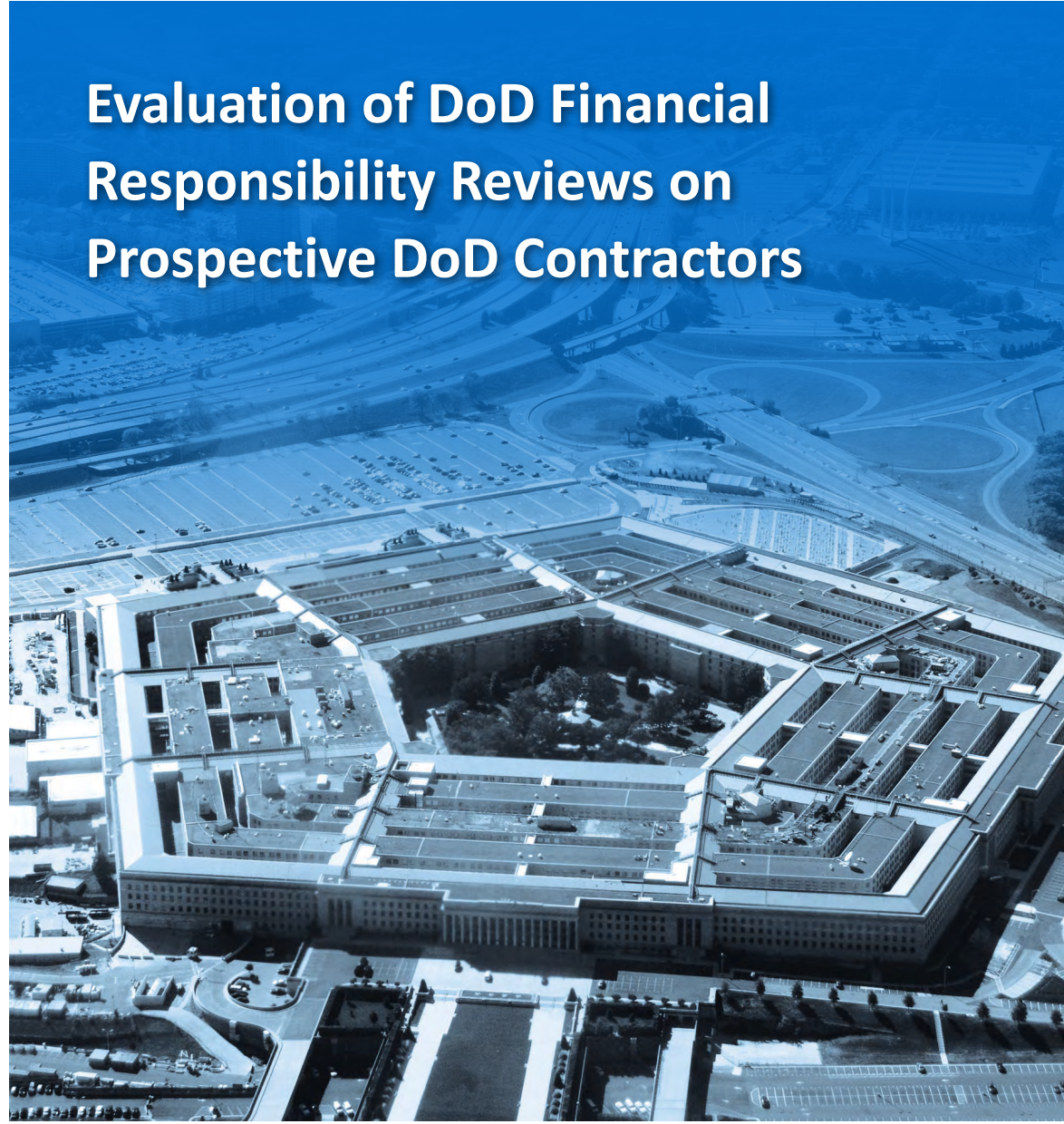




INSPECTOR GENERAL

U.S. Department of Defense

MARCH 29, 2024



Evaluation of DoD Financial Responsibility Reviews on Prospective DoD Contractors

INDEPENDENCE ★ INTEGRITY ★ EXCELLENCE ★ TRANSPARENCY





Results in Brief

Evaluation of DoD Financial Responsibility Reviews on Prospective DoD Contractors

March 29, 2024

Objective

The objective of this evaluation was to determine whether DoD contracting officers performed financial responsibility reviews on prospective contractors in accordance with the Federal Acquisition Regulation (FAR), Defense FAR Supplement (DFARS) and DoD Component policies.

Background

DoD contracting officers are responsible for minimizing the risk of contract failure by ensuring that purchases are awarded to responsible contractors.

The FAR requires contracting officers to make a positive determination of a contractor's responsibility before awarding a contract for the purchase of goods and services. The FAR also identifies the requirements for concluding that a contractor is responsible. In addition, the DFARS requires DoD contracting officers to perform a financial review when they do not possess sufficient information to make a positive determination of financial responsibility. The DFARS requires contracting officers to obtain the type and depth of financial and other information that is required to establish a contractor's financial capability.

The DoD issued 291,895 contracts in FY 2022, valued at \$116 billion. As part of our evaluation, we nonstatistically sampled 59 contracts valued at \$8 billion.

Finding

For 47 (80 percent) of 59 contracts we reviewed, DoD contracting officers did not obtain sufficient documentation to support their positive determination of financial responsibility in accordance with the DFARS. This occurred because DoD Component policies do not establish the type and extent of documentation that DoD contracting officers should obtain and keep to support a positive financial determination. As a result of not adequately documenting their positive financial responsibility determinations, the DoD contracting officers for the 47 contracts may have subjected the Government to the increased risk of prospective contractors not being able to financially perform on the contracts. The 47 contracts are worth a combined value of approximately \$7.8 billion as of May 24, 2023.

For 35 (74 percent) of the 47 contracts, the risk to the DoD continues because the contracts remain open as of September 23, 2023. In addition, the risk of not determining financial responsibility would increase if the contracting officers obligate additional funds up to the contracts' maximum values of approximately \$78.9 billion.

Recommendations

We made the same five recommendations to the Army, Navy, Air Force, and Defense Logistics Agency. Among the recommendations, we recommend that DoD Component contracting officers assigned to the 35 open contracts reevaluate and adequately document the contractors' financial responsibility determinations. In addition, we recommend that the DoD Components update and implement their policies to describe the types and extent of financial information required to document the determinations.



Results in Brief

Evaluation of DoD Financial Responsibility Reviews on Prospective DoD Contractors

Management Comments and Our Response

Comments from the Army for two of the five recommendations addressed the specifics of the recommendations. Therefore, the two recommendations are considered resolved and open, and we will close them once we verify that the Army has implemented the agreed-upon actions. The comments from the Army for the remaining three recommendations did not address the specifics of the recommendations. Therefore, we consider these three recommendations unresolved, and we request that, within 30 days, the Army provides additional comments that describe the specific actions they will take to address the three unresolved recommendations.

Comments from the Navy for three of the five recommendations addressed the specifics of the recommendations. Therefore, the three recommendations are considered resolved and open, and we will close them once we verify that the Navy has implemented the agreed-upon actions. The comments from the Navy for the remaining two recommendations did not address the specifics of the recommendations. Therefore, we consider these two recommendations unresolved, and we request that, within 30 days, the

Navy provide additional comments that describe the specific actions they will take to address the three unresolved recommendations.

Comments from the Air Force addressed the specifics of all five recommendations. Therefore, these recommendations are resolved and will remain open until we verify that the Air Force has implemented the recommendations.

Comments from the Defense Logistics Agency for one of the five recommendations addressed the specifics of the recommendation. Therefore, the recommendation is considered resolved and open. We will close the recommendation once we verify that the Defense Logistics Agency has implemented the agreed-upon actions. The comments from the Defense Logistics Agency for the remaining four recommendations did not fully address the recommendations. Therefore, we consider these four recommendations unresolved, and we request that, within 30 days, the Defense Logistics Agency provide additional comments that describe the specific actions they will take to address the four unresolved recommendations.

