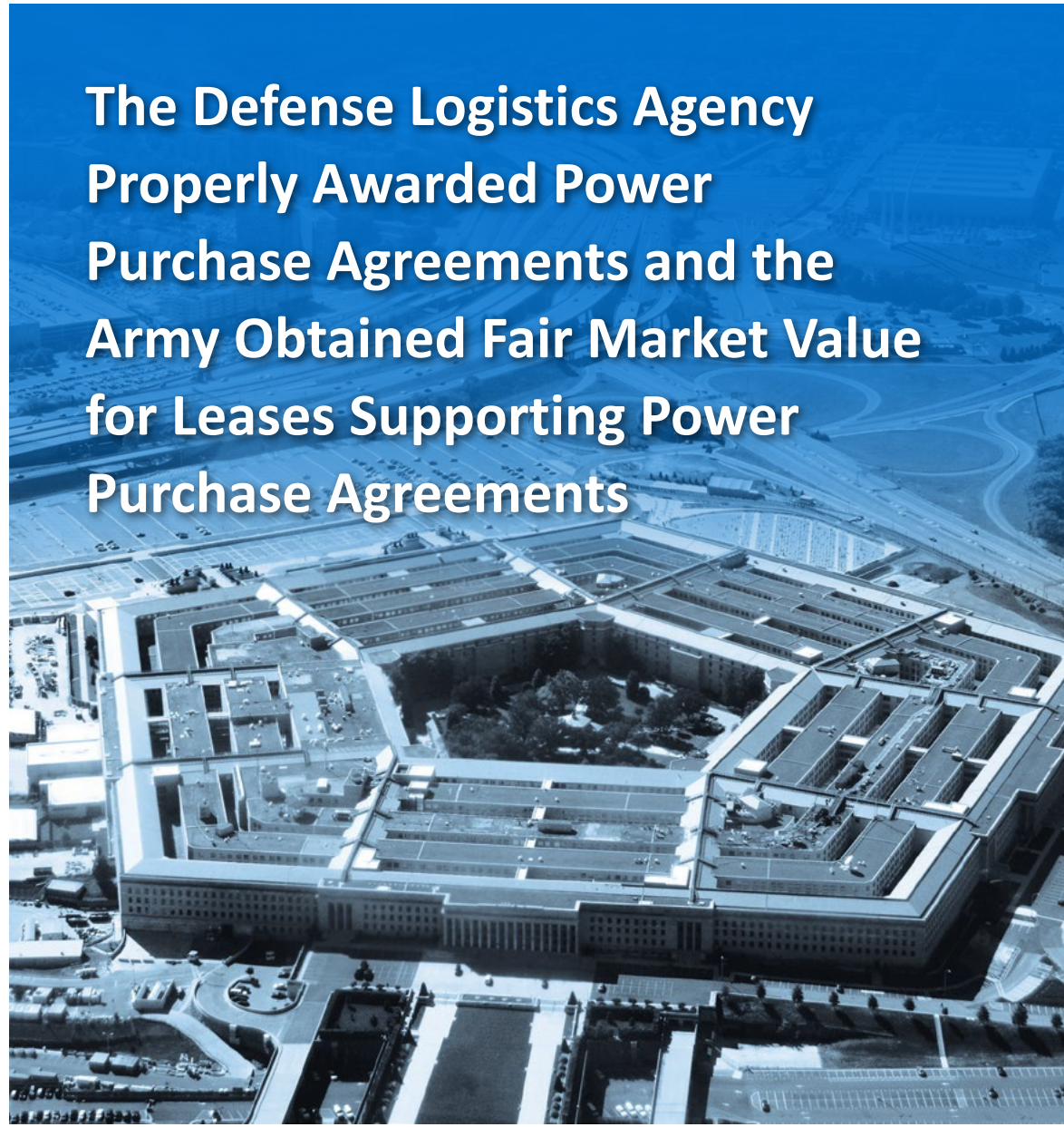




# INSPECTOR GENERAL

*U.S. Department of Defense*

SEPTEMBER 28, 2016



## The Defense Logistics Agency Properly Awarded Power Purchase Agreements and the Army Obtained Fair Market Value for Leases Supporting Power Purchase Agreements

