

Inspector General

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DOD Enterprise Staffing Solution

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Acronyms and Abbreviations

ADA	Antideficiency Act
BCA	Business Case Analysis
CCA	Clinger-Cohen Act
COTS	Commercial Off-the-Shelf
CPMS	Civilian Personnel Management Service
DBS	Defense Business System
DBSMC	Defense Business Systems Management Committee
DHRA	Defense Human Resource Activity
DITPR	Defense Information Technology Portfolio Repository
ESS	Enterprise Staffing Solution
HR-BITS	Human Resource Business, Information, and Technology Solutions
IGCE	Independent Government Cost Estimate
IRB	Investment Review Board
O&M	Operations and Maintenance
OPM	Office of Personnel and Management
RDT&E	Research, Development, Test, and Evaluation
SaaS	Software as a Service
U.S.C.	United States Code



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

September 28, 2009

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,
TECHNOLOGY, AND LOGISTICS
UNDER SECRETARY OF DEFENSE (COMPTROLLER)/DOD
CHIEF FINANCIAL OFFICER
UNDER SECRETARY OF DEFENSE (PERSONNEL AND
READINESS)
DIRECTOR, CIVILIAN PERSONNEL MANAGEMENT
SERVICE

SUBJECT: DOD Enterprise Staffing Solution (Report No. D-2009-107)

We are providing this report for review and comment. We received comments from the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics; the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer; and the Civilian Personnel Management Service. All comments were considered in preparing the final audit report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. The Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer and the Civilian Personnel Management Service's comments were responsive. We request that the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics provide additional comments on Recommendation B.1 by October 28, 2009.

Please provide comments that conform to the requirements of DOD Directive 7650.3. If possible, send your comments in electronic format (Adobe Acrobat file only) to audacm@dodig.mil. Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to 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 (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9201 (DSN 664-9201).

A handwritten signature in black ink, reading "Richard B. Jolliffe", is positioned above the typed name.

Richard B. Jolliffe
Assistant Inspector General
Acquisition and Contract Management



Results in Brief: DOD Enterprise Staffing Solution

What We Did

We performed this audit as a response to three allegations made to the Defense Hotline (see Appendix B). To address the allegations, we determined whether the Civilian Personnel Management Service (CPMS) was in compliance with applicable laws and regulations when purchasing the Enterprise Staffing Solution for approximately \$153 million. The Enterprise Staffing Solution is intended to be used as a hiring tool that will accept, process, evaluate, and refer resumes for internal and external staffing.

What We Found

We substantiated all three hotline allegations. CPMS officials committed potential Antideficiency Act violations, valued at approximately \$8.3 million, by obligating funds for the Enterprise Staffing Solution project without proper certification; using operations and maintenance funds instead of research, development, test, and evaluation funds; and obligating operations and maintenance funds for services contracted for and received in the fiscal year after the funds expired.

CPMS officials did not obtain DOD Component Chief Information Officer confirmation of compliance with the Clinger-Cohen Act, Division E of Public Law 104-106, that is required for all mission-critical or mission-essential information technology systems. Further, CPMS officials did not adequately perform an analysis of alternatives that justified the decision to use software as a service alternative for satisfying the Enterprise Staffing Solution project. Finally, CPMS officials significantly understated the life-cycle costs made available to the Investment Review Board

that may have impacted the Defense Business System Management Committee certification decision.

CPMS internal controls were ineffective. We identified an internal control weakness in the acquisition of the Enterprise Staffing Solution.

On August 27, 2009, CPMS announced the cancellation of the Enterprise Staffing Solution due to contractual issues.

What We Recommend

- The Under Secretary of Defense (Comptroller)/Chief Financial Officer direct CPMS to initiate preliminary reviews for the potential Antideficiency Act violations identified.
- The Acting Director, CPMS, require financial personnel receive training with focus on Antideficiency Act violations.
- The Under Secretary of Defense for Acquisition, Technology, and Logistics USD(AT&L) issue specific guidance for the acquisition of software as a service.
- The Acting Director, CPMS, assign acquisition-certified personnel for the Enterprise Staffing Solution acquisition.

Management Comments and Our Response

The Under Secretary of Defense for Acquisition, Technology, and Logistics did not agree with the recommendation; the Under Secretary of Defense (Comptroller)/Chief Financial Officer and the Acting Director, CPMS, agreed with the recommendations. We request comments from the Under Secretary of Defense for Acquisition, Technology, and Logistics on Recommendation B.1 by October 28, 2009. See recommendation table on the back of this page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Under Secretary of Defense for Acquisition, Technology, and Logistics	B.1	
Under Secretary of Defense (Comptroller)/Chief Financial Officer		A.1
Acting Director, Civilian Personnel Management Service		A.2, B.2

Please provide comments by October 28, 2009.

