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United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

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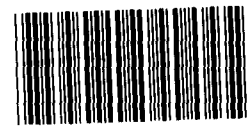

April 14, 1992

The Honorable William V. Roth, Jr.
United States Senate

Dear Senator Roth:

In August 1990, we reported to you[1] that between October 1, 1987, and December 31, 1989, the Defense Contract Audit Agency (DCAA) completed 123 compensation reviews that identified, after reductions based on additional contractor data submissions or changes in DCAA audit guidance,[2] approximately $340 million in unreasonable compensation. The DCAA Compensation Program Manager told us that 39 of these reviews, which identified unreasonable compensation of about $53 million, had been settled with contractors for $17 million--less than 33 percent of DCAA's findings--at the time of our review.

We started a second review to determine why DCAA's compensation reviews were not resulting in more recoveries to the government. At 8 of the 12 contractors we visited, the Department of Defense's (DOD) administrative contracting officers (ACO) gave several reasons for not supporting DCAA compensation review findings. Three ACOs expressed concern that the government could not sustain a DCAA finding against a contractor's legal challenge when the wages questioned were negotiated under a collective bargaining agreement. These ACOs based their conclusions on, among other things, advice from their respective regional legal counsels or on a 1990 decision by the government not to fight a contractor's appeal when a collective bargaining agreement was involved.

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[1]Contract Pricing: Reviews of Defense Contractor Compensation Costs (GAO/NSIAD-90-249FS, Aug. 29, 1990).

[2]Changes in DCAA audit guidance included things such as changes in DCAA's treatment of contractor fringe benefits.

In March 1991, as a result of this Justice Department decision, DOD interpreted the Federal Acquisition Regulation to require that compensation claimed by contractors in accordance with an "arm's length" negotiated collective bargaining agreements should be considered reasonable unless the compensation was unwarranted or discriminatory against the government. This interpretation eliminated the comparability tests for reasonableness that DCAA had previously applied to compensation paid in accordance with such agreements and caused DCAA to drop a large number of its unresolved compensation findings that were based on the comparability tests.

In November 1991, we briefed your staff on the changes in DCAA's compensation review program. The enclosure presents a chronology of events concerning the DOD policy change and its impact on DCAA's compensation reviews.

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Please contact me at (202) 275-8400 if you or your staff have any questions concerning this letter.

Sincerely yours,

Paul F. Math, Director
Research, Development, Acquisition,
and Procurement Issues

Enclosure

CHRONOLOGY

In February 1987, DCAA reported that compensation for 61 of a major defense contractor's 91 employee classifications, all of which were covered by a labor-management agreement, were unreasonable when compared to the wages of employees performing similar work at other firms of the same size, in the same industry, in the same geographic location, and performing predominately nongovernment work, and when compared to the cost of comparable services obtainable from outside sources. DCAA recommended that the contracting officer (1) withhold unreasonable compensation DCAA determined was incurred on the contractor's current cost-reimbursable contracts and (2) exclude unreasonable compensation costs in pricing future firm-fixed-price contracts. Subsequently, the contracting officer withheld about $1.4 million of the contractor's compensation claims.

In February 1990, the contractor appealed the decision to the U.S. Claims Court. The contractor's appeal contended that (1) compensation paid in accordance with an "arm's length" collective bargaining agreement is reasonable; (2) the contracting officer had misapplied the cost principles by failing to compare the contractor to other firms in the same industry as required in the Federal Acquisition Regulation (FAR), and by using inappropriate, noncomparable, and out-of-date labor survey data; and (3) the contracting officer's methodology for calculating the amount of compensation costs to be disallowed on individual contracts was invalid.

In August 1990, the Justice Department asked the Claims Court to grant a judgment in favor of the contractor, which the Court did. The judgment granted by the court, in December 1990, allowed the contractor to collect the $1.4 million plus accrued interest.

In March 1991, the Director, Defense Procurement concluded that because of the Justice Department position in this case, DCAA was obliged to consider all compensation paid in accordance with an "arm's length" negotiated labor-management agreement reasonable, unless the provisions of the agreement are unwarranted by the character or nature of the work, or discriminatory against the government. This is the standard found in FAR Section 31.205-6(c).

In April 1991, based on the conclusion of the Director, Defense Procurement, DCAA decided to reassess its findings on completed, but unsettled compensation reviews. As a result of the reassessment, DCAA has eliminated large amounts of unsettled findings that questioned, on other than the standards found in FAR Section 31.205-6(c), contractor compensation costs paid under labor-management agreements. In October 1991, DCAA revised its compensation review program to only test the reasonableness of compensation paid under labor-management agreements by the standards of FAR Section 31.205-6(c).