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# Results in Brief

## *The Defense Logistics Agency Properly Awarded Power Purchase Agreements and the Army Obtained Fair Market Value for Leases Supporting Power Purchase Agreements*

September 28, 2016

### Objective

We determined whether the Department of the Army properly awarded and obtained fair market value for leases supporting energy production projects. We conducted this audit in response to an allegation reported to the Defense Hotline. The allegation stated that the Army and Navy leased land to utility companies to produce solar energy without using competitive procedures to select the lessee, and that the Army and Navy are not receiving fair market value for the land. This is the first in a series of audits related to leases supporting energy production projects and focuses only on the Army. We plan to review the Department of the Navy during the second audit in this series.

As of March 2016, the Army had awarded three leases supporting energy production projects. We selected two of the three for review—one at Fort Hood, Texas, and one at Fort Detrick, Maryland. The third project, at Fort Drum, New York, included a lease for less than an acre of land, so we did not review it.

### Background

U.S. law<sup>1</sup> allows the Secretaries of the Military Departments to enter into a contract for up to 30 years for energy production facilities on DoD real property. These contracts are known as power purchase agreements and require a

<sup>1</sup> 10 U.S.C. § 2922a (2006), "Contracts for energy or fuel for military installations."

### Background (cont'd)

real-estate transaction, such as a lease. In addition, U.S. law<sup>2</sup> allows the Secretaries of the Military Departments to lease non-excess property. The same statute also requires that the Secretaries of the Military Departments use competitive procedures to select the lessees and that the lessees pay in cash or in-kind not less than the fair market value of the leased property.

### Finding

We determined that Defense Logistics Agency Energy contracting officials awarded the two power purchase agreements at Fort Hood and Fort Detrick, using full and open competition, in accordance with Federal and DoD guidance. Specifically, the contracting officials properly issued requests for proposals, developed source selection plans, and evaluated proposals in accordance with the Federal Acquisition Regulation and DoD Source Selection Procedures.

In addition, the Army obtained fair market value for the two leases supporting the Fort Hood and Fort Detrick power purchase agreements. Specifically, U.S. Army Corps of Engineers personnel appraised the leased land at Fort Hood and oversaw the appraisal at Fort Detrick to determine the fair market value of the land. Furthermore, U.S. Army Corps of Engineers personnel ensured that the Army would receive lease payments in the form of in-kind consideration or cash greater than or equal to the fair market value of the leased land.

### Management Comments

We provided a discussion draft to Defense Logistics Agency Energy, U.S. Army Corps of Engineers, and the Army Office of Energy Initiatives on September 7, 2016. We considered management comments on a discussion draft of this report when preparing the final report.

<sup>2</sup> 10 U.S.C. § 2667 (2015), "Leases: non-excess property of military departments and Defense Agencies."





**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

September 28, 2016

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,  
TECHNOLOGY, AND LOGISTICS  
DIRECTOR, DEFENSE LOGISTICS AGENCY  
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

**SUBJECT: The Defense Logistics Agency Properly Awarded Power Purchase Agreements and the Army Obtained Fair Market Value for Leases Supporting Power Purchase Agreements (Report No. DODIG-2016-137)**

We are providing this report for your information and use. Contracting officials at Defense Logistics Agency Energy awarded two power purchase agreements at Fort Hood, Texas, and Fort Detrick, Maryland, using full and open competition, in accordance with Federal and DoD guidance. In addition, the Army determined the fair market value of the leased land for two leases supporting the Fort Hood and Fort Detrick power purchase agreements and ensured that it would receive lease payments in the form of in-kind consideration or cash greater than or equal to the fair market value of the leased land. We conducted this audit in accordance with generally accepted government auditing standards.

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

A handwritten signature in blue ink, appearing to read "M. Roark", is positioned above the typed name.

Michael J. Roark  
Assistant Inspector General  
Contract Management and Payments

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# Introduction

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## Objective

We determined whether the Department of the Army properly awarded and obtained fair market value for leases supporting energy production projects. This is the first in a series of audits related to leases supporting energy production projects. See Appendix A for the scope and methodology related to the audit objective.

