



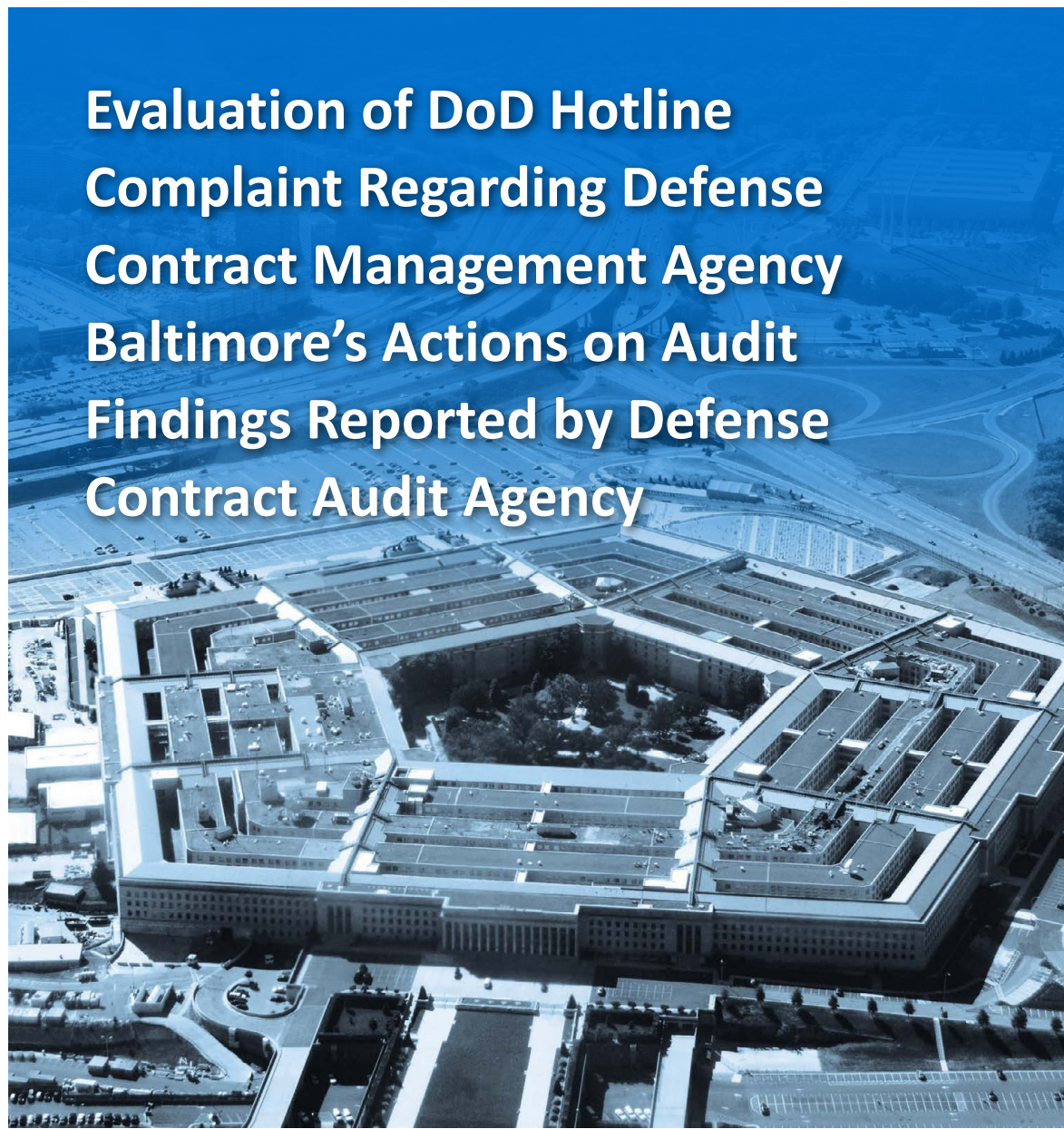
INSPECTOR GENERAL

U.S. Department of Defense

JULY 9, 2018



Evaluation of DoD Hotline Complaint Regarding Defense Contract Management Agency Baltimore's Actions on Audit Findings Reported by Defense Contract Audit Agency



INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE





Results in Brief

Evaluation of DoD Hotline Complaint Regarding Defense Contract Management Agency Baltimore's Actions on Audit Findings Reported by Defense Contract Audit Agency

July 9, 2018

Objective

We evaluated a Defense Hotline complaint alleging that a Defense Contract Management Agency (DCMA) contracting officer at the Baltimore Field office did not take appropriate action on a Defense Contract Audit Agency (DCAA) Audit Report which identified \$1.1 million in indirect costs that did not comply with the Federal Acquisition Regulation (FAR).

Background

On September 30, 2013, DCAA issued Audit Report No. 6431-2008B101000026 that addressed a DoD contractor's incurred cost proposals for 2005 through 2008. DCAA reported that \$1.1 million in costs did not comply with FAR.

A contracting officer at the DCMA Baltimore office was responsible for taking action on the DCAA audit report. According to her negotiation memorandum, the contracting officer decided not to uphold the DCAA audit findings in part because DCAA had not provided an overall audit opinion on the DoD contractor's proposals. In addition, the negotiation memorandum states that the DoD contractor was not willing to negotiate with the Government on the results of the DCAA audit. The contracting officer also told us she was concerned that the 6-year statute of limitations on recouping the costs had expired.

During our evaluation, we determined that DCAA also identified approximately \$9 million in direct costs included in the DoD contractor's proposals that did not

Background (cont'd)

comply with the FAR. Even though DCAA issued its audit report more than 4 years ago, the contracting officer has not yet taken any action on the \$9 million in direct costs.

Findings

We determined that the DCMA Baltimore contracting officer did not take appropriate action on the \$1.1 million in indirect costs reported by DCAA. Therefore, we substantiated the allegation. The contracting officer may have reimbursed up to \$1.1 million in proposed indirect costs to the DoD contractor that did not comply with the FAR.

The contracting officer failed to document an adequate rationale for not upholding the DCAA findings, as FAR 42.705-1(b)(5)(iii), "Contracting Officer Determination Procedure," requires. According to FAR 42.705-1(b)(5)(iii), regardless of whether DCAA is able to provide an overall audit opinion, the contracting officer is obligated to address any significant matters reported by the auditor. In addition, if the DoD contractor was not willing to negotiate, the contracting officer had the option of issuing a final unilateral decision to uphold the DCAA audit findings if the contracting officer agreed with them.

In addition, the contracting officer failed to seek legal advice on the applicability of the 6-year statute of limitations as DCMA policy requires. The contracting officer incorrectly assumed the statute of limitations would prevent her from disallowing the contractor's proposed costs.

We determined that insufficient training, DCMA procedures, and management oversight contributed to the contracting officer's failure to take appropriate action on the \$1.1 million in indirect costs reported by DCAA. For example, we found that DCMA does not have any procedures addressing the actions that contracting officers should take on audit findings when DCAA is unable to provide an overall audit opinion.

Finally, we found that the contracting officer's failure to take any action for more than 4 years on the \$9 million in direct costs did not comply with DoD Instruction 7640.02, "Policy for



Results in Brief

Evaluation of DoD Hotline Complaint Regarding Defense Contract Management Agency Baltimore's Actions on Audit Findings Reported by Defense Contract Audit Agency

Findings (cont'd)

Follow-up on Contract Audit Reports," which requires contracting officers to complete their actions on audit findings within 1 year.

The contracting officer should determine the actions needed to address the direct cost audit findings and recoup any costs that are unallowable.

Recommendations

We recommend that the DCMA Director develop procedures and training addressing the actions that contracting officials should take on DCAA reports that do not contain opinions on contractor proposals.

We recommend that the DCMA Director, through the DCMA Baltimore Commander, require the contracting officer to:

- Reassess the actions taken on Audit Report No. 6431-2008B10100026, to determine whether the \$1.1 million in indirect costs comply with the FAR.
- Take reasonable steps to recoup the \$1.1 million in indirect costs, if the results of the reassessment indicate that the costs do not comply with the FAR.
- Take appropriate action on the DCAA reported direct cost of \$9 million.

Also, we recommend that the DCMA Director direct the DCMA Baltimore Commander to assess and improve the adequacy and timeliness of management oversight associated with contracting officer actions taken on DCAA audit findings at DCMA Baltimore.

Finally, we recommend that the DCMA Director improve Agency internal controls to help ensure that contracting officers complete all required actions on direct cost audit findings within 1 year and do not close the audit report in the Contract Audit Follow-Up System until they address the direct cost audit findings.

