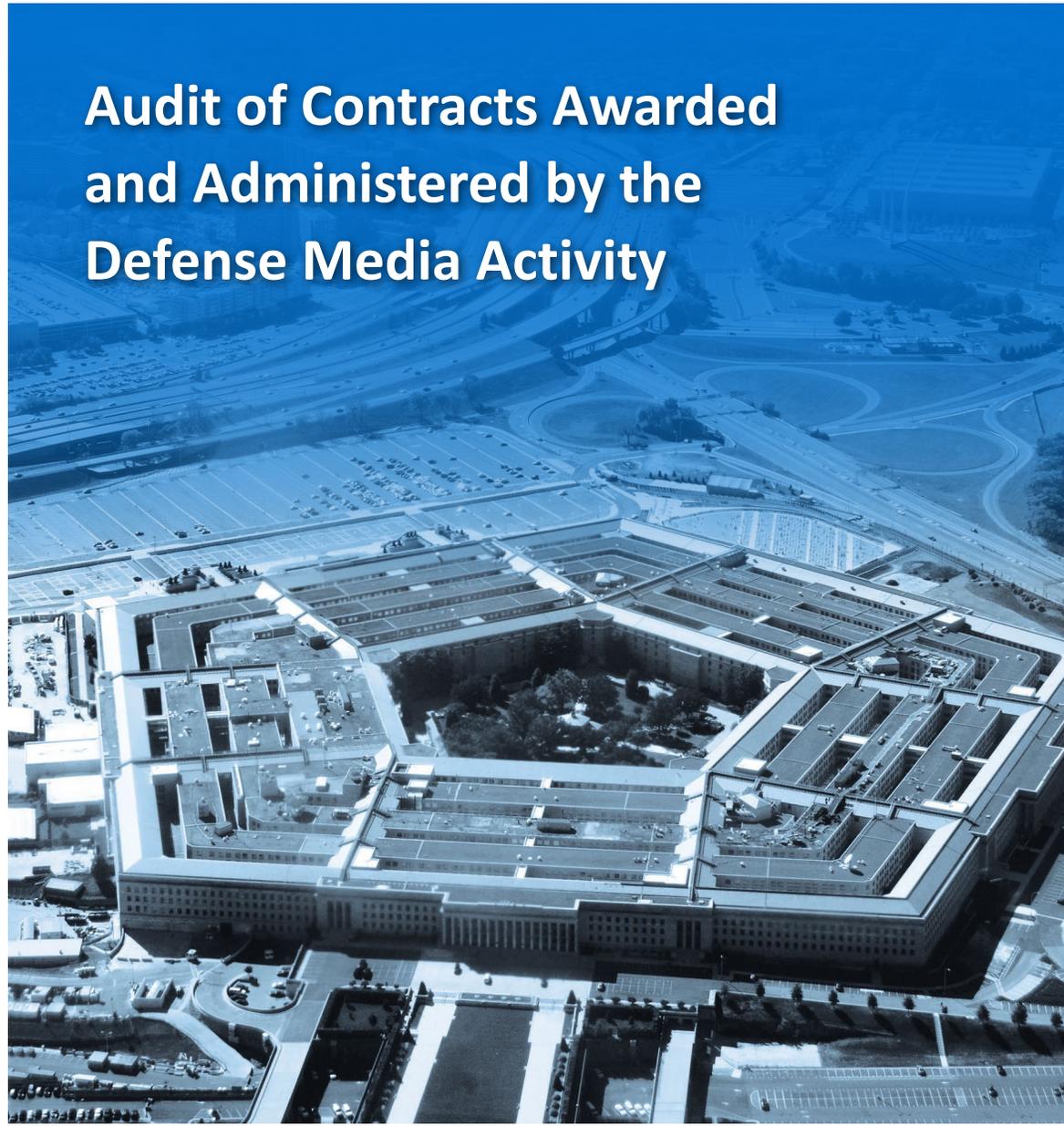


# INSPECTOR GENERAL

*U.S. Department of Defense*

MARCH 14, 2022



## **Audit of Contracts Awarded and Administered by the Defense Media Activity**

INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE





# Results in Brief

## *Audit of Contracts Awarded and Administered by the Defense Media Activity*

March 14, 2022

### Objective

The objective of this audit was to determine whether the Defense Media Activity (DMA) had adequate internal controls for the proper award and administration of contracts in accordance with Federal and DoD regulations and guidance.

### Background

We conducted this audit in response to allegations made to the DoD Hotline regarding improper contracting practices at the DMA; specifically, procurement noncompliance and mismanagement against DMA personnel.

The DMA is a mass media and education organization that creates and distributes DoD content across a variety of platforms to audiences around the world. As of June 2020, the DMA was composed of 1,500 employees at 45 locations worldwide. The DMA provides production support to the senior Public Affairs leaders for each Military Service, as well as the Secretary of Defense through the Office of the Assistant to the Secretary of Defense for Public Affairs. The DMA also supports each of the combatant commands in the United States and overseas, as well as garrison and installation commanders and Component commands overseas through the American Forces Network.

### Finding

DMA officials did not provide adequate management or oversight of contract award and administration. We identified contracting noncompliance deficiencies

### Finding (cont'd)

similar to those identified in prior reviews conducted by the Defense Logistics Agency (DLA), Defense Contract Management Agency, and DMA Inspector General between 2009 and 2020.

For our nonstatistical sample of 9 contracts and 20 task orders with a total value of \$154 million, DMA contracting personnel did not consistently award or administer contracts according to Federal and DoD requirements. Specifically, DMA contracting personnel did not:

- maintain accurate and complete contract files;
- properly use funds on a \$25 million service contract;
- include required Federal Acquisition Regulation contract clauses;
- perform or document oversight of contractor performance;
- ensure acceptable contractor performance before exercising options; or
- complete and input reviews of contractor performance into the Contractor Performance Assessment Reporting System.

These conditions occurred because DMA officials did not establish or implement effective internal controls over the agency's contracting practices. In addition, DMA officials did not fully implement corrective actions for all contracting noncompliance deficiencies identified in procurement management reviews and DMA Inspector General audits or did not have a quality assurance process that verified whether the corrective actions were effective. Furthermore, according to DMA officials, DMA Acquisition and Procurement had undergone significant staff turnover.

As a result, DMA personnel potentially violated the Antideficiency Act for four task orders by obligating \$1.7 million in Operations and Maintenance funds for a period greater than 12 months for severable services. The Antideficiency Act does not permit Government officials to make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation.



# Results in Brief

## *Audit of Contracts Awarded and Administered by the Defense Media Activity*

### **Finding (cont'd)**

In addition, Government contracting officials will not have a complete past performance history to assess whether the contractor performed satisfactorily before awarding future contracts or exercising option periods. Finally, without additional internal controls, problems and issues identified during external reviews and internal audits may continue to occur.

We reviewed the four allegations of improper contract award and administration contained in the DoD Hotline complaint. We did not substantiate two allegations that DMA contracting personnel improperly exercised contract option years despite poor contractor performance. We did not substantiate the allegation that contracting personnel improperly issued a backdated modification. We partially substantiated an allegation that the DMA had not taken actions to address recommendations in a 2018 procurement management review.

### **Recommendations**

Among other recommendations, we recommend that the DMA Director for Acquisition and Procurement:

- provide training for contracting personnel on the requirement to store and maintain complete contract files according to Federal Acquisition Regulation requirements; and
- identify open recommendations from DLA and Defense Contract Management Agency procurement management reviews and the DMA Inspector General audits, direct responsible personnel to initiate corrective actions, and hold responsible officials accountable for not correcting previously known deficiencies and not taking timely action to address previous audit findings.

We recommend that the DMA Chief Financial Officer initiate a preliminary review in accordance with the DoD Financial Management Regulation to determine whether reportable violations of the Antideficiency Act occurred on contract HQ0516-18-D-0002. If violations of the Antideficiency Act occurred, determine which officials are responsible and recommend corrective actions.

We recommend that the DMA Director:

- require the assessing official to complete the annual past performance assessment reports in the Contractor Performance Assessment Reporting System within 120 days from the end of the evaluation period, and
- develop and implement agencywide quality controls to ensure the newly issued internal policy and guidance in contract award and administration to improve compliance with Federal and DoD regulations.

We also recommended that the Assistant to the Secretary of Defense for Public Affairs, in conjunction with the Office of Defense Pricing and Contracting, request a workforce study to determine whether the DMA has sufficient resources to effectively execute the contracting function.

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

The DMA Director agreed with all 13 recommendations. For example, the DMA Director agreed to:

- provide training for contracting personnel on the Federal and DoD acquisition requirements to maintain contract files, insert required contract clauses, and to assess and document contractor performance;



# Results in Brief

## *Audit of Contracts Awarded and Administered by the Defense Media Activity*

### **Comments (cont'd)**

- develop a capability where all contract files will be maintained in an electronic format and transition to the DLA Enterprise Contract Writing and Management system; and
- provide a corrective action plan for the open recommendations from the DMA Inspector General audits and track and report corrective actions taken on findings and recommendations from the DoD Office of Inspector General and DMA Inspector General audits, and
- initiate a review of contract HQ0516-18-D-0002 to determine whether violations of the Antideficiency Act occurred.

The DMA Director's comments and actions taken resulted in us closing one recommendation. The Director's comments addressed the specifics of 10 other recommendations and we consider those recommendations resolved and open. We will close those recommendations once we verify the information provided and actions the Director takes fully addresses

the recommendations. Finally, the Director's comments did not address the specifics of two recommendations, therefore we consider these two recommendations unresolved and we request the Director provide additional comments in response to the final report for those two recommendations.

The Assistant to the Secretary of Defense for Public Affairs, and the Director of Contract Policy, Defense Pricing and Contracting, responding for the Principal Director of Defense Pricing and Contracting, agreed with the recommendation to perform a workforce study to assess whether the DMA has sufficient resources to execute the contracting function. Therefore, the recommendation is resolved but remains open. We will close the recommendations once we verify that the completed workforce study fully addresses the recommendation.

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

## Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Assistant to the Secretary of Defense for Public Affair		5	
Director, Defense Media Activity	4.b	4.a, 4.c, 4.d	
Chief Financial Officer, Defense Media Activity		2	
Director of Acquisition and Procurement, Defense Media Activity	3.b	1.a, 1.b, 1.c, 3.a.1, 3.a.2, 3.a.3	3.c

Please provide Management Comments by April 13, 2022.

**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**

March 14, 2022

**MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION  
AND SUSTAINMENT  
ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC AFFAIRS  
DIRECTOR, DEFENSE MEDIA ACTIVITY**

**SUBJECT: Audit of Contracts Awarded and Administered by the Defense Media Activity  
(Report No. DODIG-2022-072)**

This final report provides the results of the DoD Office of Inspector General's audit. We previously provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

The Assistant to the Secretary of Defense for Public Affairs and the Director of the Defense Media Activity agreed to address all of the recommendations presented in the report. Comments from the Director of the Defense Media Activity and the associated actions fully addressed one recommendation in this report, and we consider the recommendation closed.

Comments from the Assistant to the Secretary of Defense for Public Affairs and the Director of the Defense Media Activity addressed 11 recommendations presented in the report; therefore, we consider these recommendations resolved and open. As described in the Recommendations, Management Comments, and Our Response section of this report, we will close the recommendations when you provide us documentation showing that all agreed-upon actions to implement the recommendations are completed. Therefore, please provide us within 90 days your response concerning specific actions in process or completed on the recommendations. Send your response to either [followup@dodig.mil](mailto:followup@dodig.mil) if unclassified or [rfunet@dodig.smil.mil](mailto:rfunet@dodig.smil.mil) if classified SECRET.

This report contains two recommendations that we consider unresolved because the Director of the Defense Media Activity did not fully address the recommendations presented in the report. Therefore, as discussed in the Recommendations, Management Comments, and Our Response section of this report, these recommendations remain open. We will track these recommendations until an agreement is reached on the actions that you will take to address the recommendations, and you have submitted adequate documentation showing that all agreed-upon actions are completed.

DoD Instruction 7650.03 requires that recommendations be resolved promptly. Therefore, please provide us within 30 days your response concerning specific actions in process or alternative corrective actions proposed on the two unresolved recommendations. Send your response to either mail to: [audacs@dodig.mil](mailto:audacs@dodig.mil) if unclassified or [rfunet@dodig.smil.mil](mailto:rfunet@dodig.smil.mil) if classified SECRET.

If you have any questions, please contact me at [REDACTED].

A handwritten signature in black ink, appearing to read 'T M W', with a long horizontal line extending to the right.

Timothy M. Wimette  
Deputy Assistant Inspector General for Audit  
Acquisition, Contracting, and Sustainment

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# Introduction

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## Objective

The objective of this audit was to determine whether the Defense Media Activity (DMA) had adequate internal controls for the proper award and administration of contracts in accordance with Federal and DoD regulations and guidance. See Appendix A for a discussion of our scope and methodology.

## Background

We conducted this audit in response to allegations made to the DoD Hotline regarding improper contracting practices at the DMA; specifically, procurement noncompliance and mismanagement against DMA personnel. Much of the allegation package referred to older contracts or involved personnel no longer employed by the DMA. After reviewing the documentation, we determined that we would review overall contract award and administration procedures and four of the allegations. See Appendix B for a summary of the allegations that we reviewed and our results.

## *The Defense Media Activity*

The DMA is a mass media and education organization that creates and distributes DoD content across a variety of platforms to audiences around the world. The DMA is composed of 1,500 employees at 45 locations worldwide that executes mission functions for and provides services to all DoD Components. The DMA delivers Title 10 training for public affairs and visual information for enlisted and officer initial entry training.<sup>1</sup> The DMA provides production support to the senior Public Affairs leaders for each Military Service, as well as the Secretary of Defense through the Office of the Assistant to the Secretary of Defense for Public Affairs.

The DMA also supports each of the combatant commands in the United States and overseas, as well as garrison and installation commanders and Component commands overseas through the American Forces Network. Although not organizationally part of the Office of the Secretary of Defense, the DMA is under the authority, direction, and control of the Secretary's Principal Staff Assistant.

