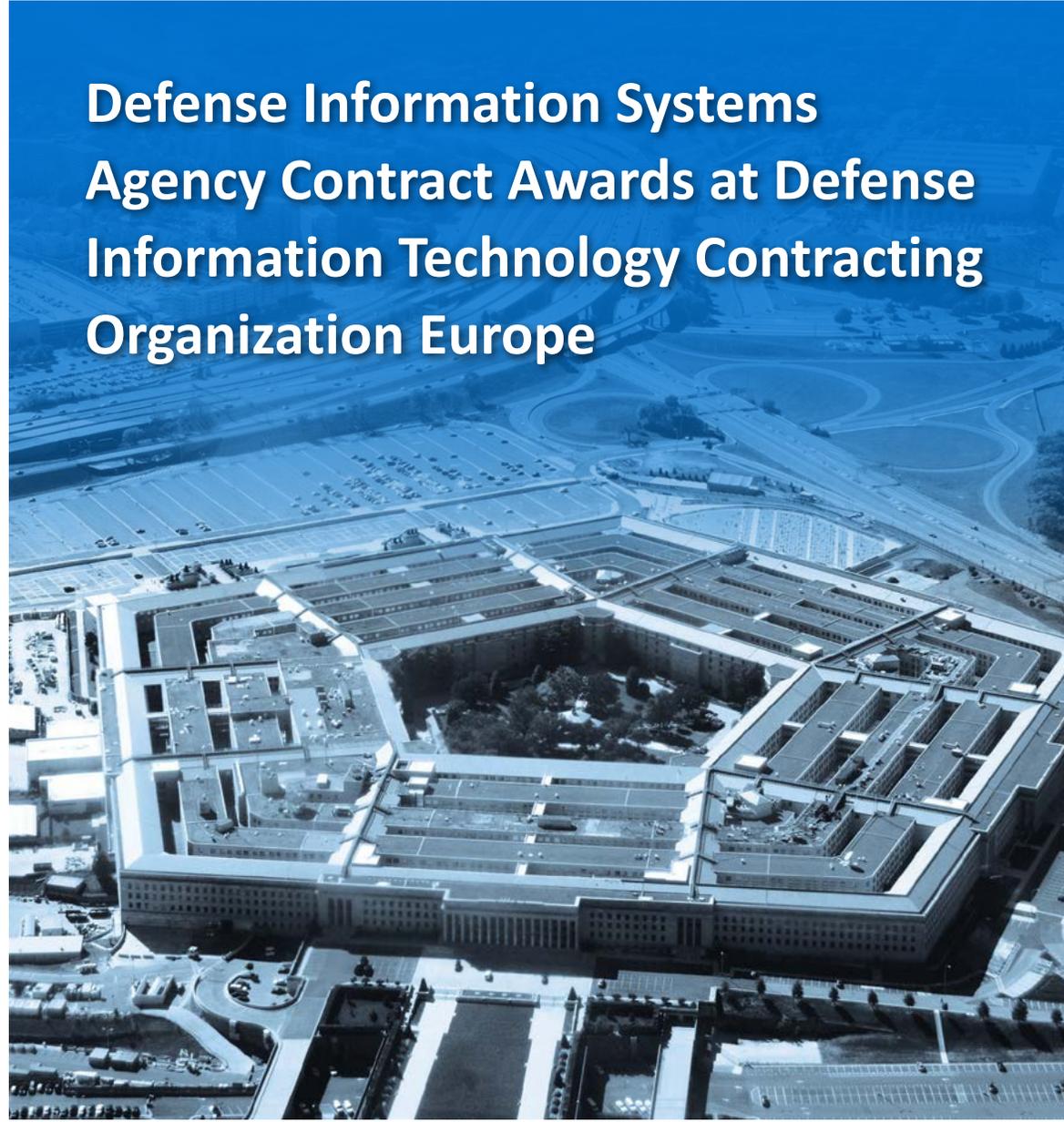




# INSPECTOR GENERAL

*U.S. Department of Defense*

APRIL 13, 2018



## Defense Information Systems Agency Contract Awards at Defense Information Technology Contracting Organization Europe

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# Results in Brief

## *Defense Information Systems Agency Contract Awards at Defense Information Technology Contracting Organization Europe*

April 13, 2018

### Objective

We determined whether the Defense Information Technology Contracting Organization (DITCO) Europe within the Defense Information Systems Agency (DISA) properly awarded telecommunication service contracts. We reviewed 30 contracts, valued at \$64.5 million, awarded from October 1, 2014, through May 31, 2017.

The United States Court of Federal Claims referred information to the DoD Office of Inspector General on one DISA telecommunication service contract that we included in our sample, and the specific details of the request and our review of that contract are included in Appendix B.

### Background

We focused our audit on contracts awarded by DITCO Europe to address follow up questions identified by the United States Court of Federal Claims related to a contract the court referred for our review. The Court found that DITCO Europe did not exercise due diligence when awarding the contract and requested that we review why the contracting officer awarded the contract at a price of \$38.6 million more than the lowest priced but unsuccessful offeror. We reviewed an additional 29 telecommunication service contracts awarded by DITCO Europe to determine whether similar problems existed with the award process.

DISA is responsible for purchasing telecommunication services for the DoD. DITCO, a component of DISA, provides

### Background (cont'd)

the contracting support to acquire telecommunications services. These services are obtained under communication service authorizations, which are contracts used solely for the acquisition of telecommunication services.

