-0017	92,193,137 <sup>1</sup>	Individual Plan	Yes
4. W58RGZ-15-C-0085	71,857,231 <sup>1</sup>	No Plan	No
5. W31P4Q-11-C-0167	71,186,583	No Plan	Yes <sup>2</sup>
6. W31P4Q-12-C-0003	64,150,000 <sup>1</sup>	Comprehensive Plan	Yes
7. W31P4Q-12-C-0078	60,100,000 <sup>1</sup>	Comprehensive Plan	Yes
8. W58RGZ-15-C-0070	55,600,000 <sup>1</sup>	None Required <sup>3</sup>	Yes
9. W58RGZ-13-C-0086	51,350,000	Individual Plan	No
10. W58RGZ-15-C-0038	31,831,162 <sup>1</sup>	Comprehensive Plan	Yes
11. W58RGZ-13-C-0127	29,608,061	Individual Plan	No
12. W31P4Q-15-C-0104	22,732,500	Comprehensive Plan	Yes
13. W58RGZ-14-C-0037	22,359,137 <sup>1</sup>	Individual Plan	No
14. W31P4Q-14-C-0136	18,752,976	Comprehensive Plan	Yes
15. W31P4Q-15-C-0026	17,359,506	No Plan	No
16. W31P4Q-12-C-0141	16,676,806 <sup>1</sup>	Comprehensive Plan	Yes
17. W31P4Q-12-C-0257	8,872,657	Comprehensive Plan	Yes
18. W31P4Q-13-C-0069	7,082,738	Individual Plan	No
19. W58RGZ-12-C-0157	6,527,751	Comprehensive Plan	Yes
20. W58RGZ-15-C-0069	5,243,339	No Plan Required <sup>3</sup>	Yes
21. W31P4Q-15-C-0078	4,536,627	Individual Plan	No
22. W31P4Q-13-C-0072	4,385,743	No Plan Required <sup>3</sup>	Yes
23. W58RGZ-14-C-0083	4,009,573 <sup>1</sup>	No Plan	No
24. W31P4Q-13-C-0023	4,005,584	Individual Plan	No
25. W58RGZ-15-C-0015	3,502,110	No Plan Required <sup>3</sup>	Yes
26. W31P4Q-11-C-0320	2,572,431 <sup>1</sup>	Comprehensive Plan	Yes
27. W58RGZ-15-C-0004	2,062,750	Commercial Plan	Yes

Contract Number	Base & Options Value (rounded to nearest dollar)	Type of Subcontracting Plan	Ensured Subcontracting Opportunities Provided
28. W31P4Q-13-C-0046	1,996,749	Individual Plan	No
29. W31P4Q-15-C-0002	1,262,892	Individual Plan	No
30. W58RGZ-13-C-0100	675,000	No Plan	Yes <sup>2</sup>
<b>Subtotal</b>	<b>\$1,290,303,900</b>		
<b>ACC-Warren</b>			
31. W56HZV-12-C-0286	\$110,486,276 <sup>1</sup>	Individual Plan	Yes
32. W56HZV-12-C-0264	55,878,452	Individual Plan	Yes
33. W56HZV-15-C-0092	22,142,270	Individual Plan	No
34. W56HZV-12-C-0092	17,139,296	Individual Plan	No
35. W56HZV-14-C-0066	16,286,396	Comprehensive Plan	Yes
36. W56HZV-15-C-0222	15,285,190	Individual Plan	No
37. W56HZV-14-C-0239	15,221,495	Individual Plan	No
38. W56HZV-14-C-0073	14,918,775	Individual Plan	Yes
39. W56HZV-14-C-0302	12,576,270	Individual Plan	No
40. W56HZV-15-C-0019	9,233,219	Commercial Plan	Yes
41. W56HZV-15-P-0204	6,434,280	Commercial Plan	Yes
42. W56HZV-15-C-0051	4,973,430	Comprehensive Plan	Yes
43. W56HZV-15-C-0082	4,090,289	No Plan Required <sup>4</sup>	Yes
44. W56HZV-15-C-0213	2,279,999	Individual Plan	No
45. W56HZV-14-C-L713	2,187,841	Individual Plan	No
46. W56HZV-15-C-0203	2,079,888	No Plan	Yes <sup>2</sup>
47. W56HZV-15-C-0212	2,042,451	No Plan	Yes <sup>2</sup>
48. W56HZV-14-C-0031	1,906,980	Commercial Plan <sup>5</sup>	No
49. W56HZV-14-C-0254	1,846,997	No Plan	No
50. W56HZV-14-C-0194	976,400	No Plan	No
<b>Subtotal</b>	<b>\$317,986,194</b>		