Management Comments and Our Response

The DCMA Director agreed with the recommendations, and the comments and planned corrective actions adequately addressed the specifics of the recommendations. Specifically, the Director stated that DCMA plans to provide training to DCMA contracting officials, determine if any unallowable costs reported by DCAA can be recouped, and take other appropriate corrective actions. Therefore, the recommendations are resolved, but will remain open. We will close the recommendations once we verify that the planned corrective actions have been implemented. Please see the Recommendations Table on the next page.

Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Defense Contract Management Agency Director	None	A.1, A.2, A.3 B.1, B-2, and B.3	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**

July 9, 2018

MEMORANDUM FOR DEFENSE CONTRACT MANAGEMENT AGENCY DIRECTOR

SUBJECT: Evaluation of DoD Hotline Complaint Regarding Defense Contract Management Agency Baltimore's Actions on Audit Findings Reported by Defense Contract Audit Agency (Report No. DODIG-2018-134)

We are providing this report for your information and use. We conducted this evaluation in accordance with the "Quality Standards for Inspections and Evaluations," published in January 2012 by the Council of the Inspectors General on Integrity and Efficiency.

We considered management comments on a draft of this report when preparing the final report. Comments from the Defense Contract Management Agency Director addressed all specifics of the recommendations and 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 Mrs. Carolyn R. Hantz at (703) 604-8877 (DSN 664-8877) or by e-mail Carolyn.Hantz@dodig.mil.

A handwritten signature in black ink, appearing to read "R. Stone", is positioned above the printed name of the Deputy Inspector General.

Randolph R. Stone
Deputy Inspector General
Policy and Oversight

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Introduction

Objective

We evaluated a Defense Hotline complaint alleging that Defense Contract Management Agency (DCMA) Baltimore contracting officials did not take appropriate action on a Defense Contract Audit Agency (DCAA) report, which identified \$1.1 million in costs that did not comply with the Federal Acquisition Regulation (FAR).

See the Appendix for details of our scope and methodology.

Background

The DoD Office of Inspector General (DoD OIG) received a complaint alleging that DCMA Baltimore contracting officials failed to take action on a DCAA audit report identifying \$1.1 million in costs within DoD contractor's incurred cost proposals that did not comply with the FAR.

On September 30, 2013, DCAA issued Audit Report No. 6431-2008B10100026 covering its audit of a DoD contractor's incurred cost proposals for 2005 through 2008. DCAA audited the proposals to determine the allowability of proposed direct and indirect costs. DCAA disclaimed an opinion on the proposals as a whole because the auditor was unable to obtain sufficient documentation from the contractor to support several parts of the proposals. However, based on the procedures that DCAA was able to perform, DCAA reported that it had identified \$1.1 million in indirect costs that did not comply with the FAR. DCAA also reported that it had identified an additional \$9 million in direct costs that did not comply with the FAR.

The DCMA Baltimore Office was responsible for taking action on the findings in DCAA Audit Report No. 6431-2008B10100026. On June 17, 2016, the DCMA Baltimore contracting officer decided not to uphold the \$1.1 million in indirect costs reported by DCAA. As of April 19, 2018, the contracting officer had not completed her actions on the direct costs of \$9 million reported by DCAA.

Defense Contract Audit Agency

DCAA performs contract audits for the DoD and operates in accordance with DoD Directive 5105.36, "Defense Contract Audit Agency," January 4, 2010. DCAA reports to the Under Secretary of Defense (Comptroller)/Chief Financial Officer. DCAA performs several types of contract audits, including audits of DoD contractor costs incurred and claimed on Government contracts.¹

¹ On February 1, 2018, the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics was restructured and the authority, direction, and control of DCMA transferred to the Office of the Under Secretary of Defense for Acquisition and Sustainment.

FAR Clause 52.216-7, "Allowable Cost and Payment," requires contractors to submit an adequate indirect cost proposal within six months following the close of the contractor's fiscal year. The contractor submits the proposal to claim actual indirect costs incurred on Government contracts, and to reconcile them to amounts previously billed. DCAA audits incurred cost proposals to determine whether the contractor's indirect costs claimed on Government contracts are allowable based on applicable criteria in the FAR, the Defense Federal Acquisition Regulation Supplement, Cost Accounting Standards, and contract terms.

Defense Contract Management Agency

DCMA operates in accordance with DoD Directive 5105.64, "Defense Contract Management Agency," January 10, 2013. DCMA functions under the authority, direction, and control of the Under Secretary of Defense for Acquisition and Sustainment. DCMA works directly with DoD contractors to ensure Government supplies and services are delivered on time and at projected cost. In its role as the contract administration office outlined in FAR 42.3, "Contract Administration Office Functions," DCMA is responsible for several contract administrative functions such as approving or disapproving DoD contractor business systems, evaluating DoD contractor compliance with the Cost Accounting Standards, and establishing final indirect cost rates. In most instances, DCMA contracting officers take action on DCAA incurred cost audit reports as part of their responsibility to determine the allowability of the DoD contractor's claimed costs that they use to establish final indirect cost rates. The indirect cost rate agreement, which is prepared annually, establishes the indirect cost rates that the DoD contractor will use to bill the Government and close contracts. Once signed, the indirect cost rate agreement is a binding agreement between both the Government and the contractor.²

In negotiating final indirect cost rates, FAR 42.705-1(b)(5)(iii)(C) requires that the contracting officer prepare a negotiation memorandum covering the reasons why any recommendations of the auditor or other Government advisors were not followed. The negotiation memorandum serves as the primary means of documenting the actions taken on DCAA audit findings. The memorandum also serves to protect the Government's interests in the event of future disputes.

A contracting officer assigned to the DCMA Baltimore office was primarily responsible for taking the action on the report. However, other DCMA Baltimore contracting officials were involved in taking action on the report, including a contracts administrator, the contracting officer's supervisor, the supervisor's Group Chief, and the Contracts Director (hereafter collectively referred to as the DCMA Baltimore contracting officials).

² An indirect cost rate agreement refers to a written understanding between the contractor and the government on indirect rates that the government uses to close out cost-reimbursement contracts.

DoD Instruction 7640.02

DoD Instruction 7640.02, “Policy for Follow-up on Contract Audit Reports,” April 15, 2015, establishes policy, assigns responsibilities, and provides direction for reporting requirements and follow-up procedures on DCAA audit reports, including incurred cost audit reports. The Instruction requires that for each audit finding and recommendation, the contracting officer must indicate whether the finding or recommendation is agreed to, and if not, document the rationale for the disagreement. The Instruction also requires that contracting officers resolve a DCAA audit report within 6 months and disposition the report within 12 months. An audit report is resolved when the contracting officer has documented an action plan for addressing the reported findings in a pre-negotiation objective memorandum in accordance with FAR 42.705-1(b)(5)(iii).³ The audit report is dispositioned when the contracting officer has prepared a signed and dated a negotiation memorandum and executes any required contractual action (such as an indirect cost rate agreement).

DoD Instruction 7640.02 also establishes recordkeeping and reporting requirements for reportable contract audit reports, including DCAA incurred cost audit reports.⁴ In support of the recordkeeping requirements, DCMA maintains an automated database referred to as the Contract Audit Follow-Up (CAFU) System that DoD Components use to track and record actions taken to resolve and disposition contract audit reports. Each record in CAFU represents a DCAA audit report.

Chronology of Significant Events

The table below lists a chronology of key events relevant to this evaluation. Although this table does not contain every event, it provides a general timeline of key events that are relevant to the allegations evaluated.

Table 1. Chronology of Significant Events

Date	Event
December 30, 2009	The DoD contractor submitted its 2005 through 2008 incurred cost proposals to DCAA for audit.
September 30, 2013	DCAA issued Audit Report No. 6431-2008B10100026 to DCMA Baltimore, identifying \$1.1 million in indirect costs and \$9 million in direct costs that did not comply with the FAR.
March 31, 2015	The DCMA contracts administrator sent an email to the DoD contractor requesting a meeting to start negotiations.

³ The pre-negotiation objective memorandum represents the contracting officer’s initial negotiation position.

⁴ With limited exceptions, DoD Instruction 7640.02 defines reportable contract audit reports as all contract audit reports that include questioned costs or recommendations and that require contracting officer action.

