
June 26, 2002



Information Technology

Air National Guard Decision on the
Asynchronous Transfer Mode
Installation Contract
(D-2002-120)

Department of Defense
Office of the Inspector General

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INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

June 26, 2002

MEMORANDUM FOR ASSISTANT SECRETARY OF THE AIR FORCE
(FINANCIAL MANAGEMENT AND COMPTROLLER)
CHIEF, NATIONAL GUARD BUREAU

SUBJECT: Report on Air National Guard Decision on the Asynchronous Transfer Mode
Installation Contract (Report No. D-2002-120)

We are providing this report for your information and use. We performed the audit in response to a congressional request. No written response to this report was required, and none was received. Therefore, we are publishing this report in final form.

We appreciate the courtesies extended to the audit staff. For additional information on this report, please contact Mr. Charles M. Santoni at (703) 604-9051 (DSN 664-9051) (csantoni@dodig.osd.mil) or Ms. Rhonda L. Ragsdale at (703) 604-9013 (DSN 664-9013) (rragsdale@dodig.osd.mil). See Appendix B for the report distribution. The audit team members are listed inside the back cover.


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Acting
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Office of the Inspector General of the Department of Defense

Report No. D-2002-120
(Project No. D2002AL-0050)

June 26, 2002

Air National Guard Decision on the Asynchronous Transfer Mode Installation Contract

Executive Summary

Who Should Read This Report and Why? This report should be read by all who are interested in the contracting procedures of the Air National Guard. It addresses the Air National Guard's right to make a unilateral decision not to exercise an option on a contract.

Background. We performed this audit in response to a request from Congressman Roscoe G. Bartlett. The request was based on information the Congressman received from both the Air National Guard and Digicon Corporation regarding the Air National Guard's decision not to exercise the final option years on a contract between the two parties. In June 2000, the contracting officer awarded a \$32.2 million firm-fixed-price contract with one base year and three 1-year options to Digicon Corporation to establish an Asynchronous Transfer Mode network at 90 Air National Guard flying units.

The Air National Guard sent a memorandum dated September 21, 2001, to the contracting officer with its decision to not exercise the final option years of the Digicon Corporation contract. The contracting officer then officially notified the Digicon Corporation that the Air National Guard would discontinue the terms of the lease as of October 31, 2001.

Results. On October 9, 2001, the contracting officer informed the Digicon Corporation that the Air National Guard decided to not exercise the option years because it desired to pursue a technology refresh under a new contract and because it was not able to develop a mutually beneficial working relationship with the Digicon Corporation. However, through testimonial evidence, it was determined that the reason the Air National Guard decided to not exercise the remaining option years was the need for a standard network at all 90 flying units, which required an equipment upgrade. Conflicting statements between the Air National Guard and the Digicon Corporation showed that there was clearly a disagreement between the two entities as to the reasons for the Air National Guard decision. Notwithstanding the conflicting statements, the Air National Guard

made the decision to not exercise the option years and was within its rights, as provided by the Federal Acquisition Regulation and the option clauses incorporated into the contract, to make that unilateral decision.

Management Comments. We provided a draft of this report on June 7, 2002. No written response to this report was required, and none was received. Therefore, we are publishing this report in final form.

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Background

We performed this audit in response to a request from Congressman Roscoe G. Bartlett. The request was based on information the Congressman received from both the Air National Guard and the Digicon Corporation (Digicon) regarding the Air National Guard decision to not exercise the final option years on a contract between the two parties.

Air National Guard Organization and Mission. The National Guard Bureau, a joint bureau of the Departments of the Army and Air Force, administers the Air National Guard. The Air National Guard has both a Federal and State mission. The Federal mission is to maintain well-trained, well-equipped units available for prompt mobilization during war and provide assistance during national emergencies. The State mission is to provide protection of life and property, and to preserve peace, order, and public safety.