As of June 30, 1991, DCAA had 125 compensation review reports outstanding, with government contract related findings of about $150 million, that required reassessment under the revised compensation program guidance issued by DCAA. As of September 30, 1991, DCAA had reassessed 46 of the 125 outstanding reports reducing the reported findings of approximately $81.8 million to about $20.6 million--a reduction of about $61.2 million.

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United States
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Washington, D.C. 20548

National Security and
International Affairs Division

B-248278

April 15, 1992

The Honorable Daniel S. Goldin
Administrator, National Aeronautics
and Space Administration

Dear Mr. Goldin:

We have completed our survey of NASA's space suit alternatives (code 397040) and have briefed the staff of the Subcommittee on Investigations and Oversight, House Committee on Science, Space, and Technology.

We have decided to close out the assignment; however, before doing so, we wanted you to be aware of our survey results. They point to a need to reevaluate the decision not to support the development of a new space suit if estimates of Space Station Freedom extravehicular activity (EVA) requirements are increased substantially in the future.

Our work on this assignment disclosed that NASA's decision in 1989 to stop development of a new, high-pressure space suit (extravehicular mobility unit) for the station was budget driven and resulted from the need to make cuts in station projects to meet restricted funding levels. The decision was made to delete the new space suit and to continue use of the low-pressure space shuttle suit modified to satisfy space station era requirements.

Our survey indicated that if the EVA requirements were increased, several factors concerning space suits would need to be reassessed. They are (1) the life-cycle costs of space suit alternatives, (2) the risks of decompression sickness or space debris harming the astronauts, and (3) the estimated impact on astronaut productivity.

Although it was generally recognized that a new space suit could potentially provide lower life-cycle costs, and savings estimates were provided to the Congress, station officials were unable to provide us with any detailed cost analysis of the suit's life cycle to document the savings estimates.

Consequently, we could not verify the underlying support for the analysis or determine the critical factors that, if changed, might provide valid reasons for you to reconsider the decision to continue with the current shuttle suit. For example, based on our discussions with station and shuttle officials, we believe that the number of EVA hours would appear to be a key factor affecting the amount of expected savings that could be realized in the future by investing in a new suit. It appears that as the number of planned EVA hours increases, the potential life-cycle cost savings to be derived from a new suit increases accordingly. We are concerned, therefore, that without an agreed upon life-cycle cost analysis of space suit alternatives, NASA may not know at what point an increased level of EVA should prompt reconsideration of the space suit decision.

Under the current approach, safety is also a concern. A new high-pressure space suit was expected to increase astronaut safety whether viewed in terms of risk of decompression sickness or exposure to space debris. Based on current operational plans, there will be a 4.7-percent risk that an astronaut will experience serious decompression sickness during an EVA. We were told this risk is the same as currently accepted on a space shuttle mission.

On the other hand, the original space station requirement would have limited this decompression sickness risk to 1.1 percent, without a requirement to prebreathe a high concentration of oxygen for a period of time. The shuttle suit could provide similar safety but only with an increase in the amount of prebreathing time, and with an adverse impact on astronaut productivity. Any expected reduction in risk would become even more important as EVA hours increase. Furthermore, it is clear that the risk to astronauts from space debris will also increase as the number of EVA hours increases. If a new suit could provide additional protection from space debris, these benefits would also take on added importance with increases in EVA requirements.

Another unavoidable consequence of continuing to use the low-pressure shuttle suit is a reduction in astronaut productivity. The current requirement makes it necessary for astronauts to prebreathe a high concentration of oxygen for at least 4 hours before each EVA to reduce the risk of decompression sickness; a new high-pressure suit could eliminate the need for prebreathing. Increases in the station

EVA requirements may decrease astronaut productivity due to the necessary prebreathing time. Furthermore, if the planned prebreathing procedure before an EVA is followed, astronauts would be limited in their ability to respond quickly to an emergency that might require an immediate EVA.

As noted, each of these concerns would be exacerbated with an increase above the current estimate of EVA requirements for the station. As the station design matures, however, the EVA estimates may change. If the estimates increase significantly, we believe another review of the need to develop a new high-pressure space suit would be prudent. We would appreciate being informed if there are any changes in the space station program that would cause you to perform such a reevaluation.

We very much value the courtesies and cooperation extended to our staff by NASA personnel during the course of our work. If you have any questions about the information contained in this correspondence, please contact me on (202) 275-5140.

Sincerely yours,

Mark E. Gebicke

Mark E. Gebicke
Director, NASA Issues

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