<sup>1</sup> Estimated not-to-exceed value of undefinitized contract action. This amount may not reflect the actual base and all options value once the contract is definitized.

<sup>2</sup> The contracting officer determined that no subcontracting possibilities existed for the contract.

<sup>3</sup> A subcontracting plan was not required because the work was performed outside of the United States.

<sup>4</sup> A subcontracting plan was not required because the contractor's business size changed from large to small.

<sup>5</sup> ACC-Warren approved the commercial subcontracting plan.

Source: The DoD OIG.

## Appendix C

### Summary of Contracts Awarded in FY 2016

Contract Number	Base & Options Value (rounded to nearest dollar)	Type of Subcontracting Plan	Approved Subcontracting Plan or Justification for No Plan
<b>ACC-Redstone</b>			
1. W58RGZ-16-C-0040	\$656,967,500 <sup>1</sup>	No Plan	No
2. W31P4Q-16-C-0003	523,386,294 <sup>1</sup>	Comprehensive Plan	Yes
3. W31P4Q-16-C-0102	331,760,290 <sup>1</sup>	Comprehensive Plan	Yes
4. W58RGZ-16-C-0016	215,017,649	None Required <sup>2</sup>	Yes
5. W58RGZ-16-C-0023	184,930,000 <sup>1</sup>	Individual Plan	Yes
6. W31P4Q-16-C-0036	142,750,920 <sup>1</sup>	Comprehensive Plan	Yes
7. W58RGZ-16-D-0055	90,207,549	Comprehensive Plan	Yes
8. W31P4Q-16-D-0020	89,525,960	Comprehensive Plan	Yes
9. W58RGZ-16-C-0008	85,500,539 <sup>1</sup>	Comprehensive Plan	Yes
10. W31P4Q-16-D-0040	72,963,647	No Plan	Yes <sup>3</sup>
11. W31P4Q-16-C-0004	71,932,326	Comprehensive Plan	Yes
12. W31P4Q-16-D-0018	71,194,264	Individual Plan	Yes
13. W31P4Q-16-C-0133	60,240,535	Individual Plan	Yes
14. W58RGZ-16-C-0067	52,248,119	Commercial Plan	Yes
15. W58RGZ-16-D-0067	36,253,117	Comprehensive Plan	Yes
16. W58RGZ-16-D-0056	34,864,070	No Plan Required <sup>2</sup>	Yes
17. W58RGZ-16-C-0065	34,541,911	Commercial Plan	Yes
18. W31P4Q-16-D-0002	24,776,753	Individual Plan	Yes
19. W31P4Q-16-D-0001	24,407,499	Individual Plan	Yes
20. W58RGZ-16-D-0011	3,171,225 <sup>1</sup>	Comprehensive Plan	Yes
<b>Subtotal</b>	<b>\$2,806,640,167</b>		
<b>ACC-Warren</b>			
21. W56HZV-16-D-0060	\$533,922,947	Individual Plan	Yes
22. W56HZV-16-C-0028	400,700,372	Individual Plan	Yes
23. W56HZV-16-D-0037	158,443,374	Individual Plan	Yes
24. W56HZV-16-D-0025	91,602,243	Individual Plan	Yes
25. W56HZV-16-D-0106	83,198,324	No Plan	Yes <sup>3</sup>