### Finding

We determined that DITCO Europe contracting personnel properly awarded 30 telecommunication service contracts, valued at \$64.5 million. We considered the contract awards proper if there was adequate evidence to support that DITCO Europe contracting personnel ensured acquisition planning, competition, and execution of the designated acquisition strategy were in accordance with the Federal Acquisition Regulation (FAR). However, DITCO Europe contracting personnel did not consistently apply FAR requirements for market research, contract file documentation and source selection. Specifically, DITCO Europe contracting personnel:

- did not adequately conduct or document market research in accordance with the FAR for 18 of 24 contracts. This occurred because DITCO Europe contracting personnel used their comprehensive knowledge and ongoing associations with the telecommunication providers in Europe to identify potential contractors.
- did not ensure contract files contained the required documentation to constitute a complete history of the transaction in accordance with the FAR for 16 of the 30 contracts. This occurred because the Integrated Defense Enterprise Acquisition System (IDEAS) builds and maintains the contract files; however, IDEAS uploads files as text files and does not always include the same level of detail as other available documentation that could be manually uploaded. Additionally, DITCO Europe contracting personnel experience latency problems when uploading files to IDEAS, and in some cases the files failed to upload.



# Results in Brief

## *Defense Information Systems Agency Contract Awards at Defense Information Technology Contracting Organization Europe*

### **Findings (cont'd)**

- did not ensure telecommunication providers provided evidence of National Long Lines Agency (NALLA) accreditation as required in the solicitation, thereby violating the FAR for 11 of 19 contracts. This occurred because DITCO Europe contracting personnel made it standard practice to perform the NALLA accreditation check themselves on behalf of the contractors.

As a result, DITCO Europe contracting personnel cannot support that they conducted market research before soliciting offers and could not demonstrate that all contract requirements and decisions were fully supported throughout the contract file. Additionally, while the deficiencies did not affect award decisions, not following the requirements of the FAR pertaining to the award of telecommunication service contracts and not enforcing NALLA accreditation may increase the risk of award protests and litigation.

### **Recommendations**

During the audit, DITCO updated its procedures to address our concerns regarding the verification of NALLA accreditation, and no recommendation was necessary.

We recommend that the Director, DISA, in coordination with the Director, Procurement Services Directorate, DITCO, provide refresher training to contracting personnel on conducting market research and fully documenting contract files in accordance with the FAR.

### **Management Comments and Our Response**

The DITCO Procurement Services Directorate Director, responding on behalf of the DISA Director, agreed with

our recommendation to provide refresher training to contracting personnel related to FAR requirements for market research and maintaining contract files. The Director stated that DITCO Europe developed market research templates to upload into the contract files before solicitation effective February 1, 2018, and instructed all team members on January 23, 2018, to incorporate the market research reports into IDEAS. The Director also stated that the Procurement Services Directorate will work with the IDEAS Change Advisory Board to ensure files uploaded to IDEAS capture necessary information, and planned to have this effort completed in the third quarter FY 2018. Lastly, the Director stated that contracting support staff received training in January 2018 to file contract documentation in the IDEAS official contract files. Therefore, the recommendation is resolved but will remain open. We will close this recommendation once we receive evidence of the newly developed market research template and instruction to use the reports, implementation of the solution to ensure IDEAS files capture necessary information, and the training provided to staff to file required documentation in the official contract files. Please see the Recommendations Table on the next page.

## Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Director, Defense Information Systems Agency	None	1.a, 1.b	None

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  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

April 13, 2018

MEMORANDUM FOR DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY

SUBJECT: Defense Information Systems Agency Contract Awards at Defense Information  
Technology Contracting Organization Europe  
(Report No. DODIG-2018-104)

We are providing this report for your information and use. We conducted this audit in accordance with generally accepted government auditing standards.

We considered comments on a draft of this report when preparing the final report. Comments from the Director, Procurement Services Directorate, Defense Information Technology Contracting Organization, addressed all specifics of the recommendation and conformed to the requirements of DoD Instruction 7650.03; therefore, we do not require additional comments.

We appreciate the cooperation and assistance received during the audit. Please direct questions to me at (703) 604-9187.

A handwritten signature in black ink, reading "Michael J. Roark", is positioned above the printed name.

Michael J. Roark  
Assistant Inspector General  
Readiness and Global Operations

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# Introduction

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## Objective

We determined whether the Defense Information Systems Agency (DISA) properly awarded telecommunication service contracts. The United States Court of Federal Claims referred information to the DoD Office of Inspector General on one of the contracts included in our nonstatistical sample. The specific details of the request and our review are included in Appendix B.

## Background

### ***DoD Telecommunication Service Providers***

DISA, a DoD combat support agency, provides all aspects of telecommunication service procurements from acquisition planning through contract administration. The Defense Information Technology Contracting Organization (DITCO), part of DISA's Procurement Services Directorate, consists of four field offices, one of which is DITCO Europe. DITCO Europe is responsible for the acquisition of telecommunications services within and between Europe, Africa, and Southwest Asia. These services are obtained under communication service authorizations, which are contracts used solely for the acquisition of telecommunication services. We focused our audit on contracts awarded by DITCO Europe to address follow up questions identified by the United States Court of Federal Claims related to a contract the court referred for our review. The Court found that DITCO Europe did not exercise due diligence when awarding the contract and requested that we review why the contracting officer awarded the contract at a price of \$38.6 million more than the lowest priced but unsuccessful offeror. We reviewed an additional 29 telecommunication service contracts awarded by DITCO Europe to determine whether similar problems existed with the award process.

