

Inspector General

United States Department of Defense



Review of Defense Contract Management Agency Support of the C-130J Aircraft Program

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Acronyms and Abbreviations

DCMA	Defense Contract Management Agency
DFARS	Defense Federal Acquisition Regulation Supplement
ETC	Estimate-to-Complete
FAR	Federal Acquisition Regulation
GAO	Government Accountability Office
IG	Inspector General
MOA	Memorandum of Agreement
MYP	Multi-Year Procurement
OIG	Office of Inspector General
PBD	Program Budget Decision
SPO	System Program Office



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

June 12, 2009

MEMORANDUM FOR ASSISTANT SECRETARY OF THE AIR FORCE (FINANCIAL
MANAGEMENT AND COMPTROLLER)
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY

SUBJECT: Review of Defense Contract Management Agency Support of the C-130J Aircraft
Program (Report No. D-2009-074)

We are providing this report for your information and use. We performed the review in response to an allegation of inappropriate Air Force influence over the Defense Contract Management Agency's C-130J contract administration function. We do not require any comments.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9071 (DSN 664-9071).

A handwritten signature in blue ink, reading "Bruce A. Burton", is positioned above the printed name.

Bruce A. Burton
Deputy Assistant Inspector General
Acquisition and Contract Management



Results in Brief: Review of Defense Contract Management Agency Support of the C-130J Aircraft Program

C-130J Program

The C-130 aircraft performs intra-theater airlift missions to bring troops and equipment into hostile areas. The C-130J aircraft is a medium-range, tactical aircraft and is the newest upgrade to the C-130 fleet. We performed the review in response to an allegation of inappropriate Air Force influence over the Defense Contract Management Agency's (DCMA) C-130J contract administration function.

What We Did

We determined the role of the DCMA in supporting Air Force or C-130J prime contractor actions in response to a December 2004 Deputy Secretary of Defense decision to terminate the C-130J aircraft program. In May 2005, the Secretary of Defense reversed the termination decision. We also determined whether the Air Force or the C-130J prime contractor exerted inappropriate influence over the DCMA C-130J contract administration function from December 2004 through September 2005.

What We Found

DCMA played only a minor role in DoD and Air Force actions in response to the December 2004 C-130J termination.

During early 2005, DCMA management attended DoD-chaired meetings held to determine the termination cost of the C-130J program. However, we found no evidence that DCMA personnel were either requested

to provide or did provide any written analysis of the termination costs.

DCMA played a more substantial role in the subsequent conversion of the C-130J contract from a commercial acquisition procurement to a negotiated procurement by performing an estimate-to-complete conversion analysis and providing the analysis to the Air Force in September 2005.

A June 2, 2006, DCMA performance award justification letter incorrectly attributed the September 2005 C-130J estimate-to-complete conversion analysis as supporting the C-130J termination. Appendix C shows the timeline of events related to the termination and conversion.

We found no evidence to suggest that the Air Force or the prime contractor exerted inappropriate influence over DCMA.

Management Comments

No written response to this report was required. Therefore, we are publishing this report in final form.



The C-130J Aircraft

Table of Contents

Results in Brief	i
Introduction	1
Objectives	1
The C-130J Program Background	1
Defense Contract Management Agency Support of the C-130J	5
Appendices	
A. Scope and Methodology	9
Prior Coverage	9
B. Prior Office of Inspector General Reviews of the C-130J Program	11
C. Timeline for the C-130J Contract Conversion and Program Termination Decision	12

Introduction

A September 8, 2008, allegation letter requested that the DoD Acting Inspector General review whether the Air Force or the C-130J prime contractor exerted inappropriate influence pertaining to the Defense Contract Management Agency (DCMA) contract administration function for the C-130J aircraft program. The allegation letter claimed that DCMA assisted the Air Force and the C-130J prime contractor in congressional lobbying efforts to reverse the December 2004 C-130J program termination decision as expressed in Program Budget Decision 753. The allegation letter also claimed that a June 2, 2006, DCMA employee performance award justification letter indicated inappropriate use of Government resources at the DCMA Plant Representative's Office at Lockheed Martin Corporation, Marietta, Georgia, to help the Air Force save the C-130J contract from termination.