We conducted this audit in response to an allegation reported to the Defense Hotline. The allegation stated that the Army and Navy leased land to utility companies to produce solar energy without using competitive procedures to select the lessee, and that the Army and Navy are not receiving fair market value for the land as required by section 2667, title 10, United States Code (10 U.S.C. § 2667 [2015]). We plan to review the Department of the Navy during the second audit in this series.

## Background

Renewable energy is electric energy generated from sources such as solar and wind. In 2011, Congress established a goal for the DoD to produce or procure not less than 25 percent of its total energy consumption from renewable energy sources by 2025.<sup>3</sup> The DoD is using multiple financing mechanisms to achieve this energy goal. For example, 10 U.S.C. § 2922a (2006) allows the Secretaries of the Military Departments to enter into a contract for up to 30 years for energy production facilities on DoD real property. These contracts are known as power purchase agreements<sup>4</sup> (PPAs) and require a real-estate transaction, such as a lease when the energy production facility is on DoD real property. According to 10 U.S.C. § 2667 (2015), the Secretaries of the Military Departments can lease non-excess property<sup>5</sup> on terms that will promote the national defense or be in the public interest when a Secretary determines that the property is not currently needed for public use and the lease is advantageous to the United States. The same statute also requires that the Secretaries use competitive procedures to select the lessees and that the lessees pay in cash or in-kind<sup>6</sup> greater than or equal to the fair market value of the leased property.

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<sup>3</sup> 10 U.S.C. § 2911 (2011), "Energy performance goals and master plan for the Department of Defense."

<sup>4</sup> A power purchase agreement is also referred to as a renewable energy services agreement.

<sup>5</sup> Property under the control of a Federal agency that the head of the agency determines is required to meet the agency's needs or responsibilities.

<sup>6</sup> In-kind consideration is nonmonetary compensation given as payment for the leased land. In-kind consideration may include construction of new facilities for a Secretary of the Military or credit for utility services for a Secretary of the Military.

## ***Army Renewable Energy***

In October 2014, the Secretary of the Army established the Army Office of Energy Initiatives, which serves as the Army's central management office for the development, implementation, and oversight of all privately financed, large-scale renewable energy projects.<sup>7</sup> The Army uses PPAs to allow a utility or private company to finance the initial capital investment of a renewable energy project; the PPA payments from the Army to the utility company allow the utility company to pay back the investment over the useful life of the renewable energy project. When the Army contractually purchases renewable energy generated on Army land, a lease of the Army land is required.<sup>8</sup> The lease terms are included in the request for proposal (RFP) for the PPA.

## ***Responsibilities of DoD Components in the Army PPA Award Process***

The Office of the Secretary of Defense for Energy, Installations, and Environment; Office of the Deputy Assistant Secretary of the Army for Installations, Housing, and Partnerships; Deputy Assistant Secretary of the Army Energy & Sustainability; U.S. Army Corps of Engineers (USACE); Army installations; and Defense Logistics Agency (DLA) Energy are involved in awarding PPAs with leases. To begin the process, the Army installation commander submits a report of availability of the non-excess property to the Office of the Deputy Assistant Secretary of the Army, Installations, Housing, and Partnerships. The report of availability provides the information necessary to determine whether a non-Army entity can use Army real property, and includes a description of any in-kind consideration to be provided under the lease. An official with the Office of the Deputy Assistant Secretary of the Army for Installations, Housing, and Partnerships reviews the report of availability, confirms whether the land is available for rent, and issues a determination of availability, which approves the real property for the non-Army use proposed in the report of availability.

Next, a DLA Energy contracting officer develops a source selection plan<sup>9</sup> and drafts the RFP, and USACE officials develop lease terms to be included in the RFP. The DLA Energy contracting officer releases the RFP and the source selection evaluation board<sup>10</sup> evaluates the proposals. The DLA Energy contracting officer

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<sup>7</sup> The Army Office of Energy Initiatives replaced the Army Energy Initiatives Task Force, which was established in September 2011 to strengthen Army energy security through the planning and execution of renewable energy projects.

<sup>8</sup> Army Office of Energy Initiatives Guide, "Developing Renewable Energy Projects by Leveraging the Private Sector," November 6, 2014.

<sup>9</sup> A plan that describes how the source selection will be organized, how proposals will be evaluated and analyzed, and how sources will be selected.

