
March 3, 2006



Acquisition

Source Selection Procedures for the Navy Construction Capabilities Contract (D-2006-061)

This special version of the report has been revised to omit source selection sensitive or contractor proprietary information.

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Acronyms

CCASS	Construction Contractor Appraisal Support System
CEB	Cost Evaluation Board
CONCAP	Construction Capabilities
DCAA	Defense Contract Audit Agency
KBR	Kellogg, Brown, and Root
NAVFAC	Naval Facilities Engineering Command
RFP	Request for Proposal
SSP	Source Selection Plan
TEB	Technical Evaluation Board



INSPECTOR GENERAL
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March 3, 2006

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,
TECHNOLOGY, AND LOGISTICS
NAVAL INSPECTOR GENERAL
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Report on the Source Selection Procedures for the Navy Construction
Capabilities Contract (Report No. D-2006-061)

We are providing this report for information and use. We conducted the audit in response to a request from Senator Ron Wyden. We considered management comments on a draft of this report in preparing the final report.

Comments on the draft of this report conformed to the requirements of DoD Directive 7650.3 and left no unresolved issues. Therefore, no additional comments are required.

We appreciate the courtesies extended to the staff. Questions should be directed to Mr. Henry F. Kleinknecht at (703) 604-9324 (DSN 664-9324) or Mr. Patrick J. Nix at (703) 604-9332 (DSN 664-9332). The team members are listed inside the back cover. See Appendix B for the report distribution.

By direction of the Deputy Inspector General for Auditing:

A handwritten signature in black ink, appearing to read "Richard B. Jolliffe".

Richard B. Jolliffe
Assistant Inspector General
Acquisition and Contract Management

Special Warning

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Department of Defense Office of Inspector General

Report No. D-2006-061

March 3, 2006

(Project No. D2005-D000CH-0135.000)

Source Selection Procedures for the Navy Construction Capabilities Contract

Executive Summary

Who Should Read This Report and Why? Acquisition and contracting personnel within DoD and the Military Departments should read this report because it concerns the technical and cost evaluations used to support a “best value” award by the Navy for the Construction Capabilities contract.

Background. This audit was performed in response to a request from Senator Ron Wyden. The Senator requested that we review the award of the Navy Construction Capabilities contract to Kellogg, Brown, and Root (KBR) despite numerous questions raised by other DoD agencies about its performance under other DoD contracts. The questions raised by the other DoD agencies related to KBR overcharging the U.S. Government to purchase gasoline for Iraq, failing to provide a full and appropriate accounting under a major DoD contract, and admitting that some of its employees in Iraq had accepted bribes.

The Naval Facilities Engineering Command manages the planning, design, construction, contingency engineering, real estate, environmental, and public works for U.S. Navy shore facilities around the world. The Naval Facilities Engineering Command also provides best value facilities engineering and acquisition support for the Navy and Marine Corps, Unified Commanders, and Department of Defense agencies. The Naval Facilities Engineering Command Atlantic Division awarded a cost-plus-award-fee, indefinite-delivery, indefinite-quantity contract with an estimated ceiling of \$500 million to KBR on July 26, 2004, for emergency construction and engineering services. The “best value” award for a 5-year period was based on an evaluation of cost and technical merits where technical was considered more important than cost.

Results. Although we found nothing to indicate that the Construction Capabilities contract should have been awarded to one of the other offerors, the source selection procedures that the Naval Facilities Engineering Command used to support the decision to award the contract to KBR had shortcomings that could be improved. Specifically, the Naval Facilities Engineering Command did not develop adequate guidance to effectively differentiate the technical evaluation factor rating intervals and failed to consider relevant past performance information. Further, the Army and Navy had not input data related to KBR past performance under the Logistics Civil Augmentation Program (worth an estimated \$13.2 billion) and Construction Capabilities contracts into their respective automated contractor past performance collection systems. Finally, although we found nothing improper with the Navy’s cost evaluation, we have reservation with not basing the award decision, in part, on an evaluation of the offerors’ direct costs (the most significant component of overall cost). The underlying documentation for the invoice that KBR submitted in January 2005 for the Hurricane Ivan recovery effort causes us concern about the ability of the Navy to obtain a fair and reasonable price for the labor

and material needed to accomplish the tasks associated with natural disaster recovery efforts. The rates paid to some KBR subcontractors for labor were significantly higher than the prevailing Bureau of Labor Statistics rates for the area impacted by the hurricane (Pensacola, Florida). Although the Navy has provided possible reasons for the higher rates, additional review needs to be performed before we are able to draw any conclusions concerning the use of the Construction Capabilities contract to support these efforts. We plan to evaluate the costs paid on task orders issued in response to natural disasters in a follow-on audit.

The Navy needs to develop adequate guidance to effectively differentiate technical factor rating intervals and to require technical evaluators to adequately describe their rationale for the ratings assigned and perform comprehensive reviews of offerors' past performance during future source selection evaluations. In addition, the Army and Navy need to enter the outstanding performance evaluations that meet threshold requirements into their respective automated contractor past performance collection systems. Finally, the Under Secretary of Defense for Acquisition, Technology, and Logistics needs to collaborate with the Services to develop a best practices guide for technical evaluation rating descriptions and issue guidance requiring that performance evaluations be amended if information about a contractor's performance under a specific task order surfaces prior to overall contract closeout. See the Finding section of the report for the detailed recommendations.

Management Comments and Audit Response. The Navy, Army, and the Under Secretary of Defense for Acquisition, Technology, and Logistics concurred with the finding and recommendations. The Director, Program Analysis and Business Transformation for Deputy Assistant Secretary of the Navy for Acquisition stated the Naval Facilities Engineering Command would no longer use pluses or minuses as a part of their evaluation process, agreed to issue guidance to ensure future procurements considered past performance information for the business units identified in offeror proposals, and stated the Naval Facilities Engineering Command would enter all outstanding past performance evaluations into the Construction Contractor Appraisal Support System. However, the Director believed the Naval Facilities Engineering Command's procurement policy already required technical evaluators to adequately describe the rationale for the rating assigned. The Army Field Support Command stated that it would enter all outstanding past performance evaluations into the Past Performance Information Retrieval System. Finally, the Director, Defense Procurement and Acquisition Policy agreed to collaborate with the Military Departments to develop a best practices guide for technical evaluation rating descriptions and agreed to issue guidance emphasizing the importance of inputting contractor past performance information into appropriate systems and the need to amend performance evaluations if significant information about a contractor's performance under a specific task order surfaces prior to the overall contract being closed out.

Although we believe the Naval Facilities Engineering Command guidance should provide more direction to technical evaluators on how to support the ratings assigned to each offeror, the planned actions are acceptable. The Under Secretary of Defense for Acquisition, Technology, and Logistics agreed to collaborate with the Military Departments to develop a best practices guide for technical evaluation rating descriptions.

See the Finding section of the report for a discussion of the management comments on the finding and recommendations and our audit response, and the Management Comments section of the report for the complete text of the comments.

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Background

This audit was performed in response to a request from Senator Ron Wyden. The Senator requested that we review the award of the Navy Construction Capabilities (CONCAP) contract to Kellogg, Brown, and Root (KBR) despite numerous questions raised by other DoD agencies about KBR's performance on other DoD contracts. The other DoD agencies had raised questions about KBR overcharging the U.S. Government to purchase gasoline for Iraq, failing to provide full and appropriate accounting under a major DoD contract, and admitting that some of its employees in Iraq had accepted bribes.