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

Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Deputy Assistant Secretary of the Army (Procurement)	2a.1, 2a.2, 2b	1a, 1b	None
Deputy Assistant Secretary of the Navy (Procurement)	2a.1, 2b	1a, 1b, 2a.2	None
Deputy Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics)	None	1a, 1b, 2a.1, 2a.2, 2b	None
Defense Logistics Agency Acquisition Director	1a, 1b, 2a.1, 2b	2a.2	None

Please provide Management Comments by April 29, 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** – The 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

March 29, 2024

MEMORANDUM FOR DIRECTOR, DEFENSE LOGISTICS AGENCY
AUDITOR GENERAL, DEPARTMENT OF THE ARMY
AUDITOR GENERAL, DEPARTMENT OF THE NAVY
AUDITOR GENERAL, DEPARTMENT OF THE AIR FORCE

SUBJECT: Evaluation of DoD Financial Responsibility Reviews on Prospective
DoD Contractors (Report No. DODIG-2024-072)

This final report provides the results of the DoD Office of Inspector General's evaluation. 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 nine recommendations that are considered unresolved. Three recommendations for the Army are considered unresolved because the comments from the Deputy Assistant Secretary of the Army (Procurement) did not sufficiently address the recommendations presented in the report. Two recommendations for the Navy are considered unresolved because the comments from the Deputy Assistant Secretary of the Navy (Procurement) did not sufficiently address the recommendations presented in the report. Four recommendations for the Defense Logistics Agency are considered unresolved because the comments from the Acquisition Director did not sufficiently address the recommendations presented in the report.

Therefore, as discussed in the Recommendations, Management Comments, and Our Response sections of this report, the nine recommendations remain open until we reach an agreement on the actions that you will take to address the recommendations, and you have submitted adequate documentation showing that all agreed-upon actions are completed.

DoD Instruction 7650.03 requires that recommendations be resolved promptly. Accordingly, within 30 days please provide us your response concerning specific actions in process or alternative corrective actions proposed on the recommendations. Send your response to [REDACTED]

Finally, the report includes 11 recommendations that are considered resolved and open, consisting of 2 for the Army, 3 for the Navy, 5 for the Air Force, and 1 for the Defense Logistics Agency. As described in the Recommendations, Management Comments, and Our Response sections of this report, we will close the 11 recommendations when the DoD Components provide us documentation showing that all agreed-upon actions to implement the recommendations are completed. Therefore, within 90 days please provide us your response concerning specific actions in process or completed on the 9 recommendations. Send your response to [REDACTED]

If you have any questions, please contact [REDACTED]. We appreciate the cooperation and assistance received during the evaluation.

FOR THE INSPECTOR GENERAL:

A handwritten signature in black ink, appearing to read 'Randolph R. Stone', with a stylized flourish at the end.

Randolph R. Stone
Assistant Inspector General for Evaluations
Space, Intelligence, Engineering, and Oversight

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Acronyms and Abbreviations



Introduction

Objective

The objective of this evaluation was to determine whether DoD contracting officers performed financial responsibility reviews on prospective contractors in accordance with the Federal Acquisition Regulation (FAR), the Defense FAR Supplement (DFARS) and DoD Component policies.

Background

The DoD issued 291,895 contracts in FY 2022, valued at \$116 billion.¹ As part of our review, we nonstatistically selected a sample of 59 of the contracts, worth approximately \$8 billion. Of the 59 contracts, the Army awarded 14 contracts, the Navy awarded 21 contracts, the Air Force awarded 20 contracts, and the Defense Logistics Agency (DLA) awarded 4 contracts. See Appendix A for a discussion of our scope and methodology. See Appendix B for a listing of the 59 contracts.

To minimize the risk of contract failure, DoD contracting officers are responsible for ensuring they award contracts to responsible contractors. The FAR establishes the primary requirements for the acquisition of goods and services by executive agencies. The DFARS provides supplemental requirements and policies and procedures for the acquisition of goods and services by the DoD.

FAR Requirements for Making Determinations of Contractor Financial Responsibility

FAR Subpart 9.1, “Responsible Prospective Contractors,” sets policies, standards, and procedures for determining whether prospective contractors are responsible. FAR 9.103, “Policy,” requires contracting officers to make a positive determination of a contractor’s responsibility before awarding a contract for the purchase goods and services. FAR 9.104-1, “General Standards,” identifies the requirements for concluding that a contractor is responsible, including that the contractor has:

- adequate financial resources to perform the requirements of the contract or the ability to obtain it,
- a satisfactory performance record, and
- a satisfactory record of integrity and business ethics.

FAR 9.105-2(b)(1) requires that contracting officers ensure contract files contain documentation supporting a determination of responsibility. In addition, FAR 9.104-6, “Federal Awardee Performance and Integrity Information System,”

¹ The 2022 contracts exclude contract modifications. The \$116 billion is the total obligations from 2022, as reported in USASpending.gov.

establishes specific requirements a contracting officer must consider before awarding a contract above the simplified acquisition threshold.² Specifically, FAR 9.104-6 requires that a contracting officer review performance and integrity information available in the Federal Awardee Performance and Integrity Information System (FAPIIS). FAPIIS consists of performance evaluations of prior contracts; criminal, civil, and administrative proceedings related to Federal awards; suspension and debarments; prior non-responsibility determinations; and terminations.

DFARS Requirements for Making Determinations of Contractor Financial Responsibility

DFARS 232.072, requires that DoD contracting officers perform a financial review and obtain appropriate information when making a determination of a prospective contractor's financial responsibility. Specifically, DFARS 232.072-1, "Required Financial Reviews," requires DoD contracting officers to perform a financial review when they do not have sufficient information to make a positive determination of financial responsibility.³ DFARS 232.072-1 requires that a DoD contracting officer consider performing a financial review, including when:

- the contractor may receive contract financing payments, or
- the contractor is a new company or a new supplier of the item.

DFARS 232.072-2, "Appropriate Information," requires the contracting officer to obtain the type and depth of financial and other information that is required to establish a contractor's financial capability to perform on the contract or to disclose the contractor's financial condition.

DoD Component Guidance for Conducting Financial Reviews

The Army, Navy, Air Force, and DLA also maintain the following additional regulations that implement and supplement the FAR and DFARS.

- Army Federal Acquisition Regulation Supplement (AFARS)
- Navy Marine Corps Acquisition Regulation Supplement (NMCARS)
- Air Force Federal Acquisition Regulation Supplement (AFFARS)
- Defense Logistics Acquisition Directive (DLAD)

² As of August 25, 2023, FAR 2.101 establishes the simplified acquisition threshold at \$250,000.

³ A positive financial determination means that the DoD contracting officer determined that the prospective contractor has the financial resources to perform the contract, or the ability to obtain them.

The supplements and directive provide additional guidance to contracting officers in determining the financial responsibility of prospective contractors. For example, the Army AFARS Subpart 5109.1, “Responsible Prospective Contractors,” subsection 5109.103 requires contracting officers to use the Determination of Responsibility Assistance Contractor Responsibility bot (DORA bot) to assist them with determining a prospective contractor’s responsibility.⁴

Defense Contract Management Agency Assistance in Determining Financial Responsibility

The Defense Contract Management Agency (DCMA) performs contract administration services primarily for the DoD. The DCMA operates in accordance with DoD Directive 5105.64 and functions under the authority, direction, and control of the Under Secretary of Defense for Acquisition and Sustainment.⁵ As of October 10, 2023, the DCMA maintains a Financial Capability Team of approximately 13 employees who perform financial reviews of prospective contractors when requested by DoD contracting officers. In FY 2022, the Financial Capability Team performed 207 financial responsibility reviews of prospective contractors.

⁴ AFARS Part 5109, “Contractor Qualifications,” Subpart 5109.1, “Responsible Prospective Contractors,” subsection 5109.103, “Policy.” A “bot” is a software program that can execute commands or perform routine tasks either automatically or with minimal human intervention.

⁵ DoD Directive 5105.64 “Defense Contract Management Agency,” January 10, 2013. On March 2, 2023, the DoD Directive 5105.64 was updated; however, this update postdates the period of performance of the contracts we reviewed.

Finding

DoD Contracting Officers Did Not Obtain Sufficient Documentation to Support their Financial Responsibility Determinations for 47 Contracts

For 12 of 59 contracts we reviewed, the contracting officers obtained sufficient documentation to support their positive determinations of the contractor's financial responsibility.

However, for the remaining 47 contracts (80 percent), DoD contracting officers did not obtain sufficient documentation to support their positive determinations of financial responsibility in accordance with DFARS 232.072-1. Of the 47 contracts, we determined that the contracting officers for:

- 44 contracts relied on reports that did not include information reflecting the prospective contractor's current financial capability; and
- 3 contracts did not include any documentation in the contract file to support the contractor's past or current financial responsibility.

This occurred because the DoD Component policies do not establish the type and extent of documentation that the DoD contracting officers should obtain and keep to support a positive financial determination.

As a result of not adequately supporting their financial responsibility determinations, the DoD contracting officers for the 47 contracts subjected the Government to the increased risk of the prospective contractors not having the financial resources to perform on the contracts. Total obligations for the 47 contracts were \$7.8 billion as of May 24, 2023.⁶

⁶ As of May 24, 2023, the DoD obligated \$7.8 billion total on the 47 contracts. Depending on the type of contract, the DoD may obligate additional funds to these contracts in the future.