Objectives

We determined the role of DCMA in supporting Air Force or C-130J prime contractor actions in response to a DoD-proposed termination of the C-130J. We also determined whether the Air Force or the C-130J prime contractor exerted inappropriate influence over the DCMA C-130J contract administration function from December 2004 through September 2005. Our review was limited to specific steps to answer the allegation. See Appendix A for a discussion of the scope and methodology and prior coverage. We relied on some of the work we performed during previous DoD Office of the Inspector General (OIG) reviews of the C-130J program. See Appendix B for details of the prior OIG reviews.

The C-130J Program Background

Defense Contract Management Agency

DCMA's mission is to perform contract administration functions for DoD, other authorized Federal agencies, foreign Governments, international organizations, and others as authorized. Performance of contract administration functions must be in accordance with the Federal Acquisition Regulation (FAR) Part 42, "Contract Administration and Audit Services," and the Defense Federal Acquisition Regulation Supplement (DFARS) Part 242, "Contract Administration."

The C-130J Aircraft

The C-130J aircraft performs intra-theater airlift missions to bring troops and equipment into hostile areas. The Air Mobility Command, Theater Commands, Air National Guard, Air Force Reserve, Air Force Special Operations Command, Marine Corps, and Coast Guard use the C-130 aircraft fleet for both peace and wartime missions. The C-130J aircraft is a medium-range, tactical aircraft and is the newest upgrade to the C-130 fleet. Specialized versions of the aircraft include the C-130J Stretch that has an increased cargo floor length of 55 feet, the WC-130J that performs weather reconnaissance missions, the EC-130J that performs electronic warfare missions, the KC-130J that performs air-refueling missions, and the HC-130J that performs search and rescue missions.¹

¹ In this report, we will refer to all aircraft as the C-130J unless the discussion relates to a specific aircraft version.

C-130J Program Information

The Under Secretary of Defense for Acquisition, Technology, and Logistics designated the C-130J program as an Acquisition Category IC program and assigned the Air Force acquisition executive as the milestone decision authority.² On September 5, 1995, the Air Force C-130J System Program Office (SPO) contracting officer determined that the C-130J aircraft was a commercial item that would meet the Government's needs with minor modifications. Because of the contracting officer's decision to designate the aircraft as a commercial item, the Air Force did not apply FAR Part 15, "Contracting by Negotiation," (which allows the Government access to contractor cost and pricing data and oversight) to the C-130J procurement. In March 2003, the Air Force C-130J SPO awarded a multi-year procurement (MYP) contract to Lockheed Martin for the procurement of 60 aircraft: 40 C-130J aircraft for the Air Force and 20 KC-130J aircraft for the Marine Corps. The Air Force issued the MYP contract under FAR Part 12, "Acquisition of Commercial Items." The Air Force C-130J SPO stated that since the C-130J program inception, the Air Force C-130J SPO has contracted for 169 C-130J aircraft for the Air Force, Marine Corps, and Coast Guard at a cost of \$9.7 billion. As of December 31, 2008, the Air Force C-130J SPO had accepted 109 C-130J aircraft.

C-130J Termination

C-130J Termination Decision

On December 23, 2004, the then Deputy Secretary of Defense approved DoD Program Budget Decision (PBD) No. 753 that included an alternative estimate to reduce the DoD program budget. PBD 753 included language that terminated the Air Force MYP of C-130J aircraft after completion of FY 2005 production. In addition, PBD 753 accelerated FY 2006 procurement of the Marine Corps KC-130J aircraft. PBD 753 reduced the C-130J procurement budget for FY 2005 through FY 2011 by \$4.996 billion.

Congressional Response to Termination Decision

On January 10, 2005, 24 members of the United States Senate wrote President George W. Bush stating that the DoD-proposed termination of the C-130J MYP contract was ill-advised and untimely, given the operational shortfalls facing the United States military. The letter also noted that the cost of terminating the C-130J program could be more costly to the American taxpayers than completing the MYP as planned.