## *Contracting Authority*

DoD Directive 5105.74 authorized the DMA Director to enter into and administer contracts, directly or through a Military Department, or a DoD contract administration services component for supplies, equipment, and services required

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<sup>1</sup> Section 153, title 10, United States Code (U.S.C.).

to accomplish the DMA mission.<sup>2</sup> On March 17, 2016, the Director of Defense Pricing and Contracting (DPC), who serves as the Head of the Contracting Activity, delegated to the DMA Director all Head of Contracting Activity responsibilities except:

- the authorities that, by the terms of statute, regulation, or directive, may not be delegated;
- the authority to approve justifications and approvals at value requiring the Head of the Contracting Activity approval or above;
- the authority to approve the determination and finding required for time-and-materials or labor-hour orders; and
- the authority to approve the contracting process as part of the agency protest override procedures.<sup>3</sup>

### ***Defense Pricing and Contracting***

DPC is responsible for all pricing, contracting, and procurement policy matters, including e-Business, in the DoD. According to the DPC mission statement, the DPC mission is to enable the DoD Components to effectively deliver goods and services that meet the needs of the warfighter while also ensuring good fiscal stewardship in the best interests of the taxpayer by overseeing and implementing various business enterprise initiatives. Such initiatives pertain to pricing, formulation, and oversight of complex DoD-wide pricing policies and strategies supporting the procurement of major defense programs, major automated information systems, and service acquisitions for the DoD. DPC also provides policy, guidance, and oversight to support stewardship of resources. Additionally, DPC executes policy through the timely update of the Defense Federal Acquisition Regulation Supplement (DFARS) and its Procedures, Guidance, and Information (PGI).

### ***Defense Contract Management Agency***

The Defense Contract Management Agency (DCMA) performs contract administration services, including oversight and surveillance of procurement-related activities that enhance warfighter lethality. These services ensure the timely

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<sup>2</sup> DoD Directive 5105.74, "Defense Media Activity (DMA)," December 18, 2007, (Incorporating Change 1, August 29, 2017).

<sup>3</sup> Federal Acquisition Regulation (FAR) Part 6, "Competition Requirements," Subpart 6.3, "Other Than Full and Open Competition," Section 6.304, "Approval of the Justification."  
FAR Part 16, "Types Of Contracts," Subpart 16.6, "Time-and-Materials, Labor-Hour, and Letter Contract," Section 16.601, "Time-and-Materials Contracts."  
FAR Part 33, "Protest, Disputes, and Appeals," Subpart 33.1, "Protest," Section 33.104, "Protest to GAO."  
In 2018, Defense Procurement and Acquisition Policy became DPC.

delivery of quality products and providing relevant acquisition insight supporting affordability and readiness to the DoD, authorized Federal agencies, foreign governments, and other international organizations.

To facilitate management oversight of the procurement function, the DCMA leads independent reviews of the procurement function of Other Defense Agency (ODAs) and Defense Components that have contracting authority. On behalf of DPC, the DCMA executes procurement management reviews (PMRs) that assess the effectiveness of the contracting function, analyze and assist in any problem areas, and identify noteworthy practices that may be beneficial to all organizations. The three categories of PMR findings are listed below.

- **Commendable** – Team observations on initiatives that the ODA has institutionalized and considered best business practices or other efforts resulting in improvements to the ODA’s operations, collaboration or teaming, work environment, or quality of life.
- **Suggestions** – Made for areas where greater efficiencies could be made, but no serious deficiencies are noted. The suggestions are typically associated with subjects in internal policy or procedures that are not related to regulations. The ODAs should consider implementing suggestions, but they are not required to report the agency’s plans or progress.
- **Recommendations** – Based on frequent team observations of noncompliance with regulation or policy or systemic deficiencies that have associated risk or are cause for concern. ODAs are required to submit a plan of action and milestones for approval within 60 days from the date of the PMR report. Organizations should provide the status of their implementation and updates to the plan of action and milestones to the PMR program manager. Organizations are not required to provide the status of recommendations if the organization implements a recommendation before it submits its plan of action and milestones.

The PMR is intended to recommend improvements to processes and policies. The PMR report is an overarching assessment of an agency’s procedures and oversight. An agency’s comments on the draft report are due 2 weeks following receipt of the draft report. Once DPC issues the final report, the ODA is required to develop and submit a corrective action plan, with milestones, that addresses each recommendation listed in the report. An agency’s corrective action plan is due 60 days after receipt of a final report. A PMR team follows up 1 year after the receipt of the corrective action plan with milestones.

## ***Defense Logistics Agency***

The Defense Logistics Agency (DLA) performed PMRs of the DMA before the DCMA. The DLA conducted PMRs of DMA contracting offices in 2009, 2011, and 2013.<sup>4</sup>

## **Criteria**

### ***Title 31 of the United States Code***

Title 31 of the United States Code contains several sections that together are referred to as the Antideficiency Act (ADA). The purpose of the ADA is to enforce the constitutional powers of Congress for the purpose, time, and amount of budgetary expenditures made by the U.S. Government. We found a potential Time Statute violation under section 1502, title 31, United States Code, “Balances available,” (31 U.S.C. § 1502[a]). The statute states:

The balance of an appropriation . . . limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability . . . . However, the appropriation . . . is not available for expenditure for a period beyond the period otherwise authorized by law.

An agency may obligate only within the time limits applicable to the appropriation. For instance, Operation and Maintenance funds are available for obligation for one fiscal year. A violation of the Time Statute may cause an ADA violation, section 1341, title 31, United States Code, “Limitations on expanding and obligating amount,” (31 U.S.C. § 1341[a][1]), when the correct funds were not continuously available.

### ***Federal Acquisition Regulation***

The Federal Acquisition Regulation (FAR) requires agencies to perform acquisition planning and conduct market research for all acquisitions. The FAR further requires acquisition planning to promote and provide policies and procedures for the acquisition of commercial items, full and open competition, selection of appropriate contract type, and appropriate consideration of the use of pre-existing contracts.<sup>5</sup> Agencies should conduct market research to determine whether commercial items or nondevelopmental items that could meet the agency’s requirements are available.<sup>6</sup> The performance work statement must

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<sup>4</sup> Follow-Up Procurement Management Review March 27, 2009; Report on Fiscal Year 2011 (FY 11) Procurement Management Review (PMR) for Defense Media Activity (DMA), May 25, 2011; Fiscal Year 2013 Defense Media Activity Procurement Management Review Report January 9-17, 2013.

<sup>5</sup> FAR Part 7, “Acquisition Planning,” Subpart 7.1, “Acquisition Plans,” Section 7.102, “Policy.”

<sup>6</sup> FAR Part 12, “Acquisition of Commercial Items,” Subpart 12.1, “Acquisition of Commercial Items—General,” Section 12.101, “Policy.”

establish the contract requirements in clear, specific, and objective terms with measurable outcomes.<sup>7</sup> Additionally, the performance work statement must include measurable performance standards and the methodology for assessing contractor performance against these performance standards.<sup>8</sup> Contracting personnel should prepare a quality assurance surveillance plan (QASP) in coordination with the performance work statement and should identify all work requiring surveillance and the type of surveillance to be performed.<sup>9</sup>

When the contracting officer does not retain and execute the contracting officer's representative (COR) duties, the FAR requires contracting officers to appoint a properly trained COR in writing for all contracts and orders other than firm-fixed-price contracts to assist in the technical monitoring or administration of a contract. The COR must maintain a contract file for each assigned contract.<sup>10</sup>

### ***Defense Federal Acquisition Regulation Supplement***

DFARS and DFARS PGI state that CORs must maintain an electronic file in the Contracting Officer Representative Tracking (CORT) tool with all documentation related to their duties and responsibilities, including documentation of actions taken during the performance of their duties.<sup>11</sup> Contracting officers and the program office must review the COR file annually for accuracy and completeness.<sup>12</sup> In addition, contracting personnel should prepare QASPs in conjunction with the statement of work for service contracts and tailored to the specific services acquired by the contract.<sup>13</sup>

Additionally, DFARS requires departments and agencies to develop and manage a systematic, cost-effective Government contract quality assurance program to ensure that contractors comply with contract requirements. Furthermore, DFARS requires departments and agencies to apply Government quality assurance to all contracts for services and products designed, developed, purchased, produced, stored, distributed, operated, maintained, or disposed of by contractors.<sup>14</sup>

<sup>7</sup> FAR Part 2, "Definitions of words and terms," Subpart 2.1, "Definitions."

<sup>8</sup> FAR Part 37, "Service Contracting," Subpart 37.6, "Performance-Based Acquisitions."

<sup>9</sup> FAR Part 46, "Quality Assurance," Subpart 46.4, "Government Contract Quality Assurance," Section 46.401 General.

<sup>10</sup> FAR Part 1, "Federal Acquisition Regulations System," Subpart 1.6, "Career Development, Contracting Authority, and Responsibilities."

<sup>11</sup> The web-based Joint Appointment Module and the Surveillance and Performance Monitoring replaced the CORT tool on June 24, 2019.

<sup>12</sup> DFARS PGI Part 201, "Federal Acquisition Regulations System," Subpart 201.6, "Career Development, Contracting Authority and Responsibilities," Section 201.602, "Contracting Officers," Subsection 201.602-2, "Responsibilities."

<sup>13</sup> DFARS Part 237, "Service Contracting," Subpart 237.1, "Service Contracts-General," Section 237.172, "Service Contracts Surveillance."

<sup>14</sup> DFARS Part 246, "Quality assurance," Subpart 246.1, "General," Section 246.102, "Policy."

## ***DMA Acquisition and Procurement Division Policy***

The DMA Acquisition and Procurement Division is responsible for acquisition procedures and internal reporting requirements to cover all acquisition and contracting functions performed by DMA contracting officials. The following policies and procedures are relevant to this audit.

- Procurement Procedure Memorandum (PPM) 20-01 for Headquarters and Riverside – Level Review Requirements requires Acquisition and Procurement Division personnel to obtain a Headquarters-level review by the Chief of Contracting and the procurement analyst for Plans and Policy for all acquisitions regardless of value in accordance with this PPM.<sup>15</sup>
- PPM 20-02 for Headquarters and Riverside – Staff Responsibilities and Assignments defines responsibilities and assignments of Acquisition and Procurement Division personnel.<sup>16</sup>

See Appendix D for a list of related DMA PPMs.

## **Contracts Reviewed**

We queried the Federal Procurement Data System–Next Generation, the central repository of Federal contracting information, and identified 791 contracts, valued at \$692 million. The DMA issued the contracts from October 1, 2016, through September 2, 2020.

We selected a nonstatistical sample of 9 contracts and 20 task orders with a total contract value of \$154 million awarded from FYs 2018 through 2020. See Appendix C for more information on the 9 contracts and 20 task orders we reviewed.

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<sup>15</sup> DMA Acquisition and Procurement Division Procurement Procedure Memorandum 20-01, January 3, 2020.

<sup>16</sup> DMA Acquisition and Procurement Division Procurement Procedure Memorandum 20-02, January 3, 2020.

## Review of Internal Controls

DoD Instruction 5010.40 requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls.<sup>17</sup>

We identified internal control weaknesses related to DMA oversight of contract award and administration. Specifically, the DMA did not fully implement corrective actions for all contracting noncompliance deficiencies identified in the PMRs and the DMA Inspector General audits, and DMA did not have a quality assurance process that verified whether the corrective actions were effective. In addition, DMA personnel potentially violated the ADA for four task orders by obligating \$1.7 million in Operations and Maintenance funds for a period greater than 12 months for severable services.<sup>18</sup> We will provide a copy of the report to the senior official responsible for internal controls at the DMA.

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<sup>17</sup> DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013.

<sup>18</sup> A service is severable if it can be separated into components that independently meet a separate need of the Government. Severable services are continuing or recurring in nature. Most service contracts are severable.

## Finding

### The DMA Needs Better Oversight Over Its Contract Award and Administration

DMA officials did not provide adequate management and oversight of contract award and administration. Our audit identified contracting noncompliance deficiencies similar to those identified in prior reviews by the DLA, DCMA, and DMA Inspector General conducted between 2009 and 2020. For our nonstatistical sample of 9 contracts and 20 task orders, totaling \$154 million, DMA contracting personnel did not consistently award and administer contracts according to Federal and DoD requirements. Specifically, contracting personnel did not:

- maintain accurate and complete contract files;
- properly use funds on a \$25 million service contract;
- include required FAR contract clauses;
- perform or document oversight of contractor performance;
- ensure acceptable contractor performance before exercising options; or
- complete and input reviews of contractor performance into the Contractor Performance Assessment Reporting System (CPARS).

These conditions occurred because DMA officials did not establish or implement effective internal controls over the agency's contracting practices. In addition, DMA officials had not fully implemented corrective actions for all contracting noncompliance deficiencies identified in PMRs and DMA Inspector General audits and did not have a quality assurance process that verified the effectiveness of corrective actions. Furthermore, DMA Acquisition Procurement officials stated that DMA contracting had undergone significant staff turnover.

As a result, DMA contracting personnel were unable to provide a complete history of procurements to support actions taken or to provide essential facts to answer auditor questions. DMA personnel potentially violated the ADA for four task orders by obligating \$1.7 million in Operations and Maintenance funds for a period greater than 12 months for severable services. In addition, Government contracting officials will not have a complete past performance history to assess whether the contractor performed satisfactorily before awarding future contracts or exercising option periods. Finally, without additional internal controls to ensure that the DMA effectively addressed identified issues, problems and issues identified during external reviews and internal audits may continue to occur.

## Contract Management Was Inadequate

DMA contracting personnel did not provide adequate contract management. Specifically, DMA contracting personnel did not properly establish and maintain contract files or properly fund a \$25 million contract. DMA contracting personnel awarded contracts without including the required FAR clauses, and they did not effectively use all required contract oversight tools. DMA officials implemented some new policies and procedures following external reviews of procurement procedures to improve their management of contract award and administration; however, for the contracts we reviewed, many of the same conditions identified in the other external reviews remained. See Appendix D for the new policies and procedures that DMA contracting personnel implemented since the last PMR.

### ***The DMA Did Not Properly Maintain Complete Contract Files***

DMA contracting personnel did not comply with FAR requirements to properly store and handle contract files.<sup>19</sup> The FAR requires that a contract file be sufficient to constitute a complete background of the acquisition process, support contract actions, provide information for reviews and investigations, and furnish essential facts in the events of litigation or congressional inquiries. However, DMA contracting personnel could not readily locate requested contract and task order files for our nonstatistical sample of 9 contracts and 20 task orders. In addition, the contract files provided did not contain the required documentation, and documents were often not properly completed. For example, the contract file for one of the contracts reviewed was missing required documents, such as market research, cost and price analysis data, pre-solicitation notices, award notices, and COR nomination information, training certificates, appointment letters, and a QASP.<sup>20</sup>

The DMA did not have policies to establish and store contract files. DMA contracting officials stated that contracting personnel used either hardcopy contract files or electronic contract documents stored on a network drive. They further stated that contracting personnel should maintain contracts awarded after January 2018 using electronic files. DMA contracting personnel stated that contract documentation that was not on the network drive might have been on individual contracting personnel's computers. They further stated that documents were unaccounted for because the contracting officers for those contracts had left the agency and documentation could not be located.

<sup>19</sup> FAR Part 4.8, "Government Contract Files."

<sup>20</sup> Contract HQ0516-19-C-0013.