DoD Contracting Officers for 12 Contracts Obtained Sufficient Documentation To Make a Positive Financial Determination

For 12 of 59 contracts, we determined that the contracting officers obtained sufficient information to support their positive financial determinations in accordance with DFARS 232.072-2. The following examples describe the financial information contracting officers obtained to help ensure the contractor's financial responsibility.

- For a \$19.6 million Army contract ending in 22-C-0009, the contracting officer ensured the prospective contractor's financial condition by obtaining a bid bond guarantee to cover 20 percent of the bid price, payment bond, and performance bond.⁷
- For a \$17 million Navy contract ending in 22-D-4006, the contracting officer obtained financial statements for the past 3 years, and documentation of a bank line of credit agreement.
- For a \$1.7 million Air Force contract ending in 22-F-0027, the contracting officer obtained certification of the prospective contractor's financial cash position and a performance and payment bond to finance the contract's performance.⁸

DoD Contracting Officers Relied on Reports that Lacked Information To Support the Positive Financial Determinations for 44 Contracts

Contracting officers for 44 of 47 contracts relied on reports that did not include information reflecting the prospective contractor's current financial capability. DFARS 232.072-2 requires contracting officers to obtain the type and depth of financial and other information necessary to establish a contractor's financial capability to perform on the contract or disclose the contractor's financial condition. In addition, DFARS 232.072-2 lists the types of contractor financial information that contracting officers must obtain to protect the Government's interests, including:

- a balance sheet and income statement,
- a cash forecast for the duration of the contract,
- a set of financial ratios, or
- a financing arrangement information that discloses availability of cash.

⁷ A bid bond is a legal agreement that ensures contractors fulfill their stated obligations on a project. As part of the bond issuance process, a second party (a surety company) would obtain certified copy of the prospective contractor's financial statements and other financial information to ensure the contractor's financial condition. The surety will assure fulfillment of the contractor's obligation to the Government.

⁸ The performance and payment bonds are intended for use by government contractors and contracting personnel for compliance with, and management of, financial security requirements in Government contracts.

For 33 of 44 contracts, the contracting officers relied only on information from the FAPIIS and the System for Award Management (SAM) to determine the contractor's financial condition.⁹ For the remaining 11 of 44 contracts, the contracting officers obtained reports from Dun & Bradstreet (D&B) or the Supplier Performance Risk System (SPRS), as well as FAPIIS and SAM reports.¹⁰ For example:

- For a \$14.6 million Air Force contract ending in 22-F-2800, the contracting officer used FAPIIS and SAM reports to make a positive determination on the contractor's financial condition.
- For a \$6.3 billion DLA contract ending in 22-F-121L, the contracting officers obtained the FAPIIS, SAM, and D&B reports to make a positive determination of the contractor's financial condition.

However, the FAPIIS, SAM, D&B, and SPRS reports were not sufficient to establish the contractor's financial responsibility and did not contain the types of financial information outlined in DFARS 232.072-2. Specifically, for all 44 contracts, the FAPIIS and SAM reports we reviewed did not include any financial information or statements on past performance. All D&B reports included the following statement "D&B has been unable to obtain financial information on this company." The SPRS reports only identified a color-coded score that ranked the contractors between the lowest and top 5 percent, based on data collected for the contractor from the past 3 years.

The contracting officers for the 44 contracts told us they believed the reports were sufficient to support the prospective contractor's financial determination because the reports included past performance information. However, the FAPIIS, SAM, D&B, and SPRS reports we reviewed did not include any financial information or statements on past performance. In addition, although past performance information is relevant to identifying a satisfactory performance record and other aspects of contractor responsibility, it did not address the financial capability of the prospective contractor to execute a prospective contract.

We also identified that for at least 8 of 44 contracts, the contractors have received progress payments. Progress payments are a type of contract financing where the Government pays a contractor for goods or services during contract performance, before the Government accepts the goods or services. As of September 29, 2023, the DoD Components paid the eight contractors a total of \$615 million, but the contracting officers could not locate any financial information they used to support

⁹ FAPIIS reports include performance evaluations of prior contracts; criminal, civil and administrative proceedings related to Federal awards; suspension and debarments; prior non-responsibility determinations; and terminations. SAM reports include reports on contract activity.

¹⁰ The D&B risk score is a creditworthiness indicator of a business based on past payment performance to debtors, length of operation, and employee numbers, and the SPRS report identifies a color-coded score that ranks the contractors between the lowest and top 5 percent of contractors based on data collected of the business from the past 3 years.

the positive financial determination of the contractor. Therefore, we could not determine whether the contracting officers considered the prospective contractors' financial condition before awarding the contracts.

The following table shows the total values for the 59 contracts we selected for our evaluation by DoD Component. It also shows the total values of the 47 contracts where the contract files did not include sufficient support for the financial responsibility determination. See Appendix B for a listing of the 59 contracts.

Table 1. Values of Selected Contracts by DoD Component, Including those Where the Contract Files Did Not Include Sufficient Support for the Financial Responsibility Determination

DoD Component	No. of Selected Contracts	Maximum Total Contract Value* (in millions)	Total Contract Value as of 5/24/2023 (in millions)	No. of Contracts Without Sufficient Support	Value of Contracts Without Sufficient Support as of 5/24/2023* (in millions)
Army	14	\$2,912	\$686	12	\$618
Navy	21	\$13,934	\$842	16	\$817
Air Force	20	\$48,056	\$101	15	\$18
DLA	4	\$33,093	\$6,341	4	\$6,341
Total	59	\$97,995	\$7,971	47	\$7,795

* For Indefinite Delivery Indefinite Quantity or a Blanket Purchase Agreement type contracts in our sample, the maximum contract value was sometimes greater than the total contract value as of May 24, 2023, because the contracting officers had not yet placed orders up to the maximum value specified in the contract.

Source: The DoD OIG, based on data obtained from USASpending.gov and the DoD Components.

For 35 of 47 contracts, the contracting officers should reevaluate the financial responsibility of the contractors because these contracts are still open and the contracting officers have the option of obligating up to a total of \$78.9 billion in additional funds on the 35 contracts.¹¹ The risk of the DoD experiencing substandard deliverables, product substitution, defaults, or delays still exists on the 35 contracts, which warrants that the contracting officers perform an adequate financial responsibility review. Therefore, the Deputy Assistant Secretary of the Army (Procurement); Deputy Assistant Secretary of the Navy (Procurement); Associate Deputy Assistant Secretary of the Air Force (Acquisition, technology, and Logistics); and Defense Logistics Agency Acquisition Director should require the contracting officers for the 35 contracts to reevaluate the contractors' financial capability, and include sufficient documentation in the contract file to support the results of the reevaluation of financial responsibility.

¹¹ These contracts include task orders, purchase orders, blanket agreements, and indefinite delivery contracts that remain open or have the potential to obligate additional funds as of September 27, 2023. The \$78.9 billion in potential awards can be higher because there are indefinite delivery and blanket agreements that do not have a ceiling amount.

The DoD Components Have Not Established Adequate Policy for Conducting Financial Determinations

For 47 contracts where the DoD contracting officers did not obtain sufficient financial information, we determined that the Army, Navy, Air Force, and DLA did not establish policies or instructions for ensuring that contracting officers obtain and keep the types of financial information required by FAR 9.104-1(a) and DFARS 232.072-1.

FAR 9.104-1(a) requires the contracting officer to make a positive determination on the contractor's financial capability to perform the contract. In addition, DFARS 232.072-2 describes the type of information considered adequate to determine the contractor's financial capability or financial condition. Adequate financial information used by the contracting officers would establish the current assets available to the contractor to perform the contract, past financial experience and projections, or financial resources from external parties. The specific type and extent of information that is necessary to support a financial determination can depend on several factors, including the value, complexity, financing, and duration of the contract. However, the information must relate to the company's financial position.

We obtained the Army, Navy, Air Force, and DLA policies and guidance that implement or supplement the FAR and DFARS and determined the policies do not provide contracting officers with examples of the type of documentation they should obtain to determine a prospective contractor's financial condition. For example, we determined that Army AFARS Subpart 5109.1, "Responsible Prospective Contractors," subsection 5109.103 requires contracting officers to use the DORA bot to assist them to determine prospective contractor responsibility.¹² However, the DORA bot instructions do not provide guidance to contracting officers on the types of financial information they need to make a financial determination.¹³ In addition, the DORA bot only performs a search of FAPIIS and SAM, which do not include updated financial information on prospective contractors.

We also determined that NMCARS Subpart 5209.1, "Responsible Prospective Contractors," AFFARS Subpart 5309.1, "Responsible Prospective Contractors," and DLAD Subpart 9.1, "Responsible Prospective Contractors," only require contracting officers to ensure prospective contractors are responsible.¹⁴ These Navy, Air Force,

¹² AFARS Part 5109, "Contractor Qualifications," Subpart 5109.1, "Responsible Prospective Contractors," subsection 5109.103, "Policy."