Naval Facilities Engineering Command. The Naval Facilities Engineering Command (NAVFAC) manages the planning, design, construction, contingency engineering, real estate, environmental, and public works for U.S. Navy shore facilities around the world. NAVFAC also provides best value facilities engineering and acquisition support for the Navy and Marine Corps, Unified Commanders, and DoD agencies.

CONCAP Contract. The NAVFAC Atlantic Division awarded a cost-plus-award-fee, indefinite-delivery, indefinite-quantity contract with an estimated ceiling of \$500 million to KBR on July 26, 2004, for emergency construction and engineering services. The "best value" award for a 5-year period was based on an evaluation of cost and technical merits where technical was considered more important than cost. The CONCAP contract is the third in a series of contracts issued by NAVFAC to provide its customers with a worldwide rapid civilian construction and engineering services capability. The winning contractor is responsible for the supervision, equipment, materials, labor, and travel necessary to provide the Navy with an immediate civilian construction contract capability. The work performed in response to an emergency will primarily support aid for natural disasters, military conflict, or humanitarian relief efforts. The following is a list of tasks the contractor may be required to perform.

- Dredging
- Airfield runway construction or repair
- Airfield facilities construction
- Administrative and educational facilities
- Hardened facilities and personnel bunkers
- Electric power plant
- Communication facilities
- Electric power distribution systems
- Water treatment plant
- Chemical, biological, and radiological area decontamination
- Facilities for troop berthing and billeting
- Water well drinking
- Garage disposal/recycling facilities
- Ammunition storage facilities
- Warehouse facilities for construction materials
- Warehouse facilities for other customers
- Pier construction
- Bridges
- Transportation depots for materials
- Rail facilities
- Facilities for equipment dispatch, repair, decontamination
- Medical clinics/field hospitals
- Sewage treatment plant
- Road construction (asphalt, concrete, engineered fill)
- Soils engineering
- Fire fighting facilities and distribution systems
- Enemy containment and processing facilities
- Causeways
- Petroleum storage facilities
- Petroleum handling pier facilities
- Environmental restoration
- Operations of power asphalt generation, concrete and plants, etc.

Table 1 shows that, as of October 28, 2005, NAVFAC had issued 21 task orders worth approximately \$295.6 million for work under the contract.

<u>Task Order</u>	<u>Title</u>	<u>Date Awarded</u>	<u>Amount</u>
1	Navy Forces Central Command Contingency Plan	9/21/2004	\$ 625,000
2	Hurricane Ivan Response, Pensacola	9/17/2004	46,819,259
3	Hurricane Ivan Response, Whiting Pines	9/21/2004	529,582
4	Pacific Command, Counter Terrorism	9/30/2004	4,438,351
5	Pacific Command, Humanitarian Assistance	9/30/2004	1,787,038
6	Planning Camp 6, Guantanamo Bay	11/9/2004	125,000
7	Planning, Djibouti, Africa	12/14/2004	243,144
8	Design Camp 6 and Fence, Guantanamo Bay	1/27/2005	975,000
9	Psych Ward, Guantanamo Bay	2/9/2005	2,922,765
10	Obock Waterfront Facility	4/14/2005	978,175
11	Hurricane Planning Response, North Carolina	6/6/2005	5,000
12	Repairs and Improvements, Guantanamo Bay	6/8/2005	1,576,485
13	Build Camp 6 and Security Fence, Guantanamo Bay	6/16/2005	35,168,826
14	Billeting Facilities and Fence, Djibouti, Africa	7/29/2005	27,324,903
15	Navy Pier Assessment in Iraq	8/18/2005	209,577
16	Hurricane Katrina Response, SOUTH	8/29/2005	67,961,021
17	Hurricane Katrina Response, Southeast	8/30/2005	61,340,466
18	Hurricane Katrina Response, New Orleans	9/4/2005	498,000
19	Hurricane Katrina Response, Mortuary Team	9/8/2005	14,200,000
20	Hurricane Katrina Response, Unwatering	9/9/2005	23,306,843
22	Hurricane Katrina Response, Unwatering	10/2/2005	4,600,000
Total			\$295,634,435

Objective

Our overall audit objective was to review the decision to award the Navy CONCAP contract to KBR. We evaluated whether the concerns identified by DoD agencies were given proper weight in evaluating the KBR bid, whether KBR was inappropriately given a top score for past performance despite numerous problems identified with its work under other DoD contracts, whether the KBR past performance score affected the outcome of the contract award, and whether the decision to award KBR the contract provided the best value to the Government. Because the scope of our audit was limited to the specific concerns raised by Senator Wyden, we did not review the NAVFAC managers' internal control program. See Appendix A for a discussion of the scope, methodology, and prior coverage related to the objective.

Source Selection Procedures for the Navy Construction Capabilities Contract

Although we found nothing to indicate that the CONCAP contract should have been awarded to one of the other offerors, the source selection procedures that NAVFAC used to support the decision to award the contract to KBR had shortcomings that could be improved. Specifically, NAVFAC did not:

- develop adequate guidance to effectively differentiate the technical evaluation factor rating intervals;¹
- consider relevant past performance information; or
- evaluate the offerors' direct costs, the most significant component of overall cost.

In addition, the Army and Navy did not input data related to KBR's past performance under the Logistics Civil Augmentation Program (valued at \$13.2 billion) and the previous CONCAP contracts into their respective automated contractor past performance collection systems. As a result, actual technical factor ratings are difficult to justify, relevant past performance information was not available, and available information was not considered as a part of the source selection decision process for a \$500 million (ceiling) contract for rapid construction services.

Proposal Evaluation

The Naval Facilities Acquisition Supplement, dated March 2002, provides general guidance to field contracting officers in the execution of their delegated duties. The supplement implements the Federal Acquisition Regulation, Defense Federal Acquisition Regulation, and the Navy Acquisition Procedures Supplement. It is not a stand-alone document and must be read in conjunction with the Federal Acquisition Regulation, Defense Federal Acquisition Regulation, and Navy Acquisition Procedures Supplement. Collectively the documents provide guidance from requirements definition through solicitation, proposal evaluation, contract award, and execution of the contract through final closeout.

Supplemental Guidance. In accordance with the supplement, NAVFAC developed a Source Selection Plan (SSP) and established a source selection organization, which included a Source Selection Authority and Source Selection, Technical Evaluation, and Cost Evaluation Boards. The Technical Evaluation Board (TEB) and Cost Evaluation Board (CEB) evaluated the proposals submitted. The Source Selection Board reviewed the TEB and CEB evaluation

¹ The evaluators were tasked to assign the offerors 1 of 15 possible rating increments (E+, E, E-, G+, G, G-, S+, S, S-, M+, M, M-, P+, P, P-) to represent how well their proposals met the requirements.

results, weighed the technical merits against the cost of the offerors' proposals, ranked the offerors' proposals, and made a "best value" award recommendation to the Source Selection Authority.

The SSP states that the offeror whose proposal was judged on technical and cost merits to be the "best value" to the Government would be awarded the contract. NAVFAC used the requirements and evaluation criteria from the solicitations developed to award the previous CONCAP contracts as the starting point for developing the evaluation criteria. The contracting officer stated the technical criteria were updated to reflect the latest guidance concerning the evaluation of safety and small business. The request for proposal (RFP) identified four factors (Corporate Experience, Past Performance, Emergency Response Plan, and Management Approach), all of equal importance and that when combined were more important than cost. NAVFAC also used a number of subfactors to evaluate how well the offerors met the evaluation criteria for the Past Performance and Management Approach factors. Table 2 shows an illustration of how the technical factors were more important than cost to the award decision.