Chronology of Significant Events (cont'd)

Date	Event
April 6, 2015	The DoD contractor agreed to meet the following week to start negotiations. A meeting did not occur.
May 12, 2015	The DoD contractor again agreed to meet with DCMA to negotiate the indirect cost proposals. The DoD contractor suggested meeting on May 14, 2015. A meeting did not occur.
July 23, 2015	The contracts administrator documented in the CAFU system that negotiations with the DoD contractor were delayed because the DoD contractor representative became ill.
July 24, 2015, and August 21, 2015	The DCMA Group Chief emailed the contracting officer's supervisor requesting a status on the DoD contractor's indirect cost proposals.
September 1, 2015	The supervisor responded to the Group Chief stating that the 6-year statute of limitations would expire on December 29, 2015.
September 1, 2015	The Group Chief instructed the supervisor to have the DoD contractor sign a tolling agreement to waive the 6-year statute of limitations or, if the DoD contractor refused, prepare a contracting officer final decision for legal review. DCMA Baltimore records do not reflect that the supervisor took either action.*
September 1, 2015	A new contracting officer was assigned to address the DCAA audit report. The contracts administrator sent an email to the DoD contractor, again requesting a meeting to start negotiations.
September 16, 2015	The DoD contractor offered to meet with the contracts administrator and new contracting officer anytime between September 29, 2015, and October 1, 2015. A meeting did not occur.
September 24, 2015	The DCMA Group Chief requested an update from the contracting officer's supervisor on the status of the DoD contractor's proposals.
February 5, 2016	The supervisor informed the Group Chief that the actions on the DoD contractor's proposals would be completed by the end of the day.
June 13, 2016	The Group Chief requested that the acting Contracts Director approve the contracting officer's proposed Indirect Cost Rate Agreement.
June 17, 2016	The contracts administrator, contracting officer, the supervisor, the Group Chief, and the Contracts Director signed a negotiation memorandum addressing the DoD contractor's proposals and the DCAA audit findings.
July 12, 2016	The contracting officer and the DoD contractor signed an indirect cost rate agreement for 2005 through 2008 based on acceptance of the DoD contractor's incurred cost proposals.
July 17, 2016	The contracting officer closed Audit Report No. 6431-2008B10100026 in the CAFU system.

* A tolling agreement refers to an agreement entered into with the contractor and contracting officer prior to the expiration of the 6-year statute of limitations. It suspends the imposition of the statute for a specified time period.

Finding A

DCMA Baltimore Did Not Support its Action on the DCAA Audit Report

We determined that a DCMA Baltimore contracting officer did not take appropriate action on a DCAA audit report, which identified \$1.1 million in DoD contractor costs that did not comply with FAR Part 31. Therefore, we substantiated the allegation. The contracting officer reimbursed the costs to the DoD contractor without documenting adequate rationale for disagreeing with the DCAA audit report. As a result, the Government paid the contractor up to \$1.1 million in costs that may not have complied with the FAR.

The contracting officer documented in her negotiation memorandum that, although she agreed with the DCAA audit findings, she could not uphold them because:

- DCAA had not issued an overall audit opinion on the DoD contractor's incurred cost proposals, and
- the DoD contractor was not willing to negotiate with the Government.

In addition, the contracting officer also expressed her concern to us that the 6-year statute of limitations on the DoD contractor's proposals had expired.

The contracting officer's rationale is insufficient to warrant reimbursing the \$1.1 million in costs reported by DCAA. FAR 42.705-1(b)(5)(iii) requires the contracting officer to address any significant audit findings regardless of whether DCAA provides an overall audit opinion. In addition, if the DoD contractor was not willing to negotiate, the contracting officer had the option of issuing a final unilateral decision to uphold the DCAA audit findings.

Also, the contracting officer should have requested legal advice on the 6-year statute of limitations rather than assume it had expired and prevented her from disallowing the contractor's proposed costs.

Accordingly, the DCMA contracting officer should reassess her decision not to uphold the DCAA findings and reimburse the costs. If the contracting officer concludes that any of the costs do not comply with the FAR, the contracting officer should exercise available remedies for recouping the costs, including requesting a voluntary refund from the DoD contractor.

We determined that insufficient training, DCMA procedures, and management oversight contributed to the contracting officer's failure to take appropriate action on the DCAA findings.

Allegation

The complainant alleged that DCMA Baltimore contracting officials failed to take appropriate action on a DCAA audit report identifying \$1.1 million in DoD contractor claimed indirect costs that were not allowable according to the FAR.

DCAA Audit Report

On September 30, 2013, in Audit Report No 6431-2008B10100026, a DCAA field audit office in southeastern Maryland issued the results of its examination of a DoD contractor's incurred cost proposals covering 2005 through 2008. As reflected in the report, DCAA disclaimed an opinion on the proposals taken as a whole because DCAA found that the DoD contractor:

- Misallocated labor costs between contracts
- Made 4,200 unexplained adjustments to labor costs
- Charged expenses to incorrect expense accounts in the accounting system
- Could not provide sufficient evidence to support proposed subcontractor costs

As a result of these issues, DCAA could not gather sufficient evidence to formulate an overall audit opinion on the DoD contractor's proposals. However, based on procedures DCAA could perform, DCAA reported that \$1.1 million in indirect costs did not comply with FAR Part 31, "Contract Cost Principles and Procedures" (hereafter referred to as the noncompliant costs). Table 2 shows a breakdown of the \$1.1 million by cost element.

Table 2. DCAA Reported Noncompliant Indirect Costs

Cost Element	Amount
Travel	\$260,098
Consultants	496,793
Compensation	363,245
Total	\$1,120,136

DCAA reported several reasons why the costs did not comply with the FAR. For example, DCAA determined that part of the contractor's claimed travel costs were in excess of the allowable travel per diem rates established in FAR 31.205-45(b), "Travel Costs." DCAA also reported that an additional \$9 million in direct costs did not comply with the FAR (See Finding B for a detailed discussion of the \$9 million in direct costs).

Requirements for Taking Action on Audit Findings

FAR 42.705-1(b)(5)(iii), “Contracting Officer Determination Procedure,” and DoD Instruction 7640.02, Enclosure 3, paragraph 3(b), require contracting officers to prepare a negotiation memorandum that includes:

- the disposition of significant matters in the audit report;
- a reconciliation of all costs questioned, with identification of items and amounts allowed or disallowed in the final settlement; and
- reasons why any recommendations of the auditor or other Government advisors were not followed.

In addition, DCMA Instruction 125, “Final Overhead Rates,” reiterates these requirements and emphasizes that contracting officers must include sound rationale in the negotiation memorandum when they disagree with the audit findings and recommendations.

DCMA Baltimore Actions on the DCAA Audit Report

On June 17, 2016, the DCMA Baltimore contracting officer responsible for taking action on the DCAA audit report decided not to uphold the \$1.1 million in noncompliant indirect costs reported by DCAA. Therefore, the Government reimbursed the DoD contractor for the costs. In the negotiation memorandum, the contracting officer documented her agreement with DCAA’s conclusion that the \$1.1 million in proposed costs did not comply with the FAR. However, the contracting officer ultimately cited two primary reasons in the negotiation memorandum for not upholding the DCAA finding.

First, the contracting officer explained in the negotiation memorandum that she did not uphold the DCAA finding because the DCAA report disclaimed an audit opinion. In the absence of an audit opinion, the contracting officer concluded that “no serviceable audit was provided.” As a result, the contracting officer stated that she followed Agency guidance in DCMA Memorandum 15-215, “Disposition of Incurred Cost Actions Seven Years or Older,” November 2, 2015. The memorandum states that, under certain circumstances, contracting officers may accept a contractor’s proposed indirect rates when no audit is received on contractor indirect proposals that are 7 years old or older.

Second, the contracting officer documented in the negotiation memorandum that the DoD contractor refused to negotiate the reported noncompliant costs, despite the contracting officer’s repeated attempts to do so. The contracting officer further stated in the negotiation memorandum that if the DoD contractor was willing to negotiate, she would have considered the reported noncompliant costs in developing the final indirect cost rates with the DoD contractor.

In addition, during our interviews with DCMA Baltimore contracting officials, the officials told us they were concerned that the 6-year statute of limitations on the DoD contractor's proposed costs for 2005 through 2008 had expired, or would be expiring soon. The Contracts Disputes Act (41 U.S.C. 7103(a)(4)) imposes a 6-year statute of limitations period.⁵ Since the contractor submitted its proposals to the Government on December 29, 2009, the DCMA Baltimore contracting officials were concerned that the statute of limitations could have expired on December 29, 2015 (6 years later). The contracting officer did not render her final decision on the proposals until June 17, 2016. Although the DCMA Baltimore contracting officials verbally expressed to us their concern with the 6-year statute of limitations, the contracting officer did not document this concern in the negotiation memorandum.

