

Audit



Report

OFFICE OF THE INSPECTOR GENERAL

**CONTRACTUAL ACTIONS FOR
URGENT PROCUREMENT REQUIREMENTS**

Report No. 98-044

December 31, 1997

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Department of Defense

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Acronyms

DCADS	Defense Contract Action Data System
DITCO	Defense Information Technology Contracting Office
FAR	Federal Acquisition Regulation



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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December 31, 1997

MEMORANDUM FOR ASSISTANT SECRETARY OF THE NAVY (RESEARCH,
DEVELOPMENT, AND ACQUISITION)
ASSISTANT SECRETARY OF THE AIR FORCE
(ACQUISITION)
DIRECTOR, DEFENSE INFORMATION SYSTEMS
AGENCY
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE PROCUREMENT
DIRECTOR, DEFENSE SPECIAL WEAPONS AGENCY
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Audit Report on Contractual Actions for Urgent Procurement Requirements
(Report No. 98-044)

We are providing this audit report for information and use. This audit report results show that DoD organizations generally applied appropriate criteria and prepared adequate and properly approved justifications to support the use of the unusual and compelling urgency exception for contracts awarded noncompetitively. We considered management comments on a draft of this report when preparing the final report. The Director, Defense Procurement, comments conformed to the requirements of DoD Directive 7650.3; therefore additional comments are not required.

We appreciate the courtesies extended to the audit staff. Questions on the audit should be directed to Mr. Garold E. Stephenson, Program Director, at (703) 604-9332 (DSN 664-9332) or Mr. Eric B. Edwards, Project Manager, at (703) 604-9219 (DSN 664-9219). See Appendix G for the report distribution. The audit team members are listed inside the back cover.

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Office of the Inspector General, DoD

Report No. 98-044
(Project No. 6CH-0063)

December 31, 1997

Contractual Actions for Urgent Procurement Requirements

Executive Summary

Introduction. Federal statutes and the Federal Acquisition Regulation authorize few exceptions to the requirement for full and open competition when procuring property and services. However, when the need for the property or services presents an "unusual and compelling urgency," an agency may limit the number of sources from which it solicits bids and proposals. "Urgent and compelling" is defined as a situation where the U.S. would be seriously injured if the agency took the time to hold full and open competition. From October 1994 through May 1996, DoD Components cited "compelling urgency" when awarding 8,620 noncompetitive contract actions valued at about \$3.7 billion.

Audit Objectives. The overall audit objective was to determine the validity of "urgent and compelling" justifications for noncompetitive contracting to procure supplies and services. In addition, the audit evaluated the management control program as it applied to the award of contracts based on unusual and compelling urgency.

Audit Results. DoD organizations generally applied appropriate criteria and prepared adequate and properly approved justifications to support use of the unusual and compelling urgency exception to award contracts noncompetitively. A weighted analysis of a statistical sample taken from a universe of 5,622 contract actions valued at about \$2 billion determined that:

- o 77.9 percent of the actions, valued at about \$1.5 billion, were supported by adequate justifications and properly cited the urgency exception;

- o 8.3 percent of the actions, valued at about \$79.9 million, did not have adequate justifications to support the urgency exception but were valid noncompetitive procurements; and

- o 13.8 percent of the actions, valued at about \$384.6 million, were miscoded in the Defense Contract Action Reporting System as noncompetitive procurements based on urgency.

The higher priority assigned to the actions that did not have valid urgency justifications resulted in increased administrative leadtime for the other contract actions processed by the contracting organizations.

Summary of Recommendations. We recommend that the Director, Defense Procurement, issue guidance to the procurement executives of each DoD Component that emphasizes the need to establish controls to preclude:

- o misuse of the unusual and compelling urgency exception; and
- o the miscoding of procurement actions entered into the DoD Contract Action Reporting System.

Management Comments. We received comments on the draft of this report from the Director, Defense Procurement. The Director concurred with the finding and recommendations. The Director agreed that guidance was needed to remind procurement executives of the importance of complying with the regulation pertaining to the use of the unusual and compelling urgency exception, and the need to enter the proper codes when reporting procurement actions in the DoD Contract Action Reporting System. The Director also agreed to issue a policy guidance memorandum once this report is issued. See Part I for a summary of management comments and Part III for the complete text of management comments.

Audit Response. The Director's plan to issue guidance to procurement executives is responsive, and no further action is needed.

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Part I - Audit Results

Audit Background

Preference for Competition. Section 2304 of Title 10, U.S.C., and Federal Acquisition Regulation Part 6, "Competition Requirements," requires DoD to utilize full and open competition when procuring goods and services. However, under certain conditions, including unusual and compelling urgency, contracting without full and open competition is authorized. Subsection 2304(c)(2) of 10 U.S.C. and FAR 6.302-2, "Unusual and Compelling Urgency," authorizes DoD to use noncompetitive procedures when:

need for the property or services is of such an unusual and compelling urgency that the United States would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals.

Justification and Approval of Noncompetitive Procurements. Subsection 2304(f) of 10 U.S.C. requires that contracting officers justify the use of noncompetitive procedures in writing and certify the accuracy and completeness of the justifications. The subsection also establishes approval levels for the justifications based on the value of the procurement.

Format and Content of Justifications. Each justification and approval document should include sufficient information to be approved as a stand-alone document and support the unusual and compelling urgency. Information in the justification should include: a description of the action being approved, a description of the supplies or services required to meet the agency's needs, an identification of the statutory authority, the proposed contractor's qualifications, a description of efforts made to solicit from as many sources as practicable, a determination that the cost to the Government will be fair and reasonable, a description of the market research conducted, other facts supporting the justification, a list of the sources that expressed in writing an interest in the acquisition, and a statement of actions the agency will take to remove or overcome any barriers to competition.