Table 2. Evaluation Factors	
<p>Technical Factors</p> <p>Factor 1: Corporate Experience</p> <p>Factor 2: Past Performance Subfactor 1: Past Performance Subfactor 2: Safety</p> <p>Factor 3: Emergency Response Plan</p> <p>Factor 4: Management Approach Subfactor 1: Organization, Home Office Support, and Key Personnel Subfactor 2: Accounting and Management Systems and Procedures Subfactor 3: Support for the Small Business Program</p> <p>Cost</p>	<p><u>Weighting</u></p> <p>} >50%</p> <p>} <50%</p>

Method to Differentiate Rating Intervals

NAVFAC had not developed adequate guidance to effectively differentiate the technical evaluation factor rating intervals. The TEB used an adjectival rating system to show how well the proposals met the Navy's technical requirements. The SSP instructed evaluators to assign offerors one of the following ratings for each technical factor and subfactor: "Excellent," "Good," "Satisfactory," "Marginal," and "Poor." The SSP stated that offerors with no past performance were to be assigned "No Rating," which was considered neither favorable nor unfavorable. The SSP also allowed the evaluators to include a plus (+) or minus (-) with their ratings.

Although the SSP contained general rating descriptions that applied to all technical evaluation factors, it failed to provide the technical evaluators with an effective method to translate the strengths and weaknesses that they noted with

each offeror's proposal into 1 of the 15 possible rating intervals (excluding no rating). In addition, the rating descriptions did not provide any guidance on when the use of a plus or minus was appropriate. Consequently, the evaluators subjectively determined which rating interval they believed best reflected how well the offerors' technical proposals met the Navy's technical criteria. Table 3 shows the descriptions that NAVFAC included in the SSP for each rating.

Table 3. Technical Evaluation Rating Descriptions
<p>Excellent - Proposal demonstrates thorough and detailed understanding of requirements. Technical approach and capabilities significantly exceed performance and capability standards. Proposal offers one or more strengths. Strengths significantly outweigh weaknesses. The proposal represents a high probability of success with no apparent risk in meeting the Government's requirements.</p>
<p>Good - Proposal demonstrates good understanding of requirements. Technical approach and capabilities exceed performance and capability standards. Proposal offers one or more strengths. Strengths outweigh any weaknesses. The proposal represents a strong probability of success with overall low degree of risk in meeting the Government's requirements.</p>
<p>Satisfactory - Proposal demonstrates acceptable understanding of requirements. Technical approach and capabilities meet performance and capability standards. Proposal offers no strengths, or, if there are any strengths, these strengths are offset by weaknesses. The proposal represents a reasonable probability of success with overall moderate degree of risk in meeting the Government's requirements.</p>
<p>Marginal - Proposal demonstrates a limited understanding of requirements. Technical approach and capabilities are questionable as to whether or not they meet performance and capability standards necessary for acceptable contract performance. Proposal contains weaknesses and offers no strengths, or, if there are any strengths, these strengths are outweighed by weaknesses. The proposal represents a low probability of success with overall high degree of risk in meeting the Government's requirements. Proposal might be made satisfactory with additional information and without a major revision of the proposal.</p>
<p>Poor - Proposal demonstrates a lack of understanding of requirements. Technical approach and capabilities do not meet performance and capability standards necessary for acceptable contract performance. Proposal contains major errors, omissions, significant weaknesses and/or deficiencies. The proposal represents a very low probability of success with an extremely high degree of risk in meeting the Government's requirements. Proposal could only be made satisfactory with major revision of proposal.</p>
<p>No Rating - If the offeror has no past performance, this rating will apply and is considered neither favorable nor unfavorable.</p>

Table 4 shows the technical evaluation ratings given to each offeror.

Table 4. Offerors' Technical Ratings			
Criteria	*	*	*
Corporate Experience			
Past Performance			
Past Performance			
Safety			
Emergency Response Plan			
Management Approach			
Organization, Home Office Support, and Key Personnel			
Accounting and Management Systems and Procedures			
Support for the Small Business Program			
Overall Rating			
* Data omitted because it is source selection sensitive or contractor proprietary.			

The TEB concluded * .

We asked the evaluators how they determined which rating interval best reflected how well an offeror's technical proposal met the evaluation criteria. The evaluators stated they reviewed the proposals and identified the strengths (the approach proposed by an offeror exceeded or positively impacted a technical requirement) and weaknesses (the approach proposed by an offeror failed to meet or adversely impacted a technical requirement) of each proposal for their respective factors or subfactors. The evaluators then assigned the offerors ratings, based on their assessment of the impact that the strengths and weaknesses had on the offerors' ability to achieve the quality, schedule, and cost objectives. However, due to insufficient guidance and the subjectivity of this process, inconsistencies occurred in how the evaluators assigned the offerors' ratings.

Corporate Experience Factor. Although the evaluator's ordering appears reasonable based on the strengths and weaknesses noted, we were unable to determine whether the actual ratings assigned are appropriate due to insufficient guidance, the subjectivity of the rating methodology, and the failure to fully explain the rationale for each offeror's rating. In accordance with the RFP, the offerors provided a narrative on 25 specific projects they had completed to demonstrate their construction experience. Based on the strengths and weaknesses noted with each offeror's demonstrated work history, the evaluator assigned * .

Past Performance Factor. The offerors' overall Past Performance factor ratings were derived in accordance with the RFP from their two subfactor scores. As such, any procedural problems that the evaluators had in the manner in which they assigned the subfactor ratings carried forward to the offerors' overall ratings.

* This section of the report contains source selection sensitive or contractor proprietary information that has been omitted.

Past Performance Subfactor. The evaluator for the Past Performance subfactor did not use an effective method to derive each offeror’s technical rating. The TEB sent questionnaires to the references that the offerors provided for the 25 projects they used to demonstrate their construction experience. The TEB also extracted any performance evaluations that had been input in the Construction Contractor Appraisal Support System² (CCASS) for the business unit that each offeror used to submit its proposal. In accordance with the RFP, the evaluator used the questionnaires that references completed and sent back, the CCASS performance evaluations, as well as customer letters of commendation and awards that offerors provided to derive each offeror’s rating. According to the evaluator, the questionnaires, the CCASS search results, and the customer letters of commendation and awards affected, in descending order of importance, the rating given to an offeror. Table 5 shows the information used by the evaluator and the rating given to each offeror.

	<u>Questionnaires</u>		<u>CCASS</u>		<u>Awards and Commendations*</u>
	<u>Quantity*</u>	<u>Rating^{1*}</u>	<u>Quantity*</u>	<u>Rating^{2*}</u>	
*					
*					
*					

¹ Possible questionnaire ratings: Excellent, Good, Satisfactory, Marginal, and Poor.
² Possible CCASS ratings: Outstanding, Above Average, Satisfactory, Marginal, and Poor.
³ The offeror’s reference rated Fluor between Excellent and Good.
 * Data omitted because it is source selection sensitive or contractor proprietary.

We fail to see how the offerors’ ratings were derived using the methodology described by the evaluator, and the evaluator provided no written rationale supporting the final rating. For example, *. The evaluator stated the * rating was adjusted because of comments that were made on their questionnaire surveys. However, the evaluator did not provide written explanation supporting

² The CCASS is an automated centralized database containing a 6-year history of performance evaluations for construction contractors. The Navy Marine Corps Acquisition Regulation Supplement requires the data contained in CCASS to be used in procuring construction contractor services.

