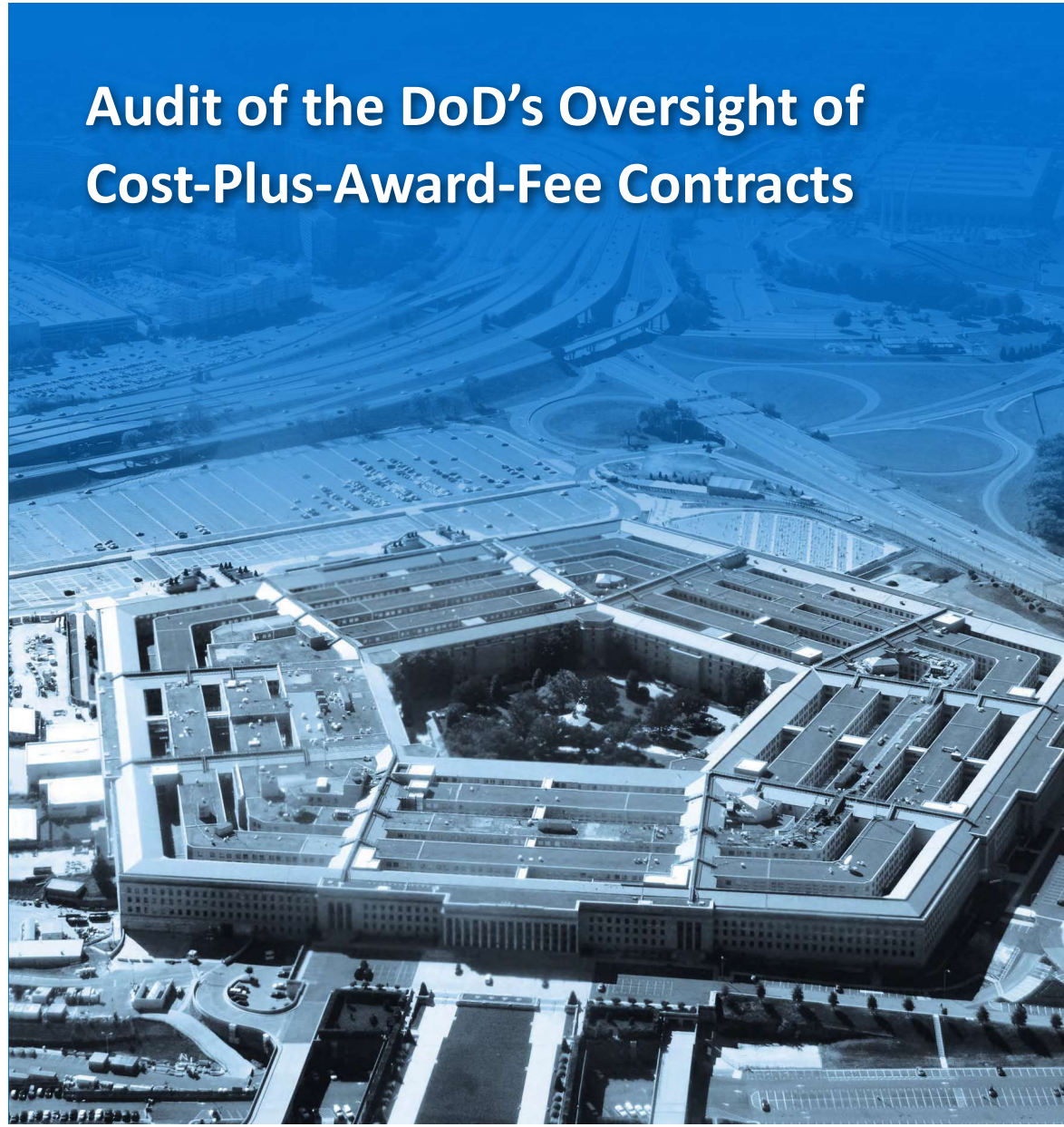




INSPECTOR GENERAL

U.S. Department of Defense

FEBRUARY 13, 2024



Audit of the DoD's Oversight of Cost-Plus-Award-Fee Contracts

INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE ★ TRANSPARENCY





Results in Brief

Audit of the DoD's Oversight of Cost-Plus-Award-Fee Contracts

February 13, 2024

Objective

The objective of this audit was to determine whether DoD contracting officials oversaw contractor performance and justified award fees paid for cost-plus-award-fee (CPAF) contract actions in accordance with Federal and DoD policies.

Background

A CPAF contract contains an award fee payable to incentivize the contractor to meet various performance measures. Contractors may earn all, part, or none of the award fee based on the Government's evaluation of contractor performance. Contracting officials must document the basis for all award-fee determinations, ensure sufficient funds are available for obligation, and prepare contractor surveillance reports.

Findings

DoD contracting officials generally provided effective oversight of the contractors' performance and justified award fees paid for the 27 CPAF contracts we reviewed. However, Army and Air Force officials did not properly justify award fees paid for three contracts. This occurred because the Army and Air Force did not have adequate controls to ensure that contracting officials complied with criteria related to the calculation and justification of award fees. As a result, the officials made overpayments of at least \$872,309 on two contracts and an improper payment of \$1,978,267 on the third contract.

Findings (cont'd)

Additionally, DoD contracting officials did not comply with Federal and DoD policies when performing contract administration and management for 21 of the 27, or 78 percent, of the CPAF contracts we reviewed. This occurred because the Military Departments and Defense agencies did not have adequate controls to ensure that contracting officials complied with criteria related to the administration and management of CPAF contracts. As a result, the Military Departments and Defense agencies increased the risk that contractors were not properly incentivized. Additionally, Navy contracting officials inappropriately obligated \$2.2 million.

Lastly, the DoD did not accurately account for the universe of CPAF contracts and award fees paid to contractors. This occurred because the Defense Pricing and Contracting did not establish and implement a DoD-wide solution to capture CPAF contract data. As a result, reports supporting the quantity and dollar values associated with DoD CPAF contracts were not reliable, and the DoD was unable to make informed decisions on the effectiveness of CPAF contracts.

Recommendations

We made 12 recommendations to address the findings in this report, including recommendations for contracting officials to recalculate the award-fee amounts earned by the contractors, pursue compensation for overpayments, and not allow contractors to begin work without an approved award-fee plan.

Management Comments and Our Response

The Military Departments and Defense agencies agreed with the 12 recommendations. However, the comments did not fully address 2 recommendations; therefore, 10 recommendations are resolved and 2 are unresolved. All 12 recommendations remain open.



Results in Brief

Audit of the DoD's Oversight of Cost-Plus-Award-Fee Contracts

Comments (cont'd)

For the two unresolved recommendations, the Deputy Assistant Secretary of the Army (Procurement) did not address the specifics of the recommendation for ensuring contracting officials follow Federal and DoD contract administration and management requirements, and the Principal Director of Defense Pricing and Contracting did not provide specific actions to address the recommendation for evaluating the effectiveness of award fees paid.

Since two recommendations in this report remain unresolved, we request additional comments on the final report within 30 days. Please see the Recommendations Table on the next page for the status of recommendations.

Recommendations Table

| Management | Recommendations Unresolved | Recommendations Resolved | Recommendations Closed |
|---|----------------------------|--------------------------|------------------------|
| Assistant Secretary of the Army (Acquisition, Logistics, and Technology) | B.1.a | None | None |
| Assistant Secretary of the Navy (Research, Development, and Acquisition) | None | B.1.b | None |
| Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics) | None | A.2.a, A.2.b, B.1.c | None |
| Principal Director of Defense Pricing and Contracting | C.1.b | C.1.a | None |
| Director of Acquisitions, Contracts, and Logistics, Defense Threat Reduction Agency | None | B.1.d | None |
| Director of Contracting, Missile Defense Agency | None | B.1.e | None |
| Commanding General, Army Mission and Installation Contracting Command | None | A.1.a, A.1.b | None |
| Director of Contracting, Air Force Space Systems Center | None | A.3 | None |

Please provide Management Comments by March 14, 2024.

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** – DoD OIG verified that the agreed upon corrective actions were implemented.





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

February 13, 2024

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION
AND SUSTAINMENT
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, MISSILE DEFENSE AGENCY
AUDITOR GENERAL, DEPARTMENT OF THE ARMY
AUDITOR GENERAL, DEPARTMENT OF THE NAVY
AUDITOR GENERAL, DEPARTMENT OF THE AIR FORCE

SUBJECT: Audit of the DoD's Oversight of Cost-Plus-Award-Fee Contracts
(Report No. DODIG-2024-055)

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.

This report contains two recommendations that we consider unresolved because management officials did not fully address the recommendation. Therefore, as discussed in this report, the recommendations will remain unresolved until an agreement is reached on the actions management officials will take to address the recommendations. Once an agreement is reached, the recommendations will be considered resolved but will remain open until we receive documentation showing that the agreed-upon actions are complete. Once we verify that the actions are complete, we will close the recommendations.

This report contains 10 recommendations that we consider resolved. Therefore, as discussed in this report, the recommendations will remain open until we receive documentation showing that the agreed-upon actions are complete. Once we verify that the actions are complete, we will close the recommendations.

DoD Instruction 7650.03 requires that recommendations be resolved promptly. Therefore, within 30 days please provide us your response concerning specific actions in process or alternative corrective actions proposed on the recommendation. Send unclassified responses to audclev@dodig.mil. For the resolved recommendations, please provide us documentation showing you have completed the agreed-upon action within the estimated completion dates. Please send your documentation for the resolved recommendations as a PDF to followup@dodig.mil.

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

FOR THE INSPECTOR GENERAL:

A handwritten signature in black ink, appearing to read "Carmen J. Malone", is positioned above the printed name.

Carmen J. Malone
Assistant Inspector General for Audit
Acquisition, Contracting, and Sustainment

Contents

Introduction

| | |
|------------------|---|
| Objective | 1 |
| Background | 1 |

Findings

| | |
|--|----|
| Finding A. The DoD Generally Provided Effective Oversight of Contractors’ Performance and Justified Award Fees Paid on Cost-Plus-Award-Fee Contracts..... | 5 |
| DoD Contracting Officials Oversaw Contractor Performance in Accordance with Guidance..... | 5 |
| Award-Fee Justifications Were Generally Supported..... | 6 |
| Army and Air Force Award Fees Were Not Supported for Three Contracts | 7 |
| Award-Fee Controls for Three Contracts Were Inadequate | 8 |
| Conclusion..... | 10 |
| Management Comments on the Finding and Our Response..... | 11 |
| Recommendations, Management Comments, and Our Response | 11 |
| Finding B. The DoD Needs to Improve Contract Administration and Management of Cost-Plus-Award-Fee Contracts..... | 16 |
| Contract Administration and Management Needs Improvement..... | 16 |
| Contract Administration and Management Controls Were Inadequate..... | 21 |
| Conclusion..... | 22 |
| Management Comments on the Finding and Our Response..... | 22 |
| Recommendation, Management Comments, and Our Response | 24 |
| Finding C. The DoD Did Not Accurately Account for Cost-Plus-Award-Fee Contract Data..... | 27 |
| Methods Used to Provide Contract Data Were Not Accurate..... | 27 |
| The DoD Does Not Have Processes for Data Consistency and Monitoring..... | 28 |
| Conclusion..... | 29 |
| Recommendations, Management Comments, and Our Response..... | 29 |

Contents (cont'd)

Appendixes

| | |
|---|----|
| Appendix A. Scope and Methodology..... | 31 |
| Internal Control Assessment and Compliance..... | 33 |
| Use of Computer-Processed Data..... | 33 |
| Use of Technical Assistance..... | 34 |
| Prior Coverage..... | 34 |
| Appendix B. Potential Monetary Benefits..... | 36 |
| Appendix C. Administration and Management Deficiencies..... | 37 |

Management Comments

| | |
|---|----|
| Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology)..... | 38 |
| Office of the Assistant Secretary of the Navy (Research, Development, and Acquisition)..... | 39 |
| Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics)..... | 41 |
| Office of the Assistant Secretary of the Air Force (Space Acquisition and Integration)..... | 43 |
| Defense Pricing and Contracting..... | 45 |
| Defense Threat Reduction Agency..... | 46 |
| Missile Defense Agency..... | 47 |
| Army Mission and Installation Contracting Command..... | 48 |
| Army Materiel Command..... | 50 |
| Army Contracting Command..... | 51 |

| | |
|--|-----------|
| Acronyms and Abbreviations..... | 52 |
|--|-----------|



Introduction

Objective

The objective of this audit was to determine whether DoD contracting officials oversaw contractor performance and justified award fees paid for cost-plus-award-fee (CPAF) contract actions in accordance with Federal and DoD policies. See Appendix A for a discussion of the scope, methodology, and prior coverage related to the objective.