Asynchronous Transfer Mode Network. The Asynchronous Transfer Mode is a technology that provides a common format for services with different bandwidth requirements. It is the world's most widely deployed network connection technology used to send data, video, and voice at ultra high speeds. According to the Air National Guard, the Asynchronous Transfer Mode is the Air Force network standard for voice, video, and data transport across the wide-area network.

Contract for Asynchronous Transfer Mode Installation. On June 16, 2000, the contracting officer awarded a \$32.2 million firm-fixed-price contract with one base year and three 1-year options to Digicon to establish an Asynchronous Transfer Mode network at all Air National Guard flying units. Specifically, Digicon was contracted to provide hardware, software, and network integration services to 90 base networks. The contract provided a detailed equipment list that specified the type and quantities of Nortel equipment to be purchased and installed by Digicon. Digicon was to purchase the equipment in the base year and complete the installations during the first option year. The last two option years would consist solely of lease payments. The contract structure is as follows:

- Base year (from June 16, 2000 through October 29, 2000): basic lease of hardware \$5M;
- Option year 1 (from October 30, 2000 through October 29, 2001): lease of hardware \$7.78M, installation services \$3.89M;

-
- Option year 2 (from October 30, 2001 through October 29, 2002): lease of hardware \$7.78M;
 - Option year 3 (from October 30, 2002 through October 29, 2003): lease of hardware \$7.78M.

On September 21, 2001, the Air National Guard notified the contracting officer that it did not wish to exercise the remaining option years on the contract with Digicon.

Objective

The objective of this audit was to evaluate the adequacy of the Air National Guard decision to not exercise the final two option years on a contract to install the Asynchronous Transfer Mode network. We did not review the management control program as it related to the objective because we focused on the factors leading to the Air National Guard decision to not exercise the remaining option years on the contract. See Appendix A for a discussion of the audit scope and methodology.

Decision To Not Exercise Final Option Years

On September 21, 2001, the Air National Guard notified the contracting officer of its decision to not exercise the remaining options on the contract with Digicon. On September 24, 2001, the contracting officer issued the official notice to Digicon stating that the Government was providing written notice to discontinue the term of lease as of October 30, 2001. In an October 9, 2001, memorandum to Digicon, the contracting officer outlined two reasons for the Air National Guard decision to not exercise the remaining two option years on the contract:

- the desire of the Air National Guard to pursue a technology refresh under a new contract, and
- the inability of the Air National Guard and Digicon to develop a mutually beneficial working relationship.

The Air National Guard was not required to provide specific reasons for not exercising the option. The Federal Acquisition Regulation, Subpart 2.101, “Definitions,” defines an option as the unilateral right in a contract by which, for a specified 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. Further, the contract contained standard option clauses giving the Government the unilateral right to exercise each option to extend the term of the contract. Digicon entered into that contract knowing the Air National Guard could decide, at the renewal decision point, not to exercise the remainder of the contract. Therefore, Digicon accepted the potential risk that all options may not be exercised when it entered into the contract with the Air National Guard. Details of the two reasons that the contracting officer gave for not exercising the remaining options on the contract follow.

Desire To Pursue a Technology Refresh Under a New Contract.

According to testimonial evidence offered by the Air National Guard, the upgrade of hardware was more a need for product availability and sustainability than a desire for a technology refresh of equipment. The Air National Guard intended for Digicon to purchase all the equipment listed in the equipment list during the base year of the contract (from June 2000 through October 2000) and install the equipment at the 90 flying units during the first option year (from October 2000 through October 2001). However, because Digicon purchased the equipment on an as-needed basis, equipment became unavailable as it neared the end of its life-cycle. As a result, sufficient equipment was available for only 67 of the 90 flying units. The Air National Guard stated that, to ensure the network was standard and all 90 flying units operated on the same platform, an equipment upgrade was

necessary. On October 4, 2001, the contracting officer awarded a 4-year, \$29.5 million contract to Presidio Corporation to install new equipment at the 90 Air National Guard flying units.

Inability To Develop a Mutually Beneficial Working Relationship.

