

# Inspector General

United States  
Department of Defense



Construction Contracting Procedures Implemented by the  
Joint Contracting Command-Iraq/Afghanistan

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## Acronyms and Abbreviations

BAF	Bagram Air Field
DCMA	Defense Contract Management Agency
FAR	Federal Acquisition Regulation
JCC-I/A	Joint Contracting Command-Iraq/Afghanistan
LOGCAP	Logistics Civilian Augmentation Program
O&M	Operation and Maintenance
PARC-A	Principal Assistant Responsible for Contracting-Afghanistan
RCC	Regional Contracting Command



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

September 29, 2008

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY FOR ACQUISITION,  
LOGISTICS, AND TECHNOLOGY  
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY  
COMMANDER, JOINT CONTRACTING COMMAND-  
IRAQ/AFGHANISTAN

SUBJECT: Construction Contracting Procedures Implemented by the Joint Contracting  
Command-Iraq/Afghanistan (Report No. D-2008-119)

We are providing this report for review and comment. We considered comments from the Office of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology responding for the Commander, Joint Contracting Command-Iraq/Afghanistan when preparing the final report.

DoD Directive 7650.3 requires that recommendations be resolved promptly. The Assistant Secretary's comments were not responsive because the comments addressed only the audit finding and did not address the audit recommendations. Therefore, we request additional comments from the Assistant Secretary of the Army for Acquisition, Logistics, and Technology and request initial comments from the Director, Defense Contract Management Agency by October 20, 2008.

Your comments should state whether you agree or disagree with the finding and recommendations. If you agree with our recommendations, describe what actions you have taken or plan to take to accomplish the recommendations and include the completion dates of your actions. If you disagree with the recommendations or any part of them, please give specific reasons why you disagree and propose alternative action if that is appropriate.

Please provide comments that conform to the requirements of DoD directive 7650.3. If possible, send management comments in electronic format (Adobe Acrobat file only) to [AudJ&OO@dodig.mil](mailto:AudJ&OO@dodig.mil). Copies of the management comments must have the actual signature of the authorizing official for your organization. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network.

We appreciate the courtesies extended to the staff. Questions should be directed to Mr. Timothy E. Moore at (703) 604-9068 (DSN 312-664-9068). The team members are listed inside the back cover.

A handwritten signature in black ink, reading "Donald A. Bloomer".

Donald A. Bloomer  
Deputy Director  
Joint and Overseas Operations Directorate



# Results in Brief: Construction Contracting Procedures Implemented by the Joint Contracting Command-Iraq/Afghanistan

## What We Did

We evaluated contingency construction contracting procedures implemented by Joint Contracting Command-Iraq/Afghanistan, the Afghanistan area of operations.

## What We Found

Regional Contracting Command (RCC) Bagram contracting officials accepted construction projects at Bagram Air Field that required extensive rework by KBR, formerly known as Kellogg Brown and Root, Inc., to be useable by U.S. troops. RCC Bagram did not adhere to the Federal Acquisition Regulation guidance on contract documentation and quality oversight requirements that would have prevented the substandard quality of the construction projects. As a result, the U.S. Government incurred additional costs of at least \$3.4 million to perform additional work on newly constructed, refurbished, and remodeled buildings in Afghanistan. In addition, U.S. military units and organizations experienced delays in receiving fully useable facilities throughout Afghanistan.

The 42 construction contract actions selected for review were either not available or had contract documentation deficiencies. RCC Bagram was unable to locate 2 contract files, and the other 40 contract files did not contain:

- quality assurance surveillance plans,
- contractor quality control plans, and
- contracting officers representative designation letters.

RCC Bagram did not follow required Federal Acquisition Regulation standards for contracting procedures relating to:

- price reasonableness,
- quality assurance, and
- contract oversight.

## What We Recommend

We recommend that:

- the Joint Contracting Command-Iraq/Afghanistan ensure independent Government cost estimates are prepared during all solicitations.
- the Joint Contracting Command-Iraq/Afghanistan ensure quality control plans and quality assurance surveillance plans are prepared for all construction projects.

## Client Comments and Our Response

We request that the Commander, Joint Contracting Command-Iraq/Afghanistan provide comments in response to this report. Please see the recommendations table on the back of this page.

## Recommendations Table

Client	Recommendations Requiring Comment	No Additional Comments Required
Commander, Joint Contracting Command-Iraq/Afghanistan	1.a., 1.b., 2.c., 2.d.	2.a., 2.b., 2.e.

**Please provide comments by October 20, 2008.**

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# Introduction

## Objectives

Our objective was to evaluate contingency construction contracting procedures implemented by Joint Contracting Command-Iraq/Afghanistan (JCC-I/A) in the Afghanistan area of operations.

