



MARAD's Ability To Achieve Cost-Effective USMMA Contracts Is Compromised by Several Management Control Weaknesses

Self-Initiated

Maritime Administration | ZA2022008 | October 27, 2021

What We Looked At

The United States Merchant Marine Academy (USMMA) is a Federal service academy operated by the Maritime Administration (MARAD). Its mission is to graduate exemplary leaders committed to serve the Nation's security, marine transportation, and economic needs. In support of its mission, USMMA procures contracts for operational products and services that, for fiscal years 2015 through 2019, totaled an estimated \$99.2 million. Prior reviews found weaknesses in MARAD's acquisition controls and processes, such as noncompliance with Federal and departmental procurement requirements. Accordingly, we initiated this audit with the following objective: to assess contract award and administration policies, procedures, and practices for MARAD's USMMA acquisitions.

What We Found

MARAD's ability to achieve cost-effective USMMA contracts is compromised by several management control weaknesses. Specifically, its USMMA contract documentation is incomplete, which hinders the Agency's decision making for new investments to support Academy missions. MARAD also could not demonstrate compliance with key procurement requirements, including those to help ensure fair and reasonable pricing, for 19 sample USMMA contracts totaling \$45 million. Additionally, MARAD has gaps in its management of contracting officers and contracting officer representatives assigned to USMMA contracts, increasing the risk that unauthorized or improperly qualified individuals may execute, award, or manage these contracts. For example, a CO without the appropriate warrant authority awarded a \$1.9 million USMMA contract, and CORs assigned to USMMA contracts totaling \$18.2 million lacked proper certifications. Finally, frequent changes to Academy plans have impeded efficient execution of Capital Improvement Program (CIP) contracts—USMMA's highest dollar contracts—as MARAD does not have a process to adequately assess how such changes impact the overall CIP portfolio. As a result, USMMA's CIP project contracts have experienced inefficiencies, including increased costs and schedule delays. We estimate that MARAD's lack of adequate controls to verify compliance with requirements has put \$57.5 million in Federal funds at risk.

Our Recommendations

MARAD concurred with all 10 recommendations. We consider all recommendations resolved but open pending completion of planned actions.

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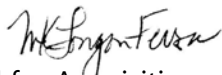
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Memorandum

Date: October 27, 2021

Subject: ACTION: MARAD's Ability to Achieve Cost-Effective USMMA Contracts Is Compromised by Several Management Weaknesses | Report No. ZA2022008

From: Mary Kay Langan-Feirson 
Assistant Inspector General for Acquisition and Procurement Audits

To: Maritime Administrator

The United States Merchant Marine Academy (USMMA), located in Kings Point, NY, is a Federal service academy operated by the Department of Transportation's (DOT) Maritime Administration (MARAD). The Academy's mission is to graduate exemplary leaders committed to serve the Nation's security, marine transportation, and economic needs as licensed Merchant Marine officers and commissioned military officers in the Armed Forces. In support of its mission, the Academy procures contracts for operational products and services such as books, facilities upkeep, and construction. We estimate that USMMA contracts for fiscal years 2015 through 2019 totaled \$99.2 million.¹

Prior audits by the Government Accountability Office (GAO) and our office have identified weaknesses in MARAD's acquisition controls and processes.² Such weaknesses include noncompliance with Federal and departmental procurement requirements, as well as improper use of taxpayer funds due to inadequate controls at the Academy.

¹ We used certified data from the Federal Procurement Data System (FPDS) to develop our universe; FPDS reported a total of \$93 million for these contracts. However, based on our review of 96 sampled contracts, we determined some values in FPDS were incorrect and used the actual contract values instead. As a result, we estimate the entire universe value to be \$99.2 million. This estimate has a precision of +/- \$766 thousand at the 90-percent confidence level.

² GAO, *USMMA: Internal Control Weaknesses Resulted in Improper Sources and Uses of Funds; Some Corrective Actions are Under Way* (GAO-09-635), August 2009; OIG, *MARAD Has Taken Steps To Develop a Port Infrastructure Development Program but is Challenged in Managing Its Current Port Projects* (OIG Report Number CR2013117), August 2, 2013; *Weaknesses in MARAD's Management Controls for Risk Mitigation, Workforce Development, and Program Implementation Hinder the Agency's Ability To Meet Its Mission* (OIG Report Number ST2016011), December 10, 2015. OIG reports are available from our website: <https://www.oig.dot.gov/>.

Due to these past issues, we initiated this audit. Our audit objective was to assess contract award and administration policies, procedures, and practices for MARAD's USMMA acquisitions.

We conducted this audit in accordance with generally accepted Government auditing standards. Exhibit A details our scope and methodology, exhibit B lists the organizations we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of Department of Transportation representatives during this audit. If you have any questions concerning this report, please call me at (202) 345-2619, or Jill Cottonaro, Program Director, at (202) 366-3831.

cc: The Secretary
DOT Audit Liaison, M-1
MARAD Audit Liaison, MAR-392

Results in Brief

MARAD's ability to achieve cost-effective USMMA contracts is compromised by several management control weaknesses.

Incomplete contract documentation, noncompliance with procurement requirements, gaps in management of contracting officers (CO) and contracting officer representatives (COR) assigned to USMMA contracts, and frequent changes to Academy plans have compromised the Academy's ability to achieve cost-effective contracts that successfully support its mission. Specifically:

MARAD's USMMA contract documentation is incomplete. Federal procurement regulations³ require the head of each contracting office to establish files with complete histories of all contractual actions and decisions and that are readily accessible to principal users. However, MARAD was unable to provide any contract documentation for 4 of the 36 large dollar value USMMA contracts in our sample—the 36 above the Simplified Acquisition Threshold (SAT)⁴—representing a total value of \$1.7 million. Further, the files for 21 of the remaining 32 above-the-SAT contracts in our sample were missing required award documentation—such as acquisition plans, cost estimates, market research, and evidence of legal reviews—representing a total of \$51.1 million. This missing documentation occurred because MARAD does not enforce requirements for maintaining complete contract documentation. The lack of complete files prevented us from obtaining and verifying a complete history of MARAD's compliance with award requirements and hinders the Agency's ability to make informed decisions about new investments to support the USMMA mission.

MARAD cannot always demonstrate compliance with procurement requirements when awarding USMMA contracts. Federal, departmental, and MARAD procurement policies and procedures establish a number of requirements for acquiring products or services in a timely, cost-effective, and fair manner. To its credit, based on our review of the first 43 below the SAT sample USMMA contracts—totaling just over \$1 million—MARAD had no major

³ Federal Acquisition Regulation (FAR) 4.801 and FAR 4.802.

⁴ *National Defense Authorization Act for Fiscal Year 2018* (Pub. L. 115-91), section 805, increased the SAT to \$250,000. On August 2, 2018, the Department issued Class Deviation No. CD-18-002, making this SAT increase effective for DOT. Therefore, we applied the previous \$150,000 SAT level to the contracts in our sample for fiscal years 2015, 2016, and 2017 and a \$250,000 SAT to the sampled contracts for fiscal years 2018 and 2019. As such, each fiscal year 2018 awarded contract in our sample was valued above \$250,000. Federal regulation requires agencies to use simplified acquisition procedures to the maximum extent practical for contracts at or below the SAT; this allows an agency to bypass certain procurement laws, clauses, and requirements in order to promote efficiency and economy and reduce unnecessary burdens. There are some threshold exceptions for the use of simplified procedures, such as during the procurement of commercial items.

instances of noncompliance with applicable award requirements for smaller dollar value purchases.⁵ However, the Agency was unable to demonstrate compliance with 4 key procurement requirements for 19 of the 32⁶ sample contracts above the SAT, representing a total of \$45 million. For example, MARAD officials did not have documentation to show that they conducted the required price and/or cost analyses for 11 of those 32 contracts, valued at \$13.8 million. Furthermore, they could not provide the required cost estimates for eight applicable contracts valued at \$27.3 million. Compliance with both is key to ensuring fair and reasonable pricing. As a result of its noncompliance with Federal, departmental, and its own procurement requirements, MARAD faces the increased risk that its USMMA contracts will not be awarded and executed in an efficient and cost-effective manner to achieve Agency goals.