The Air National Guard contended that during the execution of the Asynchronous Transfer Mode installation contract, it could not develop a mutually beneficial working relationship with Digicon. As early as September 18, 2000, the Air National Guard expressed concern to the contracting officer about Digicon's ability and willingness to complete the Asynchronous Transfer Mode installation. Specifically, the Air National Guard had concerns that Digicon did not have the personnel qualified to install the Nortel equipment and indicated that Digicon made negative remarks about Air National Guard personnel and the Nortel solution selected. The Air National Guard stated that negative remarks made by Digicon had created negative working relationships at the Air National Guard units about network installation.

The Air National Guard further stated that it continued to have concerns about Digicon's ability to successfully complete the installation at all 90 flying units. Although the Air National Guard expressed concern about the ability of Digicon to successfully complete the installation within the contracted time frames or within budget, the contracting officer did not take any formal action to issue a show cause notice, cure notice, or any other attempt to terminate the contract for default. In fact, Digicon was paid in full for the basic contract and first option year even though the required work was not completed. Air National Guard personnel stated that the contracting officer discouraged them from issuing any action to terminate the contract because such action could tie up the networks with legal obligations and cause mission failures if Digicon protested the termination.

Conclusion. The Air National Guard provided testimonial evidence as the basis for not exercising the remaining options on the contract with Digicon. Clearly, a disagreement existed between the Air National Guard and Digicon and we had to rely on conflicting statements from both parties. Notwithstanding the conflicting statements, the Air National Guard made the decision to not exercise the option and was within its rights, as provided by the Federal Acquisition Regulation and the express terms of the contract, to make that unilateral decision.

Appendix A. Scope and Methodology

Scope

We interviewed officials from the Air National Guard Command and Control, Communications and Computers Division in Arlington, Virginia; the Digicon Corporation in Rockville, Maryland; and the 12th Contracting Squadron, Randolph Air Force Base, San Antonio, Texas, to obtain a general timeline and information on the events that occurred between the Air National Guard and Digicon during the time frame of the contract to install the Asynchronous Transfer Mode network. We reviewed the Federal, DoD, and Services' acquisition regulations to identify criteria that pertain to firm-fixed-price contracts, the exercise of options, contract modifications, organizational conflicts of interest, and competition. We identified background information on the Air National Guard, Digicon, and the Asynchronous Transfer Mode Network. We reviewed contract documentation, memorandums, and other correspondence provided by the Air National Guard, Digicon, and the contracting office to determine the performance of Digicon during the execution of the contract, and to determine whether the reasons given by the Air National Guard for not exercising the final option years on the contract with Digicon were supported by documentation. The documents we reviewed were dated from April 2000 through March 2002.

Limitation to Scope. We did not review the management control program because the audit scope was limited to the reasons outlined by the Air National Guard and the contracting officer as to why the decision was made to not exercise the final option years on the contract with Digicon.

General Accounting Office High-Risk Area. The General Accounting Office has identified several high-risk areas in DoD. This report provides coverage of the Defense Contract Management high-risk area.

Methodology

Use of Computer Processed Data. We did not use computer-processed data in the performance of this audit.

Use of Technical Assistance. The Technical Assessment Division, Office of the Inspector General of the Department of Defense provided assistance on evaluating the method used by the Air National Guard to develop the bill of materials in the contract.

Audit Dates and Standards. We performed this economy and efficiency audit from December 2001 through June 2002 in accordance with generally accepted government auditing standards.

Contacts During the Audit. We visited or contacted individuals and organizations within DoD and Digicon Corporation, Rockville, Maryland. Further details are available upon request.

Prior Coverage

No prior coverage has been conducted on the subject during the last 5 years.

Appendix B. Report Distribution

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House Committee on Armed Services

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House Subcommittee on National Security, Veterans Affairs, and International Relations, Committee on Government Reform

House Subcommittee on Technology and Procurement Policy, Committee on Government Reform

Honorable Roscoe G. Bartlett, U.S. House of Representatives

Team Members

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