Analysis of DCMA Baltimore Actions

The contracting officer did not document a reasonable rationale for reimbursing the DoD contractor \$1.1 million in indirect costs reported by DCAA.

DCAA Disclaimer of Opinion

The fact that DCAA disclaimed an opinion on the DoD contractor's proposal taken as a whole did not prevent the contracting officer from taking action on the noncompliant costs reported by DCAA. The audit report issued by DCAA included significant matters that the contracting officer was obligated to appropriately address and disposition in accordance with FAR 42.705-1(b)(5)(iii)(A). Because the negotiation memorandum reflects that the contracting officer agreed with DCAA, the contracting officer did not have a reasonable basis for reimbursing the \$1.1 million in indirect costs.

In addition, the contracting officer inappropriately followed the guidance in DCMA Memorandum 15-215 because the guidance only applies when the contracting officer has not received an audit report. The contracting officer received Audit Report No. 6431-2008B10100026 on September 30, 2013.

Negotiations with the DoD Contractor

We reviewed the DCMA Baltimore contract file and found no evidence suggesting that the DoD contractor had refused to discuss or negotiate the DCAA reported noncompliant costs with the contracting officer. In fact, we discovered emails written by the DoD contractor indicating its willingness to discuss the DCAA findings and the associated impact on the proposed indirect cost rates. In our interviews with the DCMA contracting officials, the officials could not recall any instances when the contractor had refused to discuss the DCAA audit findings with them.

⁵ The contracts disputes Act requires in part that each claim by the Federal Government against a contractor shall be submitted within 6 years.

Nevertheless, any unwillingness on the DoD contractor's part to negotiate should not have influenced the contracting officer's obligation to appropriately address the DCAA audit findings. When a contracting officer and a contractor cannot reach agreement, the contracting officer has the option of issuing a unilateral final decision in accordance with FAR 33.211, "Contracting Officer's Decision." Within 90 days, the contractor can then appeal the decision to the Agency Board of Contract Appeals or the United States Court of Federal Claims.

Statute of Limitations

While the 6-year statute of limitations is an important consideration, the contracting officer had sufficient time to appropriately address the DCAA reported noncompliant costs before any potential expiration of the statute. Since DCAA issued its audit report on September 30, 2013, the contracting officer had 2 years and 3 months to make a final decision before December 29, 2015 (the date identified by the contracting officer that the statute of limitations may have expired). DoD Instruction 7640.02, Enclosure 3, paragraph 3.a, requires that contracting officers complete their actions on DCAA audit findings within 1 year. However, in this case, the contracting officer took until June 17, 2016, (2 years and 9 months) to decide not to uphold the \$1.1 million in DCAA reported noncompliant costs.

We also found that DCMA Baltimore contracting officials had received DCMA legal counsel advice on the statute of limitations issue while addressing the DoD contractor's prior 2004 incurred cost proposal. The legal advice reflected that the contracting officer should not assume the statute of limitations had expired. Rather, the contracting officer should pursue negotiations with the contractor to resolve all outstanding matters (including DCAA audit findings) and issue a contracting officer final decision if no settlement can be reached with the contractor. While addressing the DoD contractor's 2005 through 2008 incurred cost proposals, the contracting officer should not have attempted to interpret the statute of limitations, but instead should have consulted with her legal counsel for guidance.

Since the DCMA Baltimore contracting officer has not adequately demonstrated the appropriateness of her actions, the contracting officer should re-assess the DCAA reported noncompliant costs and make an independent determination as to whether or not the costs comply with the FAR.

If the contracting officer finds that any costs do not comply with the FAR as DCAA had reported, the contracting officer should attempt to recover the funds from the DoD contractor. Although the contracting officer and DoD contractor signed a binding agreement covering the indirect cost rates, the contracting officer can, at a minimum, request a voluntary refund of any noncompliant costs reimbursed to the DoD contractor.

Insufficient DCMA Procedures, Training, and Supervision

We identified that insufficient DCMA procedures, training, and supervision were contributing factors associated with the DCMA Baltimore contracting officials' failure to take appropriate action on the DCAA audit findings.

DCMA Baltimore contracting officials (including the contracting officer, the contracts administrator, and their supervisor) told us that DCAA Audit Report No. 6431-2008B10100026 was the first DCAA report they received that disclaimed an audit opinion. They also stated that they were not aware of any DCMA guidance on how to address findings in an audit report which disclaims an opinion. The contracting officials also incorrectly believed they could not take any action on the findings because DCAA had not customarily "questioned" the contractor's proposed costs. Instead, in Audit Report No. 6431-2008B10100026, DCAA reported that some of the proposed costs did not comply with the FAR. However, the DCMA Baltimore contracting officer should have taken action on the DCAA audit findings regardless of whether or not DCAA customarily referred to them as questioned costs.

During our review, we also found that DCMA:

- lacks any specific procedures for taking appropriate action on DCAA audit reports that disclaim an audit opinion; and
- has not provided any related training to its contracting officials.

DCMA headquarters staff acknowledged to us that additional procedures and training are needed to ensure that contracting officials appropriately and consistently address audit findings in DCAA reports which disclaim an opinion. The DCMA headquarters staff also advised us that DCMA plans to develop training which outlines the different types of audit opinions issued by DCAA, and the actions that contracting officials should take regardless of the issued audit opinion. DCMA anticipates completing the development of the training by December 2018.

In addition, we determined that DCMA Baltimore management did not exercise appropriate or timely oversight of the actions taken on the DCAA audit report. We found the following:

- The contracting officer's proposed actions on the DCAA audit report were in "management review" for extended periods of time without explanation. For example, the proposed actions were in management review for 238 days (between April 10, 2014 and December 4, 2014) before the supervisor completed her initial review of the proposed action.

According to DoD Instruction 7640.02, contracting officers only have 6 months to resolve a DCAA audit report, and 12 months to complete their actions on the audit report (including any time for management review).

- The contracting officer's supervisor approved the contracting officer's actions without appropriately questioning why the contracting officer did not uphold the DCAA findings.
- Even though the contracting officer stated that they had not previously received a DCAA audit report which disclaimed an audit opinion, the supervisor did not advise the contracting officer to seek guidance from DCMA headquarters, DCMA legal counsel, or other appropriate authority.
- The supervisor did not advise the contracting officer to consult with DCAA during negotiations to gain a full understanding of the reported noncompliant costs, as DCMA Instruction 126, "Contract Audit Follow-Up," paragraph 3.6.3 recommends.
- The supervisor did not ensure that the contracting officer had documented updates for the actions taken to address DCAA Audit Report No. 6431- 2008B10100026, as DoD Instruction 7640.04, Enclosure 3, paragraph 2.b requires.

DCMA Baltimore should assess the adequacy of its oversight of contracting officer actions taken on DCAA audit reports, and make improvements to the oversight based on the results of the assessment.

Conclusion

We determined that a DCMA Baltimore contracting officer did not take appropriate action on a DCAA audit report which identified \$1.1 million in noncompliant costs. Therefore, we substantiated the allegation. The contracting officer's negotiation memorandum does not justify the contracting officer's decision to reimburse the costs to the DoD contractor. In addition, the contracting officer did not complete her actions on the reported noncompliant costs within 1 year, as DoD Instruction 7640.02, Enclosure 3, paragraph 3.a requires.

Accordingly, the contracting officer should re-assess her decision to reimburse the DCAA reported noncompliant costs of \$1.1 million. If the contracting officer concludes that any of the costs do not comply with the FAR, the contracting officer should explore available remedies for recouping the costs, including requesting a voluntary refund from the DoD contractor.

We identified inadequate DCMA procedures, training, and supervision as factors that contributed to the DCMA Baltimore contracting officials' failure to take appropriate action on the DCAA audit findings. DCMA needs to develop procedures, provide training, and ensure adequate oversight to help ensure that DCMA Baltimore contracting officers take appropriate and timely actions on future DCAA audit reports that disclaim an audit opinion.

Recommendations, Management Comments, and Our Response

Recommendation A.1

We recommend that the Defense Contract Management Agency Director:

- a. Develop procedures and training addressing the actions that contracting officials should take on audit findings in a DCAA report, which disclaims an audit opinion.**

DCMA Comments

The DCMA Director agreed and stated that DCMA is developing a training course in conjunction with the Defense Acquisition University that will provide training for contracting officials who are responsible for taking action on DCAA audit reports. The course, Contract Management Course (CMC) 210, will encompass the CAFU process and requirements for the various types of audit reports and findings. Further, according to the DCMA Director, the course will emphasize timelines for audit report resolution and disposition, types of audit reports and opinions, and the report structure. It will also assist students with interpreting the audit report and findings. The DCMA Director stated that he expects the course to be available on the Defense Acquisition University website by December 31, 2018.