## Background

JCC-I/A is the primary contracting command for U.S. forces in Afghanistan. The Principal Assistant Responsible for Contracting-Afghanistan (PARC-A) supervises contracting procedures in Afghanistan for JCC-I/A. The PARC-A is headquartered at Bagram Air Field (BAF). The PARC-A has five subordinate Regional Contracting Commands (RCC) located at Salerno, Bagram, Kabul, Kandahar, and Fenty.

RCC Bagram executes construction contracts for military units and other Government organizations. Military units or organizations that have requirements for construction have those requirements validated by the Installation Facilities Use Board and approved by the Facility Engineer Team. The Facility Engineer Team determines whether RCC Bagram is the appropriate contracting agency for the requesting unit or organization. If so, the Facility Engineer Team directs RCC Bagram to proceed with contracting for the requesting unit. See Appendix B for BAF Building Construction Request Procedures.

The Defense Contract Management Agency (DCMA) administers the Logistics Civilian Augmentation Program (LOGCAP) contract. The LOGCAP contract, currently awarded to KBR, includes requirements for the contractor to provide Operation and Maintenance (O&M) services for buildings on installations throughout Afghanistan. KBR conducts technical inspections before assuming the maintenance responsibility for any buildings constructed by another contractor or troop labor. During these technical inspections, KBR has identified substandard construction that must be reworked before KBR will assume responsibility for the maintenance of the building.

According to Federal Acquisition Regulation (FAR) Subpart 46.5, "Acceptance,"

Acceptance constitutes acknowledgement that the supplies or services conform with applicable contract quality and quantity requirements, except as provided in this subpart and subject to other terms and conditions of the contract. Acceptance may take place before delivery, at the time of delivery, or after delivery, depending on the provisions of the terms and conditions of the contract. Supplies or services shall ordinarily not be accepted before completion of Government contract quality assurance actions.

# **Finding. Joint Contracting Command-Iraq/ Afghanistan Construction Deficiencies**

RCC Bagram contracted for construction projects that were accepted in substandard condition and required extensive rework by the maintenance contractor, KBR. This occurred because RCC Bagram did not adhere to FAR guidance on documentation standards and quality assurance procedures. DoD has paid at least \$3.4 million to bring newly constructed buildings in Afghanistan up to acceptable standards.

## **Documentation Standards**

RCC Bagram awarded 321 contracting actions it categorized as construction contracts during FY 2007. Of the 321 contracting actions, we identified 42 for the construction or refurbishment of buildings. We excluded the remaining 279 contracting actions that were for small construction projects such as fencing or delivery of materials. We reviewed the contract files maintained at RCC Bagram for the 42 contracting actions (see Appendix C), worth approximately \$1.9 million. Of those 42 contract actions, 2 contract files were missing completely. FAR Subpart 4.805, “Storage, Handling, and Disposal of Contract Files,” states that the contracting office should retain construction contract files for a minimum of 3 years. FAR Subpart 4.803, “Contents of Contract Files,” states that quality assurance and surveillance records should be maintained in the contract files. The following documentation was not included in the remaining 40 contract files:

- quality assurance surveillance plans,
- contractor quality control plans, and
- contracting officer’s representative designation letters.

## **Quality Assurance Surveillance Plans**

FAR Subpart 46.4, “Government Contract Quality Assurance,” states that Government contract quality assurance must be performed at such times (including any stage of manufacture or performance of services) and places (including subcontractors’ plants) as may be necessary to determine that the supplies or services conform to contract requirements. Quality assurance surveillance plans should be prepared in conjunction with the preparation of the statement of work. The plans should specify all work requiring surveillance and the method of surveillance. FAR Subpart 46.4 (e) states that Government inspection must be performed by or under the direction or supervision of Government personnel. The use of quality assurance surveillance plans by RCC Bagram would help ensure that contractors are performing to contract specifications.

## **Contractor Quality Control Plans**

FAR Subpart 46.201, “Quality Assurance: General,” states that the contracting officer should include appropriate contractor quality requirements during the solicitation. This section of the FAR calls for appropriate levels of quality requirements, which may range from inspection at the time of acceptance to a comprehensive program for controlling quality, to be included in the contract.



FAR Subpart 46.312, “Construction Contracts,” calls for the inclusion of the following clause in construction contracts when in the best interest of the U.S. Government:

The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements.

RCC Bagram should have included this clause in the contracts and enforced this clause to ensure that the contractor had a quality control plan. Use of such quality control plans by the contractor would have improved the quality of construction received by the U.S. Government.

### ***Contracting Officer Representative Designation Letters***

FAR Part 4.803 states that contract files should include documents that modify the normal assignment of contract administration functions and responsibilities. Contracting officer’s representative designation letters assign administrative functions and responsibilities and therefore should be included in the contract file. RCC Bagram did not include any designation letters in the contract files reviewed. RCC Bagram must require activities that are requesting contracting services to identify qualified personnel to serve as contracting officer’s representatives, and the contracting officer to prepare a designation letter to include in the contract file.