Reversal of C-130J Termination Decision

On May 10, 2005, the Secretary of Defense wrote the then Chairman for the Defense Subcommittee, Committee on Appropriations (Senator Ted Stevens) stating that after considering new information regarding contract termination costs, he decided it was in the best interest of DoD to complete the C-130J MYP contract. The Secretary's letter effectively reversed the C-130J program position taken in PBD 753.

² Acquisition Category IC programs are Major Defense Acquisition Programs with expenditures for research, development, test, and evaluation of more than \$365 million or procurement of more than \$2.190 billion. The milestone decision authority is the Component head or Service acquisition executive.

C-130J Contract Conversion

C-130J Contract Conversion Decision

During an April 13, 2005, meeting, the then Chairman of the Senate Subcommittee on AirLand, Committee on Armed Services (Senator John McCain), the then Acting Air Force Secretary (Michael L. Dominquez), and the then Chief of Staff (General John P. Jumper) agreed that the C-130J aircraft procurement should be converted from a commercial acquisition contract under FAR Part 12 to a negotiated procurement under FAR Part 15. This agreement was later reflected in Section 135 of Public Law 109-163 the “National Defense Authorization Act for Fiscal Year 2006” that required that any C-130J or KC-130J aircraft procured after FY 2005 be procured through an acquisition of items negotiated under FAR Part 15.

C-130J Estimate-To-Complete Conversion Analysis

After the Secretary of Defense decided not to terminate the C-130J program and to convert the program to a negotiated procurement, the Air Force began to gather data to reprice the MYP contract. On August 3, 2005, as part of the C-130J MYP conversion process, the Air Force requested that DCMA perform an estimate-to-complete (ETC) on the C-130J contract. On September 15, 2005, DCMA provided the Air Force with a C-130J MYP conversion technical evaluation report that described and evaluated the work that was needed to complete the remaining tasks for engineering, management, and integrated logistics support for the C-130J program. DCMA generated the report to supply the Government with a defensible position from which a fair settlement could be negotiated for the C-130J MYP conversion from FAR Part 12 to FAR Part 15. The ETC conversion report stated that a detailed DCMA analysis of the contractor’s ETC was not possible given the volume and detail of data. The C-130J MYP conversion technical evaluation report concluded that DCMA found no major disagreements with the prime contractor’s overall ETC.

C-130J Contract Conversion to Non-Commercial Acquisition

On October 17, 2006, the Air Force converted the C-130J MYP contract from a FAR Part 12 contract to a FAR Part 15 contract for 39 Air Force and Marine Corps C-130J aircraft that were to be purchased from FY 2006 through 2008. The modified negotiated price of approximately \$2.23 billion included a downward price adjustment of approximately \$364 million. An October 18, 2006, internal Air Force briefing concluded that a \$167.7 million net savings was achieved through the conversion negotiation. In addition to the cost savings for the taxpayer, the contract conversion resulted in the Air Force receiving certified cost and pricing data from the contractor and an agreement with the contractor that any future C-130J aircraft would also be procured under FAR Part 15.

C-130J Contract Conversion Review

On April 6, 2007, the DoD Acting Inspector General wrote to the Special Assistant to the Secretary of the Air Force in response to an October 18, 2006, Air Force request that the OIG review the C-130J aircraft MYP contract conversion to ensure that it was consistent with Section 135. The Acting Inspector General concluded that the Air Force complied with the statutory requirement through the modification to the MYP contract and that the modification was generally consistent with the provisions of FAR Part 15 and appeared to protect the Government’s rights by achieving transparency in price and cost data, resulting in a lower price for the taxpayer.