MARAD has gaps in its management of contracting officers and contracting officer representatives assigned to USMMA contracts. COs and CORs are key individuals in an agency's acquisition workforce, which according to GAO's framework for assessing Federal acquisitions,⁷ are a critical element of a successful acquisition function. All COs must be certified and warranted, and all CORs must be certified.⁸ However, a MARAD CO without the appropriate warrant authority awarded a \$1.9 million USMMA contract. The Agency also assigned six individuals as CORs for eight USMMA contracts in our sample (valued at \$18.2 million), even though they all lacked proper certification at the time. MARAD's use of inappropriately certified and warranted COs and improperly certified CORs increases the risk that unauthorized individuals may execute contracts on the Agency's behalf and that contracting personnel who lack the necessary skills and training will award and manage its contracts.

Frequent changes to Academy plans impede efficient execution of Capital Improvement Program contracts. According to GAO, a successful acquisition function requires leadership that effectively communicates the agency's missions and strategic vision, which should be well defined and consistent. MARAD's Capital Improvement Program (CIP) activities include major renovations to campus facilities and reflect the strategic vision of the Academy leadership. However, MARAD and USMMA acquisition and program staff's ability to

⁵ We conducted a detailed review of the file documentation for 43 of the total 60 below-the-SAT sample contracts. Based on the fact we had no findings for these 43 contracts and wanted to focus our audit resources effectively, we did not conduct a detailed documentation review on the remaining 17.

⁶ This analysis does not include the four sample contracts for which MARAD could not provide any documentation. Therefore, it is based on the remaining 32 above-the-SAT sample contracts for which MARAD provided documentation.

⁷ GAO, *Framework for Assessing the Acquisition Function at Federal Agencies* (GAO-05-218G), September 2005.

⁸ Office of Management and Budget (OMB), *Revisions to Federal Acquisition Certification in Contracting*, 2014; FAR 1.602-2; DOT, *Acquisition Workforce Career Development Program* (DOT's Acquisition Workforce Policy), 2015; MARAD Guidance Note 1-2E, July 3, 2019, and Note 1-3B, December 19, 2013.

efficiently and cost-effectively execute CIP contracts is impeded when changes are made to Academy plans without assessing the impact on overall CIP project management. Over the past decade, leadership has made a number of changes to the Academy plans that guide the execution of CIP project contracts. These changes reflect both mission needs and the individual leader's unique strategic vision. However, MARAD does not have a process to adequately assess how any change(s) may impact the cost, schedule, and performance of the overall CIP portfolio. As a result, CIP project contracts have experienced inefficiencies, including increased costs and schedule delays. As of June 2021, the Academy reported an unobligated balance of \$73.4 million in CIP project congressional appropriations.⁹

The overarching cause for most of these weaknesses is that MARAD lacks adequate controls to verify compliance with Federal, departmental, and its own procurement and acquisition workforce requirements. Based on our findings, we estimate that MARAD put a total of \$57.5 million in Federal funds at risk by not enforcing these requirements which are intended to support cost effective and sound USMMA contracting decisions that result in the best value to meet the Academy's needs.¹⁰

We made 10 recommendations to strengthen MARAD's acquisition practices for USMMA contracts. MARAD concurred with all 10 recommendations.

Background

The award and management of USMMA contracts is split between the Academy's procurement office located on campus in Kings Point, NY, and MARAD's main procurement office at DOT Headquarters.¹¹ The head of the Academy's procurement office is responsible for managing the office staff (which totaled four individuals at the time of our review) and their assigned contracting activities. MARAD's Director of Acquisitions (also the Agency's Chief of the Contracting Office¹²) is responsible for managing the Headquarters' procurement office staff (which totaled 15 individuals during our review), as well as their assigned contracting activities. The Director is also responsible for developing and implementing agencywide acquisition policies and procedures that conform

⁹ The Superintendent stated that the Academy is aware of the unobligated balance and has committed these funds to projects that have been delayed.

¹⁰ Our \$57.5 million estimate has a precision of +/- \$4.8 million at the 90-percent confidence level.

¹¹ MARAD has five procurement offices in total; the other three are in Norfolk, VA, New Orleans, LA, and San Francisco, CA.

¹² According to the Department's Transportation Acquisition Regulation, section 1202.1, the Chief of the Contracting Office is responsible for managing contracting office(s) within a DOT agency.

to Federal and departmental regulations, ensuring all MARAD acquisition activities conform to applicable procurement requirements, and providing acquisition advice to USMMA.¹³

Staff located in both the Academy’s and MARAD’s procurement offices award and manage USMMA contracts. MARAD does not have a set policy or standard to decide which office will award and manage a USMMA contract, but acquisition officials said the decision is based on COs’ current workloads, experience, and warrant levels in both locations. Based on our sample, it appears that USMMA contracts valued above the SAT are awarded by MARAD’s main procurement office and those below the SAT are awarded by both offices (see table 1).

Table 1. Values and Awarding Offices for OIG’s 96 Sample USMMA Contracts

Relation to SAT	Count	Total Value	Awarding Office	Count	Total Value
Above the SAT	36	\$56,967,995	Headquarters Procurement	36	\$56,967,995
			USMMA Procurement	0	\$0
At or Below the SAT	60	\$1,311,345	Headquarters Procurement	26	\$638,008
			USMMA Procurement	34	\$673,337
Totals	96	\$58,279,340	Headquarters Procurement	62	\$57,606,003
			USMMA Procurement	34	\$673,337

Source: OIG analysis

To guide our review, we relied on the framework GAO developed after it identified systemic weaknesses in key areas of acquisition reported by various Federal Government accountability organizations. This framework, which enables a high-level, qualitative assessment of a Federal agency’s acquisition function,¹⁴ consists of four cornerstones that GAO found essential to an efficient, effective, and accountable acquisition process. The cornerstones are broken into elements that GAO considers integral to effective stewardship of acquisition resources (see figure 1).

¹³ MARAD Order 38-1, *Office of Acquisition*, October 14, 2015.

¹⁴ GAO, *Framework for Assessing the Acquisition Function at Federal Agencies* (GAO-05-218G), September 2005.

Figure 1. GAO Framework’s Four Cornerstones and Elements



Source: GAO, *Framework for Assessing the Acquisition Function at Federal Agencies*

MARAD’s Ability To Achieve Cost-Effective USMMA Contracts Is Compromised by Several Management Control Weaknesses

MARAD lacks complete documentation for its USMMA contracts and cannot always demonstrate compliance with procurement requirements when awarding these contracts. In addition, MARAD has gaps in its management of COs and CORs assigned to USMMA contracts. Finally, frequent changes to Academy plans impede efficient and cost-effective execution of CIP contracts that support USMMA’s mission.

MARAD’s USMMA Contract Documentation Is Incomplete

The Federal Acquisition Regulation (FAR) requires the head of each contracting office to establish files containing the records of all contractual actions that are

readily accessible to principal users.¹⁵ Documentation in the files should provide a full history of each transaction, including a complete basis for the decisions at each stage of the acquisition process and support for any actions taken.¹⁶ In addition, the GAO framework states that acquisition decisions should be supported by verifiable, underlying information. Lastly, to help support complete documentation, Department policy requires DOT Operating Administrations (OA) to use checklists in contract files.¹⁷

MARAD's USMMA contract documentation, however, is incomplete and is not filed in a location where Headquarters and Academy acquisition officials and stakeholders can readily access it. Instead, MARAD files documentation for USMMA contracts in various forms and locations, and the documentation we reviewed often did not provide a complete contract history. Specifically, the files were in both electronic and hard copy form and not readily accessible. The electronic files were stored on various drives instead of a single Agencywide drive or portal accessible to all acquisition staff. MARAD also did not store all of its hard copy files in a file room; some were kept at the desks of acquisition staff. As a result, MARAD could not provide any contract documentation for 4 of the 36 above-the-SAT sample contracts, representing a total value of \$1.7 million. Furthermore, the files for 21 of the remaining 32 above-the-SAT sample contracts, totaling \$51.1 million, were missing required award documentation and only 2 included contract file checklists.