<sup>10</sup> The source selection evaluation board includes representatives from the installation, DLA Energy, Army Office of Energy Initiatives, and industry subject-matter experts.



selects the contractor and issues a notice of intent to award letter. USACE is responsible for the final appraisal of the land and determines the fair market value, which the DLA Energy contracting officer incorporates in the proposed contract. USACE personnel also use the fair market value of the land to determine the rent payment amount in the final lease. The DLA Energy contracting officer develops the proposed contract, which incorporates the lease prepared by USACE. A Deputy Assistant Secretary of the Army Energy & Sustainability official reviews the proposed contract prior to submitting it to the Office of the Secretary of Defense for Energy, Installations, and Environment for approval. After the Office of the Secretary of Defense for Energy, Installations, and Environment approves the proposed PPA, a USACE official executes the lease and the DLA Energy contracting official awards the PPA, which incorporates the lease.

### ***Army PPAs Reviewed***

As of March 2016, the Army had awarded three leases supporting energy production projects. We selected two of the three leases for review—one at Fort Hood, Texas, and one at Fort Detrick, Maryland. The other lease, for a project at Fort Drum, New York, included a lease for less than an acre of land, so we did not review it. DLA Energy competed both the Fort Hood and Fort Detrick leases with PPAs. We determined whether DLA Energy properly awarded the PPAs. Specifically, we determined whether DLA Energy issued RFPs, developed source selection plans, and evaluated proposals in accordance with Federal and DoD guidance. In addition, we determined whether the Army would receive payment that is greater than or equal to the fair market value of the leased land.

#### ***Fort Hood PPA***

On January 15, 2016, a DLA Energy contracting officer awarded a 30-year firm-fixed-price PPA<sup>11</sup> valued at \$377.5 million to Apex Clean Energy Holdings for production, purchase, and delivery of electricity services generated from onsite solar energy and offsite wind energy at Fort Hood. USACE personnel executed a lease with Apex Clean Energy Holdings for 129.9 acres used to generate the onsite solar energy. According to the PPA, Apex Clean Energy Holdings is required to comply with the terms of the lease, which require a first year rent payment of \$51,944. The rent increases 1.9 percent annually each remaining year of the PPA and lease.

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<sup>11</sup> PPA SP0600-16-D-8000.

### *Fort Detrick PPA*

On March 13, 2015, a DLA Energy contracting officer awarded a 26-year, firm-fixed-price PPA<sup>12</sup> valued at \$61.8 million to Ameresco for production, purchase, and delivery of electricity services generated from an onsite solar renewable energy production facility at Fort Detrick. USACE personnel executed a lease with Ameresco for 66.2 acres used to generate the onsite solar energy. According to the PPA, Ameresco is required to comply with the terms of the lease, which require an annual rent payment of \$427,700.

## **Review of Internal Controls**

DoD Instruction 5010.40<sup>13</sup> 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. The audit team reviewed DLA Energy internal controls for awarding PPAs and Army internal controls for obtaining fair market value for leases. We did not identify any internal control weaknesses.

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<sup>12</sup> PPA SP0600-15-D-8000.

<sup>13</sup> DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013.

## Finding

### **DLA Energy Properly Awarded Two PPAs and the Army Obtained Fair Market Value for Leases Supporting the PPAs**

DLA Energy contracting officials awarded two PPAs at Fort Hood and Fort Detrick using full and open competition, in accordance with Federal and DoD guidance. Specifically, DLA Energy contracting officials properly issued RFPs, developed source selection plans, and evaluated proposals.

In addition, the Army obtained fair market value for the two leases supporting the Fort Hood and Fort Detrick PPAs. Specifically, USACE personnel appraised the leased land at Fort Hood and oversaw the appraisal at Fort Detrick to determine the fair market value. Furthermore, USACE personnel ensured the Army would receive lease payments in the form of in-kind consideration or cash greater than or equal to the fair market value of the leased land.

