We have called them “the Oversight Wars” and, although the war has largely died down since its most confrontational moments six or seven years ago, little hotspots still flare up every so often.

The Oversight Wars, for those who may have forgotten, were a series of hostile reports issued by GAO, DoD OIG, and the Commission on Wartime Contracting. Sometimes the finger of blame was pointed at DCMA; other times it was pointed at DCAA. Sometimes it was pointed at both. It was a form of internecine bureaucratic warfare, seemingly designed to degrade the perception of the defense acquisition environment in the eyes of both Congress and the public.

The latest little flareup appears to be ignited by the work of the DoD Office of Inspector General (OIG). Recently, the OIG issued a report critical of DCMA contracting officers. According to the OIG, DCMA contracting officers weren’t doing a good job of complying with CAS administration requirements. We didn’t think much of the report and **we told** our readers why we felt the way we did. In a nutshell, we found the OIG’s analysis superficial and its recommended corrective actions equally superficial. We noted that DCMA made it easy for the OIG to have findings because its Instructions established timeframes that were nearly impossible for COs to meet.
*Whatever*
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Just another shot fired in The Oversight Wars.

More recently, the DoD OIG has issued **another report** critical of DCMA Contracting Officers. This time, the OIG found that the CO’s lack of compliance with “FAR, DoD Instruction 7640.02, or DCMA instructions” with respect to dispositioning DCAA questioned costs led to a situation where “contracting officers may have inappropriately reimbursed DoD contractors for millions of dollars in unallowable costs, the Government did not collect penalties when they should have been assessed, or reported incurred cost findings were not addressed in a timely manner.”

*Editor’s note: One of those things is not like the others. Can you identify which it is?*

Basically, the OIG auditors examined 22 DCAA audit reports issued between September 2013 and July 2015. During that period, DCAA issued 1,072 audit reports, but the OIG auditors selected only 22 of them to review. That's a two percent sample, for anybody counting. Also, the OIG noted that it didn't select those 22 audit reports randomly; instead, the auditors "judgmentally selected" their two percent sample. The OIG report did not mention the factors that contributed to the auditors' judgment with respect to sample selection.

The point of the audit was not to evaluate the quality/accuracy of the DCAA audit findings; instead, the objective was to evaluate what DCMA did with the audit findings.

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In 15 of the 22 reports, the DCMA COs did not enter accurate status in the Contract Audit Follow-up (CAFU) system.

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In 5 instances, the COs did not meet the deadlines established by DoD Instruction 7640.2.

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In 3 instances, the COs sustained DCAA audit findings (cumulatively worth $4.3 million) but those findings were not incorporated into the agreement on final billing rates, meaning that the negotiated final billing rates were higher than they should have been.

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In 2 instances, the COs did not sustain DCAA audit findings, but failed to document the rationale for not doing so.

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In 7 instances, penalties were recommended (cumulatively worth $1.4 million) on costs found to be expressly unallowable, but the COs did not take the recommended action, nor did they expressly waive the penalties (which they have discretion to do). Or to be more specific, in 5 instances the penalties were expressly waived but the OIG found the rationale for doing so to be lacking.

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In 8 instances, DCAA questioned direct contract costs (cumulatively worth $305 million) but the COs did not take any action.

CDA Statute of Limitations

In at least one instance, the CO explained to the OIG auditors that action was not taken because the CDA Statute of Limitations had expired. The OIG position was, "*who cares?*" As the audit report stated—

… the contracting officer's own legal counsel advised the contracting officer that the statute of limitations does not preclude the contracting officer from pursing the questioned direct costs. The legal counsel also advised that the statute may not have expired because the contractor had submitted revised incurred cost proposals to the Government.

We know now (or we think we know) that the CDA SoL starts running when the vouchers containing the direct costs are paid by the Government. Thus, the DCMA legal counsel's advice was unsound. Further, the advice was seemingly based on the assumption that the contractor might not be aware of the expiration of the statute of limitations, and thus might pay some or all of the questioned costs despite the expiration. That position seems to us to be unworthy of a government agency.

Conclusion

Being a contracting officer is a tough job—made even tougher by bureaucratic rules and near-impossible deadlines. This DoD OIG report points out some areas in which performance can be improved, but it also misses some opportunities to recommend process improvements. For example, would the COs' job be easier and quicker if the DCAA audit reports were of higher quality? We believe so. Yet the OIG simply did not opine on the overall quality of the DCAA audit reports it selected for review. What were the overall sustention rates? If that information was provided, we didn't see it.

Another opportunity missed was to track the dates of the milestones in the process, to see whether it was the CO (or perhaps the CO's management) that was delaying the disposition of the audit findings. Between the pre-negotiation memorandum and the post-negotiation memorandum, how many management review steps were there? Did they add value, or did they simply delay the process? Was there any management override of the CO's judgment? We don't know because the DoD OIG audit report didn't say.