Background

The Federal Acquisition Regulation (FAR) and Defense FAR Supplement (DFARS) provide guidance for awarding and administering CPAF contracts. The regulations group contracts into two major categories—fixed-price contracts and cost-reimbursement contracts. The Government uses fixed-price contracts when it can sufficiently estimate a contractor's costs for producing a product or providing a service. Contractors receive a fixed price regardless of whether the actual cost of the product or service differs from that fixed price. For fixed-price contracts, the contractor has responsibility for the performance costs and resulting profit (or loss), making these contracts a more advantageous choice when the Government can accurately estimate costs. The Government uses cost-reimbursement contracts when uncertainties involved in contract performance do not permit the Government to estimate costs with sufficient accuracy to use a fixed-price contract. Contractors are paid for the allowable costs incurred to provide the product or service plus an agreed-to profit.¹ Cost-reimbursement contracts are riskier for the Government because of the potential for cost escalation, and the Government pays the allowable costs regardless of whether the contractor completes work by the end of the contract term. Cost-reimbursement contracts require additional oversight because the contracts provide little to no incentive for a contractor to limit costs.

A CPAF contract is a type of cost-reimbursement contract that contains an award fee payable to the contractor, consisting of a base amount and an award amount to encourage and reward superior performance related to the Government's identified outcomes. Contractors are entitled to the entire base fee, which is set at the contract's inception. Contractors may earn an award fee based on the Government's evaluation of the contractor's performance on factors including quality of work, timeliness, technical ingenuity, and cost-effectiveness.

¹ FAR Part 31, "Contract Cost Principles and Procedures," provides examples of allowable costs. These examples include labor, material, supplies, equipment, and other direct costs.

FAR 16.401 requires the Head of Contracting Activity to sign a Determinations and Findings document to demonstrate that a CPAF contract is in the best interest of the Government.² Upon completion of a Determinations and Findings document, contracting officials are required to prepare an award-fee plan to establish procedures and criteria for evaluating the contractor's performance. Depending on the contractor's performance level, the contractor can receive all, a portion, or none of the award-fee pool. An award-fee pool is an amount of funds used as an incentive for the contractor to meet various performance measures and should be committed as an estimated amount and obligated when earned.³ Contractors begin each evaluation period with 0 percent of the available award-fee pool and work up to the award fee earned.⁴

Contract Administration and Oversight Responsibilities

Defense Pricing and Contracting (DPC), within the Office of the Assistant Secretary of Defense for Acquisition, is responsible for collecting procurement data and improving data accuracy as well as issuing and updating DoD contracting policy. DPC guidance states that CPAF contracts can be an administrative burden on contracting officials due to the high level of oversight required.⁵ FAR 1.6 and 42.302 identify the individuals and offices charged with performing contractor oversight and contract administration and management. Contract administration and management includes completing CPAF documentation, ensuring that sufficient funds are available for obligation, appropriately distributing award fees over all evaluation periods, and preparing contractor surveillance reports. The individuals and offices tasked with these responsibilities include the contracting officer, the contract administration office, and the contracting officer's representative (COR).⁶

The contracting officer is responsible for ensuring compliance with all legal, regulatory, and procedural requirements before issuing a contract. This includes completing all required CPAF contract documentation and documenting it in the contract file. The contracting officer is also responsible for ensuring that sufficient funds are available for obligation, appropriately distributing award fees over all evaluation periods, and designating and authorizing a COR in writing. The contracting officer commonly delegates the contract administration functions to a contract administration office.

² FAR Part 16, "Types of Contracts," Subpart 16.4 "Incentive Contracts," Section 16.401, "General."

³ According to the DoD Regulation 7000.14-R, "DoD Financial Management Regulation", volume 3, chapter 8 and the glossary, commitments are the administrative reservation of funds in anticipation of an obligation. Obligations are recorded when the Government enters into a legally binding agreement of payment for specific goods and services.

⁴ Director, Defense Procurement and Acquisition Policy memorandum, "Guidance on Using Incentive and Other Contract Types," April 1, 2016.

⁵ Director, Defense Procurement and Acquisition Policy memorandum, "Guidance on Using Incentive and Other Contract Types," April 1, 2016.

⁶ FAR Part 1, "Federal Acquisition Regulation System," Subpart 1.6, "Career Development, Contracting Authority, and Responsibilities," and FAR Part 42, "Contract Administration and Audit Services," Subpart 42.3, "Contract Administration Office Functions," Section 42.302, "Contract Administration Functions."

The contract administration office is responsible for oversight functions that could include:

- ensuring that the contractor provides timely notification of any anticipated cost overrun or underrun and complies with the contract's quality assurance requirements;
- performing production support, surveillance, and status reporting, including timely reporting of potential and actual slippages in the contract delivery schedule;
- negotiating and executing supplemental agreements providing for the de-obligation of unexpended dollar balances considered excess to known contract requirements; and
- preparing evaluations of contractor performance.

The COR is responsible for monitoring, evaluating, and assessing contractor performance and establishing and maintaining a contractor performance file. The COR may use the quality assurance surveillance plan to ensure that contractors comply with all contract requirements and that overall performance is comparable with the level of payments made throughout the life of the contract.

Award-Fee Determination

The award-fee board, as identified in the award-fee plan, receives contractor performance input from contracting and program officials. The award-fee board makes a recommendation, based on the performance input and evaluation criteria, to the Fee-Determining Official (FDO) on the award-fee rating and how much the contractor should earn at the end of an evaluation period. The FDO is required to make the final award-fee rating determination and prepare a letter to the contractor with the award fee earned, the contractor's performance rating, justification for the rating, and amount earned based on the rating. FAR 16.401 states that award fees must be comparable with contractor performance over a range from satisfactory to excellent. The FAR also emphasizes that unsatisfactory performance is not entitled to any award fee and that satisfactory performance should earn considerably less than excellent performance. In all cases, contracting officials must document the basis for all award-fee determinations in the contract file.

Award fees must be comparable with contractor performance over a range from satisfactory to excellent.

Our Universe and Sample

The DPC identified that DoD contracting offices awarded 52 CPAF contracts from FY 2019 through FY 2021. We nonstatistically selected 27 of these contracts, with an estimated value of \$31.8 billion at time of award. Of the 27 contracts we selected, contracting officials did not pay award fees on 6 contracts before the end of FY 2022. Table 1 identifies the universe and nonstatistical sample, which includes contracts from all Military Departments and two Defense agencies.

Table 1. DoD OIG Audit Universe and Sample

| DoD Organization | Contracts in Universe | Contracts in Sample | Sample Contract Value (in Billions) |
|---------------------------------|------------------------------|----------------------------|--|
| Army | 1 | 1 | \$0.01 |
| Navy | 36 | 15 | \$22.29 |
| Air Force | 8 | 4 | \$5.41 |
| Defense Threat Reduction Agency | 1 | 1 | \$0.54 |
| Missile Defense Agency | 6 | 6 | \$3.57 |
| Total | 52 | 27 | \$31.82 |

Source: The DPC and DoD OIG.

Finding A

The DoD Generally Provided Effective Oversight of Contractors' Performance and Justified Award Fees Paid on Cost-Plus-Award-Fee Contracts

DoD contracting officials generally provided effective oversight of contractors' performance and justified award fees paid on CPAF contracts in accordance with Federal policies for the 27 CPAF contracts we reviewed. However, Army and Air Force officials did not properly justify award fees paid for three contracts. This occurred because the Army and Air Force did not have adequate controls to ensure that contracting officials complied with criteria related to the calculation and justification of award fees. As a result, Army and Air Force contracting officials overpaid at least \$872,309, but this amount could increase once the Army and Air Force recalculate the award fees. Additionally, Air Force contracting officials improperly paid \$1,978,267 in award fees that the contractor may not have earned.

DoD Contracting Officials Oversaw Contractor Performance in Accordance with Guidance

DoD contracting officials generally provided effective oversight of contractors' performance in accordance with Federal policies for the 27 CPAF contracts we reviewed. FAR 16.301-3 states that award-fee contracts may be used only when appropriate Government surveillance exists

during performance.⁷ DoD contracting officials complied with this criterion by preparing an award-fee plan, quality assurance surveillance plan, or other performance assessment plan to identify the roles and responsibilities for monitoring contractor performance for 26 of

DoD contracting officials generally provided effective oversight of contractors' performance in accordance with Federal policies for the 27 CPAF contracts we reviewed.

the 27 contracts. One contract did not have an award-fee plan or surveillance plan at contract award; however, contracting officials finalized the award-fee plan before the contract's second evaluation period.⁸

⁷ FAR Part 16, "Types of Contracts," Subpart 16.3, "Cost-Reimbursement Contracts," Section 16.301, "General," Subsection 16.301-3, "Limitations."

⁸ We discuss the lack of award-fee plan for this contract later within Finding A.

In addition to identifying award-fee criteria, contracting officials generally performed contractor oversight in accordance with the award-fee and surveillance plans. The officials documented their oversight within contractor evaluation worksheets and status reports. Additionally, the contracting officials explained their process of holding meetings with contractors throughout the evaluation period to discuss how to maintain or improve performance.

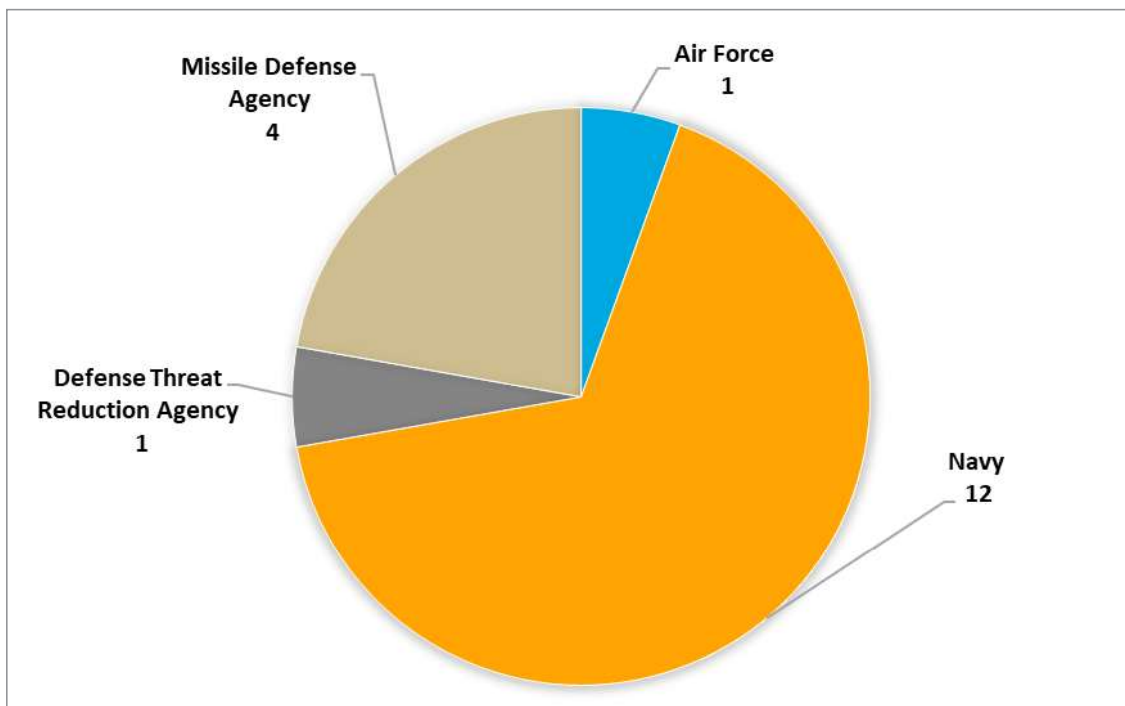
Award-Fee Justifications Were Generally Supported

DoD contracting officials justified \$33.2 million in award fees paid to contractors in accordance with Federal policy for 18 (86 percent) of 21 CPAF contracts.

DoD contracting officials justified \$33.2 million in award fees paid to contractors in accordance with Federal policy for 18 (86 percent) of 21 CPAF contracts.⁹ FAR 16.401 states that the basis for the award-fee determination must be documented in the contract file.

Figure 1 shows a breakout of the 18 supported award fees by Military Department and Defense agency. For the 18 contracts, DoD contracting officials supported the award fee by documenting the evaluation criteria, conducting surveillance, and ensuring that the award-fee determination was in line with the award-fee plan performance criteria.

Figure 1. Breakout of Supported Award Fees by Military Department and Defense Agency



Source: The DoD OIG.

⁹ Contracting officials did not pay award fees on 6 of the 27 contracts before the end of FY 2022; therefore, we did not include these when determining whether the award fee was justified.

For example, the Naval Facilities Engineering Systems Command Atlantic prepared the award-fee plan, which contained surveillance requirements and award-fee evaluation criteria. The Naval Facilities Engineering Systems Command Atlantic also prepared monthly status reports that documented the contractor's performance and any variances. Specifically, the contracting officials noted in the status reports whether the contractor was on schedule and on budget. The award-fee board justified the contractor's rating based on the comments and recommended ratings provided by the CORs related to the contractor's performance in three categories: (1) technical services, (2) task and program management, and (3) cost control. The award-fee board and FDO documented the rationale for the 96 percent rating using specific examples and provided feedback to the contractor to improve future performance.