### **DLA Energy Properly Awarded PPAs**

DLA Energy contracting officials awarded the two PPAs at Fort Hood and Fort Detrick using full and open competition, in accordance with Federal and DoD guidance. Specifically, DLA Energy contracting officials issued RFPs, developed source selection plans, and evaluated proposals in accordance with the Federal Acquisition Regulation (FAR)<sup>14</sup> and DoD Source Selection Procedures.<sup>15</sup>

### ***DLA Energy Properly Issued RFPs***

DLA Energy contracting officers properly issued RFPs for the two PPAs at Fort Hood and Fort Detrick. Specifically, the RFPs included required information and were properly publicized. The FAR<sup>16</sup> requires that RFPs describe the Government's requirements, anticipated terms and conditions that will apply to the contract, information required in the offeror's proposal, and factors and subfactors used to evaluate the proposal. In addition, the FAR<sup>17</sup> requires that RFPs be publicized on FedBizOpps.<sup>18</sup>

<sup>14</sup> FAR Part 5, "Publicizing Contract Actions," and Part 15, "Contracting by Negotiation."

<sup>15</sup> Department of Defense Source Selection Procedures, March 4, 2011.

<sup>16</sup> FAR Subpart 15.2, "Solicitation and Receipt of Proposals and Information."

<sup>17</sup> FAR Subpart 5.1, "Dissemination of Information."

<sup>18</sup> FedBizOpps is a Government website used for posting all Federal procurement opportunities over \$25,000.

*Fort Hood RFP Included Required Information and Was Properly Publicized*

A DLA Energy contracting officer properly issued the RFP for the Fort Hood PPA. Specifically, the contracting officer issued an RFP that included a description of the Government's requirements, anticipated terms and conditions, information required in the offeror's proposal, and factors and subfactors used to evaluate the proposal. For example, the contracting officer stated in the RFP that the Government would consider the following factors when evaluating proposals:

- technical capability and risk;
- past performance;
- socioeconomic consideration; and
- price proposal.

The contracting officer stated in the RFP that the nonprice evaluation factors, when combined, were approximately equal in importance to price. Furthermore, the DLA Energy contracting officer publicized the RFP on FedBizOpps.

*Fort Detrick RFP Included Required Information and Was Properly Publicized*

A DLA Energy contracting officer properly issued the RFP for the Fort Detrick PPA. Specifically, the contracting officer issued an RFP that included a description of the Government's requirements, anticipated terms and conditions, information required in the offeror's proposal, and factors and subfactors used to evaluate the proposal. For example, the contracting officer stated in the RFP that the Government would consider the following factors when evaluating proposals:

- technical capability and risk;
- past performance;
- socioeconomic consideration;
- AbilityOne<sup>®19</sup> commitment; and
- price proposal.

The contracting officer stated in the RFP that the nonprice evaluation factors, when combined, were approximately equal in importance to price. Furthermore, the DLA Energy contracting officer publicized the RFP on FedBizOpps.

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<sup>19</sup> The AbilityOne program provides people who are blind or have significant disabilities with employment opportunities in the manufacture and delivery of products and services to the Federal Government.

### *DLA Energy Contracting Officers Adequately Handled the Cost of Rent in the RFPs for the Fort Hood and Fort Detrick PPAs*

DLA Energy contracting officers adequately handled the cost of rent in the RFPs for the Fort Hood and Fort Detrick PPAs. A DLA Energy contracting officer required offerors to include the cost of rent in their price proposals for the Fort Hood PPA. Another DLA Energy contracting officer required offerors to exclude the cost of rent in their price proposals for the Fort Detrick PPA.<sup>20</sup> Both methods are acceptable. According to a DoD Office of General Counsel representative, for the Fort Detrick PPA the Department did not want the contractor to finance the rent expense because the DoD would pay more for the energy in the long term.<sup>21</sup> In addition, the DoD Office of General Counsel representative stated that the RFP makes the rent more transparent for the Fort Detrick PPA. Furthermore, a Defense Procurement and Acquisition Policy representative stated that a contracting officer can require that offerors not provide the rent expense with their price proposals if the same requirement applies to all offerors. The DLA contracting officers for the Fort Hood and Fort Detrick PPAs required that each offeror provide the same information in their proposals. Therefore, both DLA Energy contracting officers adequately handled the cost of rent in the RFPs.

### ***DLA Energy Contracting Officials Properly Developed Source Selection Plans***

DLA Energy contracting officials properly developed source selection plans for the Fort Hood and Fort Detrick PPAs.

