

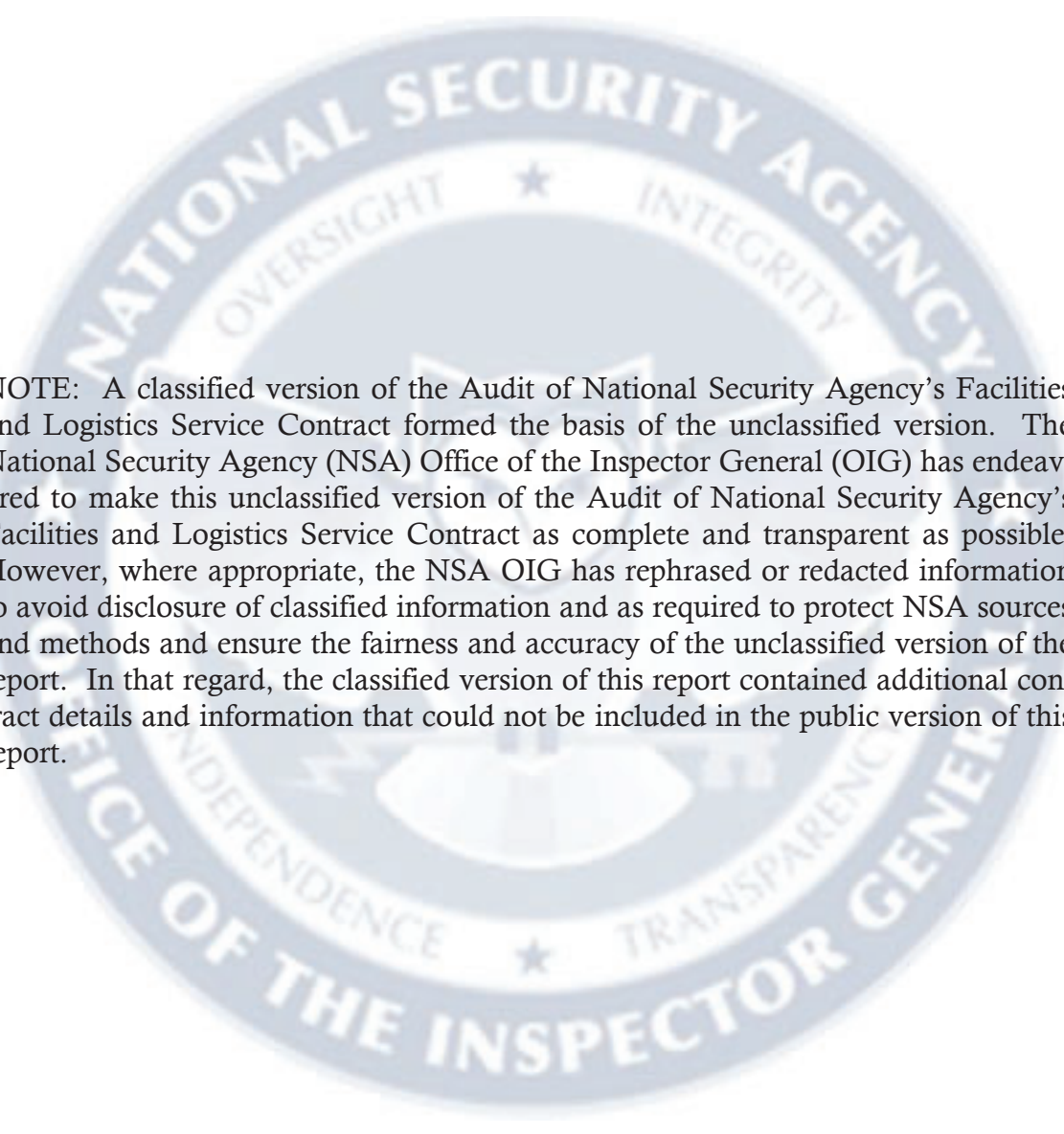
NATIONAL SECURITY AGENCY
OFFICE OF THE INSPECTOR GENERAL



Audit of National Security Agency's
Facilities and Logistics Service Contract

AU-18-0015
10 June 2021



The seal of the National Security Agency Office of the Inspector General is a circular emblem. The outer ring contains the text "NATIONAL SECURITY AGENCY" at the top and "OFFICE OF THE INSPECTOR GENERAL" at the bottom. Inside this ring, the words "OVERSIGHT" and "INTEGRITY" are positioned on the left and right respectively, with a five-pointed star between them. The center of the seal features a shield with a scale of justice, a sword, and a laurel wreath, all set against a background of a stylized eagle.

NOTE: A classified version of the Audit of National Security Agency's Facilities and Logistics Service Contract formed the basis of the unclassified version. The National Security Agency (NSA) Office of the Inspector General (OIG) has endeavored to make this unclassified version of the Audit of National Security Agency's Facilities and Logistics Service Contract as complete and transparent as possible. However, where appropriate, the NSA OIG has rephrased or redacted information to avoid disclosure of classified information and as required to protect NSA sources and methods and ensure the fairness and accuracy of the unclassified version of the report. In that regard, the classified version of this report contained additional contract details and information that could not be included in the public version of this report.



EXECUTIVE SUMMARY

Objective

National Security Agency's (NSA) Installation and Logistics Services (ILS) contract requires the contractor to perform routine and minor maintenance, warehousing, storage and distribution, mail, and transportation services. This requirement began with the first contract being awarded in FY2008 and has been a continuous requirement thereafter. The current FY2016 ILS contract, (hereinafter referred to as "FY2016 ILS contract") was issued on 1 October 2015 for more than \$400 million over a 5-year period of performance. The contract was awarded to an Alaska Native Corporation (ANC) and participant in the Small Business Administration (SBA) 8(a) program. The SBA 8(a) program is designed to level the playing field for socially and economically disadvantaged small businesses by providing aid and assistance with Federal contracting opportunities.

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What We Found

Our audit of the award and administration of this contract revealed the following concerns:

NSA Lacked Controls to Ensure Proper Award of the ILS Contract

The Office of the Inspector General (OIG) found that the Agency lacked sufficient controls to ensure that the FY2016 ILS contract was awarded properly on a sole-source basis. We found that NSA intended to competitively award the contract; however, the Agency did not prepare sufficiently to compete the contract. We also determined that this may have resulted in an improper sole-source award to an ineligible small business, and that it may have given the appearance that the contract was being awarded in perpetuity to an ANC under the SBA 8(a) program.

NSA Added Over \$35M in Out-of-Scope Services to the ILS Contract

NSA added property services to the ILS contract that were never a part of the contract requirements. According to estimates obtained by the OIG, these additional services would cause the contractor to hire a significant number of additional full-time personnel, and cost over \$35 million. The OIG assessed that the addition of these services constituted a modification that was beyond the scope of the original contract and, therefore, the Agency should have awarded a separate contract for their performance. Also, we found that the addition of the property services may have caused a potential Antideficiency Act (ADA) issue that warrants further review per established procedures.



EXECUTIVE SUMMARY

Conclusion

Overall, the OIG found that the Agency did not have sufficient controls in place to ensure proper award and administration of the FY2016 ILS contract. We found that the Agency did not properly prepare for the contract award and did not document the contract file sufficiently to support the sole-source award to a small business. Thereafter, the Agency modified the contract by adding over \$35 million in property services that were not part of the contract requirements and caused the contractor to develop new labor rates and hire additional employees. Lastly, we found the Agency did not have sufficient guidance and procedures in place to manage hybrid contracts funding, that it had not evaluated the contractor's performance, and that it did not have the metrics necessary to measure such performance.

As a result of these findings, we believe the Agency may have improperly awarded the FY2016 ILS contract to a small business, caused an out-of-scope modification as well as a potential ADA violation, and will exceed the contract funding requirements before the end of the period of performance. The OIG made 13 recommendations to assist the Agency in addressing these issues.

ILS Contract Lacked Proper Oversight

The Agency did not adjust the FY2016 ILS contract costs or conduct, or document evaluations of the contractor's performance as there was not sufficient guidance and procedures in place to manage hybrid contracts. The Agency could not readily obtain financial information from the contractor; it may have an unfunded requirement of \$50 million and it does not have metrics to effectively measure the contractor's performance.

A handwritten signature in black ink, appearing to read "Robert P. Storch".

Robert P. Storch
Inspector General
June 10, 2021

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I. INTRODUCTION

Background

National Security Agency's Installation and Logistics Contract

National Security Agency's (NSA) Installation and Logistics Services (ILS) contract has been an on-going requirement to provide services at NSA Washington (NSAW) for approximately 10 years. Since the start of the first ILS contract in FY2008, two follow-on¹ contracts, in FY2013 and FY2016, have been awarded to companies with the same parent contractor as the FY2008 contract. The current ILS contract (hereinafter referred to as the "FY2016 ILS contract") was awarded on 1 October 2015 for over \$400 million for a five-year period of performance. During these five years, the contractor is required to perform routine and minor maintenance, as well as various logistical services at NSA as described in detail in this report.

The Office of the Inspector General (OIG) selected this contract for audit because it was one of the highest contract values awarded by the Agency in FY2016.

NSA's Acquisition Process

As stated in Federal Acquisition Regulation (FAR) 1.102, Government personnel involved in the federal acquisition process are responsible for making decisions that deliver the best value to the customer and act in the best interest of the American taxpayer. The NSA's Business Management and Acquisition (BM&A) Contracting group is responsible for the acquisition from execution and administration to close out of contracts, and ensuring the Agency follows applicable laws, rules, and regulations.

NSA's acquisition process defined in NSA/CSS Policy 8-2, *The NSA/CSS Requisition Process*, 4 September 2019, provides direction and requirements for acquiring goods or services. The acquisition process begins with the customer identifying a need and working with Contracting personnel on how best to acquire the goods or services. In that regard, Contracting personnel determine the best contracting approach to satisfy the customer's requirement (e.g., solicitation, contract modification). When the decision is made to solicit and award a new contract, the Agency follows a five-step process: Preliminary Planning, Acquisition Planning, Pre-Solicitation, Solicitation and Award, and Contract Management, as outlined in Figure 1.

As described on BM&A's BWeb *Policy 8-2 Online Guide*, the goal of each step is as follows:

- **Preliminary Planning:** identify requirements, assess the marketplace, and develop the initial acquisition strategy.
- **Acquisition Planning:** identify vendors, develop draft decision documents (e.g., acquisition strategy, compliance with the Competition in Contracting Act), and meet with leadership on the strategy for contract award.

¹ As will be explained in greater detail below, the Agency took the position in response to the initial draft of this report that the FY2016 contract at issue here was not technically a follow-on contract.

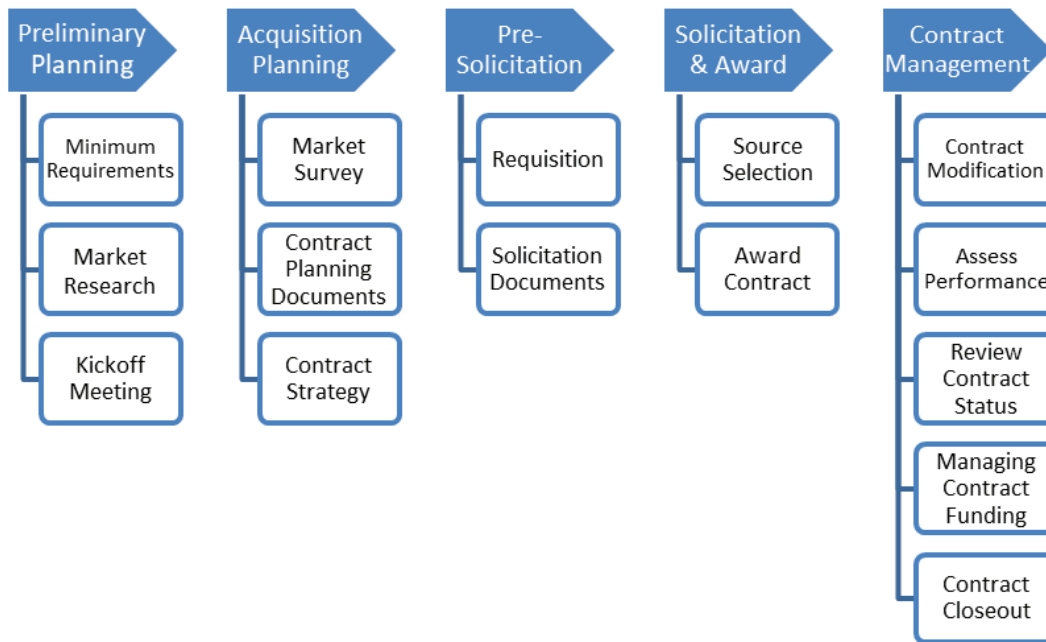


Figure 1: BM&A Acquisition Process for a Contract Award

- **Pre-Solicitation:** develop decision documents and prepare the request for proposal (RFP) for release to vendors.
- **Solicitation and Award:** refine decision documents based on feedback from vendors, evaluate proposals received, and award contract.
- **Contract Management:** administer the contract and oversee the contractor, to include reviewing contractor performance and financial documents, adjusting funding, and closing the contract file upon completion.

NSA/CSS Policy 8-18, *Small Business Programs*, 31 July 2014, requires Contracting personnel to ensure that contract files include documentation that reflects market research conducted and supports the resulting acquisition strategy decisions regarding small business utilization.²

BM&A has various acquisition positions, including contracting officers (CO), contracting officer representatives (COR), contract managers (CM), the senior contracts advisor (SCA), and the competition advocate. According to the FAR, a CO is a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. A COR is an individual designated and authorized in writing by the CO to perform specific technical or administrative functions. The CM is a person who monitors and manages a contract, assists in preparing acquisition documents, assesses past performance, and manages contract funding.³ The SCA is the technical director of Contracting. FAR 6.501 requires the head of each executive agency to designate a competition advocate to challenge assertions or decisions that may unnecessarily restrict competition.