### ***DISA Europe Infrastructure and Services***

DITCO Europe uses Alliance Long Lines Activity (ALLA) procedures to procure telecommunications services with circuits that begin, end, or traverse a North Atlantic Treaty Organization (NATO) country.<sup>1</sup> A National Long Lines Agency (NALLA) is established for each NATO country to provide an interface between service ordering authorities (DITCO Europe) and telecommunication providers (TPs). ALLA/NALLA designation on a contract provides circuit restoration priority in case of service interruption. TPs should be accredited by the NALLA of the host country to be eligible to provide services for NATO and national defense purposes.

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<sup>1</sup> ALLA is the organization that provides coordinating and procedural assistance for the procurement of commercial leased telecommunication services within NATO nations.

## ***Telecommunication Service Contracts Reviewed***

DITCO Europe contracting personnel provided a universe of 221 telecommunication service contracts awarded from October 1, 2014, through May 31, 2017, valued at \$1.1 billion.<sup>2</sup> We reviewed a nonstatistical sample of 30 telecommunication service contracts, valued at \$64.5 million. To develop the nonstatistical sample, we queried the contract data by contracting officer and reviewed a proportionate number of contracts awarded by each contracting officer. Included in the sample was contract HC1021-16-M-0012, awarded on March 8, 2016, for \$98.7 million, \$38.6 million more than the lowest priced but unsuccessful offeror, and later terminated based on a ruling by the United States Court of Federal Claims.<sup>3</sup>

## **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>4</sup> We identified internal control weaknesses associated with the award of telecommunication service contracts. DITCO Europe did not conduct adequate market research and did not ensure contract files contained adequate documentation to constitute a complete history of the transaction. In addition, DITCO Europe did not always obtain evidence from the vendors of NALLA accreditation when required by the solicitation, leaving DITCO open to award protests and litigation. We will provide a copy of the report to the senior official responsible for internal controls in DISA and DITCO.

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<sup>2</sup> During the site visit, we determined some of the contract values were in foreign currency. Therefore, the total value is an approximate number.

<sup>3</sup> Due to contract termination, the actual value of this contract was only \$2 million.

<sup>4</sup> DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013.

## Finding

### Controls Over Telecommunication Service Awards Were Adequate but Did Not Prevent Deficiencies

DITCO Europe contracting personnel properly awarded all 30 telecommunication service contracts we reviewed, valued at \$64.5 million, awarded from October 1, 2014, through May 31, 2017.<sup>5</sup> However, DITCO Europe contracting personnel did not consistently apply Federal Acquisition Regulation (FAR) requirements for market research, contract file documentation, and source selection. Specifically, DITCO Europe contracting personnel:

- did not adequately conduct or document market research in accordance with the FAR for 18 of 24 contracts.<sup>6</sup> This occurred because DITCO Europe contracting personnel used their comprehensive knowledge and ongoing associations with the TPs in Europe to identify potential contractors.
- did not ensure contract files contained the required documentation to constitute a complete history of the transaction in accordance with the FAR for 16 of 30 contracts.<sup>7</sup> This occurred because the Integrated Defense Enterprise Acquisition System (IDEAS) builds and maintains the contract files; however, IDEAS uploads files as text files and does not always include the same level of detail as other available documentation that could be manually uploaded.<sup>8</sup> Additionally, DITCO Europe contracting personnel experience latency problems when uploading files to IDEAS, and in some cases the files failed to upload.

<sup>5</sup> A contract was considered to be properly awarded if there was adequate evidence and documentation to support that acquisition planning was in accordance with FAR part 7, "Acquisition Planning," the award was competed in accordance with FAR part 6, "Competition Requirements," and whether the award was made using the designated acquisition strategy in accordance with FAR part 15 "Contracting by Negotiation."

<sup>6</sup> FAR part 10, "Market Research."

We did not assess market research on 4 of the 30 contracts reviewed because they were task orders awarded off of a multiple award indefinite-delivery indefinite-quantity contract, and we concluded that DITCO conducted adequate market research on the base contract. Additionally, 2 of the 30 contracts were below the simplified acquisition threshold and market research was not required. Therefore, we did not assess market research on a total of 6 of the 30 contracts reviewed.

<sup>7</sup> FAR part 4, "Administrative Matters," subpart 4.8, "Government Contract Files."

<sup>8</sup> IDEAS is a web-based procurement tool that is used to process contract actions, award and administer those actions, distribute the required documents, and report the results.

- did not ensure TPs provided evidence of NALLA accreditation, as required by Standard Provision 08 in the solicitation, thereby violating the FAR for 11 of 19 contracts.<sup>9</sup> This occurred because DITCO Europe contracting personnel made it standard practice to perform the NALLA accreditation check themselves on behalf of the contractors.

As a result, DITCO Europe contracting personnel cannot support that they conducted market research before soliciting offers and that all contract requirements and decisions were fully supported in the contract file. Additionally, while these deficiencies did not affect award decisions, not following the requirements of the FAR pertaining to the award of telecommunication service contracts and not enforcing Standard Provision 08 leaves DITCO Europe contracting personnel at risk for future award protests and possible litigation.

## DITCO Europe Contracting Personnel Properly Awarded Telecommunication Service Contracts Despite Deficiencies

DITCO Europe contracting personnel properly awarded all 30 telecommunication service contracts we reviewed, valued at \$64.5 million; however, DITCO Europe did not consistently apply FAR requirements resulting in deficiencies.<sup>10</sup> While these deficiencies did not prevent DITCO Europe from properly awarding the 30 contracts reviewed, the deficiencies, if not addressed, have the potential to negatively affect future awards. Specifically, DITCO Europe contracting personnel did not adequately conduct or document market research. Additionally, DITCO Europe contracting personnel did not ensure that the contract files were complete, which could impede determinations of whether or not contract requirements and decisions were fully supported. Finally, DITCO Europe contracting personnel did not enforce evidence of NALLA accreditation when required by Standard Provision 08 in the solicitation, violating the FAR and leaving them open to award protests and litigation.