Requirement for Procurement Planning. Paragraph (c) of FAR 6.301, "Policy," states:

Contracting without providing full and open competition shall not be justified on the basis of (1) a lack of planning by the requiring activity or (2) concerns related to the amount of funds available to the agency or activity for the acquisition of supplies or services.

Contract Actions Citing Urgency Exception. According to the Defense Contract Action Data System (DCADS), DoD contracting officers cited urgency as the reason for awarding 8,620 noncompetitive contractual actions, valued at about \$3.7 billion, from October 1994 through May 1996.

Audit Objectives

The overall audit objective was to determine the validity of the justifications for use of noncompetitive contracting to procure supplies and services to satisfy procurement requirements of unusual urgency. The audit also evaluated the management control program as it applied to the award of contracts based on unusual and compelling urgency.

Urgent Procurement Requirements

DoD organizations generally applied appropriate criteria and prepared adequate and properly approved justifications to support the "unusual and compelling urgency" exception to award contracts noncompetitively. A weighted analysis of a statistical sample taken from a universe of 5,622 contract actions valued at about \$2 billion determined that:

- o 77.9 percent of the actions, valued at about \$1.5 billion, were supported by adequate justifications and properly cited the urgency exception;
- o 8.3 percent of the actions, valued at about \$79.9 million, did not have adequate justifications to support the urgency exception but were valid noncompetitive procurements; and
- o 13.8 percent of the actions, valued at about \$384.6 million, were miscoded in the Defense Contract Action Reporting System as noncompetitive procurements based on urgency.

Causes of invalid urgency justifications included lack of procurement planning, funding availability concerns, submission of routine procurements as urgent, and actions not processed in a timely fashion. As a result, the higher priority assigned to the actions that did not have valid urgency justifications resulted in increased administrative leadtime for the other contract actions processed by the contracting organizations.

Review of Justification and Approval Documents

We reviewed a sample of 280 contract actions, valued at \$683 million, that were awarded by 71 DoD contracting organizations. Appendix D provides details on the contracting organizations, number and value of urgent actions reviewed, and the deficiencies related to the urgent actions. The following examples are based on unweighted sample results.

Valid Urgency Justifications. The justifications for 206 actions, valued at \$390.4 million, supported the use of the exception for unusual and compelling urgency. Examples of contract actions with valid urgency justifications include:

Urgent Procurement Requirements

o U.S. Army Corps of Engineers District, Jacksonville, contract DACW17-95-D-E004-0005 was awarded on September 26, 1995, for \$980,000, for performance of emergency temporary roof repairs on facilities in St. Thomas and St. Croix in the aftermath of Hurricane Marilyn.

o Fleet Industrial Supply Center, Norfolk, contract N00189-95-C-0362 was awarded on September 28, 1995, for \$131,000, to procure additional components to continue the ongoing installation of a communications system in Navy patrol aircraft. A delay would have severely affected fleet command, control, and communications capabilities.

o Oklahoma City Air Logistics Center contract F34601-92-G-0010-0374 was awarded on July 28, 1995, for \$25,261 to General Electric for kits to inspect F-110 engines for cracked fan blade shrouds. Failure of the engine component could cause an in-flight shut down and possible loss of aircraft. The contract was sole source because General Electric was the only qualified source for the kits.

o Defense Personnel Support Center contract SP0100-95-C-1057 was awarded on April 4, 1995, for \$5.3 million to procure 248,050 hot weather, camouflage trousers. The Center had terminated a contract for 626,550 trousers for contractor default, and the trousers were needed to satisfy existing unfilled orders. A delay would have seriously affected readiness and training in the Army, Air Force, and Marine Corps.

o Defense Special Weapons Agency contract DNA001-96-C-0032 was awarded on December 13, 1995, for about \$7.1 million, to provide storage and transportation containers to the Russian Government to avoid a halt to its dismantlement of SS-18 missile silos under the Strategic Arms Reduction Treaty.

Valid Noncompetitive Contract Actions. The justifications for 21 contract actions, valued at about \$20 million, did not support the urgency exception but supported the use of noncompetitive procedures for other reasons.

Urgent Procurement Requirements

Table 1. Valid Noncompetitive Contract Actions With Invalid Urgency Justifications

<u>Contract Action</u>	<u>Contract Value</u>
Army	
DAAJ09-89-C-A003-P00410	\$ 320,000
DAAJ09-96-C-0212	74,048
DAAE07-95-C-X122-P00001	10,114,400
DAAE07-96-C-0119	131,000
DAAL01-96-C-0017	329,128
DAAD05-95-C-0109	1,049,892
DACW61-94-C-0080-P00003	49,070
Navy	
N00383-94-G-M114-4010	999,620
N00600-95-C-0120	74,036
N00189-90-C-0004-P00028	131,474
N00600-95-C-4130	959,345
N60921-94-C-A403-P00004	25,004
N68711-95-C-7587-A00003	129,912
Air Force	
F34601-95-D-0032-0003	989,660
F34601-95-D-0032-0004	1,024,290
F04606-96-C-0037-PZ0002	1,224,940
Defense Logistics Agency	
SP4700-96-C-0001	1,196,885
DLA900-88-D-0392-0063	951,898
SP0500-95-C-0293	132,000
SP0500-95-C-0095	73,500
Defense Information Systems Agency	
DCA100-93-C-0034-P00011	73,797
Total	\$20,053,899

The justifications for the 21 actions shown in Table 1 did not support the use of the urgency exception.

o Seventeen actions did not identify serious harm to the Government, but rather constraints caused by inadequate planning. FAR 6.301(c) prohibits noncompetitive contracting because of a lack of advance planning by the requiring organizations.

Urgent Procurement Requirements

o Two actions described funding constraints as the reason for the unusual and compelling urgency. FAR 6.301(c) prohibits noncompetitive contracting because of concerns related to the amount of funds available to contracting organizations for the acquisition of supplies or services.

o Two actions were not processed in a timely manner. As a result, the contracting organizations cited the unusual and compelling urgency exception to expedite processing.