Defense Contract Management Agency Support of the C-130J

The DCMA played only a minor role in DoD and Air Force actions in response to the December 2004 C-130J termination. In early 2005, DCMA management attended DoD-chaired meetings held to determine the termination cost of the C-130J program. We found no evidence that DCMA personnel were either requested to provide or did provide any written analysis of the termination costs. DCMA personnel played a more substantial role in the subsequent C-130J contract conversion process by performing a C-130J ETC conversion analysis and providing the analysis to the Air Force in September 2005. A June 2, 2006, DCMA performance award justification letter that was provided in the allegation letter incorrectly attributed the DCMA ETC conversion analysis as supporting the earlier decisions on C-130J termination costs. Appendix C shows the timeline of events related to the termination and conversion. We found no evidence to suggest that the Air Force or the C-130J prime contractor exerted inappropriate influence over DCMA during the period of December 2004 through September 2005.

Guidance Governing DCMA Support of C-130J

DoD Directive 5105.64, "Defense Contract Management Agency," states that DCMA will perform contract administration functions for DoD in accordance with FAR Part 42, "Contract Administration and Audit Services." FAR Part 42.3, "Contract Administration Office Functions," notes that contract administration office functions include supporting the program offices regarding program reviews, program status, program performance, and actual or anticipated program problems. The Directive states that DCMA will enter into support agreements with Military Departments as required for effectively performing DCMA functions and responsibilities.

An undated Air Force Systems Program Office and DCMA C-130J Memorandum of Agreement (MOA) governs DCMA oversight of the C-130J program. The purpose of the MOA was to facilitate an effective relationship between the C-130J Program Office and DCMA to accomplish C-130J program objectives in support of C-130J contracts.

DCMA Support of C-130J Termination Analysis

DCMA played only a minor role in DoD and Air Force actions made in response to the December 2004 C-130J termination. DCMA management attended DoD-chaired meetings held to determine the termination cost of the C-130J program. In January 2005, DCMA management met with personnel from the Office of Program Analysis and Evaluation, Air Force, and Marine Corps to discuss how the Air Force should implement PBD 753 and to determine what costs should be included in a MYP termination cost analysis that would be presented to the Secretary of Defense.

The Air Force and personnel from the Office of Program Analysis and Evaluation made the final decision on what to include in the termination analysis presented to the Secretary of Defense by the Office of Program Analysis and Evaluation personnel on April 15, 2005.

However, the Air Force did not have support for the termination cost estimate and could not provide us documentation to support the analysis results. We found no evidence that the

Air Force requested DCMA to perform a termination cost analysis on the C-130J contract. We also found no evidence that DCMA performed any work on the Air Force and Office of Program Analysis and Evaluation termination analysis, other than participating in the group discussions. In addition, we found no evidence that DCMA assisted in congressional lobbying efforts to reverse PBD 753. All DCMA and Air Force personnel interviewed noted that DCMA did not issue any C-130J termination analysis work product. We also found no evidence to support that the DCMA employee noted in the performance award justification letter was involved in the January 2005 termination discussions or in preparing the termination cost analysis.

C-130J ETC Conversion Analysis

After the Secretary of Defense decided not to terminate the C-130J program and to convert the program to a negotiated procurement, the Air Force began to gather data to reprice the MYP contract. On August 3, 2005, as part of the C-130J MYP conversion process, the Air Force requested that DCMA perform an ETC on the C-130J contract. On September 15, 2005, DCMA provided the Air Force with a C-130J MYP conversion technical evaluation report that described and evaluated the work that was needed to complete the remaining tasks for engineering, management, and integrated logistics support for the C-130J program. DCMA generated the report to supply the Government with a defensible position from which a fair settlement could be negotiated for the C-130J MYP conversion from FAR Part 12 to FAR Part 15. The ETC conversion report stated that a detailed DCMA analysis of the contractor's ETC was not possible given the volume and detail of data. The C-130J MYP conversion technical evaluation report concluded that DCMA found no major disagreements with the prime contractor's overall ETC.