²This is consistent with FAR Subpart 4.8, “Government Contract Files” – FAR 4.800, which states: “This subpart prescribes requirements for establishing, maintaining, and disposing of contract files.” FAR 4.801(a) further provides: “The head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions. (b) The documentation in the files (see 4.803) shall be sufficient to constitute a complete history of the transaction.”

³ Based on NSA practice, the CM is an NSA unique role that is filled only by a BM&A primary COR.

U.S. Small Business Administration’s 8(a) Program

The U.S. Small Business Administration (SBA) was created through the Small Business Act of 1953; according to the organization’s website, its mission is to deliver loans, loan guarantees, contracts, counseling sessions, and others forms of assistance to small businesses. The U.S. SBA manages the 8(a) program and has a goal of awarding at least 5 percent of all Federal contracting dollars to small disadvantaged businesses. The overall purpose of the program is to level the playing field for companies owned by socially and economically disadvantaged persons, and provides 8(a) participants with a business opportunity specialist to help them understand Federal contracting, as well as business, marketing, management, and technical training and consulting. Generally, to qualify for the program, a company must (a) be a small business,⁴ (b) not already have participated in the program, (c) be at least 51 percent owned by a citizen who is economically and socially disadvantaged, and (d) be able to meet certain financial metrics.

Once it is accepted, a company can participate in the program for nine years, during which it is offered Government-contracting opportunities that are not available to other companies, through small business set-aside or sole-source contracts.⁵ During their first four years of participation in the program, a participating company can rely solely on the 8(a) program opportunities. In years five through nine, the company is expected to gradually transition its revenue sources from 8(a) reliance to non-8(a) business, as detailed in Figure 2. At the end of the 9th year, the company graduates from the 8(a) program and no longer is eligible for assistance. According to the Code of Federal Regulations (CFR), §124.509, participants must meet the business activity targets set forth in Figure 2.

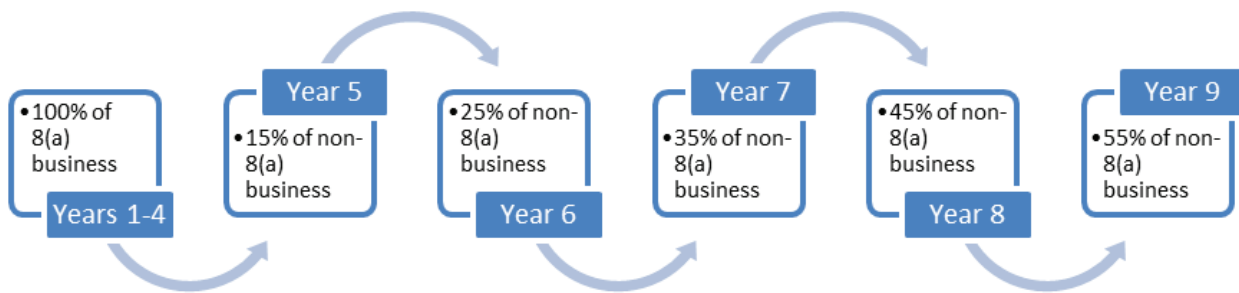


Figure 2: Progression of a Participant’s Reliance on the 8(a) Program

In addition, the 8(a) program offers specific advantages to Alaskan Native Corporations (ANC) over other 8(a) program participants.⁶ As referenced above, 8(a) program participants must meet several requirements to be considered eligible for the program, but ANC participants have an exemption from some criteria. ANC 8(a) participants are considered “small at the subsidiary-level regardless of whether they are owned by a larger parent as long as the parent is majority-controlled by an Alaskan Native tribe.” Further, ANC 8(a) program participants can receive contracts not offered to other 8(a) participants. For example, they can receive sole-source contracts without dollar-value limitations as long as a subsequent contract is not considered a “follow on” to a prior contract as discussed in detail below.

⁴ SBA considers a company as “small” when it meets standards set for particular industries, which is determined by calculating average number of employees or revenues for the last three years.

⁵ A set-aside contract is a procurement that is designated for a small business. A sole-source contract is a procurement made to a single contractor without competition; justification for a sole-source contract must be made in writing by the Contracting Officer.

⁶ An Alaska Native or descendant(s) must own the majority of the company for it to be considered an ANC.

History of the 8(a) Program Installation and Logistics Service Contract

In July 2007, the Agency consolidated three existing contracts, one logistics and two facility, and put out a solicitation for one 8(a) program ILS contract. On 1 October 2007, the Agency awarded the FY2008 contract (hereinafter referred to as the FY2008 ILS contract) to an ANC 8(a) program participant and wholly owned subsidiary of an ANC that had multiple subsidiaries and holding companies. The period of performance under the contract was from October 2007 through September 2012, with the final contract ceiling cost exceeding \$400 million.

On 1 October 2012, to avoid a lapse in service, the Agency awarded what it referred to in its acquisition documentation as a sole-source follow-on bridge contract to the incumbent with the intent to develop requirements in order to competitively award the FY2016 contract.^{7,8} The 2013 contract (hereinafter referred to as the FY2013 ILS Contract) was awarded to the FY2008 incumbent company, the wholly-owned subsidiary, as a sole-source 8(a) program contract, for the period of October 2012 through September 2015, and had a final contract ceiling of over \$200 million. During the execution of the FY2013 ILS contract, the Agency started to plan for the FY2016 contract and intended to split the work into two contracts – a logistics service contract (LSC) and facility service contract. The Agency developed performance work statements (PWS) and acquisition strategies for the separate contracts; however, in FY2015 the Agency decided to award one ILS contract again, for what it indicated to the OIG was an effort to gain efficiencies with the incumbent contractor.

In February 2015, a letter was sent from the CO to the FY2013 ILS contractor stating that the Agency made the decision to award one sole-source FY2016 ILS contract via the 8(a) program. The stated justification to utilize the same contractor was because of concerns with East Campus construction and the risk of changing contractors. However, the contractor had voluntarily withdrew from the 8(a) program in August 2013, and therefore the award could not be made to it. On 1 October 2015, the Agency awarded the FY2016 ILS contract as what the Agency intended to be a follow-on sole-source ANC 8(a) contract to a different ANC contractor, which was another ANC 8(a) participant and wholly owned subsidiary of the parent company to the FY2013 ILS ANC contractor, making them sister-companies.

NSA's FY2016 ILS Contract

The FY2016 ILS contract is an indefinite delivery, indefinite quantity contract with an ordering period from October 2015 through September 2020 with a contract ceiling of over \$400 million.⁹ The contract is broken into two separate and distinct PWSs – facilities, known as the “Facilities Service Contract,” and logistics, known as the “Logistics Service Contract” (LSC).

Facility Service Contract PWS. Facility Services personnel are responsible for ensuring that facilities services are performed in accordance with contract terms. Facility services consist of recurring maintenance at NSAW facilities and responding to requests submitted by NSA employees through a ticketing system. The services are required to be available 24 hours, 365 days

⁷ A follow-on contract is a longer-term contract that is awarded after the completion of another contract for same or similar services. A bridge contract is an extension to an existing contract beyond the period of performance, or a new short-term contract awarded on a sole-source basis to the incumbent contractor to avoid a lapse in service.

⁸ NSA uses Federal Acquisition Regulation (FAR) 6.302-6, *Other Than Full and Open Competition, National Security*, because of concerns with releasing requirements and compromising national security; however, the FAR provides that this authority “shall not be used merely because the acquisition is classified, or merely because access to classified material will be necessary to submit a proposal or to perform the contract.”

⁹ FAR 16.504 (a) states that an indefinite quantity contract “provides for an indefinite quantity, within stated limits, of supplies or services during a fixed period.”

a year and constitute 75 percent of the total contract ceiling. The services are provided on a firm-fixed-price (FFP) (86 percent) basis except for consumable material and equipment, which are reimbursed under the not-to-exceed line in the contract (9 percent).¹⁰ Facility work that is expected to take longer than 32 hours (e.g., snow removal, large paint work) is priced separately on task orders on a FFP basis (5 percent).¹¹

LSC PWS. Logistical Services personnel are responsible for overseeing the contractor’s logistical work. The logistical services are 25 percent of the total contract ceiling cost, and are provided using multiple elements: FFP (9 percent), reimbursable (materials and equipment) (2 percent), and time and material (T&M) (89 percent).¹² Much of the contractor’s work on this aspect of the contract is performed on a T&M basis, including warehousing, storage and distribution, mail, and transportation. Material disposition services are provided on an FFP basis, and consumable materials, equipment, and vehicle maintenance are provided on a reimbursable basis.

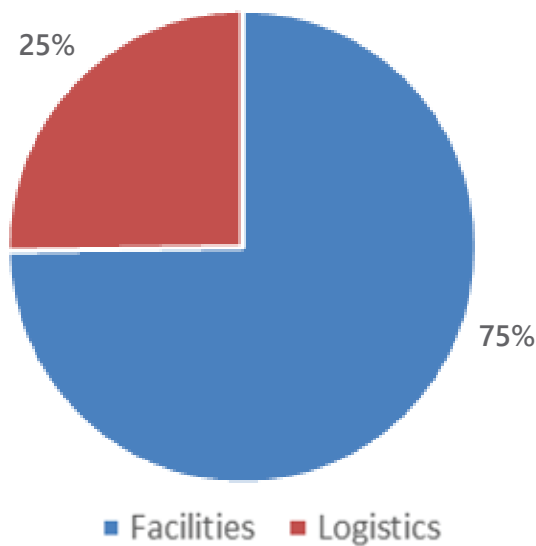


Figure 3: Proportion of Facilities and Logistics Work on the Contract

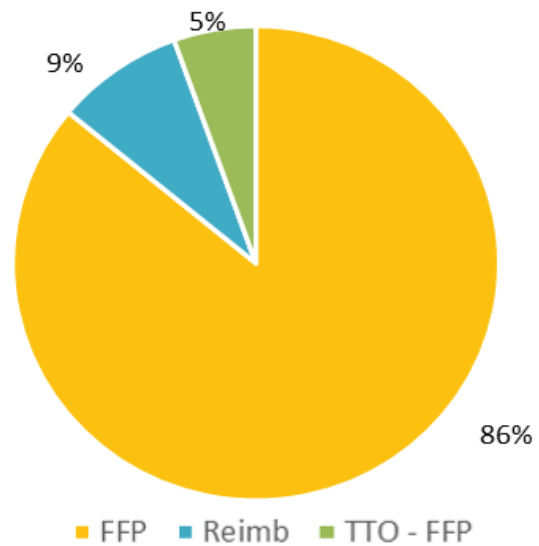


Figure 4: Total Facilities Ceiling by Contract

Services Added to FY2016 ILS Contract. During FY2016-2017, the Agency identified a need for property services to help achieve a successful financial statement audit and compliance with applicable Department of Defense Instructions and Directives. As a result, the Agency modified the FY2016 ILS Contract to add new property service requirements to be provided on a T&M basis from 1 August 2017 through 31 October 2018, totaling \$35 million in additional effort. These services are overseen by the Property Management office and require the FY2016 ILS contractor to

¹⁰ FAR 16.201 defines FFP contracts as contracts that provide for a firm price or, in appropriate cases, an adjustable price. FFP contracts providing for an adjustable price may include a ceiling price, a target price, or both. FAR 16.301 defines cost reimbursable contracts as contracts that provide for payment of allowable incurred costs, to the extent prescribed in the contract.

¹¹ Task-orders are issued under indefinite delivery, indefinite quantity contracts for the performance of tasks.

¹² FAR 16.601 defines T&M contracts as not fixed price contracts for materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service and rate(s) that are prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract. T&M contracts provide for acquiring supplies or services on the basis of (1) Direct labor hours at specified fixed hourly rates, and (2) Actual cost of material.

provide all management, supervision, personnel, labor, training, tools, and supplies to perform property services. Property services were not previously performed under the logistics PWS. The new services include inventorying, reporting, and inputting data into the material distribution and tracking system. As a result, four new labor categories were added to the contract and new employees were hired to fill the added work roles.

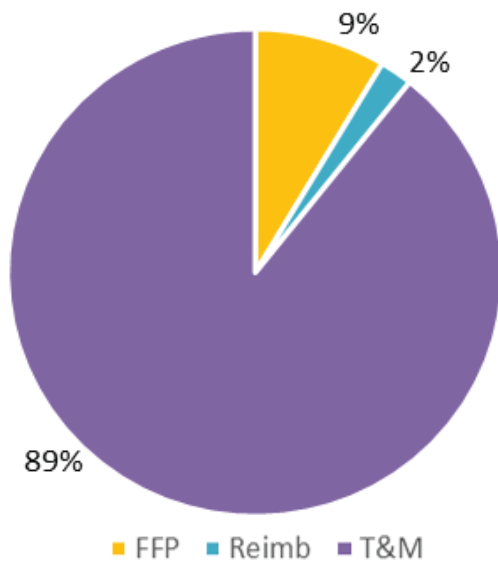


Figure 5: Total Logistics Ceiling by Contract Element

III. RESULTS OF THE AUDIT

FINDING 1: NSA lacked controls to ensure the proper award of the over \$400M FY2016 ILS contract.

NSA controls were not adequate to ensure that the sole-source award to an Alaskan Native Corporation (ANC), the sister company of the FY2013 contractor, was proper. This was evidenced by the fact that the Agency did not execute actions, in a timely manner, necessary to competitively award the contract, and when it decided to sole-source the contract, it did not adequately justify the sole-source award or demonstrate its consideration of the relevant CFR provision for a follow-on contract. As a result, the more than \$400 million FY2016 ILS contract awarded to the sister company may have been improper, and it may have given the appearance that the contract was being awarded in perpetuity to an ANC, and thereby may not have ensured the best value to the Agency.