See Appendix E for a more detailed description of each of the 21 contract actions.

Reasons for Invalid Justifications. Contracting officers approved justifications citing the urgency exception in order to expedite the acquisition process and bypass competition requirements. The contracting officers also cited the urgency exception for contract modifications because the basic contract cited urgency. We attributed these problems to a lack of basic knowledge and understanding of the authorized statutory exceptions.

Actions Processed as Routine Procurements. Two of the 206 urgent actions cited "potential loss of life" as the reason for the urgent procurements. However, the contracting organizations did not process the actions in a manner commensurate with urgent procurements. The justification and approval document for contract DAAD05-95-C-0109, awarded by the U.S. Army Aberdeen Proving Ground for underwater global positioning receivers for Special Operations Forces, costing about \$1 million, states that every day personnel conduct their mission without the needed equipment "creates life threatening situations." The justification stated the time required to process a routine competitive procurement was "unacceptable" in view of the loss of life that may occur because of the "unavailability" of needed equipment. The contracting officer obtained approval to process an urgent procurement on September 20, 1994, but did not award a sole-source contract until June 5, 1995. The action was processed in a routine manner and included periods of inaction.

The U.S. Army Engineer District, Philadelphia, awarded contract DACW61-95-C-0027, valued at \$74,145 for repairs to a four-lane bridge in Delaware damaged by a tractor-trailer. The justification to support unusual and compelling urgency cited potential loss of life to public users. The contracting office took 25 days to award the contract after receipt of the statement of work. The contract file showed that the contract was processed during normal duty days. If potential loss of life will truly occur because of delays in obtaining needed equipment or operational support, routine processing or periods of inaction are unacceptable and trivialize the potential loss of life as a basis for urgent procurements.

Miscoded Contractual Actions. The audit sample included 53 contract actions, valued at about \$271 million, that were categorized incorrectly or miscoded as urgent procurement contractual actions in the DCADS. The actions were coded

Urgent Procurement Requirements

as "other than full and open competition" with the unusual and compelling urgency exception. However, the justification and approval documents for the 53 actions did not cite unusual and compelling urgency as the basis for the noncompetitive procurements. The actions were coded incorrectly because of data entry errors or incorrect preparation of the Individual Contract Action Report (Form DD 350) by personnel. Although there were no incremental costs for DoD because of the miscoding errors, the errors distort the true number and cost of urgent noncompetitive procurement actions in the DoD Contract Action Data System and the Federal Procurement Data System. Significant reporting errors can adversely affect the usefulness of the data in these systems for oversight and policy-making purposes. See Appendix F for a complete list of contract actions that were miscoded as urgent.

In the justification and approval documents for 9 contract actions, valued at \$26.6 million, Defense Special Weapons Agency contracting officers cited 10 U.S.C. 2304(c)(1) (only one or a limited number of responsible sources or no other type of supplies or services could satisfy agency requirements). However, the justification and approval documents for the 9 actions did not specify the uniqueness of the supplies, services, or capabilities of the proposed sources as required by 10 U.S.C. 2304(c)(1). Instead, the justifications emphasized urgent time and schedule constraints consistent with the requirements of 10 U.S.C. 2304(c)(2) concerning unusual and compelling urgency. The contracting officers also waived the requirement to synopsize the contract actions in the Commerce Business Daily because of urgency. Agency contracting officials agreed that the coding of the contract actions in the DCADS did not reflect the authority cited in the justification and approval document, and agreed to revise procedures for issuing justification and approval statements that specifically support the statutory authority cited (one responsible source or unusual and compelling urgency).

Projection of Sample Results

Using weighted stratification formulas, and projecting to the universe from which the audit sample was drawn, we estimate that 468 actions valued at \$79.9 million improperly cited the urgency exception. Projection of the coding errors to the audit population shows that 776 actions, valued at \$384.6 million, were incorrectly categorized as urgent contract actions. Table 2 summarizes the results of the audit sample reviewed and provides the statistical projection of the results to the audit population.

Table 2. Audit Population and Statistical Sample Projections

	<u>Audit Population</u>	
	<u>Total Number</u>	<u>Dollar Value</u>
		(in millions)
Universe Of Sample Items	5,622	\$ 1,990.00
Sample Items Determined To Be Urgent	77.9%*	\$ 1,525.53*
Sample Items Determined To Be Not Urgent	8.3%*	\$ 79.88*
Sample Items Determined To Be Coded Incorrectly	13.8%*	\$ 384.59*

*See Appendix C, Table 1, for complete statistical projections

Conclusion

About 8.3 percent of the contract actions reviewed had justifications that improperly cited the urgency exception. Although the audit did not identify any additional cost to process the contract actions, the higher priority given to their processing resulted in increased administrative leadtimes for the other contract actions being processed by the contracting organization. Further, about 13.8 percent of the contracts were miscoded in the DCADS as noncompetitive urgent procurements. The error rates are significant enough to warrant the Director, Defense Procurement, issuing guidance to the procurement executives of each DoD Component.

Recommendations, Management Comments, and Audit Response

1. We recommend that the Director, Defense Procurement, issue guidance to the procurement executives of each DoD Component that emphasizes the need to establish controls to preclude:

- a. Misuse of the unusual and compelling urgency exception; and
- b. Miscoding of procurement actions entered into the DoD Contract Action Reporting System.

Management Comments. The Director, Defense Procurement, concurred with the recommendations to issue guidance that reminded procurement executives of the importance of complying with the regulations pertaining to the use of the unusual and compelling urgency exception, and the need to enter the proper codes when reporting procurement actions in the DoD Contract Action Reporting System. The guidance will be included in a policy memorandum once this report is issued. See Part III for the complete text of management comments.