In another example, the Missile Defense Agency (MDA) provided an expectation letter to the contractor to explain the criteria for each of the period's performance focus areas. Additionally, the MDA program office prepared monthly surveillance reports, and the performance monitors evaluated the contractor at mid-term and at the end of the period of performance. The award-fee board documented the rating rationale for 81 percent, and the FDO explained ways to improve future performance.

Army and Air Force Award Fees Were Not Supported for Three Contracts

Although the DoD justified the award fees paid on a majority of the CPAF contracts in our sample, Army and Air Force contracting officials did not properly justify award fees paid for three CPAF contracts in accordance

Army and Air Force contracting officials did not properly justify award fees paid for three CPAF contracts.

with Federal policies. FAR 16.401 states that an award-fee plan establishes the procedures for evaluating the award fee. The FAR also states that award fees must be comparable with contractor performance and that the contractor will not earn an award fee if the contractor's overall performance is below "Satisfactory." In all cases, contracting officials must document the basis for all award-fee determinations in the contract file.

The Army Mission and Installation Contracting Command's (MICC) award-fee plan stated that the contractor should earn award fees only on labor and subcontractor costs and that the base fee should not exceed 2 percent of the total labor, materials, supplies and equipment, and subcontractor cost. However, Army contracting officials did not follow the award-fee plan and could not justify at least \$872,309 in fees to the contractor. Specifically, Army officials paid \$160,808 in unallowed

award fees based on costs for material, supplies, and equipment. In addition, the Army officials paid an average base fee of 7.18 percent, which was \$711,501 more than the allowed base fee of \$274,753. An Army contracting official stated that it was possible contracting officials followed the same process on the 2009 legacy CPAF contract. If that is the case, there is a potential that the contractor received millions of dollars on the previous contract in award fees that were not in accordance with the award-fee plan.

Air Force Nuclear Weapons Center contracting officials awarded a contract and the contractor performed work for more than 6 months without an approved award-fee plan. FAR 16.401 states that the contractor's performance is required to be measured against contract requirements listed within the award-fee plan. Without an approved award-fee plan, the Government could not assess the contractor's performance against the plan's requirements. Therefore, contracting officials inappropriately awarded the contractor 100 percent of the available award fee for the period and had no documentation to support that the contractor earned the entire award-fee amount of \$1,978,267.

For another contract, the Air Force Space Systems Center award-fee board recommended that the contractor receive no contract award fee for one evaluation period. The board's recommendation complied with the award-fee plan because the award-fee board assessed the contractor's performance as "Unsatisfactory." However, the FDO disagreed with the board's recommendation and noted in a memorandum the belief that the contractor's performance merited an award fee. Therefore, the FDO changed the amount to 50 percent which, according to the award-fee plan, equated to a "Satisfactory" rating. Although the award-fee plan provides the FDO this authority, the contract file did not contain adequate support to justify the \$187,160 in award fees paid to the contractor.

Award-Fee Controls for Three Contracts Were Inadequate

DoD contracting officials did not substantiate award fees paid on three contracts because the Army and Air Force did not have adequate controls to ensure that contracting officials complied with criteria related to the calculation and justification of award fees. Specifically, the Army did not calculate the award fee in accordance with its award-fee plan. In addition, the Air Force did not have processes to monitor contractor performance for one contract and justify award-fee ratings for another contract.

Army MICC contracting officials did not follow their award-fee plan when calculating the award-fee amount earned. An Army MICC contracting officer stated that they used a spreadsheet provided by a previous contracting official. The contracting officer did not question the percentage or calculations because this contract was an extension of services from a legacy contract and they did not have experience administering CPAF contracts. They were aware that there were problems with the award-fee calculation, but planned to address them during contract closeout. Additionally, an Army MICC contracting official stated that the MICC initiated the use of 12 checklists in mid to late 2022, which was after the contract within our sample was awarded, to help ensure that they were following the FAR and DFARS. These checklists explain what documentation needs to be in the contract file and what requirements contracting officials should follow. When asked whether there are other controls in place now that could have prevented the overpayment to the contractor, Army contracting officials stated that since the contract was awarded, contracting personnel have received additional general contract training. However, we were not able to validate whether these controls were sufficient to address the issues we identified. Therefore, the Commanding General, Army MICC, should establish and implement a process that ensures contracting officials calculate the contractor's award fees in accordance with the approved award-fee plan criteria. In addition, the contracting officials should recalculate the prior award-fee amounts earned by the contractor to identify overpayments. The calculations should be done for the current and prior contract this contractor was awarded. Once that is completed, the contracting officer should pursue compensation from the contractor for overpayments, including the \$872,309 identified in this report.

The Air Force Nuclear Weapons Center did not have a process that required an award-fee plan to be in place before contract award. According to Air Force Nuclear Weapons Center officials, there are checklists to help contracting officials ensure that they are following the regulations. However, the officials added that it was not uncommon to finalize the award-fee plan 30 days after contract award for major competitive awards. This action does not meet the FAR 16.401 requirement to have an award-fee plan in place to evaluate a contractor's performance. Because the officials did not have an award-fee plan in place and did not evaluate contractor performance, they are unable to recalculate the proper award-fee amount. Therefore, the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), should direct Air Force Nuclear Weapons Center officials to establish and implement a process that ensures contracting officials do not allow the contractor to begin work without an approved award-fee plan that documents how the contractor's performance will be assessed.

Finally, Air Force Space Systems Center officials did not have a process to ensure that contracting officials supported and justified award-fee changes. For example, the FDO directed contracting officials to change the award-fee board's recommended rating, which enabled the contractor to receive an award fee. However, the FDO did not provide adequate documentation to substantiate the change. Air Force Space Systems Center officials acknowledged that support should have been included within the contract file when the FDO's determination differs from the award-fee board recommendation. However, the officials were not able to explain why this did not occur or identify what would prevent this from occurring again in the future. The contracting officials should have ensured that the FDO's rationale was documented within the contract file at the time the rating changed. Therefore, the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), should direct Air Force Space Systems Center officials to establish and implement a process that ensures contracting and program officials support and justify any award-fee changes within the contract file in a timely manner. In addition, the contracting officials should recalculate the award-fee amounts earned by the contractor if the FDO's rating change cannot be supported. Once that is completed, the contracting officer should pursue compensation from the contractor if any portion of the \$187,160 is not supported.

Conclusion

Effective oversight ensures that the DoD is aware of the contractors' level of performance and that contractors receive the award fees they earn. Conversely, without adequate controls to ensure that contracting officials comply with criteria related to the justification of award fees paid to contractors, contracting officials risk overpaying the contractors. Army and Air Force contracting officials made

Army and Air Force contracting officials made overpayments of at least \$872,309 and an improper payment of \$1,978,267.

overpayments of at least \$872,309 and an improper payment of \$1,978,267. Once the Army MICC and Air Force Nuclear Weapons Center recalculate the award-fee amounts earned by

the two contractors, there is a potential that the contractors received millions of dollars in award fees that they did not earn.¹⁰ Overpaying award fees to contractors defeats the purpose of using a CPAF contract type and provides little to no motivation for the contractors to enhance performance.

¹⁰ See Appendix B for a listing and explanation of the potential monetary benefits found during our work on this audit.

Management Comments on the Finding and Our Response

Deputy to the Commanding General, Army Mission and Installation Contracting Command Comments

The Deputy to the Commanding General, Army MICC, wrote that an Army official's statement about an improper award-fee process possibly used on a 2009 legacy contract and our finding that this may have resulted in an improper award fee should not be accepted as factual until a full review is performed on the legacy contract. The Deputy added that the MICC assigned a cost and price analyst to perform a review of the award-fee application on the 2009 legacy CPAF contract and that the initial review will be completed by April 1, 2024.

Our Response

We appreciate the Deputy to the Commanding General's comment that it should not be accepted as fact that the contractor received millions of dollars in award fees on the 2009 legacy CPAF contract until a review is performed. However, in our finding, we presented the Army contracting official's statement that an improper process may have been used and, if so, that this may have resulted in an improper award fee. These statements are further supported by the contract award-fee calculation document provided by the contracting official, which we were told was also used on the 2009 legacy contract. Therefore, we did not revise those statements in the finding section.

Recommendations, Management Comments, and Our Response

Recommendation A.1

We recommend that the Commanding General, Army Mission and Installation Contracting Command:

- a. **Establish and implement a process that ensures contracting officials calculate the contractor's award fees in accordance with the approved award-fee plan criteria.**

Commanding General, Army Mission and Installation Contracting Command Comments

The Deputy to the Commanding General, Army MICC, responding for the Commanding General, Army MICC, agreed with the recommendation, stating that in 2021 the MICC established a cost and price division and instituted standard operating procedures that require the assignment of a cost and price analyst to

cost-reimbursement contracts valued at \$2 million or more. This division and the standard operating procedures will support MICC contracting offices with the proper cost and price techniques. In addition, the MICC has focused on phasing out CPAF contracts and replacing them with less risky contract arrangements. Currently, the MICC has only one active CPAF contract.

Deputy Commanding General, Army Materiel Command

Although not required to comment, the Deputy Commanding General, Army Materiel Command endorsed responses from the Army Contracting Command.

Commanding General, Army Contracting Command Comments

Although not required to comment, the Commanding General, Army Contracting Command agreed with the recommendation, stating that the MICC Commander has established and implemented a process that ensures contracting officials calculate the contractor's award fees in accordance with the approved award-fee plan criteria.

Our Response

Comments from the Deputy to the Commanding General, Army MICC and the Commanding General, Army Contracting Command addressed the specifics of the recommendation. During the audit, Army officials did not inform us and provide documentation for the actions that took place in 2021. Based on this new information, we will close the recommendation once Army officials provide documentation to demonstrate that there are procedures in place requiring the assignment of a cost and price analyst to cost-reimbursement contracts and establishing sufficient responsibilities to ensure the analyst calculates the award fees in accordance with the approved award-fee plan criteria.

- b. Require the contracting officials to recalculate the prior award-fee amounts earned by the contractor to identify overpayments. The calculation should be done for the current and previous contract this contractor was awarded. Once that is complete, the Commanding General should require the contracting officer to pursue compensation from the contractor for overpayments, including the \$872,309 identified in this report.**

Commanding General, Army Mission and Installation Contracting Command Comments

The Deputy to the Commanding General, Army MICC, responding for the Commanding General, Army MICC, agreed with the recommendation, stating that a cost and price analyst was assigned on December 1, 2023 to assist with the recommendation. By May 31, 2024, the analyst will review the contract and

recalculate the award fee according to the award-fee plan. In addition, Army MICC officials will pursue all remedies to recover any award-fee overpayment in accordance with the contract.

Deputy Commanding General, Army Materiel Command

Although not required to comment, the Deputy Commanding General, Army Materiel Command endorsed the responses from the Army Contracting Command.

Commanding General, Army Contracting Command Comments

Although not required to comment, the Commanding General, Army Contracting Command agreed with the recommendation, stating that the MICC Commander will require contracting officials to recalculate prior award-fee amounts to identify any overpayments by May 31, 2024. The Commander will then require the contracting officials to explore all alternatives to recoup overpayments, including the \$872,309 identified during the audit.

Our Response

Comments from the Deputy to the Commanding General, Army MICC and the Commanding General, Army Contracting Command addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once Army officials provide documentation to demonstrate that the analyst recalculated the award fees and the contracting officials attempted to recover any overpayments from the contractor.

Recommendation A.2

We recommend that the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), direct the:

- a. Air Force Nuclear Weapons Center Director of Contracting to establish and implement a process that ensures contracting officials do not allow the contractor to begin work without an approved award-fee plan that documents how the contractor's performance will be assessed.**

Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics) Comments

The Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), responding for the Deputy Assistant Secretary for Contracting, agreed with the recommendation, stating that the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and

Logistics) will distribute a memorandum by February 2024. The memorandum will remind contracting officials to follow procedures in accordance with Federal and DoD policies, and to ensure award-fee plans are approved before contractor performance and award-fee changes are supported, justified, and documented in the contract file in a timely manner. The Assistant Secretary also stated that the Department of the Air Force Award-Fee Guide will be updated and distributed by July 2024.

Our Response

Comments from the Assistant Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once Air Force officials provide copies of the issued memorandum and the Award-Fee Guide and we verify those documents include sufficient procedures for approving award-fee plans and including appropriate award-fee documentation in the contract file.

- b. Air Force Space Systems Center Director of Contracting to establish and implement a process that ensures contracting officials support and justify any award-fee changes within the contract file in a timely manner.**

Air Force Space Systems Center Director of Contracting Comments

The Assistant Secretary of the Air Force (Space Acquisition and Integration), responding for the Deputy Assistant Secretary for Contracting, agreed with the recommendation, stating that, by February 2024, they will distribute a memorandum to all Head of Contracting Activities reminding them to follow procedures in accordance with Federal and DoD policies that ensure award-fee plans are approved prior to the contractor's performance, and that any award-fee changes are supported, justified, and documented within the contract file in a timely manner.

Our Response

Comments from the Assistant Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once Air Force officials provide a copy of the issued memorandum and we verify it includes sufficient procedures for approving award-fee plans and establishes a process for contracting officials to support and justify award-fee changes within the contract file in a timely manner.