Lack of Timeliness in Planning for the Contract

The justification provided in September 2012 for the FY2013 ILS bridge contract stated that the FY2013 8(a) sole source would enable the Government to position its future acquisition strategy to one that enhances competition. Despite this justification, in July 2014, a year after the FY2013 ILS contract was awarded on the basis of competing the next contract, documentation obtained by the OIG showed that the Agency was already contemplating another sole-source to meet this same requirement. Moreover, as of February 2015, the acquisition strategy was officially changed to a sole-source contract. The OIG found that rather than using the bridge contract period as intended, to plan for competition, the Agency created an urgent situation by waiting until the last minute to obtain SBA approval for the 8(a) sole source.

Bridge Contract Period Not Used Effectively

The intent of awarding the FY2013 ILS bridge contract on 1 October 2013 was to “obtain adequate inventory and workflow data for a fair follow-on competition” of the FY2016 ILS Contract. Although we found that the Agency was initially planning a competitive acquisition and took some initial steps in that regard including some market research in April 2014, we saw documentation reflecting that a sole-source award was contemplated as early as July 2014. The Contracting Officer (CO) prepared a changed acquisition strategy, and the Senior Acquisition Executive (SAE), Installation & Logistics (I&L), and Program Executive Office (PEO) agreed to sole-source the contract in February 2015.

According to the acquisition strategy, the need to sole-source arose because of the future construction schedule for East Campus. East Campus buildings were coming online during the performance of the contract, and I&L decided that it needed to manage the risk of negative impacts on operations by keeping the FY2013 incumbent contractor for the FY2016 contract. The CO told the OIG that a competitive solicitation was planned initially, but I&L leadership preferred to sole-source the contract because of the East Campus concerns.

Contracting officer representatives (CORs) who were involved in the acquisition stated that they prepared for a competitive acquisition; however, they were instructed to sole-source. The OIG met with Military Construction personnel regarding the timing of East Campus and was told that initial planning for East Campus began in FY2008-09, well before the bridge contract was awarded, and the first building broke ground in FY2013.

Regardless of the rationale, the change in direction from competing to sole-sourcing the FY2016 ILS Contract in February 2015 resulted in the CO having to award an over \$400 million contract in 7 months. We asked Contracting group personnel about the length of time to award contracts and were told it typically takes 12 months to award a sole-source contract and 24 months to award a competitive contract.

NSA Did Not Communicate with SBA in a Timely Manner

On 3 February 2015, NSA's CO sent a letter of intent to award the FY2016 contract to the FY2013 ILS contractor, stating the Government intends to "award a sole-source, follow-on contract to [FY2013 ILS contract.]"

FAR 19.804-2 requires the Contracting office to notify the SBA of the extent of its plans to place 8(a) contracts; this notification is referred to as an offer letter. The offer letter must include the acquisition history of the requirement and the names and addresses of any small business contractors that performed the requirement during the previous 24 months. NSA does not have procedures or guidelines in place to ensure that it notifies SBA in a timely manner. In this instance, NSA did not communicate with SBA for approval to award the FY2016 Contract as an 8(a) ANC contract until approximately three weeks before expiration of the FY2013 ILS bridge contract, and one month after sending the contractor a sole-source request for proposal (RFP). Specifically, on 8 September 2015, 22 days before the bridge contract would expire, NSA sent an offer letter to SBA requesting a sole-source 8(a) contract award to the sister company of the contractor performing the FY 2013 ILS contract. SBA indicated that the offer letter lacked sufficient details related to acquisition history, and it was resubmitted by the Agency to SBA on 14 September. By waiting until this late in the process, the Agency would have been in a difficult position if the SBA denied its request.

In order to ensure that it would be eligible for the contract, the sister company submitted a request for a waiver from the requirement that at least 15 percent of its revenues be from non-8(a) sources. On 10 September 2015, SBA told the sister company to prepare a waiver requesting an exception to the non-8(a) revenue requirement in order to receive NSA's sole-source contract. On 14 September, when the SBA had received the updated offer letter from NSA, the SBA specialist informed NSA that there was a revenue ratio problem and the sister company was not eligible to receive 8(a) sole-source contracts, but that the sister company had sent a waiver to SBA headquarters for approval.

On 15 and 16 September 2015, the holding company management personnel (acting on behalf of the sister company) and the NSA CO discussed the ratio concerns and started contemplating the path forward. We obtained email evidence that the holding company started to plan mitigation efforts and considered awarding the contract to another subsidiary. Ultimately, on 18 September 2015, SBA headquarters approved the waiver and, on that same date, NSA received a separate approval letter from SBA to award the 8(a) contract to the sister company.

The OIG was troubled by the NSA's failure to provide information in a more timely manner to SBA. We found that the NSA request to SBA should have occurred earlier in the acquisition process because if SBA had not approved the 8(a) contract, NSA would have been in a precarious position. Specifically, NSA would not have had enough time to award the FY2016 ILS contract to

another company because the 8(a) request occurred 22 days before the expiration of the FY2013 ILS contract. Instead of properly using the 3-year bridge contract for its intended purpose, contracting essentially created a state of urgency by waiting until just weeks before the previous contract expired to obtain SBA's approval.

RECOMMENDATION AU-18-0015-1

Develop and implement procedures sufficient to ensure that Contracting personnel provide all appropriate information to SBA in a timely manner when seeking approval to issue a small business RFP.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will ensure appropriate information is provided to SBA in a timely manner.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action does not meet the intent of the recommendation, which calls for the Agency to develop and implement procedures sufficient to ensure that all appropriate information is timely provided to SBA. During follow-up the OIG will request that BM&A provide a corrective action plan to address the intent of the recommendation.

Agency Did Not Adequately Justify the Sole-Source Award

The OIG found that the documents in the FY2016 ILS contract file lacked sufficient detail, some documents were inaccurate, and the available documentation did not fully comply with the FAR, the Agency's FAR supplement, and NSA policies.

Contract File Does Not Support the Sole-Source Contract Award

According to FAR 4.801(b), the purpose of the contract file is to serve as the complete history of the acquisition, support the decisions and actions, and be able to furnish essential facts in the event of a litigation or congressional inquiry. We reviewed the contract documents to ensure that they demonstrated sufficient information to support the acquisition and for compliance with laws, rules, and regulations. We found that a process that is not documented at the Agency was used to award the contract; in addition, the contents of the contract file were incomplete, inaccurate, or lacking essential details necessary to constitute a complete history of the transaction. Further, the content in the file did not include sufficient detail to substantiate the authorities exercised.

Contracting Personnel Used a Process That is Not Documented at NSA to Award the Contract.

According to documents in the FY2013 and FY2016 ILS contract files, the "alpha process" is a concurrent approach that joins the government and contractor personnel together. They work closely to develop requirements and draft a model contract. The process includes engaging with the contractor in an interactive process to define requirements, develop the scope, and acquire goods and services in an expedited manner at a fair and reasonable price. This process is typically used only for sole-sourced contracts.

The OIG could not find any mention of this process in the FAR or Department of Defense policies, instructions or manuals, and the alpha process is not documented in an NSA policy or a standard operating procedure. We requested procedures for the alpha process from multiple BM&A offices; BM&A stated that the alpha process is a term of art that cannot be documented. Contracting personnel told the OIG that they looked on NSA’s internal business and contracting repository of guidance, but could not find any procedures relating to the alpha process. They informed the OIG that a search of Google on the unclassified internet could provide context. Contracting Administration Oversight & Compliance personnel said they considered writing a policy but never finalized one.

Although the OIG could not verify whether the alpha process was used correctly for this contract because the process is not documented, the OIG reviewed the FY2013 and FY2016 ILS contract files and concluded that the goals of the alpha process – namely, developing requirements before the contract is awarded – were not achieved because both awards were issued as undefinitized contract actions (UCA). A UCA is used when Government requirements need to be met quickly and there is insufficient time to award the contract through more standard means. According to Defense Federal Acquisition Regulation (DFAR) 217.7403, *Policy for UCAs*, UCAs shall be used only when 1) the negotiation of a definitive contract action is not possible in sufficient time to meet the Government’s requirements, and 2) the Government’s interest demands that the contractor be given a binding commitment so that contract performance can begin immediately. The OIG believes that if the alpha process had achieved its intended goals, the contract would have been definitized and the actions discussed below could have been completed in a timelier manner.¹³

Market Research

Market research is important to the acquisition process because it identifies potential sources for goods and services early in the acquisition process and is used to develop strategies to acquire them in an economical and efficient manner. Market research involves identifying and reviewing the relevant marketplace and determining the sources capable of satisfying the Government’s requirements. The contract file in this instance contained a listing of companies contacted by the facilities COR on 2 April 2014. However, there was no evidence as to whether the Agency determined that the companies it contacted met or did not meet the Agency’s requirements.

FARs 10.001 and 10.002 state that market research results included in contract files should be sufficient to support the requirements, identify minimum requirements, and demonstrate the rationale for the companies reviewed. A thorough market research demonstrates that the Agency reviewed the marketplace and documented results to comply with FAR competition requirements and, where appropriate, to support a decision to sole-source a contract; such documentation, as described above, was not completed for the FY2016 ILS contract.

CICA not Considered

The *Recommendation to the CO for Other Than Full and Open Competition* (known as the CICA) is the justification required for compliance with the Competition in Contracting Act of 1984 and NSA Policy 8-4, *Competition in Contracting*, 19 August 2019. It documents the market research performed, specific factors impacting competition such as the pool of vendors solicited for a requirement, and the extent to which competition is affected (i.e., how the vendor pool is narrowed and why). It generally is required to be reviewed by an independent Agency employee, the

¹³ According to DFAR 217.7401, “definitization” means the agreement on, or determination of, contract terms, specifications, and price, which converts the UCA to a definitive contract.

competition advocate.¹⁴ The competition advocate reviews CICAs and challenges assertions or decisions that may unnecessarily restrict competition. We obtained the CICA for the FY2016 ILS contract and found that it was started but not completed and was never sent to the competition advocate. We obtained email evidence that the COR completed the CICA on 30 September 2015 but was told by PEO not to submit the CICA. BM&A stated that per FAR 6.304(a) sole-source justifications for contracts over \$93M must be approved by the senior procurement executive rather than the competition advocate. However, based on the facts below, even assuming approval by the senior procurement executive was appropriate, the OIG believes an approved CICA was still required based on the information that we were provided and that it would have been helpful in informing the Agency's decision in any event.

We asked the CO about the incomplete CICA, and he said that in the past it was believed that a CICA was not required for this type of acquisition and that the *Contracting Officer's Justification for 8(a) Sole-Source Award over \$20M* took its place; this document was signed by the SAE. However, we spoke to the competition advocate and were informed that the CICA was, in fact, required, and that it was not received. We also asked the Chief of Contracting Policy and Programs if a CICA should be completed in conjunction with the justification for the 8(a) award over \$20M, and he confirmed that the CICA is part of the normal process for a contracting action, including those that require a justification of this nature.

The CICA is important because it demonstrates that the Agency is compliant with the Federal Government Competition requirements and that the Agency awarded a contract without undue adverse impact on competition. The absence of a completed CICA reflects a lack of control over important procedures that were put in place by BM&A to promote informed decisions regarding the need for competition on government contracts.

CO Justification for 8(a) Sole-Source Award Over \$20M

FAR 6.303-2(d) requires the *CO's Justification for 8(a) Sole-Source Awards Over \$20M*, which must include a description of the work, the rationale for use of a sole-source 8(a) contract, and a determination that the anticipated costs to be incurred under the contract are reasonable. This justification was not initially completed; however, Contract Administration, Oversight & Compliance, and the Office of General Counsel (OGC) subsequently determined it was required during their review of the contract file in September 2015. When OGC requested that the CO complete the justification, the CO responded that he would comply; however, he "need[ed] to get relief via FAR 6.302-2 to allow award and obtain documentation after contract award."¹⁵ The OIG reviewed the CO's documented justification for an 8(a) sole-source award over \$20M, which stated "upon the basis of this following determination, which I make pursuant to...FAR 6.302-2, I offer the following information in respect to the award...." However, the OIG reviewed FAR 6.302-2 "Unusual and Compelling Urgency" and determined the clause did not appear to be applicable. FAR 6.302-2(2) states:

¹⁴ NSA's "Policy Series 8 – Acquisition" incorporate and implement FAR requirements for an advocate of competition, by establishing roles and responsibilities for NSA's Competition Advocate. FAR 6.501 states: "As required by 41 USC 1705, the head of each executive agency shall designate an advocate for competition for the agency and for each procuring activity of the agency. The advocates for competition shall a) be in positions other than that of the agency senior procurement executive; b) not be assigned any duties or responsibilities that are inconsistent with 6.502; and c) be provided with staff or assistance (e.g., specialists in engineering, technical operations, contract administration, financial management, supply management, and utilization of small business concerns), as may be necessary to carry out the advocate's duties and responsibilities."

¹⁵ FAR 6.302-2(c)(1) states: "Contracts awarded using this authority shall be supported by the written justifications and approvals described in 6.303 and 6.304. These justifications may be made and approved after contract award when preparation and approval prior to award would unreasonably delay the acquisition."

When the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals, full and open competition need not be provided for.

The justification in the file that cited 6.302-2 in this case included a summary of the current state of East Campus and the challenges presented by the large-scale construction project. Given that planning for East Campus has been underway since FY2008-2009, and the prior bridge contract was employed to enable competition thereafter, it does not appear to the OIG that there was an unusual or compelling urgency that would warrant an exception from the requirement for justifying the sole-source contract or, at the very least, that there were appropriate controls in place to ensure that this important requirement was satisfied.

Approval to Issue a UCA

As previously discussed, the FY2016 ILS Contract was awarded as a UCA. DFAR 217.7403 provides that UCAs are used when negotiations for a definitive contract are not possible in sufficient time, the government's interest demands that the commitment begin immediately, and agreements or determinations have not yet been reached regarding contract terms, specifications, or price. According to DFAR 217.7404, when using this authority, the agency must document the need for the UCA and obtain a mission statement. After the need for the UCA is fulfilled, the CO modifies the contract for what is known as "definitization."