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Introduction

Objective

Our overall objective was to determine whether the Civilian Personnel Management Service (CPMS) was in compliance with applicable laws and regulations for the Enterprise Staffing Solution (ESS) project. Specifically, we examined the policies, procedures, and internal controls to determine whether CPMS managed the project in accordance with DOD Directive 5000.1, “The Defense Acquisition System,” and DOD Instruction 5000.2, “Operation of the Defense Acquisition System”; if the correct appropriations were used to fund the project; and whether CPMS followed Public Law 108-375, “Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.” See Appendix A for discussion of the scope and methodology, and prior coverage related to the objectives.

Background

This audit was performed in response to allegations made to the Defense Hotline (see Appendix B). The allegations include potential violations of the Antideficiency Act (ADA) and Division E of Public Law 104-106, the “Information Technology Management Reform Act of 1996,” known as the Clinger-Cohen Act (CCA). Specifically, the allegations state that obligated funds for the ESS purchase did not receive the Defense Business Systems Management Council (DBSMC) certification as required by the 2005 National Defense Authorization Act. Second, the allegations state the misappropriation of operations and maintenance (O&M) funds that are being used instead of research, development, test, and evaluation (RDT&E) funds to conduct software test and evaluation. Third, the allegations say there were violations of the CCA for the information technology modernization effort.

Civilian Personnel Management Service

CPMS supports the Under Secretary of Defense for Personnel and Readiness and the Deputy Under Secretary of Defense (Civilian Personnel Policy) in planning and formulating civilian personnel programs, providing policy support, functional information management, and Department-wide civilian personnel administration services for the Military Departments and Defense agencies. CPMS develops and implements human resource management solutions that enable DOD to effectively support the warfighter and the national security mission. Furthermore, CPMS delivers comprehensive human resource support, solutions, and knowledge management. CPMS is divided into 13 divisions with its own internal service responsibilities. Some of these divisions include the Human Resource Business, Information, and Technology Solutions (HR-BITS); Accountability and Evaluation; Investigations and Resolutions; Field Advisory Services; and Joint Leader Development. More specifically, HR-BITS develops state-of-the-art customer-focused technology and enterprise-wide solutions. CPMS was established in 1993 to consolidate various common personnel management functions previously performed by each of the DOD Components.

Resumix Staffing Tool

DOD has used the Resumix staffing system as its enterprise automated civilian human resources staffing tool since 1997. DOD Components maintain customized versions of Resumix that are specific to their business processes. On February 22, 2005, Yahoo!/Hot Jobs, the hosts of Resumix, announced that maintenance support and hosting services would be terminated on February 28, 2006. Subsequently, in September 2005, Lucent Technologies was awarded a maintenance contract (1 year plus 3 option years) to provide support for Resumix. However, Resumix has become an unchangeable product since Lucent Technologies does not own the source code; the application cannot be upgraded or enhanced. Furthermore, Resumix has experienced a number of escalating system issues such as the inability to keep pace with continuous technological enhancements and security patches that have caused the application to become increasingly difficult to maintain and operate. As a result, the Under Secretary of Defense for Personnel and Readiness tasked CPMS officials to replace Resumix.

Enterprise Staffing Solution

In response to this tasking, the CPMS HR-BITS division spearheaded an effort to transform the civilian staffing and recruitment processes across DOD through the acquisition and implementation of a state-of-the-art ESS that is intended to improve DOD's ability to recruit and hire a highly capable, agile, diverse, and mission-ready workforce. ESS will address current inefficiencies in the legacy system software environment that include the difficulty of responding quickly to Federal and DOD human resource initiatives and complying with security and technical requirements.

CPMS worked closely with DOD Military Departments, Fourth Estate (includes the Office of the Secretary of Defense, Defense agencies, and the DOD field activities), and the National Guard. A DOD-wide Lean Six Sigma Value Stream Analysis was performed to prepare for the enterprise procurement effort and all DOD Components participated in a multi-stage vendor evaluation. The evaluation results were subsequently presented to DOD executive leadership and approval was granted to proceed with development of a Pilot Program Management Plan.

Initial implementation of the pilot program is scheduled to occur at eight DOD Components (Army, Navy, Air Force, National Guard, Defense Finance and Accounting Service, Defense Logistics Agency, DOD Education Activity, and Washington Headquarters Service). These pilot sites will be used to determine whether to proceed with full deployment of ESS throughout DOD based on an analysis of performance metrics that include improvements in categories of time, cost, and quality.