### **Contracting Procedures**

RCC Bagram did not follow FAR standards for contracting procedures relating to:

- price reasonableness,
- quality assurance, and
- oversight.

### ***Price Reasonableness***

When awarding contracts using methods other than fair and open competition, RCC Bagram did not include an independent Government cost estimate for construction contracts within the contract file. RCC Bagram awarded 21 of the 42 construction contracts we reviewed using methods other than fair and open competition. FAR Part 36.203 states that an independent Government estimate of cost should be prepared for all construction contracts.

### ***Quality Assurance***

RCC Bagram awarded construction contracts that had poorly written statements of work. The statements of work often lacked specific requirements and did not clearly define the acceptable standards for construction projects. JCC-I/A personnel stated that a lack of available subject matter experts to consult with during the procurement phase of the contracting process was a reason for the poor statements of work. The nonspecific, unclear statements of work contributed to the poor quality of buildings and projects accepted by the U.S. Government.

## Oversight

RCC Bagram accepted final receipt of buildings and construction projects that did not meet contract specifications or requesting unit requirements. RCC Bagram personnel stated that there was a lack of qualified oversight personnel available from either the requesting organization or the Facilities Engineer Team to serve as contracting officer representatives. RCC Bagram personnel stated that the receiving units often provide personnel to serve as contracting officer representatives, but they may not have the technical expertise required to oversee construction. Additionally, because RCC Bagram did not require the contractors to submit a quality control plan with their bid proposals, there was no assurance that the contractors had completed the work satisfactorily. Because RCC Bagram did not require quality assurance surveillance plans, there were no clear metrics for Government personnel to use to assess the work of the contractors.

## Monetary Significance

The LOGCAP contract in Afghanistan is divided into different task orders with regional responsibility. We requested that KBR identify the amount of rework performed from August 2006 to November 2007. KBR was able to identify \$3.4 million of rework charged for this time period. The KBR country manager worked with DCMA officials to provide the following data:

<b>TASK ORDER</b>	<b>DATE RANGE</b>	<b>COST</b>
Task order 116	August 2006-November 2007	\$ 739,659.17
Task order 118	April 2007-August 2007	\$ 52,792.08
Task order 142	February 2007-August 2007	<u>\$ 2,624,236.93</u>
<b>TOTAL</b>		<b>\$ 3,416,688.18</b>

We derived the cost of the work from documented Rough Order of Magnitude cost estimates submitted for rework completed. These estimates include only rework completed that had documented Rough Order of Magnitude cost estimates contained in the contract files. Because actual rework costs were not tracked prior to this audit, the actual amount of rework may have been much greater. Examples of KBR-performed rework at BAF include rewiring of troop housing units, reinstalling sewage lines for latrines, and repairing flooring and other building materials that had not been installed properly.

## Conclusion

RCC Bagram did not adhere to FAR regulations that could have prevented more money being spent on rework paid to KBR. RCC Bagram implementation of quality controls called for in the FAR could have prevented the waste of funds and provided better operating conditions for U.S. troops. Additionally, RCC Bagram did not maintain appropriate contract documentation in their contract files, which would have identified issues that were causing problems in the quality oversight process.

## **Corrective Actions, Client Comments on the Finding, and Audit Response**

The Office of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology provided a list of corrective actions taken since completion of the audit to address systemic problems found in the report. The Assistant Secretary also provided client comments on our finding but did not provide comments on the audit recommendations.

### ***Corrective Actions***

The Joint Contracting Command-Afghanistan has assembled a Procurement Management Review Team to ensure its contracting officers are performing their duties in accordance with regulatory guidelines and law. The Procurement Management Review Team identifies contracts requiring contracting officer representatives and reviews those contracts for regulatory compliance. The Procurement Management Review Team sends contract files that are deficient back to the contracting officer for corrective action. Those files are subsequently rechecked by the Regional Contracting Office Chief and the Procurement Management Review Team. In addition, the Combined Joint Task Force-82, in coordination with the Joint Contracting Command-Afghanistan, issued a command directive outlining command responsibility for the appointment of contracting officer representatives. Sixty-seven contracts have been delegated to the Defense Contract Management Agency Theater-Wide Contract Administration Afghanistan for contract administration oversight. The Combined Joint Task Force-101, which replaced Combined Joint Task Force-82, is preparing, in coordination with the Joint Contracting Command-Afghanistan, a statement of work to procure quality assurance representatives. The objective will be to increase on-ground technical capability to track contractor performance prior to Government acceptance of construction projects.