Recommendation A.3

We recommend that the Air Force Space Systems Center Director of Contracting require contracting officials to recalculate the award-fee amount earned by the contractor and pursue compensation from the contractor if any portion of the \$187,160 is not supported.

Air Force Space Systems Center Director of Contracting Comments

The Assistant Secretary of the Air Force (Space Acquisition and Integration), responding for the Space Systems Command Director of Contracting, agreed with the recommendation, stating that the Air Force Space Systems Center Director of Contracting also agreed with the recommendation and that the necessary actions have already been taken to address the recommendation. The Assistant Secretary added that contracting officials reviewed the FDO's decision to rate the contractor as satisfactory and determined it was appropriate. In addition, the contract file documentation was updated accordingly to support the FDO's decision. The Assistant Secretary also stated that there is no need to pursue compensation from the contractor since the payment was justified.

Our Response

Comments from the Assistant Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once Air Force officials provide contract file documentation that is sufficient to support the award-fee amount earned by the contractor. Provided that the contract file documentation is sufficient, we agree that there is no need to pursue the \$187,160 in potential monetary benefits.

Finding B

The DoD Needs to Improve Contract Administration and Management of Cost-Plus-Award-Fee Contracts

DoD contracting officials did not comply with Federal and DoD policies when performing contract administration and management for 21 (78 percent) of 27 CPAF contracts we reviewed. Specifically, contracting officials did not:

- complete the Determinations and Findings document for 4 contracts (15 percent),
- provide contractor evaluation letters within the required time frame for 14 contracts (52 percent),
- use the required award-fee pool rating criteria for 5 contracts (19 percent),
- retain the required award-fee amount for the final evaluation period or obtain a waiver to retain less than the required amount for 10 contracts (37 percent), or
- obligate award-fee funds when earned for 2 contracts (7 percent).¹¹

This occurred because the Military Departments and Defense agencies did not have adequate controls to ensure contracting officials complied with criteria related to the administration and management of CPAF contracts. As a result, the Military Departments and Defense agencies increased the risk that contractors were not properly incentivized. In addition, Navy contracting officials inappropriately obligated \$2.2 million.

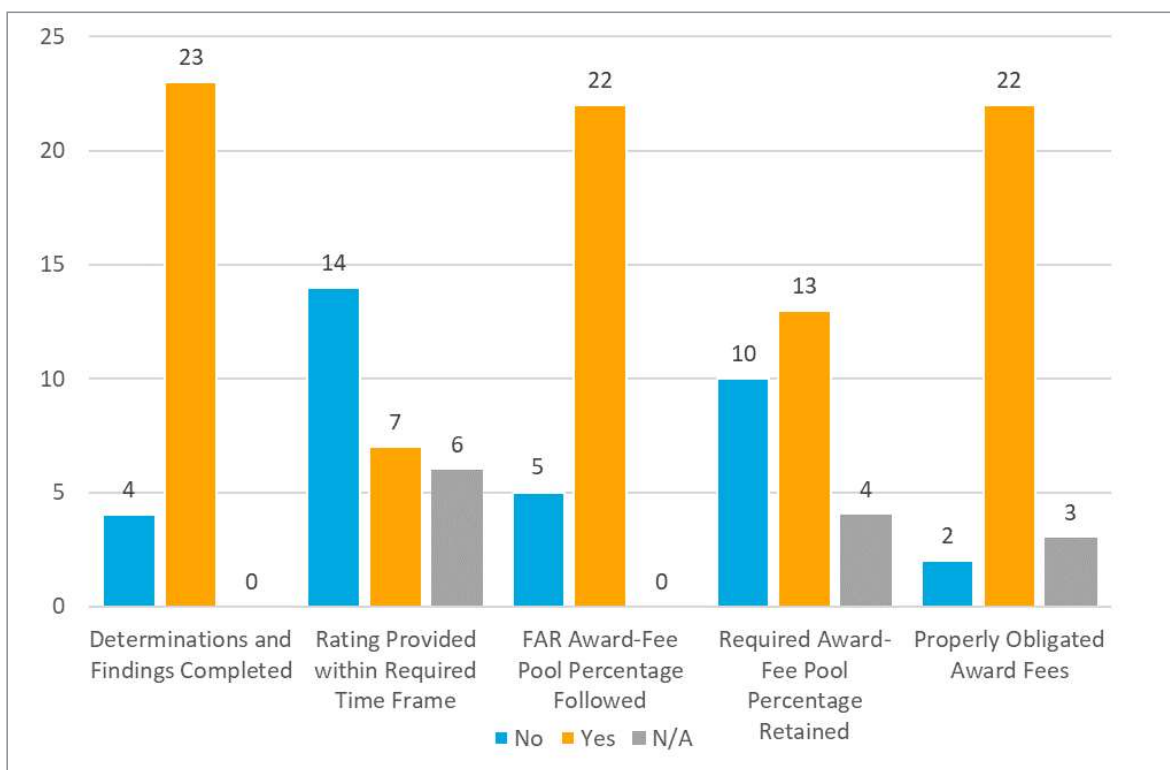
Contract Administration and Management Needs Improvement

DoD contracting officials did not comply with Federal and DoD policies when performing contract administration and management for 21 (78 percent) of 27 CPAF contracts.

DoD contracting officials did not comply with Federal and DoD policies when performing contract administration and management for 21 (78 percent) of 27 CPAF contracts. This included not completing contract justifications, not preparing timely evaluation letters, using incorrect award-fee pool criteria and pool percentages, and inappropriately obligating award fees. Figure 2 shows DoD contracting officials' compliance with contract administration and management policies.

¹¹ See Appendix C for a breakout of the administration and management deficiencies by the command or activity.

Figure 2. DoD Compliance with Contract Administration and Management Policies



Note: Some of these requirements did not apply to every contract and are annotated by "N/A."
Source: The DoD OIG.

Determinations and Findings Documents Were Not Always Completed

DoD contracting officials did not follow FAR 16.401, which requires the DoD to complete a Determinations and Findings document for all award-fee contracts and include this document in the contract file. Specifically, Army and MDA contracting officials did not prepare or maintain the required Determinations and Findings document for four contracts. The Army officials stated that they relied on prior contract documentation that they were not able to locate during our audit. In addition, MDA officials stated that they did not know why the Determinations and Findings documents were not completed. The lack of a Determinations and Findings document could result in contracting officials using the incorrect contract type and could lead to unnecessary administrative burden on the Military Departments and Defense agencies.

Evaluation Letters to Contractors Were Issued Late

DoD contracting officials did not follow DFARS 216.405-2, which states that the FDO's award-fee rating will be provided to the contractor within 45 days of the end of the evaluation period.¹² Specifically, Army, Navy, Air Force, Defense Threat Reduction Agency (DTRA), and MDA contracting officials provided the contractor ratings more than 45 days after the evaluation period ended for 14 contracts. For example, Navy officials stated that the delay was due to the contractor

Contracting officials provided the contractor ratings more than 45 days after the evaluation period ended for 14 contracts.

providing information late. In another example, the Air Force's award-fee plan allowed the award-fee board to discuss the contractor's recommended rating up to 60 days after the evaluation period ended. Untimely rating notification could limit contractors' ability to improve future performance and maximize award-fee payments. For instance, for a Navy, Supervisor of Shipbuilding Gulf Coast contract, the contractor performed planning and maintenance on Littoral Combat Ships. The evaluation period for one ship ended on November 29, 2021. However, the FDO award-fee determination letter was dated July 21, 2022, which was 234 days after the end of the evaluation period and approximately 1 year into the planning and maintenance for the next ship.¹³

Award-Fee Pool Percentages Did Not Match Requirements

DoD contracting officials did not follow FAR 16.401, which requires contracting officials to prepare award-fee plans that must use specific award-fee pool earned percentages associated with adjectival rating categories.¹⁴ Specifically, Navy, Air Force, and DTRA contracting officials did not use the required award-fee pool percentages in the award-fee plans for five contracts, which could have resulted in inaccurate award-fee payments.

Navy, Air Force, and DTRA contracting officials did not use the required award-fee pool percentages in the award-fee plans for five contracts.

For example, DTRA contracting officials awarded a contractor 65 percent of the award-fee pool based on its performance for the evaluation period we reviewed. Although this evaluation period's award-fee pool percentage fell within the FAR range of 51 to 75 percent, the next evaluation period's percentage may not. If the contractor receives an "Excellent" rating the contractor could be undercompensated by as much as 16 percent because the contractor could earn

¹² DFARS Part 216, "Types of Contracts," Subpart 216.405, "Cost-Reimbursement Incentive Contracts," Section 216.405-2, "Cost-Plus-Award-Fee Contracts."

¹³ An FDO uses an award-fee determination letter to notify the contractor of the FDO's award-fee rating.

¹⁴ The adjectival rating categories are Unsatisfactory, Satisfactory, Good, Very Good, and Excellent.

from 75 to 100 percent (DTRA's award-fee percentage) instead of 91 to 100 percent as required by the FAR. In addition, DTRA did not have a rating category that aligned with what the FAR considers "Very Good" performance. Table 2 shows the FAR-required pool percentages compared to the DTRA, Navy, and Air Force award-fee plan pool percentages.

Table 2. FAR Award-Fee Pool Percentages Compared to DTRA, Navy, and Air Force Award-Fee Pool Percentages

| Rating Category | FAR Award-Fee Pool Percentage | DTRA Award-Fee Pool Percentage | Navy Award-Fee Pool Percentage | Air Force Award-Fee Pool Percentage |
|-----------------|-------------------------------|--------------------------------|--------------------------------|-------------------------------------|
| Excellent | 91-100 | 75-100 | 91-100 | 91-100 |
| Very Good | 76-90 | N/A | 76-90 | 76-90 |
| Good | 51-75 | 50-72.5 | 51-75 | 51-75 |
| Satisfactory | No greater than 50 | 0-45 | 10-50 | 50 |
| Unsatisfactory | 0 | 0 | 0 | 0 |

Note: The DTRA award-fee pool percentage for "Very Good" was not applicable because the description in the award-fee plan did not match the description in the FAR. It is not possible for the contractor to receive all of the award-fee pool percentages from 0-100 due to DTRA's formula for calculating the award fee.

Source: FAR 16.401, DTRA, Navy, and Air Force.

Final Award-Pool Evaluation Amounts Were Not Sufficient

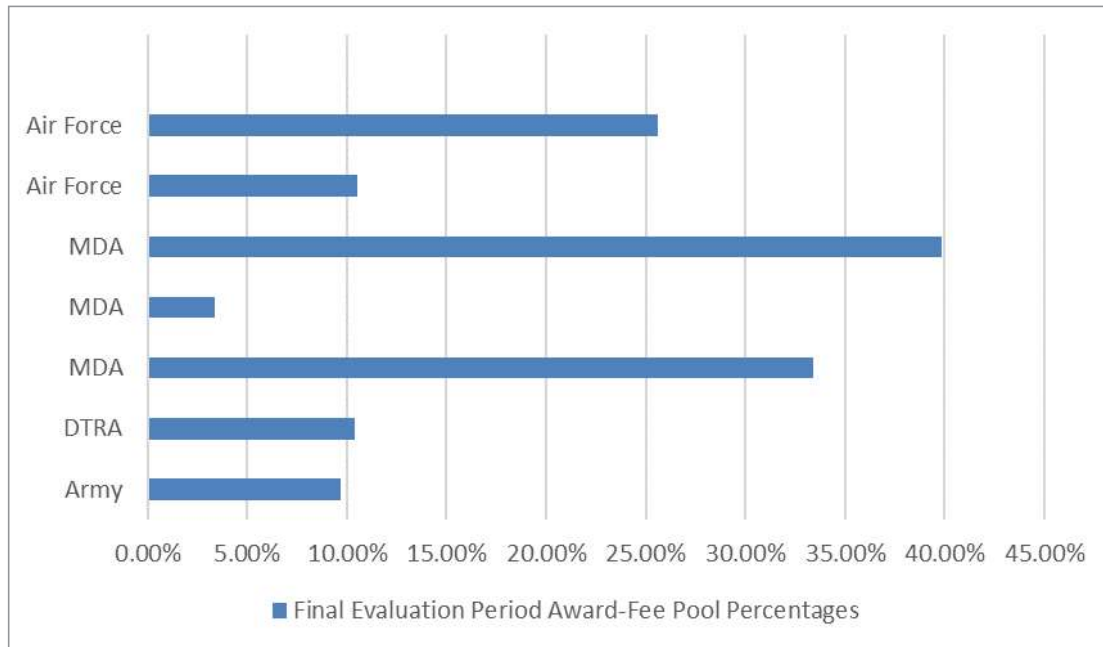
DoD contracting officials did not follow DFARS 216.405-2, which states that the contracting officer must ensure at least 40 percent of the award fee is available for the final evaluation, unless the Head of Contracting Activity approves a waiver. Specifically, Army, Navy, Air Force, DTRA, and MDA contracting officials did not retain the required 40 percent of the award-fee pool for the last evaluation period for 10 contracts. In addition, these contracting officials did not obtain a waiver to retain less than 40 percent. For example, Navy and Air Force contracting officials stated this was because they were not aware of the DFARS requirement. In addition, an MDA contracting official did not obtain a waiver to use equal award-fee pool percentages of approximately 33 percent across all three evaluation periods.