Contracting personnel stated that as of June 2021, they were still using the network drive and did not have an electronic contracting system for managing contract documentation. We were unable to make an overall determination on whether DMA personnel properly awarded or administered contracts because of the poor condition of the contract files. Previous PMR teams from the DLA and DCMA identified similar deficiencies regarding inadequate contract files during their reviews that they conducted in 2009, 2011, 2013, and 2018. The DMA Director for Acquisition and Procurement should provide training on the requirement to store and maintain contract files. In addition, the DMA Director for Acquisition and Procurement should implement a contract management system to store and maintain complete contract files according to FAR requirements. The DMA Director for Acquisition and Procurement should annually review a sample of contracts as part of the internal control process and ensure that the electronic contract file system documents actions reflecting the basis for and the performance of contract administration responsibilities.

### ***Improperly Obligated Funds for the Digitization Services Contract***

DMA contracting personnel incorrectly obligated \$1.7 million in Operations and Maintenance appropriations for a period greater than 12 months for the task orders issued under a digitization service contract. According to the DoD Financial Management Regulation, obligations must be consistent with all normal limitations on the obligations of appropriated funds, such as the bona fide needs rule, period of availability, and type of funds.<sup>21</sup> The bona fide needs rule (section 1502, title 31, United States Code) provides that the balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expense properly incurred during the period of availability or to complete contracts properly made within the period of availability and obligated consistent with section 1501 of title 31, United States Code.<sup>22</sup>

DMA contracting personnel awarded an indefinite-delivery indefinite-quantity, firm-fixed-price, multi-year service contract, valued at \$25 million, on September 20, 2018, for media digitization.<sup>23</sup> DMA contracting personnel awarded and correctly obligated funds in the first 12 month period of performance for

<sup>21</sup> DoD Regulation 7000.14-R "DoD Financial Management Regulation," Volume 3, "Budget Execution – Availability and Use of Budgetary Resources," Chapter 8, "Standards for Recording and Reviewing Commitments and Obligations," February 2020.

<sup>22</sup> 31 U.S.C. 1502(a).

<sup>23</sup> Contract HQ0516-18-D-0002.

Media digitization is the converting of analog physical still, motion, audio, and magazines to a digital format for transfer to media records for the National Archives and Records Administration.

each of the task orders from the contract.<sup>24</sup> However, the DMA did not use the appropriate fiscal year obligations for a period greater than 12 months for severable services on four task orders. The DMA potentially violated the ADA for four task orders by obligating \$1.7 million in Operations and Maintenance funds beyond the appropriation's period availability.

The ADA (section 1341, title 31, United States Code) states:

an officer or employee of the United States Government or of the District of Columbia government may not—(A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation.(B) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law. . . .

See Appendix E for a more detailed discussion of contract HQ0516-18-D-0002 task orders and funding. The DMA Chief Financial Officer should initiate a preliminary review in accordance with DoD Regulation 7000.14-R, "DoD Financial Management Regulation," volume 14, chapter 3, to determine whether reportable violations of the ADA occurred on contract HQ0516-18-D-0002. If violations of the ADA occurred, determine which officials are responsible and recommend corrective actions.

### ***Contracts Awarded Without Required Clauses***

Although four of nine contracts had the required clauses, DMA contracting personnel awarded five of nine contracts, with total value of \$120.6 million, without all the required FAR clauses. Specifically, DMA contracting personnel omitted the following FAR clauses.

- 52.232-18, "Availability of Funds"
- 52.232-19, "Availability of Funds for the Next Fiscal Year"
- 52.219-11, "Special 8(a) Contract Conditions"
- 52.219-12, "Special 8(a) Subcontract Conditions"

See Table 1 for the list of five contracts and the clauses that were not included for each contract.

The FAR requires contracting officers to insert clause 52.232-18 in solicitations and contracts that have actions initiated before funds are available, and clause 52.232-19 in solicitations and contracts of 1-year indefinite-quantity indefinite-delivery contracts funded by annual appropriations and extended

<sup>24</sup> DMA contracting personnel awarding task order: HQ0516-18-F-0157, HQ0516-18-F-0220, HQ0516-19-F-0119, HQ0516-19-F-0181, and HQ0516-20-F-0076 as of August 23, 2020.

beyond the initial fiscal year.<sup>25</sup> In addition, the FAR requires contracting officers to insert clause 52.219-11 in contracts between the Small Business Administration and the agency and clause 52.219-12 in contracts between the Small Business Administration and its 8(a) contractor, when the acquisition is accomplished using the procedures of 19.811-1 (a) and (b).<sup>26</sup>

*Table 1. Missing Federal Acquisition Regulation Clauses From Five Contracts*

Contract	52.219-11	52.219-12	52.232-18	52.232-19
HQ0516-18-D-0001				X
HQ0516-19-C-0004	X	X		
HQ0516-19-C-0015	X	X		
HQ0516-19-C-0008			X	
HQ0516-20-D-0004			X	X

Source: The DoD OIG.

FAR clauses 52.232-18 and 52.232-19 define the obligations and liability held by the Government when contracting in advance of funds. FAR clauses 52.219-11 and 52.219 12 define the responsibilities of the Small Business Administration when charged with contracting in a sole-source acquisition. DLA and DCMA PMRs conducted in 2011 and 2018 also identified the omission of required clauses as deficiencies. The DMA Director for Acquisition and Procurement should provide training for the contracting workforce that emphasizes compliance with FAR requirements for including FAR clauses 52.232-18, “Availability of Funds” or 52.232-19, “Availability of Funds for the Next Fiscal Year,” for contracting in advance of funds in solicitations and contracts; and the FAR clauses 52.219-11, “Special 8(a) Contract Conditions,” and 52.219-12, “Special 8(a) Subcontract Conditions,” when contracting with the Small Business Administration for procuring sole-source acquisitions.

***The DMA Did Not Document Contract Actions Appropriately***

DMA contracting personnel did not complete required contract documents to support all contract actions for contracts and task orders in accordance with the FAR, DFARS, and DMA guidance. DMA contracting personnel did not sign contract documents to record their review and approval of important procurement actions. For example, we found missing procurement official approvals on the Template

<sup>25</sup> FAR Part 32, “Contract Financing,” Subpart 32.7, “Contract Funding,” Section 32.706-1, “Clauses for contracting in advance of funds.”

<sup>26</sup> FAR Part 19, “Small Business Programs,” Subpart 19.8, “Contracting with the Small Business Administration (The 8(a) Program),” Section 19.811-3, “Contract Clauses”; FAR Part 19, “Small Business Programs,” Subpart 19.8, “Contracting with the Small Business Administration (The 8(a) Program),” Section 19.811-1, “Sole Source.”

for Streamlined Acquisition Plan (IP Streaming Overseas Alternative Content Distribution – Broad Agency Announcement), the Small Business Coordination Record (DD Form 2579), and the DMA Contract Review Board Coordination Sheet.

The DMA Acquisition and Procurement Division issued PPM 20-01 on January 3, 2020, to ensure that contracting personnel properly execute procurement rules and regulations to address findings in the 2018 DCMA PMR. The memorandum stated that the Chief of Contracting and the procurement analyst, at the Headquarters level for Plans and Policy, should review acquisitions regardless of value. However, a DMA contract from our nonstatistical sample, that DMA personnel awarded after January 3, 2020, contained similar deficiencies that PPM 20-01 should have prevented. DMA contracting officials did not explain why contracting personnel continued to improperly document contract actions.

### ***The DMA Did Not Use the Procurement Integrated Enterprise Environment***

The DMA Chief of Contracting did not enforce the use of the Procurement Integrated Enterprise Environment (PIEE) for COR appointment, training, and COR surveillance by the DMA's contracting staff. The FAR requires contracting officers to appoint properly trained CORs in writing for all contracts and orders other than firm-fixed-price contracts. The FAR also requires the COR to maintain a contract file for each assigned contract.<sup>27</sup> DMA contracting personnel provided little evidence to support the proper appointment or training of CORs, surveillance of contractors or use of the PIEE (or its predecessor, the CORT tool) as required.

On June 24, 2019, the Office of the Under Secretary of Defense for Acquisition and Sustainment deployed the PIEE. The PIEE replaced the CORT tool with the Joint Appointment Module and the Surveillance and Performance Monitoring—two separate, web-based modules that meet DFARS PGI 201.602-2 requirements for electronically tracking the COR appointments process and maintaining an electronic COR file.<sup>28</sup> The Joint Appointment Module is used for COR nomination and appointment functions. Either the contracting officers or the CORs must initiate the process, and the contracting officer reviews, approves, signs, stores, and terminates the CORs using the Joint Appointment Module. The COR must use the Surveillance and Performance Monitoring to execute monitoring functions, such as management, oversight, surveillance, and performance monitoring of service contracts.

<sup>27</sup> FAR Part 1, "Federal Acquisition Regulations System," Subpart 1.6, "Career Development, Contracting Authority and Responsibilities," Section 1.602, "Contracting Officers," Subsection 1.602-2, "Responsibilities"; FAR Part 1, "Federal Acquisition Regulations System," Subpart 1.6, "Career Development, Contracting Authority and Responsibilities," Section 1.604, "Contracting Officer's Representative."

<sup>28</sup> DFARS PGI Part 201, "Federal Acquisition Regulation System," Subpart 201.602, "Contracting Officers," 201.602-2, "Responsibilities."

DoD Instruction 5000.72 incorporates the DoD's decision to re-engineer the COR tool into two separate modules and associated changes to the COR process. The Instruction requires DoD Component heads to use both the Joint Appointment Module and the Surveillance and Performance Monitoring within the PIEE suite of tools in accordance with DFARS PGI 201.602-2.<sup>29</sup>

During our review, DMA contracting personnel did not provide COR appointment letters or training certificates for the CORs for all periods of performance for one base contract and 7 of 14 task orders under the contract.<sup>30</sup> DMA contracting personnel stated that for the base contract and seven task orders, the supporting documentation was not in the contract file nor uploaded to the Joint Appointment Module. The DLA and DCMA PMRs of the DMA in 2011, 2013, and 2018 identified similar problems. The DMA could significantly improve the appointment of CORs and the documentation from their contract surveillance by using electronic tools that are readily available. The DMA Director for Acquisition and Procurement should provide training for the contracting workforce emphasizing compliance with the requirement to use the Joint Appointment Module and the Surveillance and Performance Monitoring to track COR appointments and maintain an electronic COR file as required by DoD Instruction 5000.72 and DFARS PGI 201.602-2.

### ***The DMA Did Not Consistently Prepare or Use QASPs***

DMA contracting officials did not prepare QASPs for 4 of 9 contracts that we reviewed, and they did not prepare QASPs for 6 of 13 task orders that required QASPs. The FAR requires contracting offices to include appropriate requirements for contractor quality control in solicitations and contracts.<sup>31</sup> Failure to use QASPs may lead to poor post-award administration of quality assurance during contractor performance. The 2018 DCMA PMR identified similar findings regarding the lack of evidence of QASPs incorporated into DMA contract awards.

For example, the DMA contracting personnel provided an undated and unsigned generic QASP for a \$25 million contract for media digitization.<sup>32</sup> However, DMA contracting personnel did not provide a QASP for the five task orders under this contract.<sup>33</sup> According to the DMA Program Manager, the contract was for a commodity and not services, and therefore it did not require a QASP. However, DMA contracting personnel awarded the task orders for services as indicated

<sup>29</sup> DoD Instruction 5000.72, "DoD Standard for Contracting Officer's Representative (COR) Certification," March 26, 2015, (Incorporating Change 2, November 6, 2020).

<sup>30</sup> Contract HQ0516-18-D-0001 and Task Orders HQ0516-18-F-0076, HQ0516-18-F-0095, HQ0516-18-F-0104, HQ0516-18-F-0215, HQ0516-19-F-0039, HQ0516-19-F-0094, and HQ0516-19-F-0129.

<sup>31</sup> FAR Part 46, "Quality Assurance," Subpart 46.1, "General," Section 46.103, "Contracting office responsibilities."

<sup>32</sup> Contract HQ0516-18-D-0002.

<sup>33</sup> Task Orders HQ0516-18-F-0157(A), HQ0516-18-F-0220, HQ0516-19-F-0181, HQ0516-19-F-0119, and HQ0516-20-F-0076.

in the Federal Procurement Data System–Next Generation. In addition, the task orders identified the types of services provided, such as digitizing negatives and photographic material and compositing digital files from negatives into proof sheets. Because this was a contract for media digitization, the contracting officer needed to ensure that a QASP was prepared in conjunction with the statement of work for service contracts as required by the DFARS.<sup>34</sup> In addition, the DFARS states that, for contracts for services, the contracting officer will prepare a QASP to facilitate assessment of contractor performance.<sup>35</sup>

In another example, the DMA contracting personnel did not provide a QASP for a \$45 million contract for professional training services.<sup>36</sup> DMA contracting personnel stated that neither the original contract file nor the PIEE contained a QASP. The contracting officer corrected this oversight during the audit by ensuring that the requirement package for six task orders issued under the contract included the QASP.<sup>37</sup> The QASP for each of the six task orders specified all work that required surveillance and the method of surveillance as required by FAR subpart 46.4. The DMA Director for Acquisition and Procurement should provide training for the contracting workforce emphasizing compliance with requirement to create and execute QASPs in accordance with FAR Subpart 46.4, “Government Contract Quality Assurance,” Subpart 46.103, “Contracting Office Responsibilities,” and DFARS 246.102, “Policy.”

### ***The DMA Did Not Assign Procuring Contracting Officer Replacements***

DMA contracting officials did not assign replacement procuring contracting officers for up to 16 months for five contracts after the assigned contracting officer left the DMA. DMA contracting officials stated that they did not know why there was a delay in appointing a new contracting officer until we identified the issue during our audit. For example, the initial contracting officer for a contract, valued at \$63 million, departed the DMA in September 2019, but DMA contracting officials did not assign a new contracting officer until December 2020, 16 months later.<sup>38</sup> Contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the

<sup>34</sup> DFARS Part 237, “Service Contracting,” Subpart 237.1, “Service Contracts – General,” Section, 237.172, “Service contracts surveillance.”

<sup>35</sup> DFARS Part 246, “Quality Assurance,” Subpart 246.4, “Government Contract Quality Assurance,” Section 246.401, “General.”

<sup>36</sup> Contract HQ0516-18-D-0001.

<sup>37</sup> Contract HQ0516-18-D-0001 and Task Orders HQ0516-18-F-0095, HQ0516-19-F-0094, HQ0516-19-F-0104, HQ0516-19-F-0129, HQ0516-19-F-0175, and HQ0516-18-F-0076.

<sup>38</sup> Contract HQ0516-19-C-0008.

contract, and safeguarding the Government's interests.<sup>39</sup> The DMA Director of Acquisition and Procurement should issue policy to the contracting workforce requiring that the Chief of Contracting designate or reassign contracting personnel to perform contracting award and administration functions when vacancies occur.