DCMA Performance Award Justification Letter

A June 2, 2006, DCMA performance award justification letter, which was included with the allegation letter, incorrectly attributed analysis work performed to support the C-130J ETC conversion analysis as supporting the C-130J termination. The justification letter supported a \$1,500 award to a DCMA engineer for work performed during calendar year 2005. In the justification letter, the employee's supervisor asserted that the employee served as the lead for providing support to the Air Force in its efforts to challenge PBD 753 and that the employee was able to gather critical information from the C-130J prime contractor. The justification letter stated that the information was used in Air Force discussions on Capitol Hill, subsequently provided to the Secretary of Defense, and had a direct influence on the Secretary's decision to remove the C-130J from the PBD 753 list of programs to be terminated. The award justification letter also discussed similar support provided by the employee for the subsequent C-130J ETC conversion analysis, noting that information obtained by the DCMA employee from the prime contractor was used to substantiate the contractor's ETC for the MYP contract conversion.

The overlapping time frames of the PBD and the C-130J contract conversion decision, and the manner in which terminology was used in the PBD 753 decision contributed to confusion between what work the employee actually performed and what work the employee was said to have performed in the award justification letter. Our discussions with personnel at DCMA, Air Force headquarters, and the C-130J SPO supported statements made to us by the employee that he did not work on a termination cost analysis. Since the employee's work was in support of the ETC conversion analysis, we found no evidence that DCMA resources were inappropriately expended.

The award justification letter noted that the employee was a major contributor to the ETC conversion report and that the employee worked with the C-130J prime contractor to obtain data (not contractually deliverable to the Government) to assist in preparing the ETC conversion analysis. Air Force officials noted to us that the employee also provided direct support to the Office of the Assistant Secretary of the Air Force, Acquisition personnel for the meeting with Senate staffers related to the C-130J contract conversion from FAR Part 12 to FAR Part 15.

However, the employee was not involved in the January 2005 C-130J termination meetings and did not work on the Air Force termination cost analysis, but worked only on the subsequent August and September 2005 ETC conversion analysis. The award justification letter incorrectly attributed the employee's C-130J ETC conversion analysis as work performed on the C-130J termination cost analysis. As the August and September 2005 C-130J ETC conversion analysis work had no bearing on the May 2005 Secretary of Defense decision to reinstate the C-130J program, the award justification was in error as it related to the employee's role in the C-130J termination and reinstatement.

On November 13, 2005, the current supervisor (Supervisor A) was assigned as the employee's DCMA supervisor of record. As such, Supervisor A's name appeared on the employee's June 2, 2006, award justification letter. Supervisor A requested input for the award justification from the employee's previous supervisor (Supervisor B) because Supervisor B had knowledge of the employee's work during the rating period. Supervisor A noted in a September 10, 2008, memorandum of record that he did not write or develop any awards for any engineer in the DCMA C-130J office but rather provided Supervisor B a blank award justification form with Supervisor A's name in the signature block. Supervisor B agreed that he provided input for the employee's award justification letter. When asked to explain the discrepancy for the employee's work on the C-130J termination, Supervisor B acknowledged that he was mistaken and that the employee provided an ETC analysis report, not a termination analysis report. Neither Supervisor A nor Supervisor B signed the employee's award justification letter. The Deputy Commander, DCMA Plant Representatives Office, Marietta, Georgia, stated that there was no requirement for the award justification letter to be signed. Since the award justification was in error, we referred the issue to the DCMA for potential administrative action.

DCMA C-130J Contract Administration

We found no evidence to suggest that the Air Force or the C-130J prime contractor exerted inappropriate influence over the DCMA during the period of December 2004 through September 2005. The DCMA played only a minor role in DoD and Air Force actions in response to the December 2004 C-130J termination. During the Government evaluation of the ETC conversion analysis for the C-130J MYP, DCMA worked closely with the C-130J prime contractor to obtain data that the prime contractor was not contractually obligated to provide.

Appendix A. Scope and Methodology

We conducted this review from November 2008 through March 2009. We did not conduct the review in accordance with generally accepted government auditing standards as the review was limited to specific steps to answer the allegation letter and focused only on DCMA C-130J program support actions between December 2004 and September 2005. However, we believe that we planned and performed the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our review objectives. We also believe that the evidence obtained provides a reasonable basis for our conclusions based on our review objectives. We relied on some of the work we performed during previous OIG reviews of the C-130J program. In addition, we reviewed available Air Force and DCMA documentation relating to C-130J oversight actions performed between December 2004 and September 2005. See Appendix B for details of the prior OIG reviews. For this review, we visited or contacted the Headquarters, Air Force, and the C-130J SPO. We also visited the DCMA headquarters and the DCMA Plant Representatives Office in Marietta, Georgia, to interview DCMA personnel noted in the allegation.