### ***Client Comments***

The Assistant Secretary disagreed with the finding that quality assurance surveillance plans were not included in contract files and that the use of quality assurance surveillance plans would have improved the quality of construction received by the U.S. Government. The Assistant Secretary stated that quality assurance surveillance plans are specifically for service contracts, not construction contracts. The Assistant Secretary also disagreed with the finding that contracting officer's representative designation letters were missing from contract files and stated that RCC Bagram is not responsible for designating qualified contracting officer representatives. The Assistant Secretary also stated that it has been and continues to be an ongoing struggle for RCC Bagram to acquire qualified contracting officer representatives from the requiring activities to conduct quality assurance on construction projects. The Assistant Secretary requested that the DoD Office of Inspector General consider having the FAR changed to ensure that the responsibility and accountability of nominating qualified contracting officer representatives be with the requiring organization and not with the contracting office.

The Assistant Secretary also highly recommended that the FAR require contracting officer representative duties to be an individual's primary duty.

### ***Audit Response***

FAR Subpart 46.402(e), "Government Contract Quality Assurance at Source," states that, "Agencies shall perform contract quality assurance, including inspection, at source if government inspection during contract performance is essential." Quality assurance surveillance plans ensure effective Government contract quality assurance, and the finding of this audit indicates that Government inspection during contract performance is essential for construction contracts in Bagram, Afghanistan. Therefore, RCC Bagram contracting officers should be developing quality assurance surveillance plans as stated in the draft report. The Assistant Secretary requests that the DoD Office of Inspector General research changing the FAR; however, we feel that the Assistant Secretary, using lessons learned during contingency contracting, could submit a more cogent request for change regarding contingency contracting procedures.

## **Recommendations, Client Comments, and Our Response**

1. **We recommend that the Commander, Joint Contracting Command-Iraq/Afghanistan:**
  - a. **Conduct periodic conferences to discuss and monitor construction contracting procedures.**
  - b. **Use subject matter experts to assist contracting officers during the solicitation process to ensure that accurate and measurable metrics are included in contract Statements of Work.**

### ***Client Comments***

Neither the Office of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology nor the Commander, Joint Contracting Command-Iraq/Afghanistan responded to this recommendation. We request that the Assistant Secretary or commander send comments in response to the final report by October 20, 2008.

2. **We recommend that the Commander, Joint Contracting Command-Iraq/Afghanistan require internal controls as necessary to ensure that:**
  - a. **Federal Acquisition Regulations on documentation retention, quality assurance, and oversight are followed.**
  - b. **All contractors submit a quality control plan with their bids during the solicitation of construction contracts.**
  - c. **Quality assurance surveillance plans are included in the contracting files and executed by the contracting officer representatives.**

**d. Qualified personnel are available to serve as contracting officer representatives for construction projects and that the appropriate designation letters are included in the contract file.**

**e. Independent Government cost estimates or other means of ensuring price reasonableness are documented when awarding contracts using other than fair and open competition.**

### ***Client Comments***

The Commander, Joint Contracting Command- Iraq/Afghanistan did not respond directly to this recommendation. However, the response received from the Assistant Secretary of the Army for Acquisition, Technology, and Logistics concerning the audit finding and corrective actions taken showed agreement with the recommendations except for Recommendations 2.c. and 2.d.

### ***Audit Response***

We request that the Assistant Secretary reconsider his response to Recommendations 2.c. and 2.d. and provide comments in response to the final report by October 20, 2008.



## **Appendix A. Scope and Methodology**

We conducted this performance audit from August 2007 through July 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We reviewed construction contract data from the RCC Bagram located at BAF, Afghanistan. RCC Bagram is one of five subordinate commands under JCC-I/A in Afghanistan. We reviewed contracting data for 321 contracting actions awarded by RCC Bagram during the FY 2007 categorized as construction contracts. Of the 321 contracting actions, we identified 42 for the construction or refurbishment of buildings. We excluded the remaining 279 contracting actions that were for small construction projects such as fencing or delivery of materials. We reviewed the contract files maintained at RCC Bagram for the 42 contracting actions (see Appendix C), worth approximately \$1.9 million. Of those 42 contract actions, 2 contract files were missing completely. We also reviewed billing documentation for O&M tasks performed by KBR as part of its LOGCAP contract.

### ***Review of Internal Controls***

We identified material internal control weaknesses for the JCC-I/A as identified by DoD Instruction 5010.40, "Managers' Internal Control (MIC) Program Procedures," January 4, 2006, as they applied to the audit objective. DoD Instruction 5010.40 states that internal controls are the organization's policies and procedures that help program and financial managers achieve results and safeguard the integrity of their programs. JCC-I/A did not have procedures in place to ensure compliance with the FAR. Implementing our recommendations will improve the internal controls over FAR compliance. We will provide a copy of the report to the senior JCC-I/A official responsible for internal controls

### ***Use of Computer-Processed Data***

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

### ***Prior Coverage***

No prior coverage of JCC-I/A construction contracting procedures was conducted within the last five years.

# Appendix B. Bagram Air Field Building Construction Request Procedures

Military or Government units requesting a new building on BAF submit requests to the Facility Engineer Team. End-user units must define their requirements and submit a work request that outlines their needs and specifications for construction.