The lack of complete and readily accessible Agency files prevented us from conducting a complete review of our contract sample. Additionally, MARAD acquisition officials took 5 months to provide the existing documentation on our sample contracts awarded by Headquarters acquisition staff (which represented the higher dollar value sample contracts). We note that these 5 months were during the COVID-19 pandemic when employees had limited access to DOT Headquarters. Also, USMMA acquisition staff gave us documentation for the sample contracts they awarded within a week. Moreover, because we could not obtain a complete history of each sample contract, we could not fully verify MARAD's compliance with award requirements. Finally, Agency acquisition officials could not always provide answers to our follow-up questions. These issues were compounded by the fact that the awarding CO for 38 of our sample contracts—valued at \$29.1 million—no longer worked at the Agency.

The following example highlights these issues. In January 2020, we requested the file for an \$11.2 million contract reported in MARAD's contract writing system (PRISM) and certified Federal Procurement Data System (FPDS) data *as awarded*

¹⁵ FAR 4.801 and FAR 4.802.

¹⁶ FAR 4.803.

¹⁷ DOT, *Transportation Acquisition Manual (TAM)*, 1204.801.

in September 2016 for facilities maintenance. To gain a better understanding of the award, in May 2020, we sent a series of questions to the Agency's Director of Acquisitions because the CO had left the Agency. The Director informed us that the contract had actually not been awarded because the winning vendor chose not to accept the terms and did not sign the contract, and that an administrative error must have caused it to be reported in PRISM as an *awarded* contract. MARAD officials could not locate—or address our questions about—the award documentation, including the acquisition plan, legal reviews, and independent government cost estimate (IGCE). They later stated that they were not required to keep a file of the documentation since the contract had not been awarded.

However, the documentation we do have with respect to this action shows the CO sent the contract to the vendor for review and signature with the intent to award it. Furthermore, the Agency reported the contract as awarded in PRISM (the Agency's contract writing system) and in FPDS (where the data are certified and used in reports to Congress). These facts would normally indicate the Agency created a contract file and completed the missing documents before it sent the contract to the vendor for signature. However, we were unable to validate whether a contract file was ever created for this action or whether one did in fact exist and was not kept. Regardless, supporting documentation for either scenario was lacking.

Furthermore, PRISM identified the contract *as awarded* until a MARAD contracting official finally cancelled the contract in January 2020—the same month we requested the file documentation for this transaction. Due to the delayed cancellation, \$2 million of the initial contract funding remained “committed” in the Agency's accounting system for over 3 years, making it essentially unavailable during that time. MARAD officials explained that this delayed cancellation occurred because the CO for this effort had left the Agency and both the program and acquisition offices' administrative workloads did not allow anyone to correct it.

These findings indicate that MARAD's contract file documentation controls are insufficient—including the lack of a contract file checklist—to verify compliance with requirements for maintaining complete contract files. The Director of Acquisition stated that MARAD does not have a standard file checklist, and he was unaware of the Department's requirement to use one. He initially told us he would consider requiring such a checklist for contracts above the SAT but later explained the Agency has an electronic filing initiative underway that will include a standardized checklist. When we provided our findings to MARAD in March 2021, the Agency's acquisition officials stated the electronic filing initiative was “currently underway” and would include a standardized checklist format. However, in June 2021, after our field work had concluded, these officials asserted that in October 2020, the Agency had instituted the electronic filing function in its contract writing system and that the system now has standard

checklists. Because MARAD waited until we completed our field work to make this assertion, we were unable to verify MARAD's new system.

The lack of complete and readily accessible files deprives the Agency of a tool for making informed decisions as it moves forward with new investments to support USMMA's mission. Moreover, it hinders MARAD's ability to demonstrate compliance with Federal procurement laws and requirements (discussed below), including whether it has awarded taxpayer dollars in a competitive and cost-effective manner. Based on the four sample contracts, valued at \$1.7 million, for which MARAD could not provide any contract documentation, we estimate that MARAD put a total of \$4.9 million¹⁸ in Federal funds at risk by not maintaining complete documentation which would support the Agency's contracting decisions and actions.

MARAD Cannot Always Demonstrate Compliance With Procurement Requirements When Awarding USMMA Contracts

Federal, departmental, and MARAD procurement regulations, policies, and procedures establish requirements for providing the best value product or service in a timely manner; minimizing administrative costs; and conducting business with integrity, fairness, and openness. According to the GAO framework, policies and processes must be accompanied by controls and incentives to ensure they are translated into practice.¹⁹ Furthermore, MARAD policy requires the Director of Acquisition to have a system in place to review and evaluate all Agency acquisition activities and ensure they conform to applicable acquisition policies, procedures, regulations, and directives.²⁰ However, MARAD does not always comply with key procurement requirements when it awards USMMA contracts, particularly those with values above the SAT.

USMMA Contracts at or Below the SAT Generally Comply With Requirements

The FAR states that agencies should use simplified acquisition procedures to the maximum extent practicable for purchases of supplies or services that do not exceed the SAT.²¹ Simplified acquisition procedures are intended to reduce the

¹⁸ Our \$4.9 million estimate has a precision of -\$3.2 million at the 100-percent confidence level and +\$3.8 million at the 90-percent confidence level.

¹⁹ GAO, *Framework for Assessing the Acquisition Function at Federal Agencies* (GAO-05-218G), September 2005.

²⁰ MARAD Order 38-1, *Office of Acquisition*, October 14, 2015.

²¹ FAR 13.003.

amount of work the Government must undertake to evaluate offers and make awards. Consequently, a number of requirements—including source selection plans, formal written acquisition plans, and legal reviews—are generally not applicable when using simplified acquisition procedures.

Based on our review of the first 43 below-the-SAT sample contracts—totaling just over \$1 million—MARAD had no major instances of noncompliance with applicable award requirements for smaller dollar value purchases.²² These contracts were awarded by both Academy and Headquarters acquisition staff (see table 1). However, the documentation supporting these contract actions was not prepared in a consistent format because MARAD’s policies and procedures do not include standardized forms or templates for fulfilling procurement requirements for simplified acquisition awards. Staff in both the Academy and Headquarters procurement offices stated they would like standardization of contract award processes and guidance that allows for more consistency, which is also key for verifying applicable procurement requirements are met.

USMMA Contracts Above the SAT Often Do Not Meet Key Procurement Requirements

For contracts above the SAT, Federal, departmental, and MARAD procurement policies and procedures establish requirements for ensuring fair and reasonable pricing and the best value for the Agency and taxpayer. However, MARAD was unable to demonstrate compliance with 4 key procurement requirements for its awards of 19 of the 32 USMMA above-the-SAT sample contracts, representing a total value of approximately \$45 million.²³ All of these contracts were awarded by Headquarters acquisition staff. See table 2 for a summary of MARAD’s noncompliance with the requirements for these contracts.

²² We conducted a detailed review of the file documentation for 43 of the 60 below-the-SAT sample contracts. Based on the fact we had no findings for these 43 contracts and wanted to focus our audit resources effectively, we did not conduct a detailed documentation review on the remaining 17.

²³ This analysis is based on the 32 above-the-SAT contracts in our sample for which MARAD was able to provide documentation.

Table 2. MARAD’s Noncompliance With 4 Award Requirements for 32 Sample Contracts Above the SAT

Procurement Requirement	Number of Applicable Contracts *	Total Value of Applicable Contracts	Number of Noncompliant Contracts	Total Value of Noncompliant Contracts
Market Research	32	\$55,227,901	11	\$22,809,139
IGCE	20	\$48,403,484	8	\$27,284,032
Source Selection Strategy	11	\$28,816,426	6	\$7,594,860
Price and Cost Analysis	32	\$55,227,901	11	\$13,827,881

* Certain procurement requirements were not applicable to all 32 contracts above the SAT, as some of the requirements have specific dollar thresholds or conditions that limit applicability.

Source: OIG analysis

MARAD did not comply with the four procurement requirements as follows.