We found the following regarding Contracting's use of the UCA on the FY2016 ILS contract:

- There was a false or incorrect statement.
- The mission urgency statement was not valid.
- The use of a UCA was not needed.

These findings, as discussed in more detail below, further support the OIG's determination that there were not sufficient controls in place to ensure that this significant contract was awarded appropriately.

Incorrect Statement Regarding Pendency of an Audit. The *Approval to Issue an Undefined Contract Action* form states a Defense Contract Audit Agency (DCAA) audit on the sister company's rates was then pending; however, the OIG found that an audit was never requested. Specifically, the memorandum documenting the need for a UCA, dated 16 September 2015, states: "A DCAA audit on [the sister company's] rates is pending and negotiated rates will be incorporated into the contract."¹⁶ The OIG determined that this same incorrect information was provided to OGC during their review of the contract file. Exhibit 1 reflects a contemporaneous account from OGC of the information that was provided to it by contracting through the contract review office who passed on the file after its review:

¹⁶ BM&A asserted in response to a draft of this report that the original plan was to request an audit, but that other means were found to assure the fairness of the contract; however, the OIG could not find any documentation to support this position.

1. As a follow-on to [REDACTED] first comment about the Undefined Contract Action (UCA), please add some additional information explaining why it needs to be an UCA. This type of contract may be used when the government interest demand the contractor be given a binding commitment so the work can start immediately and negotiating a definitive contract is not possible in sufficient time to meet the requirement. The urgency determination from I&L is fine but it does not explain the full story. [REDACTED] mentioned that you are still waiting for the DCAA audit to finish to get the rates for the contract. So please add that information to the memorandum and add the clauses that [REDACTED] noted in her comment to the contract. [REDACTED] concurs and has expended the justifications as requested. Completed.

Exhibit 1: OGC Review Comment on Use of UCA

We found no evidence of the CO ever requesting a DCAA audit, or that such an audit was pending at the time. Furthermore, we obtained an email dated 28 September 2015, 13 days after completing the UCA statement, between the CO and contractor, in which the CO stated, “I am trying to avoid a formal DCAA audit on the ILS contract.” When asked about the DCAA audit, the CO stated that he relied on the FY2013 contract audit to determine fair and reasonable price (and not that he had found other contemporaneous ways to obtain that information).

Mission Urgency Statement Not Valid. The FY2016 urgency statement, which appears to have been a “copy and paste” of the urgency statement from the FY2013 ILS contract file, contradicts other contract decision documents and is not valid.

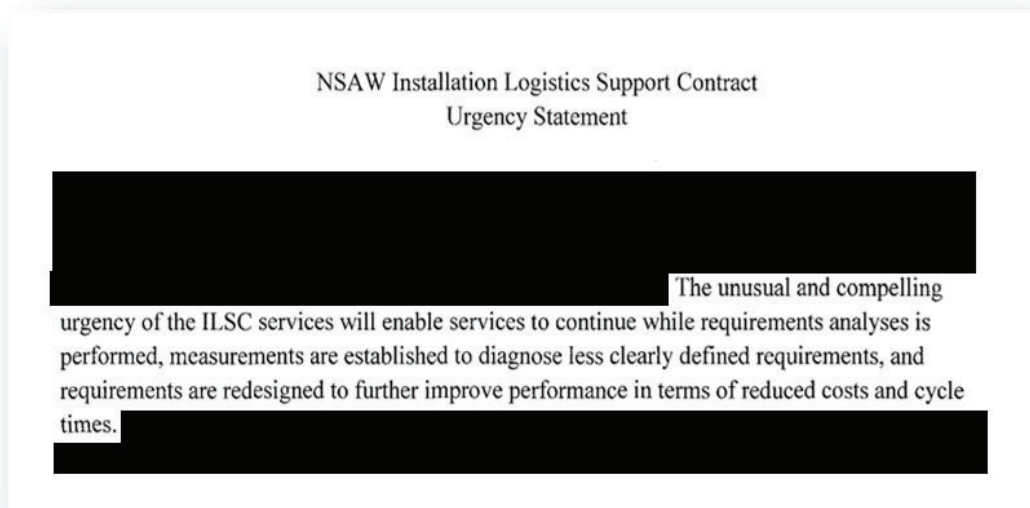


Exhibit 2: FY2016 ILS Contract Mission Urgency Statement

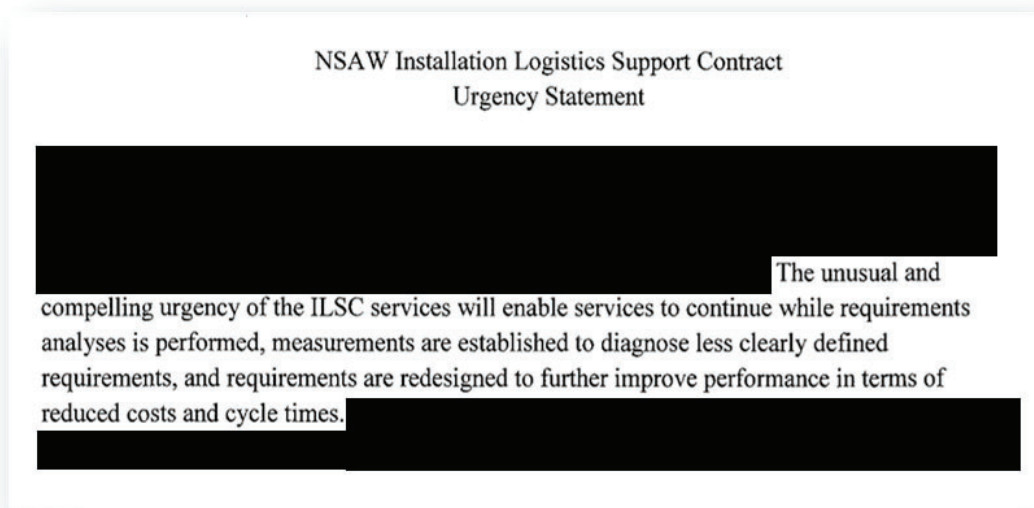


Exhibit 3: FY2013 ILS Contract Mission Urgency Statement

The FY2016 ILS contract urgency statement indicates that it was issued because NSA needed the services provided via the ILS Contract to continue without interruption. However, as discussed above, the OIG determined that these concerns do not appear to be valid because this requirement had been ongoing for approximately 10 years, and while these services may be critical for Agency operations, there were no facts or circumstances cited to support the urgency statement. To the contrary, the OIG concluded that the statement lacked valid factors to substantiate the urgency of the acquisition, and the inclusion of the term “unusual and compelling urgency” does not in and of itself make the statement valid.

UCA Not Needed. The OIG also believes that a UCA was not required for the FY2016 ILS contract because contract terms, requirements, and price were not changed prior to definitization. The FY2016 ILS contract was awarded on 1 October 2015 and definitized on 7 October 2015, just four business days after contract award. The modification did not add any new information that was not known prior to contract award. This modification to definitize only incorporated a Memorandum of Understanding between the sister company and an employees’ union agreement dated 28 September 2015 and the contractor’s proposal, dated 21 September 2015 – both dated before the contract award.

As discussed above, these findings regarding the use of a UCA further support the OIG’s determination that there were not sufficient controls in place to ensure that the FY2016 ILS contract was awarded appropriately. We note additional deficiencies that we found in the contracting file immediately below.

Certificate of Current Cost or Pricing Data

FAR 15.403-4 requires a CO to obtain a *Certificate of Current Cost or Pricing Data* from the contractor, a statement certifying that the cost or pricing data submitted by the contractor are current, accurate, and complete to the best of the contractor’s knowledge. The CO must obtain this certificate before a determination can be made that the price is fair and reasonable and before awarding a negotiated contract (i.e., before definitization). After looking in the contract file, we asked the CO for the certificate; he provided a certificate dated 4 May 2016, which was seven months after accepting the contractor’s proposal and definitization of the contract, and states only that the information was accurate as of 4 January 2016, also well after the contract award. We discussed the missing certificate with the Chief of Contracting Policy and Programs, and he confirmed that either a certificate or a waiver signed by the Head of Contracting should have been included in the file.

Performing cost and pricing analysis and proceeding to contract award without the *Certificate of Current Cost or Pricing Data* leaves the Agency vulnerable to unfavorable outcomes should it find evidence of defective cost or pricing data at any point in the acquisition lifecycle. Additionally, incorporating the contractor's proposal into the contract before obtaining this certification is not a prudent business decision because it could result in contracting actions being taken on less than current or reliable information.

Contract Reviews

Prior to contract award, Contract Administration, Oversight & Compliance personnel perform a final review of the contract file (i.e., post-solicitation review). We met with the personnel that performed the file review for the FY2016 contract to discuss what they found during their review and how they ensured the problems were corrected.

The oversight and compliance review found similar problems as we identified above. For example, the review found that the UCA rationale was unclear, and the file did not contain a completed pre-solicitation review. In addition, the review questioned awarding a contract with two separate PWSs. The personnel told the OIG that they do not follow up to obtain proof that their comments are corrected unless there is a disagreement; this did not occur for this contract. Furthermore, they stated that it is incumbent on the CO to ensure the contract file is adequate. We therefore concluded that Contracting's file review lacked accountability because it did not validate that appropriate actions were taken to address their substantive concerns.

The Agency's FAR supplement requires Contracting compliance and OGC reviews. We asked the OGC attorney who reviewed the file if he assessed the disposition of the review comments prior to contract action. The OGC attorney said that he did not assess the disposition of his comments and noted that his review was not required for a sole-source 8(a) acquisition. He stated that a sole-source 8(a) acquisition does not require a review by OGC no matter the value, though he acknowledged that the Agency encourages an OGC review for a contract of this dollar value.

RECOMMENDATION AU-18-0015-2

Document the alpha process in BM&A policy, including what acquisition processes should apply to contracting actions performed using it, and ensure that the Agency's utilization of the alpha process is in compliance with the FAR.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will update MPO processes to include that use and results of the alpha process should be documented in the contract file.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

RECOMMENDATION AU-18-0015-3

Conduct an examination of the Agency's procedures for sole-source and un-definitized contracting actions, and make changes as necessary to ensure that complete and accurate documentation for such contracts is completed with sufficient time to support contracting decisions.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will review the procedures and make changes as necessary.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

RECOMMENDATION AU-18-0015-4

Examine and, as necessary, document the review process for all contracts to ensure appropriate accountability for each official who reviews and approves any portion of the contract file for the quality, accuracy, and completeness of the final documents for which each is responsible in the contract file.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will examine the review process, ensure that the latest changes have been incorporated and, as needed, update the documentation to include any additional changes.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

Contract Award May Not Have Been in Accordance with 13 CFR §124.109(c)(3)(ii)

The OIG found that when the Agency determined that it would sole-source the FY2016 ILS contract, it was not aware of and did not consider the requirements of 13 CFR §124.109(c)(3)(ii). In February 2011, the Federal Register issued potential guidance designed to limit well-known abuses within the 8(a) program, including the prohibited practice of awarding subsequent contracts with essentially the same requirements to sister subsidiary firms of the same parent ANC. In particular, 13 CFR §124.109(c)(3)(ii) (hereafter referred to as "sole-source follow-on rules") provides:

Once an applicant is admitted to the 8(a) program, it may not receive an 8(a) sole-source contract that is a follow-on contract to an 8(a) contract that was performed immediately previously by another Participant (or former Participant) owned by the same Tribe.

This restriction was added to the CFR in 2012, and also included in a proposed change to the FAR in 2014, which was adopted as of January 2017, FAR Part 19.808-1(e). Although the Agency was unaware of the rule at the time the contract was awarded, the sister company was still potentially ineligible based on the details presented below.

NSA Intended to Award a Follow-on Contract

Contracting issued the FY2008 ILS contract to an ANC company as a sole-source ANC 8(a) program contract “immediately previously” to the FY2013 ILS contract. The FY2013 ILS bridge contract was awarded to the incumbent contractor again and was issued “immediately previously” to the FY2016 ILS contract, as another sole-source ANC 8(a) program contract. It then awarded what the OIG believes may be a sole-source follow-on ANC 8(a) program contract, FY2016 ILS contract, to its sister company. The FY2013 incumbent and its sister company are both wholly-owned subsidiaries of the same parent ANC company, thereby owned by the same tribe, and as of May 2013, through the same holding company.

The OIG believes that there is at least a substantial question as to whether the FY2016 ILS contract was a follow-on contract and therefore was impermissible under 13 CFR § 124.109(c). Strongly supportive of this concern is the fact that both the CO and the official within the NSA Office of Small Business Programs considered the contract a follow-on at the time. In a letter to the FY2013 ILS contractor dated 3 February 2015, the CO noted “the Government’s intent to award a sole source follow-on to the FY2013 ILS contract. The Government intends to award the follow-on contract with a two year period of performance with the possibility of a third year based on our conversation this morning.” The official within the NSA Office of Small Business Programs who submitted the documentation to SBA for approval likewise stated to the OIG that she had always considered the FY2016 ILS contract to be a follow-on.

Further, the Agency justified the sole source to the sister company, stating that the sole-source was necessary to “enable services to continue.” This was the same rationale the Agency cited when it awarded the bridge contract to the other sister company that received the FY2013 contract. The language suggests that the Agency did not view the sole-source to sister company as a new requirement.

Contractor Was Aware of the Sole-Source Follow-on Rule

The OIG issued a subpoena to the contractor to obtain relevant documents and email communications. Through review of those documents, we found that the contractor met with the Government Accountability Office (GAO) about the sole-source follow-on rule and also received verbal information from SBA about this rule.