DLA Energy contracting officials properly developed source selection plans for the Fort Hood and Fort Detrick PPAs. DoD requires<sup>22</sup> a source selection plan for all acquisitions competed under FAR part 15. Specifically, a source selection plan should include information such as an acquisition strategy, communications processes, evaluation factors and subfactors, types of documents that will be prepared, and the acquisition timeline.

DLA Energy contracting officials developed source selection plans for both PPAs, and both source selection plans included the required information. For example, DLA Energy contracting officials used a tradeoff acquisition strategy in both plans, which permits tradeoffs among price and nonprice factors and allows the Government to accept other than the lowest price proposal. Contracting officials stated in both acquisition strategies that the objective of the evaluation process was to award the contract to the offeror whose proposal was determined to be the best value to the Government.

<sup>20</sup> The resulting contract authorized the contractor to recover the cost of the rent in the form of a premium on the electricity rates. We discuss this later in the report.

<sup>21</sup> If the contractor included the rent expense as part of its initial capital investment, the contractor would increase the installation's utility rate to recover its higher investment financing costs.

<sup>22</sup> Department of Defense Source Selection Procedures, March 4, 2011, chapter 2, Pre-Solicitation Activities.

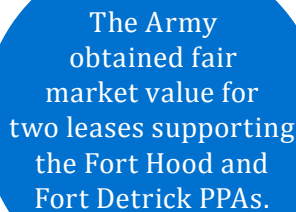
## ***DLA Energy Properly Evaluated Proposals***

DLA Energy contracting officers properly evaluated proposals for the Fort Hood and Fort Detrick PPAs. The FAR<sup>23</sup> states that the source selection authority's decision must be based on a comparative assessment of proposals against all source selection criteria in the RFPs.

A DLA Energy contracting officer properly evaluated two proposals for the Fort Hood PPA. The contracting officer awarded the PPA based on all the evaluation factors and subfactors outlined in the Fort Hood RFP. Specifically, the contracting officer awarded the Fort Hood PPA to the offeror that proposed the highest quality proposal for the nonprice factors and offered the lowest price. Therefore, the contracting officer selected the offeror that provided the best value to the Government.

In addition, the DLA Energy contracting officer properly evaluated five proposals for the Fort Detrick PPA. The contracting officer awarded the PPA based on all the evaluation factors and subfactors outlined in the Fort Detrick RFP. The selected offeror's proposal was among the highest-rated for nonprice factors and offered the best price to the Government compared to the other proposals. Therefore, the contracting officer selected the offeror that provided the best value to the Government.

## **The Army Obtained Fair Market Value for Two Leases Supporting the Fort Hood and Fort Detrick PPAs**



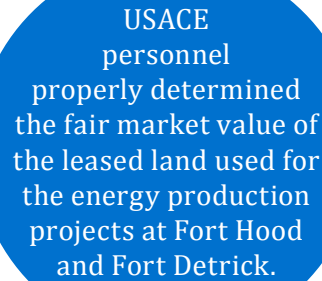
The Army obtained fair market value for two leases supporting the Fort Hood and Fort Detrick PPAs.

The Army obtained fair market value for two leases supporting the Fort Hood and Fort Detrick PPAs. According to 10 U.S.C. § 2667 (2015), the lessee must submit payment in cash or in-kind in an amount not less than the fair market value of the lease. USACE personnel appraised the leased land at Fort Hood and oversaw the appraisal at Fort Detrick to determine the fair market value of the land. In addition, USACE personnel ensured the Army would receive lease payments in the form of in-kind consideration or cash greater than or equal to the fair market value of the leased land.

<sup>23</sup> FAR Subpart 15.3, "Source Selection."

## ***USACE Properly Determined the Fair Market Value of the Leased Land at Fort Hood and Fort Detrick***

USACE personnel properly determined the fair market value of the leased land used for the energy production projects at Fort Hood and Fort Detrick.



USACE personnel properly determined the fair market value of the leased land used for the energy production projects at Fort Hood and Fort Detrick.