- Market research** is the process of collecting and analyzing data to make informed and suitable decisions about the acquisition of goods and services. It helps build effective solicitations and awards of successful contracts that meet agencies’ needs.²⁴ Federal procurement regulations require market research for appropriate circumstances, such as developing new requirements and soliciting offers for contracts above the SAT.²⁵ However, MARAD officials could not provide evidence that they had conducted such research for 11 of the 32 contracts in our sample, totaling \$22.8 million. For example, in April 2016, MARAD awarded a \$4.2 million construction contract to a small business to repair an underground walkway between campus buildings. Agency officials did not provide any supporting evidence but explained that the decision to make the award a small business set-aside was based on “market research.” While market research can be done and documented through various methods, this explanation did not contain a narrative or description of the Agency’s activities that constituted market research and how those activities supported the decision to use a small business set-aside.
- IGCEs** are supported by factual or reasoned data that describe how much the agency could reasonably expect to pay for needed supplies or services. A Government entity uses an IGCE as an independent benchmark for establishing fair and reasonable pricing. According to MARAD

²⁴ The extent and detail of specific market research varies depending on such factors as urgency, estimated dollar value, complexity, and past performance.

²⁵ FAR 10.001.

procurement requirements,²⁶ program offices must develop an IGCE for any contract above the SAT. However, MARAD officials could not provide a required IGCE for 8 of the 20²⁷ applicable contracts in our sample, valued at \$27.3 million. For example, MARAD could not provide an IGCE for a \$321,850 contract awarded in August 2019 for an engine simulator room on campus. Program office staff emails show the cost was estimated to be around \$149,000, but it is unclear how and when staff derived this estimate. The two proposals received for this award presented prices that were more than double the estimate, and the contract was awarded for more than \$170,000 over the estimate. Furthermore, although MARAD provided IGCEs for the remaining 12 contracts, the estimates for 10 of them—totaling \$13.5 million—were inadequately developed. Specifically, they lacked required elements, including a narrative of how the estimate was developed and the reference material used, as well as the names, titles, and signatures of the estimator and approving official. MARAD’s lack of adequately developed IGCEs has diminished the Agency’s use of procedures that support good procurement decisions, such as setting-aside funds for the procurement, acting as a benchmarks of reasonableness against offerors’ proposed prices, and supporting contract price negotiations.

- **Source selection strategy** outlines how the award decision will be made—how an agency will evaluate proposals—to ensure a fair, consistent, and transparent process. The FAR requires the agency to develop and approve source selection strategy, when applicable, before it releases a solicitation.²⁸ It also requires source selection procedures to be discussed in the acquisition plan.²⁹ By doing so, the agency promotes integrity and fair competition in the procurement process and inhibits the ability of agency officials to select favored vendors or steer contracts. However, MARAD officials could not provide any evidence that source selection strategies were developed for 6 of the 11 applicable contracts³⁰ in our sample, valued at \$7.6 million. Additionally, the Agency had a strategy for a contract for facilities maintenance that was valued at \$11.2 million—though never awarded³¹—but the evaluation team did not

²⁶ MARAD Acquisition Guidance Note 11-1, *Cost Estimating Guide*, August 26, 2014; and *Maritime Administration Independent Government Cost Estimate Guide*, July 2014.

²⁷ The IGCE requirement was not applicable to 12 sample that fell below the SAT specific to commercial items.

²⁸ FAR 15.303.

²⁹ FAR 7.105(b)(4).

³⁰ We applied this source selection strategy requirement only to the competitively awarded contracts in our sample for which MARAD and USMMA officials evaluated contractor qualifications or proposals to make the award decision.

³¹ Ultimately, the Agency did not award this contract because the selected contractor did not sign it.

follow the strategy when it reviewed proposals.³² Though we could not determine whether the selection decision was affected, the integrity of the Agency's selection process could have been compromised had the contract been awarded. Furthermore, a lack of adherence to evaluation criteria during the source selection process can lead to costly litigation and protests.

- **Price and cost analysis** is another tool for determining whether an overall contract price is fair and reasonable and contractor proposal prices are realistic. The FAR requires Government agencies to conduct price analyses, and at times cost analyses, for each contract award.³³ However, MARAD officials could not demonstrate that they conducted these analyses for 11 of 32 sampled contracts, valued at \$13.8 million. For example, the winning bid for a contract awarded in June 2019 to repair the USMMA chapel was \$439,786. The bid was almost \$100,000 lower than the IGCE and anywhere from \$159,000 to \$279,000 lower than the other four bids. However, the officials could not provide evidence that they had conducted a price or cost analysis to determine whether the \$439,786 bid was reasonable. Three months after the Agency awarded the contract, it added work to the project, increasing the contract's value to \$626,786. While this additional work was not materially different from the original scope, it increased the cost by \$187,000 (43 percent). Bids that vary significantly from IGCEs and/or other competitors' bids may signal that vendors do not understand the contract requirements or may be offering unreasonably low bids in order to win the award. Acceptance of bids without analyses can increase the risk that the agency faces expensive change orders after award. Consequently, MARAD may not have obtained the best value on this contract and could have overpaid for the goods and services it acquired.

Since these findings of noncompliance are based on the fact that MARAD could not provide any evidence that the requirements were met—we could not determine whether MARAD was unable to locate the supporting documentation or if it ever existed. MARAD's lack of complete USMMA contract documentation and its decentralized filing system, as previously described, contributes to our finding of the Agency's noncompliance. However, this lack of compliance is mostly caused by MARAD's lack of controls to verify that the requirements are being met when it awards USMMA contracts above the SAT.

³² Although MARAD did not follow the selection strategy documented in its Source Selection Plan, Agency officials stated they did follow the strategy in the solicitation. However, they could not provide the solicitation to support their statements.

³³ FAR 15.404-1 and 14.408-2.

For example, MARAD lacks controls to verify compliance with Federal and DOT requirements to conduct acquisition planning for all contracts and, more specifically under DOT policy, to require formal written acquisition plans for all contracts over \$2 million. Solid acquisition plans contain evidence of completion of requirements we have identified, such as market research and a defined source selection strategy.³⁴ Specifically, MARAD officials could not provide acquisition plans for eight contracts that had values over \$2 million. Furthermore, MARAD lacks sufficient controls for verifying compliance with DOT and MARAD's requirements to obtain legal review prior to award when a contract's total value exceeds an established threshold.³⁵ This requirement can help ensure that contract documents and decisions comply with applicable laws and procurement requirements and protect the Government's interests. Yet MARAD officials could not provide evidence that legal reviews had been completed for eight of our nine sample contracts valued over \$1 million. Moreover, MARAD lacks sufficient controls to verify that the Director of Acquisition is effectively carrying out his assigned responsibility for ensuring that MARAD acquisition activities are compliant.

MARAD's noncompliance with acquisition requirements heightens the risk that its USMMA contracts will not provide best value products or services to meet the Academy's needs. It also puts the Agency at increased risk for protests and litigation that can cause costly delays for planned acquisitions and capital improvements to the Academy. Based on our findings, we estimate \$52.6 million³⁶ of the total USMMA contract universe will have noncompliance issues with at least one or more of the four requirements.³⁷ Therefore, we estimate MARAD put \$52.6 million in Federal funds at risk by not complying with these key acquisition requirements which are intended to support acquisition outcomes that represent the best value to meet the Academy's needs.

³⁴ FAR 7.1 requires acquisition planning for all contracts but defers to the individual agency on how to conduct the planning. FAR 7.105 outlines the content of a written acquisition plan, including results of market research and source-selection procedures. TAM 1207.102 and 1207.105(c)(1) require some form of planning for all contracts but a written acquisition plan only for contracts over \$2 million.

³⁵ TAM 1204.7003 requires legal reviews for contracts expected to exceed \$1 million. MARAD Acquisition Guidance Note 4-1E, *Review and Approval Procedures* (2014), requires legal reviews as part of the Agency's Contract Review Team's pre-award review of contracts expected to exceed \$500,000.

³⁶ Our \$52.6 million estimate has a precision of +/- \$4.7 million at the 90-percent confidence level.

³⁷ This estimate factors in the total value of each unique noncompliant contract only once, even if we found noncompliance issues with multiple requirements for the same contract.

MARAD Has Gaps in Its Management of Contracting Officers and Contracting Officers Assigned to USMMA Contracts

COs and CORs are individuals within an agency's acquisition workforce that, according to GAO's framework, are critical for a successful acquisition function. COs are the binding authority for the Government and are responsible for providing effective contracting, ensuring compliance with contract terms, and safeguarding the interests of the Government in contractual relationships.³⁸ CORs act as the "eyes and ears" of COs by, among other things, providing technical assistance within the contract scope, monitoring contractor performance, and overseeing compliance with contract terms. To act as a CO or COR, one must first be trained, developed, and certified per Federal and Agency requirements; COs must also be warranted.³⁹ Furthermore, the Office of Management and Budget (OMB) and the Department required agency officials to use the Federal Acquisition Institute Training Application System (FAITAS)⁴⁰—now Cornerstone OnDemand (CSOD)—to manage CO and COR data such as certifications and warrants.⁴¹ However, MARAD has gaps in its management of its COs and CORs assigned to USMMA contracts. Specifically, vulnerabilities exist in MARAD's processes to ensure appropriately warranted COs sign USMMA contracts. In addition, MARAD cannot accurately identify its USMMA CORs, some of whom are not properly certified.