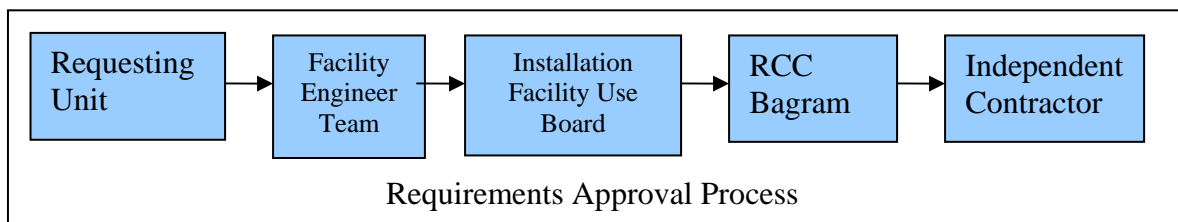
The Facility Engineer Team will validate and prioritize the customer requirements. The request is then submitted to the Combined Joint Task Force-82 Work Request Monitor. If the request is considered a priority, the Work Request Monitor reviews and submits the requirements to the Work Request Review Board.

Once the requirements are reviewed for completeness by the Work Request Review Board, the request is forwarded to the Installation Facility Use Board who validates that the requirements are in accordance with the Base Master Plan. If they are in accordance with the Master Plan, the Installation Facilities Use Board will forward the request to the Facility Engineer Team for execution.

The Facility Engineer Team will then determine the means of executing the construction. The Facility Engineer Team has three options in the following preference order to obtain construction services:

- 1) troop labor,
- 2) RCC Bagram staff, and
- 3) LOGCAP Contractor.

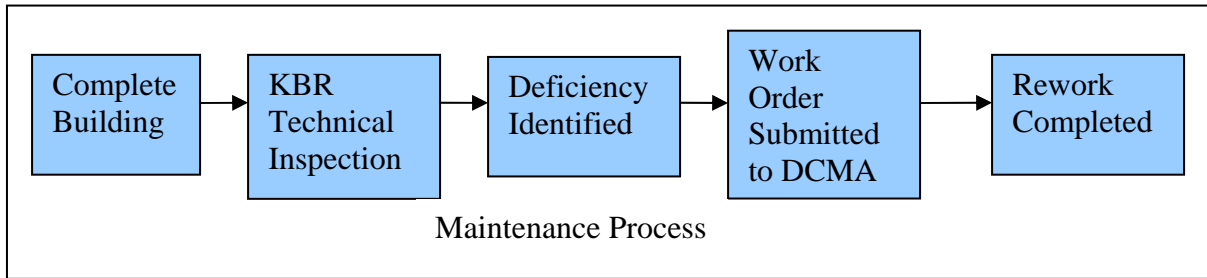
If the Facility Engineer Team determines RCC Bagram staff will execute the request, RCC Bagram will solicit the project and award the contract to an independent contractor. The Facility Engineer Team will then assign a project manager and RCC Bagram will designate the project manager as the contracting officer representative. The project manager works with the customer to develop the scope of work and to develop a preliminary cost estimate. When the Facility Engineer Team does not have available personnel to serve as project manager, then the requesting unit must provide one. The following flowchart outlines the requesting process:



After completion of the request, the project manager will determine whether continuous maintenance is required for the facility. If so, the customer is directed to prepare a LOGCAP request letter for maintenance support from KBR. KBR will then perform a technical inspection of the building before assuming the O&M responsibility. If KBR



identifies deficiencies during the technical inspection, it will submit a work order to DCMA identifying the deficiencies needing remediation to bring the building to acceptable standards. KBR officials stated that acceptable standards are those that they are required to maintain under the provisions of the LOGCAP contract, usually in line with U.S. standards. If DCMA approves the work order, KBR will fix the deficiencies and repair the building to standard.



# Appendix C. Joint Contracting Command-Iraq/Afghanistan Contracts Reviewed

The following contracts were issued by JCC-I/A Regional Contracting Command Bagram and reviewed by DoD IG auditors for the purposes of this audit.

