This is going to be one of those blog posts that gets me into trouble. I could feel it before I sat down and began typing. And yet, I can't seem to find another way to discuss what may turn out to be the scandal of the COVID-19 pandemic: DCMA's lack of leadership.

The Defense Contract Management Agency is responsible for administering contracts for the Department of Defense and other authorized federal agencies. In the agency's own words:

The Defense Contract Management Agency is, first and foremost, a product delivery organization. Our nation's warfighters expect our defense industry to produce and deliver the equipment they need to fight, survive and win. DCMA's integrated team of acquisition and support professionals makes this happen.

The Agency provides contract administration services for the Department of Defense, other federal organizations and international partners, and is an essential part of the acquisition process from pre-award to sustainment. Around 12,000 employees, mostly civilians, work at offices and contractor facilities around the world, divided among three continental U.S. commands, one international command and other specialized offices.

Together, the Agency manages 300,000 contracts, valued at more than $7 trillion, at 15,000 contractor locations worldwide. DCMA makes sure DoD, other federal agencies, and partner nation customers get the equipment they need, delivered on time, at projected cost, and meeting all performance requirements.

Every business day, DCMA receives nearly 1,000 new contracts and authorizes more than $700 million in payments to contractors. Most importantly, every day our team delivers more than a million and a half items – from fighter jets to fasteners – to our warfighters.

Right now, our nation's warfighters need DCMA to help the defense industrial base overcome the myriad challenges posed by the COVID-19 pandemic. The nation's warfighters need DCMA contracting officers to make critical decisions, decisions whose consequences will impact the thousands of suppliers who deliver to the warfighters more than a million and a half items every day.

And the contracting officers are failing to make those decisions.

They are not making decisions because DCMA leadership hasn't told them what to do.

Readers may recall that we've posted several articles about the Department of Defense's response to COVID-19. We've written about the CARES Act, especially Section 3610, and how that impacts defense contractors. We've posted links to DOD guidance about Section 3610. The DOD guidance is very nice but it's not yet complete. Defense contractors keep waiting for the rest of the guidance to be issued. It's been promised several times, and each time the promised deadline has been missed.

The final DOD guidance may be available by the time this article is published. But right now, it's missing in action. What we have is some top-level guidance that—*critically*—gives discretion to individual contracting officers without giving them any direction. Contracting officers are expected to make decisions in a policy vacuum, knowing that they will be second-guessed and criticized for any "mistakes" they make. As a result, most of them are doing nothing, leaving contractors in limbo—not knowing whether their COVID-19 costs made allowable by CARES Act Section 3610 will be reimbursed.

The situation doesn't help anybody. It doesn't help the defense supply chain and it doesn't help the warfighters. All it does is perpetuate a relatively unfortunate status quo.

We'd like to encourage those DCMA contracting officers to take the initiative, to make bold decisions to implement the rather clear Congressional intent in advance of receiving guidance from Fort Lee. We'd like to do that, but we cannot.

We cannot advise DCMA contracting officers to take bold and decisive action because their recent leadership has an unfortunate history of throwing those same contracting officers under the bus at every opportunity.

This blog has documented several “audit reports” issued by the DOD Inspector General that were critical of DCMA contracting officers.

-

For example: **this** January, 2020, audit report criticizing DCMA contracting officers for failing to adequately document why they disagreed with DCAA audit findings

-

Or this February, 2019, **audit report** criticizing DCMA contracting officers for paying a contractor too much profit, even though they followed the FAR and DFARS requirements to the letter

-

Or this November, 2018, audit **report** , criticizing DCMA contracting officers for daring to negotiate contracts when DCAA said the contractors’ proposals were inadequate

We could go on and on. That wasn’t even two years’ worth of blog posts, and the blog stretches back to 2010. But we believe we’ve made the point. The DOD Office of Inspector General seemingly takes every opportunity to criticize DCMA contracting officers for any decisions whose result the OIG auditors do not like. And what happens then?

Does the Director, DCMA, support their team?

Does the Director, DCMA, defend their contracting officers?

Oh, hell no. The Director, DCMA, either (a) says nothing and lets somebody else agree with the

OIG, or (b) agrees with OIG and promises better training, or more clear policies, or an investigation into what went wrong. Even if, technically, nothing did go wrong.

Thus, we cannot fault DCMA contracting officers for taking no action, pending receipt of prescriptive direction from Headquarters. It's the only way to avoid the almost inevitable criticisms that will be coming from DOD OIG. Criticisms that their leadership will to *nothing* to mitigate.

So here we are. All of us in the defense industrial base. Waiting for clear DOD guidance, which will (hopefully) translate into clear DCMA guidance that can be implemented at the individual contract level.

Meanwhile, the intelligence agencies have already moved forward briskly with their contractors. The Navy's SUPSHIPs have already moved forward with their shipbuilding contractors. It's just the rest of the supply base—the thousands of contractors that deliver, daily, more than a million and a half products to our nation's warfighters—that are stuck in limbo, waiting for direction and fearing the inevitable Monday-morning quarterbacking from those who have the luxury of not having to make critical decisions.

*****

Where does this lead? We strongly suspect it leads to court.

We believe that, a year or two from now, there is going to be a tsunami of appeals of Contracting Officer Final Decisions. Many contractors have incurred COVID-19 related costs in the belief that their DOD customers will reimburse them. If the contracting officers deny claims for reimbursement, we predict quick appeals. There's just too much money at stake, and it's already been going on too long, to change course now and abandon the thought of reimbursement.

Had DCMA been more agile, able to issue guidance more quickly, then perhaps some of the upcoming issues may have been avoided. Unfortunately, such was not the case. And so here

we are … and we think we know where we are going.

See you in court.