Vulnerabilities Exist in MARAD's Processes To Ensure Appropriately Warranted COs Sign USMMA Contracts

Only COs may sign contracts on behalf of the Government; they may legally bind the Government only to the extent of the authority delegated to them through their warrant.⁴² Warrants are normally delegated based on specific dollar thresholds. DOT's CO warrant program aligns with Federal requirements and consists of three levels tied to specific training, education, and experience

³⁸ DOT, *Acquisition Workforce Career Development Program* (DOT's Acquisition Workforce Policy), 7.8.4.1 (2015).

³⁹ OMB, *Revisions to the Federal Acquisition Certification in Contracting (FAC-C)*, May 7, 2014; OMB, *Revisions to the Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR)*, September 6, 2011; FAR 1.602-2; DOT's Acquisition Workforce Policy, chapters 3 and 4; MARAD Guidance Note 1-2E, *Contracting Officer Authority and Appointment*, July 3, 2019, and Note 1-3B, *Contracting Officer's Representative (COR) Certification and Appointment*, December 19, 2013.

⁴⁰ FAITAS was the integrated, Governmentwide system of record for Federal civilian acquisition certification programs that allowed agencies to better manage their acquisition workforce members and training programs. FAITAS transitioned to CSOD in June 2021 and automatically migrated FAITAS profiles to the CSOD platform. CSOD is expected to provide much of the FAITAS functionality, including certification and warrant information.

⁴¹ OMB, *Revisions to Federal Acquisition Certification in Contracting*, May 7, 2014, and DOT's Acquisition Workforce Policy, 1.7.

⁴² FAR 1.602; DOT's Acquisition Workforce Policy, 7.8.4.1.

requirements.⁴³ Additionally, the appointing authorities for each OA⁴⁴—in MARAD’s case, the Director of Acquisitions—are required to conduct, at a minimum, annual reviews of all CO warrants. These reviews are conducted to ensure compliance with the Department’s acquisition workforce requirements.⁴⁵

In 2015, we reported several issues regarding MARAD’s compliance with CO certification and warrant requirements, including inappropriately warranted COs making contract awards on behalf of the Agency.⁴⁶ While MARAD took corrective action in response to that report, vulnerabilities still exist regarding its processes for ensuring appropriate warrant authorities for USMMA contract COs. First, from our sample of 36 above-the-SAT USMMA contracts, we found 2 instances in which an underwarranted CO either made the award or planned to make the award. These 2 instances represent 23 percent of the total value of all 36 contracts. Specifically:

- The MARAD CO who awarded a \$1.9 million contract for Academy laundry services in July 2018 held a warrant for up to \$100,000—\$1.8 million less than the contract’s total value.
- The MARAD CO for a pending \$11.2 million contract for Academy facilities maintenance in September 2016 held a warrant for up to \$5 million—\$6.2 million less than the contract’s value. The CO was identified in the preaward documentation—including the solicitation—and signed the award decision summary. According to an email, this CO sent the contract to the vendor requesting they sign it and return it within a day so it would be valid before the end of fiscal year 2016. Because the vendor did not accept the terms or sign the contract, Agency officials told us they did not award it. However, it was reported in both PRISM and FPDS certified data as a fiscal year 2016 contract award. MARAD acquisition officials told us this was an “administrative error” since a contract is typically not released in PRISM (and recorded in FPDS) as awarded until a MARAD CO signs it, officially binding the Agency. Ultimately, we were unable to determine whether the underwarranted CO or another CO signed or would have signed the contract upon its return from the vendor because MARAD could not provide the contract. Moreover, we were unable to obtain further details on what actually happened in this transaction because the underwarranted CO is no longer employed at DOT.

⁴³ DOT’s Acquisition Workforce Policy, 7.10.1.

⁴⁴ These are typically the Head of the Contracting Activity and Chief of the Contracting Office.

⁴⁵ DOT’s Acquisition Workforce Policy, 7.13. MARAD’s acquisition policy (Acquisition Guidance Note 1-2E) shifts this responsibility to the COs’ direct supervisors.

⁴⁶ *Some Deficiencies Exist in DOT’s Enforcement and Oversight of Certification and Warrant Authority for Its Contracting Officers* (OIG Report Number ZA-2015-041) April 9, 2015.

MARAD acquisition officials explained that the first example was a one-time error and, therefore, does not represent a systemic issue. However, as previously mentioned, we reported similar issues in 2015, and both examples occurred after that report. Regarding the second example, these officials explained that had the vendor signed the contract, a different CO with adequate warrant authority would have signed on behalf of the Agency. We recognize the practice of a CO with appropriate warrant authority signing a contract when another CO did the pre-award work is not unique to MARAD. However, given MARAD's history of issues around CO warrants and, specific to this example, the rush to award the contract on the last day of the fiscal year, we did not find adequate controls in place to ensure a properly warranted CO would sign the contract.

We also found that MARAD does not comply with the Department's requirement to annually review all CO warrants to ensure compliance with DOT's Acquisition Workforce policy. In January 2021, MARAD's Acquisition Career Manager stated that the Agency will only review a CO's warrant when an issue arises. Then in February 2021, MARAD officials stated warrants are reviewed as part of the COs' annual performance reviews. Regardless, these officials could not provide any evidence to support CO warrant reviews are occurring.

In our 2015 report,⁴⁷ we recommended that MARAD develop and implement oversight procedures to ensure compliance with DOT's Acquisition Workforce Policy CO requirements, including procedures to conduct annual reviews of CO warrants. Although we closed this recommendation several years ago based on the procedures MARAD developed, our findings indicate that Agency officials may not be consistently implementing these oversight procedures to verify compliance with departmental and MARAD acquisition workforce requirements specific to CO warrants.

These vulnerabilities in MARAD's warrant authority processes put the Agency at risk that its COs assigned to USMMA contracts may not have the levels of experience, education, and skills necessary to award and manage these contracts. As a result, MARAD is at increased risk for poor acquisition outcomes for the supplies and services the Academy needs to carry out its mission. Further, use of inappropriately warranted officials exposes the Agency to the possibility of unauthorized commitments that would require ratification since COs may only bind the Government to the extent of their delegated warrant authority.⁴⁸ Therefore, the \$1.9 million USMMA contract in our sample that was awarded by a

⁴⁷ This recommendation was directed to the Department's Senior Procurement Executive who was to direct all DOT OAs to develop and implement such oversight procedures.

⁴⁸ FAR 1.602-1 and 1.602-3.

CO who lacked the delegated authority to do so represents Federal funds at risk.⁴⁹

MARAD Cannot Accurately Identify Its USMMA Contracting Officer Representatives, and Some Are Not Properly Certified

A COR assists each CO in the technical monitoring or administration of a contract. To serve as a COR, an individual must be certified.⁵⁰ As with its CO warrant program, the Department's COR certification program is aligned with Federal requirements and includes three levels tied to specific training and experience requirements.⁵¹ To maintain COR certification, individuals are required to take between 8 to 60 hours of training every 2 years, depending on their certification levels, or their certifications will be revoked. According to DOT policy, each OA's Acquisition Career Manager must ensure that FAITAS (now CSOD) includes accurate and consistent COR data.⁵² Furthermore, Federal, departmental, and MARAD policies require CORs to be delegated via a standardized letter signed by both the CO and COR.⁵³ These delegation letters can help track proper COR assignments.

MARAD cannot accurately identify its Academy CORs, and some of the CORs it did identify were not properly certified. Specifically, MARAD was unable to provide an accurate and complete listing of the current CORs at USMMA. Instead, the Director of Acquisition and Acquisition Career Manager provided a list that omitted CORs, included individuals who were not certified when they were assigned as CORs, and contained incorrect certification information for the listed individuals. For example, the certifications of three individuals identified as active CORs had been revoked 3 to 19 months before we received the list.