¹³ Army Audit Agency Report No. A-2023-0050-BOZ, "Vendor Eligibility for Contract Awards, U.S. Army Contracting Command," July 25, 2023, identified issues with the use of the DORA Bot and the documentation of the Contracting Officers rationale.

¹⁴ NMCARS Part 5209, "Contractor Qualifications," Subpart 5209.1, "Responsible Prospective Contractors"; AFFARS Subpart 5309.1, "Responsible Prospective Contractors"; and DLAD Subpart 9.1, "Responsible Prospective Contractors."

and DLA policies do not advise the contracting officers to obtain financial information from the prospective contractors. The policies also do not provide examples of the type of financial information contracting officers need to obtain and keep under various contract situations to make a financial determination.

Therefore, the Deputy Assistant Secretary of the Army (Procurement); Deputy Assistant Secretary of the Navy (Procurement); Deputy Assistant Secretary of the Air Force (Acquisition, Technology and Logistics); and DLA Acquisition Director should update their policies to describe the types and extent of documentation contracting officers must obtain and maintain to adequately support their financial responsibility determinations of prospective contractors in accordance with the DFARS 232.072-2. They should also issue a memorandum to DoD contracting officers on the updated policies.

The DCMA Financial Capability Team Performs Financial Reviews of Prospective Contractors

The DCMA Financial Capability Team performs financial responsibility reviews of prospective contractors when requested by a DoD contracting officer. The DoD contracting officer is not required by the FAR or DFARS to request assistance from DCMA. However, contracting officers should consider requesting assistance from the DCMA Financial Capability Team because they have considerable experience in performing financial responsibility reviews. The DCMA reviews include assessing the prospective contractor's overall financial condition, and determining if they have adequate financial resources or the ability to obtain the resources.

The DCMA Financial Capability Team performed a financial review of 2 of the 59 contracts we selected. The team performed a thorough review of the financial position of both prospective contractors and ensured they had the financial resources necessary to execute the contracts.

For example, a \$47.9 million Army contract ending in 22-C-0025, the DCMA Financial Capability Team obtained financial statements for 4 years, banking information, and sales forecasts to determine the overall prospective contractor's financial condition. In addition, they analyzed the prospective contractor's financial trends and financial ratios, which provided insight on the prospective contractor's financial health. The Army, Navy, Air Force, and DLA contracting officers should consider using the DCMA financial capability team to help them assess the financial responsibility of prospective contractors, especially when:

- the contract terms or other factors warrant a detailed financial review;
- the contractors will receive contract financing; and
- contracting officers do not have sufficient information in the contract file to make a financial determination in accordance with DFARS 232.072-1.

The Deputy Assistant Secretary of the Army (Procurement); Deputy Assistant Secretary of the Navy (Procurement); Deputy Assistant Secretary of the Air Force (Acquisition, Technology and Logistics); and DLA Acquisition Director should update their policies to indicate that the Defense Contract Management Agency's Financial Capability Team is available to assist them in determining financial responsibility of prospective contractors. They should also issue a memorandum to DoD contracting officers on the updated policies.

DoD Contracts are at Higher Risk of Default or Delays Resulting from Contractors Not Having Adequate Financial Resources

As a result of not obtaining sufficient documentation to support their positive financial determinations on 47 contracts with a total value of \$7.8 billion, the contracting officers subjected the DoD to an increased risk of experiencing contract defaults, delays, substandard deliverables, or product substitutions. Obtaining and keeping sufficient financial information provides reasonable assurance that contractors have adequate financial resources to perform the contract or the ability to obtain the necessary resources.

For 35 of 47 contracts, the risk to the DoD still continues to exist because the contracts remain open as of September 27, 2023. In addition, the risk of not determining financial responsibility would increase if the contracting officers choose to obligate additional funds up to the contracts' ceiling, which are worth a combined total of approximately \$78.9 billion.

Recommendations, Management Comments, and Our Response

Recommendation 1

We recommend that the Deputy Assistant Secretary of the Army (Procurement), Deputy Assistant Secretary of the Navy (Procurement), Associate Deputy Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), and Defense Logistics Agency Acquisition Director require the contracting officers for the 35 open contracts identified in Appendix B to:

- a. **Reevaluate the contractors' financial capability, and**
- b. **Include sufficient documentation in the contract file to support the results of the reevaluation of financial responsibility.**

Deputy Assistant Secretary of the Army (Procurement) Comments

The Deputy Assistant Secretary of the Army (Procurement) agreed and stated that the Army performed a review of the 12 Army contracts identified in Appendix B. Seven of the 12 Army contracts have been closed. For the remaining 5 of the 12 contracts, the Deputy Assistant Secretary of the Army stated the contracting officers documented the financial responsibility via the DORA bot or a Price Negotiation Memorandum.

Our Response

Comments from the Deputy Assistant Secretary of the Army (Procurement) addressed the recommendation; therefore, the recommendation is resolved but will remain open. We will close the recommendations once we verify that the Army has closed the seven contracts and adequately documented its reevaluation of the remaining five open contracts.

Deputy Assistant Secretary of the Navy (Procurement) Comments

The Acting Deputy Assistant Secretary of the Navy (Procurement) agreed and stated that the contracting officers will reevaluate the contractors' financial capability for the open contracts. In addition, the contracting officers will include sufficient documentation in the contract file to support the contracting officers' financial capability determinations. The Acting Deputy Assistant Secretary of the Navy (Procurement) stated that the recommendations would be implemented by April 1, 2024.

Our Response

Comments from the Acting Deputy Assistant Secretary of the Navy (Procurement) addressed the recommendations; therefore, the recommendations are resolved but will remain open. We will close the recommendations once we have verified the Navy has sufficiently documented its reevaluation of the 10 open contracts.

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

The Associate Deputy Assistant Secretary (Contracting) responding for the Associate Deputy Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics) agreed and stated the Air Force will reevaluate the contractor's financial capability and include sufficient supporting documentation in the contract file for the 11 open contracts. The Air Force closed the remaining four contracts because they were completed. The Associate Deputy Assistance Secretary (Contracting) also stated that the recommendations will be implemented by August 1, 2024.

Our Response

Comments from the Associate Deputy Assistant Secretary (Contracting) addressed the recommendations; therefore, the recommendations are resolved but will remain open. We will close the recommendations once we have verified the Air Force has closed the 4 contracts, and adequately documented its reevaluation of the 11 open contracts.

Defense Logistics Agency Acquisition Director Comments

The DLA Acquisition Director partially agreed with recommendations. The DLA Acquisition Director agreed that financial responsibility determinations play an important role in protecting the Government's interests and ensure that contracting officers make determinations of financial responsibility in accordance with the FAR and DFARS. In addition, the DLA Acquisition Director agreed with the importance of proper and complete documentation in contract files. However, the DLA Acquisition Director disagreed with the report's conclusion that the DLA evaluations of financial responsibility identified in the report were insufficient to support positive determinations of financial responsibility. Also, the DLA Acquisition Director disagreed with the recommendation to reevaluate the contractor's financial capability for the open contracts.

To address the recommendations, the DLA Acquisition Director stated that the DLA conducted a review of the four DLA contracts listed in Appendix B. For the contract ending in 22-C-053, the DLA review concluded that information was missing from the contract file and the DLA updated the file to include the

missing information. For the remaining three contracts, the DLA determined that the contract files did contain documentation that was already sufficient to support the contracting officers' determination of positive financial responsibility.

Our Response

Comments from the DLA Acquisition Director partially addressed the recommendation; therefore, the recommendation is unresolved. Although the DLA Acquisition Director stated that their review of the four DLA contracts resulted in adding information to one contract file ending in 22-C-053, the DLA Acquisition Director's response does not provide any details about the information added or explain how it resulted in the improved documentation of the contracting officer's financial responsibility determination. In addition, the Director's response does not provide any rationale for disagreeing with our findings on the three remaining contracts.

We request that the DLA Acquisition Director provide the detailed results on the DLA's review of the four DLA contracts, including the information added to the contract file for the contract ending in 22-C-053. In addition, the DLA should also provide rationale for determining that the contract files for the three remaining contracts included sufficient documentation for the financial responsibility determinations and provide relevant supporting documentation, as appropriate. We request additional comments within 30 days of this report.