The GAO conducted an audit, *Alaska Native Corporations: Oversight Weaknesses Continue to Limit SBA’s Ability to Monitor Compliance with 8(a) Program Requirements* (GAO-16-113), dated 21 March 2016, to examine the extent to which SBA enforces its regulations prohibiting the award of sole-source follow-on contracts to subsidiaries of the same ANC. According to GAO’s report, it met with the leadership of the parent company in April 2015 about a subsidiary of the parent company

that had received sole-source follow-on contracts under the same primary North American Industry Classification System (NAICS) code.¹⁷

NAICS codes are used throughout Government contracting to aid with multiple business tasks. Contractors select and report NAICS code(s) to the Government that are applicable to the lines of business under which they wish to obtain contracts. COs select NAICS code(s) for contracts and then use the code to find companies that may be interested in the work. SBA uses NAICS codes to help determine if a company is considered a small business.

We obtained evidence that the contractor's leadership discussed and received verbal guidance from SBA about the sole-source follow-on rule and the regulation change. Exhibit 4 is an email response from the Director of Compliance & Regulator Affairs on 7 April 2015 to questions from the company's President in order to prepare for the meeting with GAO. The email states the date the change was made to the CFR in February 2011, and that to the best of the Director's recollection and based on looking in the company's files, they did not receive any written notifications. However, the Director also indicated that she recalled conversations she had with SBA personnel about the sole-source and follow-on rules and that this information was relayed back to appropriate management staff.

Per our conversation yesterday and items task:

- 1) When did 13 CFR changes which eliminated the ability to sole source a follow-on effort to a sister subsidiary: 13CFR 124.109.c.3(ii) changed effective 2/11/2011 (RE: 76FR8255)
- 2) Has any [REDACTED] subsidiary which were in the SBA 8(a) BD Program receive any notification or guidance from SBA or any federal procuring agency about operating primarily under the same NAICS or receiving sole source, follow-on awards.
A: To the best of my recollection and looking in the active 8(a) companies' SBA files, [REDACTED] companies did not receive any written notifications or guidance from SBA on these two topics. I do recall at the time of the regulation change concerning receiving sole source follow-on contracts, the AK District Director and [REDACTED] BOS was proactive in making sure that the firms were aware of the regulation change and what the change meant. These were undocumented verbal discussions either by telephone or in person at the SBA office between myself and the SBA folks. This information was relayed back to the appropriate [REDACTED] management staff.

Exhibit 4: Response to the President of the ANC in Preparation for a Meeting with GAO on the Sole-Source Follow-On Rule

Also, attached to this email was a transcript, dated 6 March 2015, from a lobbying group, Native American Contractors Association. The transcript documents the conversation between the association and GAO about GAO's audit on SBA's 8(a) program and the sole-source follow-on rule. The transcript states that the audit was based on a request from Congress, and GAO wanted to obtain ANCs' perspectives. In addition, the transcript specifically references the change made to the sole-source follow-on rule in 2011, and notes that Federal agencies determine the NAICS code and if the contract is a follow-on.

¹⁷ NAICS code is the standard used by Federal agencies to categorize the industry of businesses. NAICS codes are used to classify business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

On 6 August 2015, NSA issued a sole-source RFP under NAICS 561210, *Facility Support Services*, the same as the FY2013 ILS contract, to the sister company of the FY2013 incumbent, as the 3 February 2015 letter of intent had been addressed. We asked the Deputy Chief of PEO for their understanding as to why the RFP was issued to the sister company as opposed to the incumbent, and were told that it is the ANC's parent company that decides which subsidiary should receive the contract. The OIG did not receive any insight into, or documentation related to, why the particular sister company was chosen by the parent company, or who directed the Agency to do so.

On 1 September 2015, almost one month after issuance of the RFP, SBA sent a letter to the President of the sister company informing him that the sister company's non-8(a) revenue was not in compliance with program standards because it did not have at least 15 percent of non-8(a) business (see Figure 2 in the background section). The letter stated that because of the noncompliant revenue ratio, the sister company was ineligible for sole-source 8(a) contract awards.

The OIG concluded that, as of 1 September 2015, based on the documentation reviewed, the holding company and the sister company a) were aware that the FY2016 ILS contract was being planned as a sole-source follow-on to the FY2013 ILS contract; b) were aware of the CFR prohibiting sole-source follow-on contracts; c) had received the RFP with NAICS 561210; and d) had been told by SBA that they had an 8(a) compliance problem. Notably, there is no indication that the contractor ever considered that the sole-source follow-on prohibition may have been inapplicable due to the "25 percent rule" (discussed in detail below) upon which the Agency now relies. Nor did the OIG find any evidence that the holding company or the sister company communicated with NSA about its ineligibility.

GAO Report No. GAO-16-113 Monitoring ANC-Owned 8(a) Firms

GAO's report stated that enforcement of 13 CFR §124.109(c)(3)(ii) relies on the information provided by Federal contracting departments and agencies. GAO determined that procuring agencies did not always provide acquisition history and information on who performed the work previously that was sufficient for SBA to identify follow-on sole-source contracts.

NSA Did Not Provide Adequate Information to SBA

The Agency has asserted that it is entitled, and indeed required, to rely upon the SBA for eligibility determinations. While that may be true as a general matter, the lack of material information provided to the SBA, as well as the Agency's failure to provide such information in a timelier manner, raises concerns that undermine the Agency's reliance on SBA's eligibility determination.

In an email dated 11 September 2015, SBA found that the 8 September 8(a) program offer letter lacked sufficient detail about the contract's acquisition history. The SBA specialist's email to NSA's Office of Small Business Programs (OSBP) questioned NSA's lack of acquisition history on an over \$400 million dollar contract for facility maintenance and requested that NSA add more information about the contractor currently performing the work. On 14 September 2015, NSA updated the 8(a) request letter and stated "the requirement was previously performed by an 8(a) ANC." However, NSA's updated request letter did not include all relevant information – that the company offered the contract was a sister company held by the same holding company, that it supported the same tribe as the sister company, or that the contract was a follow-on contract.¹⁸

¹⁸ In response to the OIG's initial draft of this report, BM&A provided an email from the NSA Office of Small Business Programs to SBA disclosing the relationship between the holding company and the sister company prior to updating the form and the Agency subsequently argued to the OIG that this coupled with the revised letter would have permitted SBA to infer it was a follow-on contract. However, that was not stated in the letter itself. Moreover, this email was not previously provided to the OIG, which the Agency indicated was because it was not part of the contract file.

(continued on p. 20)

The Agency also declined to provide the SBA material information during these discussions, including the statements of work, and justifications and approvals for this sole-source offer, citing national security concerns and classification issues.¹⁹ However, we have substantial questions as to how disclosure of such unclassified logistics and maintenance contract, or more information about the nature of the relatively routine work to be performed under it, would compromise national security or implicate classification issues. Even if analysis would have revealed some documentation that could not be provided, the OIG found no evidence of any effort to consider the matter and, to the contrary, a blanket application of national security concerns to support the failure to provide even basic information about the contract to SBA.

In order to effectively determine program eligibility, SBA should have had as much information as possible, which should be determined on a case-by-case basis rather than a blanket application of the national security exemption. The Agency's failure to provide relevant information within its possession to SBA in a timely manner undercuts its reliance on the SBA determination of eligibility, as it may well be that with more information, SBA, aware of the prohibition in the CFR, would have found the contract to be an impermissible follow-on. While we cannot be sure as to what SBA's decision would have been, this supports the OIG's concern that SBA did not have sufficient information in a timely fashion to enable it to make an informed decision.

Contracting and NSA's Office of Small Business Programs Were Unaware of the Follow-on Prohibition

On 1 October 2015, NSA awarded the FY2016 ILS contract to a sister company of the FY2013 contractor, as what it considered to be a sole-source follow-on, ANC 8(a) contract. When we asked the CO about whether the award contravened the prohibition on such contracts in the CFR, he told the OIG that they use the FAR to award contracts, and since the rules were not in the FAR, they did not follow them. We also asked the NSA's Office of Small Business Programs personnel about this, and they too told the OIG that they were unaware of the rule, and further admitted that had they known, the contract would not have been sent to SBA for approval. When asked whether they receive any specialized training related to the rules of the 8(a) program or if they receive updates when rules change, NSA's OSBP personnel indicated there are no training or updates specific to this program. In response to a draft of this report, BM&A indicated that training on the 8(a) program is often provided as part of DoD's Small Business Training Week, though reviewing the notes from the 2012 conference (several years before the contracting action in question, and now some eight years ago), they conceded that it did not appear that an 8(a) update was provided even then.

Follow-on Versus New Requirement

In response to the initial draft of this report, the Agency argued that the provision incorporating the ineligibility of ANC 8(a) businesses for follow-on contracts had not been adopted as final in the FAR, that the Agency was entitled to rely on SBA's determination as to the sister company's eligibility, and that the FY2016 ILS Contract was not technically a follow-on based upon a subsequent September 2017 legal opinion from the SBA's OGC. The latter opinion notes that, while a "follow-on" is not defined in law or regulation, 13 CFR. § 124.504(c)(1)(ii) lists several

(continued from p. 19)

This raises additional questions about the adequacy of the Agency's record keeping, particularly with regard to such a large contract.

¹⁹ Similarly, in response to a draft of this report, the Agency indicated that it does not provide such documentation to SBA under the "mosaic theory" due to concerns that information grouped together could lead to disclosure of sensitive or classified information.

criteria for determining a “new” requirement, one of which is whether the difference in the value of the contracts exceeds 25 percent. However, the SBA legal opinion makes it clear that the 25 percent rule is not dispositive and should merely serve as a “guide”:

Although we believe that the 25% modification principle generally applies to...the award of a sole source 8(a) contract to a sister company, we do not believe that it is an automatic determination with respect to [that purpose]. Applying the 25% rule rigidly to . . . the award of a sole source 8(a) contract to a sister company could allow the procuring agencies and entity-owned firms to circumvent the intent of those rules.

The question on this point centers around whether or not the award to the sister company constitutes a follow-on contract, specifically on whether or not the magnitude of the contract changed, based on the application of the 25 percent rule, sufficiently to bring it outside the applicable restriction. The Agency maintained in its response to the initial draft of this report that because the FY2016 ILS contract exceeded the bridge contract by more than 25 percent, the FY2016 ILS contract was technically a new requirement. However, as discussed in more detail below, there is substantial support for the proposition that the appropriate comparison is not between the FY2016 ILS contract and the bridge contract, but rather between the FY2016 ILS contract and the five-year contract awarded in 2007.

While the Agency initially sought to defend the contract through the application of the September 2017 SBA legal opinion, it should be noted that no evidence was provided to the OIG showing that the Agency considered the 25 percent rule at the time the FY2016 ILS contract was being considered as an exception to the prohibition to sole-source follow-on contracts to sister corporations. To the contrary, as previously noted, both the CO and NSA’s Office of Small Business Programs regarded the FY2016 ILS contract as a follow-on, and they were unaware of the CFR restriction. Furthermore, based on our analysis, the OIG believes the correct determination is to exclude the bridge contract from the comparison. In an opinion issued in November 2017—two months after the SBA memorandum on which NSA now relies—GAO relied on SBA’s interpretation to find that the appropriate comparison is not between the bridge and the subsequent contract, but rather between the prior long term contract and the new one, excluding the bridge given its temporary nature and purpose:

The SBA reports that the value of a bridge contract is not generally considered when determining whether an offered procurement is a new requirement, since a bridge contract is a temporary vehicle to fill a specific need until a more comprehensive procurement can be conducted. The SBA specifically notes that in [the case at issue], the bridge contract was only meant to be a temporary solution while [the Agency] was contemporaneously planning for its next [contract]. As a result, the SBA states that it was reasonable to compare the previous “long term” contract to the requirement offered to the 8(a) program.²⁰

This conclusion is entirely consistent with the acknowledgment in the September 2017 SBA opinion that a bridge contract is, by its terms, a stop-gap measure to continue the performance of critical services with a duration shorter than that of the underlying requirement and, therefore, would generally not be considered a follow-on contract by itself. It is that same temporary stop-gap nature that makes it unreasonable to look at the bridge value in assessing whether a later contract was a follow-on or a new requirement.

Additionally, in an October 2015 report, GAO stated that the sole purpose of the bridge contract is to avoid a lapse in service caused by a delay in awarding a follow-on contract. While the bridge

²⁰ SKC, LLC, B-415151 (November 20, 2017)

contract in this instance may have been somewhat longer than a typical bridge, the Agency justified the award of the bridge contract on the grounds that there would not be a delay in services, and it would allow the Agency sufficient time to competitively award the follow-on contract. Accordingly, we do not believe that the bridge is the appropriate measure of comparison in the context of the 25 percent rule for follow-on contracts. Rather, GAO and SBA guidance reasonably indicate that it is more appropriate to compare the two primary five-year contracts (both over \$400 million), which are well within the 25 percent threshold.

As discussed above, the OIG finds that the relevant provision of the CFR very likely made an entity such as a sister company ineligible for a follow-on contract, and that the SBA's determination of a sister company's eligibility was based on unnecessarily limited information provided by the NSA. While the contracting company was aware of the prohibition at least as early as April 2015, the OIG did not find evidence that it shared this concern with Agency personnel, who told the OIG that they were unaware of this limitation, which had not at the time been incorporated in the FAR upon which they relied as described above.²¹

After being presented with this information, the Agency agreed with the OIG's interpretation of the November 2017 GAO opinion. However, BM&A stated that the original long-term contract in 2008 was for two separate requirements – ILS and delivery order construction contract (DOCC) – and that the ILS portion of the 2008 contract was for approximately \$300 million. The Agency further argued that when compared to the 2016 ILS contract total of over \$400 million, this is a change greater than 25 percent, and therefore, according to BM&A, the later contract was a new requirement rather than a follow on. Ultimately, both parts of the 2008 contract (ILS and DOCC) were still awarded to the sister company in 2016, but in separate contracts. The total award of both 2016 contracts was over \$460 million and within the 25 percent rule. The OIG disagrees with BM&A's position that this in and of itself makes the later contract a new requirement, and believes that there remains a substantial question as to whether the 2016 contract was awarded to an ineligible firm.