* This section of the report contains source selection sensitive or contractor proprietary information that has been omitted.

adjustments to the offeror's rating due to comments made on the questionnaire surveys. Further, the customers should have incorporated the impact of their comments into the overall ratings they gave. Thus, modifying the rating may jeopardize the offeror twice or provide the offeror with double credit.

Safety Subfactor. Although the evaluator's ordering appears to be reasonable, we were unable to determine whether the actual ratings assigned are appropriate due to the subjectivity of the rating methodology. In accordance with the RFP, the offerors submitted their insurance company's experience modification ratings; their Occupational Safety and Health Act lost work days; their Occupational Safety and Health Act recordable incidents rate; and any Federal, State, and Occupational Safety and Health Act violations they had for the last 5 years. Although the RFP provided supplemental guidance to assign each offeror a technical rating for each of the safety subcategories, it failed to address adequately the 15 rating intervals and provided no guidance on how to translate an offeror's safety subcategory ratings into an overall rating. Thus, the evaluator subjectively assigned * .

Emergency Response Plan Factor. Although the evaluator's ordering appears reasonable based on the strengths and weaknesses noted, we were unable to determine whether the actual ratings assigned are appropriate due to the subjectivity of the rating methodology and the insufficient rating guidance for the 15 possible rating intervals. In accordance with the RFP, the offerors provided a narrative that discussed their efforts to minimize the time needed to respond to an emergency, including their ability to obtain material and a labor workforce. Based on the narratives provided, the evaluator assigned * . However, the evaluator did not provide a sufficient justification to support each of the offeror's respective ratings.

Management Approach Factor. The evaluator derived the offerors' overall Management Approach factor ratings in accordance with the RFP from their three subfactor scores. As such, any procedural problems that the evaluators had in the manner in which they assigned the subfactor ratings carried forward to the offerors' overall ratings.

Organization, Home Office Support, and Key Personnel Subfactor. In accordance with the RFP, the offerors provided a narrative that discussed the roles, responsibilities, authorities, and chain of command for the organizational structure and key positions required to implement their proposed management approach. Based on the narratives provided, the evaluator for the Organization, Home Office Support, and Key Personnel subfactor assigned * . Although the evaluator's ordering appears reasonable based on the strengths and weaknesses noted, we were unable to determine whether the actual ratings assigned are appropriate due to the subjectivity of the rating methodology, insufficient guidance, and failure to fully explain the rationale for each offeror's rating.

Accounting and Management Systems and Procedures Subfactor. The evaluator who reviewed the Accounting and Management

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Systems and Procedures subfactor also failed to adequately describe the rationale for each offeror’s rating. The RFP identified 10 financial and managerial systems that prospective offerors were to discuss in the submissions for the subfactor. Each offeror submitted the requested information to the Defense Contract Audit Agency (DCAA). A representative from DCAA gathered the most current information available on each offeror’s systems and provided the information to NAVFAC. Table 6 shows the summary information that NAVFAC received on each offeror’s systems.

Table 6. Accounting and Management Systems and Procedures			
<u>System</u>	*	<u>System Status</u>	*
Accounting			*
General Information Technology			
Budget and Planning			
Purchasing			
Material			
Compensation			
Labor			
Indirect and Other Direct Costs			
Billing			
Estimating			
*			
* Data omitted because it is source selection sensitive or contractor proprietary.			

The DCAA representative also provided NAVFAC with detailed narratives on the degree to which each offeror’s systems were adequate and compliant with Government regulations and standards and assisted in controlling cost. *

Support for the Small Business Program Subfactor. Although the evaluator’s ordering appears reasonable based on the strengths and weaknesses noted, we were unable to determine whether the actual ratings assigned are appropriate due to the subjectivity of the rating methodology, insufficient guidance, and failure to fully explain the rationale for each offeror’s rating. In accordance with the RFP, the offerors provided narratives discussing how they used the Small Business Program in the past and how they intended to use the program during the performance of the CONCAP contract. Based on the narratives, the evaluator assigned * .

Technical Evaluation Guidance. NAVFAC needs to develop adequate guidance to effectively differentiate technical evaluation factor rating intervals used in future source selection evaluations and require technical evaluators to adequately describe the rationale for the rating interval assigned. The Under Secretary of Defense for Acquisition, Technology, and Logistics should also collaborate with

* This section of the report contains source selection sensitive or contractor proprietary information that has been omitted.

the Services to develop a best practices guide for technical evaluation rating descriptions.

Relevant Past Performance Information

The TEB did not consider relevant performance as part of the source selection procedures. In accordance with the established procedures, the TEB extracted performance evaluations contained in CCASS. However, according to the contracting officer, the individual who extracted the evaluations only queried the system for projects completed by the business unit that each offeror used to submit its proposal. As a result, the TEB failed to consider the performance of a number of business units that the offerors had proposed to perform work under the contract. To determine the effect that not performing a comprehensive past performance review had on the offerors' ratings, we extracted from CCASS the evaluation reports that were prepared for construction projects completed by all business units that the offerors proposed to perform work under the contract. Using a weighted average approach, we calculated that the past performance ratings for .

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Table 7 shows that if the evaluators had used the CCASS performance evaluations for the construction projects completed by all the business units identified by the offerors, the TEB may have reached a different conclusion on the offerors' past performance.

Table 7. Offerors' Rating Using Available CCASS Performance Assessments				
<u>Offeror</u>	<u>Rating</u>	<u>Qty*</u>	<u>Weight</u>	<u>Total*</u>
*	Outstanding		x 5 =	
	Above Average		x 4 =	
	Satisfactory		x 3 =	
	Unsatisfactory		x 1 =	
Rating	*		*	=
*	Outstanding		x 5 =	
	Above Average		x 4 =	
	Satisfactory		x 3 =	
	Marginal		x 2 =	
	Unsatisfactory		x 1 =	
Rating	*		*	
*	Outstanding		x 5 =	
	Above Average		x 4 =	
	Satisfactory		x 3 =	
Rating	*		*	
* Data omitted because it is source selection sensitive or contractor proprietary.				

Based on our analysis of the available CCASS ratings, we believe limiting the assessment of performance to only projects completed by the business unit that each offeror used to submit its proposal may lead to an unrealistic opinion of the offerors' ability to successfully fulfill the requirements of the solicitation. The TEB evaluator assigned * using our analysis. NAVFAC needs to perform a more comprehensive review of offerors' past performance in future source selection evaluations.

Cost Evaluation

NAVFAC did not evaluate the offerors' direct costs, which are the most significant components of overall cost. The Acquisition Director stated the CEB did not evaluate the costs because NAVFAC has been unable to identify an effective method to evaluate direct costs given the contingent nature of this contract and because NAVFAC believed the direct costs would be similar regardless of which offeror received the award. According to a member of the source selection organization, the costs would be similar because all the offerors

* This section of the report contains source selection sensitive or contractor proprietary information that has been omitted.

would be using the same labor and material pools to satisfy the requirements of the task orders issued under the contract.

Table 8 shows the breakout of the total cost of each offeror's proposal as determined by the CEB.