Contracting officials did not retain the required 40 percent of the award-fee pool for the last evaluation period for 10 contracts.

According to a DPC official, not retaining 40 percent of the available award-fee pool for the last evaluation period could result in a lack of incentive for the contractor to excel in the final evaluation period. For example, an Army contracting official should have retained \$360,032 according to the DFARS requirement; however, only

\$87,616 (9.7 percent) remained in the award-fee pool for the last evaluation period. Figure 3 shows the award-fee pool percentages that DoD contracting officials retained for the final evaluation period for the non-complaint contracts.

Figure 3. Contracts Retaining Less than the Required Percentage



Note: For three contracts, Navy contracting officials did not know the award-fee pool amount for the last evaluation period and stated that the required 40 percent would not be retained. The contracting officials stated that this was due to the uncertainty of labor hours that would remain to be worked in the final evaluation period, which in one case will not be determined before March 2025.

Source: The DoD OIG.

Award Fees Were Obligated Before Being Earned

Navy contracting officials did not follow the DoD Financial Management Regulation (FMR), which states that the amount of the recorded obligation may not be in excess of the maximum current liability.¹⁵ Additionally, according to the DoD FMR an obligation may only increase or be recorded when the award fee is determined. Navy contracting officials obligated the full award-fee amount before the contractor earned the fee for two contracts, stating that it was their command's practice. This resulted in Navy contracting officials inappropriately obligating \$2.2 million in funds, making it unavailable for other Navy needs. Specifically, Naval Facilities Engineering Systems Command Pacific officials obligated the entire \$2.2 million award-fee pool at the time they exercised the contract option in July 2021. The contractor earned \$1.9 million (89 percent) of the award-fee pool

¹⁵ DoD FMR, volume 4, chapter 8. A liability is an amount owed to a Federal or non-Federal entity for items or services received and expenses incurred.

and according to Naval Facilities Engineering Systems Command Pacific officials, the \$0.3 million of excess funds, which could have been used for other purposes, were not de-obligated until after the evaluation period ended in January 2022.

Contract Administration and Management Controls Were Inadequate

DoD contracting officials did not comply with Federal and DoD policies because the Military Departments and Defense agencies did not have adequate controls related to the administration and management of CPAF contracts such as training, processes, and higher-level reviews. FAR 1.6 states that the contracting officer is responsible for ensuring compliance with all legal, regulatory, and procedural requirements before contract award and for ensuring compliance with the terms of the contract after contract award, including completing or delegating contract administration functions. Contracting officials provided reasons why contracting

Military Departments and Defense agencies did not have adequate controls related to the administration and management of CPAF contracts.

officers did not comply with regulations, such as: (1) contracting officers were not aware of the requirements, (2) another contracting official or activity awarded the contract, (3) contracting officers did not receive contractor information in a timely manner, and (4) contracting officials lacked experience with CPAF contracts and training on CPAF policies and regulations. During the audit, some Heads of Contracting Activities acknowledged that their activities could make improvements regarding the administration and management of CPAF contracts. For example, a Naval Sea Systems Command official stated that the office of the Supervisor of Shipbuilding, Conversion, and Repair could change its process to provide the rating to the contractor earlier.

Some Heads of Contracting Activities have implemented additional controls since contracting officials awarded the 27 contracts in our sample. For example, Army officials stated that they developed 12 checklists for contracting officials to use when preparing contract documentation and awarding contracts. However, these checklists were not in place when the contracting officials awarded and administered the contract in our sample. In addition, MDA officials stated that they implemented additional checklists in late 2022 to provide additional oversight for CPAF contracts. While some organizations are taking steps to improve controls, it is important that the other contracting organizations take similar steps. Therefore, the Heads of Contracting for the Military Departments and Defense agencies should implement controls sufficient to ensure that contracting officials are following Federal and DoD requirements related to administration and management of

CPAF contracts, such as a checklist that contracting officers must complete and higher-level officials must review, or periodic reviews of CPAF policies and regulations.

Conclusion

Without adequate controls to ensure that contracting officials comply with criteria related to the administration and management of CPAF contracts, Military Departments and Defense agencies increased the risk that contractors were not properly incentivized. Contracting officials increase the risk of poor performance or overpaying the contractor when they award CPAF contracts without proper approvals, provide contractors untimely feedback, and improperly incentivize contractors throughout the life of the contract. If contracting officials do not perform due diligence when administering and managing CPAF contracts, contractors may not be motivated to enhance their performance, which defeats the purpose of using a CPAF contract type.

Military Departments and Defense agencies increased the risk that contractors were not properly incentivized.

In addition, Navy officials inappropriately obligated \$2.2 million on two contracts. By inappropriately obligating funds for award-fee pools, the Navy received an inaccurate representation of available funds and made the entire amount unavailable for other Navy needs.

Management Comments on the Finding and Our Response

Executive Director to the Deputy Assistant Secretary of the Navy (Procurement)

The Executive Director to the Deputy Assistant Secretary of the Navy (Procurement) disagreed that the Naval Facilities Engineering Systems Command inappropriately obligated \$2.2 million. They stated that, in accordance with the DoD FMR, the Navy would still be required to hold the \$2.2 million in commitment as a liability, even if it had not been obligated. The Executive Director further explained that the total estimated contract ceiling on the contracts and task orders includes the award-fee pool. They stated that the Navy is meeting DoD FMR requirements because the amount of obligation established for a CPAF contract was adjusted, at the time the actual or final award-fee amount was determined. In addition, the only funds available for use were those that had not been earned, which is considerably less than the \$2.2 million and these funds would only be available after the final award-fee amount was determined. The Executive Director stated

that the audit was unable to point to any specific FAR or DFARS non-compliance and the DoD FMR language cited in the audit does not specifically prohibit this process.

The Executive Director also explained that in the example where the Navy, Supervisor of Shipbuilding Gulf Coast provided the award-fee determination letter late, the Navy was waiting on the contractor to provide cost data for over 200 days.¹⁶ Once the Navy received the contractor's cost data, the Navy provided the award-fee determination letter in 3 weeks.

Our Response

We appreciate the Executive Director's comments regarding the Naval Facilities Engineering Systems Command's process for obligating and de-obligating funds. However, the DoD FMR, volume 8, chapter 3, states that the amount of the recorded obligation may not be in excess of the maximum current liability. The DoD FMR further defines commitments and liabilities, specifically contingent liabilities, and how officials should account for those amounts. It states that contingent liabilities must be carried as outstanding commitments pending the determination of actual obligations. Therefore, the award-fee amount of \$2.2 million is a contingent liability that initially should have been committed and not obligated until contracting officials determined the actual amount the contractor earned. In addition, we updated the report to clarify that in this instance \$0.3 million was the amount not available for other Navy needs. However, because the Naval Facilities Engineering Systems Command obligated the entire award-fee amount at the time of award, if a contractor did not perform well and does not earn an award fee, the amount that is unavailable for other needs would be the entire amount. In this case, that could have been as high as \$2.2 million.

Even though Navy, Supervisor of Shipbuilding, Conversion, and Repair Gulf Coast provided the award-fee letter 3 weeks after the award-fee decision, it still took 234 days from the last day of the evaluation period to provide the rating. DFARS 216.405-2 requires the contractor to receive the FDO's award-fee rating within 45 days of the end of the evaluation period. As noted in the report, a Naval Sea Systems Command official stated that the office of the Supervisor of Shipbuilding, Conversion, and Repair could change its process to provide the rating to the contractor earlier instead of waiting for cost data.

¹⁶ Navy, Supervisor of Shipbuilding Gulf Coast is a Naval Sea Systems Command activity.

Recommendation, Management Comments, and Our Response

Recommendation B.1

We recommend that the following officials implement controls sufficient to ensure that contracting officials are following Federal and DoD requirements related to administration and management of cost-plus-award-fee contracts:

- a. Assistant Secretary of the Army (Acquisition, Logistics, and Technology)

Assistant Secretary of the Army (Acquisition, Logistics, and Technology) Comments

The Deputy Assistant Secretary of the Army (Procurement), responding for the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), agreed with the recommendation; however, they requested that we change the recommendation to state, “We recommend that the Army ensure that contracting personnel are aware of the Federal and DoD requirements related to administration and management of CPAF contracts.”

Our Response

Comments from the Deputy Assistant Secretary did not address the specifics of the recommendation; therefore, the recommendation is unresolved. We are not revising the recommendation because awareness of the requirements is not the same as controls that may help ensure compliance or identify noncompliance with the requirements. Additionally, Army controls reviewed during this audit were not working as intended to ensure that contracting officials were following the requirements, so alternative or additional controls are needed. We request that the Deputy Assistant Secretary respond to the final report within 30 days and provide the corrective action that will be taken to ensure contracting officials are following the Federal and DoD requirements.

- b. Assistant Secretary of the Navy (Research, Development, and Acquisition)

Assistant Secretary of the Navy (Research, Development, and Acquisition) Comments

The Executive Director to the Deputy Assistant Secretary of the Navy (Procurement), responding for the Assistant Secretary of the Navy (Research, Development, and Acquisition), agreed with the recommendation, stating that the Navy will use the Procurement Performance Management Assessment Program to ensure contracting activities award and manage CPAF contracts in accordance with applicable laws and regulations. This program can be used to review contracting actions and practices to identify areas of noncompliance.

Our Response

Comments from the Executive Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once Navy officials demonstrate that use of the Procurement Performance Management Assessment Program resulted in contracting officials complying with Federal and DoD requirements for administration and management of CPAF contracts.

c. Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics)

Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics) Comments

The Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), responding for the Deputy Assistant Secretary for Contracting, agreed with the recommendation, stating that by July 2024 the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics) will disseminate the audit findings within the “What’s New in Air Force Contracting” publication; update and distribute the Department of the Air Force Award-Fee Guide; add an item to the Award-Fee Contracts Self Inspection checklist; and provide training to contracting officials on incentive-type contracts.

Our Response

Comments from the Assistant Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once Air Force officials provide documentation to demonstrate that the Department of the Air Force Award-Fee Guide and Award-Fee Contracts Self Inspection checklist have been updated and contracting personnel received incentive-type contracts training.

d. Director of Acquisitions, Contracts, and Logistics, Defense Threat Reduction Agency

Director of Acquisitions, Contracts, and Logistics, Defense Threat Reduction Agency

The DTRA Acting Director of Acquisitions, Contracts, and Logistics agreed with the recommendation, stating that the Head of the Contracting Activity will emphasize the importance of following the FAR and DFARS requirements for CPAF contracts. The Acting Director added that, for CPAF contracts internal reviews, the contracting officer will be advised, in writing, that adherence to the applicable FAR and DFARS requirements is required.

Our Response

Comments from the Acting Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once DTRA officials provide documentation that demonstrates that the DTRA Head of the Contracting Activity informed contracting officers, in writing, of the specific applicable FAR and DFARS requirements.

e. Director of Contracting, Missile Defense Agency

Director of Contracting, Missile Defense Agency Comments

The Missile Defense Agency Director agreed with the recommendation, stating that the MDA has implemented the Contract File Checklist and is using the Award-Fee Dashboard in response to the recommendation.

Our Response

Comments from the Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation after MDA officials provide documentation that demonstrates that the Contract File Checklist was issued to contracting officials and includes administration and management requirements related to CPAF contracts, and that the Director has required contracting officials use the Award-Fee Dashboard.

Finding C

The DoD Did Not Accurately Account for Cost-Plus-Award-Fee Contract Data

The DoD did not accurately account for the universe of CPAF contracts and award fees paid to contractors. This occurred because the DPC did not establish and implement a DoD-wide solution to capture CPAF contract data from across the Military Departments and Defense agencies. While the FAR does not require the DoD to capture a universe of CPAF contracts, it does require agencies to collect data on award fees paid to contractors to determine the impact that fees have on acquisition programs. Without this data, reports generated to support the quantity and dollar values associated with DoD CPAF contracts were not reliable, and the DoD is unable to make informed decisions on the effectiveness of CPAF contracts.

Methods Used to Provide Contract Data Were Not Accurate

The DoD did not accurately account for the universe of CPAF contracts and award fees paid to contractors. The DoD uses the Federal Procurement Data System (FPDS), a web-based tool, to report procurement information. The DPC oversees FPDS and the verification and validation of the data. We initially tried to use FPDS to obtain a universe of CPAF contracts and met with DPC officials to discuss FPDS limitations. DPC officials stated that FPDS does not provide an accurate universe of CPAF contracts awarded by DoD contracting offices because a contract could have multiple contract line item number (CLIN) types, but FPDS lists only one contract type per contract.¹⁷ For example, the contract documentation listed four CPAF CLINs for one contract with award fees valued at \$15.2 million; however, FPDS identified that contract as a cost-plus-incentive-fee contract. Therefore, FPDS data do not identify an accurate universe of CPAF contracts. Additionally, FPDS does not contain the amount of award fees paid to contractors.