Our Response

Comments from the DCMA Director adequately addressed the recommendation, and no further comments are required. Therefore, this recommendation is resolved, but will remain open. We will close this recommendation once we verify that the training is available on the Defense Acquisition University website and that it addresses the actions to be taken when DCAA issues findings in a report that disclaims an audit opinion.

- b. Provide the training to all DCMA contracting officials and managers involved in taking action on DCAA audit reports.**

DCMA Comments

The DCMA Director agreed and stated that DCMA plans to make the CMC 210 training course a mandatory course for all DCMA contracting personnel. Once the course is available on the Defense Acquisition University website, all DCMA contracting personnel will be required to complete the course within 6 months. Further, new DCMA contracting personnel will also be required to take the course within 6 months of joining DCMA. The DCMA Director stated that he expects that all DCMA contracting personnel will complete this training by June 30, 2019.

Our Response

Comments from the DCMA Director addressed all specifics of the recommendation, and no further comments are required. Therefore, this recommendation is resolved, but will remain open. We will close this recommendation once we verify that all contracting personnel have completed the training.

Recommendation A.2

We recommend that the Defense Contract Management Agency Director, through the Defense Contract Management Agency Baltimore Commander, require the contracting officer to:

- a. Reassess the actions taken on Audit Report No. 6431-2008B10100026, to determine if the \$1.1 million in indirect costs do not comply with Federal Acquisition Regulation Subpart 31.2, "Selected Costs," as reported by Defense Contract Audit Agency.**

DCMA Comments

The DCMA Director agreed and stated that DCMA Baltimore has assessed the actions taken on Audit Report No. 6431-2008B10100026 to determine if the \$1.1 million in indirect costs comply with Federal Acquisition Regulation Subpart 31.2, "Selected Costs." Based on the assessment, the contracting officer requested DCMA Baltimore's legal counsel determine if the indirect cost rate agreement, signed by the Government and the contractor on June 17, 2016, can be reopened. The contracting officer has not yet received the legal counsel's final determination. DCMA's estimated date for receiving the legal opinion and making a final determination on the \$1.1 million is December 31, 2018.

Our Response

Comments from the DCMA Director adequately addressed the recommendation, and no further comments are required. Therefore, this recommendation is resolved, but will remain open. We will close the recommendation once DCMA provides the DoD OIG with the results of the assessment and DCMA General Counsel's opinion as to whether the agreement can be reopened.

- b. Take reasonable steps to recoup the \$1.1 million in indirect costs, if the results of the reassessment indicate that the costs do not comply with Federal Acquisition Regulation Subpart 31.2.**

DCMA Comments

The DCMA Director agreed and stated that, upon receipt of the DCMA legal counsel's opinion, the contracting officer will contact the contractor to determine if it is willing to reopen negotiations on the indirect cost rates for FY 2005 through 2008. If the contractor is unwilling to open negotiations, and the statute of limitations has not expired, the contracting officer will take unilateral action to uphold any of the indirect costs reported in the DCAA audit report that do not comply with FAR Subpart 31.2.

Our Response

Comments from the DCMA Director adequately addressed the recommendation, and no further comments are required. Therefore, this recommendation is resolved, but will remain open. We will close the recommendation once DCMA provides evidence to the DoD OIG that the contracting officer has attempted to negotiate with the contractor or has made an appropriate unilateral final decision, in accordance with FAR 33.211 (if DCMA legal counsel determines that the statute of limitations has not expired).

Recommendation A.3

We recommend that the Defense Contract Management Agency Director require the Defense Contract Management Agency Baltimore Commander to:

- a. Assess the adequacy and timeliness of management oversight at the Defense Contract Management Agency Baltimore Office associated with contracting officer actions taken on Defense Contract Audit Agency findings.**
- b. Make improvements to the oversight based on the results of the assessment discussed in Recommendation A.3.a**

DCMA Comments

The DCMA Director agreed and stated that DCMA Baltimore has assessed the adequacy and timeliness of the management oversight associated with the processing of DCAA reports. DCMA will provide local training to all DCMA Baltimore contracting supervisors, focusing on items that supervisors should be looking for during reviews, appropriate timeframes for management review, and training of new personnel. In addition, DCMA Baltimore management involved with DCAA Audit Report No. 6431-2008B10100026 will be required to take the following two Defense Acquisition University courses:

- CMC 130, "Introduction to Indirect Cost Rates"
- CMC 232, "Final Indirect Cost Rates"

Furthermore, the DCMA Baltimore Contracts Director is assessing the technical competency of all contracting supervisors at DCMA Baltimore. Those supervisors who do not demonstrate adequate technical competency must also take CMC 130 and CMC 232. DCMA anticipates performing the assessments and providing the required training by September 30, 2018.

Our Response

Comments from the DCMA Director adequately addressed the recommendation, and no further comments are required. Therefore, the recommendation is resolved, but will remain open. We will close this recommendation once DCMA provides evidence to the DoD OIG that DCMA:

- provided local training to all DCMA Baltimore contracting supervisors,
- required management officials involved in taking action on DCAA Audit Report No. 6431-2008B10100026 to take the CMC 130 and CMC 232 training,
- assessed the technical competence of all DCMA Baltimore contracting supervisors, and
- required DCMA Baltimore supervisors take the CMC 130 and CMC 232 training courses if they do not demonstrate an acceptable level of competence.

Finding B

DCMA Contracting Officials Did Not Take Actions on Noncompliant Direct Costs

During our review of the allegation, we found that DCMA contracting officials did not take any action on additional findings in Audit Report No. 6431-2008B10100026 involving \$9 million in direct costs, even though the report was issued more than 4 years ago. Our review of the DCMA Baltimore contract file and discussions with DCMA Baltimore contracting officials did not disclose any valid reasons for delaying action on the DCAA direct cost findings. As a result, the contracting officer has not taken any action to prevent the contracting officer from being reimbursed up to \$9 million in unallowable direct costs.

The failure to take action on the direct cost findings in a timely manner does not comply with DoD Instruction 7640.02 and DCMA Instruction 126. There are several reasons why contracting officers must take action on DCAA audit findings in a timely manner. For example, timely contracting officer action helps to ensure that:

- the 6-year statute of limitations is not jeopardized; and
- the Government recoups any unallowable costs before the Government closes affected contracts and agrees to release all claims against the contractor.

As of April 19, 2018, in response to our evaluation, the contracting officer and DCMA Baltimore management stated they were in the process of developing a plan to address the \$9 million in direct costs.

In addition, the contracting officer did not comply with DoD Instruction 7640.02 when she prematurely closed the DCAA audit report in the CAFU system without completing her actions on the direct cost audit findings. The accuracy of CAFU system records is important because DoD Component management use the system to track the status of contracting officer actions on DCAA audit findings.

In prior DoD OIG reports, we have identified other instances of DCMA contracting officers not taking action on direct cost audit findings in a timely manner, and closing the DCAA audit report in the CAFU system before they take action on the direct cost audit findings. The DCMA Director should improve Agency internal controls to help ensure that contracting officers complete all required actions on direct cost audit findings within 1 year and do not close the audit report in the CAFU system until they address the direct cost audit findings.

DCAA Audit Report

In Audit Report No. 6431-2008B10100026, DCAA reported that \$9 million in direct costs did not comply with the FAR. Table 3 shows a breakdown of the direct costs by cost element.

Table 3. DCAA Reported Direct Cost Findings

Cost Element	Amount
Subcontractor Costs	\$6,937,688
Direct Labor	794,835
Direct Material	212,880
Travel Consultant Costs	976,731
Total	\$8,922,114

DCAA reported that the DoD contractor could not support the subcontract costs because the subcontractor's records had been seized as part of a criminal investigation.

Regarding the direct labor costs, DCAA reported that the DoD had double-counted \$794,835 in direct labor costs and were therefore not allowable.

DCAA reported that most of the direct material and travel consultant costs were not allowable according to FAR 31.201-2, "Determining Allowability," because DoD contractor failed to provide adequate documentation to demonstrate the allowability of the costs.