Table 8. Cost Evaluation			
<u>Direct Costs</u>	*	*	*
Labor	\$ 60,000,000	\$ 60,000,000	\$ 60,000,000
Material	30,000,000	30,000,000	30,000,000
Equipment	15,000,000	15,000,000	15,000,000
Subcontractors	100,000,000	100,000,000	100,000,000
Other Direct Costs	2,500,000	2,500,000	2,500,000
Travel	5,000,000	5,000,000	5,000,000
Subtotal	\$212,500,000	\$212,500,000	\$212,500,000
Percent of Total Cost	*	*	*
<u>Indirect Costs</u>	*	*	*
Labor Overhead			
Material Overhead			
General and Administrative			
Cost of Facilities Capital	-	-	-
Proposed Award Fee			
Subtotal			
Percent of Total Cost			
Total Cost			
* Data omitted because it is source selection sensitive or contractor proprietary.			

Based on the results of its evaluation, the CEB concluded the total cost proposed by KBR was approximately *. Although we found nothing improper with the Navy's cost evaluation, we have reservations with basing the award decision solely on an evaluation of the offerors' indirect costs. Those costs represent less than * percent of the total cost proposed by each offeror and only * of the * of costs shown on the January 2005 invoice that KBR submitted for Hurricane Ivan recovery efforts. Further, underlying documentation that KBR submitted for the invoice leads us to believe that unless the Navy reviews direct costs, it will be difficult to economically repair infrastructure damaged by natural disasters. The Navy did an effective job ensuring that KBR satisfactorily performed the work to the Government's specification in the least number of hours; however, we are concerned with the ability of the Navy to obtain a fair and reasonable price for the labor and material needed to accomplish the tasks associated with these efforts.

* This section of the report contains source selection sensitive or contractor proprietary information that has been omitted.

Table 9 shows the rates paid to some KBR subcontractors for labor were significantly higher than the prevailing Bureau of Labor Statistics rates for the area impacted by the hurricane (Pensacola, Florida).

<u>Occupation</u>	<u>Total Cost *</u>	<u>Hourly Rate *</u>	<u>Bureau of Labor Statistics Rate†</u>	<u>Percent Difference *</u>
Roofer			\$25.59	
Roofer/Carpenter/Laborer			28.65	
Construction Manager			60.74	
Dump Operator			29.34	
Loader Operator			25.04	
Excavator Operator			25.04	
Track Loader Operator			25.04	
Crane Operator			27.59	
Laborer			23.61	
Inspector			32.40	
Pipefitter/Welder			33.72	
Service Technician			34.24	

† The rates shown are the rates that persons received whose pay was in the top 10 percent of their respective occupations in the Pensacola area according to the Bureau of Labor Statistics.

* Data omitted because it is source selection sensitive or contractor proprietary.

According to members of the source selection organization, the rates paid to the KBR subcontractors *. The source selection members also stated that prices are often higher for work performed during natural disasters because the Navy has to compete with other Federal, State, and local Government and private sector entities, as well as private citizens, for the same labor and material to repair its damaged infrastructure. The source selection members stated “the Government utilizes [the] contract award fee, past performance evaluations, task order award decisions, and the determination of whether or not to exercise option years to encourage effective cost control and contract performance.” Nonetheless, we are concerned that the incentive may be insufficient to encourage KBR to obtain the lowest possible direct labor and material rates from its subcontractors. The total award fee pool available to KBR increases as total estimated cost increases. Thus, higher rates mean higher total potential profit for KBR. For example, if KBR can earn * on the total cost, and laborers make * an hour to perform a job, KBR has the potential to earn * for each hour the laborers require to complete the job. However, if laborers make * an hour, the profit KBR can potentially earn increases to * for each hour required. Although the Navy has provided possible reasons for the higher rates, additional review needs to be performed before we are able to draw any conclusions concerning the reasonableness of the rates. We plan to evaluate the costs paid on task orders issued in response to natural disasters in a follow-on audit.

* This section of the report contains source selection sensitive or contractor proprietary information that has been omitted.

Automated System to Track Past Performance Information

Federal Acquisition Regulation Subpart 42.15, “Contractor Performance Information,” provides policies and establishes responsibilities for recording and maintaining contractor performance information. It defines past performance information as relevant information for future source selection purposes regarding a contractor’s actions under previously awarded contracts. It includes the contractor’s record of conforming to contract requirements; the contractor’s record of forecasting and controlling costs; the contractor’s adherence to contract schedules, including the administrative aspects of performance; the contractor’s history of reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the contractor’s businesslike concern for the interest of the customer. A November 20, 1997, Under Secretary of Defense (Acquisition and Technology) policy memorandum entitled “Collection of Past Performance Information in the Department of Defense,” emphasizes that automating the collection and retrieval of past performance information is critical to obtaining best value services.

The Army and Navy issued supplemental guidance relating to the preparation, collection, and maintenance of performance evaluations reports. Naval Facilities Command Instruction 4335.4, “Construction Contractor Performance Evaluation,” dated March 20, 2000, requires contract administrators to prepare and enter performance evaluations for all contracts and task orders of \$100,000 or more into CCASS. Army Federal Acquisition Regulation Supplement Subpart 5142.15, “Contractor Performance Information,” requires performance reports to be prepared, entered, and maintained in the Army Past Performance Information Management System for service contracts valued at more than \$1 million and construction contracts valued at more than \$500,000.

Contractor Past Performance Information. The Army and Navy failed to input data relevant to KBR past performance under the Logistics Civil Augmentation Program (a contract worth an estimated \$13.2 billion) and CONCAP contracts into their respective automated contractor past performance collection systems in a timely manner. Consequently, the Past Performance Information Retrieval System³ did not contain the complete evaluation history of the offerors’ work performance.

Army Logistics Civil Augmentation Program Contract. The Army failed to input the evaluations it conducted of performance of KBR under the Logistics Civil Augmentation Program contract, the contract impacted by the KBR employees who accepted kickbacks. The Logistics Civil Augmentation Program provides the Army logistical and engineering services such as food preparation, laundry, housing, and construction in support of contingency operations.

³ The Past Performance Information Retrieval System provides the Federal acquisition community the ability to query past performance reports on contractors of the entire Federal Government for use in making source selection decisions.

As Table 10 shows, as of November 2, 2005, the Army had input the evaluation for only 1 of the 36 task orders issued to KBR under the program that exceeded the dollar threshold into its past performance feeder system, despite the majority of the task orders being completed prior to 2005.

Table 10. Available KBR Past Performance Information Under the Logistics Civil Augmentation Program Contract

Task Order	Amount	Completion Date	In System	Task Order	Amount	Completion Date	In System
6	\$5,000,000	4/18/2003	No	43	\$1,207,725,524	1/31/2005	No
7	1,784,798	8/17/2002	No	44	579,004,462	10/7/2004	No
9	2,681,572	2/16/2003	No	45	2,827,786	1/30/2005	No
10	11,045,403	12/31/2002	No	46	79,435,157	4/21/2005	No
13	186,237,127	10/19/2004	No	47	52,305,045	3/1/2005	No
14	122,066,372	11/17/2004	No	50	34,879,991	4/10/2004	No
15	55,081,423	9/22/2004	No	53	33,984,986	6/15/2005	No
16	1,245,479	10/31/2004	Yes	56	142,668,182	5/29/2005	No
27	254,747,447	1/15/2005	No	57	304,553,795	5/25/2005	No
28	16,874,886	3/15/2005	No	58	235,976,475	6/3/2005	No
31	2,042,767	2/4/2003	No	59	6,263,143,258	4/30/2005	No
33	43,924,053	8/15/2003	No	60	7,641,921	10/17/2004	No
34	65,689,824	1/4/2005	No	61	233,520,419	10/1/2004	No
35	33,070,035	2/1/2004	No	64	31,700,000	8/8/2004	No
36*	209,555,515	12/30/2004	No	72	1,702,430	3/31/2005	No
40	44,297,303	8/2/2003	No	75	4,284,990	12/29/2004	No
41	2,943,972	11/30/2003	No	77	1,372,891	7/30/2004	No
42	29,533,453	4/30/2003	No	81	32,205,798	6/30/2005	No

* This is the task order that was impacted by the KBR employees who accepted kickbacks.