Contract Number	Base & Options Value (rounded to nearest dollar)	Type of Subcontracting Plan	Approved Subcontracting Plan or Justification for No Plan
26. W56HZV-16-D-0061	60,156,831	Individual Plan	Yes
27. W56HZV-16-C-0173	54,137,905	Individual Plan	Yes
28. W56HZV-16-C-0063	53,540,181	Individual Plan	Yes
29. W56HZV-16-D-0035	47,858,415	Individual Plan	Yes
30. W56HZV-16-D-0053	43,916,802	Individual Plan	Yes
30. W56HZV-16-D-0053	43,916,802	Individual Plan	Yes
<b>Subtotal</b>	<b>\$1,527,477,394</b>		
<b>Total</b>	<b>\$4,334,117,561</b>		

<sup>1</sup> Estimated not-to-exceed value of undefinitized contract action. This amount may not reflect the actual base and all options value once the contract is definitized.

<sup>2</sup> A subcontracting plan was not required because the work was performed outside of the United States.

<sup>3</sup> The contracting officer determined that no subcontracting possibilities existed for the contract.

Source: The DoD OIG.

# Management Comments

## Army Contracting Command Comments



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
4400 MARTIN ROAD  
REDSTONE ARSENAL, AL. 35898-5000

16 FEB 2018

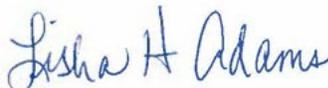
AMCIR

MEMORANDUM FOR Department of Defense Inspector General (DoDIG/Ms. Catherine M. Schneiter), Program Director, Contract Management and Payments, 4800 Mark Center Drive, Alexandria, VA 22350-1500

SUBJECT: Command Comments on DoDIG Draft Report, Small Business Subcontracting at Two Army Contracting Command Locations, Project D2017CF-0118

1. The U.S. Army Materiel Command has reviewed the subject draft report and the response from the U.S. Army Contracting Command. The U.S. Army Materiel Command endorses the enclosed U.S. Army Contracting Command response.
2. The U.S. Army Materiel Command point of contact is [REDACTED]

Encl

  
LISHA H. ADAMS  
Executive Deputy to the  
Commanding General

## Army Contracting Command Comments (cont'd)



DEPARTMENT OF THE ARMY  
U.S. ARMY CONTRACTING COMMAND  
4505 MARTIN ROAD  
REDSTONE ARSENAL, AL 35898-5000

AMSCC-IR

07 FEB 2018

MEMORANDUM FOR Internal Review and Audit Compliance Office, Headquarters,  
U.S. Army Materiel Command, 4400 Martin Road, Redstone Arsenal, AL 35898

SUBJECT: DODIG Draft Report for the Audit of Small Business Contracting at the  
Department of the Army (Project No. D2017-DOOOCF-OI 18.000) (D1728)

1. DODIG Report, DoD Inspector General, 11 January 2018, subject: same as above.
2. The Army Contracting Command (ACC) provides the enclosed comments in response to the referenced document.
3. The ACC POC is [REDACTED]

Encl

A handwritten signature in black ink, appearing to read "John M. Lyle".

JOHN M. LYLE  
Deputy to the Commanding General

## Army Contracting Command Comments (cont'd)

**DODIG Draft Report for the Audit of Small Business Contracting at the Department of the Army (Project No. D2017-DOOOCF-OI 18.000) (D1728)**

**We recommend that the Executive Director, ACC-RSA:**

**Recommendation 1.a**

Ensure individual subcontracting reports are entered into the Electronic Subcontracting Reporting System for contracts W58RGZ-12-C-0010, W58RGZ-13-C-0086, W58RGZ-14-C-0037, W31P4Q-15-C-0078, W31P4Q-13-C-0023, W31P4Q-15-C-0002, and W31P4Q-13-C-0046. If the individual subcontracting reports show the contractors did not meet the contract's subcontracting goals, contracting officials should determine whether the contractor made a good-faith effort to meet its subcontracting goals, and if not, whether liquidated damages can be imposed against the contractor.