Furthermore, the Acquisition Career Manager and Director of Acquisition did not correctly identify the CORs for 14 of 28 contracts above the SAT in our sample.⁵⁴ The individuals the officials identified stated that they were not actually CORs at all, were unsure whether they were the CORs for the particular contracts, or were

⁴⁹ This amount is already represented in the Federal funds at risk for noncompliance with the four procurement award requirements.

⁵⁰ OMB, *Revisions to the Federal Acquisition Certification in Contracting Officer Representatives (FAC-COR)*, September 6, 2011; FAR 1.602-2; DOT's Acquisition Workforce Policy, chapter 4; MARAD Guidance Note 1-3B, *Contracting Officer's Representative (COR) Certification and Appointment*, December 19, 2013.

⁵¹ DOT's Acquisition Workforce Policy, 4.5.

⁵² DOT's Acquisition Workforce Policy, 1.4.5.

⁵³ FAR 1.602-2 (d); DOT's Acquisition Workforce Policy, 6.2.1; and MARAD Acquisition Guidance Note 1-3B, *Contracting Officer's Representative (COR) Certification and Appointment*, December 19, 2013.

⁵⁴ We identified the CORs for 8 of our 36 sampled contracts above the SAT during our review of the file documentation. Therefore, we asked MARAD to identify only the CORs for the remaining 28.

only points of contact for one or more of the contracts. In response to our questions:

- The MARAD-identified COR for a \$688,709 contract for Academy fire alarm inspection, testing, and maintenance awarded in March 2016 responded, "I do not believe I am the designated COR for [this] contract...."
- The MARAD-identified COR for a \$566,650 contract for Academy furniture awarded in September 2017 responded, "I do not believe I am the COR for this contract."
- The MARAD-identified COR for six sample USMMA contracts—with a total value of \$2.5 million—responded that she was the COR for only one of the six contracts.

In addition, six individuals assigned as CORs for eight of our sample contracts—with a total value of \$18.2 million—were improperly certified. Five of these six were not certified when they were assigned to the contracts, and the sixth was never certified. For example, one individual's COR certification had been revoked in September 2018, but the person was assigned as COR to a \$461,600 contract awarded in August 2019 for repairs to an Academy academic building. The contractor did not use approved materials for some repairs, including incorrectly colored bricks. Figure 2 shows bricks above a door that are lighter in color than the surrounding bricks. The COR submitted a change order for additional work to correct the error. As a result, MARAD incurred \$58,200 in additional costs and experienced an 8-month delay in the project timeline. A properly experienced and appropriately certified COR may have addressed these mistakes in contractor performance and compliance without incurring additional costs and delays for the Agency.

Figure 2. Evidence of Contractor's Use of Incorrect Materials for USMMA Academic Building Renovations



Source: USMMA

Other individuals identified as CORs responded to our questions as follows:

- "I have never received COR training. Since I am not a certified COR, I haven't had any training other than the on-the-job training." The Acquisition Career Manager had identified this individual as the COR for a USMMA contract valued at approximately \$465,000.
- "I am not sure if I have COR certification." The Acquisition Career Manager identified this individual as the COR for a USMMA contract valued at approximately \$750,000. We found no evidence that this individual had ever been certified as a COR.

Having properly qualified CORs assigned to USMMA contracts is particularly critical given that the CO is often located at DOT Headquarters, not onsite where the contract is being performed. Because MARAD Headquarters COs award high-dollar Academy contracts, the COs must depend on the CORs located onsite to monitor and administer the contracts to ensure that contract terms and conditions are met. CORs that lack proper qualifications to monitor contract performance can put the Agency at risk for contract nonperformance that results in less than the quality expected and higher prices.

MARAD lacks an effective process to ensure that its officials follow the requirements for proper certification, assignment, and maintenance of accurate COR data. The Acquisition Career Manager used information in the Agency's

contract writing system and FAITAS to compile the list of USMMA CORs that we found to be inaccurate. These officials explained that some COR data are not in FAITAS because, they believe, the system may not accept some information, including external trainings, particularly for Academy staff whose emails include the suffix *.edu*. However, according to the FAITAS Help Desk Team Lead, the Academy is authorized to use FAITAS. This suggests that MARAD does not comply with Federal, departmental, and Agency requirements to maintain accurate and complete COR data in FAITAS (now CSOD) or to verify that USMMA CORs are properly certified before being assigned to monitor and oversee contracts.

Furthermore, Agency COs often do not use COR delegation letters, as required. COs' use of delegation letters would allow for easy identification of COR assignments. Specifically, only 2 of 36 above the SAT sample contracts included signed COR delegation letters.⁵⁵ The lack of COR delegation letters—which bypasses a tracking and enforcement tool—does not comply with Federal and departmental policy. Due to MARAD's lack of robust management of USMMA CORs, the Agency is taking the risk that its COs will be inadequately supported by its CORs—the “eyes and ears” for monitoring and administering Agency contracts.

Frequent Changes to Academy Plans Impede Efficient Execution of Capital Improvement Program Contracts

According to the GAO framework, a successful acquisition function needs committed leadership that effectively communicates the agency's mission and strategic vision. In addition, its mission, goals, and vision should be well defined and align with those of the agency. USMMA leadership, specifically the Superintendent and Deputy Superintendent, is responsible for conducting advanced planning for the Academy's physical structures and facilities.⁵⁶ Furthermore, one of the Academy's strategic goals is the efficient completion of its CIP projects. Because these projects include major renovations to campus facilities such as dormitories, classrooms, and laboratories, the related contracts represent some of the most complex and highest-dollar value USMMA procurements. For example, the 7 CIP projects in our sample of 96 USMMA contracts represent \$16.4 million of the entire sample's \$58.3 million total

⁵⁵ Since each above-the-SAT contract in our sample was a firm, fixed price contract, each CO had discretion to either designate a COR or assume the COR duties. The COs for 28 of our 36 above-the-SAT sample contracts chose to assign CORs and should have done this via delegation letters, as required.

⁵⁶ MARAD Order 150-1, *United States Merchant Marine Academy (USMMA)*, March 29, 2017.

potential value. MARAD reported that during fiscal years 2015 through 2019, Congress appropriated \$92 million to fund USMMA CIP projects.⁵⁷

However, MARAD and USMMA acquisition and program staff's abilities to efficiently and cost-effectively execute CIP contracts is impeded when changes are made to Academy plans without assessing the impact on overall CIP project management. Over the years, the Academy has had a variety of plans that have guided the execution of CIP project contracts—an annual CIP plan⁵⁸ as well as several other facilities-related plans.⁵⁹ These plans essentially entail lists of projects with basic details such as estimated costs and timelines. When a change to a plan is made, the Agency does not perform a project- or portfolio-level assessment to determine the impact on ongoing or planned CIP projects and contracts. As a result, leadership has made a number of changes to approved CIP and other facilities-related plans to reflect both mission needs and an individual leader's unique strategic vision without full realization of how the changes may impact the project management of USMMA's entire CIP portfolio.⁶⁰ Therefore, these changes have contributed to contracting inefficiencies including increased costs and schedule delays affecting the completion of CIP projects.

USMMA acquisition and program officials explained that frequent changes to the scope and priority of CIP projects places Academy staff in an always-changing environment where new and/or urgent requirements have to be met and resources for previously planned projects must be diverted to new ones. Moreover, USMMA officials informed us that due in part to the changes in direction and planning for the execution of CIP project contracts, the Academy had an unobligated balance of \$73.4 million in appropriations for CIP purposes as of June 2021.⁶¹

The following examples demonstrate how leadership changes to CIP and other facilities plans without assessing the impact on overall CIP project management have inhibited MARAD and USMMA acquisition and program staff from efficiently executing CIP contracts—resulting in delayed schedules, strained resources, and increased costs.

⁵⁷ MARAD did not request any congressional appropriations for USMMA CIP projects in fiscal years 2020 and 2021.

⁵⁸ The CIP plan provides a timeline, funding details, and brief descriptions of near-term major renovation and construction projects. This report must be submitted to Congress annually.