Audit Response. The Director's comments and corrective action were fully responsive and no further action is warranted.

Part II - Additional Information

Appendix A. Audit Process

Scope

Work Performed. We reviewed documentation from contract files of the actions selected as sample items. The documents reviewed included contract awards, justification and approvals for other than full and open competition, individual contract action reports, purchase requests, and procurement histories. In addition, we interviewed contracting officers and other personnel responsible for defining contract requirements.

The information obtained through reviewing documentation and interviewing personnel was used to determine whether the:

- o contract action met the unusual and compelling urgency exception criteria;
- o justification for each contract action was adequate, complete, and properly approved; and
- o potential cost savings had the contract action been awarded competitively.

Limitations to Audit Scope and Universe. The audit scope and universe were limited by excluding contract actions that were:

- o awarded by contracting organizations outside of the 48 contiguous states;
- o letter contracts (Inspector General, DoD, Report No. 97-204 examined the use of letter contracts by DoD organizations), and
- o incremental funding actions on existing contracts (only new requirements for contracts were reviewed).

The above limitations reduced the audit universe to 6,840 actions valued at about \$2.2 billion. The contracting organizations for those actions were clustered into 58 geographical regions.

Audit Methodology

Use of Computer-Processed Data. We relied on computer-processed data from the DoD Contract Action Reporting System to determine the contracting organizations to visit and audit sample selection. Although we did not perform a formal reliability assessment of the computer-processed data, we determined that the contract numbers, award dates, and contracting organizations on the contracts reviewed generally agreed with the information in the computer processed data. However, as noted in the finding, 13.8 percent of the 5,622 contracts in the universe were miscoded.

Universe and Sample. From the DoD Contract Action Reporting System* we obtained information on the universe of contract actions over \$25,000 awarded between October 1, 1994 and May 31, 1996, using other than full and open competition under the unusual and compelling urgency exception. The universe consisted of contract actions awarded by the Military Services, Defense Information Systems Agency, Defense Intelligence Agency, Defense Logistics Agency, Defense Mapping Agency, and Defense Special Weapons Agency. Additional information on the sampling plan is found in Appendix C.

Universe of Urgent Actions. The total universe of contract actions designated as other than full and open competition under the unusual and compelling urgency exception for FY 1995 through FY 1996 (to May 31) are shown in Table 1.

Table 1. Total Number of Contract Actions Designated as Urgent for October 1, 1994 Through May 31, 1996

<u>Fiscal Year</u>	<u>Total Actions</u>	<u>Total Value</u>
1995	6,239	\$ 2,426,262,036
1996 (through 5/31)	2,381	1,271,947,428
Total	8,620	\$ 3,698,209,464

* The DoD Contract Action Reporting System is the DoD reporting system which supports the uniform reporting requirements for the DD Form 350, "Individual Contracting Action Reports," for contract actions over \$25,000.

Urgent Action Sample Selection. The Quantitative Methods Division, Office of the Assistant Inspector General for Auditing, DoD, recommended a limited audit universe representing 14 regions, consisting of 5,622 actions valued at about \$2 billion. The total value of the contract actions for those 14 regions represented about 90 percent of the total value of the universe comprising the 58 geographical regions. The audit sample selected from the limited audit universe consisted of 288 actions totaling about \$692 million. Table 2 shows the total number and dollar amount of the limited audit universe and audit sample for each of the 14 regions.

Table 2. Number and Value of Contract Actions Comprising the Limited Audit Universe and Audit Sample

Regions	Limited Audit Universe		Audit Sample	
	Actions	Dollars	Actions	Dollars
Pennsylvania	900	\$ 410,672,360	59	\$132,058,226
Virginia (NCR)	798	390,725,385	53	149,177,549
Michigan	236	191,722,209	18	134,219,465
Oklahoma	392	167,409,987	31	48,201,476
Texas	253	140,762,585	17	34,751,350
California (LA/San Diego)	414	139,077,155	14	82,811,549
Missouri	233	130,247,029	19	39,872,466
Virginia (Tidewater Area)	846	96,263,527	30	6,642,729
Ohio	433	81,671,003	8	15,124,738
Georgia	418	73,656,694	18	10,113,019
South Carolina	255	68,828,383	4	13,427,522
Alabama	241	54,623,080	11	7,043,586
Louisiana	1	148,278	0	0
California (Bay Area)	202	47,612,316	6	18,483,479
Total	5,622	\$1,993,419,991	288	\$691,927,154

Technical Assistance. Members of the Quantitative Methods Division, Office of the Assistant Inspector General for Auditing, DoD, assisted in the development of the statistical sampling methodology; the selection of the sample items; and the projection of the audit sample results to the limited audit universe to determine the audit results.

Audit Type, Dates, and Standards. We performed this economy and efficiency audit from July 1996 through March 1997 in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD. Accordingly, we included a review of management controls considered necessary.

Contacts During the Audit. We visited or contacted individuals and organizations within DoD. Further details are available on request.

Management Control Program

DoD Directive 5010.38, "Management Control Program," August 26, 1996, requires DoD organizations to implement a comprehensive system of management controls that provides reasonable assurance that programs are operating as intended and to evaluate the adequacy of the controls.

Scope of Review of the Management Control Program. We reviewed the adequacy of management controls over the procurement of goods and services using the urgency exception of Federal Acquisition Regulation (FAR) 6.303.2. We also reviewed the adequacy of management's self-evaluation of management controls at each activity that we visited.

Adequacy of Management Controls. Overall, management controls and procedures were adequate and generally precluded the use of the urgency exception for non-urgent contract requirements.