DITCO Europe did not consistently apply FAR requirements resulting in deficiencies.

<sup>9</sup> Standard Provision 08 states that one or more end points of the circuit terminate in a NATO country that has NALLAs and NALLA-accredited TPs. The Standard Provision further states that the TP identify all portions of service provided by the TP and subcontractor TPs, plus provide evidence that the TP and all subcontractor TPs possess required NALLA accreditation and national authority authorizations.

Only 19 of the 30 contracts reviewed required NALLA accreditation and included Standard Provision 08.

FAR part 15, subpart 15.305, "Proposal Evaluation."

<sup>10</sup> FAR part 10, FAR subpart 4.8, and FAR subpart 15.305.

## ***DITCO Europe Contracting Personnel Did Not Adequately Conduct Market Research***

DITCO Europe contracting personnel did not adequately conduct or document market research in accordance with the FAR for 18 of the 24 contracts.<sup>11</sup> Specifically, 18 of 24 contract files reviewed either did not contain market research documentation or the market research documentation was insufficient. The FAR requires agencies to conduct market research appropriate to the circumstances before soliciting offers and to document the results. However, this did not always occur. A total of 11 contract files did not contain any market research documentation. Of the 13 contracts files that contained market research documentation, 7 of the contract files were not documented prior to soliciting offers.



11 contract files did not contain any market research documentation.

Conducting and documenting market research has been problematic for DITCO Europe since FY 2012. In June 2015, DISA conducted a procurement management review of DITCO Europe procurement activities that occurred during FYs 2012 through 2014. The review team found that DITCO Europe contracting officials did not conduct and document market research in accordance with the FAR and that numerous contract files were missing the required market research report.

As a result of the procurement management review, DITCO Europe contracting personnel stated that they implemented corrective action to include evidence of market research in the price negotiation memorandum for contracts awarded after September 2015. However, three contract files awarded after September 2015 that we reviewed did not include evidence in the price negotiation memorandum that DITCO Europe contracting personnel had conducted market research. For example, the contract file for a communication service authorization (CSA) awarded on September 14, 2016, should have contained market research in the price negotiation memorandum.<sup>12</sup> This CSA was awarded nearly a year after DITCO Europe had implemented corrective action in September 2015.

DITCO Europe contracting personnel stated that they rely on the customer to perform market research. In addition, contracting personnel stated that they also rely on their own comprehensive knowledge and ongoing associations with the TPs in Europe to identify potential contractors. Although DITCO Europe contracting personnel considered market research a continual process, they did not always follow the requirements of the FAR when documenting their results.<sup>13</sup>

<sup>11</sup> FAR part 10.

<sup>12</sup> CSA AFTL 000005 EBM.

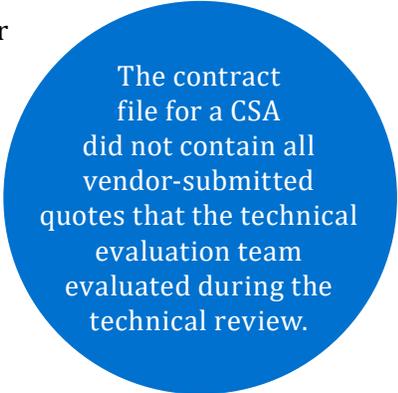
<sup>13</sup> FAR part 10.

DISA officials should conduct refresher training and direct contracting personnel to properly conduct and document market research and ensure the contract file contains adequate evidence to support that market research was completed before the contract solicitation date.

### ***DITCO Europe Contracting Personnel Did Not Maintain Adequate Contract Files***

DITCO Europe contracting personnel did not maintain adequate contract files in accordance with the FAR.<sup>14</sup> Specifically, 16 of 30 contract files reviewed did not contain documentation sufficient to constitute a complete history of the transaction. According to the FAR, contract files should document the basis for the acquisition and the award, the assignment of contract administration, and any subsequent actions taken by the contracting office. In addition, the FAR states that the documentation in the file must be sufficient to constitute a complete history of the transaction for the purpose of providing a complete background as a basis for informed decisions at each step in the acquisition process.

Contract files normally contain the original contract or award, vendor quotes, award notice, and support for the award decision. For example, the contract file for a CSA did not contain all vendor-submitted quotes that the technical evaluation team evaluated during the technical review.<sup>15</sup> Without a complete record of the vendor quotes, DITCO Europe contracting personnel are unable to fully support that the award went to the lowest price technically acceptable (LPTA) vendor.



The contract file for a CSA did not contain all vendor-submitted quotes that the technical evaluation team evaluated during the technical review.

DITCO Europe contracting personnel rely on their contract system, IDEAS, to build and maintain the contract files. However, IDEAS uploads some contract documents as text files and the files do not always include the same level of detail as other available documentation that could be manually uploaded. For example, the contract file for a CSA contained an IDEAS notification that supported that DITCO Europe contracting personnel posted the contract award to the Federal Business Opportunities website; however, the notification did not include the actual information posted to the website, such as the description of the requirement.<sup>16</sup>

In addition, IDEAS did not upload key documents into the contract files for six contracts reviewed, such as telecommunications service orders, award postings on the Federal Business Opportunities website, and vendor proposals. DITCO

<sup>14</sup> FAR subpart 4.8.

<sup>15</sup> CSA AFTL 000005 EBM.

<sup>16</sup> CSA GPO 000017 EBM.