To meet our data request, DPC officials provided a universe of CPAF CLINs from the Electronic Data Access (EDA) system, which stores contracts, contract orders, and contract modifications. According to the EDA data that DPC officials provided, the DoD issued at least 27,030 CPAF CLINs from FY 2019 through FY 2021. However, DPC officials stated that EDA did not contain CLINs from all DoD contracts. In addition, of the 27,030 CPAF CLINs, 710 contained an award-fee value; however, not all

¹⁷ The CLIN describes the specific product or service to be delivered in a quantity or unit of measure.

of the values were accurate. For example, EDA identified four different CLINs associated with one contract. These CLINs had the same potential award-fee value of \$120,325,753, but the value for each CLIN should have ranged from \$48,960 to \$3,177,050. Therefore, the dollar value of the award fees recorded in EDA for each line item was not accurate. Despite knowing that data was not accurate, DPC officials stated that using EDA was the best method for identifying the universe of CPAF contracts and CLINs without contacting the individual contracting offices for the information.

The DoD Does Not Have Processes for Data Consistency and Monitoring

Although DPC officials identified that existing systems would not identify an accurate and complete universe of CPAF contracts and award fees paid to contractors, the DPC did not establish and implement a DoD-wide solution that captured CPAF data. While the FAR does not require the DoD to capture a universe of CPAF contracts, FAR 16.401 states that each agency must collect relevant data on award fees paid to contractors and include performance measures to evaluate this data on a regular basis to determine the effectiveness of award fees to achieve the desired program outcome. Although FPDS includes several data elements associated with CPAF contracts, the system does not include a data element to identify the potential award-fee value or award fees paid to contractors. In addition, EDA contains data on award fees paid to contractors; however, the system does not contain this data for all DoD contracts because not all Service and Defense agency contracting offices used contract writing systems that fed into EDA. Despite knowing that the FPDS and EDA data were not complete and accurate, DPC officials did not take any corrective action to identify a solution that would provide an accurate universe of CPAF contracts and award fees paid to contractors.

DPC officials identified that existing systems would not identify an accurate and complete universe of CPAF contracts and award fees paid to contractors.

According to Military Department and Defense agency contracting officials, the contracting officials have not been required to collect and provide this information up to the Service level or the DoD. However, some officials are capturing award-fee data. For example, according to a DTRA official, DTRA created a dashboard that collects data from FPDS and the Federal Assistance Award Data Collection system on types of contracts awarded, but the dashboard does not collect data on award-fee amounts earned. In another example, the MDA developed a database to track award-fee type contracts; however, according to an MDA official the database

was not developed until late 2022. Therefore, the DPC, in coordination with the Military Departments and Defense agencies, should leverage the sharing of best practices to establish and implement a solution to accurately capture all relevant CPAF data, including the universe of CPAF contracts and the earned award fees. The DPC should coordinate with the Military Departments and Defense agencies to evaluate the effectiveness of award fees paid on CPAF contracts.

Conclusion

Without processes to ensure that contracting officials capture accurate and relevant CPAF data, reports generated at the DoD level to support the quantity and dollar values associated with CPAF contracts will be unreliable. It is essential that this information be accurate and complete to ensure the reliable and timely reporting of information to Congress and the public. For example, Congress submitted a request to the DPC for the DoD's payment of fees and awards to contractors with documented performance issues. However, the DPC was unable to meet the initial deadline because officials had to obtain the award-fee data manually from multiple systems to fulfill the request. If the DoD cannot identify the universe of CPAF contracts it has awarded or the amount paid, the DoD will not be able to meet the FAR requirement to collect and assess the effectiveness of CPAF contracts in achieving desired outcomes and could be limited in its ability to collect and share best practices across the DoD.

Recommendations, Management Comments, and Our Response

Recommendation C.1

We recommend that the Defense Pricing and Contracting Principal Director, in coordination with the Military Departments and Defense agencies:

- a. Establish and implement a solution to accurately capture all relevant cost-plus-award-fee data.**

Defense Pricing and Contracting Principal Director Comments

The DPC Principal Director agreed with the recommendation, stating that the DPC is in the process of adopting and implementing the Procurement Data Standard. The DPC will make changes to the Procurement Data Standard to capture additional CPAF data so that contract writing systems across the DoD can implement it in future years.

Our Response

Comments from the Principal Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendation once DPC officials provide documentation to demonstrate that the Procurement Data Standard captures all relevant CPAF data.

b. Evaluate the effectiveness of the award fees paid.

Defense Pricing and Contracting Principal Director Comments

The DPC Principal Director agreed with the recommendation, stating that the contracting data system has a difficult time capturing the effectiveness of award-fee contracts because the effectiveness is determined on a case-by-case basis due to the unique requirements of each contract. The DPC will continue to support evaluation of incentive-type contracts at the DoD Component level and share best practices across Services and agencies.

Our Response

Comments from the Principal Director did not address the specifics of the recommendation; therefore, the recommendation is unresolved. Although the Principal Director agreed with the recommendation, the comments did not address how the award-fee effectiveness would be evaluated. FAR 16.401 requires each agency to evaluate the effectiveness of award fees paid. We request that the Principal Director provide comments to the final report within 30 days that discuss the corrective actions the DPC plans to take to evaluate the effectiveness of award fees paid.

Appendix A

Scope and Methodology

We conducted this performance audit from September 2022 through November 2023 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.

The DPC provided a universe of DoD CPAF contracts awarded from FY 2019 through FY 2021. This included a universe of 27,030 CPAF CLINs. We worked with the DoD OIG Quantitative Methods Division to identify a random statistical sample of 64 CLINs from 27 CPAF contracts for our review. The statistical sample consisted of contracts at the Army, Navy, Air Force, DTRA, and MDA. However, there were problems with the reliability of the universe, and we had to select a nonstatistical sample. Table 3 identifies the nonstatistical sample of 27 CPAF contracts identified by the Quantitative Methods Division.

Table 3. Nonstatistical Sample of CPAF Contracts Reviewed

| Military Department or Agency | Command (if Applicable) | Number of Contracts | Award-Fee Amount Reviewed (in Millions) |
|-------------------------------|---|---------------------|---|
| Army | Mission Installation and Contracting Command | 1 | \$1.8 |
| Navy | Naval Sea Systems Command; Naval Supply Systems Command; Naval Information Warfare Systems Command; Naval Facilities Engineering Systems Command; and Supervisor of Shipbuilding, Conversion and Repair | 15 | \$11.5 |
| Air Force | Nuclear Weapons Center and Space and Missile Systems Center | 4 | \$3.2 |
| DTRA | | 1 | \$0.2 |
| MDA | | 6 | \$20.5 |
| Total | | 27 | \$37.1 |

Note: Totals may not equal the actual sum because of rounding.

Source: The DPC and DoD OIG.

For the CPAF contract nonstatistical sample, we reviewed the following applicable Federal and DoD regulations and policies to identify internal controls over the award-fee determinations and administration and management of CPAF contracts.

- FAR Part 1, “Federal Acquisition Regulations System”
- FAR Part 15, “Contracting by Negotiation”
- FAR Part 16, “Types of Contracts”
- FAR Part 31, “Contract Cost Principles and Procedures”
- FAR Subpart 42.3, “Contract Administration Office Functions”
- FAR Part 46, “Quality Assurance”
- DFARS Subpart 216.4, “Incentive Contracts”
- DFARS, Procedures, Guidance, and Information, Subpart 216.4, “Incentive Contracts”
- DoD FMR, volume 3, chapter 8, “Standards for Recording Commitments and Obligations”
- Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, Defense Procurement and Acquisition Policy, “Guidance on Using Incentive and Other Contract Types,” April 1, 2016

To determine whether DoD contracting officials oversaw contractor performance and justified award fees paid for CPAF contract actions in accordance with Federal and DoD policies, we interviewed stakeholders from the following offices to identify roles and responsibilities and obtain contract documentation.

- Army
- Navy
- Air Force
- MDA
- DTRA
- Office of the Under Secretary of Defense for Acquisition and Sustainment, DPC
- Defense Contract Audit Agency
- Defense Contract Management Agency

For each contract within our sample, we requested specific documentation from each contracting office to support the following analysis.

- We reviewed award-fee plans to determine the responsibilities of contracting personnel involved in contractor surveillance and award-fee determinations.

- We reviewed surveillance reports to determine whether the DoD was performing sufficient quality assurance oversight to support the award-fee determinations.
- We reviewed the Determinations and Findings documents, surveillance and award-fee plans, FDO award-fee determination letters, and base contracts and modifications to determine whether contracting officials followed CPAF contract administration and management requirements.
- We reviewed award-fee plans, evaluation and status reports, contractor self-assessments, award-fee board meeting minutes, award-fee board reports and recommendations, and FDO award-fee determination letters to determine whether contracting officials could support the approved award fee.

Internal Control Assessment and Compliance

We assessed internal controls and compliance with laws and regulations necessary to satisfy the audit objective. We assessed whether the internal controls and underlying principles related to DoD contracting officials' processes for contractor oversight and justification of the award-fee determinations. In particular, we assessed the control environment related to the contracting officials' responsibilities. We assessed the control activities related to policies. Lastly, we assessed the information and communication related to the quality of information with the data systems. However, because our review was limited to these internal control components and various underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

Use of Computer-Processed Data

We relied on computer-processed data from EDA. EDA stores contracts, contract orders, and contract modifications. Although EDA did not contain a complete CPAF contract data set, we determined it was the best available data source for identifying CPAF contracts and CLINs. Therefore, we used EDA data to determine CPAF contracts issued from FY 2019 through FY 2021 and identified a nonstatistical sample of contracts to review. We also used EDA to obtain contract, order, and modification documentation and compared it to the contract file documentation provided by DoD contracting officials. The contract files verified that the information we obtained from EDA was accurate, and we used the contract file documentation to support our findings and recommendations. As a result of our analysis, we determined that the information within EDA was sufficiently reliable for the purpose of our review.

Use of Technical Assistance

We obtained support from the DoD OIG Quantitative Methods Division in developing a statistical and nonstatistical sample. Due to problems with the reliability of the universe, we could not use the statistical sample and had to select a nonstatistical sample. We reviewed the nonstatistical sample of DoD CPAF contracts to test whether the contracting officials oversaw contractor performance and justified award fees paid in accordance with requirements. To obtain the sample, the DPC provided a universe of cost-reimbursable CLINs from EDA. We removed all CLINs that were not identified as CPAF and included only those in which the associated contract was awarded from FY 2019 through FY 2021. The DoD OIG Quantitative Methods Division calculated a sample size of 64 CLINs from 27 CPAF contracts for our review. Once we identified problems with the reliability of the universe data, we used the 27 CPAF contracts as a nonstatistical sample.

Prior Coverage

During the last 5 years, the DoD OIG and Army Audit Agency issued two reports discussing cost-reimbursement contracts and award-fee determinations. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>. Unrestricted Army Audit Agency reports can be accessed from .mil and gao.gov domains at <https://www.army.mil/aaa>.

DoD OIG

Report No. DODIG-2022-137, “Audit of the Military Services’ Award of Cost-Reimbursement Contracts,” September 26, 2022

The DoD OIG found that Military Service contracting officials did not consistently award cost-reimbursement contracts in accordance with Federal and DoD regulations and guidance. Specifically, Military Service contracting officials thought Federal and DoD regulations for awarding cost-reimbursements contracts did not apply to research and development contracts. As a result, Military Service contracting officials potentially increased contracting risks when awarding cost-reimbursement contracts without proper approvals, justifications, transition strategies, adequate Government resources, and adequate accounting systems.

Army

Report No. A-2018-0051-ALC, "Contract Support for the Global Threat Mitigation Program," May 30, 2018

The Army Audit Agency found that, in most cases, Army activities did not fulfill their responsibilities to oversee and evaluate services performed under the Global Threat Mitigation Program task order. Specifically, the Army Audit Agency reviewed a sample of 34 military interdepartmental purchase requests and identified that 14 activities did not provide formal assessments to support contractor award-fee determinations for 26 (valued at about \$20.4 million). As a result, the Army did not have reasonable assurance that the contractor's performance rating was accurate and award fees (estimated to range from \$5.4 million to \$7.2 million in award fees for "Very Good" or "Excellent" evaluations in the base year) were fully earned.

Appendix B

Potential Monetary Benefits

Table 4 identifies the questioned costs for two contracts. The actual amount of potential monetary benefits could change once Army and Air Force contracting officials recalculate the award fees earned. The DoD Audit Manual defines a questioned cost as a cost questioned because of a finding that, at the time of the audit, such cost is not supported by adequate documentation or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.¹⁸

Table 4. Potential Monetary Benefits

| Recommendation | Type of Benefit | Amount of Benefit |
|----------------|----------------------------|--------------------|
| A.1.b | Army Questioned Costs | \$872,309 |
| A.3 | Air Force Questioned Costs | \$187,160 |
| | Total | \$1,059,469 |

Source: The DoD OIG.

¹⁸ DoD Manual 7600.07, "DoD Audit Manual," August 3, 2015.