⁵⁹ Various facilities-related plans over the years, including the 2002 and 2005 Facilities Master Plans and 2020 Real Property Master Plan, provided overviews of campus buildings and planned renovations.

⁶⁰ An institution such as USMMA may appropriately choose to change its plans for a variety of reasons. We did not include an evaluation of the merits of plan changes in our review because such an evaluation was outside the scope of our audit.

⁶¹ The current Superintendent stated that the Academy is aware of the unobligated balance and has committed these funds to projects that have been delayed.

- A CIP project for renovations to an academic building was scheduled to start design in September of fiscal year 2014 and construction in July 2015, with the project's completion estimated for July 2016. However, in 2015, the building was repurposed from classroom and office space to a simulator lab, requiring changes to the building's room configurations and air and electrical systems.⁶² This repurposing delayed the design and also caused the estimated total construction costs to more than triple from \$6 million to \$20.3 million. As such, the construction contract was not awarded until June 2020⁶³—5 years later than initially planned—and construction is now scheduled to run until mid-January 2022.⁶⁴ According to Academy officials, the project's delays impacted other CIP academic building renovations, which cannot begin until this one is completed because the campus is too small to have multiple major construction projects going on at the same time. Students and classes will have to relocate during the renovations.
- In June 2016, USMMA awarded a design contract for a CIP project to replace an Academy pier, resulting in a final design that included a wave fence. In September 2018, MARAD awarded a construction management contract to implement the design. However, in November 2018, USMMA and MARAD agreed to terminate the construction management contract and re-scope the pier project. The re-scoped project called for a design that improved the functionality and projected useful life of the pier, as well as meet new flood and sea-level requirements. This included changing the former decision to include a wave fence. The re-scoped design also included changes to meet the new Superintendent's vision to "'embrace the waterfront' by having structures look outward facing at Long Island Sound rather than inward, land facing." In August 2019, MARAD awarded a new \$850,000 design contract to accommodate these changes although it had already spent \$223,000 on the original design.

USMMA's ability to make significant progress on CIP projects has been a longstanding issue. As a result, in 2019, the MARAD Administrator directed USMMA to use the U.S. Army Corps of Engineers to develop a Real Property Master Plan to guide infrastructure development and provide a comprehensive vision for the Academy's future. However, the former MARAD Chief Financial

⁶² While the Office of the Secretary (OST) approved changes in September 2017 and April 2019, its review focused on budget-related impacts rather than the more in-depth project management impacts the changes might have on CIP portfolio.

⁶³ Because this contract was awarded in fiscal year 2020, it was not part of our USMMA contract universe. However, it was included in various Academy planning documents we analyzed as part of our audit scope. Therefore, while we did not conduct the careful review we gave the contracts in our sample, we did some follow-up analysis on this contract.

⁶⁴ USMMA officials stated that the overall cost may not be as high as originally predicted, and they expect to recoup some savings once the renovation is completed.

Officer (CFO) told the Academy Superintendent and Deputy Superintendent that this plan did not contain enough detail to go forward through the budget process. The CFO then required the development of a prioritized list of new and ongoing renovation projects along with cost information—the genesis for what is now known as the Long Range Planning Strategy.⁶⁵ This Strategy replaces prior USMMA facilities plans and, according to MARAD and USMMA officials, is the long-range plan the Academy has been lacking. These officials also stated that the plan is intended to be a flexible document that will guide Academy construction and renovation for many years. The Strategy also provides the foundation for CIP projects to “withstand the test of time” and allow future Superintendents to implement their individual visions “within the constraints of the established plan.” As of the end of this audit, the Strategy was pending final approval by the Office of the Secretary of Transportation (OST). We, therefore, were unable to verify these assertions concerning the plan.⁶⁶

Even within the constraints described as part of the Long Range Strategy, the Agency still lacks a standard process to assess how changes to this and other Academy plans may impact the cost, schedule, and performance of ongoing and planned CIP projects and contracts. MARAD is required to submit its CIP Plan to OST for annual review and approval, but OST told us that its review focuses on the budgetary effects of the plan’s listed projects. Additionally, while MARAD is expected to obtain OST’s approval for all changes it makes to approved CIP and Long Range Strategy plans, the Agency does not have a current written policy or procedure requiring this approval.

When a change is made to the Academy CIP or other facilities-related plan without an assessment of the impact across the entire CIP contract portfolio, USMMA increases its risk of poor acquisition outcomes for these high-dollar procurements. Inefficient and cost-ineffective CIP contract execution compromises USMMA’s ability to achieve its mission. For example, delays and inefficiencies in CIP contracts could mean that deteriorating Academy infrastructure will not be timely or adequately addressed. That will in turn affect USMMA’s ability to recruit and safely train and prepare students to become merchant marine officers in support of national marine transportation and national security.

⁶⁵ This Strategy was created by a multi-stakeholder group—including the Deputy Superintendent and other USMMA senior officials—and vetted through MARAD, OST, and OMB.

⁶⁶ OST explained its final approval process is still underway due to the change in Administration, and its new officials want to gain a good understanding of USMMA before approving the Strategy.

Conclusion

The successful execution of USMMA's mission is vital to the protection of the Nation's economy and security. Fulfillment of that mission depends on leadership's maintenance of stable and consistent CIP and Facilities plans for campus renovations, supplies, and services that help support successful acquisition outcomes. Additionally, by strengthening the administration and oversight of USMMA contracts, MARAD will be better situated to support the Academy's mission; protect taxpayer dollars; and reduce the risk of waste, fraud, and abuse in its acquisition programs.

Recommendations

To improve MARAD's acquisition practices for U.S. Merchant Marine Academy (USMMA) contracts, we recommend that the Maritime Administrator:

1. Establish and implement a control process to verify compliance with Federal requirements to establish files with complete documentation for all USMMA contracts and ensure that these files are readily accessible to principal users. Implementing this recommendation could put \$4.9 million in Federal funds to better use by providing complete documentation to support that MARAD made efficient, compliant, and sound contracting decisions and actions.
2. Establish and implement a control process to verify compliance with Department requirements to use contract file checklists for all USMMA contracts.
3. Require and verify all MARAD acquisition staff attend annual refresher training on Federal, departmental, and MARAD-specific procurement and acquisition workforce requirements. Post training material in a central location that all staff can reference and access.
4. Develop and implement standardized contract forms and templates to document completion of procurement requirements when awarding USMMA contracts below the Simplified Acquisition Threshold (SAT).
5. For USMMA contracts that exceed the SAT, establish and implement a process(s) to verify compliance with applicable Federal, departmental, and MARAD procurement requirements associated with market research, independent Government cost estimates, source selection strategies, price and cost analysis, acquisition planning, and legal review. Implementing

this recommendation could put \$52.6 million in Federal funds to better use by improving MARAD's ability to efficiently award USMMA contracts that result in the best value to the Agency and meet its needs.

6. Establish and implement a control process to verify the Agency's oversight procedures regarding warrant requirements are correctly and consistently carried out for contract officers (CO) assigned to USMMA contracts.
7. Establish and implement a control process to verify compliance with Federal requirements to maintain accurate and complete data in the Federal acquisition system (previously the Federal Acquisition Institute's Acquisition Training Application System, now Cornerstone OnDemand) for all USMMA contracting officer's representatives (COR).
8. Establish and implement a control process to verify compliance with Federal, departmental, and MARAD requirements to use COR appointment letters and verify that all CORs assigned to USMMA contracts are properly certified.
9. Establish and implement a process for maintaining and tracking progress on USMMA Capital Improvement Program (CIP) projects, analyzing how changes to Academy plans will impact the cost and schedule of existing and planned CIP projects and contracts, and confirming that congressionally appropriated CIP funds are efficiently expended.
10. Establish and implement a requirement that any project change(s) to an approved CIP, Long Range Strategy, or other facilities-related Academy plan be submitted to and approved by the Office of the Secretary of Transportation before the change becomes final.

Agency Comments and OIG Response

We provided MARAD with our draft report on August 25, 2021, and received its formal response on October 12, 2021. MARAD's response is included in its entirety as an appendix to this report. MARAD concurred with all 10 of our recommendations as written and provided appropriate completion dates.