Recommendation 2

We recommend that the Deputy Assistant Secretary of the Army (Procurement); Deputy Assistant Secretary of the Navy (Procurement); Deputy Assistant Secretary of the Air Force (Acquisition, Technology and Logistics); and Defense Logistics Agency Acquisition Director:

- a. **Update and implement their Component policies to:**
 1. **Describe the types and extent of financial information required to document contracting officer financial responsibility determinations and to maintain the documentation in the contract file in accordance with the Defense Federal Acquisition Regulation Supplement 232.072-2.**
 2. **Indicate that the Defense Contract Management Agency's Financial Capability Team is available to assist them in determining financial responsibility of prospective contractors.**
- b. **Issue a memorandum to the DoD contracting officers to advise them of the policy updates made in response to Recommendation 2.a.**

Deputy Assistant Secretary of the Army (Procurement) Comments

The Deputy Assistant Secretary of the Army (Procurement) disagreed and stated that contracting officers are following DFARS 232.072-2 and have adequately documented and maintained contract files. In addition, the Deputy Assistant Secretary of the Army (Procurement) stated that assistance from the DCMA Financial Capability Team is not needed. Also, the Deputy Assistant Secretary of the Army (Procurement) stated that the Army will not change its current policy but will reiterate documenting the contracting officer financial responsibility determinations during quarterly workshops and in other training.

Our Response

Comments from Deputy Assistant Secretary of the Army (Procurement) did not address the recommendations; therefore, the recommendations are unresolved and remain open. For Recommendations 2.a.1 and 2.b, our evaluation determined that the contacting officers for 12 of 13 Army contracts we reviewed did not sufficiently document their positive determination of financial responsibility. Therefore, the Army procedures are not providing reasonable assurance that contracting officers are performing financial responsibility determinations in accordance with FAR and DFARS requirements.

AFARS Subpart 5109.1, subsection 5109.103, requires contracting officers to use the DORA bot to assist them in determining a prospective contractor's financial responsibility. However, the DORA bot instructions do not provide guidance to contracting officers on the types and extent of financial information they need to make a financial determination. In addition, the DORA bot only performs a search of FAPIIS and SAM, which do not include updated financial information on prospective contractors. Revising the policies and procedures would help to ensure that contracting officers have appropriate guidance when determining contractor financial responsibility.

Although the Army plans to reiterate the FAR and DFARS requirement in quarterly workshops, this action will not provide Army contracting officers with the types and extent of financial information they need to obtain under the circumstances. The AFARS should provide a roadmap for the daily operations of the Army that demonstrates the Army's commitment to ensuring the contracting officers have adequate support for financial responsibility determinations.

Therefore, we request that the Deputy Assistant Secretary of the Army (Procurement) describe the specific updates the Army will make to its procedures that will provide explanations and examples of the type of financial information required to document contracting officer financial responsibility determinations in accordance with DFARS 232.072-2.

For Recommendation 2.a.2, the Army should revise its policy to indicate that the DCMA Financial Capability Team is available as a resource. Although the Army is not required to use of the DCMA Financial Capability Team, their assistance may help to ensure that contracting officers perform adequate financial responsibility determinations. We request that the Deputy Assistant Secretary provide additional comments in response to the recommendations within 30 days of this report.

Deputy Assistant Secretary of the Navy (Procurement) Comments

The Acting Deputy Assistant Secretary of the Navy (Procurement) partially agreed and stated that current regulations are sufficient and do not need to be supplemented by more Department of Navy policy. However, the Acting Deputy stated that the findings in the report are important and should be communicated to the Department of Navy contracting activities. The Acting Deputy agreed to remind Navy contracting activities of the overall requirements for concluding that a contractor is responsible in accordance with FAR 9.104. In addition, the Acting Deputy stated that the Navy will notify its contracting activities that the DCMA Financial Capability Team is available to perform financial reviews. The Acting Deputy stated the actions will be implemented by April 1, 2024.

Our Response

For Recommendations 2.a.1 and its related portion of 2.b, comments from the Acting Deputy Assistant Secretary of the Navy (Procurement) did not adequately address the recommendations; therefore, the recommendations are unresolved and remain open. The existing Navy procedures do not provide sufficient guidance to ensure contracting officers are determining contractor financial responsibility in accordance with FAR and DFARS requirements. NMCARS subpart 5209.1, “Responsible Prospective Contractors,” only requires contracting officers to ensure prospective contractors are responsible. It does not include an explanation of the appropriate types and extent of financial information required to establish a contractor’s financial capability or disclose a contractor’s financial condition in accordance with DFARS 232.072.

Revising the policies and procedures would help to ensure that contracting officers have appropriate guidance when determining contractor financial responsibility, which will reduce risk to the Government. Simply reminding Navy contracting officers of the FAR, DFARS, and NMCARS requirements will not provide reasonable assurance that contracting officers document their financial determinations with appropriate financial information needed under the circumstances.

Therefore, we request that the Acting Deputy Assistant Secretary of the Navy (Procurement) describe the specific actions the Navy will take to ensure the policy describes the types and extent of financial information required to document contracting officer financial responsibility determinations in accordance with DFARS 232.072-2 within 30 days of this report.

For Recommendation 2.a.2 and its related part of Recommendation 2.b, the Navy's alternative action to notify contracting officers on the availability of the DCMA Financial Capability Team is responsive to the recommendations. Therefore, Recommendation 2.a.2 and the related part of Recommendation 2.b are resolved and remain open. We will close the recommendations when we verify that the Navy has notified contracting officers on the availability of the DCMA Financial Capability Team as a resource.

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

The Associate Deputy Assistant Secretary (Contracting), responding for the Deputy Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), agreed with the recommendations. Specifically, the Associate Deputy Assistant Secretary stated that the Air Force will update the template in AFFARS subpart 5309.1, "Responsible Prospective Contractors," to include the types of information contracting officers should consider when determining the contractor's financial capability. In addition, the Air Force will require that contracting officers use the template at AFFARS Part 5309.1 and include a statement on the template that DCMA's Financial Capability Team is available to assist them in determining financial responsibility of prospective contractors.

Finally, the Air Force will issue a memorandum to alert contracting officers of the new procedures and to remind them of their responsibility to determine whether contractors have adequate financial resources in accordance with FAR part 9.104. The Air Force stated that the actions will be implemented by August 1, 2024.

Our Response

Comments from the Associate Deputy Assistant Secretary (Contracting) addressed the recommendations; therefore, the recommendations are resolved but will remain open. We will close the recommendations once we have verified that the Air Force has updated AFFARS 5309.1, including a statement on the template at AFFARS 5309.01 about the DCMA's Financial Capability Team, and issued a memorandum advising contracting officers of the updates.

Defense Logistics Agency Acquisition Director Comments

The DLA Acquisition Director partially agreed with the recommendations, stating that existing DLAD guidance is sufficient to supplement the FAR and DFARS policy on financial responsibility determinations. However, the DLA Acquisition Director stated that the DLA will issue a memorandum reminding contracting officers of the requirements for financial responsibility determinations. The Director also stated that the DLA will provide notification of the services available from the DCMA Financial Capability Team.

Our Response

For Recommendations 2.a.1 and its related part of 2.b, comments from the DLA Acquisition Director did not fully address the recommendations; therefore, the recommendations are unresolved and remain open. As discussed in the report, DLAD subpart 9.1 only requires contracting officers to ensure prospective contractors are responsible. DLAD subpart 9.1 does not provide an example of the types and extent of financial information required to establish a contractor's financial capability. Revising the policies and procedures would ensure that contracting officers have appropriate guidance when determining contractor financial responsibility. However, simply issuing a memorandum that reminds DLA contracting officers of the requirements in the FAR and DFARS will not reasonably ensure that contracting officers adequately document their financial determinations with the types and extent of financial information needed under the circumstances.

We request that the DLA Acquisition Director describe the specific actions that the DLA will take to ensure it provides contracting officers with written guidance on the types and extent of financial information required to document financial responsibility determinations in accordance with DFARS 232.072-2 within 30 days of this report.

For Recommendation 2.a.2 and its related part of 2.b, the DLA Acquisition Director's alternative action to notify contracting officers on the availability of the DCMA Financial Capability Team addressed the recommendations; therefore, the recommendations are resolved and remain open. We will close the recommendation once we have verified that the DLA has provided notification to its contracting officers on the services available from the DCMA Financial Capability Team.

Appendix A

Scope and Methodology

We evaluated whether DoD contracting officers performed financial reviews on prospective DoD contractors in accordance with the Federal Acquisition Regulation (FAR), Defense FAR Supplement (DFARS) and DoD Component policies. As part of our evaluation, we nonstatistically selected 59 contracts, valued at \$8.0 billion, that DoD awarded between October 1, 2021, and September 30, 2022.

We conducted this evaluation from September 2022 through January 2024 in accordance with the “Quality Standards for Inspection and Evaluation,” published in December 2020 by the Council of Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that the objectives are met and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusions, and recommendations. We believe the evidence we obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings, conclusions, and recommendations.