USACE requires<sup>24</sup> an appraisal in accordance with the Uniform Standards of Professional Appraisal Practice to determine the fair market value of the leased land. A USACE appraiser prepared the appraisal at Fort Hood and a contract appraiser prepared the appraisal for USACE at Fort Detrick. Both appraisers prepared the appraisals in accordance with the Uniform Standards of Professional Appraisal Practice. For the leased land at Fort Hood, the USACE appraiser estimated a fair market value of \$51,944 for the first year, and the appraiser used an escalation rate of

1.9 percent to calculate the fair market value for years 2 through 30.<sup>25</sup> For the leased land at Fort Detrick, the contract appraiser estimated a fair market value of \$427,219 annually.<sup>26</sup>

## ***USACE Ensured the Army Would Receive Payments Greater Than or Equal to the Fair Market Value of the Leased Land***

USACE personnel ensured the Army would receive lease payments in the form of in-kind consideration or cash greater than or equal to the fair market value of the leased land at Fort Hood and Fort Detrick. According to 10 U.S.C. § 2667 (2015), acceptable forms of in-kind consideration include improvement of property or facilities, construction of new facilities, and provision or payment of utility services.

### ***Fort Hood Will Receive Payment Equal to Fair Market Value of the Leased Land***

Fort Hood will receive lease payments in the form of in-kind consideration or cash equal to the fair market value of the leased land at Fort Hood. According to the Fort Hood lease, for the first year Fort Hood will receive in-kind consideration through the installation of utility infrastructure valued at \$15,453. According to a Fort Hood Department of Public Works representative, the lessee will pay the remaining balance of \$36,490 for the first year's rent in cash. For

<sup>24</sup> USACE Program and Financial Policy and Procedures for Enhanced Use Leasing of Real Property on Army Installations, March 21, 2013.

<sup>25</sup> For example, year 2 rent is \$52,931 (51,994 [year 1 rent] + [51,944 x 1.9 percent]).

<sup>26</sup> The Fort Detrick appraiser did not use an escalation rate. However, Fort Detrick will receive \$11.1 million in rent over the 26-year lease term, which is 42 percent more than the appraised value of the land (\$7.8 million).

years 2 through 29, Fort Hood will receive a credit on the recurring monthly utility bills equal to one-twelfth of the annual rent.<sup>27</sup> If the lessee fails to produce sufficient kWhs (kilowatt-hours) to satisfy the credit, the lessee carries the credit amount owed to the subsequent year. If the lessee cannot satisfy the credit within 1 year of when it is due, the lessee must pay the remaining credit in cash.

### *Fort Detrick Will Receive Payment Greater Than or Equal to Fair Market Value of the Leased Land*

Fort Detrick will receive lease payments in the form of in-kind consideration or cash greater than or equal to the fair market value of the leased land at Fort Detrick. According to the Fort Detrick lease, Fort Detrick will receive in-kind consideration through the installation of utility improvements valued at \$427,700 for the first year. For years 2 through 26, Fort Detrick will receive a \$0.0329 per kWh credit for the first 13 million kWh produced annually.<sup>28</sup> If the lessee fails to produce 13 million kWh to satisfy the credit, the lessee carries the credit amount owed to the subsequent year. If the lessee cannot satisfy the credit within 1 year of when it was due, the lessee must pay the remaining credit in cash.

Although the Fort Detrick PPA allows the contractor to recover the cost of rent, Fort Detrick will still receive payment greater than or equal to the fair market value of the leased land. A DLA Energy contracting officer authorized the contractor to recover the cost of the rent from the Government in the form of a premium on the electricity rates. Specifically, a DLA Energy contracting officer increased the contractor's proposed rate per kWh for the first 13 million kWh produced annually by \$0.0329 per kWh, which is equal to the in-kind consideration credit for the lease. According to the RFP for the Fort Detrick PPA, the contractor could not include the rent in its initial proposed rate per kWh for the PPA; after selection of the contractor, the Government advised the contractor to increase its proposed rate per kWh equal to the annual fair market value.

We confirmed that Fort Detrick is receiving in-kind consideration credit for the lease. For example, according to the invoice for the period February 10, 2016, through February 29, 2016, Fort Detrick consumed 1,099,614 kWh from onsite solar energy, valued at \$101,054.53.<sup>29</sup> Fort Detrick received a credit of \$0.0329 per kWh on 1,099,614 kWh, which totaled \$36,204.79.<sup>30</sup> This amount was credited to the invoice for the billing period, resulting in an invoice total of \$64,849.74.<sup>31</sup>

<sup>27</sup> For example, for year 2 rent (\$52,931), Fort Hood will receive a \$4,410.92 monthly credit to its utility bill (\$52,931 divided by 12 is \$4,410.92).