Appendix B. Summary of Prior Coverage

Inspector General, DoD

Report No. 95-167, "Counternarcotics/Command and Management System," April 12, 1995. The report states the Defense Information Technology Contracting Office (DITCO) improperly awarded two sole-source contracts of the CN/CMS rather than awarding through full and open competition. The improper awards occurred because the Defense Information Systems Agency (DISA) and DITCO contracting officials made faulty assumptions about the urgency of need and vendor capabilities to perform the required services and reduced the scope of work to avoid exceeding the dollar threshold for which competition is mandated. The report recommended that the Director, Defense Information Systems Agency direct the DITCO not to exercise any option years on one of the contracts; require competitive award of any follow-on contract executed by the DITCO for the Counternarcotics/Command Management System; and evaluate the actions of the DISA officials involved in the award of the two contracts and take appropriate action. Management concurred with the recommendations.

Report No. 93-076, "Acquisition of Aircrew Chemical and Biological Protective Systems," March 26, 1993. The report states the Navy's planned two-phased acquisition strategy for procurement of aircrew chemical and biological protective systems was questionable. The first phase was questionable because the Navy had not validated the urgency of the planned sole-source procurement of 1,200 AR-5 hood masks. The second phase was questionable because an option was included for the Navy to use the technical data package for the AR-5 for its planned competitive procurement of 6,510 chemical and biological protective systems. The report recommended that the Chief of Naval Operations adhere to the input from the Atlantic and Pacific Fleets and the Marine Corps and decide that the procurement of aircrew chemical and biological protective systems is not urgent and does not justify the use of sole source procurement procedures. Management partially concurred with the recommendation and agreed to terminate the Navy's efforts to support an urgent procurement. The report also recommended the Navy Program Manager, Aircrew Systems use full and open competition procedures for any procurements of aircrew and biological protective systems. Management concurred with the recommendation.

Appendix C. Statistical Sampling Methodology

Sampling Plan

Sampling Purpose. The statistical sampling plan estimates errors in urgent contract actions. The errors are contract awards made without justification of "unusual and compelling" urgency. The sample results provide data to evaluate the number of errors, percent of the population in error, and total dollars involved in the unsupported actions.

Universe Represented. The audit involved CONUS urgent contract actions for FY 1995 and the first 9 months of FY 1996 from 14 regions of the country with 90 percent of urgent contract dollars. However, the audit excluded letter contracts, negative deobligations, and funding actions. The population contained 5,622 contract actions totaling \$2.0 billion.

Sampling Design. A stratified sample was designed by contract action dollar amount to project the number of actions in error and dollar amount associated with those errors. The sample contained 288 contract actions from the population of 5,622. Of the 288, 46 sample items were a census stratum from all contract actions in the population above \$5 million. To integrate the six strata, weights accounting for the different strata sizes were applied in the statistical analysis. However, 8 sample items were lost by the contracting organizations during the audit. Fifty-three contract actions were coded incorrectly at the contract site and eight actions were either classified or could not be located. These sample items were assumed to have no errors. The impact from this assumption is to lower the percent in error, but this assumption should have little or no impact on the number in error or dollar projections. Therefore, the statistical projections and audit conclusions provide greater latitude to the auditee.

Confidence Interval Table. The values in the table in Appendix C represent the number of errors, percent of errors, and total dollars involved with unjustified urgent contract actions as described above. Separate analyses were produced for all unjustified actions and those actions which were not sole source contracts.

Appendix C. Statistical Sampling Methodology

Table 1. Statistical Projections For 5,622 Urgent Contract Actions Dated October 1, 1994 to May 31, 1996

	90 Percent Confidence Interval		
	<u>Lower Bound</u>	<u>Point Estimate</u>	<u>Upper Bound</u>
All Unjustified Contract Actions			
Errors In Universe	434	468	505
Percent In Error	7.7	8.3	9.0
Total Dollars Covered By Contracts With These Errors (millions)	\$ 56.74	\$ 79.88	\$ 103.01
Percent of Dollars	2.9	4.0	5.2
Incorrectly Coded Contract Actions			
Errors In Population	479	776	1,073
Percent In Error	8.5	13.8	19.1
Total Dollars Covered By Contracts With These Errors (millions)	\$ 352.31	\$ 384.59	\$ 416.87
Percent of Dollars	17.6	19.3	21.0

Confidence Interval Statement. With 90-percent confidence, the population of unjustified urgent emergency contract actions for FY 1995 and part of FY 1996 has errors in the specific analysis from each lower bound to each upper bound, respectively. However, the point estimate is the most likely amount in error.

Appendix D. Results of Contract Actions Reviewed

Contracting Organizations	Urgent Actions Reviewed	Total Value of Actions	Contract Action Urgent		Procurement Not Urgent Due to Deficiency In				Actions Not Processed in a Timely Manner	Coding
			Yes	No	Planning	Availability of Funds	Routine Procurement	Actions Not Processed in a Timely Manner		
Army										
Aviation and Troop Command	8	20,485,950	5	3	1	1	1		1	
Communication-Electronics Command	5	29,008,066	2	3					3	
Missile Command	9	7,799,697	1	8					8	
Tank-Automotive Command	18	132,144,663	10	8	1	1			8	
Research Laboratory	2	354,895	1	1					1	
Aberdeen Proving Ground	2	1,181,085	1	1						
Fort Eustis	1	130,428	1	1						
Engineer District-Jacksonville	11	9,118,193	11							
Los Angeles	4	4,295,318	4							
Norfolk	1	331,650	1							
Philadelphia	3	196,783	2	1			1			
Sacramento	1	335,698	1							
Savannah	1	25,248	1							
St. Louis	4	1,407,458	3	1						1
Defense Supply Service Center	1	1,043,312	1							
Navy										
Aviation Supply Office	30	55,439,004	24	6					1	5
Ships Parts Control Center	7	13,970,775	2	5						5
Fleet and Industrial Supply Center										
Jacksonville	1	132,600	1							
Long Beach	2	203,720	2							
Norfolk	2	262,949	1	1		1				
Philadelphia	3	1,424,124	3							
San Diego	1	330,494	1							
Washington	2	1,033,381	1	2		2				
Naval Command Control and Ocean Surveillance	2	259,624	2							1
Strategic Systems Programs	1	6,798,999		1						
Naval Surface Warfare Center										
Bethesda	1	25,104	1							
Dahlgren	1	25,004		1				1		
Norfolk Naval Shipyard Supervisor Shipbuilding	3	793,359	3							
Conversion										
Charleston	2	1,110,272	2							
Jacksonville	3	382,280	3							
Portsmouth	16	2,846,098	16							
San Diego	2	1,379,415	1	1						1