Europe contracting personnel stated that they experience latency issues when uploading documentation to IDEAS, which prevents them from uploading documents to the contract files in a timely manner. For example, the contract file for one CSA did not contain the telecommunication service order because DITCO Europe contracting personnel experienced an error with IDEAS that prevented the document from automatically uploading to the file, and the file for another CSA did not contain all vendor quotes because DITCO Europe contracting personnel experienced poor network connectivity that impacted IDEAS availability.<sup>17</sup> DISA officials should provide refresher training to ensure contracting personnel maintain adequate contract files to constitute a complete history of the transaction in accordance with Federal regulations. For instances where contract file documentation is lacking due to latency problems, DISA officials should coordinate with the vendor on potential system updates or develop adequate manual procedures to mitigate the system limitations.

### ***Lack of Evidence to Support NALLA Accreditation***

DITCO Europe contracting personnel did not consistently enforce the solicitation requirements for 11 of 19 telecommunication service contracts. ALLA, an organization within NATO countries, assists with the procurement of leased circuits using standardized procedures and ensures preferential circuit restoration when necessary. DITCO Europe contracting personnel include Standard Provision 08 in solicitations requiring ALLA procedures. Standard Provision 08 states that one or more end points of the circuit terminate in a NATO country that has NALLAs and NALLA-accredited TPs. The Standard Provision further states that the TP must identify all portions of service provided by the TP and subcontractor TPs, plus provide evidence that the TP and all subcontractor TPs possess required NALLA accreditation and national authority authorizations. However, the Standard Provision does not define the type of evidence required.

A total of 19 telecommunication service contracts included ALLA procedures, of which 11 contained vendor proposals that did not provide physical evidence to support NALLA accreditation. In accordance with the FAR, an agency must evaluate competitive proposals and then assess their relative qualities solely on the factors and subfactors specified in the solicitation.<sup>18</sup> For example, the solicitation for a CSA included Standard Provision 08, which required that the TP and all subcontract TPs provide evidence of NALLA accreditation and national authority authorizations as part of the proposal.<sup>19</sup> The TP's proposal included the response "Understand" in reference to Standard Provision 08; however,

<sup>17</sup> CSA GNLV 000001 EBM and CSA AFTL 000005 EBM.

<sup>18</sup> FAR subpart 15.305.

<sup>19</sup> CSA RETD 000004 EBM.

there was no evidence to support NALLA accreditation or national authority authorization in the TP's proposal. Based on the requirements of Standard Provision 08 and the FAR, DITCO Europe contracting personnel should have determined the lack of evidence in the TP's proposal as unacceptable and either rejected all such proposals or conducted discussions to obtain the necessary support for NALLA accreditation.<sup>20</sup> Instead, DITCO Europe contracting personnel obtained the NALLA accredited TP list, on behalf of the TPs, for Italy on July 30, 2014, to obtain the evidence necessary to determine the NALLA-accredited TPs.



DITCO Europe contracting personnel made it standard practice to perform the NALLA accreditation check themselves on behalf of the TPs and did not require evidence as stated in the solicitation

DITCO Europe contracting personnel made it standard practice to perform the NALLA accreditation check themselves on behalf of the TPs and did not require evidence as stated in the solicitation. Our review determined that because DITCO Europe consistently applied this practice for all vendors submitting proposals, they negated their own requirement to provide the NALLA accreditation evidence. During the audit, DITCO updated Standard Provision 08. The update, which took place on August 29, 2017, states that the contracting office will check the NALLA accreditation status of all prime TPs and subcontractor TPs, and exclude from award any quote that does not identify required NALLA accredited TPs. Therefore, DISA addressed our above concerns, and no recommendation was necessary.

## Conclusion

Although the deficiencies identified during our review did not affect award decisions, DITCO Europe contracting personnel did not always adhere to Federal regulations during the award process. As a result of DITCO Europe not having adequate controls in place over the award process for telecommunication service contracts, DoD did not have adequate assurance that market research was conducted before soliciting offers and that all decisions throughout the process were properly supported by contract file documentation. In addition, DITCO Europe contracting personnel's actions negated one of their own Standard Provisions included in the solicitation requirements. By not following all Federal regulations pertaining to the award of telecommunication service contracts, DITCO Europe contracting personnel are at risk for future award protests and possible litigation.

<sup>20</sup> Far part 15, subpart 15.306, "Exchanges with Offerors After Receipt of Proposals."

## Management Comments on the Finding and Our Response

### *Defense Information Systems Agency Comments*

The Director, Procurement Services Directorate, DITCO, responding for the Director, DISA, commented on the audit finding related to DITCO Europe's lacking NALLA accreditation evidence. The Director stated that DITCO Europe consistently applied a different understanding of the kind of evidence an offeror was required to submit and accepted an offeror's self-identification in a proposal that they were appropriately NALLA accredited as evidence necessary to meet the solicitation's requirement. DITCO Europe contracting personnel also performed an additional NALLA accreditation check to verify the offerors were accredited at the time of evaluation and award. The Director stated that based on the new understanding of the standard solicitation language determined by the United States Court of Federal Claims, the Procurement Services Directorate updated the language in August 2017 to convey that DITCO personnel will validate all offerors' assertions of NALLA accreditation independently rather than requiring offerors to provide evidence.

### *Our Response*

We identified that DITCO Europe did not uphold the solicitation requirements related to evidence of NALLA accreditation. However, DITCO Europe addressed our concerns during the audit and revised the standard solicitation language.