Use of Computer-Processed Data

We did not use computer-processed data to perform this review.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO), Department of Defense Inspector General (DoD IG), and the Air Force Audit Agency issued 5 products discussing the C-130J contract. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

GAO

GAO Report No. GAO-08-379, "Termination Costs Are Generally Not a Compelling Reason to Continue Programs or Contracts That Otherwise Warrant Ending," March 14, 2008

DoD IG

DoD IG Acting Inspector General Letter Regarding Review of the C-130J Aircraft Multiyear Contract Conversion, April 6, 2007

DoD IG Report No. D-2006-093, "Contracting and Funding for the C-130J Aircraft Program," June 21, 2006

DoD IG Report No. D-2004-102, "Contracting for and Performance of the C-130J Aircraft," July 23, 2004

Air Force

Air Force Report No. F2005-0008-FC3000, "Acquisition Management of the C-130J Program," September 28, 2005

Appendix B. Prior Office of Inspector General Reviews of the C-130J Program

We issued DoD IG Report No. D-2004-102, “Contracting for and Performance of the C-130J Aircraft,” July 23, 2004, in response to allegations to the Defense Hotline concerning the C-130J aircraft. We substantiated an allegation that the C-130J aircraft did not meet contract specifications and therefore could not perform its operational mission. We recommended that the Air Force stop contracting for additional C-130J block upgrades until a contract-compliant aircraft was designed, developed, and delivered. We also recommended that the Air Force increase contract withhold amounts for acceptance of noncompliant C-130J aircraft, develop a schedule for completing outstanding retrofits for accepted and fielded C-130J aircraft, and use FAR Part 15 as the basis for future C-130J MYP contract modifications.

We issued DoD IG Report No. D-2006-093, “Contracting and Funding for the C-130J Aircraft Program,” June 21, 2006, in response to four allegations made to the Defense Hotline. We substantiated two of the four allegations, including an allegation of a potential Antideficiency Act violation. We concluded the Secretary of Defense did not have sufficient termination cost information to determine the cost-effectiveness of continuing or terminating the C-130J MYP contract. We also concluded that the FY 2006 President’s Budget did not include sufficient funds to terminate the Air Force C-130J aircraft procurement and accelerate the Marine Corps KC-130J aircraft procurement if the unsupported cost estimate was valid. We also substantiated a second allegation that the C-130J SPO contracting officer did not appropriately evaluate the contractor’s performance against contract default provisions.