**ACC-RSA RESPONSE 1.a: Concur**

ACC-RSA will ensure individual subcontracting reports are entered into the Electronic Subcontracting Reporting System for contracts W58RGZ-12-C-0010, W31P4Q-15-C-0078, W31P4Q-13-C-0023, W31P4Q-15-C-0002, and W31P4Q-13-C-0046. If the individual subcontracting reports show the contractors did not meet any contract's subcontracting goals, the cognizant Contracting Officer will determine whether the contractor made a good-faith effort to meet its subcontracting goals, and if not, whether liquidated damages can be imposed against the contractor.

**Target Implementation Date: 31 May 2018**

**Recommendation 1.b**

Determine whether the contractors for contracts W58RGZ-13-C-0127 and W31P4Q-13-C-0069 made a good-faith effort to meet the small business subcontracting goals in their subcontracting plans, and if not, determine whether liquidated damages can be imposed against the contractor.

**ACC-RSA RESPONSE 1.b: Concur**

The cognizant ACC-RSA Contracting Officer will determine whether the contractor for contract W31P4Q-13-C-0069 made a good-faith effort to meet the small business subcontracting goals in their subcontracting plan, and if not, determine whether liquidated damages can be imposed against the contractor.

**Target Implementation Date: 31 May 2018**

## Army Contracting Command Comments (cont'd)

**We recommend that the Executive Director, ACC-WRN:**

**Recommendation 2.c**

Require the contractor to submit a corrected individual subcontracting report in the Electronic Subcontracting Reporting System for contract W56HZV-15-C-0092 for the period ending September 30, 2017, when the next report is due. If the individual subcontracting report shows the contractor did not meet the contract's subcontracting goals, determine whether the contractor made a good-faith effort to meet its subcontracting goals and, if not, whether liquidated damages can be imposed against the contractor.

**ACC-WRN RESPONSE 2.c: Concur**

ACC-WRN will request the contractor submit a corrected final Individual Subcontracting Report (ISR) to include the option year subcontracting goals in the Electronic Subcontracting Reporting Systems (eSRS) for closed contract W56HZV-15-C-0092. ACC-WRN will request information from the contractor on Tier 1 & Tier 2 sub-contracting goals to determine a good faith effort.

**Target Implementation Date:** 30 April 2018

## Army Office of Small Business Programs Comments



DEPARTMENT OF THE ARMY  
OFFICE OF THE SECRETARY OF THE ARMY  
OFFICE OF SMALL BUSINESS PROGRAMS  
106 ARMY PENTAGON  
WASHINGTON DC 20310-0106

FEB 7 2018

SASB

MEMORANDUM FOR UNITED STATES ARMY AUDIT AGENCY (USAAA), OFFICE OF THE DEPUTY AUDITOR GENERAL, FINANCIAL MANAGEMENT AND COMPTROLLER AUDITS, 6000 6<sup>TH</sup> STREET, BUILDING 1464, FORT BELVOIR, VA 22060-5609

SUBJECT: USAAA Draft Report, Audit of Small Business Subcontracting at Two Army Contracting Command Locations (Project D2017-D000CF-0118.000)

1. The Office of Small Business Programs (OSBP), reviewed the subject draft report and agree with the recommendations 3 a-c of the report.
2. OSBP in coordination with the Department of Defense Office of Small Business Programs have implemented training and are developing a schedule to train contracting officials and small business professionals.
3. OSBP in coordination with the Deputy Assistant Secretary of the Army (Procurement) (DASA (P)) is drafting the revised language for incorporation into the Army Federal Acquisition Regulation Supplement Subpart (AFARS) 5119.7.
4. OSBP in coordination with DASA (P) is drafting the policy alert to notify all contracting officials and small business professionals of the revision to the AFARS.
5. The schedule for training and all revisions will be complete no later than 9 Mar 18. The POC for this action is [REDACTED]

Tommy L. Marks  
SES, USA  
Director, Small Business Programs

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## Acronyms and Abbreviations

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ACC	Army Contacting Command
AFARS	Army Federal Acquisition Regulation Supplement
DASA(P)	Deputy Assistant Secretary of the Army for Procurement
eSRS	Electronic Subcontracting Reporting System
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Data System – Next Generation
ISR	Individual Subcontracting Report

## **Whistleblower Protection**

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