Requirements for Taking Action on the Reported Direct Costs

In addition to the negotiation memorandum requirements discussed in Finding A, "Requirements for Taking Action on Audit Findings," DoD Instruction 7640.02, Enclosure 3 paragraph 3b(2) requires that contracting officers address all audit findings before reporting a DCAA audit report as dispositioned in the CAFU system. DoD Components use the CAFU system to track and record actions taken by contracting officers to resolve and disposition contract audit findings and recommendations. The DCMA Baltimore contracting officer is responsible for taking action on the \$9 million in direct costs reported by DCAA, and for recording her actions in the CAFU system.

Contracting Officer Action on the Reported Direct Costs

The DCMA Baltimore's contracting officer's June 17, 2016, negotiation memorandum did not address the DCAA audit findings involving the \$9 million in direct costs. The DCMA Baltimore contracting officer confirmed to us that she had not yet taken action on the direct costs. Although the contracting officer had not yet taken action on the direct costs, she dispositioned (closed) the DCAA audit report in the CAFU system. As of April 19, 2018, in response to our evaluation, the contracting officer and DCMA Baltimore management stated they were in the process of developing a plan for addressing the \$9 million in direct costs.

Evaluation of Contracting Officer on the Direct Costs

The contracting officer should have already completed her actions on the direct cost findings reported by DCAA. DCAA issued its report on September 30, 2013 (more than 4 years ago), yet the contracting officer has not taken any action on the direct cost findings. The failure to take action does not comply with DoD Instruction 7640.02, Enclosure 3, paragraph 3.a, which requires that contracting officers disposition (complete their actions) on DCAA audit reports within 1 year.

Although most of DCAA's direct cost findings were attributable to subcontractor cost records that had been seized during a criminal investigation, the contracting officer has an obligation to determine the appropriate actions she can take under the circumstances. At a minimum, the contracting officer should determine the latest status of the criminal investigation and the current availability of the subcontractor's records.

If a contracting officer's actions on a DCAA audit report are not completed within 1 year, DoD Instruction 7640.02 also requires that the contracting officer document, at least monthly, the steps they take to address the DCAA audit report. Since DCAA's issuance of the audit report in September 2013, the contracting officer has not documented any steps in the CAFU system to address the \$9 million in direct costs.

Appropriately addressing questioned direct cost audit findings in a timely manner is important for ensuring that the Government does not pay the contractor for costs that are unallowable. The contracting officer's failure to take action on the direct cost findings in a timely manner could jeopardize the Government's ability to recoup any unallowable costs before:

- the 6-year statute of limitations expires, or
- the Government closes affected contracts and signs an agreement to release any claims against the contractor.

The contracting officer also did not comply with DoD Instruction 7640.02, Enclosure 3, paragraph 3b(3), when she prematurely closed the DCAA audit report in the CAFU system without completing her actions on the direct cost audit findings. The contracting officer incorrectly thought she could close the report in the CAFU system once she completed her actions on the indirect cost audit findings. Contracting officers must accurately record the status of their actions in the CAFU system because DoD Component management relies on the accuracy of CAFU system data to effectively oversee contracting officer actions on DCAA audit findings.

Therefore, the contracting officer should reopen Audit Report No. 6431- 2008B10100026 in the CAFU system and document, at least monthly, the steps she takes to address the \$9 million in direct costs reported by DCAA. Also, DCMA should remind DCMA Baltimore contracting officers of the requirements for closing audit reports in the CAFU system, including the requirement to address audit findings involving direct costs.

Management Actions on Prior Recommendations

In Report No. DODIG-2016-091, "Evaluation of the Accuracy of Data in the DoD Contract Audit Follow-Up System," May 13, 2016, we reported that DCMA contracting officers were not completing all required actions on DCAA findings (including questioned direct costs) before recording the DCAA report as dispositioned in the CAFU system.

In response to Report No. DODIG-2016-091, DCMA hosted an August 10, 2016, summit with DoD Components to explore the best options for ensuring that contracting officers complete their actions on direct cost audit findings in a timely manner, before recording the DCAA report as dispositioned in the CAFU system. The summit did not result in DCMA finding an appropriate solution.

Also, in Report No. DODIG-2017-055, "Evaluation of Defense Contract Management Agency Contracting Officer Actions," February 9, 2017, we reported that DCMA contracting officers failed to take any action on \$305 million in direct costs questioned by DCAA. DCMA did not take any corrective actions in response to Report No. DODIG-2017-055. Since holding the summit in August 2016, DCMA has not taken any specific additional steps to improve the effectiveness and timeliness of contracting officer actions in response to direct cost audit findings.

The results of this evaluation demonstrates a continued weakness on the part of DCMA contracting officers to effectively and timely address audit findings involving millions of dollars in direct costs. Therefore, DCMA needs to take additional steps to improve its controls for ensuring that contracting officers take appropriate action on direct cost audit findings.

Conclusion

The DCMA Baltimore contracting officer did not take any action on \$9 million in direct cost reported by DCAA more than 4 years ago. Continued delays in responding to the DCAA audit findings could jeopardize the ability of the Government to recoup any unallowable direct costs that the Government may have inappropriately paid the DoD contractor.

The contracting officer should take immediate steps to evaluate the direct cost audit findings and make a determination on the allowability of the costs. In accordance with DoD Instruction 7640.02, the contracting officer should document in the CAFU system (at least monthly), the steps she has taken to resolve and disposition the direct cost audit findings.

Recommendations, Management Comments, and Our Response

Recommendation B.1

We recommend that the Defense Contract Management Agency Director, through the Defense Contract Management Agency Baltimore Commander, request that the contracting officer:

- a. Reinstate Audit Report No. 6431-2008B10100026 in the Contract Audit Follow-Up System as unresolved until the contracting officer completes her actions on the direct cost audit findings.**
- b. Take appropriate action on the \$9 million in direct cost findings reported by the Defense Contract Audit Agency in Audit Report No. 6431-2008B10100026.**
- c. At least monthly, document in the Contract Audit Follow-Up System the steps that the contracting officer has taken on the direct cost audit findings, as DoD Instruction 7640.02, Enclosure 3, paragraph 3b(2) requires.**
- d. Prepare a negotiation memorandum that documents the contracting officer's determination on the direct cost audit findings, as Federal Acquisition Regulation 42.705-1(b)(5)(iii), "Contracting Officer Determination Procedure," requires.**

DCMA Comments

The DCMA Director agreed and stated that DCMA Baltimore reinstated the CAFU record, and the record will remain open until the contracting officer appropriately disposes the direct costs and completes all required documentation. The contracting officer is assessing whether the statute of limitations on any portion of the \$9 million in questioned direct costs has not expired. DCMA's initial indication is that the statute has expired on all the costs. However, DCMA Baltimore is continuing its assessment before it makes a final determination on the statute of limitations and completes its actions.

In addition, the DCMA Director stated that DCMA Baltimore will conduct monthly reviews of the CAFU system to ensure that contracting officers document the steps they take to address the audit findings. The DCMA Baltimore Contracts Director and Group Chiefs will evaluate the results of the monthly reviews and ensure that proper steps are taken to correct any deficiencies. DCMA expects to complete the actions by December 31, 2018.

Our Response

Comments from the DCMA Director adequately addressed the recommendation, and no further comments are required. Therefore, this recommendation is resolved, but will remain open. We will close the recommendation once DCMA furnishes the DoD OIG with evidence of the following:

- the assessment of whether the statute of limitations has expired,
- the results of the monthly reviews of the CAFU system record for Audit Report No. 6431-2008B10100026 to ensure the contracting officer is documenting the steps she is taking to address the questioned direct costs, and
- the negotiation memorandum and any other documentation describing the final actions taken on the direct costs.

Recommendation B.2

We recommend that the Defense Contract Management Agency Director improve Agency internal controls to help ensure contracting officers complete all required actions on direct cost audit findings:

- a. **Within 1 year as DoD Instruction 7640.02, Enclosure 3, paragraph 3.a requires; and**
- b. **Before they record the associated audit report as “dispositioned” in the Contract Audit Follow-Up System.**

DCMA Comments

The DCMA Director agreed and stated that DCMA Instruction 126, “Contract Audit Follow-Up,” requires contracting officers to complete all required actions on all audit report findings, and incorporate any negotiated settlements from other cognizant contracting officers. Further, DCMA stated that its contracting officers will settle all questioned costs for which they are the cognizant contracting officers and attempt to obtain settlements from the other agency cognizant contracting officers within 12 months. Finally, DCMA indicated that the contracting officer with the associated CAFU record will hold the record open until all findings are addressed.