<b>Contract Action</b>	<b>Contract Number</b>	<b>Description</b>	<b>Cost</b>
1	W91B4N-07-M-0542	B-Hut Renovation	\$ 10,226.00
2	W91B4N-07-M-0704	Install Carpeting	\$ 500.00
3	W91B4N06C0055	Install Re-locatable Building	\$ 45,580.00
4	W91B4N07C0021	Renovate Building	\$ 88,027.00
5	W91B4N07C0021	CLIN 1	\$ 800.00
6	W91B4N07C0025	Renovate Building	\$ 24,900.00
7	W91B4N07C0033	Install Walls	\$ 1,230.00
8	W91B4N07C0036	B-hut Renovations	\$ 3,025.99
9	W91B4N07C0038	Drainage Culvert	\$ 555,315.00
10	W91B4N07C0038	MOD 1	\$ 69,630.00
11	W91B4N07C0038	MOD 2	\$ 9,975.48
12	W91B4N07C0038	MOD 3	\$ 13,926.00
13	W91B4N07M0445	B-Hut Modification	\$ 89,339.13
14	W91B4N07M0704	No Description	
15	W91B4N07M0784	Installation of Door and Walls	\$ 1,634.00
16	W91B4N07M1087	No File	\$ 94,601.00
17	W91B4N07M1208	No File	\$ 424.00
18	W91B4N07C0047	B-Hut Construction	\$ 17,597.00
19	W91B4N07C0056	Construct Guard Tower	\$ 3,950.00
20	W91B4N07C0077	Excavation	\$ 7,750.00
21	W91B4N07C0078	Install Fresh Water Tanks	\$ 6,000.00
22	W91B4N07C0079	Brick and Mortar Guard Tower	\$ 27,700.00
23	W91B4N07C0079	Addition to Statement of Work	-----
24	W91B4N07C0082	Grading	\$ 130,500.00

25	W91B4N07M0390	B-Hut Renovation	\$	13,360.00
26	W91B4N07M0531	Construct Base Ops B-hut	\$	6,570.00
27	W91B4N07M0961	Construct Storage Shack	\$	1,855.00
28	W91B4N07M1431	Repair Living Containers	\$	144,600.00
29	W91B4N07M1463	Install Steel Gate	\$	6,400.00
30	W91B4N07M1478	B-hut Construction	\$	83,858.80
31	W91B4N07C0068	Grading	\$	100,130.00
32	W91B4N07C0068	Modification 1	\$	13,500.00
33	W91B4N06C0013	Construct 2-story Building	\$	198,729.00
34	W91B4N07A0045	B-hut Construction	\$	9,772.00
35	W91B4N07A0046	B-hut Construction	\$	31,780.00
36	W91B4N07A0046	Modification 1	\$	2,280.00
37	W91B4N07A0047	B-Hut Construction	\$	10,825.00
38	W91B4N07A0047	Modification 1		
39	W91B4N07A0048	B-Hut Construction	\$	56,985.00
40	W91B4N07A0048	Modification 1		
41	W91B4N07C0003	Concrete Pad	\$	54,358.00
42	W91B4N07M1465	Construct Bunkers and Barriers	\$	29,496.00



# Joint Contracting Command-Iraq/Afghanistan Comments



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY  
ACQUISITION LOGISTICS AND TECHNOLOGY  
103 ARMY PENTAGON  
WASHINGTON DC 20310-0103

5 May 2008

SAAL-ZPI

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Response on Draft Report D2007-D000LQ-0261.000 Construction Contracting Procedures Implemented by the Joint Contracting Command-Iraq/Afghanistan

Enclosed please find the review, comments and corrective action plan prepared and approved by the Principal Assistant Responsible for Contracting (PARC) – Afghanistan regarding the audit of construction contracting at the Regional Contracting Center Bagram.

If you have any further questions on this matter, please contact my point of contact for audits, Ms. Susan Rindner (703) 696-1420.

A handwritten signature in black ink, appearing to read "Ben F. McCarter", is positioned above the typed name.

Ben F. McCarter  
Assistant Deputy Assistant Secretary of the Army  
(Policy and Procurement), Iraq/Afghanistan

Encl



HEADQUARTERS  
PRINCIPAL ASSISTANT FOR CONTRACTING - AFGHANISTAN  
BAGRAM, AFGHANISTAN  
APO AE 09354



MEMORANDUM FOR DoD IG

30 April 2008

FROM: JCC-I/A PARC-A

SUBJECT: Construction Contracting Procedures Implemented by the Joint Contracting Command-Irag/Afghanistan Response

The DoD IG draft audit, dated 4 April 2008, project number D2007-D000LQ-0261.000 identified deficiencies with Bagram Regional Contracting Center (RCC) contract documentation and quality oversight requirements of construction projects which resulted in the government incurring additional cost of at least \$3.4M to perform additional work on newly constructed, refurbished, and remodeled buildings in Afghanistan. The audit was general in nature and did not provide specific contracts in order to specifically refute or concede the allegations. This response aims at addressing the larger systemic issues identified in the audit in order to correct future contract actions.