Conclusion

The OIG found that the Agency lacked sufficient controls to ensure that the more than \$400 million FY2016 ILS contract was properly awarded to the sister company of the previous contractor. The Agency initially justified the 2013 bridge contract on the ground that it would permit sufficient time to competitively bid the next contract. However, the Agency did not prepare and the CO waited until shortly before the expiration of the bridge contract to argue that the need for continuity of service and the lack of time for competitive bidding constituted an unusual and compelling urgency to sole-source the FY2016 Contract – a contract for routine maintenance and logistics services that had been provided to the Agency for almost 10 years by that point. While we cannot know whether the contract would have been approved with complete information, we believe there is at least a substantial question as to whether the contract was awarded properly. In light of these concerns, the OIG believes that the Agency should take appropriate action as recommended below to ensure that such situations do not recur, and that it has appropriate controls in place to ensure the proper award of such contracts in the future.

²¹ The OIG referred the allegations in this report to the U.S. Attorney's Office, which declined prosecution.

RECOMMENDATION AU-18-0015-5

Review the actions taken in this matter, including the contractor's failure to provide the Agency with information relevant to its eligibility, and consider suspension and debarment or other appropriate action.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will review and consider appropriate action if warranted, which may require coordination with SBA as this is outside of NSA's purview.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

RECOMMENDATION AU-18-0015-6

Assess the Agency's application of the national security exemption with regard to information provided to SBA on 8(a) contracting actions, and implement procedures to ensure contracting provides all relevant information that can be disclosed in a timely fashion, including clear disclosure of whether a contract is a follow-on and the underlying circumstances relevant to that determination.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will assess its application of the national security exemption with regard to information provided to SBA, and will ensure appropriate information that can be disclosed is provided to SBA in a timely manner.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

RECOMMENDATION AU-18-0015-7

Develop and provide training materials sufficient to ensure Contracting personnel are kept current as to rules, regulations, and pertinent changes surrounding the 8(a) program.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will review the existing training, update as needed, and disseminate to the Contracting group.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

FINDING 2: NSA awarded over \$35M in additional effort that was outside the scope of the original contract.

NSA added property services to the FY2016 ILS Contract instead of awarding a separate property services contract. The Contracting group made this decision even though the additional property services, estimated to cost over \$35 million and require a significant number of additional full-time personnel, constituted a modification beyond the scope of the original contract. Further, the Senior Contract Advisor opined that it was not obvious that the contractor was uniquely qualified to satisfy the additional requirement so as to justify adding it to the existing contract without competition. Additionally, the handling of the matter raises questions about the potential for a conflict of interest and possible implications under the Antideficiency Act (ADA).

Modification Beyond the Scope of the 8(a) Contract

NSA made the decision to acquire property services to assist the Agency with accountability and help with passing the financial statement audit and to significantly improve internal business processes. At the time this decision was made, the same individual served as both the Chief Financial Manager (CFM) and the SAE. To accomplish the acquisition, the Agency made the initial decision to have the FY2016 ILS contractor develop property service requirements as detailed below on the existing FY2016 ILS contract as a temporary solution, and then to award a separate 8(a) program contract to an ANC 8(a) participant and wholly owned subsidiary of the same parent company. In FY2017, BM&A personnel started the early stages of the acquisition process to award a separate contract; they established an RFP number, selected a NAICS code, and developed their initial acquisition strategy for a property services contract.²² However, in July 2017, the CO in conjunction with I&L leadership made the decision to add these services to the FY2016 ILS contract, rather than award a separate property services contract. According to interviews with the OIG, this decision was made because the Agency wanted to add services to the FY2016 ILS contract for a short period of time with the intention of developing requirements, but management ultimately made the decision not to award a separate contract and put the services on the FY2016 ILS contract. This decision caused the Agency to modify the contract in a way that the OIG determined to be beyond the scope of the original contract.

13 CFR §124.514(c), *Modifications Beyond the Scope*, states a modification beyond the scope of the initial 8(a) contract award is considered to be a new contracting action, and that it will be treated the same as an unpriced option under 13 CFR §124.514(a). Section 124.514(a) also identifies the exercise of an unpriced option as a new contracting action, and provides that, if a company has graduated or been terminated from the 8(a) program or is no longer small under the size standards corresponding to the NAICS code for the requirement, negotiations to price the option cannot be entered into and the option cannot be exercised.²³

²² Contracting searches by NAICS code to conduct market research and find companies eligible to perform on contracts.

²³ FAR Subpart 2.1 *Definitions*, “option” means a unilateral right in a contract by which, for a specific time, the Government may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract.

Agency Position

In response to the initial draft of this report, BM&A stated that only the CO can make in-scope determinations. BM&A stated that the initial plan was to award a separate contract for property services; however, as the Installations and Logistics Contracting division began developing an understanding of the requirement, it became apparent that a new contract was not the answer because a new contract would add an unnecessary layer of administration to the process. According to BM&A, the existing ILS contract covered property from the receipt of property at the warehouse through its life-cycle ending with disposition. Both OGC and BM&A defended the CO's position that adding this property function was within scope. The CO argued that the FY2016 ILS contractor was "heavily engaged in approximately 90 percent of the property function" and that the new work was "inextricably intertwined" with those efforts, and OGC maintained that the CO's determination appeared to have a rational basis. The OIG found that although FY2016 ILS contractor may have been physically touching much of the Agency's inventory during its logistical warehouse services, for instance by moving material, loading and unloading trucks, and processing mail deliveries, it was not providing the more extensive property management services that were added to the contract, to include substantial work such as property inventorying and tracking as detailed below.

Determining Beyond the Scope

Neither the CFR nor the FAR prescribe exactly how to determine if a modification is beyond the scope of the original contract. Courts have used the "cardinal change" doctrine to address this issue in the context of litigation and bid protests. A cardinal change generally is deemed to have taken place when there is a change in the nature of the services to be performed under the contract that is so significant that it changes the very nature of the contractual agreement.

In determining whether such a cardinal change has occurred, courts look to see if one or more of the following occurred:

- 1) A significant impact on the magnitude of effort the contractor must perform,
- 2) A change that circumvents the requirements for competition, or
- 3) A change that results in required performance that is materially different than for which the parties originally bargained.²⁴

We reviewed the contract modification in this instance, and compared it to these principles using the cardinal change doctrine.

Property Service Requirement

Impact on the magnitude of effort: In response to the property services requirement, the Agency developed new labor categories and rates, the sister company hired and trained new employees, and reviewed new NSA property processes. Specifically, the updated Logistics Service Contract (LSC) performance work statements (PWS) required the contractor to perform the following property services, which were added to the original PWS:

- Maintain asset management in Financial Accounting and Corporate Tracking System by providing and performing data entry for incoming property, transferred property, and excessed property.

²⁴ *Aircraft Charter Solutions, Inc. v. United States*, 109 Fed. Ct. Cl. 398, 410-11 (2013).

- Develop material handling processes for shipping, receiving, storage, and disposition of property.
- Arrange for the disposal of excess material, equipment, and/or substances.
- Inventory and organize materials, supplies, and equipment.
- Provide inventory reports.
- Input data into the Material Distribution and Tracking System.
- Coordinate all property accountability functions and property management functions in accordance with Government guidance and industry best practices.

In order to perform property service functions, four new labor categories were added to the original contract – property specialist, property supervisor, property manager, and deputy logistics manager – with multiple hourly rates (for regular hours, overtime, and for Property Specialists, second shift and second shift overtime), and the contractor began hiring employees to fill the new work roles.

The Deputy Chief of the PEO told the OIG that, as of September 2018, the contractor had hired a significant number of additional property service personnel to fulfill these new labor categories.²⁵ As initially planned, the contractor began developing approaches for the property services aspect of the contract, and provided BM&A the following three documents:

- **Property Management White Paper** – Provided a survey of NSA’s property process identifying needed improvements with staffing expertise, training and awareness, integration of functions and property officers, and implementation of a full utilization system, quality program, and technology.
- **Annual Inventory Process: Property Management Process Improvements & Lessons Learned Deliverable** – Re-performed NSA’s current inventory process, documented observations, and made recommendations on property service planning, processes, communication, and technology.
- **Property Officer Training Program** – Implemented a two-week foundation training, two four-week hands-on field training, and a mentoring program.

Based on the added language to the PWS and the additional staffing required, as well as the other factors discussed below, the OIG concludes the change was more than significant enough that it required the contractor to perform work materially different than was intended in the original contract award. Also, we note that, as described in detail in Finding 1, this was the third contract since the first ILS Contract in FY2008 in a string of contracts for the requirements provided by the same contractor, and it is evident that property inventory services had not been performed previously.

Change circumvented requirements for competition: The OIG obtained evidence that NSA acquisition employees raised concerns to management regarding the lack of competition prior to the award of this modification beyond the scope of the existing contract. The OIG obtained an email from the senior contract advisor (SCA) to senior-level PEO management that stated, “A strong case for a non-competitive contract is needed for what is demonstrably new work. It’s not obvious that the current contractor is uniquely qualified to satisfy the property requirement.” We asked the SCA about the addition of property services to the contract, and he said he could see how property could fit into the logistics function but, in his opinion, competition is always advised. Further, the contract manager informed the OIG that other companies were interested in performing the property

²⁵ PEO’s role is to provide portfolio, business, financial, and contract management services for NSA’s Chief of Staff, Workforce Support Activities, Installation and Logistics, and BM&A.

services work, and Logistics Services personnel told the OIG that they believed a property service contract should have been competed.

It appears that BM&A's management decision process failed in this instance. The OIG could not identify why the Agency did not compete the additional requirement in light of the concerns raised by the SCA or discern where or how the Agency made "a strong case for a non-competitive contract" for what was considered to be demonstrably new work.

Potential or appearance of a conflict of interest: Because the Director of BM&A was acting as both the CFM and SAE, and given the appearance that the expediency to obtain a clean audit opinion could have been a significant or driving factor in this decision, the Agency also should consider whether there is a potential or appearance of a conflict of interest that should be addressed through segregation of duties. While the Agency pointed out in response to the initial draft of this report that there are many steps in the acquisition process to ensure full consideration of all relevant factors, that does not mean the juxtaposition of these two roles might not raise the potential for a conflict, or the appearance of a conflict in these or similar circumstances.

Increase in Dollars and Personnel

The change required performance that was different than what was bargained for: During FY2017, NSA began to perform a pricing analysis for the property services work. BM&A personnel performed an independent cost estimate themselves and obtained a cost estimate from the contractor. The Business Analysis group estimated the property services would require a significant number of full-time personnel and cost over \$18 million from FY2017 through FY2019. The contractor estimated the property services would require around the same number of full-time personnel and cost more than \$35 million from FY2017 through FY2020. The OIG did not receive documentation explaining the differences between the two estimates, particularly with regard to the average annual cost of the services to be performed.²⁶

We compared the NSA Business Analysis and the contractor's estimates to the initial contract's full-time personnel and costs on the logistics portion of the contract. We used the logistics portion for our comparison because property services were added to the LSC PWS, and it is, as noted by the SCA, most closely aligned with that aspect of the original contract. The Government and contractor estimates for property services are 32 and 35 percent of initial contract T&M amounts, respectively. However, additional funding was not added to the contract for the property services.

Our comparison of full-time logistics personnel to the Business Analysis and contractor estimates found that property services would require a 66 percent and 61 percent increase in full-time personnel, respectively.

We shared the comparison with the Deputy Chief of PEO, who told the OIG that BM&A leadership knew the property estimates were not exact because of the potential efficiencies gained due to "NSA21" an agency reorganization. The Deputy Chief explained that prior to the NSA21 reorganization, the property officer function was an "other-duty-as-assigned" function dispersed throughout the Agency, but was combined within I&L as a result of NSA21. He explained that as of September 2018, the Agency had hired 60 percent of the additional property personnel estimated, and in response to a draft of this report, the Agency reported that those numbers have remained the same. The Deputy Chief also indicated that the initial plan was to award a separate contract, but he did not know why that plan changed as awarding a contract is a Contracting group decision.

²⁶ In response to a draft of this report, the Agency indicated that it did not intend to pay the contractor's estimate; furthermore, the actual average cost per year was below the contractor's and government's estimates.

Possible ADA issue: The Agency used FY2017 operations and maintenance (O&M) funding to pay for property services for a need that was contractually identified in FY2018. The “bona fide needs rule,” 31 USC 1502(a), provides that an appropriation that is limited for obligations to a definite period is available only for payment of expenses properly incurred during that limited period and is not available after that time. As a result, the OIG found that the Agency had a potential ADA violation that warrants additional review.

During FY2017, the Agency identified a need for property services and on 27 July 2017, the Agency executed a delivery order (DO) and obligated FY2017 O&M appropriated funds in the amount of \$1,188,840 to fund property services to be delivered during a period of performance from 1 August 2017 through 31 October 2017. The DO required the contractor to provide all management, supervision, personnel, labor, training, tools, and supplies necessary to perform services at NSA Washington area. During FY2018, the Agency identified the continued need for those property services in FY2018, and the CO executed a modification to the DO to extend the period of performance to 30 September 2018 and obligated FY2018 O&M appropriated funds for FY2018 property services. Contractually, the Agency did not differentiate the services performed from 1 August 2017 through 31 October 2017 and the services performed thereafter, and the delivery order did not specify how the contractor would fulfill the requirements or specify required deliverables. Further, the level of detail on the invoices was limited, for example, “Property Services between 01 November and 30 November 2017.” The contractual and payment documentation suggests that the services were severable. Therefore, it appears to the OIG that the Agency was required to pay for services performed through 31 October 2017 with FY2017 funding and for services performed thereafter with FY2018 funding. However, we found that the Agency paid four invoices for property services performed during FY2018, between 1 November 2017 and 3 December 2017, using \$481,000 of FY2017 funding.²⁷

When we first notified the Agency that we had identified a potential ADA violation that warranted its review, Agency personnel stated that an ADA violation had not occurred because the Agency is permitted to fund a severable service contract that crosses fiscal years provided the period of performance does not exceed 12 months. We met with Agency management to further discuss the matter and explained that while we agreed that the Agency was legally authorized to enter into a severable service contract for 12 months that crosses fiscal years and obligate FY2017 funding, it did not do that. Instead, the Agency entered into a contract that crossed fiscal years but was only for three months. Moreover, the Agency did not identify a bona fide need for FY2018 services performed after 31 October until FY2018 and therefore, it could not pay for those services with FY2017 funding. The Agency agreed to review the matter and provide us the results.