In a June 14, 2018, e-mail, DCMA also committed to improving its actions on direct cost audit findings by:

- providing mandatory training to all contracting personnel that will in part emphasize the responsibility of contracting officers to take timely action on all audit findings, including direct cost audit findings and
- implementing other job aides and checklists that would strengthen internal controls and management oversight of contracting officer actions taken on direct cost audit findings.

DCMA anticipates completing the corrective actions by December 31, 2018.

Our Response

Comments from the DCMA Director adequately addressed the recommendation, and no further comments are required. Therefore, this recommendation is resolved, but will remain open. We will close the recommendation once DCMA provides evidence to the DoD OIG that DCMA:

- provided training that emphasizes the responsibility of taking timely action on direct cost audit findings and
- implemented checklists or other appropriate tools that strengthen the internal controls over the actions taken on direct cost audit findings.

In addition, we will review the effectiveness of DCMA’s actions to improve its internal controls during future evaluations.

Recommendation B.3

We recommend that the Defense Contract Management Agency Director, through the Defense Contract Management Agency Baltimore Commander, consider additional training or corrective opportunities to remind Baltimore contracting officials of the need to complete their actions on audit findings within 1 year, as DoD Instruction 7640.02, Enclosure 3, paragraph 3.a requires.

DCAA Comments

The DCMA Director agreed and stated that DCMA has scheduled training on June 5 and June 6, 2018, to all Baltimore contracting personnel with responsibilities for taking action on audit report findings. Two separate sessions will be offered, one for supervisors and one for contracting officers and administrators. The training will cover the CAFU process with emphasis on interpreting audit reports and associated opinions. Training will also include required timeframes for resolution and disposition of findings and adequate documentation. The supervisor session will contain additional emphasis on management review requirements and timeframes. DCMA expected to complete the training by June 30, 2018.

Our Response

Comments from the DCMA Director adequately addressed the recommendation, and no further comments are required. Therefore, this recommendation is resolved, but will remain open.

We will close the recommendation once DCMA provides evidence to the DoD OIG that:

- all DCMA Baltimore contracting personnel were provided CAFU training and
- the training comprehensively addressed the CAFU requirements, including the requirement that contracting officers complete their actions on audit findings within 1 year in accordance with DoD Instruction 7640.02.

Appendix

Scope and Methodology

We conducted this evaluation from May 2017 through March 2018 in accordance with the “Quality Standards for Inspections and Evaluations” published in January 2012 by the Council of Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that objectives are met and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusions, and recommendations. We believe that the evidence obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings, conclusions, and recommendations.

To evaluate the complaint addressed in this report, we:

- gained an understanding of DCAA Audit Report No. 6431-2008B101000026 and associated working papers;
- interviewed the two DCAA auditors who conducted the audit;
- gathered and evaluated DCMA Baltimore records involving the actions taken on DCAA Audit Report No. 6431-2008B101000026;
- interviewed several DCMA Baltimore contracting officials, including the contracting officer assigned to take action on DCAA Audit Report No. 6431- 2008B101000026, a contracts administrator, the contracting officer’s supervisor, the supervisor’s Group Chief, and a DCMA Baltimore legal counsel;
- reviewed DCMA policies and procedures related to addressing DCAA audit findings; and
- evaluated the DCMA contracting officials’ actions taken in response to DCAA Audit Report No. 6431-2008B101000026 for compliance with relevant parts of the FAR, DoD Instruction 7640.02, and DCMA procedures.

Use of Computer-Processed Data

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

Prior Coverage

During the last 5 years, the DoD OIG has issued six reports on the actions that DCMA contracting officers took in response to DCAA audit reports. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

DoD OIG

Report No. DODIG-2014-084, "Hotline Allegation Regarding Defense Contracting Officer's Action on Several Business System Audit Reports," June 20, 2014

We evaluated the validity of a DoD Hotline complaint alleging that a DCMA contracting officer did not take timely or appropriate action on several DCAA audit reports covering the business systems of a large DoD contractor.

Report No. DODIG-2015-139, "Evaluation of Defense Contract Management Agency Contracting Officer's Actions Reported DoD Contractor's Estimating System," June 29, 2015

We evaluated whether DCMA contracting officers took timely and effective actions on 18 DoD contractor estimating system deficiencies reported by DCAA.

Report No. DODIG 2016-001, "Evaluation of Defense Contract Management Agency Contracting Officer's Action on Reported DoD Contractor Business System Deficiencies," October 1, 2015

We evaluated DCMA actions on DoD contractor business system deficiencies reported in 21 DCAA audit reports.

Report No. DODIG-2016-091, "Evaluation of the Accuracy of Data in the DOD Contract Audit Follow-Up System," May 12, 2016

We evaluated the accuracy of data in the CAFU system, which DoD Components use to track and manage the status of actions that contracting officers take in response to DCAA audit reports.

Report No. DODIG-2017-032, "Evaluation of Contracting Officer Actions on Cost Accounting Standard Noncompliances Reported by Defense Contract Audit Agency," December 8, 2016

We evaluated contracting officer actions on cost accounting standard noncompliances reported in 27 DCAA audit reports. We determined whether the contracting officer actions taken in response to the 27 reports complied with FAR 30.6, "Cost Accounting Standards Administration," DoD Instruction 7640.02, "Policy for Follow-up on Contract Audit Reports," and applicable agency instructions.

Report No. DODIG-2017-055, "Evaluation of Defense Contract Management Agency Contracting Officer Actions on Defense Contract Audit Agency Incurred Cost Audit Reports," February 9, 2017

We evaluated the appropriateness of DCMA actions on DCAA findings reported in 22 incurred cost audit reports.

Management Comments

Defense Contract Management Agency Director



DEFENSE CONTRACT MANAGEMENT AGENCY

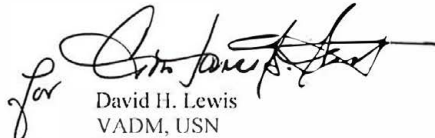
3901 A. AVENUE, BUILDING 10500
FORT LEE, VIRGINIA 23801-1809

MEMORANDUM FOR DEPARTMENT OF DEFENSE, INSPECTOR GENERAL, AUDIT
POLICY AND OVERSIGHT

SUBJECT: DCMA Response to DoDIG Draft Report D2017-DAPOCF-0142.000, Evaluation of
DoD Hotline Complaint Regarding Defense Contract Management Agency
Baltimore's Actions on Audit Findings Reported by Defense Contract Audit Agency

The Defense Contract Management Agency's response addressing the subject draft report
is attached at TAB A. This response supersedes the June 1, 2018 response.

The point of contact for this response is [REDACTED] at [REDACTED] or
[REDACTED].

for 
David H. Lewis
VADM, USN
Director

Attachment:
TAB A. DCMA Response

Defense Contract Management Agency Director (cont'd)

DCMA Draft Response to DoDIG Project No. D2017-DAPOCF-0142.000, "Evaluation of DoD Hotline Complaint Regarding Defense Contract Management Agency Baltimore's Actions on Audit Findings Reported by Defense Contract Audit Agency," April 24, 2018

Recommendation A.1: Recommend that Director, Defense Contract Management Agency:

a. Develop procedures and training addressing the actions that contracting officials should take on audit findings in a DCAA report which disclaims an audit opinion.

DCMA Response A.1.a: Concur. DCMA is currently developing a Contract Audit Follow Up (CAFU) training course in conjunction with Defense Acquisition University (DAU) to provide training online to all contracting officials with responsibilities for DCAA audit report resolution and disposition. This course (CMC 210) will encompass the contract audit follow up process and requirements for the various types of audit reports and findings. There is a training module dedicated to "Understanding Audit Reports." This module will include emphasis on timelines for resolution and disposition, types of audit reports, types of audit opinions and audit report structure, as well as assisting students on interpreting the audit report and findings. This course is expected to be made available on the DAU catalog by the end of calendar year 2018.

b. Provide the training to all DCMA contracting officials and managers involved in taking action on DCAA audit reports.

DCMA Response A.1.b: Concur. DCMA intends to make CMC 210 a mandatory course for all contracting personnel through the Talent Management System. Once the course is available from DAU, all DCMA contracting personnel with CAFU responsibilities will be required to complete the course within six months. New DCMA contracting personnel will also be required to take the course within six months of coming on board with DCMA. Expected completion date for all DCMA contracting personnel impacted is June 30, 2019.