We contacted representatives from the Logistics Civil Augmentation Program's Contracting Branch to determine why the evaluation had not been input into the Army's past performance feeder system. According to the Contracting Branch representatives, the KBR evaluations were not timely performed due to staffing issues. The Contracting Branch representatives further stated that they had initiated corrective action and expected the evaluations would be finalized and entered into the system by February 2006.

Navy CONCAP Contract. The Navy did not input the evaluations for 9 of the 23 completed task orders issued to KBR under the previous CONCAP contract that were valued at more than \$100,000. According to the contracting officer, the customers had not completed their assessment of KBR's performance for seven of the task orders.

Performance Evaluations Need to be Completed. To assist others in making future source selection decisions, the Army and Navy need to complete and input outstanding KBR performance evaluations into their respective past performance feeder systems.

Performance Information Surfacing After Contract Closeout. We also determined that performance evaluations are not revised or annotated when significant information surfaces about a contractor's performance after a task order contract has been closed out, but prior to the overall contract closeout. For example, KBR reported that some of its employees accepted kickbacks while performing work on an Army task order contract in Iraq. Although representatives from the Logistics Civil Augmentation Program Contracting Branch agreed tracking such events would be useful to determine whether their occurrence was isolated or a systematic problem with a company's corporate culture, there is no requirement to do so. Because the Army went back and annotated the evaluation for the task order impacted by the KBR employee acts as a result of our discussions, we are not making any recommendations to the Army concerning this issue. However, the Under Secretary of Defense for Acquisition, Technology, and Logistics needs to issue guidance requiring performance evaluations be amended if significant information about a contractor's performance under a specific task order surfaces prior to the overall contract closeout.

Management Comments on the Finding and Audit Response

Availability of Past Performance Information. The Army Field Support Command stated that CONCAP reviewed the CCASS. Because the Logistics Civil Augmentation Program is a service contract, no information would have been in the CCASS.

Audit Response. Although the Logistics Civil Augmentation Program is a service contract, some of the tasks that could be performed under the CONCAP contract are similar to those performed under the Logistics Civil Augmentation Program. The Past Performance Information Retrieval System has the ability to query all feeder systems, including the Army's for relevant past performance information. Thus, if the Army's performance evaluations had been timely completed and entered into the Army's Past Performance Information Management System, the Navy source selection team could have used the Past Performance Information Retrieval System to retrieve any information that was relevant for their use.

Recommendations, Management Comments, and Audit Response

1. We recommend the Commander, Naval Facilities Engineering Command issue guidance to require that contracting personnel:

a. Develop adequate guidance to effectively differentiate technical evaluation factor rating intervals used in future source selection evaluations and require technical evaluators to adequately describe the rationale for the rating interval assigned.

Management Comments. The Director, Program Analysis and Business Transformation for Deputy Assistant Secretary of the Navy for Acquisition concurred and stated that NAVFAC agreed that the use of a plus or minus in conjunction with an adjectival rating system weakens the evaluation process. Consequently, NAVFAC will no longer use a plus or minus in the adjectival rating system. The Director also stated that NAVFAC policy requires registered professional engineers to serve on technical evaluation boards to ensure that the technical evaluators have the expertise necessary to evaluate technical proposals and perform a qualitative analysis of the strengths and weaknesses of each proposal. Identifying all possible strengths and weaknesses and incorporating those possibilities into predefined evaluation criteria and ratings in advance of the procurement is problematic and weakens, not strengthens, the evaluation process. The Comptroller's overriding concern is that the final results accurately reflect the actual merits of the proposal, not that the results be mechanically traceable back to isolated comments or ratings of individual evaluators. Accordingly, NAVFAC procurement policy already requires technical evaluators to adequately describe the rationale for the rating assigned.

Audit Response. Although we believe the Naval Facilities Engineering Command guidance should provide more direction to technical evaluators on how to support the ratings assigned to each offeror, the planned actions are acceptable. The Under Secretary of Defense for Acquisition, Technology, and Logistics agreed to collaborate with the Military Departments to develop a best practices guide for technical evaluation rating descriptions.

b. Perform more comprehensive reviews of offerors' past performance in future source selection evaluations.

Management Comments. The Director, Program Analysis and Business Transformation for Deputy Assistant Secretary of the Navy for Acquisition concurred and stated that NAVFAC agrees that the past performance evaluation should have included information for related business units set forth in the proposal. Consequently, NAVFAC will issue guidance by March 10, 2006, to ensure that future procurements consider past performance information for related business units identified in the proposal.

c. Enter outstanding CONCAP task order performance evaluations that meet the threshold requirements into the Construction Contractor Appraisal Support System.

Management Comments. The Director, Program Analysis and Business Transformation for Deputy Assistant Secretary of the Navy for Acquisition concurred and stated that NAVFAC expects to have all outstanding past performance evaluations entered into CCASS by March 10, 2006.

2. We recommend the Commanding General, U.S. Army Field Support Command require that contracting personnel enter outstanding Logistics Civil Augmentation Program task order performance evaluations that meet the threshold requirements into the Army's past performance feeder system.

Management Comments. The Army Field Support Command concurred and stated that 34 of the 36 task orders listed in Table 10 of the report have been entered into the Past Performance Information Retrieval System. The Army Field Support Command anticipates the two remaining task orders will be entered into the Past Performance Information Retrieval System by February 27, 2006.

3. We recommend the Under Secretary of Defense for Acquisition, Technology, and Logistics:

a. Collaborate with the Services to develop a best practices guide for technical evaluation rating descriptions.

Management Comments. The Director, Defense Procurement and Acquisition Policy concurred and will collaborate with the Military Departments to develop a best practices guide for technical evaluation rating descriptions. The guide is expected to be available to the acquisition workforce by July 1, 2006.

b. Issue guidance that emphasizes the importance of inputting contractor past performance information into appropriate systems and the need to amend performance evaluations if significant information about a contractor's performance under a specific task order surfaces prior to overall contract closeout.

Management Comments. The Director, Defense Procurement and Acquisition Policy concurred and agreed to issue the appropriate guidance. The expected date of issuance is April 7, 2006.

Appendix A. Scope and Methodology

We reviewed the procedures and documentation used to support the Navy decision to award the CONCAP contract to KBR. The award evaluation was performed at NAVFAC Atlantic, Virginia. The dates of the documentation reviewed ranged from February 1995, the date of the previous CONCAP contract SSP, through October 2005, the date of the most recent task order. We reviewed the evaluation criteria contained in the RFP. We also reviewed applicable guidance related to source selections. Additionally, we interviewed technical evaluators from NAVFAC Atlantic to evaluate the strengths and weaknesses documented on the technical evaluations. We also interviewed representatives from NAVFAC Southern Division, South Carolina. Furthermore, we reviewed the SSP to determine how the offerors' past performance was assessed.