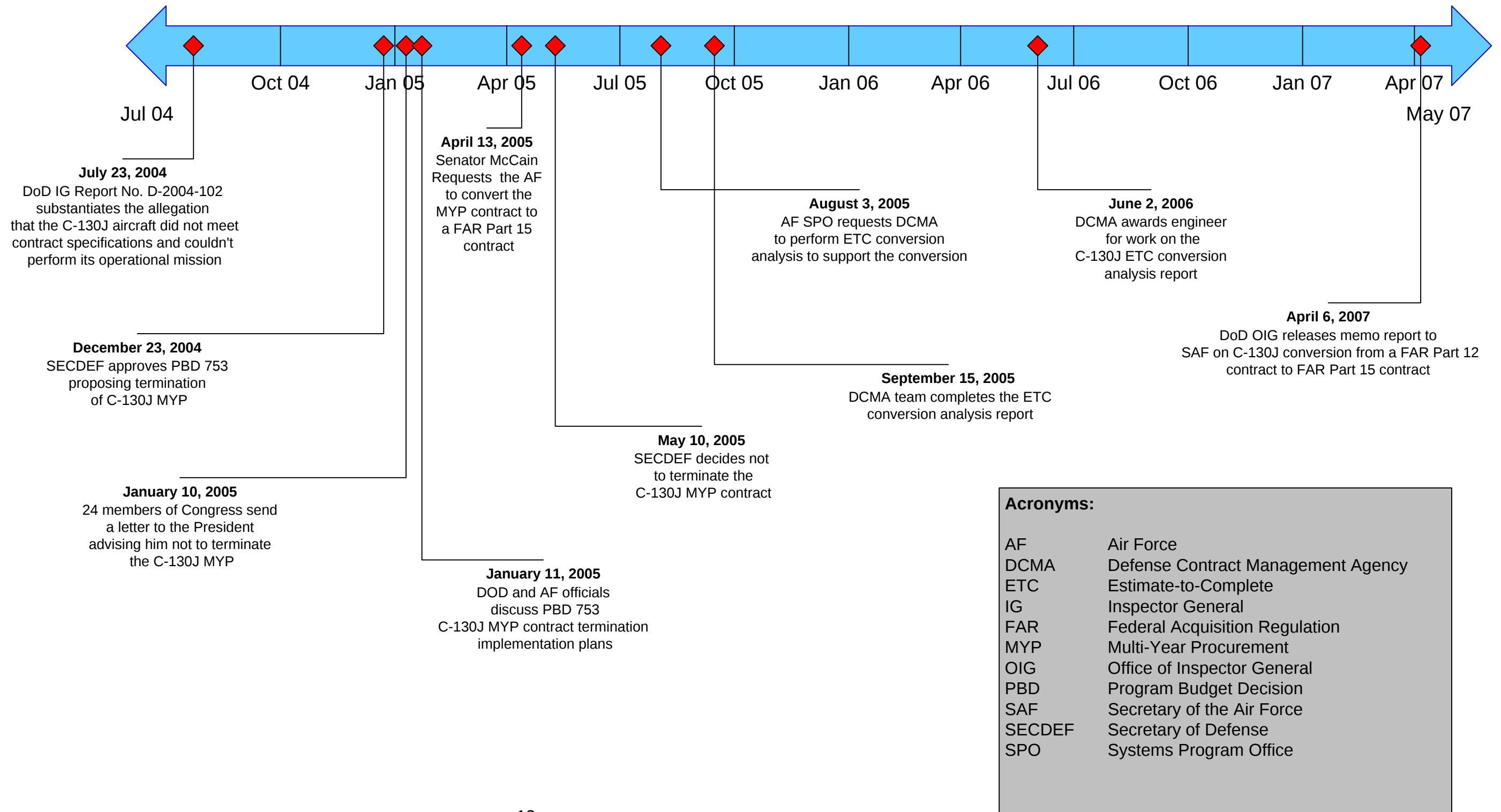
On April 6, 2007, the DoD OIG Acting Inspector General wrote a letter regarding the review of the C-130J aircraft MYP contract conversion. The letter was to the Special Assistant to the Secretary of the Air Force responding to an Air Force request that the OIG review the C-130J aircraft MYP contract conversion to ensure that it was consistent with Section 135 of Public Law 109-163 the “National Defense Authorization Act for Fiscal Year 2006.” Public Law 109-163 requires that any C-130J/KC-130J aircraft procured after FY 2005 be procured through an acquisition of items negotiated under FAR Part 15, “Contracting by Negotiation,” rather than through a commercial items contract based on FAR part 12, “Acquisition of Commercial Items.” The Acting Inspector General concluded that the Air Force complied with the statutory requirement through the modification to the MYP contract and that the modification was generally consistent with the provisions of FAR Part 15 and appeared to protect the Government’s rights by achieving transparency in price and cost data, resulting in a lower price for the taxpayer. The Air Force and DCMA provided the DCMA ETC conversion analysis report as an action performed in support of the C-130J contract conversion.

Appendix C. Timeline for the C-130J Contract Conversion and Program Termination Decision

The following chart is a timeline of the C-130J program as it relates to the MYP contract conversion and the PBD 753 decision to terminate the program. This timeline covers the time from July 2004 to April 2007 and actions taken regarding the C-130J program and the MYP contract.



C-130J aircraft on a dirt runway





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