Appendix D. Results of Contract Actions Reviewed

Contracting Organizations	Urgent Actions Reviewed	Total Value of Actions	Contract Action Urgent		Procurement Not Urgent Due to Deficiency In			Actions Not Processed in a Timely Manner	Coding
			Yes	No	Planning	Availability of Funds	Routine Procurement		
			Y	N	P	F	R		
Navy (cont'd)									
Naval Facilities Engineering Command	2	12,317,250	2						
Charleston	2	1,108,912	1	1					
San Diego									
Naval Facilities Engineering Activity	1	16,397,000	1						
Military Sealift Command	1	73,500	1						2
Bayonne	2	18,105,900		2					
Washington - Headquarters	1	334,287	1						
Naval Medical Logistics Command	3	965,980	3						
Navy Public Works Center									
Marine Corps									
Headquarters	1	129,488	1						
Marine Corps Combat Development	1	130,861	1						
Air Force									
San Antonio ALC	16	33,654,766	15	1					1
Oklahoma City ALC	31	48,201,507	27	4	2				2
Sacramento ALC	3	1,430,081	2	1	1				
Space and Missile Systems Center	1	75,234,066		1					1
Human Systems Center	1	1,096,508		1					1
Wright Patterson AFB	2	2,550,909	1	1					1
McGuire AFB	1	329,556	1	1					1
Moody AFB	1	130,560	1	1					
Defense Logistics Agency									
Administrative Support Center	1	1,196,885		1	1				
Defense Supply Center Columbus	2	12,623,029	2						
Defense Electronics Supply Center	4	1,182,436	3	1				1	
Defense Fuel Supply Center	9	66,408,573	9						
Defense Supply Center Richmond	5	2,075,634	5						
Defense Industrial Supply Center	8	1,346,386	5	3	1			1	
Defense Personnel Support Center									
Clothing and Textile	6	32,121,099	6						
Medical	1	1,090,600	1						
Subsistence	1	972,400	1						
Other Defense Agencies									
Defense Information Systems Agency	8	17,052,855	5	3	1				2
Defense Information Systems Agency - Fort Ritchie	1	1,039,704	1	1					1
Defense Intelligence Agency	1	331,981		1					9
Defense Special Weapons Agency	11	35,955,427	2	9					
National Imagery and Mapping Agency	2	1,101,457	1	1					1
Total	280	\$683,039,369	206	74	12	2	5	2	53

Appendix E. Actions That Did Not Justify Use of the Urgency Exception

The following were valid noncompetitive contract actions with invalid urgency justifications.

Army Aviation and Troop Command contract modification DAAJ09-89-C-A003-P00410 was awarded on April 28, 1995, for \$320,000 for proposal preparation and development costs for an engineering change proposal. The reporting of the urgency exception for this action was not warranted because it was processed as a routine noncompetitive modification.

Army Aviation and Troop Command contract DAAJ09-96-C-0212 was awarded on April 3, 1996, for \$74,048 to procure 104 electron tubes used on the Target Acquisition Designation Sight and Optical Improvement Program. The procurement was prompted by an increase in demand for the tubes that occurred over a 2-year period. A procurement work directive dated May 1995, showed the requirement for 104 tubes was not funded. Subsequently, a July 1995 directive showed that funds had finally been committed for the tubes. As a result, the use of the urgency exception to effect this action was unwarranted because the requiring organization did not adequately plan for the procurement.

Army Tank-Automotive Command contract modification DAAE07-95-C-X122-P00001 was awarded on December 28, 1995, for \$10.1 million for hull and turret conversion kits. This action was an exercise of an option in the basic contract for additional conversion kits. However, the kits were included as an option in the basic contract because of concerns related to funding availability. As a result, the urgency exception was invalid.

Army Tank-Automotive Command contract DAAE07-96-C-0119 was awarded on January 1996, for \$131,000 for tow hooks for the M1, M88, Bradley and other weapon systems. The Army knew in July 1995 that its supply of tow hooks was critically low. However, the Army did not award a contract until 6 months after the requirement had been identified. This lack of planning resulted in the Army using the urgency exception to acquire the tow hooks.

Army Research Laboratory contract DAAL01-96-C-0017 was awarded on February 20, 1996, for \$329,128 to disconnect, refurbish, reinstall, and calibrate electric devices. The original purchase request was dated April 1995. Additional funds were added to the purchase request in August 1995, but the initial requirement did not change. The lack of timely action between April and

Appendix E. Actions That Did Not Justify Use of the Urgency Exception

August 1995 was inconsistent with the urgency claim. Further, the justification and approval cited urgency as the basis for the action, but the final approval signature cited one responsible source as the reason for the action.

Aberdeen Proving Ground contract DAAD05-95-C-0109 was awarded on June 5, 1995, for \$1,049,891 to purchase miniature underwater global positioning system receivers. Verbal approval was granted on June 28, 1994, and the justification and approval statement was dated September 20, 1994; however, the contract was not awarded until June 5, 1995. This urgency was caused by the failure of the contracting officer to process this action in a timely manner. It took almost 1 year for the contract to be awarded after verbal approval was granted.