### ***Contracting Officers Did Not Review Past Performance***

DMA contracting officials improperly exercised options without documenting satisfactory contractor performance for a contract and five task orders.<sup>40</sup> For the remaining 8 of 9 contracts and 15 of 20 task orders, either the option years were properly exercised or the options had not been exercised at the time of our analysis. Specifically, DMA contracting officials did not review CPARS information before exercising contract option years.

The FAR requires that contracting officers exercise options only after determining that contractor performance on the specific contract was acceptable.<sup>41</sup> In addition, DMA policies require contracting officers to review the status of CPARS reports and the status of the COR contract file before exercising options.<sup>42</sup> However, DMA contracting officials improperly exercised options for the contract and five task orders without reviewing the contractor's past performance reports in CPARS for four option periods, and did not always ensure that the COR contract files were complete, which is required annually.<sup>43</sup> DMA contracting personnel stated that they did not know why the previous DMA contracting officials did not make CPARS a priority. The DMA Director for Acquisition and Procurement should issue a memorandum directing contracting officers to comply with the FAR, DFARS, and DMA internal policy and guidance when exercising options.

### ***The DMA Did Not Prepare Contractor Performance Assessments***

DMA contracting personnel did not prepare contractor performance evaluations for 6 of 9 contracts and 12 of 20 task orders reviewed. The FAR requires agencies to prepare and enter past performance evaluations into CPARS for each contract

<sup>39</sup> FAR Part 1, "Federal Acquisition Regulation System," Subpart 1.6, "Career Development, Contracting Authority, and Responsibilities," Section 1.602-2, "Responsibilities."

<sup>40</sup> Contract HQ0516-18-D-0001 and Task Orders HQ0516-18-F-0076, HQ0516-18-F-0215, HQ0516-19-F-0059, HQ0516-19-F-0104, and HQ0516-18-F-0182.

<sup>41</sup> FAR Part 17, "Special Contracting Methods," Subpart 17.2, "Options," Section 17.207, "Exercise of Options."

<sup>42</sup> DMA Acquisition and Procurement Division Procurement Procedure Memorandum 21-02, January 27, 2021.

<sup>43</sup> Contract HQ0516-18-D-0001 and Task Orders HQ0516-18-F-0076, HQ0516-18-F-0215, HQ0516-19-F-0059, and HQ0516-19-F-0104.

at least annually.<sup>44</sup> Past performance information is one indicator of a contractor's ability to meet contract requirements.<sup>45</sup> In addition, contracting personnel were consistently late in entering required assessments in CPARS.

### ***Use of the Contractor Performance Assessment Reporting System***

CPARS is a paperless contractor evaluation system. The primary purpose of CPARS is to ensure that current, complete, and accurate information on contractor performance is available for use in procurement source selections. FAR Part 42, "Contract Administration and Audit Services," states that:

- CPARS is the Government-wide reporting evaluation tool for all past performance reports on contracts and orders;
- agencies must prepare past performance evaluations at least annually and at the time the work under a contract or order is completed;
- agencies must prepare evaluations of contractor performance for each contract and order that exceeds the simplified acquisition threshold of \$250,000;<sup>46</sup> and
- agencies must assign responsibility and accountability for the completeness of past performance submissions and agency procedures must address management controls and appropriate management reviews of past performance evaluations, including accountability for documenting past performance on CPARS.<sup>47</sup>

### ***Late or Missing Assessments for Sample Contracts***

DMA personnel were overdue on contractor performance assessments for 6 of 9 contracts and 4 of 20 task orders we reviewed. In addition, DMA personnel did not prepare contractor performance assessments for 12 of 20 task orders we reviewed.<sup>48</sup> We reviewed contract files, queried CPARS data, and requested that DMA personnel provide evidence that they completed the required assessments.

We determined that DMA personnel did not ensure that all base contracts and task orders with values of \$1 million or greater had assessments in CPARS. DMA contracting officials stated that they did not know why the previous

<sup>44</sup> FAR Part 42, "Contract Administration and Audit Services," Subpart 42.15, "Contractor Performance Information," Section 42.1502, "Policy," 42.1502 (a).

<sup>45</sup> FAR Part 15, "Contracting by Negotiation," Subpart 15.3, "Source Selection," Section 15.304, "Evaluation Factors and Significant Sub factors"; FAR Part 15, "Contracting by Negotiation," Subpart 15.3, "Source Selection," Section 15.305, "Proposal Evaluation."

<sup>46</sup> FAR Part 42, "Contract Administration and Audit Services," Subpart 42.15, "Contractor Performance Information," Section 42.1502, "Policy," 42.1502 (a) and (b).

<sup>47</sup> FAR Part 42, "Contract Administration and Audit Services," Subpart 42.15, "Contractor Performance Information," Section 42.1503, "Procedures," 42.1503(a).

<sup>48</sup> Task Orders HQ0516-18-F-0076, HQ0516-18-F-0095, HQ0516-18-F-0104, HQ0516-18-F-0182, HQ0516-18-F-0215, HQ0516-19-F-0026, HQ0516-19-F-0039, HQ0516-19-F-0059, HQ0516-19-F-0094, HQ0516-19-F-0104, HQ0516-19-F-0129, and HQ0516-19-F-0175.

contracting officers and leadership did not make CPARS a priority or why contracting officers or contracting officer’s representatives did not initiate CPARS evaluations. They further stated that it took time for a newly assigned contracting officer to “get up to speed on the issues,” gather facts, and go through the process of putting the contractor on notice of noncompliance, so that the contracting officer can properly document the contractor’s failures or successes in CPARS. In addition, the DMA contracting officials stated that excusable delays, such as equipment sourcing, onsite staffing limitations, and travel restrictions, have occurred as a result of the coronavirus disease–2019 pandemic and extended the performance dates. See Table 2 for the status and the number of days overdue for the overdue assessments.

*Table 2. CPARS Evaluation Reports Days Overdue as of March 19, 2021*

Number of Contracts or Task Orders	Contract or Task Order Number	Contract Status	Evaluation Status	Evaluation Due Date	Days Overdue as of 03/19/2021
1	HQ0516-18-D-0001	Overdue	Drafted	10/18/2019	518
2	HQ0516-18-F-0076*	Overdue	Initiated	10/18/2019	518
3	HQ0516-18-F-0095	Overdue	Initiated	12/29/2019	446
4	HQ0516-18-F-0182	Overdue	Initiated	1/23/2020	421
5	HQ0516-19-F-0129	Overdue	Drafted	11/26/2020	113
6	HQ0516-18-D-0002*	Overdue	Drafted	1/17/2021	61
7	HQ0516-18-D-0002*	Overdue	Drafted	1/17/2020	427
8	HQ0516-18-F-0076*	Overdue	Drafted	10/15/2020	152
9	HQ0516-19-C-0004	Overdue	Initiated	7/29/2020	233
10	HQ0516-19-C-0008	Overdue	Drafted	12/8/2020	101
11	HQ0516-19-C-0009	Overdue	Initiated	12/22/2020	87
12	HQ0516-19-C-0013	Overdue	Drafted	1/5/2021	73

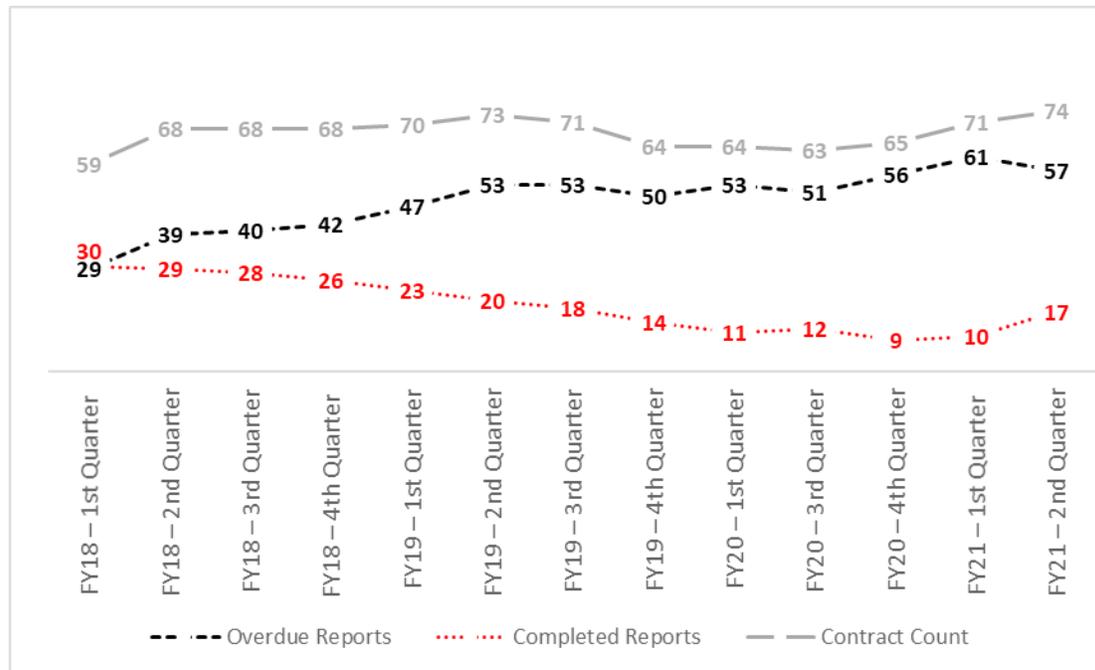
\* Duplicates listed twice because of the various periods of performances.

Source: The DoD OIG.

### Overall Late CPARS Reporting

According to data provided by DPC, DMA personnel consistently provided late assessments in CPARS. According to the DPC Past Performance Scorecard for second quarter FY 2021, the DMA completed 23 percent of its past performance evaluations as of April 5, 2021. The following figure identifies the number of contracts that DMA contracting personnel had, the number of completed past performance evaluations, and the number of overdue past performance reports for each quarter from first quarter FY 2018 to second quarter FY 2021.<sup>49</sup> Improper CPARS use and documentation were deficiencies identified in the 2011, 2013, and 2018 PMRs.

Figure. Past Performance Reports Completed for First Quarter FY 2018 Through Second Quarter FY 2021



Source: The DoD OIG.

### DMA Corrective Actions for CPARS

DMA officials took actions to address the late CPARS reporting during our audit. On November 10, 2020, DMA contracting officials conducted a CPARS training course to outline CPARS policies and regulations, the contracting activity’s roles and responsibilities for and how to write a CPARS narrative, and the solutions for FY 2021 and beyond to correct deficiencies in completing CPARS.

<sup>49</sup> Information for second quarter FY 2021 is not included in the figure because this information was not available from DPC.

On April 5, 2021, the DMA Acquisition and Procurement Office held part two of the CPARS compliance training. This training course aimed to equip CORs, project managers, end-users, and other stakeholders with the tools and knowledge necessary to conduct an evaluation in CPARS. On March 11, 2021, the DMA Acting Director of Acquisition and Contracts, and Chief of Contracting developed DMA internal guidance, “Defense Media Activity Headquarters and Riverside Roles Responsibility and Policy Guidance for the Contractor Performance Assessment Reporting System.” The new guidance consolidated information from existing policies, procedures, and guidance into a single reference and established Headquarters and Riverside roles and responsibilities for “registering, documenting, and overseeing contractor performance assessments in CPARS.”<sup>50</sup> The guidance identifies the timeline for timely past performance reporting and oversight of key contractor performance reporting metrics. The guidance is applicable to all contracts within the DMA Headquarters and DMA Riverside areas of responsibility requiring a CPARS evaluation. The DMA Director should verify and ensure that the assessing officials complete the annual past performance assessment reports in CPARS within 120 days from the end of the evaluation period.

## **Internal Controls Over Contracting Were Inadequate**

Internal controls over the DMA’s contracting practices were insufficient because DMA officials had not fully implemented corrective actions for all contracting noncompliance deficiencies identified in DCMA PMRs and three DMA Inspector General audits. In addition, DMA did not have a quality assurance process that verified whether the corrective actions were effective. Furthermore, DMA Acquisition and Procurement officials stated that DMA contracting had undergone significant staff turnover, which contributed to inadequate management of DMA contracting.

### ***DMA Contracting Personnel Did Not Implement Corrective Actions From Prior Reviews and Audits***

DMA officials had not fully implemented corrective actions for all contracting noncompliance deficiencies identified in PMRs and DMA Inspector General audits, and they did not assess and test the implemented corrective actions for effectiveness. In 2018, the DCMA, at the direction of the DPC Director, performed a PMR of the DMA. In 2019 and 2020, the DMA Inspector General conducted four audits of DMA internal controls over accounts payable and disbursements, the COR program, and the best practices of internal controls. The four reports contained recommendations for corrective action to the DMA’s acquisition and procurement procedures. However, as of May 2021, the DMA had not corrected all of the deficiencies.

<sup>50</sup> The existing guidance included FAR Part 42.15, “Contractor Performance Information;” DFARS Part 242.15, “Contractor Performance Information;” Guidance for the CPARS, October 2020; CPARS User Manual, October 2020; and DMA Contracting Officer’s Representative Handbook, February 2020.

### ***The DCMA Identified Contracting Deficiencies in the December 2018 PMR***

DCMA personnel conducted a PMR of the DMA from October 15, 2018, through November 1, 2018, and issued a report on December 7, 2018, that made recommendations to DMA officials based on DMA contracting practices that were noncompliant with Federal, DoD, and DMA internal guidance and processes for contract award and administration. The DCMA PMR team provided the report to the DMA Director. The report made recommendations to the DMA Director. Among the contracting noncompliance deficiencies that the DCMA PMR team identified were that DMA contracting personnel did not maintain post-award documentation, COR appointment letters, training certificates, COR performance documentation, or evidence that the contracting personnel used the CORT tool.

Before 2018, DLA personnel conducted PMRs of the DMA in 2009, 2011, and 2013. The DLA PMRs previously identified many of the items identified in the DCMA PMR. See Table 3 for repeat recommendations and findings across the four PMRs. The DMA Director should identify open recommendations from the prior PMRs, direct responsible contracting personnel to initiate corrective actions, and hold them accountable for not previously correcting known deficiencies.

*Table 3. Repeat Recommendations and Findings Across the PMR Reports*

Recommendation/Finding	DLA 2009 PMR	DLA 2011 PMR	DLA 2013 PMR	DCMA 2018 PMR
Missing Contract Documents	X	X	X	X
Ensure Contract Closeout Documents Are Placed In Contract File		X	X	X
Ensure Modifications Are Exercised In Accordance With The Clause			X	X
Ensure System For Award Management Is Checked Prior To Awarding Contracts And Exercising Option Modifications			X	X
Ensure Contractor Performance Assessment Reporting System Is Documented		X	X	X
Ensure COR's Appointment Letter Is Included In The Contract Files And Uploaded To The CORT Tool	X	X	X	X
Ensure All COR Responsibilities Are Being Performed, Results Of Surveillance Documented, And COR Performance/Files Are Reviewed By The Contracting Officer And Documented In Contract Files And CORT Tool	X	X	X	X
Contracting Officers Need To Ensure That The DD Form 2579, "Small Business Coordination Record," Is Approved By The Required Officials And Retained In The Contract File	X	X		X
Ensure Appropriate Contract Clauses Are In Contract		X		X

Source: The DoD OIG.