Recommendation A.2: Recommend that the Director, Defense Contract Management Agency through the Commander, Defense Contract Management Agency Baltimore, require the contracting officer to:

a. Reassess the actions taken on Audit Report No. 6431-2008B10100026, to determine if the \$1.1 million in indirect costs do not comply with Federal Acquisition Regulation Subpart 31.2, "Selected Costs," as reported by Defense Contract Audit Agency.

DCMA Response A.2.a: Concur. DCMA Baltimore has assessed the actions taken on Audit Report No. 6431-2008B10100026 to determine if the \$1.1 million in indirect costs do not comply with Federal Acquisition Regulation Subpart 31.2, "Selected Costs," as reported by Defense Contract Audit Agency. Currently, the ACO is working with DCMA Baltimore General Counsel to determine if the indirect cost rate agreement, signed June 17, 2016, can be reopened in order to support a new unilateral decision if the contractor is unwilling to entertain additional negotiations. Although Counsel has not completed its determination in regards to this matter, their preliminary opinion is this rate agreement will remain in full force and effect unless the contractor did not meet all of the agreement's requirements. One such requirement is the submission of final vouchers within 120 days of the date of the rate agreement. The ACO is conducting an invoice review to determine if all required final vouchers were submitted.

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Defense Contract Management Agency Director (cont'd)

DCMA Draft Response to DoDIG Project No. D2017-DAPOCF-0142.000, "Evaluation of DoD Hotline Complaint Regarding Defense Contract Management Agency Baltimore's Actions on Audit Findings Reported by Defense Contract Audit Agency," April 24, 2018

b. Take reasonable steps to recoup the \$1.1 million in indirect costs, if the results of the reassessment indicate that the costs do not comply with Federal Acquisition Regulation Subpart 31.2.

DCMA Response A.2.b: Concur. Upon receipt of Counsel's final determination regarding this matter the ACO will contact the contractor to determine if they are willing to entertain additional negotiations regarding the indirect costs for FY2005-2008. If the contractor is unwilling to do so, the ACO shall take appropriate unilateral action to sustain any questioned costs, from Audit Report No. 6431-2008B10100026, that do not comply with FAR subpart 31.2 and that are not barred by statute.

Estimated completion of A.2.a. and b. is December 31, 2018.

Recommendation A.3: Recommend the Director, Defense Contract Management Agency, require the Commander, Defense Contract Management Agency Baltimore, to:

a. Assess the adequacy and timeliness of management oversight at the Defense Contract Management Agency Baltimore Office associated with contracting officer actions taken on Defense Contract Audit Agency findings.

b. Make improvement to the oversight based on the results of the assessment discussed in Recommendations A.3.a.

DCMA Response A.3 (a. & b.): Concur. DCMA Baltimore has assessed the adequacy and timeliness of the management oversight associated with the processing of DCAA reports. In order to address the accuracy of the management oversight, DCMA Baltimore's Contracts Director has coordinated with DCMA Headquarters to have a local training for all contracting supervisors executed that will focus on items supervisors should be looking for during reviews, appropriate timeframes for management review, and types of training that they can use for their new personnel to properly prepare them for this type of workload. In addition, the management involved with the review of the documentation associated with the processing of DCAA Audit Report No. 6431-2008B10100026 shall be required to take CMC 130 Introduction to Indirect Cost Rates, and CMC 232 Final Indirect Cost Rates as a refresher regarding this subject matter.

Furthermore, the DCMA Baltimore Contracts Director is assessing the technical competency of all contracting supervisors, regarding final indirect cost rates, and shall require these same courses be taken by any supervisor deemed to have a less than adequate technical competency. Estimated completion date for local training and training assessments is September 30, 2018. CMC training course completion based on class dates and availability of classes.

Recommendation B.1: Recommend that the Director, Defense Contract Management Agency, through the Commander, Defense Contract Management Agency Baltimore, request that the contracting officer:

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Defense Contract Management Agency Director (cont'd)

DCMA Draft Response to DoDIG Project No. D2017-DAPOCF-0142.000, "Evaluation of DoD Hotline Complaint Regarding Defense Contract Management Agency Baltimore's Actions on Audit Findings Reported by Defense Contract Audit Agency," April 24, 2018

- a. Reinstate Audit Report No. 6431-2008B10100026 in the Contract Audit Follow-up system as unresolved until the contracting officer completes her actions on the direct cost audit findings.
- b. Take appropriate action on the \$9 million in direct costs findings reported by the Defense Contract Audit Agency in Audit Report No. 6431-2008B10100026.
- c. At least monthly, document in the Contract Audit Follow-up system the steps that the contracting officer has taken on the direct cost audit findings, as DoD Instruction 7640.02, Enclosure 3, paragraph 3b(2) requires.
- d. Prepare a negotiation memorandum that document the contracting officer's determination on the direct cost audit findings, as Federal Acquisition Regulation 42.705-1(b)(5)(iii), "Contracting Officer Determination Procedure," requires.

DCMA Response B.1 (a. - d.): Concur. DCMA Baltimore has reinstated this CAFU record in the CAFU eTool where it will remain until the direct costs are appropriately dispositioned by preparing, reviewing and approving the appropriate documentation. The ACO is in the process of assessing what portion, if any, of the \$9 million in questioned direct costs from DCAA Audit Report No. 6431-2008B10100026 is not barred by the statute of limitations. The initial analysis of these costs indicates that all of these questioned costs are barred by statute however, DCMA Baltimore will continue to analyze these costs to ensure that this is the case before taking any additional actions to settle these costs. The DCMA Baltimore Contracts Director shall have the CAFU monitor conduct a monthly review of the CAFU eTool to ensure that ACOs are documenting the steps they are taken to address the audit findings at least every 30 days. The DCMA Baltimore Contracts Director and Group Chiefs shall review the results of the monitor's review and ensure proper steps are taken to correct any deficiencies. Estimated completion date is December 31, 2018.

Recommendation B.2: Recommend that the Director, Defense Contract Management Agency, improve Agency internal controls to help ensure contracting officers complete all required actions on direct cost audit findings:

- a. within 1 year as DoD Instruction 7640.02, Enclosure 3, paragraph 3.a requires; and
- b. before they record the associated audit report as "dispositioned" in the Contract Audit Follow-up system.

DCMA Response B.2 (a. & b.): Concur. DCMA Instruction 126, Contract Audit Follow Up requires contracting officers to complete all required actions on all audit report findings, to include coordination and incorporation of settlements from other cognizant contracting officers. DCMA contracting officers will settle all questioned costs for which they are the cognizant contracting officers and attempt to obtain settlements from the other agency cognizant contracting officers within 12 months. If the DCMA contracting officer cannot meet the 12 month timeline, the contracting officer will document monthly the reason for any delays

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Defense Contract Management Agency Director (cont'd)

DCMA Draft Response to DoDIG Project No. D2017-DAPOCF-0142.000, "Evaluation of DoD Hotline Complaint Regarding Defense Contract Management Agency Baltimore's Actions on Audit Findings Reported by Defense Contract Audit Agency," April 24, 2018

encountered in obtaining settlements from other cognizant contracting officers, prior to recording the audit report as dispositioned in the Contract Audit Follow-up (CAFU) system. The DCMA contracting officer with the associated CAFU record will hold the record open until all findings are addressed. Estimated completion December 31, 2018.

Recommendation B.3 Recommend that the Director, Defense Contract Management Agency, through the Commander, Defense Contract Management Agency Baltimore, consider additional training or corrective opportunities to remind Baltimore contracting officials of the need to complete their actions on audit findings within 1 year, as DoD Instruction 7640.02, Enclosure 3, paragraph 3.a. requires.

DCMA Response B.3: Concur. DCMA Baltimore training is scheduled for June 5-6, 2018 for all contracting personnel with responsibilities for resolution and disposition of audit report findings. Two separate sessions will be offered. One for Supervisors and the other for Administrative Contracting Officers (ACOs) and Contracts Administrators (CAs). The training will cover the contract audit follow up process with particular emphasis on interpreting audit reports and associated opinions. Training will also include required timeframes for resolution and disposition of findings and adequate documentation/justification. The supervisor session will contain additional emphasis on management review requirements and timeframes. Contracting Officials are to complete all audit report finding actions required within 12 months, or sufficiently document the reason for delay. Expected completion date for training is June 30, 2018.

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Acronyms and Abbreviations

CAFU	Contract Audit Follow-Up
DCAA	Defense Contract Audit Agency
DCMA	Defense Contract Management Agency
FAR	Federal Acquisition Regulation
OIG	Office of Inspector General
U.S.C.	United States Code



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U.S. DEPARTMENT OF DEFENSE

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