Appendix C

Administration and Management Deficiencies

| Service or Agency | Command / Activity | Contracts In Sample | Improper Obligation of Award Fees | Required Award-Fee Pool Percentage Not Retained | FAR Award-Fee Pool Percentage Not Followed | Rating Not Provided Within Required Time Frame | Determination and Findings Not Completed | Improperly Administered/Managed Contracts |
|-------------------|--|---------------------|-----------------------------------|---|--|--|--|---|
| Army | MICC-Fort Stewart | 1 | 0 | 1 | 0 | 1 | 1 | 1 |
| Navy | Naval Supply Systems Command Fleet Logistics Center Pearl Harbor | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Navy | Naval Facilities Engineering Systems Command Pacific | 1 | 1 | 0 | 0 | 1 | 0 | 1 |
| Navy | Naval Facilities Engineering Systems Command Atlantic | 4 | 1 | 0 | 1 | 1 | 0 | 1 |
| Navy | Supervisor of Shipbuilding, Conversion and Repair Gulf Coast | 1 | 0 | 0 | 0 | 1 | 0 | 1 |
| Navy | Supervisor of Shipbuilding, Conversion and Repair Bath | 2 | 0 | 1 | 0 | 2 | 0 | 2 |
| Navy | Naval Sea Systems Command | 4 | 0 | 0 | 0 | 3 | 0 | 3 |
| Navy | Naval Information Warfare Systems Command | 2 | 0 | 2 | 0 | 1 | 0 | 2 |
| Air Force | Nuclear Weapons Center | 1 | 0 | 1 | 0 | 0 | 0 | 1 |
| Air Force | Space And Missile Systems Center Los Angeles | 1 | 0 | 0 | 1 | 1 | 0 | 1 |
| Air Force | Space And Missile Systems Center Kirtland | 2 | 0 | 1 | 2 | 1 | 0 | 2 |
| DTRA | | 1 | 0 | 1 | 1 | 1 | 0 | 1 |
| MDA | Redstone | 6 | 0 | 3 | 0 | 1 | 3 | 5 |
| Total | | 27 | 2 | 10 | 5 | 14 | 4 | 21 |

Source: The DoD OIG.

Management Comments

Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology)



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
ACQUISITION LOGISTICS AND TECHNOLOGY
103 ARMY PENTAGON
WASHINGTON DC 20310-0103

SAAL-ZP

MEMORANDUM FOR DEPARTMENT OF DEFENSE OFFICE OF THE INSPECTOR
GENERAL, 4800 MARK CENTER DRIVE, ALEXANDRIA, VIRGINIA 22350-1500

SUBJECT: Official Army Position on Draft Report, DoD's Oversight of Cost-Plus-Award-Fee Contracts, Project No. D2022-D000AT-0175.000

1. The Army concurs with Recommendations A.1.a and A.1.b and is taking the necessary corrective actions (see attached). In terms of Recommendation B.1, the Army concurs with comment and is requesting the Recommendation be changed as follows:

Change From: "We recommend that the following officials implement controls sufficient to ensure that contracting officials are following Federal and DoD requirements related to administration and management of cost-plus-award-fee contracts".

Change To: "We recommend that the Army ensure that contracting personnel are aware of the Federal and DoD requirements related to administration and management of cost-plus-award-fee contracts."

2. If there are any questions, please contact [REDACTED] at [REDACTED] or via email at [REDACTED].

DAKE.MEGAN.[REDACTED]
R [REDACTED]

Enclosure

MEGAN R. DAKE
Deputy Assistant Secretary
of the Army (Procurement)

Office of the Assistant Secretary of the Navy (Research, Development, and Acquisition)



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

From: Deputy Assistant Secretary of the Navy (Procurement)
To: U.S. Department of Defense Inspector General

Subj: DEPARTMENT OF THE NAVY RESPONSE TO THE DRAFT AUDIT OF THE
EVALUATION OF DEPARTMENT OF DEFENSE'S OVERSIGHT OF COST-PLUS-
AWARD-FEE CONTRACTS (PROJECT NO. D2022- D000AT-0175.000)

1. The Department of the Navy (DON) appreciates the opportunity to discuss the contents of the subject audit with the members of the audit team. The DON provides a response of "Concur with Comment" to recommendation B.1.b. which directs the Assistant Secretary of the Navy (ASN)(Research, Development, and Acquisition (RD&A)) to "implement controls sufficient to ensure that contracting officials are following Federal and DoD requirements related to administration and management of Cost-Plus-Award-Fee (CPAF) contracts." The DON intends to satisfy this recommendation by utilizing the Procurement Performance Management Assessment Program (PPMAP) to ensure contracting activities are awarding and managing CPAF contracts in accordance with applicable laws and regulations. This program evaluates regulatory compliance and can be utilized to review contracting processes and specific contract actions, and if necessary, identify areas of noncompliance that need to be addressed. Despite the DON's concurrence with the recommendation, the DON is reiterating the comments raised during e-mail exchanges and a telecom held with the audit team. The DON urges the audit team to consider the comments summarized below in the final version of the audit
2. As previously communicated, the DON does not agree with the characterization within the draft audit that the DON (NAVFAC) inappropriately obligated \$2.2M. The draft states several times that the inappropriate obligation of funds would make those funds "unavailable for other Navy needs." Had the funding not been obligated, the DON would still be required to hold that amount in commitment in accordance with DoD Financial Management Regulation (FMR) Volume 3 Chapter 8 Paragraph 2.3.3, as it is a liability established by the terms of the contract effectively making it ineligible for use for other Navy needs.

The total estimated contract ceiling on the NAVFAC CPAF contracts/task orders includes the award fee pool, as it is a predetermined percentage for the target award fee and is considered a part of the ceiling for the contract and the remaining unearned portion of the fee is deobligated via contract modification once the Fee Determining Official (FDO) signs the FDO letter. This process would be in compliance with FMR requirements as the amount of obligation established for a CPAF contract was adjusted, at the time the actual or final fee award amount was determined (See DoD FMR Volume 3 Chapter 8 below). Additionally, in the case of this or any other CPAF award, because the total potential fee must be held in commitment, the only funds that were actually available for use were those that were not earned, which is significantly less than the \$2.2M and it would not have been until after the final award fee amount has been determined.

The DoD FMR Volume 3 Chapter 8 states, "The amount of the obligation established for a cost plus award fee contract must be adjusted at the time the actual or final fee award amount is determined (see DFARS 216.405-2)." As previously discussed, NAVFAC did issue a modification to remove the excess funding once the final fee award amount was determined.

Office of the Assistant Secretary of the Navy (Research, Development, and Acquisition) (cont'd)

Subj: DEPARTMENT OF THE NAVY RESPONSE TO THE DRAFT AUDIT OF THE
EVALUATION OF DEPARTMENT OF DEFENSE'S OVERSIGHT OF COST-PLUS-
AWARD-FEE CONTRACTS (PROJECT NO. D2022- D000AT-0175.000)

The audit was unable to point to any specific Federal Acquisition Regulation (FAR) or Defense Federal Acquisition Regulation Supplement (DFARS) non-compliance and the FMR language cited in the audit does not specifically prohibit the process followed by NAVFAC. Accordingly, the DON requests that this finding be reconsidered in the final version of the audit.

3. As previously communicated, the DON suggests the last sentence on page 14 of the draft provided be re-written as it currently implies the DON (NAVSEA) was late in adjudicating the award fee determination letter. The award fee pool determination was based off of the submission of the contractor's final cost CDRL. The contractor submitted the CDRL May 5th and adjudicated all comments from the program office June 30th. The award fee determination letter was sent three weeks after adjudication. The current language does not provide the context that while it took 234 days to issue the letter, the DON was waiting for information from the Contractor for over 200 of those days.
4. If you have any questions on the above, my point of contact for this engagement is [REDACTED] or [REDACTED]

NICKLE,STEVEN, [REDACTED]
A [REDACTED]
Steven A. Nickle
Executive Director
Deputy Assistant Secretary of the Navy
(Procurement)

Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics)



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

8 December 2023

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

FROM: SAF/AQ
1060 Air Force Pentagon
Washington, DC 20330-1060

SUBJECT: Department of the Air Force Response to DoD Office of Inspector General Draft Report, "Audit of the DoD's Oversight of Cost-Plus-Award-Fee Contracts" (Project No. D2022-D000AT-0175.000)

1. This is the Assistant Secretary of the Air Force (Acquisition, Technology, & Logistics) (SAF/AQ) portion to the Department of the Air Force (DAF) response to DoDIG Draft Report, "Audit of the DoD's Oversight of Cost-Plus-Award-Fee Contracts" (Project No. D2022-D000AT-0175.000) for Recommendations A.2.a and B.1.c. The DAF concurs with the audit as written and welcomes the opportunity to respond. The Assistant Secretary of the Air Force (Space Acquisition and Integration) (SAF/SQ) will respond under a separate cover to Recommendations A.2.b and A.3 in the report.

2. The SAF/AQ, in coordination SAF/SQ, will correct issues identified in this report and develop and implement a corrective action plan as outlined in following recommendations:

RECOMMENDATION A.2.a: The DODIG recommends that the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), should direct Air Force Nuclear Weapons Center officials to establish and implement a process that ensures contracting officials do not allow the contractor to begin work without an approved award-fee plan that documents how the contractor's performance will be assessed.

DAF RESPONSE: The SAF/AQ concurs with the audit recommendation A.2.a. and the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics) will distribute an informational memorandum to all Head of Contracting Activities and Senior Contracting Officials reminding them to follow procedures in accordance with Federal and DoD policies that ensure award-fee plans are approved prior to the contractor's performance, and that any award-fee changes are supported and justified, then documented within the contract file in a timely manner. Additionally, the DAF Award Fee guide will be updated and distributed to assist the career field.

Memo to Senior Contracting Officials Completion Date: February 2024

Award Fee Guide Completion Date: July 2024

Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics) (cont'd)

RECOMMENDATION B.1c: The DODIG recommends that the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), should implement controls sufficient to ensure that contracting officials are following Federal and DoD requirements related to administration and management of CPAF contracts, such as a checklist that contracting officers must complete and higher-level officials must review or periodic reviews of CPAF policies and regulations.

DAF RESPONSE: The SAF/AQ concurs with the audit recommendation B.1.c. and the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics) will ensure widest dissemination of the audit findings via a *What's New in Air Force Contracting* publication; update and distribute the DAF Award Fee guide to assist the career field; add an item to the current Self Inspection checklist for Award Fee Contracts; and provide training to the field on incentive type contracts to ensure that contracting officials are following Federal and DoD requirements related to administration and management of cost-plus-award-fee contracts.

Completion Date: July 2024

3. The SAF/AQC point of contact is [REDACTED], SAF/AQCK, [REDACTED], DSN [REDACTED].



ANDREW P. HUNTER
Assistant Secretary of the Air Force
(Acquisition, Technology & Logistics)

Office of the Assistant Secretary of the Air Force (Space Acquisition and Integration)



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

FROM: SAF/SQ

SUBJECT: Department of the Air Force Response to DoD Office of Inspector General Draft Report, "Audit of the DoD's Oversight of Cost-Plus-Award-Fee Contracts" (Project No. D2022-D000AT-0175.000)

1. This is the Office of the Assistant Secretary of the Air Force for Space Acquisition and Integration (SAF/SQ) portion of the Department of the Air Force (DAF) response to the DoDIG Draft Report, "Audit of the DoD's Oversight of Cost-Plus-Award-Fee Contracts" (Project No. D2022-D000AT-0175.000) for report Recommendations A.2.b and A.3. The Office of the Assistant Secretary of the Air Force for Acquisition, Technology, & Logistics (SAF/AQ) will respond under separate cover to Recommendations A.2.a and B.1.c in the report.

2. The SAF/SQ in coordination with the SAF/AQ concurs with the report as written and welcomes the opportunity to respond. SAF/SQ will correct issues identified in this report, and develop and implement a corrective action plan as outlined below:

RECOMMENDATION A.2.b: The DODIG recommends that the Deputy Assistant Secretary for Contracting, Office of the Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), should direct Air Force Space Systems Center officials to establish and implement a process that ensures contracting and program officials support and justify any award-fee changes within the contract file in a timely manner.

DAF RESPONSE: SAF/SQ concurs with the audit recommendation A.2.b. and will distribute an informational memorandum to all Heads of Contracting Activities reminding them to follow procedures in accordance with Federal and DoD policies that ensure award-fee plans are approved prior to the contractor's performance, and that any award-fee changes are supported and justified, then documented within the contract file in a timely manner.

Memo to Heads of Contracting Activities Completion Date: February 2024

RECOMMENDATION A.3: The DoDIG recommends that the Air Force Space Systems Center Director of Contracting require contracting officials to recalculate the award-fee amount earned by the contractor and pursue compensation from the contractor if any portion of the \$187,160 is not supported.

DAF RESPONSE: SAF/SQ concurs with the audit recommendation A.3. The Space Systems Command Director of Contracting also concurred with the recommendation and confirmed that necessary actions to address the recommendation have already been taken. Contracting officials reviewed the Fee Determining Official's decision to rate the contractor as satisfactory and

Office of the Assistant Secretary of the Air Force (Space Acquisition and Integration) (cont'd)

determined it was appropriate. The contract file documentation was updated accordingly to support the Fee Determining Official's decision. Since the award fee payment is justified, there is no need to pursue compensation from the contractor. This action has been completed with no further action required for closure.