### ***Corrective Action Not Taken From DMA Inspector General Audits***

DMA officials did not implement corrective actions for four DMA Inspector General audits conducted in 2019 and 2020. In 2019, the DMA Inspector General conducted an audit of DMA internal controls and operations over the Government Purchase Cards. The DMA Inspector General issued 41 recommendations to the DMA to address its findings in the audit. According to DMA Inspector General personnel, they had not received the corrective actions for the Government Purchase Card audit as of May 2021.<sup>51</sup>

In 2020, the DMA Inspector General completed three audit reports that reported on DMA use of Government Purchase Cards, the Personal Security Program, and the Property Accountability and Hand Receipt.<sup>52</sup> The DMA Inspector General assessed DMA internal controls over accounts payable and disbursements, the COR program, and the best practices of internal controls. The three reports contained recommendations for corrective action to the DMA's contract award and administration procedures.

DMA Inspector General personnel stated that they had not received the corrective actions for the three audits. DMA officials provided a response to address the recommendations in the Accounts Payable and Cash Disbursement audit; however, DMA personnel did not confirm whether the corrective actions were completed. The DMA Inspector General issued 23 recommendations to the DMA to address its findings. Of the 23 recommendations to the DMA, DMA Acquisition and Procurement responded to 17 recommendations. For example, the DMA Inspector General recommended that the DMA Procurement Department update the COR, contracting officer, and contracting specialist positions for contracts, if the personnel initially assigned were no longer with the agency.

The DMA's response to the recommendation stated that corrective actions would be complete by May 31, 2020. Officials from the DMA Inspector General's office stated that their office did not have a written standard operating procedure to follow up on findings identified in DMA Inspector General audits. DoD Instruction 7650.03 states that it is DoD policy that timely decisions and responsive actions will be taken and documented on audit findings and recommendations.<sup>53</sup> The DMA Director should identify open recommendations from the past DMA Inspector General audits,

<sup>51</sup> DMA Inspector General Audit Report No. 20191017-01 GPC, "Government Purchase Card Audit," December 11, 2019.

<sup>52</sup> DMA Inspector General Audit Report No. 20191217-01 AP, "Accounts Payable and Cash Disbursement (AP) Audit," March 16, 2020.

DMA Inspector General Audit Report No. 20200629-01 PSP, "Personnel Security Program Audit," September 1, 2020.

DMA Inspector General Audit Report No. 20200324-1 PA/HR, "Property Accountability and Hand Receipt Audit," May 1, 2020.

<sup>53</sup> DoD Instruction 7650.03, "Follow-Up On Inspector General of The Department of Defense (IG DoD) and Internal Audit Reports," December 18, 2014, (Incorporating Change 1, January 31, 2019).

direct responsible personnel to initiate corrective actions, and hold responsible officials accountable for not taking timely action to address previous audit findings. The DMA Director, in coordination with the DMA Inspector General should develop a formal followup system that provides a complete record of action taken on findings and recommendations as required by DoD Instruction 7650.03.

### ***Persistent Lack of Action on Deficiencies Was Evident***

For our nonstatistical sample of contracts and task orders, DMA contracting personnel had missing and incomplete post-award documents, COR appointment letters, and COR performance documents. Furthermore, DMA contracting personnel did not use the required COR reporting system. During our audit, we concluded that the deficiencies we identified might not have occurred if DMA contracting officials had initiated corrective actions to address the recommendations from the PMRs and DMA Inspector General audits.

### ***DMA Corrective Actions Did Not Include Quality Controls***

During FYs 2020 and 2021, DMA contracting officials issued internal guidance as corrective actions for the finding and recommendations identified in the December 2018 DCMA PMR and the 2019 DMA Inspector General audit. The guidance included 11 procurement procedure memorandums, a letter of instructions (LOI), and a DMA COR Handbook. However, DMA contracting officials did not establish or implement quality controls to ensure that DMA contracting staff implemented the newly issued guidance; and whether the new guidance was effective in correcting the contract award and administration deficiencies identified in the PMRs. See Appendix D for additional information on the procurement procedures and instructions, and the DMA COR Handbook. The DMA Director should develop and implement agencywide quality controls to ensure that newly issued internal policy and guidance corrected deficiencies in contract award and administration.

### ***DMA Contracting Had Significant Staff Turnover and Position Vacancies***

DMA officials stated that DMA contracting had undergone significant staff turnover between FY 2017 and FY 2021. The DMA went through a “hiring freeze” in 2018 and 2019. DMA contracting personnel stated that the hiring freezes led to a long wait time to fill vacancies for two procurement analysts. The procurement analyst positions contribute to the contracting quality assurance of the contracting process. The procurement analyst roles and responsibilities include coordination for the COR, CPARS, Government Purchase Card, and Federal Procurement Data System–Next Generation programs, and the review of contract solicitations and award files.

In August 2019, DMA officials requested DPC assistance to address the recommendations in the 2018 PMR report. The Deputy Director for Contract Policy at DPC stated that DPC was not assigned responsibility for providing direct support and oversight to Component contracting offices, and DPC did not have the resources to provide direct oversight for DMA contracting. The Assistant to the Secretary of Defense for Public Affairs, in conjunction with the Office of Defense Pricing and Contracting, should request a workforce study to determine whether the DMA has sufficient resources to effectively execute the contracting function.

## Conclusion

DMA internal controls were insufficient to provide assurance that procurements complied with Federal and DoD requirements. We identified many of the same contracting issues previously identified in reviews and audits by the DLA, DCMA, and DMA Inspector General. DMA management took some corrective actions, such as issuing 11 policy memorandums and other guidance in 2020 and 2021 in response to the reviews. However, DMA management personnel did not ensure the implementation of all of the recommendations and suggestions made in the prior reviews. In addition, DMA personnel had not implemented quality control efforts to verify the effectiveness of recommendations that were implemented. Without procedures to track and implement corrective actions, DMA contracting personnel likely will continue to make the same contracting deficiencies.

Senior management and contracting officer personnel changes negatively affected management oversight of the DMA procurement function. The Director for Acquisition and Contracting and the Chief of Contracting positions were often dual-hatted positions or were filled on a short-term basis. The absence of a contract management system for maintaining official contract files was a significant management control weakness. The contracting staff members were unable to reliably reconstruct or explain procurements by contracting personnel who had left the agency. Contract files offered little evidence of oversight of contractors. In addition, DMA personnel potentially violated the ADA for four task orders by expending \$1.7 million in Operations and Maintenance funds authorized for one program year to pay for the costs incurred in subsequent years.

## Recommendations, Management Comments, and Our Response

### **Recommendation 1**

We recommend that the Defense Media Activity Director for Acquisition and Procurement:

- a. **Provide training for contracting personnel on the requirement to store and maintain complete contract files according to Federal Acquisition Regulation requirements.**

### ***Defense Media Activity Director for Acquisition and Procurement Comments***

The DMA Director agreed with the recommendation, stating that the Director of Acquisition and Procurement is updating each contracting team member's Individual Development Plan to include training on contract file storage and maintenance. Furthermore, the requirement will be included in each contracting employee's performance critical element.

### ***Our Response***

Comments from the DMA Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but remains open. Updating Individual Development Plans and providing the training will meet the intent of our recommendation. We will close the recommendation after we verify that the contracting employees' Individual Development Plans incorporate the training and that the contracting employees completed the training.

- b. **Implement a contract management system to store and maintain complete contract files according to Federal Acquisition Regulation requirements.**

### ***Defense Media Activity Director for Acquisition and Procurement Comments***

The DMA Director agreed with the recommendation, stating that the Director of Acquisition and Procurement is developing a capability that will maintain contract files electronically. Additionally, the DMA plans to retire the Procurement Desktop-Defense system and transition to the DLA Enterprise Contract Writing and Management system.

### ***Our Response***

Comments from the DMA Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but remains open. We will close the recommendation after the Director provides documentation supporting that the DMA has transitioned to the DLA Enterprise Contract Writing and Management system, and is maintaining all contract files in an electronic format.

- c. **At least annually, review a sample of contracts as part of the internal control process and inspect files to verify that the electronic contract file system documents the performance of contract administration responsibilities, including contractor performance.**

### ***Defense Media Activity Director for Acquisition and Procurement Comments***

The DMA Director agreed with the recommendation, stating that the Director of Acquisition and Procurement instructed that the procurement analyst, as indicated in the employee's performance plan, review the internal files on a quarterly basis to verify that the electronic contract file system documents contract administration responsibilities and contractor performance.

### ***Our Response***

Comments from the DMA Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but remains open. We will close the recommendation once we verify that the procurement analyst's performance plan requires a quarterly review of contract files and that the procurement analyst completed the required review.

## ***Recommendation 2***

**We recommend that the Defense Media Activity Chief Financial Officer initiate a review in accordance with DoD Regulation 7000.14-R, "DoD Financial Management Regulation," volume 14, chapter 3, to determine whether reportable violations of the Antideficiency Act occurred on contract HQ0516-18-D-0002. If violations of the Antideficiency Act occurred, determine which officials are responsible and recommend corrective actions.**

### ***Defense Media Activity Chief Financial Officer Comments***

The DMA Director agreed with the recommendation, stating that the DMA Chief Financial Officer will initiate a preliminary review to determine whether reportable violations of the ADA occurred on contract HQ0516-18-D-0002. The Director also stated that if violations occurred, the Chief Financial Officer will determine which

officials are responsible and recommend corrective actions, and the DMA Chief Financial Officer will complete the preliminary review within 4 months from the date directed.

### ***Our Response***

Comments from the DMA Director addressed all the specifics of the recommendation; therefore, the recommendation is resolved but remains open. We will close the recommendation after the DMA provides the results of the DMA Chief Financial Officer's review of contract HQ0516-18-D-0002 and we verify that the DMA conducted the review in accordance with DoD Regulation 7000.14-R, "DoD Financial Management Regulation," volume 14, chapter 3. If the review determines that a violation occurred, provide us with the results of any further reviews identifying the officials responsible for the violation and the recommended corrective actions.

### ***Recommendation 3***

**We recommend that the Defense Media Activity Director for Acquisition and Procurement:**

- a. **Provide training for the contracting workforce emphasizing compliance with the following requirements.**
  1. **Federal Acquisition Regulation Part 52, "Contract Clauses" that requires the inclusion of Federal Acquisition Regulation clauses 52.232-18, "Availability of Funds" or 52.232-19, "Availability of Funds for the Next Fiscal Year," for contracting in advance of funds in solicitations and contracts; and the Federal Acquisition Regulation clauses 52.219-11, "Special 8(a) Contract Conditions" and 52.219-12, "Special 8(a) Subcontract Conditions," when contracting with the Small Business Administration for procuring sole-source acquisitions.**
  2. **DoD Instruction 5000.72 and Defense Federal Acquisition Regulation Supplement; Procedures, Guidance and Information 201.602-2 requirements to use the Joint Appointment Module and the Surveillance and Performance Monitoring to track the contracting officer's representative appointments process and maintain an electronic contracting officer's representative file.**
  3. **Federal Acquisition Regulation Subpart 46.4, "Government Contract Quality Assurance," Subpart 46.103, "Contracting Office Responsibilities," and Defense Federal Acquisition Regulation Supplement 246.102, "Policy."**

### ***Defense Media Activity Director for Acquisition and Procurement Comments***

The DMA Director agreed with the recommendation, stating that the Director of Acquisition and Procurement is updating each contracting team member's Individual Development Plan to include training on all areas identified in Recommendations 3.a.1, 3.a.2, and 3.a.3. Furthermore, the requirements will be included among each contracting employee's performance critical elements.

The Director also stated that the 2021 PMR team commended the Contracting Officer's Representative's proper documentation and use of the Joint Appointment Module and the Surveillance and Performance Monitoring. Furthermore, the Director stated that the PMR Team verified that contracting officers are appointing CORs if required and designating in writing the responsibilities and limits of authority with an appointment letter completed through the Joint Appointment Module and the Surveillance and Performance Monitoring.

### ***Our Response***

Comments from the DMA Director addressed the specifics of the recommendation. We appreciate the Director's statement that the 2021 PMR team commended contracting personnel on contract documentation and using the Joint Appointment Module for monitoring. We do not know the scope of the 2021 PMR team's review; however, our review of documentation provided by DMA contracting personnel for our nonstatistical sample of contracts identified the noncompliance discussed in our report. Updating each contracting team member's Individual Development Plan, to include training along with providing the actual training, will meet the intent of our recommendation. Therefore, the recommendation is resolved but remains open. We will close the recommendation after we verify that the Individual Development Plans of contracting team members were updated and that training was conducted on the areas identified in Recommendations 3.a.1, 3.a.2, and 3.a.3.

- b. Issue policy to the contracting workforce requiring that the Chief of Contracting designate or reassign contracting personnel to perform contracting award and administration functions when vacancies occur.**

### ***Defense Media Activity Director for Acquisition and Procurement Comments***

The DMA Director agreed with the recommendation, stating that the Director for Acquisition and Procurement will ensure that the Chief of Contracting designates or reassigns contracting personnel to perform contract award and administration functions when vacancies occur. The Director also stated that this will be documented in a memorandum within the contracting file identifying the assignment of a new contracting officer.

### ***Our Response***

Comments from the DMA Director did not address the specifics of this recommendation; therefore, the recommendation is unresolved. Documenting the contract file when assigning a new contracting officer for contracts that previously did not have an assigned contracting officer is an appropriate action. However, this action does not provide a requirement for someone to be responsible for recognizing that a vacancy exists and for reassigning contracting personnel. We request that the DMA reconsider the recommendation to issue policy requiring the Chief of Contracting to monitor contracts and assign contracting officers to contracts when vacancies occur.

- c. Issue a memorandum directing that contracting officers only exercise options as required by Federal Acquisition Regulation Part 17.2, “Options” and Defense Media Activity internal policy and guidance.**

### ***Defense Media Activity Director for Acquisition and Procurement Comments***

The DMA Director agreed with the recommendation, stating that the Director for Acquisition and Procurement issued PPM 21 on January 27, 2021, which established procedures for exercising options and documenting the contract file in accordance with Federal Acquisition Regulation 17.207.

### ***Our Response***

Comments from the DMA Director addressed all specifics of the recommendation. The Director for Acquisition and Procurement issued PPM 21-02 during our audit. DMA contracting personnel exercised the contract options that we reviewed before January 27, 2021. The DMA’s issuance of PPM 21-02 is responsive to our recommendation. Therefore, the recommendation is closed.