To accomplish our objective, we:

- reviewed the DoD Component policies and guidance for performing financial responsibility reviews and determined whether the DoD Components were complying with the policies and guidance, and established industry standards to determine financial responsibility;
- non-statistically selected a sample of 59 contracts that DoD Components awarded in FY 2022;
- interviewed the DoD contracting officers and others from the Army, Navy, Air Force, and DLA for the 59 contracts to obtain an understanding of the reviews they performed to support their positive determination of the contractors’ financial responsibility;
- evaluated the DoD contracting officer actions to review the financial responsibility of the contractors for compliance with FAR and DFARS requirements, and the DoD Component policies. As part of our evaluation, we determined whether contracting officers should have obtained financial information listed in DFARS 232.072-2 before they determined that contractors were financially responsible; and
- determined whether the contracting officers’ financial responsibility reviews were adequately supported for the 59 contracts.

Our Sample of 59 Contracts Represents a Reasonable Cross-Section of FY 2022 DoD Contracts

Our nonstatistical sample of 59 contracts represents a reasonable cross-section of the 291,285 contracts that DoD awarded in FY 2022, according to USASpending.gov. The sample of 59 contracts were comprised of:

- 49 contracts from a general population of 291,285 DoD contracts that the DoD awarded in FY 2022 according to USASpending.gov;
- 8 contracts from an October 5, 2023 list of 2,152 contracts obtained from DCMA, where the contractors were authorized progress payments; and
- 2 contracts from a list of 207 financial capability reviews performed by the DCMA Financial Capability Review Team in FY 2022.

We selected the eight contracts that authorized progress payments because of the higher risk to the Government associated with contractors that fail to complete a contract after they have received significant progress payments. Appendix B lists the sample of 59 contracts we selected, along with their maximum and obligated contract values as of May 24, 2023.

Criteria

We reviewed Federal laws and regulations, the DoD directives, instructions, and manuals. We also reviewed criteria from the DoD Component policies established by the Army, Navy, Air Force, DCMA, and DLA. The following criteria were most pertinent to our evaluation and conclusions in this report.

Laws and Regulations

- FAR Part 9, “Contractor Qualifications,” September 10, 2021
- DFARS 232.072, “Financial Responsibility of Contractors,” September 29, 2021
- DFARS 253.209, “Contractor Qualifications,” September 29, 2021

DCMA Instructions, Guidance, and Manuals

- DCMA Instruction 2401, “Negotiation Intelligence,” September 6, 2017
- DCMA Manual 2401-01, “Negotiation Intelligence Procedures,” December 20, 2018

DLA Regulations

- DLAD Subpart 9.1, “Responsible Prospective Contractors,” August 30, 2022

Army Regulations

- AFARS Subpart 5.109, “Contractor Qualifications,” March 30, 2022

Navy Regulations

- NMCARS Subpart 5209.1, “Responsible Prospective Contractors,” April 2018

Air Force Regulations

- AFFARS Subpart 5309.1, “Responsible Prospective Contractors,” May 2, 2022

Use of Computer-Processed Data

We used computer-processed data from USASpending.gov to select a nonstatistical sample of 59 contracts awarded from October 1, 2021, through September 30, 2022. We also used computer-processed data from the Procurement Integrated Enterprise Environment/Electronic Data Access module. This module contains DoD contract data. We verified the accuracy of the computer-processed data from USASpending.gov and the Procurement Integrated Enterprise Environment/Electronic Data Access module by comparing selected data to source documents included in DoD Component contract files. We determined that we could rely on the computer-processed data from these two systems for this evaluation.

Prior Coverage

During the last 5 years, we identified the following report that is relevant to the objective of this review.

Army Audit Agency

Report No. A-2023-0050-BOZ, “Vendor Eligibility for Contract Awards, U.S. Army Contracting Command,” July 25, 2023

The Army Audit Agency determined that contracting offices relied on auto-populated contractor responsibility memorandums to document their review of qualifications. However, contracting officers did not review these automatically generated memorandums and add rationale to support their evaluations. As a result, there was increased risk of awarding contracts to ineligible vendors or vendors lacking the ability to meet the Government requirements.

Appendix B

This appendix identifies the 59 contracts we selected, along with their contract maximum value and the value of obligations as of May 24, 2023. The table also identifies the 47 contracts where the contracting officers did not obtain or keep sufficient documentation in the contract file to support their positive financial responsibility determinations. In addition, the table identifies the 35 contracts that remained open as of September 27, 2023.

Table 2. Sample Selection with Values and Results

Count	Contract Number (last seven digits) ¹	Contract Maximum Value	Contract Value as of May 24, 2023	Contracts Without Sufficient Support
ARMY				
1	22-A-0024 ²	\$49,500,000	\$0	X
2	22-C-0009	19,009,300	19,622,529	
3	22-P-0062	214,253	215,253	X
4	22-P-0250	55,599	58,099	X
5	22-P-0017 ²	40,342	40,342	X
6	22-D-0023 ²	1,595,000	1,595,000	X
7	22-P-3053 ²	286,607	286,607	X
8	22-F-0281 ²	994,320	994,320	X
9	22-F-0004 ²	291,205	291,205	X
10	22-F-0233 ^{2,3}	291,777	291,777	X
11	22-F-0135 ^{2,3}	511,226,923	68,763,897	X
12	22-C-5040 ^{2,3}	1,533,960	1,533,960	X
13	22-C-0010 ^{2,3}	2,278,598,185	544,333,215	X
14	22-C-0025	47,944,815	47,944,815	
NAVY				
15	22-F-0027 ²	22,984,788	6,539,727	X
16	22-D-1314	8,000,000,000	2,793,797	
17	22-P-FA50 ²	162,000	0	X
18	22-F-4719	4,500,000	4,588,461	
19	22-P-QB42 ²	75,675	0	X
20	22-F-0265	66,823	66,823	
21	22-A-1608 ²	1,000,000,000	0	X
22	22-D-4006	995,000,000	17,000,100	
23	22-P-1536	40,386	40,386	X

Table 2. Sample Selection with Values and Results (cont'd)

Count	Contract Number (last seven digits) ¹	Contract Maximum Value	Contract Value as of May 24, 2023	Contracts Without Sufficient Support
24	22-P-2616 ²	23,280	36,422	X
25	22-P-DA64	12,652	12,652	X
26	22-P-N074	9,564	9,564	X
27	22-P-0017	9,126	9,126	X
28	22-P-0036	6,555	6,555	X
29	22-P-BW17 ²	5,802	0	X
30	22-D-H001	2,122,000,000	362,297	
31	22-P-BU64 ²	3,875	0	X
32	22-P-P277	2,028	2,028	X
33	22-C-0102 ²	461,792,969	93,547,855	X
34	22-F-0284 ^{2,3}	1,326,936,823	717,205,179	X
35	22-F-0292 ^{2,3}	N/A	N/A	X
AIR FORCE				
36	22-C-0012	1,750,000	1,750,000	X
37	22-P-0960 ²	1,249,847	1,249,847	X
38	22-F-0001	882,835	883,835	
39	22-F-0007	318,600	318,600	
40	22-A-0008 ²	250,000	0	X
41	22-A-0014 ²	250,000	0	X
42	22-C-A083	247,356	247,356	X
43	22-A-0003 ²	240,000	0	X
44	22-F-0027	56,000,000	1,684,108	
45	22-P-0079 ²	145,500	145,150	X
46	22-C-0036 ²	94,209	0	X
47	22-P-0353	50,000	50,000	X
48	22-P-0469	49,328	49,328	X
49	22-P-0243 ²	49,113	49,113	X
50	22-F-0055	34,234	34,234	
51	22-F-2800 ^{2,3}	14,582,450	14,852,450	X
52	22-D-A043 ²	46,000,000,000	2,000	X
53	22-D-0189 ²	950,000,000	0	X
54	22-D-B025 ²	950,000,000	1,800	X
55	22-C-0007	79,869,431	79,869,431	

Table 2. Sample Selection with Values and Results (cont'd)

Count	Contract Number (last seven digits) ¹	Contract Maximum Value	Contract Value as of May 24, 2023	Contracts Without Sufficient Support
DEFENSE LOGISTICS AGENCY				
56	22-C-W053 ²	326,420	326,420	X
57	22-F-121L ²	33,000,000,000	6,305,448,933	X
58	22-F-251W ²	92,711,938	35,407,641	X
59	22-P-0062 ^{2,3}	446,585	0	X
TOTAL		\$97,994,762,479	\$7,970,562,237	47

¹ The last seven digits represent the fiscal year issued or awarded, the instrument code, and the sequential number for specific type of solicitation or contract.

² As of September 27, 2023, the contract is open and the contracting officer did not obtain adequate support for the positive financial determination.

³ As of October 5, 2023, these contracts authorize progress payments to the contractors.

Source: The DoD OIG, based on data obtained from USASpending.gov and the DoD Components.

Management Comments

Deputy Assistant Secretary of the Army (Procurement)



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, VA 22350-5000

SUBJECT: DoDIG DRAFT Project No. D2022-DEV0SO-0172.000, Evaluation of the DoD Financial Responsibility Reviews on Prospective DoD Contractors

1. In accordance with Army Regulation 36-2, Audit Services in the Department of the Army, Section II, paragraphs 1-9 (f), I am providing the Official Army Position for recommendations 1.a, 1.b, 2.a.1, 2.a.2, and 2.b.