Army Corps of Engineers (Philadelphia District) contract modification DACW61-94-C-0080-P00003 was awarded on June 15, 1995, for \$49,070 to perform legal services for a claim submitted against the Government. No justification and approval for modification P00003 was prepared. Although the basic contract properly cited the urgency exception, this procurement requirement should have been processed as a routine noncompetitive modification because the time constraints cited for the basic contract did not apply.

Aviation Supply Office contract action N00383-94-G-M114-4010 was awarded on March 1, 1995, for \$999,620 to purchase 54 cowlings for the E-2C aircraft. A review of the justification and approval statement indicates the requirement for the cowlings was identified in August 1994 when an attempt was made to establish an indefinite quantity contract. The failure to process this action in a timely fashion by the requiring organization and the contracting office caused this urgency.

Fleet Industrial Supply Center, Washington, contract N00600-95-C-0120 was awarded on November 1, 1994, for \$74,036 to deliver and install a telephone switching system to handle 450 lines to the Naval Communications Station, Stockton, California. Officials at Stockton did not realize until July 1993 that the existing contract expired September 30, 1993. Because of misconceptions, the officials believed the contract would continue through 1995. Lack of sufficient planning precluded the use of the urgency exception.

Fleet and Industrial Supply Center, Norfolk, contract modification N00189-90-C-0004-P00028, was awarded on November 1, 1994, for \$131,474 to store and warehouse various supplies, furniture, and equipment. The requiring organization failed to provide the requisition to the Procurement Contracting Office in a timely manner to award the follow-on contract after the current contract. A lack of planning and a failure to coordinate actions between the requiring organization, the Procurement Contracting Office, and the administrative contracting office caused the urgency.

Fleet Industrial Supply Center, Washington, contract N00600-95-C-4130 was awarded on September 28, 1995, for \$959,345 to procure computer systems for various Navy Recruiting Stations. The Navy cited insufficient time as the primary reason for not competing the contract, in addition to a "deteriorating recruiting environment." However, a lack of adequate planning contributed significantly to Navy failure to computerize its recruiting stations.

Appendix E. Actions That Did Not Justify Use of the Urgency Exception

Naval Surface Warfare Center, Dahlgren, contract modification N60921-94-C-A403-P00004 was awarded on October 1, 1995, for \$25,004 to provide maintenance communications connections to long distance networks. NSWC exercised an option in the basic contract to provide the local and long distance maintenance. NSWC reported the modification as urgent because the basic contract was coded urgent. NSWC officials agreed that this contract option was not urgent and the modification should have been processed as a routine noncompetitive procurement.

Naval Facilities Engineering Command contract action N68711-95-C-7587-A00003, was awarded on September 29, 1995, for \$129,912 to extend the time for material, labor, and equipment to be used for emergency repairs to the child development center. The construction work under the modification was enhancement work and not within the scope of the original contract. This contractual action should have been processed under the exception for only one source and with a written justification and approval statement.

Oklahoma City Air Logistics Center contract actions F34601-95-D-0032-0003 and 0004 were awarded on December 1, 1995, and April 16, 1996, for \$989,660 and \$1,024,290, respectively, to repair engines for F-14A aircraft through an inter-service agreement with the Navy. The Navy subsequently changed the requirement from "work around" repairs to replacements although there were no serviceable assets on hand. ALC officials agreed that the urgency requirement was directly attributable to a lack of planning.

Sacramento Air Logistics Center contract modification F04606-96-C-0037-PZ0002 was awarded on March 18, 1996, for \$1.2 million to repair the traveling wave tubes in the Cobra Dane Radar. The requirement for the tubes was identified in 1994. Although it cited the urgency exception, the requiring organization did not contract for the repairs until 1996. Since there was only one responsible source capable of performing the repairs, a lack of planning rather than urgency prompted this action.

Defense Logistics Agency (Administrative Support Center for Installation Services) contract SP4700-96-C-0001 was awarded on November 1, 1995, for about \$1.2 million for preventative and remedial maintenance of the electrical, communications, security and fire detection and suppression systems and components at the Defense Logistics Agency Headquarters Complex. The warranty of the installing contractor was about to expire and DLA did not want coverage to lapse. A post-award review concluded that the contract should have been synopsized.

Defense Electronics Supply Center delivery order DLA900-88-D-0392-0063, was awarded on November 16, 1994, for \$951,898 for operation of the Infrared Analysis Center. The action was processed as urgent to extend the contract and prevent a break in operations. The delivery order should have been processed as a routine noncompetitive procurement because the urgency resulted from poor planning.

Appendix E. Actions That Did Not Justify Use of the Urgency Exception

Defense Industrial Supply Center contract SPO500-95-C-0293, was awarded on February 12, 1995, for \$132,000 to procure telephone cables required to maintain a control tower at Scott Air Force Base, Illinois. The justification stated that the contract was urgent because delivery of the telephone cables was required within 60 days. However, the cable was not delivered until 120 days after contract award, and at no time prior or subsequent to delivery of the material did the requiring organization inquire about delivery within 60 days of the initial identification requirement. The schedule slippage and inaction by the requiring organization indicate the action was not urgent, and that using the actual date the cables were required would have allowed this action to be synopsisized and processed as a routine procurement. The contracting officer believed the requiring organization exaggerated the priority coding on the purchase request.

Defense Industrial Supply Center contract SP0500-95-C-0095 was awarded on November 16, 1994, for \$73,500 to procure electric cable for the KC-135 aircraft. The requirement was part of a 7-year production schedule to refit KC-135 aircraft. Because contracting took 2 months and production/delivery 3 months, the urgency is a consequence of insufficient lead time by the Oklahoma Air Logistics Center.

Defense Information Systems Agency contract DCA100-93-C-0034-P00011 was awarded on September 1, 1995, for \$73,797 to provide services and leased equipment for the Camp David Voice Switch Network, managed by the White House Communications Agency. Urgency was created because a follow-on contract had not been awarded to succeed a modification that expired in August 1995. The requirement for the follow-on contract was not provided to the Defense Information Systems Agency by the White House Communications Agency until July 1995, which did not allow sufficient processing time.