## Recommendation, Management Comments, and Our Response

### ***Recommendation 1***

**We recommend that the Director, Defense Information Systems Agency, in coordination with the Director, Procurement Services Directorate, Defense Information Technology Contracting Organization, provide refresher training to contracting personnel to increase awareness of Federal Acquisition Regulation requirements, including:**

- a. Conducting and documenting market research to ensure the contract file contains adequate evidence to support that market research was completed before the contract solicitation date.**

### *Defense Information Systems Agency Comments*

The Director, Procurement Services Directorate, DITCO, responding for the Director, DISA, agreed with the recommendation and stated that DITCO Europe developed market research templates to upload into the contract files before solicitation effective February 1, 2018. In addition, the Director stated that the Chief of the DITCO Europe office instructed all team members on January 23, 2018, to incorporate the market research reports into IDEAS.

### *Our Response*

Comments from the Director addressed all specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once we receive evidence of the newly developed market research templates and instruction provided to DITCO Europe personnel to include the resulting reports in the contract files.

- b. Maintaining adequate contract files to constitute a complete history of the transaction in accordance with Federal regulations. For instances where contract file documentation is lacking due to latency problems with the Integrated Defense Enterprise Acquisition System or the format and content of text files automatically uploaded by the system, coordinate with the vendor on potential system updates or develop adequate manual procedures to mitigate the system limitations.**

### *Defense Information Systems Agency Comments*

The Director, Procurement Services Directorate, DITCO, responding for the Director, DISA, agreed with the recommendation and stated that the Procurement Services Directorate will work with the IDEAS Change Advisory Board to implement a change to ensure the system uploads documents that capture necessary information, with a planned completion date of third quarter FY 2018. In addition, the Director stated that the DITCO Europe Office Services Assistant received training in January 2018, and supports the contracting staff by filing contract documentation in the contract files. The Director also stated that the IDEAS Change Advisory Board added a task in IDEAS that notifies the contract specialist to upload market research documentation before release of the solicitation.

*Our Response*

Comments from the Director addressed all specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once we verify IDEAS files capture necessary information; and receive evidence of the training provided to staff to file required documentation in the official contract files and the IDEAS task that was added to notify personnel to upload market research documentation before releasing the solicitation.

## Appendix A

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### Scope and Methodology

We conducted this performance audit from May 2017 through February 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 believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### *Audit Universe*

DITCO contracting personnel provided a universe of 221 telecommunication service contracts, valued at \$1.1 billion that were awarded by DITCO Europe in FY 2015, FY 2016, and through May of FY 2017.<sup>21</sup> We nonstatistically sampled 30 telecommunication service contracts from the universe, valued at \$64.5 million. To develop the nonstatistical sample, we queried the contract data by contracting officer and reviewed a proportionate number of contracts awarded by each contracting officer.

Additionally, the United States Court of Federal Claims requested that we determine why DITCO Europe awarded contract HC1021-16-M-0012 on March 8, 2016, at a price of \$38.6 million more than the lowest priced but unsuccessful offeror. The United States Court of Federal Claims also asked that we determine why contract performance commenced at dates contrary to written and oral representation made by Government officials during the protest hearings. This contract was included in our sample of the 30 contracts reviewed. See Appendix B for detailed information on the United States Court of Federal Claims request and our review.

### *Review of Telecommunication Service Contract Documentation and Interviews*

We obtained the contract files for each telecommunication service contract and interviewed DITCO Europe contracting officials. We evaluated interview responses and the contract documentation against the following applicable criteria.

- Section 2304, Title 10, United States Code, “Contracts: Competition Requirements”
- FAR part 4, subpart 4.8, “Government Contract Files”

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<sup>21</sup> During the site visit, we determined some of the contract values were in foreign currency. Therefore, the total value is an approximate number.

- FAR part 5, “Publicizing Contract Actions”
- FAR part 6, “Competition Requirements”
- FAR part 7, “Acquisition Planning”
- FAR part 10, “Market Research”
- FAR part 15, “Contracting by Negotiation”

We determined whether DITCO properly awarded each telecommunication service contract by reviewing the applicable contract file and determining whether the contracting personnel:

- performed acquisition planning in accordance with FAR part 7 by reviewing the telecommunications service request or telecommunications service order for evidence of necessary data elements and sufficient customer planning, and identifying evidence that the contracting officer prepared an acquisition plan (if applicable);
- conducted and documented market research in accordance with FAR part 10 by identifying documents indicating the contracting officer and customer had adequately defined the requirement and identified potential vendors;
- publicized contract actions in accordance with FAR part 5 by identifying inquiries, status of acquisition messages notices, Federal Business Opportunities website postings, download notices, and vendor responses to solicitations;
- competed the award in accordance with FAR part 6 by identifying information resulting from the bidding process (such as technical evaluations of vendor quotes and proposals) demonstrating a full and open competition had occurred; and
- awarded the contract in accordance with the chosen source selection approach by identifying source selection method, award date and value, basis of award, price reasonableness, vendor responses, NALLA accreditation requirements, and technical evaluation results.

We reviewed the 30 telecommunication service contract files to determine whether the documentation contained in the files was sufficient to constitute a complete history of the award transaction in accordance with FAR subpart 4.8. Specifically, we reviewed the contract files for the existence of documentation, such as the original order, vendor quotes, the award notice, and documentation supporting the award decision. We also used documentation from the contract files to verify the contract number and determine the purpose of the contract.

## Use of Computer-Processed Data

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

## Prior Coverage

During the last 5 years, the DoD Office of Inspector General (DoD OIG) issued two reports discussing DISA contracts. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

### ***DoD OIG***

Report No. DODIG-2017-113, “Defense Information Systems Agency’s Expired Communication Service Authorizations,” August 25, 2017

The DoD OIG found that DISA and DITCO did not have adequate controls to effectively oversee 29 CSAs.