<sup>28</sup> For example, for production year 1 the rate for the first 13 million kWh is \$0.0919 per kWh. Fort Detrick will receive a credit of \$0.0329 per kWh for the first 13 million kWh. Therefore, with the credit, Fort Detrick will pay \$0.0590 per kWh for the first 13 million kWh ( $\$0.0919 - \$0.0329 = \$0.0590$ ).

<sup>29</sup>  $1,099,614 \text{ kWh} \times \$0.0919 \text{ (rate)} = \$101,054.53$ .

<sup>30</sup> The utility company used a credit of \$0.032925 per kWh to calculate the total credit of \$36,204.79.

<sup>31</sup>  $\$101,054.53 \text{ (total before credit)} - \$36,204.79 \text{ (total credit)} = \$64,849.74$ .



## Summary

DLA Energy contracting officials awarded the two PPAs at Fort Hood and Fort Detrick using full and open competition, in accordance with Federal and DoD guidance. In addition, USACE personnel ensured that the Army would receive lease payments in the form of in-kind consideration or cash greater than or equal to the fair market value of the leased land at Fort Hood and Fort Detrick. Therefore, we are not making any recommendations.

## Appendix

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### Scope and Methodology

We conducted this performance audit from March 2016 through September 2016 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.

We reviewed source selection plans, RFPs, source selection decision documents, and contractor proposals to determine whether DLA Energy awarded PPAs in accordance with Federal and DoD guidance. We also reviewed land appraisals<sup>32</sup> and leases to determine whether the Army received fair market value for the land used for the energy production projects.

We interviewed personnel from Office of the Assistant Secretary of Defense for Energy, Installations, and Environment; Army Office of Energy Initiatives; DLA Energy, USACE; and Fort Hood and Fort Detrick Departments of Public Works. We conducted site visits at Fort Hood, Texas, and Fort Detrick, Maryland. We observed the solar energy project at Fort Detrick.

We reviewed public laws, the FAR, and DoD and Army guidance. Specifically, we reviewed 10 U.S.C. § 2667 (2015); 10 U.S.C. § 2911 (2011); 10 U.S.C. § 2922a (2006); FAR Part 5, “Publicizing Contract Actions;” FAR Part 15, “Contracting by Negotiation;” Department of Defense Source Selection Procedures, March 4, 2011; “USACE Program and Financial Policy and Procedures for Enhanced Use Leasing of Real Property on Army Installations,” March 21, 2013; and Army Office of Energy Initiatives Guide, “Developing Renewable Energy Projects by Leveraging the Private Sector,” November 6, 2014.

### ***Project Selection***

As of March 2016, the Army executed three leases in support of renewable energy projects at Fort Detrick, Fort Hood, and Fort Drum. We selected the Fort Hood and Fort Detrick leases for 129.9 and 66.2 acres, respectively, for review. We eliminated the Fort Drum lease because the lease was for less than one acre of land.

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<sup>32</sup> We did not assess the appraisal process because it was not part of our audit scope.

## Use of Computer-Processed Data

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

## Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) issued one report discussing in-kind consideration and obtaining fair market value for leases supporting energy production projects. Unrestricted GAO reports can be accessed at <http://www.gao.gov>.

## GAO

Report No. GAO-15-649, "Defense Infrastructure: In-Kind Construction and Renovation Projects Initiated by DOD during Fiscal Year 2013," September 9, 2015

## Acronyms and Abbreviations

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|              |                                |
|--------------|--------------------------------|
| <b>DLA</b>   | Defense Logistics Agency       |
| <b>FAR</b>   | Federal Acquisition Regulation |
| <b>kWh</b>   | Kilowatt-Hour                  |
| <b>PPA</b>   | Power Purchase Agreement       |
| <b>RFP</b>   | Request for Proposal           |
| <b>USACE</b> | U.S. Army Corps of Engineers   |

# **Whistleblower Protection**

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

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