## **Recommendation 4**

We recommend that the Director of the Defense Media Activity:

- a. **Verify and ensure that assessing officials complete the annual past performance assessment reports in the Contractor Performance Assessment Reporting System within 120 days from the end of the evaluation period.**

### ***Defense Media Activity Director Comments***

The DMA Director agreed, stating that he is establishing a monthly Acquisition and Procurement report to be reviewed with DMA Headquarters staff and Lines of Business leadership.

### ***Our Response***

Comments from the DMA Director addressed all specifics of the recommendation; therefore, the recommendation is resolved but remains open. We request that the Director provide the documentation describing the specific reporting requirements for the proposed monthly Acquisition and Procurement report and a timeline for when the DMA will initiate the report. We will close the recommendation when we can verify that the report tracks whether personnel complete the annual past performance assessment reports in CPARS within 120 days from the end of the evaluation period.

- b. **Identify open recommendations from the prior procurement management reviews, and the Defense Media Activity Inspector General audits, direct responsible personnel to initiate corrective actions, and hold them accountable for not correcting previously known deficiencies and not taking timely action to address previous audit findings.**

### ***Defense Media Activity Director Comments***

The DMA Director agreed, stating that all of the 2018 PMR recommendations have been resolved and that the 2021 PMR corrective action plan is due on January 31. The Director also stated that the DMA Inspector General will provide the monthly metrics report, which includes a corrective action plan for the open recommendations, until all recommendations are resolved.

### ***Our Response***

Comments from the DMA Director partially addressed the recommendation; therefore, the recommendation is unresolved. Tracking the status of open recommendations and corrective actions meets the intent of our recommendation

related to reviewing prior recommendations. However, we request that the Director clarify whether the DMA intends to hold responsible personnel accountable for not correcting previously known deficiencies and not taking timely action to address previous audit findings.

- c. **Develop a formal followup system, in coordination with the Defense Media Activity Inspector General, that provides a complete record of action taken on findings and recommendations as required by DoD Instruction 7650.03, "Follow-up on Inspector General of the Department of Defense (IG DoD) and Internal Audit Reports."**

### ***Defense Media Activity Director Comments***

The DMA Director agreed, stating that corrective actions taken on findings and recommendations from the DoD Office of Inspector General and DMA Inspector General audits will be tracked and reported on a monthly basis through Microsoft Teams.

### ***Our Response***

Comments from the DMA Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but remains open. We will close the recommendation once we verify that the DMA Director is tracking and reporting corrective actions taken on findings and recommendations through Microsoft Teams on a monthly basis.

- d. **Develop and implement agencywide quality controls to ensure that newly issued internal policy and guidance had corrected deficiencies in contract award and administration.**

### ***Defense Media Activity Director Comments***

The DMA Director agreed, stating that contracting deficiencies will be included in the Acquisition and Procurement monthly metrics reporting and briefed as a regular element of the monthly Director's Resource Board meeting.

### ***Our Response***

Comments from the DMA Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but remains open. We will close the recommendation once we verify that contracting deficiencies are reported in the Acquisition and Procurement monthly report and that the metrics measure the effectiveness of actions taken to correct the contracting deficiencies.

### ***Recommendation 5***

**We recommend that the Assistant to the Secretary of Defense for Public Affairs, in conjunction with the Office of Defense Pricing and Contracting, request a workforce study to determine whether the Defense Media Activity has sufficient resources to effectively execute the contracting function.**

#### ***Assistant to the Secretary of Defense for Public Affairs Comments***

The Assistant to the Secretary of Defense for Public Affairs agreed, stating that his office and the DMA will work with DPC to perform a workforce study on DMA contracting functions. The Assistant to the Secretary of Defense also stated that the recommendation will help determine resources needed across the DMA, and not just in the DMA contracting office.

#### ***Office of Defense Pricing and Contracting Comments***

The Director of Contract Policy for DPC, responding for the DPC Principal Director, agreed with the recommendation and stated that DPC will support the Assistant to the Secretary of Defense for Public Affairs workforce study to assess whether the DMA has sufficient resources to execute the contracting function.

#### ***Our Response***

Comments from the Assistant to the Secretary of Defense for Public Affairs and the Principal Director of Contract Policy for DPC addressed the specifics of the recommendation; therefore, the recommendation is resolved but remains open. We will close the recommendation once we verify the workforce study completed fully addresses the recommendation.

## Appendix A

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### Scope and Methodology

We conducted this performance audit from September 2020 through December 2021 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.

#### ***Revised Audit Objective***

During the audit, we encountered difficulties obtaining sufficient and complete contract files to assess whether the DMA properly awarded and administered contracts. Because of these difficulties encountered with the DMA accessing contract files, we revised our audit objective to examine internal controls over the contract award and administration process in accordance with Federal and DoD regulations and guidance.

#### ***Announced Audit Objective***

The announced audit on September 14, 2020, was to determine whether DMA personnel properly awarded and administered contracts in accordance with Federal and DoD regulations and guidance.

#### ***Revised Audit Objective***

Our revised objective was to determine whether the DMA had adequate internal controls for the proper award and administration of contracts in accordance with Federal and DoD regulations and guidance.

#### ***DoD Hotline Allegations***

We conducted this audit in response to allegations made to the DoD Hotline regarding improper contracting practices at the DMA. The complainant contacted the DoD Office of Inspector General regarding allegations of procurement noncompliance and mismanagement. The allegation package included numerous supporting documents and covered a period of 2015 through 2020. We reviewed four allegations of improper contract award and administration. See Appendix B for a summary of the allegations and our responses.

## Internal Control Assessment and Compliance

We assessed internal control compliance with laws and regulations necessary to satisfy the audit objective. In particular, we assessed internal controls as they related to DMA officials' monitoring and oversight of contract award and administration and the remediation of deficiencies identified. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

## Universe and Sample Size Selection

We used the Federal Procurement Data System–Next Generation to identify contracts issued by the DMA during the period 2017 through 2020. We identified 791 contracts with a total contract value of \$692 million. See Table 4 for a breakdown of the number of contracts and the total contract value by fiscal year from 2017 through 2020. We selected a nonstatistical sample of 33 contracts actions with a total contract value of \$320 million. However, DMA personnel were working remotely because of restrictions related to the coronavirus disease–2019 pandemic and could not access hardcopy files from their offices. DMA personnel stated that all contract files awarded after January 2018 were located on the “T drive” and would be accessible remotely.

We selected 9 contracts and 1 task order from the original 33 contracts and requested that DMA provide the contract files. As discussed in the Finding, DMA personnel provided the nine contract files and one task order file 5 weeks after our request. Many of the contract files were incomplete, and we requested that DMA personnel provide missing and complete documents. Based upon the state of the contract files and the limitations of remotely accessing the files, we limited our review to 9 contracts and 20 task orders with a total contract value of \$154 million. The nonstatistical sample is not to be projected to the contract universe.

*Table 4. Universe of DMA Contracts*

Fiscal Year	Number of Contracts	Total Contract Value* (in Millions)
2017	247	\$180.3
2018	252	241.7
2019	193	195.4
2020	99	75.0
<b>Total</b>	<b>791</b>	<b>\$692.4</b>

\* The total contract value (base and option years) represents contracts issued from October 1, 2016, through September 2, 2020.

Source: The DoD OIG.

As of February 12, 2021, the DMA provided contract files for 9 contracts and 20 task orders; however, most of these documents were incomplete. Table 5 shows the number of contracts reviewed and the total contract value by each fiscal year. See Appendix C for the DMA contracts reviewed by type.

*Table 5. DMA Contracts Reviewed*

Fiscal Year	Number of Contracts	Number of Task Orders	Total Task Order Value <sup>1</sup> (in Millions)	Total Contract Value <sup>2</sup> (in Millions)
2017	0	0	\$0	\$0
2018	2	7	19.8	70.4
2019	5	9	7.7	75.8
2020	2	4	2.3	7.7
<b>Total</b>	<b>9</b>	<b>20</b>	<b>\$29.8</b>	<b>\$153.9</b>

<sup>1</sup> The total task order value represents the task orders issued from October 1, 2016, through September 2, 2020. This is considered a part of the total contract value.

<sup>2</sup> The total contract value (base and option years) represents contracts issued from October 1, 2016, through September 2, 2020.

Source: The DoD OIG.

## Review of Documentation and Interviews

We reviewed contracts from DMA personnel and reviewed the contract files from DMA Headquarters and DMA Riverside. We interviewed personnel from DPC, the DCMA, the DMA, and the DMA Inspector General to obtain an understanding of the DMA's contracting process and contract oversight procedures. Specifically, we obtained and reviewed the following documentation.

- Pre-Award Documentation
  - Acquisition Plan
  - Justifications and Approval for Other Than Full and Open Competition
  - Determination and Finding
  - Independent Government Cost Estimate
  - Market Research
  - Performance Work Statement
  - Quality Assurance Surveillance Plan
  - Source Selection Plan

- Post-Award Documentation
  - Delegation Letter
  - Invoice and Receiving Report
  - Monthly Status Report

### ***Criteria and Guidance Reviewed***

To evaluate DMA award and administration of contracts, we obtained, reviewed, and analyzed the following relevant criteria and guidance from the United States Code and Federal, DoD, and DMA regulations and policies.

- Section 1341, title 31, United States Code, “Limitations on expending and obligating amounts”
- Section 1502, title 31, United States Code, “Balances available”
- Section 1705, title 41, United States Code, “Advocates for competition”
- FAR Part 1, “Federal Acquisition Regulation System”
- FAR Part 4, “Administration and Information Matters”
- FAR Part 6, “Competition Requirements”
- FAR Part 7, “Acquisition Planning”
- FAR Part 12, “Acquisition of Commercial Items”
- FAR Part 13, “Simplified Acquisition Procedures”
- FAR Part 16, “Types of Contracts”
- FAR Part 17, “Special Contracting Methods”
- FAR Part 19, “Small Business Programs”
- FAR Part 32, “Contract Financing”
- FAR Part 37, “Service Contracting”
- FAR Part 42, “Contract Administration and Audit Services”
- FAR Part 43, “Contract Modifications”
- FAR Part 46, “Quality Assurance”
- DFARS Part 201, “Federal Acquisition Regulation System”
- DFARS Part 204, “Administrative and Information Matters”
- DFARS Part 206, “Competition Requirements”
- DFARS Part 207, “Acquisition Planning”
- DFARS Part 212, “Acquisition of Commercial Items”
- DFARS Part 213, “Simplified Acquisition Procedures”
- DFARS Part 216, “Types of Contracts”

- DFARS Part 217, “Special Contracting Methods”
- DFARS Part 219, “Small Business Programs”
- DFARS Part 232, “Contract Financing”
- DFARS Pars 237, “Service Contracting”
- DFARS Part 242, “Contract Administration”
- DFARS Part 243, “Contract Modifications”
- DFARS Part 246, “Quality Assurance”
- DFARS PGI 201.6, “Career Development, Contracting Authority, and Responsibilities”
- DoD Instruction 5010.40, “Managers’ Internal Control Program Procedures,” May 30, 2013, (Incorporating Change 1, June 30, 2020)
- DoD Instruction 5000.72, “DoD Standard for Contracting Officer’s Representative (COR) Certification,” March 26, 2015, (Incorporating Change 2, November 6, 2020)
- DoD Instruction 7650.03, “Follow-Up on Inspector General of the Department of Defense (IG DoD) and Internal Audit Reports,” December 18, 2014, (Incorporating Change 1, January 31, 2019)
- DoD Directive 5122.05, “Assistant to the Secretary of Defense for Public Affairs,” August 7, 2017
- DoD Directive 5105.74, “Defense Media Activity,” December 18, 2007, (Incorporating Change 1, August 29, 2017)
- DoD Regulation 7000.14-R, “DoD Financial Management Regulation,” volume 3, chapter 8
- DoD Regulation 7000.14-R, “DoD Financial Management Regulation,” volume 14
- DMA Acquisition and Procurement Policy, Instruction, and Memorandum

## Use of Computer-Processed Data

We used computer processed data throughout the audit; however, we did not rely solely on the data and confirmed the accuracy of the data through source documentation. Specifically, we used data from the Federal Procurement Data System–Next Generation to obtain a universe of all active contracts from FYs 2017 through 2020. We selected a nonstatistical sample of contracts to determine whether the DMA planned and executed contracts awarded in accordance with applicable Federal and DoD laws and regulations. In addition, we reviewed one contract as a part of the allegations.

To test the reliability and validate the accuracy of the data, we obtained contract documentation from Electronic Data Access and requested contract files for the contracts in our sample. Based on our reviews, we determined that the data used to identify the universe of FYs 2017 through 2020 contracts were reliable for identifying the total number of contracts awarded through the DMA or the total contract values.

We used computer-processed data from CPARS provided by the DMA contracting officials to determine whether the DMA prepared performance assessment reports in a timely manner from FYs 2017 through 2021. We reviewed contract files and interviewed DMA personnel to determine why contractor performance assessments were not prepared or were prepared late. We did not find significant irregularities with the CPARS data. We determined that the data were sufficiently reliable to support our findings and conclusions.

## **Use of Technical Assistance**

We received assistance from the Quantitative Methods Division to develop a nonstatistical sample.

## **Prior Coverage**

No prior coverage had been conducted on the DMA's internal controls over the award and contract administration of contracts during the last 5 years.

## Appendix B

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### Summary of Allegations and Audit Results

We conducted this audit in response to allegations made to the DoD Office of Inspector General through the DoD Hotline regarding improper contracting practices at the DMA. The Hotline complaint included allegations of procurement mismanagement and noncompliance. The allegation package included numerous supporting documents and covered a period of 2015 through 2020. We reviewed four allegations of improper contract award and administration. Below is a summary of the four allegations and our results.

**Allegation 1.** DMA contracting personnel improperly modified contract HQ0506-17-C-0010 to exercise an option year despite the COR's surveillance indicating the contractor's poor performance.

**Audit Results.** We did not substantiate the allegation. We determined that the contracting officer exercised the option after properly executing a determination and finding that stated that the contracting officer determined that the contractor is performing at an acceptable level of performance and that exercise of the option is most advantageous to the Government, price and other factors considered.

The complainant included a document that identified 14 negative observations of an information technology services contractor by two CORs in March, August, and September 2017. For example, the observations included open help desk tickets, lack of due diligence, and slow ticket response times. However, the contract file contained little documentation of regular contractor surveillance or regular reporting of contractor performance.

FAR 17.207 requires a contracting officer to consider the contractor's prior performance on the contract before exercising an option on the contract. However, FAR 17.207 permits a contracting officer to exercise the option despite poor contractor performance if the contracting officer believes that the Government's need for continuity of operations and potential disruption of operations outweighs other factors. The contracting officer considered the COR's negative observations but determined that it was in the Government's best interest to exercise the option.

Before the contracting officer issued the modification to exercise the contract option, the COR and the project manager signed a memorandum to the contracting officer stating that the contractor performance was marginal but the contract option should be exercised. The Determination and Findings to exercise the option stated:

There is a definite need for continuity of this service. Disruption would have a negative impact on the using organization in meeting their customer needs and in turn increase the cost of re-establishing satisfactory service due to the cost of re-solicitation and the possible increase in cost of service.