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

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Encl

Megan R. Dake
Deputy Assistant Secretary
of the Army (Procurement)

Deputy Assistant Secretary of the Army (Procurement) (cont'd)

Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P))

In Response to Department of Defense Inspector General (DoD IG) DRAFT Report: Evaluation of The DoD Financial Responsibility Reviews on Prospective DoD Contractors Project No. D2022-DEV0SO-0172.000

Recommendation 1: We recommend that the Deputy Assistant Secretary of the Army (Procurement), Deputy Assistant Secretary of the Navy (Procurement), Associate Deputy Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), and Defense Logistics Agency Acquisition Director require the contracting officers for the 35 open contracts identified in Appendix B to:

- a. Reevaluate the contractors' financial capability, and
- b. Include sufficient documentation in the contract file to support the results of the reevaluation of financial responsibility.

Army Response: Concur with comments. The Army reviewed the 12 contracts identified within Appendix B. The contracts were issued by the United States Army Corps of Engineers (USACE), National Guard Bureau (NGB), and the Army Contracting Command (ACC). USACE had two (2) contracts on the list. Both contracts are closed and were determined compliant. The NGB had one (1) contract on the list, and it is also closed and determined compliant. The Contracting Officer used the DORA BOT for the responsibility determination. Finally, ACC has nine (9) contracts on the list. The Contracting Officers documented the financial responsibility for 9 contracts in the file via the DORA BOT or Price Negotiation Memorandum in the pcf.cabinet. Also, 4 of the 9 contracts are closed (see the attached spreadsheet). Based on the above response, the Army considers this recommendation to be closed.

Recommendation 2: We recommend that the Deputy Assistant Secretary of the Army (Procurement); Deputy Assistant Secretary of the Navy (Procurement); Deputy Assistant Secretary of the Air Force (Acquisition, Technology and Logistics); and Defense Logistics Agency Acquisition Director:

- a. Update their Component policies to:
 1. Describe the types and extent of financial information required to document contracting officer financial responsibility determinations and to maintain the documentation in the contract file in accordance with the Defense Federal Acquisition Regulation Supplement 232.072-2.
 2. Indicate that the Defense Contract Management Agency's Financial Capability Team is available to assist them in determining financial responsibility of prospective contractors.

Deputy Assistant Secretary of the Army (Procurement) (cont'd)

- b. Issue a memorandum to the DoD contracting officers to advise them of the policy updates made in response to Recommendation 2.a.

Army Response: Non-concur with comments. The Contracting Officers are following DFARS 232.072-2, Appropriate Information, as they have adequately documented and maintained contract files. The assistance of the DCMA Financial Capability Team is not needed at this time. Additionally, the Army will not change its current policy but will reiterate documenting the contracting officer financial responsibility determinations in the contract files during a quarterly Hot Topics Workshop and other training to the workforce.

Deputy Assistant Secretary of the Navy (Procurement)



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 (DoDIG)

Subj: DEPARTMENT OF THE NAVY RESPONSE TO THE FINAL AUDIT REPORT OF THE EVALUATION OF THE DEPARTMENT OF DEFENSE FINANCIAL RESPONSIBILITY REVIEWS ON PROSPECTIVE DEPARTMENT OF DEFENSE CONTRACTORS (PROJECT NO. D2022-DEV0SO-0172.000)

1. The Department of the Navy (DON) appreciates the opportunity to provide a response to the final report, Evaluation of the Department of Defense (DoD) Financial Responsibility Reviews on Prospective DoD Contractors, dated 10 January 2024 (Project No. D2022-DEV0SO-0172.000). The DON's responses to the DoDIG's comments are provided below.

Recommendation 1

We recommend that the Deputy Assistant Secretary of the Navy (Procurement), require the contracting officers for the open contracts identified in Appendix B to:

- a. **Reevaluate the contractors' financial capability, and**
- b. **Include sufficient documentation in the contract file to support the results of the reevaluation of financial responsibility.**

Recommendation 1.a, (**Agree**): Regarding Recommendation 1.a, the DON confirmed the contracting officer performed reviews at various points, to include past performance evaluations, capability determinations, and peer reviews (when applicable), for all of the contracts reviewed for the report to ensure that the award decision and anticipated performance risk was mitigated and the contract award represented a sound business decision in the best interest of the Government. For the open Navy contracts, the contracting officers will reevaluate the contractors' financial capability and include sufficient supporting documentation in the contract. **Estimated Completion Date: April 1, 2024**

Regarding Recommendation 1.b (**Agree**), the DON will include sufficient documentation in the contract file to support any contractor responsibility decision determined by the contracting officer. **Estimated Completion Date: April 1, 2024**

Recommendation 2

We recommend that the Deputy Assistant Secretary of the Navy (Procurement):

- a. **Update their Component policies to:**
 1. **Describe the types and extent of financial information required to document contracting officer financial responsibility determinations and to maintain the documentation in the contract file in accordance with the Defense Federal Acquisition Regulation Supplement (DFARS) 232.072-2.**

Deputy Assistant Secretary of the Navy (Procurement) (cont'd)

Subj: DEPARTMENT OF THE NAVY RESPONSE TO THE FINAL AUDIT REPORT OF THE EVALUATION OF DEPARTMENT OF DEFENSE CONTRACTING OFFICER ACTIONS ON TERMINATED CONTRACT COSTS (PROJECT NO. D2021-DEV0SO-0113.000)

- 2. Indicate that the Defense Contract Management Agency's (DCMA) Financial Capability Team is available to assist them in determining financial responsibility of prospective contractors.**
 - b. Issue a memorandum to the DoD contracting officers to advise them of the policy updates made in response to Recommendation 2.a.**

Recommendation 2.a.1, a.2, and 2.b (**Partially Agree**): As stated in the DoDIG report, the FAR and DFARS make it clear that a determination of contractor financial responsibility is required and what constitutes appropriate information to conduct a contractor financial responsibility determination. The DON does not agree that current regulations are insufficient and need to be supplemented by more DON policy. The DON does agree that the findings from this report are important and should be communicated to the DON Contracting Activities to remind them that contractor financial responsibility is a part of the overall contractor responsibility determination in accordance with FAR 9.104. The DON will remind our Contracting Activities of the regulations in a DASN(P) 'Policy Push' which is DASN(P)'s communication method to ensure real-time availability of changes to policies, processes, procedures, and guidance affecting the DON contracting community. This policy push message will also inform the DON Contracting Activities of the DCMA Financial Capability Team and communicate that this support is available. **Estimated Completion Date: April 1, 2024**

2. If you have any questions on the above, my point of contact for this engagement is [REDACTED], [REDACTED] or [REDACTED].

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Steven A. Nickle
Deputy Assistant Secretary of the Navy
(Procurement)
Acting

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



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

12 February 2024

MEMORANDUM FOR DOD OFFICE OF THE INSPECTOR GENERAL

FROM: SAF/AQ
1120 Air Force Pentagon
Washington, DC 20330

SUBJECT: Department of the Air Force Response to the DoD Draft Report, Project No. D2022-DEV0SO-0172.000, "Evaluation of The DoD Financial Responsibility Reviews on Prospective DoD Contractors" dated January 10, 2024.

1. This memorandum is in response to DoD Draft Report, Project No. D2022-DEV0SO-0172.000, "Evaluation of The DoD Financial Responsibility Reviews on Prospective DoD Contractors" dated January 10, 2024.

The Department of the Air Force (DAF) concurs with both Recommendation 1 and Recommendation 2.

2. The Deputy Assistant Secretary for Contracting (DAS(C)), SAF/AQC, will correct issues identified in this report, and develop and implement a corrective action plan as outlined in the following responses.

RECOMMENDATION 1: We recommend that the Army, Navy, Air Force, and Defense Logistics Agency require the contracting officers for the 35 contracts that are open and where the contracting officer did not obtain sufficient financial responsibility documentation to reevaluate the contractors' financial capability and include sufficient supporting documentation in the contract file.

DEPARTMENT OF THE AIR FORCE RESPONSE: Concur.

DAF Observations: Currently, the DAF Contracting function already has a process in place to determine contractors have adequate financial resources in accordance with FAR part 9.104-1(a); however, the type and depth of financial and other information that is required to establish a contractor's financial capability or disclose a contractor's financial condition were not adequate with 15 of the 20 sample contracts reviewed. However only 11 of the 15 contracts are still open as of the date of this draft report.

DAF Corrective Actions: DAF contracting officers will reevaluate the contractors' financial capability and include sufficient supporting documentation in the contract file for the 11 open contracts.