In its response regarding recommendation 6, MARAD states that it does not agree that the \$11.2 million effort cited on page 17 "constituted a violation of the CO's warrant." MARAD also states in its response that "[h]ad the proposed contract been signed by the contractor, MARAD had a CO assigned with appropriate authority to sign on behalf of the Government." However, in our report, we do not present this example as a violation of the CO's warrant. Instead,

we present this example as a vulnerability that could result in a CO without proper warrant authority signing a multi-million dollar USMMA contract. MARAD was unable to provide evidence of what may or may not have occurred had the contractor signed the proposed contract. The preaward documentation we were able to obtain included an email from the underwarranted CO offering the award to the vendor and an SF 1449 (*Solicitation/Contract/Order for Commercial Items*) identifying this official in the CO block. This same official was also identified in and signed the Source Selection Plan as the CO, which explicitly listed one of her responsibilities as “award the contract.” Furthermore, while the Agency asserts that a properly warranted CO was assigned to sign on behalf of the Government, no supporting documentation of such assignment or procedures to this effect were provided during the course of our review. Thus, we present this example in our report as a condition we identified that further supports our recommendation that MARAD establish and implement controls regarding warrant requirements. We appreciate MARAD’s recognition of the importance of this issue and its stated commitment to enforce warrant requirements and oversight.

Actions Required

We consider all 10 recommendations resolved but open pending completion of MARAD’s planned actions.

Exhibit A. Scope and Methodology

We conducted this performance audit from December 2019 to August 2021 in accordance with generally accepted Government auditing standards as prescribed by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of this self-initiated audit was to assess contract award and administration policies, procedures, and practices for MARAD's USMMA acquisitions. We used GAO's *Framework for Assessing the Acquisition Function at Federal Agencies* to guide our review. This framework enables high-level, qualitative assessments of strengths and weaknesses of acquisition functions at Federal agencies.

To address our objective, we developed a universe of all USMMA contracts reported in FPDS for fiscal years 2015 through 2019. This universe consisted of 1,392 contracts representing a total potential value (base and all options) of \$92,999,645. To select a statistical sample, we stratified the universe into three strata. Stratum 1 was a census of all 16 contracts that had a total potential value above \$580,000. Stratum 2 included 116 contracts that ranged in value from over \$100,000 to \$580,000. From this stratum, a probability proportional to size with replacement sample of 22 contracts was selected, where size was the total potential contract value. Finally, stratum 3 included 1,260 contracts that had a value of \$100,000 or less. From this stratum, we selected a probability proportional to size sample of 61 contracts. We then used a "with replacement" sampling methodology (because this methodology is widely used and accepted in the accounting industry and the Government) to select a statistical sample of 99 contracts. However, because of this methodology, three contracts were selected twice, which reduced our sample size to 96. Our 96 sample contracts represented a total potential value of \$52,633,439.72 or 57 percent of the total universe value.

We independently validated the universe for accuracy and completeness by requesting from MARAD the same fiscal year data for its USMMA contracts and compared these data to the data we obtained directly from FPDS. We independently validated the accuracy of our sample by comparing the FPDS data to the contract documentation. We found discrepancies between the FPDS total potential value and the actual total potential value for four of our sample contracts and adjusted the data in our universe accordingly. As a result, the total potential value of our 96 sample contracts is actually \$58,279,340. Based on this

value, we estimated the total potential value of the universe to be \$99,179,199. Therefore, our sample represented 56 percent of the universe value.

We reviewed Federal, departmental, and Agency procurement policies and guidance. Based on the applicable procurement requirements, we developed standardized contract file checklists to guide our review of the award documentation for our sample contracts to assess MARAD's compliance. Since our sample included contracts acquired under simplified acquisition procedures—and the requirements for these contracts are significantly less than for contracts under normal acquisition procedures—we developed a separate checklist for these contracts. MARAD provided the award documentation/files for our sample contracts in both electronic and hard copy formats stored in various locations such as local network drives, personal staff files, or the Agency's Procurement Information System for Management. We followed up with procurement staff to address any questions stemming from our contract documentation/file reviews.

Finally, we interviewed DOT officials from the Office of the Assistant Secretary for Budget and the Office of the Senior Procurement Executive; MARAD and USMMA officials from Procurement, Finance, Legal, and program offices, including USMMA's Departments of Public Works and CIP; as well as the Academy's Superintendent and Deputy Superintendent. These interviews took place in both DOT Headquarters, Washington, DC, and USMMA in Kings Point, NY. We also sent a standardized data call to the COs and CORs associated with our sample contracts above the SAT in order to learn more about their roles and responsibilities, and the leadership and general culture of USMMA contracting.

Exhibit B. Organizations Visited or Contacted

Maritime Administration and Department of Transportation Facilities

MARAD Headquarters, Washington, DC

Office of the Assistant Secretary for Budget, Washington, DC

Office of the Senior Procurement Executive, Washington, DC

United States Merchant Marine Academy, Kings Point, NY

Exhibit C. List of Acronyms

CIP	Capital Improvement Program
CFO	Chief Financial Officer
CO	contracting officer
COR	contracting officer's representative
CSOD	Cornerstone OnDemand
DOT	Department of Transportation
FAITAS	Federal Acquisition Institute Training Application System
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
GAO	Government Accountability Office
IGCE	independent Government cost estimate
MARAD	Maritime Administration
OA	Operating Administration
OIG	Office of Inspector General
OMB	Office of Management and Budget
OST	Office of the Secretary
SAT	simplified acquisition threshold
TAM	Department of Transportation Acquisition Manual
USMMA	United States Merchant Marine Academy

Exhibit D. Major Contributors to This Report

JILL COTTONARO	PROGRAM DIRECTOR
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ANGELA SAVINI	PROJECT MANAGER
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Appendix. Agency Comments



US Department of Transportation
MARITIME ADMINISTRATION

Subject: INFORMATION: Management Response-Office of Inspector
General (OIG) Draft
Report – USMMA Acquisitions Audit

Lucinda Lessley
Oct. 12, 2021

From: Lucinda Lessley, Acting Administrator, Maritime Administration

To: Mary Kay Langan-Feirson, Assistant Inspector General for
Acquisition and Procurement Audits

The Maritime Administration (MARAD) is committed to ensuring that its acquisition program fully complies with Federal regulations and DOT policies.

Based on our review of the OIG draft report, MARAD concurs with all of the recommendations. MARAD has several efforts underway to strengthen the administration and oversight of USMMA contracts, including:

- Recommendation 1 refers to implementing an internal control process to verify completeness and accessibility of documents. MARAD Office of Acquisition (MAR-380) transitioned from a partially paper-based to a centralized, electronic contract filing system to ensure complete documentation for all USMMA contracts and ensure that these files are readily accessible to principal users. Actions to satisfy this recommendation are complete and MARAD will request closure by October 29, 2021. We also agree that by implementing this recommendation, funds could be put to better use.
- Recommendations 2, 4, 5, 6, and 7 refer to documenting actions by Contracting Officers (CO), Contracting Specialists (CS), Contracting Officer Representatives (COR), and supervisors of CORs. MAR-380 is in the process of updating checklists and documenting process to demonstrate compliance with the requirement to maintain accurate and complete data for all contracts. Expected completion date is June 30, 2022. We also agree that by implementing recommendation 5, funds could be put to better use.
- Recommendations 3 and 8 refer to acquisition workforce policies and training. MAR-380 is updating all training policies and procedures and expects publication of the updates by January 31, 2022.

- Recommendations 9 and 10 refer to the Capital Improvement Program (CIP). MARAD is working with DOT’s Office of Budget and Programs to establish a written Capital Improvement Program policy that defines the type of changes that require review and approval and the process for seeking approval. Estimated completion is June 30, 2022.

Regarding Recommendation 6, MARAD does not agree that the \$11.2 million effort cited on page 17 of the audit constituted a violation of the CO’s warrant because it did not result in a contract. Had the proposed contract been signed by the contractor, MARAD had a CO assigned with appropriate authority to sign on behalf of the Government. MARAD does not agree these issues reflect that “MARAD lacks adequate controls to ensure a properly warranted CO would sign contracts.” However, MARAD agrees that only properly warranted COs can sign contracts—and only within the limits of their warrants—and MARAD will enforce this requirement.

We appreciate this opportunity to offer additional perspective to the draft OIG report. Please contact Delia Davis at delia.davis@dot.gov if you have any questions or require additional information about these comments.

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