**Allegation 2.** The DMA had not taken followup actions in response to recommendations resulting from a DCMA PMR completed on December 7, 2018. The PMR cited several security issues and an \$8 million ADA violation identified during an audit conducted by the DMA Inspector General, but never completed.

**Audit Results.** We partially substantiated the allegation that the DMA did not take followup actions to the DCMA PMR completed in December 2018. We confirmed that a DCMA PMR team conducted a review and issued a report in December 2018. The report made 36 recommendations and 28 suggestions. We reviewed the PMR report and discussed the status of recommendations with DMA and DCMA personnel. We reviewed documentation of actions taken by DMA personnel in response to the PMR. We concluded that DMA personnel took some corrective actions in response to the PMR. DMA Acquisition and Procurement Division personnel issued several PPMs and other guidance beginning in January 2020. However, DMA contracting officials did not establish and implement quality controls to ensure that DMA contracting staff implemented the newly issued internal policy and guidance and corrected the contract award and administration deficiencies. We confirmed that the DMA Inspector General conducted an audit of a digitization contract from November 2015 through April 2016. However, the DMA Inspector General did not complete the audit or issue a report. We reviewed documentation provided in the DoD Hotline complaint. The documentation consisted of several PowerPoint presentations, memorandums, and e-mails. The PowerPoint presentations included bullet points of issues identified during the audit. However, the PowerPoint slides contained no supporting details. The DMA Inspector General confirmed that her staff had identified security concerns regarding employees working on the digitization contract. She stated that the auditor assigned to complete the audit was reassigned

to another component and took all of the supporting workpapers to complete the audit. However, the auditor retired without completing the audit. Without any supporting documentation, we could not substantiate or further conduct an audit on events that occurred in 2016.

We were unable to substantiate an allegation that DMA personnel committed an \$8 million ADA violation. We believe that the allegation originated from a November 2015 complaint to the DMA Inspector General. The complaint described an \$8 million unfunded requirement for digitization services but did not mention a potential ADA violation. We worked to identify additional information to substantiate the allegation. However, discussions with DMA personnel and our attempts to locate relevant documentation for contracts awarded before November 2015 were not sufficient to substantiate the allegation.

**Allegation 3.** A DMA contracting officer issued a backdated contract modification to increase contract funding in order to fund a period that had no funding.

**Audit Results.** We did not substantiate the allegation. We determined that a DMA contracting officer prepared a contract modification to fund a period of performance that occurred before the modification effective date and provided the modification to the contractor. The contractor signed and returned the modification; however, the contracting officer who prepared the modification was no longer employed by the DMA, and the next contracting officer did not sign or approve the modification and instead issued a new contract.

**Allegation 4.** DMA contracting personnel improperly exercised an option for an additional year of performance for contract HQ0028-16-C-0010 despite a COR denoting poor contractor performance.

**Audit Results.** We did not substantiate the allegation. We reviewed all available contract documentation provided by the DMA and from the complainant. The contract file did not contain documentation of regular contractor surveillance or regular reporting of contractor performance. Contracting personnel assigned to the contract had either retired or left the agency. The CPARS ratings for the contractor were positive for the period of March 2016 through February 2019. We did not identify any evidence to indicate poor contractor performance.

## Appendix C

### Contracts Reviewed

	Contract/Task Order Number	Base Contract Award Value	Item Description	Award Date
<b>Contracts Reviewed</b>				
1	HQ0516-18-D-0001	\$45,405,882	Professional training services	June 21, 2018
2	HQ0516-18-D-0002	25,000,000	Physical media digitization	September 20, 2018
3	HQ0516-19-C-0004	907,583	On-call preventative, routine, and 24-hour/365-day emergency HVAC maintenance	April 2, 2019
4	HQ0516-19-C-0013	2,000,000	Control room redesign	June 13, 2019
5	HQ0516-19-C-0008	9,583,628	Design, build, operate, and maintain an integrated streaming content service	August 16, 2019
6	HQ0516-19-C-0009	1,374,370	Enterprise radio automation system replacement	August 26, 2019
7	HQ0516-19-C-0015	1,340,083	Financial/audit support and records management	September 30, 2019
8	HQ0516-20-D-0004	1,340,440	Motion media and photojournalism courses	July 1, 2020
9	HQ0516-20-P-0010	681,388	Contracting officer support	April 1, 2020
<b>Total</b>		<b>\$87,633,374</b>		
<b>Base Contract HQ0516-18-D-0001 Task Orders Reviewed</b>				
1	HQ0516-18-F-0076	\$6,771,691	Instructor support services	June 21, 2018
2	HQ0516-18-F-0095	8,181,594	Course development support	September 1, 2018
3	HQ0516-18-F-0104	74,650	Consultancy services	August 16, 2018
4	HQ0516-18-F-0182	637,920	Project management support	September 26, 2018
5	HQ0516-18-F-0215	200,000	Social media training support	September 28, 2018
6	HQ0516-19-F-0026	39,000	Smartpass 75 pack	January 25, 2019
7	HQ0516-19-F-0039	45,037	Training support	February 25, 2019
8	HQ0516-19-F-0059	38,800	Training support	April 29, 2019
9	HQ0516-19-F-0094	1,042,504	Course development support	July 1, 2019
10	HQ0516-19-F-0104	162,028	Technical writer support	July 15, 2019
11	HQ0516-19-F-0129	2,204,008	Course development support	July 31, 2019
12	HQ0516-19-F-0175	72,481	Production project management software	September 27, 2019
13	HQ0516-20-F-0077	10,498	Workforce development training	August 10, 2020

*Contracts Reviewed (Cont'd)*

	Contract/Task Order Number	Base Contract Award Value	Item Description	Award Date
14	HQ0516-20-F-0080	\$17,955	Enrollment and course verification	August 10, 2020
15	HQ0516-18-F-0157	2,978,783	Media digitization	September 20, 2018
16	HQ0516-18-F-0220	1,000,000	Media digitization	September 30, 2018
17	HQ0516-19-F-0119	3,083,263	Media digitization	August 12, 2019
18	HQ0516-19-F-0181	1,000,000	Media digitization	September 30, 2019
19	HQ0516-20-F-0076	1,261,832	Media digitization	August 27, 2020
<b>Base Contract HQ0516-20-D-0004 Task Orders Reviewed</b>				
20	HQ0516-20-F-0057	1,038,764	Motion media course	July 1, 2020
<b>Total</b>		<b>\$29,860,808</b>		

Source: The DoD OIG.

## Appendix D

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### Acquisition and Procurement Policy and Guidance

The following policy and guidance issued by the DMA Acquisition, and Procurement Division were applicable during and after the DCMA 2018 PMR and the DMA Office of the Inspector General audits.

**Defense Media Activity, Acquisition and Procurement Division, Procurement Procedure Memorandum (PPM 20-01), “Headquarters, and Riverside – Level Review Requirements,” January 3, 2020**

PPM 20-01 states that Acquisition and Procurement Division personnel must obtain a headquarters-level review of all acquisitions regardless of value in accordance with this PPM. The PPM also states that acquisitions, regardless of value, must be reviewed at the headquarters level by the Chief of Contracting and the procurement analyst for Plans and Policy to ensure that procurement rules and regulations are properly executed and to obtain an outside perspective on proposed acquisition strategies.

**Defense Media Activity, Acquisition and Procurement Division, Procurement Procedure Memorandum (PPM 20-02), “Headquarters and Riverside – Staff Responsibilities and Assignments,” January 3, 2020**

PPM 20-02 provides policy for Acquisition and Procurement Division personnel responsibilities and assignments. Specifically, the PPM addresses the responsibilities and assignments of the contracting officer, contract specialist, and procurement analyst.

**Defense Media Activity, Acquisition and Procurement Division, Procurement Procedure Memorandum (PPM 20-03), “Headquarters and Riverside – Procurement Action Lead Time (PALT),” January 3, 2020**

PPM 20-03 provides policy for Acquisition and Procurement Division personnel on the procurement action lead-time. Specifically, the PPM provides information on the type of acquisition, the PALT minimum calendar days needed to complete, the PALT minimum calendar months needed to complete, and the cutoff date.

**Defense Media Activity, Acquisition and Procurement Division, Procurement Procedure Memorandum (PPM 20-04), “DMA Contracting Support to Army Multimedia and Visual Information Directorate (AMVID),” January 24, 2020**

PPM 20-04 states that in accordance with memorandum for agreement HQ05216-18239-001, the DMA has agreed to assume the full contracting function for all AMVID requirements effective October 1, 2019. The DMA will provide two dedicated personnel (General Schedule-1102-12) embedded with the AMVID Production Acquisition Division for contracting support services.

**Defense Media Activity, Acquisition and Procurement Division, Procurement Procedure Memorandum (PPM 20-05), and “File Index,” January 19, 2020**

PPM 20-05 provides policy for Acquisition and Procurement Division personnel on the appropriate use of the contract file index. Specifically, the PPM provides information on the contract instrument, the contract letter designation, and the contract file index to use.

**Defense Media Activity, Acquisition and Procurement Division, Procurement Procedure Memorandum (PPM 20-06), and “Market Research Report (MMR),” January 20, 2020**

PPM 20-06 states that contracting officers must ensure that market research is conducted in accordance with this PPM. The purpose of the PPM is to establish a method for documenting market research in accordance with FAR Part 10.

**Defense Media Activity, Acquisition and Procurement Division, Procurement Procedure Memorandum (PPM 20-07), “Director, Acquisition & Procurement, (acting) Contracting Philosophy,” (Unsigned), February 3, 2020**

PPM 20-07 provides the Director’s philosophy for the Acquisition and Procurement Division. The PPM identifies the division’s goal of providing the best value, performance, and customer service while maintaining a commitment to open communications, honesty, fairness, quality, and attention to detail.

**Defense Media Activity, Acquisition and Procurement Division Procurement Procedure Memorandum (PPM 20-08), “Post Award Orientation,” February 11, 2020**

PPM 20-08 provides policy to the Acquisition and Procurement Division personnel on the post-award orientation. The PPM establishes a requirement and guidance for post award orientations (conferences) process in consonance with FAR Subpart 42.5.

**Defense Media Activity, Acquisition and Procurement Division, Procurement Procedure Memorandum (PPM 20-09), “DMA’s Implementation of the Buy American Laws to Maximize the Use of Goods, Products and Materials Produced in the United States,” February 11, 2020**

PPM 20-09 applies to all acquisition and Government Purchase Card purchases. The PPM reinforces compliance with the Buy American Act in the DMA’s procurements in accordance with Executive Order 13788, “Buy American and Hire American,” April 18, 2017, and Office of Management and Budget Memorandum M-17-27, “Assessment and Enforcement of Domestic Preferences in Accordance with Buy American Laws,” June 30, 2017.

**Defense Media Activity, Acquisition and Procurement Procedure Memorandum (PPM 21-01) “Procurement Action Lead Time (PALT),” October 9, 2020**

PPM 21-01 defines the minimum number of days for contracting personnel to complete various tasks for different types of procurements for FY 2021.

**Defense Media Activity, Office of Acquisition and Procurement, Procurement Procedure Memorandum (PPM 21-02) “Exercising Options,” January 27, 2021**

PPM 21-02 ensures that contracting officers exercise all options in accordance with this PPM. This PPM supersedes any previously issued guidance or instruction on the subject. The PPM’s purpose is to establish procedures for exercising options and documenting the contract file in accordance with FAR 17.207. The PPM policy is that before a contracting officer exercises an option, the contracting officer must follow this memorandum’s procedures and document the contract file accordingly.

**Defense Media Activity Contracting Office Letter of Instruction (LOI) 10-01 “Review of Contractual Actions,” June 10, 2011**

LOI 10-01 establishes the procedure for the formal review of contractual actions generated by the contracting offices. Its purpose is to establish oversight procedures for processing acquisition actions. Acquisition actions include solicitations, awards, modifications, disputes, and protests. This LOI establishes the DMA Contract Review Board and the process for forwarding required documentation to the DLA, in compliance with Defense Logistics Acquisition Directive 5025.30, Subpart 1.690. The LOI also establishes procedures for actions such as protests, claims, terminations for convenience, and termination for default. The LOI is applicable to all members of the DMA contracting offices.

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**Defense Media Activity Contracting Office Letter of Instruction (LOI) 21-01  
“Review of Contractual Actions - Contract Review Board,” February 20, 2021**

LOI 21-01 establishes the procedure for the formal review of contractual actions generated by Acquisition and Procurement personnel. Its purpose is to establish oversight procedures for processing acquisition actions. Acquisition actions include solicitations, awards, modifications, disputes, and protests. This LOI establishes the DMA Contract Review Board in compliance with PPM 20-01. This LOI also establishes procedures for actions such as protests, claims, terminations for convenience, and termination for default. The LOI is applicable to all members of the DMA Acquisition and Procurement team.

**Defense Media Activity “Contracting Officer Representative (COR) Handbook,”  
February 14, 2020**

The DMA COR Handbook, written by the DMA Office Acquisition and Procurement, provides supplemental procedures and guidance to the DoD COR Handbook for CORs and any duly appointed alternates at the DMA. The DMA COR Handbook outlines the COR roles and responsibilities and the process for contract administration and management.

## Appendix E

### The DMA Improperly Obligated Funds on Services Task Orders for Periods Beyond the First 12 Months

DMA contracting personnel improperly used funds appropriated in one fiscal year to fund needs in a different fiscal year for contract HQ0516-18-D-0002. On September 19, 2018, DMA contracting personnel awarded contract HQ0516-18-C-0011, a labor hour multi-year service contract valued at \$25 million for media digitization.<sup>54</sup> On October 15, 2020, DMA contracting personnel listed contract HQ0516-18-C-0011 as a no cost cancelation and awarded contract HQ0516-18-D-0002, an indefinite-delivery indefinite-quantity, firm-fixed-price, multi-year service contract with a \$25 million ceiling, to provide media digitization. DMA contracting personnel awarded five task orders, valued at \$9.3 million, between September 20, 2018, and August 27, 2020, from contract HQ0516-18-D-0002. According to DMA program personnel, media digitization is a commodity; however, DMA contracting personnel treated the procurement of media digitization as a service. For example, the Federal Procurement Data System–Next Generation identified the contract as a service contract. In addition, the task orders identified the types of services provided, such as digitizing negatives and photographic material and compositing digital files from negatives into proof sheets.

DMA contracting personnel potentially violated the ADA for four of the five task orders by obligating \$1.7 million in Operations and Maintenance funds beyond the appropriations' period of availability. Under 31 U.S.C. § 1502(a) and 1552, an appropriation is typically available for obligation for a definite period. An agency must incur a legal obligation to pay money within an appropriation's period of availability. The time limitations apply to the obligation of funds, not the disbursement, or payment of them. Under 10 U.S.C. § 2410a, the DoD may award a severable services contract for a period not to exceed 12 months at any time during the fiscal year, funded completely with current appropriations.<sup>55</sup> The following bullets identify two examples of the potential ADA violations.