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

2

Estimated Completion Date - August 1, 2024

RECOMMENDATION 2: We recommend that Deputy Assistant Secretary of the Army (Procurement); Deputy Assistant Secretary of the Navy (Procurement); Deputy Assistant Secretary of the Air Force (Acquisition, Technology and Logistics); and Defense Logistics Agency Acquisition Director:

a. Update their Component policies to:

1. describe the types and extent of financial information required to document contracting officer financial responsibility determinations and to maintain the documentation in the contract file in accordance with the Defense Federal Acquisition Regulation Supplement 232.072-2.
2. indicate that the Defense Contract Management Agency's Financial Capability Team is available to assist them in determining financial responsibility of prospective contractors.

b. Issue a memorandum to the DoD contracting officers and advise them that the policy has been updated reflecting changes indicated in Recommendation 2.a.

DEPARTMENT OF THE AIR FORCE RESPONSE: Concur.

DAF Observations: DAFFARS 5309.1 directs the DAF contracting officers to use the tailorable Determination and Findings -- Contractor Responsibility template to determine financial responsibility. Furthermore, DFARS 232.072-1, requires the contracting officer to perform a financial review when the contracting officer does not otherwise have sufficient information to make a positive determination of financial responsibility. Both the DAFFARS and DFARS do not establish the extent of documentation that the DAF contracting officers should obtain and keep to support a positive financial determination.

DAF Corrective Actions: DAF will take several actions to ensure compliance with recommendation 2 to include:

- a. Improve the template at DAFFARS 5309.1 to include adding the information at DFARS 232.072-2 for the contracting officers to consider in determining the contractor's financial capability or financial condition. Include on the template that Defense Contract Management Agency's Financial Capability Team is available to assist them in determining financial responsibility of prospective contractors.
- b. Tactics, Techniques, and Procedures (TTP) will be developed to stress the importance for the contracting officer to use the D&F template established in DAFFARS Part 5309.1 to document contractor financial responsibility determinations to include

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

3

coordination with DCMA and other government sources of information to support the contracting officer's determination.

- c. DAS(C) will issue a memorandum to remind DAF contracting professionals of their responsibility to determine contractors have adequate financial resources in accordance with FAR part 9.104 and to ensure their awareness of the new TTP.
- d. In response to this audit recommendation, the Air Force Head of the Contracting Activity (HCA) will ensure widest dissemination of the audit findings via a *What's New in Air Force Contracting publication* which is sent in a career-field wide email notification and will be posted to the Air Force Contracting Central website.

Estimated Completion Date – August 1, 2024

3. The DAF point of contact is [REDACTED], at [REDACTED].

//signed, SRC, 30 Jan 24//

SCOTT R. CALISTI, SES, USAF
Associate Deputy Assistant Secretary (Contracting)
Assistant Secretary of the Air Force
(Acquisition, Technology & Logistics)

Defense Logistics Agency Acquisition Director



**DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD
FORT BELVOIR, VIRGINIA 22060-6221**

MEMORANDUM FOR INSPECTOR GENERAL (ACQUISITION, CONTRACTING,
AND SUSTAINMENT)

SUBJECT: Response to Department of Defense (DoD) Office of Inspector General (OIG) Draft Report on Evaluation of The DoD Financial Responsibility Reviews on Prospective DoD Contractors (Project No. D2022-DEV0SO-0172.000)

The Defense Logistics Agency (DLA) appreciates the opportunity to review and comment on the entirety of the report. We agree with the intent of the report's overall recommendations for the DLA.

The point of contact for this audit is [REDACTED], DLA Office of the Inspector General, [REDACTED], [REDACTED], or email [REDACTED].

BEEBE.MATTHEW.RICHARD
W.RICHARD [REDACTED]
[REDACTED]
MATTHEW R. BEEBE
Director, DLA Acquisition

Digitally signed by
BEEBE.MATTHEW.RICHARD.
Date: 2024.02.09 16:23:15
-05'00'

Attachment:
Individual responses to each of the report recommendations

Defense Logistics Agency Acquisition Director (cont'd)

DEFENSE LOGISTICS AGENCY'S RESPONSE TO THE DOD OIG DRAFT RECOMMENDATIONS

RECOMMENDATION 1: We recommend that the Deputy Assistant Secretary of the Army (Procurement), Deputy Assistant Secretary of the Navy (Procurement), Associate Deputy Assistant Secretary of the Air Force (Acquisition, Technology, and Logistics), and Defense Logistics Agency Acquisition Director require the contracting officers for the 35 open contracts identified in Appendix B to:

RECOMMENDATION 1.a: Reevaluate the contractors' financial capability.

DLA RESPONSE: Partially Agree. The DLA agrees with the important role that financial responsibility determinations play in protecting the government's interests and ensures that contracting officers make determinations of financial responsibility in accordance with the requirements set forth in the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS). As noted in the report, DFARS 232.072-1 states "the contracting officer shall perform a financial review when the contracting officer *does not otherwise have sufficient information to make a positive determination of financial responsibility*" (emphasis added). The DLA disagrees with the report's conclusion that the evaluations of financial responsibility identified in the report were insufficient to support positive determinations of financial responsibility and disagrees that a reevaluation is required for all DLA open contracts identified in Appendix B.

RECOMMENDATION 1.b: Include sufficient documentation in the contract file to support the results of the reevaluation of financial responsibility.

DLA RESPONSE: Partially Agree. The DLA agrees with the importance of proper and complete documentation in contract files but disagrees with the need for a reevaluation of financial responsibility determinations on all open contracts identified in Appendix B. To address the intent of this recommendation, the DLA undertook a review for complete documentation in all the files identified in the report. Missing documentation was identified for one contract file (22-C-053). A reevaluation of that contract was performed, and that file has now been updated to include sufficient documentation to support financial responsibility. DLA determined that the documentation contained in the other contract files was already sufficient to support financial responsibility.

RECOMMENDATION 2: We recommend that the Deputy Assistant Secretary of the Army (Procurement); Deputy Assistant Secretary of the Navy (Procurement); Deputy Assistant Secretary of the Air Force (Acquisition, Technology and Logistics); and Defense Logistics Agency Acquisition Director:

RECOMMENDATION 2.a: Update their Component policies to:

RECOMMENDATION 2.a.1: Describe the types and extent of financial information required to document contracting officer financial responsibility determinations and to maintain the

Defense Logistics Agency Acquisition Director (cont'd)

documentation in the contract file in accordance with the Defense Federal Acquisition Regulation Supplement 232.072-2.

DLA RESPONSE: Disagree. As stated in the report, the FAR and DFARS provide requirements and guidance for contracting officers to make a financial responsibility determination. The FAR and DFARS also provide factors that contracting officers should consider when deciding whether a financial review is warranted because a positive determination of financial responsibility cannot be made. The DLA maintains that existing DLA Directive (DLAD) guidance is sufficient to supplement the applicable FARS and DFARS provisions and any additional policy regarding financial responsibility determinations and financial reviews would be duplicative of that already in place.

RECOMMENDATION 2.a.2: Indicate that the Defense Contract Management Agency's Financial Capability Team is available to assist them in determining financial responsibility of prospective contractors.

DLA RESPONSE: Partially Agree. The DLA agrees with the intent of the recommendation to make contracting officers aware of resources available to them and will issue a notice to the DLA acquisition workforce highlighting the availability of the Defense Contract Management Agency (DCMA) Financial Capability Team's services. This notice will serve as a reminder that DCMA can assist in determining financial responsibility of prospective contractors when the contracting officer cannot make a positive determination of financial responsibility based on other information. **Estimated Completion Date: April 1, 2024**

RECOMMENDATION 2.b: Issue a memorandum to the DoD contracting officers to advise them of the policy updates made in response to Recommendation 2.a.

DLA RESPONSE: Partially Agree. The DLA disagrees that component policy updates are necessary. However, to address the intent of the recommendation (and as noted above), the Director, DLA Acquisition, will issue an exhortatory workforce notice regarding requirements for contracting officer financial responsibility determinations and highlighting the capabilities and services of the DCMA Financial Capability Team. **Estimated Completion Date: April 1, 2024**

Acronyms and Abbreviations

AFARS	Army Federal Acquisition Regulation Supplement
AFFARS	Air Force Federal Acquisition Regulation Supplement
D&B	Dun & Bradstreet
DCMA	Defense Contract Management Agency
DFARS	Defense Federal Acquisition Regulation Supplement
DLA	Defense Logistics Agency
DLAD	Defense Logistics Acquisition Directive
DORA bot	Determination of Responsibility Assistance Contractor Responsibility bot
FAPIIS	Federal Awardee Performance and Integrity Information System
FAR	Federal Acquisition Regulation
NMCARS	Navy Acquisition Corp Acquisition Regulation Supplement
SAM	System for Award Management
SPRS	Supplier Performance Risk System



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