We performed this audit from May 2005 through December 2005 in accordance with generally accepted government auditing standards.

Use of Computer-Processed Data. We used computer-processed data to determine if NAVFAC obtained all information available to assist in its past performance evaluation of the CONCAP source selection. We extracted computer-processed data from the Past Performance Information Retrieval System and compared that data with data contained in the performance evaluations obtained from NAVFAC Atlantic. We concluded that the data contained in the Past Performance Information Retrieval System performance evaluations were reliable. We did not find any errors in the data that would prohibit the use of the data or that would change the conclusion of this report.

Use of Technical Assistance. We consulted with Quantitative Methods analysts concerning the adjectival rating system that NAVFAC adopted for selecting the source to satisfy the CONCAP requirements.

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

Prior Coverage

During the last 5 years, the Government Accountability Office issued two reports discussing the CONCAP contract. Unrestricted Government Accountability Office reports can be accessed over the Internet at <http://www.gao.gov>.

General Accountability Office

Government Accountability Office Report No. GAO-04-854, Military Operations: "DoD's Extensive Use of Logistics Support Contracts Requires Strengthened Oversight," July 19, 2004

Government Accountability Office Report No. GAO-04-869T, "Contract Management: Contracting for Iraq Reconstruction and for Global Logistics Support," June 15, 2004

Appendix B. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition, Technology, and Logistics
Director, Acquisition Resources and Analysis
Under Secretary of Defense (Comptroller)/Chief Financial Officer
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)
Director, Program Analysis and Evaluation
Director, Defense Procurement and Acquisition Policy

Department of the Army

Assistant Secretary of the Army (Financial Management and Comptroller)
Auditor General, Department of the Army
Commanding General, U.S. Army Materiel Command
Commanding General, U.S. Army Field Support Command

Department of the Navy

Assistant Secretary of the Navy (Research, Development and Acquisition)
Naval Inspector General
Auditor General, Department of the Navy
Commander, Naval Facilities Engineering Command
Commander, Naval Facilities Engineering Command, Atlantic
Commander, Naval Facilities Engineering Command, Southern Division

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, Department of the Air Force

Combatant Commands

Inspector General, U.S. Joint Forces Command

Other Defense Organizations

Director, Defense Contract Audit Agency
Director, Defense Contract Management Agency

Non-Defense Federal Organization

Office of Management and Budget

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations

Senate Subcommittee on Defense, Committee on Appropriations

Senate Committee on Armed Services

Senate Committee on Homeland Security and Governmental Affairs

House Committee on Appropriations

House Subcommittee on Defense, Committee on Appropriations

House Committee on Armed Services

House Committee on Government Reform

House Subcommittee on Government Efficiency and Financial Management, Committee on Government Reform

House Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform

House Subcommittee on Technology, Information Policy, Intergovernmental Relations, and the Census, Committee on Government Reform

Under Secretary of Defense for Acquisition, Technology, and Logistics Comments



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

FEB 15 2006

MEMORANDUM FOR DEPUTY DIRECTOR, CONTRACT MANAGEMENT
DIRECTORATE, DODIG

✓ THROUGH: DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS *LM DODIG 2/15*
SUBJECT: DoDIG Draft Report Source Selection Procedures for the Navy Construction
Capabilities Contract (Project No. D2005-D000CH- 0135.000)

As requested, I am providing the response to recommendations, 3.a. and 3.b.
contained in the subject report.

Recommendations:

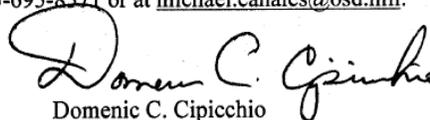
DoDIG Recommendation 3.a.: We recommend the Under Secretary of Defense for
Acquisition, Technology, and Logistics: Collaborate with the Services to develop a best
practices guide for technical evaluation rating descriptions.

DPAP Response: Concur. The Director, Defense Procurement and Acquisition Policy
will collaborate with the Military Department's to develop a best practices guide for
technical evaluation rating descriptions. The guide is expected to be available to the
acquisition workforce by July 1, 2006.

DoDIG Recommendation 3.b.: We recommend the Under Secretary of Defense for
Acquisition, Technology, & Logistics issue guidance that emphasizes the importance of
inputting contractor past performance information into appropriate systems and the need
to amend performance evaluations if significant information about a contractor's
performance under a specific task order surfaces prior to overall contract closeout.

DPAP Response: Concur. The Director, Defense Procurement and Acquisition Policy
will issue appropriate guidance. The expected date of issuance is April 7, 2006.

If you have any questions regarding this memorandum, please contact my point of
contact Mr. Michael Canales, at 703-695-8571 or at michael.canales@osd.mil.



Domenic C. Cipicchio
Acting Director, Defense Procurement
and Acquisition Policy



Department of the Army Comments



DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND
9301 CHAPEK ROAD
FORT BELVOIR, VA 22060-5527

AMCIR

10 Feb 2006

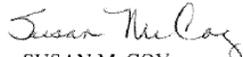
MEMORANDUM FOR Inspector General, Department of Defense, 400 Army Navy Drive,
Arlington, VA 22202-4704

SUBJECT: Draft Report on the Source Selection Procedures for the Navy Construction
Capabilities Contract, Project No. D2005-D000CH-0135.000, AMC No. D0521

The Headquarters, U.S. Army Materiel Command has reviewed the subject draft report and concurs with the U.S. Army Field Support Command's (AFSC) comments. Point of contact for this action is Mr. Joseph Adetunji, commercial (703) 806-9834 or email jadetunji@hqamc.army.mil.

FOR THE COMMANDER:

Encl


SUSAN McCOY
Director, Internal Review and
Audit Compliance Office

**HQ, Army Field Support Command
DoDIG Draft Report
Source Selection Procedures for the
Navy Construction Capabilities Contract**

Finding: Automated System to Track Past Performance Information.

The Army failed to input data relevant to KBR's past performance under the LOGCAP contract into past performance collection systems in a timely manner. Consequently, the Past Performance Information Retrieval System did not contain the complete evaluation history of the offeror's work performance.

Recommendation:

We recommend the CG, USAFSC require the contracting personnel enter LOGCAP task order performance evaluations that meet the threshold requirements into the Army's past performance feeder system.

Command Comments: Concur with recommendation. We've entered 34 of the 36 task orders listed in Table 10 of the report into Past Performance Information Retrieval System (PPIRS). The contractor's reviewing the remaining two task orders. We anticipate they'll be entered in PPIRS by 27 Feb 06.

General Comments:

It should be noted that we had began taking corrective actions immediately and discussed this with the auditors when they were on-site in Nov 05 and again when the discussion draft was issued in Dec 05. Our corrective actions weren't noted in the report.

The report doesn't identify what guidance requires the CONCAP source selection to search PPIRS. CONCAP reviewed the Construction Contractor Appraisal Support System (CCASS). Since LOGCAP is a service contract, no information would have been in the CCASS.

In regards to the note on Table 10 identifying the kickback on TO 36: the courts recently issued a verdict and the AFSC

legal office is reviewing language for a Past performance
Information Management System (PPIMS) addendum.