3. The SAF/SQ point of contact is [REDACTED] SAF/SQXP, [REDACTED], or via email at [REDACTED].



FRANK CALVELLI
Assistant Secretary of the Air Force
(Space Acquisition and Integration)

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: Response to the Department of Defense Inspector General's Draft Audit of
the DoD's Oversight of Cost-Plus-Award-Fee Contracts (Project No. D2022
D00AT-0175.000)

As requested, I am providing a response to recommendation C1 of the subject report.

Recommendation C1: The Department of Defense Inspector General (DoD IG) recommends the Principal Director, Defense Pricing and Contracting (DPC), Office of the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Military Departments and Defense agencies:

- a. Establish and implement a solution to accurately capture all relevant cost-plus-award-fee data.

Response: Concur. DPC has been in a multi-year process of adopting and implementing the Procurement Data Standard (PDS) as a key lever to improve visibility and accuracy of discrete contract data. DPC will make changes to the PDS to capture additional cost-plus-award-fee data, enabling contract writing systems across the DoD to implement in future years.

- b. Evaluate the effectiveness of the award fees paid.

Response: Concur. Evaluating effectiveness of an award-fee type contract depends on the unique requirements of each contract. The often subjective determination of effectiveness cannot be easily captured in contracting data system. The effectiveness of the Award Fee Contract Type is determined on a case-by-case basis for each requirement's acquisition strategy. DPC will continue to support evaluation of incentive-type contracts at the component level and sharing best practices across services and agencies.

My point of contact for this matter is [REDACTED] who may be reached at [REDACTED].

Sincerely,

TENAGLIA.JOHN.M. [REDACTED]

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Defense Threat Reduction Agency



DEFENSE THREAT REDUCTION AGENCY
8725 JOHN J. KINGMAN ROAD, STOP 6201
FORT BELVOIR, VA 22060-6201

[REDACTED]
Program Director for Audit Acquisition Contracting and Sustainment
Department of Defense Office of Inspector General
4800 Mark Center Drive
Alexandria, VA 22305-1500

Dear [REDACTED],

The Defense Threat Reduction Agency (DTRA) appreciates the opportunity to respond to the Department of Defense Office of Inspector General (DoD OIG) draft report titled, "Audit of the DoD's Oversight of Cost-Plus-Award Fee Contracts," Project No. D2022-D000AT-0175.000. DTRA welcomes the DoD OIG's recommendation for improving and strengthening our controls for cost-plus-award fee (CPAF) contracts.

In the draft report, the DoD OIG recommends the Director, Acquisition, Contract and Logistics take the following action:

Recommendation B.1: Recommend implementation of controls sufficient to ensure that contracting officials are following Federal and DoD requirements related to administration and management of cost-plus-award fee contracts.

Concur – DTRA concurs with this recommendation. The Head of the Contracting Activity will emphasize to contracting personnel the importance of consistently adhering to Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) requirements for CPAF contracts. Additionally, for internal reviews of CPAF contracts, we will advise the Contracting Officer in writing that adherence to the applicable FAR and DFARS requirements is required. We will begin these actions immediately.

Thank you for the opportunity to respond to this draft report.

Sincerely,

A handwritten signature in cursive script that reads "Temple J. Ferrell". The signature is written in black ink and is positioned to the left of a black redaction box.

Temple J. Ferrell
Acting Director, Acquisition, Contracts
and Logistics

Missile Defense Agency




DEPARTMENT OF DEFENSE
MISSILE DEFENSE AGENCY
5700 18TH STREET
FORT BELVOIR, VIRGINIA 22060-5573

December 12, 2023

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDIT CYBERSPACE
OPERATIONS AND ACQUISITION, CONTRACTING, AND
SUSTAINMENT

SUBJECT: Department of Defense Office of Inspector General Audit of the Department of
Defense Oversight of Cost-Plus-Award-Fee Contracts (Project Number D2022-
D000AT-0175.000)

The Missile Defense Agency (MDA) has reviewed the draft report for the Audit of the
Department of Defense (DoD) Oversight of Cost-Plus-Award-Fee Contracts. MDA concurs with
the recommendation that the Director for Contracting implement controls sufficient to ensure
that contracting officials are following Federal and DoD requirements related to administration
and management of cost-plus-award-fee contracts. In response to the recommendation, MDA
has implemented the Contract File Checklist and is utilizing the Award Fee Dashboard.
Therefore, MDA respectfully requests closure of the recommendation. If you have any
questions, please contact my POC [REDACTED] at [REDACTED] or
[REDACTED].


HEATH A. COLLINS
Lieutenant General, USAF
Director

Army Mission and Installation Contracting Command



DEPARTMENT OF THE ARMY
U.S. ARMY MISSION AND INSTALLATION CONTRACTING COMMAND
2219 INFANTRY POST ROAD
JBSA FORT SAM HOUSTON, TX 78234-1361

CCMI-COP (715-5g1)

7 December 2023

MEMORANDUM FOR U.S. Army Contracting Command (AMCC-CO), 4505 Martin Road, Redstone Arsenal, AL 35898-5000

SUBJECT: Response to Department of Defense Office of Inspector General Draft Report, Audit of the Department of Defense's Oversight of Cost-Plus-Award-Fee Contracts, Project No. D2022-D000AT-0175

1. This is the response from the Mission and Installation Contracting Command (MICC) to the recommendations contained in the subject report.

RECOMMENDATION A.1.a.: Establish and implement a process that ensures contracting officials calculate the contractor's award fees in accordance with the approved award-fee plan criteria.

MICC RESPONSE: Concur. In 2021, the MICC established a cost and price division and instituted standard operating procedures (SOP) that require a cost/price analyst be assigned to all cost reimbursement contracts greater than or equal to \$2M, including those with an award-fee component. The establishment of the division and SOP ensures that the necessary skill sets are in place to support MICC contracting offices with a focus on the proper cost and price techniques. Additionally, the MICC has made a concerted effort to phase-out cost-plus-award-fee (CPAF) contracts for less risky contract arrangements. For example, the follow-on contract to the effort that was audited transitioned from a CPAF arrangement to a firm-fixed-price arrangement. Currently, the MICC only has one active CPAF contract, which was awarded in 2018 and ends in 2025.

RECOMMENDATION A.1.b.: Require the contracting officials to recalculate the prior award-fee amounts earned by the contractor to identify overpayments. The calculation should be done for the current and previous contract this contractor was awarded. Once that is complete, the Commanding General should require the contracting officer to pursue compensation from the contractor for overpayments, including the \$872,309 identified in this report.

Army Mission and Installation Contracting Command (cont'd)

CCMI-COP (715-5g1)

SUBJECT: Response to Department of Defense Office of Inspector General Draft Report, Audit of the Department of Defense's Oversight of Cost-Plus-Award-Fee Contracts, Project No. D2022-D000AT-0175

MICC RESPONSE: Concur, subject to the following remedies. A cost/price analyst will be assigned to assist with the recommendation. The cost/price analyst will review the contract and re-calculate the award fee based on the award fee plan contained in the contract. In concert with the contracting officer, the team will pursue any and all remedies to recover award-fee overpayment in accordance with the terms and conditions of the contract. The cost/price analyst was assigned to the case 1 December 2023 with a final re-calculation completion date of 31 May 2024.

2. This is the response from the Mission and Installation Contracting Command (MICC) to the finding A (Page 7, Paragraph 4) contained in the subject report.

FINDING A (Page 7, Paragraph 4): An Army contracting official stated that it was possible contracting officials followed the same process on the 2009 legacy CPAF contract. If that is the case, there is a potential that the contractor received millions of dollars on the previous contract in award fees that were not in accordance with the award-fee plan.

MICC RESPONSE: Finding A should not be accepted as factual until a full review is performed on the legacy contract. The MICC has assigned a cost/price analyst with audit experience to perform the review and evaluation of the award fee application on the 2009 legacy CPAF contract. The review will include an evaluation of the award fee on the total labor, materials, supplies and equipment, and subcontractor costs to determine compliance with the award fee plan and applicable regulations. An initial review will be completed by 1 April 2024.

3. The point of contact for this action is [REDACTED].

COLE.WADE.CLAY.

WADE C. COLE

Deputy to the Commanding General

Army Materiel Command



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

08 DEC 2023

AMIR

MEMORANDUM FOR Department of Defense Inspector General ([REDACTED]), Program Director for Audit Acquisition, Contracting and Sustainment, 4800 Mark Center Drive, Alexandria, VA 22350-1500

SUBJECT: Command Comments to Department of Defense Inspector General Draft Report: Audit of the DoD's Oversight of Cost Plus-Award-Fee Contracts, Project: D2022-D000AT-0175.000.

1. The U.S. Army Materiel Command has reviewed and endorses the subject draft report and responses from the U.S. Army Contracting Command. Specific comments are included at the enclosure.

2. The U.S. Army Materiel Command point of contact is [REDACTED] or email: [REDACTED].

Encl


CHRISTOPHER O. MOHAN
LTG, USA
Deputy Commanding General

Army Contracting Command



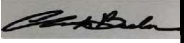
DEPARTMENT OF THE ARMY
U.S. ARMY CONTRACTING COMMAND
4505 MARTIN ROAD
REDSTONE ARSENAL, AL 35898-5000

AMCC-IR (RN 11-7a)

MEMORANDUM FOR [REDACTED], Director, Internal Review and Audit Compliance Office, Headquarters, U.S. Army Material Command, 4400 Martin Road, Redstone Arsenal, AL 35898-5000

SUBJECT: U.S. Department of Defense Inspector General (DoDIG) Audit Draft Report Project No. D2022-D000AT-0175.000 (CUI) DoD's Oversight of Cost-Plus-Award-Fee Contracts

1. Reference. DoDIG Audit Draft Report (CUI) "DoD's Oversight of Cost-Plus-Award-Fee Contracts" (Project Number D2022-D000AT-0175.000)
2. The Commanding General, U.S. Army Contracting Command (ACC) concurs with Recommendations A.1.a and A.1.b.
3. The Commander, Mission and Installation Contracting Command (MICC) has established and implemented a process that ensures contracting officials calculate the contractor's award fees in accordance with the approved award-fee plan criteria. (Recommendation A.1.a)
4. By 31 May 2024, the Commander, MICC will require the contracting officials to recalculate the prior award-fee amounts earned by the contractor to identify over-payments. Once that is complete, the Commander will require the contracting officer to pursue all legal avenues possible to recoup compensation from the contractor for over-payments, including the \$872,309 identified during the audit. (Recommendation A.1.b)
5. The Commanding General, ACC acknowledges the statement, "An Army contracting official stated that it was possible contracting officials followed the same process on the 2009 legacy cost plus award fee contract," in Finding A. The audit report did not include any calculations regarding the 2009 legacy contract to support the conclusion. However, ACC and MICC officials will complete an initial review of the 2009 legacy contract and provide a report of findings to Army Material Command by 1 April 2024.
6. The ACC point of contact for this memorandum is [REDACTED], Internal Review Audit and Compliance Office, at [REDACTED] or [REDACTED].


CHRISTINE A. BEELER
Brigadier General, USA
Commanding

Encl

Acronyms and Abbreviations

| | |
|--------------|---|
| CLIN | Contract Line Item Number |
| COR | Contracting Officer's Representative |
| CPAF | Cost-Plus-Award-Fee |
| DFARS | Defense Federal Acquisition Regulation Supplement |
| DPC | Defense Pricing and Contracting |
| DTRA | Defense Threat Reduction Agency |
| EDA | Electronic Data Access |
| FAR | Federal Acquisition Regulation |
| FDO | Fee-Determining Official |
| FPDS | Federal Procurement Data System |
| FMR | Financial Management Regulation |
| MDA | Missile Defense Agency |
| MICC | Mission and Installation Contracting Command |

Whistleblower Protection

U.S. DEPARTMENT OF DEFENSE

Whistleblower Protection safeguards DoD employees against retaliation for protected disclosures that expose possible fraud, waste, and abuse in Government programs. For more information, please visit the Whistleblower webpage at <http://www.dodig.mil/Components/Administrative-Investigations/Whistleblower-Reprisal-Investigations/Whistleblower-Reprisal/> or contact the Whistleblower Protection Coordinator at Whistleblowerprotectioncoordinator@dodig.mil

For more information about DoD OIG reports or activities, please contact us:

Congressional Liaison

703.604.8324

Media Contact

public.affairs@dodig.mil; 703.604.8324

DoD OIG Mailing Lists

www.dodig.mil/Mailing-Lists/



www.twitter.com/DoD_IG

LinkedIn

<https://www.linkedin.com/company/dod-inspector-general/>

DoD Hotline

www.dodig.mil/hotline





DEPARTMENT OF DEFENSE | OFFICE OF INSPECTOR GENERAL

4800 Mark Center Drive
Alexandria, Virginia 22350-1500
www.dodig.mil
DoD Hotline 1.800.424.9098