- On September 20, 2018, the DMA contracting personnel awarded a task order for still media, motion media, and other direct costs. The task order listed the price for each type service provided, such as digitizing negatives and photographic material at a cost of \$3.74 per item and

<sup>54</sup> A labor-hour contract is a variation of the time-and-materials contract, differing only in that the contractor does not supply materials.

<sup>55</sup> A service is severable if it can be separated into components that independently meet a separate need of the Government. Severable services are continuing or recurring in nature. Most service contracts are severable.

compositing digital files from negatives into proof sheets at a cost of \$7.43 per item. The task order indicated that the period of performance was from September 30, 2018, to September 29, 2019. The task order did not contain any option years. The task order appears to be a severable services contract because the services provided can be separated into components that independently meet the DMA's separate needs for digitizing services. DMA contracting personnel correctly obligated FY 2018 funds in the amount of \$3 million for the September 30, 2018, to September 29, 2019, time period. The period of performance for the task order was not extended by a written contract modification. However, services were provided in 2020 and 2021 and the DMA obligated FY 2018 funds for severable services for the time period after September 29, 2019, which is not within the appropriation's period of availability. As of September 29, 2019, the DMA contracting personnel had expended only \$0.9 million, leaving a balance of \$2.1 million. DMA contracting personnel obligated FY 2018 funds for severable services in the next program year and continued this practice through July 2021. Obligating 1-year funds for a period greater than 12 months for a severable service task order potentially constitutes an ADA violation related to the amounts associated with the time period after September 19, 2019.

- On August 12, 2019, the DMA contracting personnel awarded a task order for digitizing services for still media and motion media and other direct costs. The task order listed the price for each type service provided, such as digitization of magazine cost \$3.34 per page and project management cost \$180 per hour. The task order indicated that the period of performance was from August 12, 2019, to August 11, 2025. The task order appears to be a severable services contract because the services provided can be separated into components that independently meet DMA's separate needs for digitizing services. The DMA contracting personnel correctly obligated FY 2019 funds in the amount of \$3.1 million for the time period of August 12, 2019, through August 10, 2020. However, the DMA obligated FY 2019 funds for severable services for the time period after August 10, 2020, which was not within the appropriation's period of availability. As of July 28, 2021, DMA contracting personnel had expended \$0.6 million, leaving a balance of \$2.5 million. The DMA contracting personnel incorrectly obligated FY 2019 funds for severable services in the next program year and continued this practice through July 28, 2021. The DMA funded a total of \$0.3 million in FY 2019 obligations for services in the following program year. Obligating 1-year funds for a 4-year severable service task order potentially constitutes an ADA violation related to the amounts associated with the second, third and fourth year of the contract.

The DMA contracting personnel should have ensured that correct fiscal year funds were obligated for each program year and should have used the funds that were obligated for each program year for the cost of services provided in each program year. However, the DMA contracting officials did not adjust the estimated need for each program year or obligate appropriate fiscal year funds to meet the current needs. Rather, the DMA contracting personnel used obligated funds and recorded expenditures as they were invoiced, regardless of the program year for which the funds were obligated or in which the work was performed. See Table 6 for the contract HQ0516-18-D-0002 task orders for continuing and recurring services.

Table 6. Universe of DMA Contract HQ0516-18-D-0002 Task Orders

Task Order <sup>1</sup>	Task Award Date	Task Order Award Amount	Funding Type <sup>2</sup>	Task Order Fully Funded Before Award <sup>3</sup>	12-Month Base Period of Performance <sup>4</sup>	Amount Expended at the End of the 12-Month Base Period <sup>5</sup>	Subsequent Period of Performance <sup>6</sup>	Amount of Potential ADA Violation <sup>7</sup>	Total Amount Expended <sup>8</sup>	Invoice Payment Dates <sup>9</sup>
HQ0516-18-F-0157	9/20/2018	\$2,978,783	FY18MPH OM	Yes	9/20/2018 - 9/19/2019	\$893,902	9/30/2019 - 9/29/2020 9/30/2020 - 9/29/2021	\$648,098	\$1,542,000	4/12/2019 - 5/18/2021
HQ0516-18-F-0220	9/30/2018	1,000,000	FY18MPH OM	Yes	9/30/2018 - 9/29/2019	0	12/30/2019 - 9/29/2020 9/30/2020 - 9/29/2021	337,131	337,131	10/17/2019 - 6/14/2021
HQ0516-19-F-0119	8/12/2019	3,083,263	FY19MPH OM	Yes	8/12/2019 - 8/10/2020 <sup>10</sup>	592,979	8/11/2020 - 8/10/2021	312,779	905,758	12/18/2019 - 6/14/2021
HQ0516-19-F-0181	9/30/2019	1,000,000	FY19MPH OM	Yes	9/30/19 - 9/28/2020	637,653	9/29/2020 - 9/28/2021	362,347	1,000,000	4/23/2020 - 2/16/2021
HQ0516-20-F-0076	8/23/2020	1,261,832	FY20MPH OM	Yes	8/27/2020 - 8/26/2021	481,440	N/A	0	481,440	2/16/2021 - 7/26/2021
<b>Total</b>		<b>\$9,323,878</b>				<b>\$2,605,974<sup>11</sup></b>		<b>\$1,660,355<sup>11</sup></b>	<b>\$4,266,329<sup>11</sup></b>	

<sup>1</sup> Contract HQ0516-18-D-0002 task orders as of August 23, 2020.

<sup>2</sup> Operations and Maintenance funding is for 1 year (12 consecutive months).

<sup>3</sup> Appropriations approved for task order award amount.

<sup>4</sup> Base period of performance for 12 consecutive months reported in the Contractor Performance Assessment System as of March 18, 2021.

<sup>5</sup> Total amounts expended based on base period of performance dates.

<sup>6</sup> Period of performance dates after the base year period of performance dates reported in the Contractor Performance Reporting System as of March 19, 2021.

<sup>7</sup> Total amounts expended based on period of performance dates after base year.

<sup>8</sup> Total of invoice payments since the base period of performance as of July 22, 28, and 30, 2021.

<sup>9</sup> Dates of the first through last invoice payments as of July 22, 28, and 30, 2021.

<sup>10</sup> Period of performance on task order is for 72 consecutive months (August 12, 2020 – August 11, 2025).

<sup>11</sup> Amounts do not equal the actual amount expended because of rounding.

Source: The DoD OIG.

# Management Comments

## Assistant to the Secretary of Defense for Public Affairs



PUBLIC AFFAIRS

ASSISTANT TO THE SECRETARY OF DEFENSE  
1400 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1400

January 6, 2022

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL  
ATTN: PROGRAM DIRECTOR FOR AUDIT, ACQUISITION,  
CONTRACTING, AND SUSTAINMENT

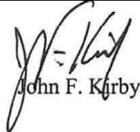
SUBJECT: Formal Comment on Draft OIG Report "Audit of Contracts Awarded and  
Administered by the Defense Media Activity," December 3, 2021 (Project No.  
D2020-D000AV-0176.000)

This memorandum provides a formal comment on Recommendation 5 of the subject draft DoD  
Office of the Inspector General report.

**Recommendation 5:** "We also recommend that the Assistant to the Secretary of Defense for  
Public Affairs, in conjunction with the Office of Defense Pricing and Contracting, request a work  
force study to determine whether the DMA has sufficient resources to effectively execute the  
contracting function."

This office agrees with the above recommendation as it could help determine the resources  
needed across DMA, not just in the contracting office. My office and DMA will work with the  
Office of Defense Pricing and Contracting to perform a workforce study on DMA contracting  
functions.

If your staff has any questions, my points of contact for this effort are [REDACTED]  
[REDACTED] for our Contracting Officer Representative,

  
John F. Kirby



## Defense Pricing and Contracting



ACQUISITION  
AND SUSTAINMENT

### OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

MEMORANDUM FOR PROGRAM DIRECTOR FOR AUDIT ACQUISITION,  
CONTRACTING, AND SUSTAINMENT, OFFICE OF THE  
INSPECTOR GENERAL

SUBJECT: Department of Defense Inspector General's Draft Report for Audit of Contracts  
Awarded and Administered by the Defense Media Activity (Project No. D2020-  
D00AV-0176.000)

As requested, I am providing a response to Recommendation 5 contained in the subject  
report.

**Recommendation 5:** We recommend that the Assistant to the Secretary of Defense for Public  
Affairs in conjunction with the Office of Defense Pricing and Contracting (DPC), request a  
workforce study to determine whether the Defense Media Activity has sufficient resources to  
effectively execute the contracting function.

**Response:** Concur. DPC concurs with Recommendation 5 and will support the Assistant to the  
Secretary of Defense for Public Affairs workforce study to assess whether the Defense Media  
Activity has sufficient resources to execute the contracting function.

My point of contact for this response is [REDACTED] who can be reached at  
[REDACTED], if additional information is required.

CALISTI.S  
COTT.R

*for* John M. Tenaglia  
Principal Director,  
Defense Pricing and Contracting

## Defense Media Activity



PUBLIC AFFAIRS

DEPARTMENT OF DEFENSE  
DEFENSE MEDIA ACTIVITY  
6700 TAYLOR AVENUE  
FORT MEADE, MD 20755-7061

January 7, 2022

MEMORANDUM FOR PROGRAM DIRECTOR FOR AUDIT, ACQUISITION,  
CONTRACTING, AND SUSTAINMENT, INSPECTOR  
GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Response to Inspector General Draft Report of Audit of Contracts Awarded and Administered by the Defense Media Activity

On December 3, 2021, I received your request to provide comments and feedback on the DoD OIG draft report for project D2020-D000AV-0176.000, "Audit of Contracts Awarded and Administered by the Defense Media Activity." My team and I reviewed the report and provide the following response on the five recommendations.

Recommendation	Agree/Disagree	Actions to be Taken/Plan to Take
1.a	Agree	The Director of Acquisition and Procurement is updating the Individual Development Plans (IPD) of each member of the contracting team to include training on contract file storage and maintenance. The Director will also ensure this requirement is included in the critical elements of each contracting employee's performance critical elements.
1.b	Agree	The Director of Acquisition and Procurement is developing a DoD365-J Teams capability where all contract files will be maintained in an electronic format. Additionally, DMA plans to transition to the DLA Enterprise CWaM system and sunset the PD2 system. The new system will provide a cloud-based solution that is easier to integrate with the DoD356-J.
1.c	Agree	The Director of Acquisition and Procurement has instructed that internal file reviews be conducted by the Procurement Analyst on a quarterly basis, as indicated in the employee's Performance Plan, to verify that the electronic contract file system documents contract administration responsibilities and contractor performance.
2	Agree	The Defense Media Activity Chief Financial Officer (CFO) will initiate a preliminary review in accordance with DoD Regulation 7000.14-R, "DoD Financial Management Regulation," Volume 14, Chapter 3, to determine whether reportable violations of the Antideficiency Act

## Defense Media Activity (cont'd)

		<p>occurred on contract HQ0516-18-D-0002. If violations of the Antideficiency Act occurred, the CFO will determine which officials are responsible and recommend corrective actions. Per DOD FMR, the preliminary review will be completed within four months from the date it is directed by the DoD Component.</p>
3.a	Agree	<p>The Director of Acquisition and Procurement is updating the Individual Development Plans (IPD) of each contracting employee to include training on all identified areas in recommendation 3.a. The Director will also ensure this requirement is included among the critical elements of each contracting person's performance critical elements.</p> <p>Also, at the time of the DoD OIG audit, the 2021 Procurement Management Review (PMR) was conducted and the PMR Team offered the following commendable: C.6.1. Proper documentation of Contracting Officer's Representative (COR) and utilization of the Joint Appointment Module (JAM) and Surveillance and Performance Monitoring (SPM).</p> <p>The PMR team was able to verify that Contracting Officers are appointing CORs if required, designating in writing the responsibilities and limits of authority with an appointment letter completed through JAM and SPM. COR training has been completed and validated as well.</p>
3.b	Agree	<p>The Director of Acquisition and Procurement will ensure that the Chief of Contracting designates or reassigns contracting personnel to perform contract award and administration functions when vacancies occur. This will be documented in a memo within the contracting file identifying the assignment of a new Contracting Officer.</p>
3.c	Agree	<p>The Director of Acquisition and Procurement issued PPM 21 on January 27, 2021, which established procedures for exercising options and documenting the contract file in accordance with FAR 17.207.</p>
4.a	Agree	<p>I am establishing a monthly acquisition and procurement report to be reviewed with DMA headquarters staff and Lines of Business leadership.</p>

## Defense Media Activity (cont'd)

4.b	Agree	All recommendations from the 2018 PMR have been resolved; the Corrective Action Plan (CAP) for the 2020 PMR is due January 31. A CAP for the open recommendations from the DMA Inspector General audits will be provided in A&P's monthly metrics report to the DMA Director until all recommendations are resolved.
4.c	Agree	Corrective actions taken on findings and recommendations from the DoD OIG audit and DMA IG audits will be tracked and reported to the DMA Director on a monthly basis through Microsoft Teams.
4.d	Agree	Contracting deficiencies will be included in the Acquisition and Procurement monthly metrics reporting to the DMA Director and will be briefed as a regular element of the monthly DRB meeting.
5	Agree	DMA has no objection to this recommendation but defers to the Assistant to the Secretary of Defense for Public Affairs for comment as this is not a DMA actionable item.

We appreciate your time and effort to help DMA improve its contract administration and management. [REDACTED] Director of Acquisition and Procurement, is the primary point of contact for these actions and can be reached [REDACTED].

PITTMAN.HAROLD

[REDACTED]  
H.E. Pittman  
Director

cc:  
Assistant to the Secretary of Defense for Public Affairs

## Acronyms and Abbreviations

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<b>ADA</b>	Antideficiency Act
<b>COR</b>	Contracting Officer's Representative
<b>CORT</b>	Contracting Officer Representative Tracking
<b>CPARS</b>	Contractor Performance Assessment Reporting System
<b>DCMA</b>	Defense Contract Management Agency
<b>DFARS</b>	Defense Federal Acquisition Regulation Supplement
<b>DLA</b>	Defense Logistics Agency
<b>DMA</b>	Defense Media Activity
<b>DPC</b>	Defense Pricing and Contracting
<b>FAR</b>	Federal Acquisition Regulation
<b>LOI</b>	Letter of Instruction
<b>ODA</b>	Other Defense Agency
<b>PGI</b>	Procedures, Guidance, and Information
<b>PIEE</b>	Procurement Integrated Enterprise Environment
<b>PMR</b>	Procurement Management Review
<b>PPM</b>	Procurement Procedure Memorandum
<b>QASP</b>	Quality Assurance Surveillance Plan



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