Appendix F. Miscoded Contractual Actions

<u>Contracting Organization</u>	<u>Contract Action</u>	<u>Contract Value</u>
Army		
Aviation and Troop Command	DAAK01-94-C-0119-PZ0004	\$ 16,170,034
Communication Electronics Command	DAAB10-92-C-0020-P00012	327,339
	DAAB07-92-C-A507-P00161	336,540
	DAAB07-92-C-A507-P00163	5,622,974
Missile Command	DAAH01-95-C-R025-P00030	73,562
	DAAH01-95-C-R025-P00051	1,188,951
	DAAH01-95-C-R025-P00069	73,907
	DAAH01-94-G-S003-0287	130,000
	DAAH01-95-C-0057-P00001	2,999,914
	DAAH01-95-D-0003-0008	980,475
	DAAH01-95-D-0004-0003	997,638
	DAAH01-94-C-0065-P00005	1,035,250
Tank Automotive Command	DAAE07-94-C-A014-P00008	73,964
	DAAE07-94-C-A014-P00013	1,204,339
	DAAE07-94-C-0406-P00006	15,445,362
	DAAE07-94-C-0406-P00012	7,038,900
	DAAE07-95-C-0292	49,927,518
	DAAE07-95-C-0292-P00005	8,546,471
Engineer District - St. Louis	DACW43-94-D-0510-0020	74,138
Navy		
Aviation Supply Office	N00383-88-D-7600-0070	132,000
	N00383-92-G-K311-0960	326,870
	N00383-96-C-0200	983,558
	N00383-93-G-001G-5103	1,221,810
	N00383-95-D-011G-7001	6,909,382
Ships Parts Control Center	N00104-93-G-A026-5003	25,067
	N00104-86-G-A044-0038	73,901
	N00104-96-C-K807	74,098
	N00104-96-G-0001-0001	1,181,635
	N00104-94-G-0201-0001	5,326,819
Strategic Systems Programs	N00030-95-C-0032	6,798,999
Supervisor Shipbuilding Conversion - San Diego	N62791-96-C-0083	1,305,974
Military Sealift Command Washington	N62387-94-D-3091-T00002	1,200,000
	N00033-92-C-1208-P00006	16,905,900

Appendix F. Miscoded Contractual Actions

<u>Contracting Organization</u>	<u>Contract Action</u>	<u>Contract Value</u>
Air Force		
San Antonio ALC	F41608-96-D-0241-0002	1,000,000
Oklahoma City ALC	F34601-95-D-0784-0002	25,272
	F34601-94-D-0607-0002	131,618
Space and Missile Systems Center - Los Angeles AFB	F04701-92-C-0049-PZ0029	75,234,066
Human Systems Center	F33600-90-C-0155-A00024	1,096,508
Wright Patterson AFB	F33657-94-D-2555-0005	2,231,636
DoD Agencies		
Defense Logistics Agency Defense Industrial Supply Center	N00383-95-G-004A-TZ13	73,961
Defense Information Systems Agency	DCA200-94-C-0016-P00004	1,253,153
	DCA200-92-D-0001-P00026	8,605,000
Defense Intelligence Agency	MDA908-95-C-0002-PZ0001	331,981
Defense Special Weapons Agency	DNA001-90-C-0176-P00010	1,202,000
	DNA001-90-C-0176-P00014	1,051,352
	DNA001-93-C-0138-P00022	5,829,503
	DNA001-93-C-0138-P00033	7,259,438
	DNA001-94-C-0182	1,000,000
	DNA001-94-C-0191-P00007	7,994,298
	DNA001-94-C-0191-P00008	1,000,000
	DNA001-95-C-0062	326,975
	DNA001-95-C-0060	958,823
National Imagery and Mapping Agency	DMA80094C8033-P00006	131,102
Total		\$ 271,449,975

Appendix G. Report Distribution

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House Subcommittee on Government Management, Information, and Technology,
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House Subcommittee on National Security, International Affairs, and Criminal Justice,
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Part III - Management Comments

Office of the Under Secretary of Defense for Acquisition and Technology Comments



ACQUISITION AND
TECHNOLOGY

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OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
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NOV 7, 1997

DP/CPA

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Audit Report on Contractual Actions for Urgent
Procurement Requirements (Project No. 6CH-0063)

This is in response to your request for comments on the subject report. I am attaching for your consideration specific comments on the recommendation pertaining to the Director of Defense Procurement. Thank you for the opportunity to comment.

Eleanor Spector

Eleanor R. Spector
Director, Defense Procurement

Attachment

**Audit Report on Contractual Actions
for Urgent Procurement Requirements
(Project No. 6CH-0063)
Recommendations and
Director of Defense Procurement (DDP) Comments**

Recommendations for Corrective Action

DoDIG Recommendation: 1. We recommend that the Director of Defense Procurement issue guidance to the procurement executives of each DoD Component that emphasizes the need to establish controls to preclude:

- a. Misuse of the unusual and compelling urgency exception;
and
- b. Miscoding of procurement actions entered into the DoD Contract Action Reporting System.

DDP Position: Concur. Notwithstanding that almost 80 percent of the actions reviewed by the DoDIG were supported by adequate justifications and properly cited the urgency exception and that less than 14 percent were coded incorrectly, I will issue a policy guidance memorandum within 30 days. The memorandum will remind the procurement executives of the importance of complying with the regulation relating to "unusual and compelling urgency" and the need to enter the proper codes when reporting procurement actions in the DoD Contract Action Reporting System.

Audit Team Members

This report was prepared by the Contract Management Directorate, Office of the Assistant Inspector General for Auditing, DoD.

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D. Currently Applicable Classification Level: Unclassified

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