Department of the Navy Comments

Final Report
Reference



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

FEB - 8 2006

MEMORANDUM FOR THE DEPARTMENT OF DEFENSE DEPUTY INSPECTOR
GENERAL FOR AUDITING

Subj: DRAFT AUDIT REPORT ON THE SOURCE SELECTION PROCEDURES
FOR THE NAVY CONSTRUCTION CAPABILITIES CONTRACT (PROJECT
NO. D2005-D000CH-0135.000)

Ref: (a) DoD IG memo of 24 Jan 06

Encl: (1) Navy Comments
(2) Draft DoD IG report dated 24 Jan 06 (exempt material highlighted)

In response to reference (a), the Department of the Navy appreciates the opportunity to provide comments on the subject report. This memorandum provides concurrence or non-concurrence with each recommendation and comments as you requested. In addition, enclosure (2) highlights those portions of the draft report that the Navy considers exempt from public release.

A handwritten signature in black ink, appearing to read "T. W. Essig".

T. W. Essig
Director, Program Analysis and
Business Transformation
for Deputy Assistant Secretary
of the Navy for Acquisition

Enclosure 2
was not
included in
report

NAVY COMMENTS ON PROJECT NO. D2005-D000CH-0135.000

Finding: NAVFAC did not develop adequate guidance to effectively differentiate the technical evaluation factor rating intervals

Recommendation: 1.a. Develop adequate guidance to effectively differentiate technical evaluation factor rating intervals used in future source selection evaluations and require technical evaluators to adequately describe the rationale for the rating interval assigned.

Navy Response: Concur. The Naval Facilities Engineering Command (NAVFAC) agrees that the use of a plus (+) or minus (-) in conjunction with an adjectival rating systems weakens the evaluation process. Consequently, NAVFAC will no longer use a plus (+) or minus (-) in the adjectival rating system.

We understand that the recommendation does not, however, relate to the adjectival rating system used by NAVFAC, which is common throughout DoD and is designed to encourage a “qualitative analysis” based on the individual strengths and weaknesses of each proposal. NAVFAC policy requires registered professional engineers to serve on technical evaluation boards to ensure that the technical evaluators have the expertise necessary to evaluate technical proposals and perform a qualitative analysis of the strengths and weaknesses of each proposal. Identifying all possible strengths and weaknesses and incorporating those possibilities into predefined evaluation criteria and ratings in advance of the procurement is problematic and weakens, not strengthens, the evaluation process. Moreover, such practice differs vastly from the kind of qualitative analysis, using sound technical judgment, the United States Comptroller General (Comptroller) considers a sound best value evaluation. The Comptroller’s overriding concern is that the final results accurately reflect the actual merits of the proposal, not that the results be mechanically traceable back to isolated comments or ratings of individual evaluators. Matter of Manufacturing Systems, Inc., B-293299.3, B-293299.4, Comptroller General of the United States, 2004 U.S. Comp. Gen. LEXIS 179, Aug. 3, 2004 citing, Dragon Servs., Inc., B-255354, Feb. 25, 1994, 94-1 CPD P 151 at 11. The Comptroller has recognized repeatedly that “...subjective judgment [is] necessarily exercised by evaluators.” SGT, Inc., B-294772.4, Comptroller General of the United States, 2005 U.S. Comp. Gen. LEXIS 139, July 28, 2005. Further, the Comptroller views adjectival ratings and point scores as useful guides to decision-making, but not generally controlling. Opti-Lite Optical, B- 281693, Comptroller General of the United States, 1999 U.S. Comp. Gen. LEXIS 52, March 22, 1999. Accordingly, NAVFAC procurement policy already requires technical evaluators to adequately describe the rationale for the rating assigned

Finding: NAVFAC did not consider relevant past performance information.

Recommendation: 1.b. Perform more comprehensive reviews of offerors’ past performance in future source selection evaluations.

Encl (1)

Navy Response: Concur, as this recommendation relates to evaluation of a single business unit, the need for clear evaluation criteria, and written rationale supporting the rating. NAVFAC performed an extensive review of the most relevant past performance information sufficient to determine performance trends and assign appropriate ratings for past performance. In conducting this review and in determining the appropriate rating, the evaluator considered the nature of the work performed, how recently the work was performed, the geographic location of the work, the contract type, the effectiveness of cost controls, the quality of the work and the effectiveness of the contractor's quality control systems, management responsiveness, and relevant comments. Nevertheless, NAVFAC agrees that the past performance evaluation should have included information for related business units set forth in the proposal. Consequently, NAVFAC will issue guidance within 30 days to ensure that future procurements consider past performance information for related business units identified in the proposal.

The Navy, however, takes strong exception to the draft report's "weighted average" analysis of past performance (Table 7 of the draft report) and recommends that this analysis be deleted from the report. The "weighted average" analysis set forth in the draft report treats all past performance experience and ratings the same and applies a mechanical formula to determine the rating. Such a methodology is not legally sound and has been rejected by the Comptroller. In Clean Harbors Environmental Services, Inc., B-296176.2, Dec. 9, 2005, GAO sustained a protest where the agency relied on "the averaged past performance questionnaire numerical scores" and "failed to consider the comparative relevance of the offerors' past performance." Id., at pages 3-4. Likewise, such a quantitative system to evaluate past performance is not consistent with policy set forth by the Office of Federal Procurement Policy (OFPP). See OFPP's Best Practices for Collecting and Using Current and Past Performance Information, May 2000, at <http://www.arnet.gov/Library/OFPP/BestPractices/> OFPP's guide specifically states at page 22:

"A past performance rating is not a precise mechanical process, therefore, a supporting rationale for the final rating needs to be included in the contract file. The documentation need not be voluminous. The assessment should include rationale for the conclusions reached. As long as that rationale is reasonable, i.e., based on analysis, verification, or corroboration of the past performance information, and is evaluated against the evaluation factors stated in the solicitation, it will withstand scrutiny by the courts."

The Office of the Under Secretary of Defense for Acquisition, Technology & Logistics, (Defense Procurement and Acquisition Policy) has also issued a guide entitled, A Guide to Collection and Use of Past Performance Information (Version 3)(May 2003), which can be found at http://www.acq.osd.mil/dpap/Docs/PPI_Guide_2003_final.pdf The DoD guide on page 9 sets forth an adjectival rating system for past performance similar to the one used by NAVFAC.

Encl (1)

(Finding:) Navy did not input data related to KBR's past performance under previous CONCAP contracts into its automated contractor past performance data collection system.

Recommendation: 1.c. Enter all outstanding CONCAP task order performance evaluations that meet the threshold requirements into the Construction Contractor Appraisal Support System (CCASS).

Navy Response: Concur. The DoD IG draft report correctly finds that NAVFAC had not entered final performance evaluations into CCASS for 9 of the 23 completed task orders under the CONCAP II contract. NAVFAC agrees that the contracting officer needs to exercise due diligence in evaluating and reporting performance on completed task orders. Currently, NAVFAC is completing all outstanding evaluations on completed task orders under CONCAP II and CONCAP III (N62470-04-D-4017). In addition, the administering contracting officer for CONCAP has implemented a process for completing the past performance evaluation as part of the final award fee payment process for a particular tasking. NAVFAC expects to have all outstanding past performance evaluations entered into CCASS within the next 30 days.

Encl (1)

Team Members

The Department of Defense Office of the Deputy Inspector General for Auditing, Acquisition and Contract Management prepared this report. Personnel of the Department of Defense Office of Inspector General who contributed to the report are listed below.

Richard B. Jolliffe
Henry F. Kleinknecht
Patrick J. Nix
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Jillian M. LaLonde
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Jillisa H. Milner