Subsequent to our meeting, management no longer relied on the 12-month rule, and instead stated that, for the period of performance through 31 October 2017, there were issues and delays getting started on the work and therefore the work was not completed until 3 December 2017. Agency management represented that the DO was, in fact, for non-severable services, and therefore that the Agency was permitted to use FY2017 funding to pay for a requirement identified in FY2017. Agency personnel represented that the initial period of performance, through 31 October, was intended to compensate the contractor for hiring and training staff, and to enable the contractor time to develop the requirements of the DO. Agency personnel stated, however, that the contract did not specify this level of detail or identify a specific deliverable(s) because the Agency was using the “alpha process” to execute the DO and compensate the contractor for the aforementioned.

²⁷ One of the four invoices was for the period 23 October 2017 through 5 November 2017, which extended over the period of performance date of 31 October 2017. The OIG reviewed the supporting invoice of over \$172,000, but was unable to differentiate between the services performed through 31 October 2017 and those performed afterward.

In accordance with GAO Case B-241415, 8 June 1992, 71 Comp. Gen 428, the determining factor for whether services are severable or entire (non-severable) is whether the services represent a single undertaking designed to meet an immediate need of the Agency. Severable services are continuing and recurring in nature. There was nothing in the DO that indicated the contractor was required to perform and deliver a single undertaking against which the Agency could measure performance. Instead, the contractor was compensated for daily-billed hours, which were paid by the Agency and could not be linked to an invoice that identified specific services performed.

If the requirement was for non-severable services, then there would be a question as to whether or not the Agency inappropriately incrementally funded the DO because incrementally funding entire (non-severable) contracts runs contrary to bona fide needs principles. However, based on contract documentation and invoices, it appears to the OIG that the services were severable. A modification providing for increased (severable) services must be charged to the fiscal year or years in which the services are rendered. Therefore, it appears that the Agency was not authorized to use FY2017 funding to pay for an FY2018 requirement that it contractually entered into in FY2018.

Based on the facts identified above, the OIG concludes that the Agency should conduct a preliminary review of the potential ADA violations in accordance with DoD Regulation 7000.14-R, "DoD Financial Management Regulation," Volume 14, "Administrative Control of Funds and Antideficiency Act Violations," Chapter 3, "Preliminary Reviews of Potential Violations."

Termination from 8(a) Program

In June 2016, approximately a year before property services were added to the FY2016 ILS contract, the contractor filed a *Voluntary Withdraw Agreement* with the SBA to self-withdraw from the 8(a) program because they exceeded the NAICS code income standards. Specifically, this document states that the contractor agreed to voluntarily withdraw from continued participation in the 8(a) program, that previously awarded 8(a) contracts including modifications within the scope and priced options may be exercised, but the process of negotiation and award of any pending 8(a) contracts shall cease.

Conclusion

The OIG found that the modification to the FY2016 ILS contract was beyond the scope of the original contract under the cardinal change doctrine and, therefore, that the Agency should have competed and awarded the property services work separately. The modification caused the contractor to develop new labor categories and rates that were not originally negotiated and to hire and train a substantial number of new employees to fill the roles. The change would potentially have caused the contractor to hire more than 60 percent more logistical personnel and increase the T&M contract costs by over 30 percent. Based on these and the other factors discussed above, we determined that the new requirements were beyond the scope of the existing contract. Moreover, we find it particularly concerning that this substantial amount of additional work was awarded to the contractor without competition in light of the concerns regarding the initial award of that sole-source contract as described in Finding 1 above. Finally, we uncovered a possible ADA issue that the Agency should examine further and address as appropriate.

RECOMMENDATION AU-18-0015-8

Evaluate the property services portion of the FY2016 ILS contract in light of the OIG's findings, and implement appropriate remedies, potentially including removal of the property service requirements from the contract and/or conducting a new acquisition for same.

Lead Action: Director, BM&A

Secondary: General Counsel, NSA

Management Response: AGREE. BM&A will evaluate the property services portion of the ILS contract to implement any appropriate remedies if needed.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

RECOMMENDATION AU-18-0015-9

Review whether there is a potential or appearance of a conflict of interest in having the same person serve as both CFM and SAE, and develop and implement revised procedures as warranted.

Lead Action: Chief of Staff, NSA

Secondary: General Counsel, NSA

Management Response: AGREE. The Chief of Staff, with the assistance of OGC, will conduct a review to determine if there is a conflict of interest or appearance of such by having one individual serve as both the Agency's Chief Financial Manager and the Senior Acquisition Executive.

Implementing Organization(s): Chief of Staff

Target Completion Date: 31 August 2021

OIG Analysis: The planned action meets the intent of the recommendation.

RECOMMENDATION AU-18-0015-10

Conduct a preliminary review of the potential ADA violations in accordance with DoD Regulation 7000.14-R, "DoD Financial Management Regulation," Volume 14, "Administrative Control of Funds and Antideficiency Act Violations," Chapter 3, "Preliminary Reviews of Potential Violations."

Lead Action: Director, BM&A

Secondary: General Counsel, NSA

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RECOMMENDATION AU-18-0015-10 *continued*

Management Response: PARTIALLY AGREE. NSA agrees with the intent of the IG recommendation to conduct a review of the facts and circumstances to determine if an Anti-Deficiency Act (ADA) violation occurred. However, the first step in reporting suspected ADA violations in the DoD Regulation 7000.14-R, "DoD Financial Management Regulations, Volume 14, Administrative Controls of Funds and Anti-Deficiency Act Violations." Chapter 3 is to conduct an "initial review" not a "preliminary review" of the potential anti-deficiency act violation.

Implementing Organization(s): BM&A

Target Completion Date: Unresolved

OIG Analysis: The Agency's response partially meets the intent of the recommendation.

The purpose of the "initial review" is for the activity holding the funds to determine following discovery of an incident whether a suspected violation may have occurred. During the course of this audit, the OIG identified a potential ADA issue and brought it to the Agency's attention. As discussed in the report, the Agency offered two distinct and mutually inconsistent explanations for what occurred, and has stated each time that as a result it did not believe that a potential ADA had occurred. The Agency since has provided a third explanation, now acknowledging that the services were severable. The Agency stated that an oral agreement was reached between the CO and the vendor in October 2017 to use up FY2017 funds. The OIG could not substantiate the oral agreement and further questions the validity of an oral agreement when the contract language states that, "the contract shall not be changed except by issuance of a written change order signed by the CO." The Agency contends that ACRNS AA and AB are mutually exclusive, and that when considering the modification that the OIG should not consider the dollar increase in the DO but instead the dollars obligated on ACRN AB and, therefore, since the Agency did not increase the funding on ACRN AA, that the Agency can pay for services occurring after October 31, 2017 with FY2017 funding. However, the only distinction between ACRN AA from ACRN AB is the line of funding. The GAO Redbook states that a modification providing increased services must be charged to the fiscal year or years in which the services are rendered. When NSA modified the DO, in the subsequent fiscal year and after the PoP had expired, it increased the dollar value and increased the services of the DO.

The OIG determined that the Agency's explanations were not sufficient to alleviate the concerns that "a potential ADA violation may have occurred," which is sufficient to trigger the recommendation of a preliminary review that is conducted by an investigating officer that is external to the activity/command being reviewed. DoD FMR 7000.14R, Section 030408(A) recognizes that the OIG, as an independent oversight entity, is authorized to make the determination that the evidence is sufficient to establish that a potential violation may have occurred and recommend that NSA conduct a preliminary review. After receiving extensive input from the Agency and making this determination, it would make no sense for the OIG to refer the matter back to the Agency for an initial review to determine whether the same standard is met. The DoD FMR further states that if disagreements between NSA and the NSA OIG arise as to whether a preliminary review is warranted, NSA may request assistance from the Deputy Chief Financial Officer, Department of Defense (DCFO).

We will consider this recommendation closed once the Agency either (a) provides us the investigating officer's preliminary report accompanied by a legal review, or (b) provides us a referral and associated documentation presented to the DCFO to enable his office to make an informed decision as to the disposition of the potential ADA and the final disposition of the potential ADA.

FINDING 3: The FY2016 ILS contract has lacked proper oversight.

The Agency did not define the contract terms and conditions sufficiently for a hybrid contract, tracked expenditures against the contract ceiling rather than the contract cost schedule, and did not formally evaluate contractor performance. These issues occurred because the Agency did not establish guidance for defining terms and conditions for monitoring the execution of funding on hybrid contracts. As a result, the Agency could not readily obtain from the contractor financial information and supporting documentation to support costs charged to NSA. In addition, the Agency may have a potential unfunded requirement of \$50 million, and it does not have documented metrics to effectively measure the performance of the contractor.

Lack of Agency Guidance for Hybrid Contracts

Contracting negotiated a hybrid contract, a combination of several contract types for the FY2016 ILS contract: firm-fixed-price (FFP) for facility services and time-and-material (T&M) for logistics services, as well as a reimbursable component for materials and technical task orders (TTOs).²⁸ However, the hybrid contract did not include all of the provisions and clauses applicable to these contract types, a necessity for harmonizing the terms and conditions of the contract and enabling contract management during contract performance.

Although the FAR allows for a combination of contract types to be used when it promotes the Government's interest, the FAR prescribes required provisions and clauses that are contract-type specific. FAR Part 15 states contracts negotiated may be of any type or combination of types of contracts that will promote the Government's interest, and FAR 16.102 states an FFP contract, which best utilizes the basic profit motive of business enterprise, shall be used when the risk involved is minimal or can be predicted with an acceptable degree of certainty. However, when a reasonable basis for firm pricing does not exist, other contract types should be considered, and negotiations should be directed toward selecting a contract type (or combination of types) that will appropriately tie profit to contractor performance. BM&A uses the term "hybrid" to refer to a contract that is a combination of contract types.²⁹

We found that the FY2016 ILS contract did not include appropriate terms and conditions for financial reporting and invoicing. The primary contracting officer representative (COR) told the OIG the contractor challenged requests for financial information and supporting documentation for time and attendance based on the terms and conditions of the contract or lack thereof. Mission managers using the services provided under the contract also informed the OIG that time-and-attendance accountability measures were routinely challenged by the contractor based on the terms and conditions of the contract or lack thereof. As a result, instead of enabling contract management, the contract disables the Agency's ability to manage financial and performance aspects of the services that are not FFP in nature.

²⁸ TTOs are cost-reimbursement per the base contract terms and FFP per the performance statement of work. BM&A obtains proposals from vendors in response to each TTO, and negotiates a firm fixed price for the TTO that is paid in full upon completion of the TTO.

²⁹ BM&A "Post Award Conference Template" and "Contracting Officer's Representative (COR) Handbook" refer to hybrid contracts in invoicing guidance.

BM&A's hybrid contract guidance for award fee contracts should be expanded to all contract types and improved to include guidance for executing a contract with multiple contract types.

RECOMMENDATION AU-18-0015-11

Review existing guidance and modify and disseminate additional or revised guidance as needed to ensure the inclusion of appropriate terms and conditions for financial reporting and invoicing when multiple or hybrid contracts are utilized.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will review guidance, modify as appropriate, and disseminate revisions to the workforce.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

Expenditures Tracked Against Contract Ceiling

We found that the Agency exceeded the contract not-to-exceed (NTE) amounts in each fiscal year, and never realigned the contract amounts to address these overages. In regard to a contract like the FY2016 ILS contract, realigning resources is important in that it makes clear the amount of funds intended for each service (e.g., FIX-IT tickets, warehousing, and mail room), aids PEO and customer organization personnel with understanding the amount of funding available for the fiscal year, and ensures that funds are available to pay invoices.

According to Business Management & Acquisition Policy 8-2, *Online Guide*: "Contract Management Phase," realigning resources does not result in a change in contract value. FAR 52.243-1 prescribes terms and conditions for changes to the contract. Furthermore, the BM&A guide provides some examples of how resources may be realigned:

- 1) Shifting labor hours between labor categories,
- 2) Shifting other direct costs or travel dollars into another labor category, and
- 3) Shifting labor dollars to travel.

When we asked the CO about this, he told the OIG that at a high level, the base contract provides a ceiling or total amount for the overall requirement; furthermore, the CO stated that the contract ceiling of over \$400 million has not been exceeded and that is the overall constraint for monitoring costs. The CO indicated that he did not realign resources because it is administratively burdensome to keep checking the values and adjusting them as requirements change. The CO also said that the schedule in the base contract that breaks down the cost ceiling by categories of facilities and logistics services does not govern or constrain the actual services ordered and funded under the contract. Based on these assertions, the CO maintained there was no need to modify the base contract to realign a portion of the cost ceiling from other logistics services to property services.

However, per FAR 16.505(a)(2), orders shall include the corresponding line item number and sub-line item number from the base contract. Section B.2 of the executed contract states that the con-

tracting officer shall issue delivery orders using the applicable service or supply item rate/price for each Government fiscal year. The OIG believes that the terms and conditions of the contract do not support the assertion that only the overall ceiling dictates—if the Agency did not intend to manage the contract at this level of detail, then it is misleading to write in terms and conditions that imply that the Government fiscal year, price, and costs would be constrained by specifications in the contract.

The OIG questions the idea that a contract of this magnitude does not warrant close monitoring of funding for all contract types given the shared service set-up and hybrid design of the contract. The facilities and logistics services provided under this contract support a variety of directorates under I&L, all of which have some level of reliance on the FY2016 ILS service contract.

