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Closure Memorandum

Case Number: 11-0075-I	Date of Entry: 3 December 2015
Primary Investigator: [redacted]	(b)(3)

Allegation Information

Narrative:
 (U//~~FOUO~~) In April 2011, the National Reconnaissance Office (NRO), Office of Inspector General (OIG) was contacted by the Defense Criminal Investigative Service regarding potential False Claims against an NRO contract for [redacted].
 (U//~~FOUO~~) The complainant alleged that [redacted] wrong(b)(1) billed against the contract in overhead charges after the customer allegedly terminated the contract. The Complainant(b)(3)ed the contract was eventually terminated due to technical issues [redacted]. However [redacted] decided to continue the project with intentions of developing the project to the [redacted] which still had available government funding [redacted] billed the labor costs they incurred between termination of the contract and reaching the [redacted] to government overhead/indirect. The Complainant stated he felt it was wrong for [redacted] charge the cost of labor hours for a specific contract to government indirect cost.

Last Investigative Step:
 24 November 2015

Resolution:
 Unsubstantiated

Case Closure Justification

Summary
 (S//~~TK//NF~~) During the course of the investigation, the Reporting Agent (RA) confirmed the NRO had a contract for a cryocooler development with [redacted]. The contract [redacted] with a Period of Performance [redacted]. This was a Cost Plus Fix Fee contract. Investigators interviewed employees from [redacted] and the governm(b)(1) determine if the Complainant's assertion were accurate and what if any costs approvals were obtained from the gove(b)(3)t.
 (U//~~FOUO~~) The RA obtained a letter from [redacted] dated 24 August 2010, where [redacted] informed the Contracting Officer(b)(1)ir desire to [redacted]. Various conditions were part of this letter to include statements indicati(h)(1)RC intended to utilize [redacted] internal funding" for some of the [redacted], (b)(1)ing(b)(1) to interviews of NRO personnel the contract was being considered for termination because of repeated issues which (b)(3)ed(b)(3) that [redacted] could not deliver on the [redacted]. Additionally, around the same time period [redacted] req(b)(1) and was approved, to move [redacted] from profit to a Contract Line Number (CLIN) and used those funds to direct charg(b)(3) (b)(3) additional efforts to further the [redacted]. The modification was authorized in [redacted] which included the [redacted] but there was no mention of the total agreed indirect funding. A review of emails between [redacted] and NRO personnel disclosed th(b)(1) parties agreed that no more than [redacted] of "discretionary funding's" would be used to further the [redacted] (b)(3)

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(U//~~FOUO~~) On 23 October 2012, a meeting that included investigators, DCAA Investigations Support Audit [redacted] (b)(1) management and [redacted] General Counsel took place to discuss the investigation. During that meeting, [redacted] (b)(3) acknowledge they had requested the NRO authorize them to utilize internal funds to further the [redacted] (b)(3) rel (b)(3) at their definition of internal funds was synonymous with indirect costs and that government approval was not required (b)(3) TC to expend those funds. [redacted] informed the NRO of their intentions because they required the NRO's approval to obtain (b)(1) [redacted] on a "loan" basis, which [redacted] identified in the 24 August 2010 letter to the Contracting Officer. (b)(3) (b)(1) (b)(3)

(U//~~FOUO~~) During the course of the investigation, investigators became aware that in 2012 DCAA conducted an audit of [redacted] cost accounting practices to include Independent Research and Development (IR&D) and Bid and Proposal (B&P) (b)(1) costs. The audit report opined that [redacted] was non-compliance with CAS 420 which pertains to IR&D and B&P costs. (b)(3) It identified certain costs [redacted] recorded as indirect costs in overhead pools that were not properly classified which led (b)(3) noncompliant accounting, inaccurate overhead and G&A rates, and misallocation of costs on Government contracts. (b)(3) Investigators decided to maintain the investigation opened because of similar concerns with the issue surrounding how the [redacted] was billed. Investigators were informed by the Divisional Administrative Contracting Officer (DACO) that [redacted] (b)(1) would be required to conduct a cost impact analysis based on the CAS non-compliance. The cost impact analysis could (b)(3) identify if [redacted] had inappropriately misallocated costs to Government contracts. DCMA would subsequently review [redacted] (b)(1) cost impact analysis, opine if their findings were accurate, and determine what if any, reimbursement was due back to (b)(3) Government.

(U//~~FOUO~~) On 22 January 2015, investigators met with key members of DCMA to discuss the outcome of their investigation. A letter from [redacted] Office of Inspector General was provided to DCMA, which identified facts surrounding the investigation, (b)(3) specifically issues regarding [redacted] accounting nomenclatures and practices. Following this meeting investigators met (b)(1) members of [redacted] management and General Counsel and expressed the same concerns. (b)(3) (b)(3)

(U//~~FOUO~~) On 18 May 2015, RA received a draft of DCMA's Cost Impact Memorandum. On 24 November 2015, RA spoke with the DACO to discuss the status of the Cost Impact Memorandum. The DACO related the Memorandum was still in draft and would be several months before finalization. The DACO was confident that the report would not change in contents from the draft. The DACO stated that the cost impact of [redacted] was negligible, particularly since this amount is spread over six (b)(3) years, and she did not expect a demand for payment being issued based on the report findings. The DACO referred to the issues with [redacted] cost concerns as confusion versus intentional. The DACO related it was not uncommon for contract (b)(1) not fully understand how indirect costs can be utilized and how to properly account for those costs. (b)(3)

(U//~~FOUO~~) Based on the outcome of this investigation and DCMA's draft report the RA recommends closure/unsubstantiated.

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