**Summary of Corrective Actions Taken:** Since the completion of the audit, Joint Contracting Command Afghanistan has under taken the following actions to address systemic problems found in the report:

1. JCCA has implemented a Procurement Management Review Team. The objective of the team is to ensure Contracting Officers are performing their duties in accordance with regulatory guidelines and law. The team checks to ensure contract files are complete and accurately document contractor performance. Contracts requiring Contracting Officer Representatives are identified and reviewed for regulatory compliance. The review includes a determine that the COR is properly appointed, trained and is providing timely contractor performance reports. Contract files found to be deficient are identified to the contracting officer for corrective action, and subsequently rechecked by the Regional Contracting Office Chief and PMR Team. For actions \$750K and above, PARC A screens files for the following:

- FAR 52.246-12, Inspection of Construction Clause (and all applicable QA clauses)
- Language in the solicitation requesting QC plans
- Sections L & M to determine source selection criteria
- COR nominee/appointment letters
- QASP/QC plan
- IGE and supporting documentation

The PMR oversight process will cover the correction element of this issue. The PMR report will identify any systemic issues relating to this issue and the RCCs will be required to identify the root cause and corrective action. Once corrective action has been identified, a follow-up PMR review will evaluate to determine if the corrective and preventative action has corrected the issue.

2. Contracts requiring contract administration oversight are delegated to the Defense Contract Management Agency. To date, approximately 67 contract files are delegated to DCMA Theater Wide Contract Administration Afghanistan.

3. Joint Task Force 82<sup>nd</sup>, in coordination with Joint Contracting Command Afghanistan, issued a command directive outlining command responsibility for the appointment of Contracting Officer Representatives.

4. CJTF101, in coordination with JCCA is preparing a statement of work, to procure quality assurance representatives. The objective is to increase on ground technical capability to track contractor performance, prior to government acceptance of construction projects.

**Finding:** Quality Assurance Surveillance Plans was not included in contract files.

**Background:** Bagram RCC contracted for construction projects that were accepted in substandard condition and required extensive rework by the maintenance contractor KBR. This occurred because RCC Bagram did not adhere to FAR guidance on documentation standards and quality assurance procedures.

**Analysis:** JCCA non concurs with this finding. The draft audit used inconsistent language such as Quality Assurance Surveillance Plan (QASP) when identifying quality issues on construction contracts. QASPs are specifically for services contracts, not construction

**Recommendation:** None

**Finding:** Contractors Quality Control Plan was not included in contract files.

**Background:** Use of quality control plans by the contractor would have improved the quality of construction received by the U.S. Government.

**Analysis:** JCCA concurs with this finding. Contractor quality control plans will be provided in the contractor's proposal in accordance with the solicitation, and should be evaluated by the Contracting Officer Representative (COR) as a technical evaluation factor in best value tradeoff acquisitions or for technical acceptability in low price technically acceptable source selections. Remedial training will be conducted for each Contracting Officer (KO) to ensure that they understand the importance of acquiring contractor quality control plan prior to award of contract.

**Recommendation:** RCC Chief conduct training on proper documentation of contract files and follow-up as personnel changes.

**Finding:** Contracting Officer Representative Designation Letter missing from contract files

**Background:** FAR Part 4.803 states that contract files should include documents that modify the normal assignment of contract administration functions and responsibilities. Contracting officer representative designation letters assigns administrative function therefore should be included in contract files.

**Analysis:** JCCA non concurs with this finding. The Bagram RCC is not responsible for designating qualified CORs. We are required to train and follow-up as a minimum once per month with CORs to check on status of the project and contractor's performance. The requiring activities have a major role in designating qualified CORs when requested by the Bagram RCC KOs. To ensure that KOs understand the importance of documentation of the files with the COR designation letter, remedial training will be conducted. Currently the Bagram RCC has 10 personnel supporting approximately 15,000 customers on Bagram AF. Manning does not allow the KO the ability to visit all construction sites therefore COR appointment is necessary to ensure that projects are being completed at the standard specified in the SOW. It has and continues to be an ongoing struggle for the Bagram RCC to acquire qualified COR from the requiring activities to conduct quality assurance on construction projects. When a COR is appointed, it is usually considered an additional duty and sometimes the member is not qualified to perform the duties.

**Recommendation:** Statement of Work packages will require Contracting Officers Representative (COR) designation letters when meeting the Joint Acquisition Review Board (JARB). Also, currently there is a CJTF-101 FRAGO in coordination that will address the requirement for all requiring activities to designate a qualified COR to all projects requiring COR oversight and to submit monthly COR reports. This will minimize the lack of designation letters in contract files and gives the Bagram RCC more leverage to insist that requiring activities identify qualified CORs prior to contract award. CORs will be properly vetted to include having their redeployment data information included in the Operating Base Contracting Laydown system. Only CORs with active appointment letters will be in the system. The Bagram RCC will be responsible to ensure that along with COR nominee letters, adequate COR training has been conducted and the appointment letter from the Contracting Officer (KO) documented. This training should include the duties of the COR, what is required under the QASP (if it is a service), and what the surveillance documentation should address concerning quality and performance. CORs should also have understanding of the project schedule and to be able to identify critical paths which high risk areas that will impact schedule. KOs will maintain COR documentation and will take appropriate action if required. In addition, this documentation will also serve as the basis of contractor past performance evaluations in future source selections.