We estimate that at the current funding rate, which has exceeded the contract amounts by an overall average of 12 percent, the Agency will need to substantially increase the contract ceiling by approximately 30 percent from over \$400M to keep all the logistics services going until 30 September 2020.

Over \$35 Million in Property Effort Added

Additionally, the contract's largest percentage increase occurred in FY2018, the same year the property services were added, with the amount funded exceeding the contract ceiling by almost four times the rate from the prior two years. This makes our 12 percent estimate based on the overall average for the three-year period very conservative.

We asked the CO about property services exceeding the contract amounts, and were told that the addition of property services was reasonable with East Campus buildings coming online slower than expected (and, therefore, additional funds presumably being available). The CO also maintained the contract was not expected to reach the ceiling; thus, there was enough ceiling for the property services. We concluded the current funding rate relative to contract ceiling does not support the CO's assertion that there is sufficient ceiling to support the services for which the Agency bargained for over the five-year period.

The OIG believes that if East Campus buildings were coming online slower than expected, the contract amounts relating to East Campus should have been realigned to add property management services to this, or another contractor selected as discussed in Finding 2 above.

The FY2016 ILS contract amounts were never realigned for the addition of property services, and it appears to the OIG that the Agency will reach the contract ceiling before the completion of the contract.

RECOMMENDATION AU-18-0015-12

Establish and disseminate guidance that addresses how cost ceilings should be managed and monitored for contracts containing various contract types.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will disseminate guidance regarding managing cost ceilings for IDIQ contracts.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

Contractor Performance

We were troubled to discover that the Agency has never completed a full performance evaluation of the contract, and that current Contracting and COR personnel did not know what performance evaluation form to use. We asked Contracting and COR personnel for performance evaluations and were told that they could not find any evaluations for FY2016. The CO explained that a performance evaluation was done for year two but it was done on the wrong form. The form that was used lacked performance metrics that are necessary to review this type of contract. The CO stated that the FY2017 performance evaluation was being revised and put on a modified form.

Without annual, complete, and documented performance evaluations, the Agency lacks evidence supporting the contractor's performance, which also will inhibit the Agency's ability to readily articulate requirements for a future competitive acquisition.

RECOMMENDATION AU-18-0015-13

Establish and implement procedures to ensure the proper completion and documentation of contractor performance evaluations.

Lead Action: Director, BM&A

Management Response: AGREE. BM&A will review current procedures regarding contractor performance evaluations, and update/clarify if necessary.

Implementing Organization(s): BM&A

Target Completion Date: 30 September 2021

OIG Analysis: The planned action meets the intent of the recommendation.

III. CONCLUSIONS AND SUMMARY OF RECOMMENDATIONS

Conclusions

Finding 1. The OIG found that the Agency lacked controls sufficient to ensure that the FY2016 ILS contract was awarded in compliance with of the Code of Federal Regulations (CFR). We found that the Agency did not use the FY2013 ILS bridge contract period effectively to plan for the FY2016 contract. In addition, the “alpha process,” a contracting process that was not documented at the Agency, was used to award the contact. The Agency failed to adequately support the sole-source award, and the Agency did not consider the CFR rule, which had not been incorporated into the FAR at the time, that prohibited the same ANC from receiving an 8(a) sole-source contract that is a follow-on contract to an 8(a) contract that was performed immediately previously by another participant (or former participant) in the program that is owned by the same tribe. Based on all these concerns, we believe that BM&A should reevaluate how the FY2016 ILS contract was awarded and take steps to ensure that sufficient controls are in place to ensure that future contracts are awarded appropriately.

Finding 2. The OIG also found that the Agency’s modification to the FY2016 ILS contract for the addition of property services was beyond the scope of the original contract and should have been awarded separately. The modification resulted in the contractor developing new labor rates that were not originally bargained for and hiring and training new employees to fill the roles. The change has caused the contractor to hire a significant number of additional personnel and potentially will cause it to hire over 60 percent more logistics personnel than previously employed and increase the time and material contract costs by over 30 percent. BM&A should address the out-of-scope modification and ensure that there is a proper acquisition for property services. Moreover, the OIG identified a potential issue under the Antideficiency Act that warrants further review.

Finding 3. We found that the Agency has not put in place procedures to ensure appropriate management and monitoring of hybrid contracts of the type at issue. Additionally, we found that the Agency did not conduct or document complete performance evaluations of the contractor. The OIG believes that funding requirements may well outpace the period of performance, and that the deficiencies identified in this audit also may inhibit the Agency’s ability to readily articulate requirements for a competitive acquisition in the future.

Recommendations to Business Management and Acquisition (BM&A)

RECOMMENDATION AU-18-0015-1

Develop and implement procedures sufficient to ensure that Contracting personnel provide all appropriate information to SBA in a timely manner when seeking approval to issue a small business RFP.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-2

Document the alpha process in BM&A policy, including what acquisition processes should apply to contracting actions performed using it, and ensure that the Agency's utilization of the alpha process is in compliance with the FAR.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-3

Conduct an examination of the Agency's procedures for sole-source and undefinitized contracting actions, and make changes as necessary to ensure that complete and accurate documentation for such contracts is completed with sufficient time to support contracting decisions.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-4

Examine and, as necessary, document the review process for all contracts to ensure appropriate accountability for each official who reviews and approves any portion of the contract file for the quality, accuracy, and completeness of the final documents for which each is responsible in the contract file.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-5

Review the actions taken in this matter, including the contractor's failure to provide the Agency with information relevant to its eligibility, and consider suspension and debarment or other appropriate action.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-6

Assess the Agency's application of the national security exemption with regard to information provided to SBA on 8(a) contracting actions, and implement procedures to ensure Contracting provides all relevant information that can be disclosed in a timely fashion, including clear disclosure of whether a contract is a follow-on and the underlying circumstances relevant to that determination.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-7

Develop and provide training materials sufficient to ensure Contracting personnel are kept current as to rules, regulations, and pertinent changes surrounding the 8(a) program.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-8

Evaluate the property services portion of the FY2016 ILS contract in light of the OIG's findings, and implement appropriate remedies, potentially including removal of the property service requirements from the contract and/or conducting a new acquisition for same.

Lead Action: Director, BM&A

Secondary Action: General Counsel, NSA

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-10

Conduct a preliminary review of the potential ADA violations in accordance with DoD Regulation 7000.14-R, "DoD Financial Management Regulation," Volume 14, "Administrative Control of Funds and Antideficiency Act Violations," Chapter 3, "Preliminary Reviews of Potential Violations."

Lead Action: Director, BM&A

Secondary Action: General Counsel, NSA

Target Completion Date: Unresolved

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RECOMMENDATION AU-18-0015-11

Review existing guidance and modify and disseminate additional or revised guidance as needed to ensure the inclusion of appropriate terms and conditions for financial reporting and invoicing when multiple or hybrid contracts are utilized.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-12

Establish and disseminate guidance that addresses how cost ceilings should be managed and monitored for contracts containing various contract types.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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RECOMMENDATION AU-18-0015-13

Establish and implement procedures to ensure the proper completion and documentation of contractor performance evaluations.

Lead Action: Director, BM&A

Target Completion Date: 30 September 2021

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Recommendation to Office of the Director

RECOMMENDATION AU-18-0015-9

Review whether there is a potential or appearance of a conflict of interest in having the same person serve as both CFM and SAE, and develop and implement revised procedures as warranted.

Lead Action: Chief of Staff, NSA

Secondary Action: General Counsel, NSA

Target Completion Date: 31 August 2021

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APPENDICES

APPENDIX A: About the Audit

Objective

The objective was to determine whether the contract was awarded properly and is being administered effectively and in accordance with applicable policies.

Scope and Methodology

The scope of the audit was the acquisition of Installation and Logistics services (hereinafter referred to as FY2016 ILS contract) which includes the contract history from FY2008 to 15 November 2018. We reviewed the Code of Federal Regulations, Federal Acquisition Regulations, and National Security Agency (NSA) policies and procedures to gain an understanding of the pre- and post-award contract process. In addition, we reviewed documents in the contract file and met with personnel from Contracting, Program Executive Office, Facility Services, and Logistic Services who support the contract administration and work with the contractor on day-to-day activities. We assessed the contract files to Government regulations and NSA policies and procedures to ensure the contract was awarded and administered as intended and that the contractor was performing in accordance with contract terms.

We established reasonable assurance of the authenticity and accuracy because we obtained the FY2016 ILS contract and contract-related documents obtained from the hardcopy contract file.

We conducted this audit 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 according to our audit objective. We believe that the evidence obtained provided a reasonable basis for our findings and conclusions according to our audit objective.

Use of Computer-Processed Data

We did not rely on computer-processed data to materially support our audit findings or conclusions. We did use the NSA's Business Acquisition Management system to document contract action documents (i.e., *Award/Contract Amendment of Solicitation/Modification of Contract*, and *Order for Supplies or Services*). We obtained a signed copy of the *Award/Contract* for verification of a binding contract and visually reviewed other contract actions to determine if the actions were awarded. We obtained hard copy contract supporting documents (e.g., *Acquisition Strategy, Determination & Findings*, performance work statements) to support our audit findings or conclusions.

We also obtained email documents from an Outlook search from two sources. An Agency contractor performed an email search of NSA personnel who were believed to have a role in awarding the contract. The OIG did not assess the reliability of this computer-processed data because the individual who performed the data pull was not the custodian of the records. We also received email

communications from and between contractor personnel via a subpoena and did not assess the reliability of this data because we had sufficient evidence to support our audit findings and such an assessment would have required the auditors to travel to Alaska, which would have been an unnecessary expense.

Previous Coverage

The NSA OIG conducted multiple audits related to contracts and on topics similar to this audit but has not completed an audit on the FY2016 ILS contract or the contractor. We considered and reviewed the following NSA OIG reports:

- *Report on the Follow-Up of the Agency's Utilization of Time and Material Contracts* (AU-09-0018), 16 September 2009
- *Report on the Audit of the Agency's Small Business Program* (AU-13-0001), 10 May 2013³⁰
- *Audit of the Federally Funded Research and Development Center – Institute for Defense Analyses* (AU-13-0017), 25 June 2014
- *Audit of Contractor Qualification* (AU-13-0019), 3 September 2014
- *Audit of Eagle Alliance-Issued Cell Phones and Mobile Computing Devices at the National Security Agency* (AU-14-0009), 16 March 2015

The NSA OIG considered audit reports published by other Government oversight organizations. The Government Accountability Office published an audit on *Oversight Weaknesses Continue to Limit SBA's Ability to Monitor Compliance with 8(a) Program Requirements* (GAO-16-113), 21 March 2016.³¹ The Department of Energy OIG published an audit on *The Department of Energy's Office of Headquarters Procurement Service Contract Awards Made to Alaskan Native Corporations* (OAI-M-16-09), 6 April 2016.³²

Assessment of Internal Controls

As part of the audit, we assessed the organization's control environment pertaining to the audit objectives, as set forth in NSA/CSS Policy 7-3, *Managers' Internal Control Program*, 17 October 2016. We obtained Business Management & Acquisition (BM&A) *Acquisition Statement of Assurance & Assessment of Internal Controls over Acquisition Functions*, 7 June 2017.

We reviewed internal controls that related to the FY2016 ILS contract; however, our review was limited to controls applicable to our audit objective. As discussed in Findings 1 and 3, we found that BM&A did not follow the process as documented in NSA Policy 8-2 and in standard operating procedures. We found that the process that was utilized is not documented within the Agency, resulting in Contracting personnel not completing or performing certain contract award processes.

³⁰ The recommendations from this review are closed, and did not relate directly to the issues identified in this audit.

³¹ This report is referenced in Finding 1.

³² This report was reviewed during our Research phase and was used to obtain background information on the report topic.

APPENDIX B: Sampling Methodology

Invoices

We judgmentally selected a sample of 26 invoices from March 2017-2018 to determine if invoices were being billed in accordance with contract terms and acquisition strategy. The 26 invoices included 23 selected by the auditor to ensure that invoices were selected from across the contract (i.e., an invoice from each of the contracts delivery orders). The remaining three invoices were chosen due to risk and concerns that arose from points of contact throughout the audit. We did not find reportable errors on specific invoices but reported on the overarching findings that resulted from our invoice selection.

FIX-IT Tickets

We statistically selected 59 FIX-IT tickets to audit for compliance and perform attribute testing. Specifically, we planned to review the tickets for timeliness to responses, emergency prioritization, and customer satisfaction. We determined not to continue this testing because other areas of the audit were higher risk. We did issue a management referral letter on the roof leaks found in an NSA building.

APPENDIX C: Abbreviations and Organizations

8(a) program	8(a) business development program
ADA	Antideficiency Act
ANC	Alaskan Native Corporation
BM&A	Business Management & Acquisition
CFM	Chief Financial Manager
CFR	Code of Federal Regulations
CICA	Recommendation to the CO for other than full and open competition
CM	Contract manager
CO	Contracting officer
COR	Contracting officer's representative
DCAA	Defense Contract Audit Agency
DFAR	Defense Federal Acquisition Regulation
DO	Delivery order
DOCC	Delivery order construction contract
FAR	Federal Acquisition Regulation
FFP	Firm-fixed-price
GAO	Government Accountability Office
I&L	Installations and Logistics group
ILS	Installation and Logistics Services
LSC	Logistics Service Contract
NAICS	North American Industry Classification System
NSA	National Security Agency
NSAW	National Security Agency Washington area
NTE	Not-to-exceed
O&M	Operations and maintenance
OGC	Office of the General Counsel
OIG	Office of the Inspector General
OSBP	Office of Small Business Programs
PEO	Program Executive Office
PWS	Performance work statement
RFP	Request for Proposal
SAE	Senior Acquisition Executive
SBA	Small Business Administration
SCA	Senior contract advisor
T&M	Time and material
TTO	Technical Task Order
UCA	Undefinitized Contract Action



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OFFICE OF THE INSPECTOR GENERAL

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