Report No. DODIG-2015-152, “Defense Information Systems Agency and Defense Logistics Agency Information Technology Contracts Awarded Without Competition Were Generally Justified,” July 29, 2015

The DoD OIG found that DISA and the Defense Logistics Agency justified the use of other than full and open competition for 21 of 22 contracts.

## Appendix B

### United States Court of Federal Claims Litigation of Contract Awarded by DITCO Europe

DITCO Europe awarded contract HC1021-16-M-0012 on March 8, 2016, for \$98.7 million. Following a protest denied by the Government Accountability Office, the lowest priced but unsuccessful offeror filed a complaint with the United States Court of Federal Claims on July 12, 2016, seeking a preliminary injunction, permanent injunction, and declaratory relief against DISA.<sup>22</sup> On December 5, 2016, the court issued an opinion on the unsuccessful offeror's bid protest, requiring DITCO Europe to terminate the contract with the awardee. The awardee was paid \$2 million for work performed on the contract before termination. The court also ordered DISA to provide all pleadings, the administrative record, and all memorandum opinion and orders in the case to the DoD OIG for a review into:

- why the contracting officer awarded the contract at issue to the awardee at a price of \$38.6 million more than the lowest priced but unsuccessful offeror, and
- why the awardee proceeded to commence performance under the contract contrary to written and oral representations to the court that performance would not commence until December 1, 2016.

#### ***DITCO Europe Followed Lowest Price Technically Acceptable Contracting Procedures When Awarding the Contract***

According to the DITCO Europe contracting officer, DITCO followed LPTA procedures defined by the FAR when awarding the contract.<sup>23</sup> The solicitation for this contract specified that DITCO intended to evaluate quotes on an LPTA and otherwise properly awardable basis and award the contract without negotiations.

We reviewed the contract file to conduct an independent review of the award process to determine whether DITCO Europe properly awarded the contract. Through review of contract file documentation, we determined that DITCO Europe properly awarded the contract in accordance with LPTA procedures; however, DITCO Europe contracting personnel did not follow certain requirements, which resulted in deficiencies. Specifically, DITCO Europe contracting personnel documented market research in the contract file, but did not include adequate

<sup>22</sup> An injunction is an order requiring a person or entity to do or refrain from doing a particular act. A preliminary injunction is an injunction granted before a trial has started, while a permanent injunction is intended to remain in force until the final termination of the particular suit. Declaratory relief is a judgment that declares the rights of the parties, the opinion of the court on a question of law, without ordering anything to be done.

<sup>23</sup> FAR part 15, subpart 15.1, "Source Selection Processes and Techniques."

supporting documentation in the file to substantiate the results of the research performed in accordance with the FAR.<sup>24</sup> In addition, DITCO Europe contracting personnel did not properly enforce Standard Provision 08, which required the vendor to provide evidence of NALLA accreditation in its proposal, thus violating the FAR.<sup>25</sup> Instead, DITCO used its standard practice of performing the NALLA accreditation check on behalf of the vendor, rather than requiring the vendor to provide the evidence as stated in the solicitation.

Although DITCO Europe deviated from the FAR in the areas of market research and enforcing solicitation requirements, the deficiencies identified did not have an impact on the award decision and the contract was still properly awarded under LPTA procedures.<sup>26</sup> Specifically, the technical evaluation team properly determined that the lowest priced offer was unacceptable, and evaluated the remaining offers in price order until an offer was determined acceptable. However, the disparity in price between the lowest price offeror's and awardee's quotes, \$38.6 million, left the award open to scrutiny and DITCO should have considered opening discussions with offerors rather than simply following LPTA procedures. Conducting discussions with offerors may have allowed DITCO to clear up some of the issues brought forward during the court case, including the issue related to the awardee's evidence of NALLA accreditation, and ensure that the DoD received the best value when awarding the contract.

### ***Circuit Completed Ahead of Schedule and DISA Performed Due Diligence by Notifying Department of Justice Attorney***

At the time of award, the expected service date was August 5, 2016, but the Government was willing to accept earlier delivery and noted as such in the contract. However, DITCO Europe issued a stop work order against the contract on March 15, 2016, as a result of a Government Accountability Office protest filed by the unsuccessful offeror. The Government Accountability Office denied the protest on June 21, 2016, and DITCO issued a contract modification on June 29, 2016, to lift the stop work order and update the service date to December 1, 2016. According to DISA General Counsel, the expected service date presented to the court, December 1, 2016, was the latest date the awardee could deliver the circuit under the contract.

On August 1, 2016, the court held a hearing on the status of the unsuccessful offeror's complaint. During the hearing, the court did not issue any orders or take further action to prevent work from continuing under the contract. According to

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<sup>24</sup> FAR part 10.

<sup>25</sup> FAR subpart 15.3.

<sup>26</sup> FAR part 10 and FAR subpart 15.1.

DISA General Counsel, at the time of the hearing, the court did not provide notice to DISA or the Department of Justice (DOJ) attorney representing DISA during the case that the customer could not accept the circuit if the vendor completed it early. Additionally, the court did not direct DISA or DOJ to notify the court before circuit acceptance.

The awardee completed circuit installation on November 1, 2016, one month ahead of schedule. Upon receipt of the awardee's completion notice, DISA General Counsel notified the DOJ attorney that the circuit was up and running and that DITCO intended to modify the circuit start date from December 1, 2016, to November 1, 2016. However, the DOJ attorney did not notify the court regarding these facts. Through review of correspondence between DISA General Counsel and the DOJ attorney, we determined that DISA performed its due diligence in this matter by notifying its assigned representative to the court of circuit completion and that further contract performance would commence sooner than the date originally expected and presented to the court.