We also ask and recommend that the DOD IG look into having the FAR language changed to ensure the responsibility and accountability of nominating qualified CORs be with the requiring organization and not with the contracting office. It is highly recommended that the FAR also require the COR to be their primary duty. It is the contracting office's responsibility to ensure the COR is appointed and trained. In doing this, it will ensure that both the requiring activity and the contracting office comply with FAR requirements. Placing the onus on the requiring activity to provide qualified CORs will result in better oversight and quality projects which will validate that the government has received what it has paid for and will also save millions of dollars by eliminating reworking on projects.

**Finding: Determining cost reasonableness.** RCC Bagram did not include an independent government cost estimate for construction projects in the contract file. FAR 36.203 states that an independent government cost estimate (IGE) should be prepared for all construction contracts.

**Background:** Out of 21 of 42 construction contracts were reviewed that used methods other than full and open competition. These files did not include a government cost estimate.

**Analysis: JCCA concurs with this finding, in part.** It is hard determine without having the individual contract files identified in the audit what authority was used to determine if the KO



adequately determined price reasonableness. Having the IGE included in the file is one element to help the KO determine if the price paid is fair and reasonable. However, the problem with no IGE in the file or the quality of the IGE is a much broader issue within the Department of Defense which led the Director of Defense Procurement and Acquisition Policy to issue a letter dated 17 Sep 07 addressing this issue. The letter reinforces the requirement of FAR 15.406-1(a), addressing the contracting officer's responsibility to analyze the IGE to determine: (1) how it was developed (2) what assumptions were made (3) what information and estimating tools were used (4) where was the information obtained, and (5) how did previous estimates compare with prices paid. However, it is the responsibility of the requiring organization to adequately develop these IGEs and provide suggested sources to the RCC. The RCC should use the IGE as one tool in determining fair and reasonable prices. It should be noted that requirement to provide a quality IGE rests with the requiring organization and not with the RCC. The RCC has 10 KOs to support over 15,000 troops. The RCC has extremely limited influence on the requiring activity in the preparation of adequate IGEs.

**Recommendation:** PARC-A Chief of policy will provide guidance to the KOs on the development of quality IGEs, and the requirement to document the answer to the five questions about the IGE in the contract file. This will be reviewed during the clearance process for contracts over \$750,000 and will be looked at contracts under \$750,000 on random sampling bases during our semiannual Procurement Management Reviews. The KOs will ensure their customers are aware of the requirement to provide a quality IGE and the JARB process ensures that an IGE is included with each Purchase Request and Commitment.

**Finding:** RCC Bagram did not follow FAR standards for contracting procedures relating to Quality Assurance and Oversight:

**Background:** RCC Bagram awarded construction contracts that had poorly written statements of work and accepted final receipt of buildings and construction projects that did not meet contract specifications or requesting unit requirement.

**Analysis:** JCCA concurs with this finding, in part. Statement of Work (SOW) should be coordinated with JC7 or Facilities Engineering Team (FET) to ensure quality written SOWs. KO will review statement of work to ensure it is within the scope of the contract but the technical aspect of the SOW is the responsibility of the requiring activity. KOs are not the technical expert and therefore refer to the requiring activity or FET to produce a quality product. The qualified COR should act as the subject matter expert, as recommended in the DoDIG report, and assist the KO during the solicitation process in establishing the technical evaluation criteria. During the source selection, the COR should be a member of the technical evaluation team. This will ensure that the COR is knowledgeable with the contract.

Upon contract award, the KO will correspond with COR to attain status on the project and contractor's performance. It is the responsibility of the COR to evaluate contractor performance in accordance with the SOW, specifications, drawings, master schedule, etc. Based on the quality control plan, it is the COR in conjunction with contractor QC personnel that should establish certain inspection points in the schedule to ensure there are no latent defects (e.g. application of primer prior to the first coat of paint, etc.) These inspection points should be documented and signed off prior to proceeding. A walkthrough of the facility be done and a punch list is made prior to final acceptance. DCMA is expected to start assisting with Quality Assurance of RCC Bagram's construction projects which should minimize this problem.

**Recommendation:** It is recommended that KBR conduct their technical inspection in conjunction with the QA to ensure the facility is up to standards.

The action officer for DoD IG audit, project number D2007-D000LQ-0261.000 is Major Moseley Soule, PARC-A Chief of Policy. He may be contacted at DSN 318-481-6104 or NIPR [moseley.o.soule@afghan.swa.army.mil](mailto:moseley.o.soule@afghan.swa.army.mil). Since there was no specific finding by contact number, corrective action identified to correct the overall systemic issues will be in place within 60 days of the date of this response.

Feel free to contact me at 318-481-6106 or [victoria.h.diego@afghan.swa.army.mil](mailto:victoria.h.diego@afghan.swa.army.mil) if you have any questions or comments.



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# Inspector General Department *of* Defense