# Management Comments

## Defense Information Systems Agency



DEFENSE INFORMATION SYSTEMS AGENCY  
P. O. BOX 549  
FORT MEADE, MARYLAND 20755-0549

March 22, 2018

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL (DODIG)

SUBJECT: Audit of Defense Information Systems Agency Contract Awards at Defense Information Technology Contracting Organization Europe (Project No, D2017-D000CL-0153.000)

Below is the response to the subject Audit Report Recommendations.

**Recommendation 1**

**We recommend that the Director, Defense Information Systems Agency, in coordination with the Director, Procurement Services Directorate, Defense Information Technology Contracting Organization [DITCO], provide refresher training to contracting personnel to increase awareness of Federal Acquisition Regulation requirements, including:**

**a. Conducting and documenting market research to ensure the contract file contains adequate evidence to support that market research was completed before the contract solicitation date.**

Response 1a: Concur; action complete. As a result of a DISA internal PMR, a process was put in place for the contract specialists and contracting officers to document market research in the price negotiation memorandum (PNM). This guidance was issued 21 September 2015. Of the 18 contracts awarded after September 2015, only three PNMs did not have the required market research. Furthermore, market research report templates were developed specifically for DITCO Europe contract actions and were uploaded into the contract files prior to solicitation effective 1 February 2018. In preparation for this new process, the Chief of the DITCO Europe office instructed all team members on 23 January 2018 to incorporate market research reports into the Integrated Defense Enterprise Acquisition System (IDEAS) contract repository.

**b. Maintaining adequate contract files to constitute a complete history of the transaction in accordance with Federal regulations. For instances where contract file documentation is lacking due to latency problems with the Integrated Defense Enterprise Acquisition System [IDEAS] or the format and content of text files automatically uploaded by the system, coordinate with the vendor on potential system updates or develop adequate manual procedures to mitigate the system limitations.**

Response 1b: Concur. Planned completion date third quarter fiscal year 2018.

(1) IDEAS-generated text files do not import complete information into the official contract file. For example, the Agency/Office and Location information is missing in IDEAS-created text files for FedBizOpps (FBO) procurement notices. PSD will re-address this issue with the IDEAS Change Advisory Board to implement a change in either the generated text file or the system uploads a document that mirrors procurement notice posted to FBO.

## Defense Information Systems Agency (cont'd)

DISA Memo, Audit of Defense Information Systems Agency Contract Awards at Defense Information Technology Contracting Organization Europe (Project No, D2017-D000CL-0153.000)

Additionally, to address the latency issue with contract filing, the DITCO Europe Office Services Assistant received training in January 2018 and supports the contracting staff by filing contract documentation in the IDEAS official contract files.

(2) The IDEAS Change Advisory Board has added a task (IDEAS release 12.6, 10 November 2017) that notifies the contract specialist to upload the market research report for contracting officer review and approval prior to release of the solicitation.

### **Finding – Evidence of National Long Lines Agency (NALLA) Accreditation**

Separately, DISA needs to address the finding with respect to “Lack of Evidence to Support NALLA Accreditation” although a Recommendation was not necessary due to actions by the DITCO. The Report found that not all contract actions showed evidence of enforcement of the requirement for offerors to provide evidence of National Long Lines Agency (NALLA) accreditation (11 awards); contracting personnel had made it a standard practice to perform a NALLA accreditation check themselves after proposals were received.

DITCO Europe contracting personnel consistently applied a different understanding of the “evidence” an offeror was required to submit in response to a solicitation to show applicable accreditation. DITCO Europe contracting personnel accepted an offeror’s self-identification in a proposal that the offeror held the applicable accreditation as the “evidence” necessary to meet the solicitation’s requirement, and performed a NALLA accreditation check to verify the offeror(s) held appropriate accreditation at the time of evaluation and contract/task order award. This practice had previously sustained Government Accountability Office (GAO) review. The Court of Federal Claims decision necessarily determined that the standard solicitation language did not permit an offeror’s statement alone to supply the required evidence that the offeror held applicable accreditation. In respect of this new understanding, the DISA Procurement Services Directorate updated standard solicitation language in August 2017 to clearly convey solicitation submission requirements and DITCO procedures. DITCO personnel validate via an official website that provides all required information and is maintained by the Alliance Long Lines Activity (ALLA) all offeror’s assertion of NALLA accreditation status independently versus requiring offerors to provide evidence of the applicable accreditation(s).

  
DOUGLAS W. PACKARD  
Procurement Services Executive  
Director, Defense Information  
Technology Contracting Organization

## Acronyms and Abbreviations

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<b>ALLA</b>	Alliance Long Lines Activity
<b>CSA</b>	Communication Service Authorization
<b>DISA</b>	Defense Information Systems Agency
<b>DITCO</b>	Defense Information Technology Contracting Organization
<b>DOJ</b>	Department of Justice
<b>FAR</b>	Federal Acquisition Regulation
<b>IDEAS</b>	Integrated Defense Enterprise Acquisition System
<b>LPTA</b>	Lowest Price Technically Acceptable
<b>NALLA</b>	National Long Lines Agency
<b>NATO</b>	North Atlantic Treaty Organization
<b>TP</b>	Telecommunications Provider

# **Whistleblower Protection**

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

*The Whistleblower Protection Ombudsman's role is to educate agency employees about prohibitions on retaliation and employees' rights and remedies available for reprisal. The DoD Hotline Director is the designated ombudsman. For more information, please visit the Whistleblower webpage at [www.dodig.mil/Components/Administrative-Investigations/DoD-Hotline/](http://www.dodig.mil/Components/Administrative-Investigations/DoD-Hotline/).*

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