Specifically, ESS is intended to be used as a hiring tool that will accept, process, evaluate, and refer resumes for internal and external staffing. The ESS tool will include a job posting system, applicant notification system, and certificate issuing function. The system will also automate a majority of the hiring process from creating and posting job announcements through collecting applicant resumes and application materials; rating and ranking applicants; and issuing hiring certificates. Finally, ESS will consolidate and modernize current DOD hiring systems, provide seamless integration with other non-

DOD services, and provide sufficient functionality and flexibility to meet the needs of all DOD organizational entities.

CPMS procured requirement services through the U.S. Office of Personnel Management (OPM) Training and Management Assistance Program for the acquisition and implementation of the ESS solution. The Training and Management Assistance Program was established as a reimbursable program within OPM in 1982, and provides a contract vehicle for quick access to private-sector contractors with expertise in development and implementation of learning and human capital solutions. The contract vehicle is a multiple-award, indefinite-delivery, indefinite-quantity contract. The OPM contracting officer awarded a task order under that multiple-award contract that covers the 6-month pilot that could be expanded to include a base year and four 1-year options with a total estimated cost of \$153 million for the ESS project.

OPM competitively selected SRA International as one of the multiple-awardees to provide the ESS services under the Training and Management Assistance Program. Avue Technologies, a subcontractor to SRA, was chosen as the technology company for supporting the ESS initiative pilot. The Avue “software as a service” (SaaS) solution is being conducted in three phases. SaaS is a software deployment model where a provider licenses an application to customers for use as a service on demand. SaaS vendors host the application on their own servers or download the application to the client device.

The first phase in the ESS project is the configuration, testing, training, and limited use of the Avue solution by some DOD Components. The second phase, which has not occurred, will expand the system use to more than 70,000 DOD civilian employees at 41 sites across the country. The third phase, SRA/Avue partnership expansion, will cover more than 700,000 DOD civilian positions upon the completion of a satisfactory pilot.

Review of Internal Controls

We determined that an internal control weakness in the acquisition of ESS existed at CPMS as defined by DOD Instruction 5010.40, “Managers’ Internal Control (MIC) Program Procedures,” January 4, 2006. No internal acquisition regulations existed to ensure that program management officials are certified and that laws and DOD policy are followed. Implementing Recommendation B.2 will improve acquisitions at CPMS. We will provide a copy of this report to the senior official responsible for internal controls in the Under Secretary of Defense for Personnel and Readiness Office.

Finding A. Funding for the DOD Enterprise Staffing Solution Initiative

CPMS management officials did not comply with appropriations law or DOD financial management regulations for the acquisition of the ESS. Specifically, CPMS officials did not adhere to the National Defense Authorization Act for Fiscal Year 2005 by failing to obtain the Defense Business Systems Management Committee (DBSMC) certification for funds. Furthermore, CPMS officials incurred other potential ADA violations of the purpose statute and the bona fide needs rule. This occurred because financial management officials misconstrued funding guidance. As a result, CPMS incurred three potential ADA violations, valued at \$8,311,491.

Background

Section 332, Public Law 108-375

Section 332, Public Law 108-375, “Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005,” addresses system modernization. It states that funds appropriated to DOD may not be obligated for a defense business system (DBS) modernization that will have a total cost in excess of \$1 million unless the approval authority designated for the DBS certifies to the DBSMC established by section 186, Public Law 108-375 that the DBS modernization is in compliance with the enterprise architecture. Furthermore, the obligation of DOD funds for a business system modernization in excess of the amount above that has not been certified and approved in accordance with such subsection is a violation of section 1341(a)(1)(A), title 31, United States Code (31 U.S.C. 1341).

Defense Business Systems Management Committee

In February 2005, DBSMC was chartered by DOD to oversee transformation within the DOD Business Mission Area and to ensure that warfighter needs and priorities are met. Specifically, the DBSMC sets business transformation priorities and recommends the policies and procedures required to attain cross-Department, end-to-end interoperability of DOD business systems and processes. The DBSMC also approves business systems investment decisions and continually monitors schedule and milestone completeness, costs and resources, performance metrics, and risks.

The DBSMC serves as the senior-most governing body overseeing the Business Mission Area transformation and consists of the Deputy Secretary of Defense (Chair); Under Secretary of Defense for Acquisition, Technology, and Logistics (Vice Chair); Secretaries of the Military Departments and the heads of the Defense agencies; Under Secretary of Defense (Comptroller); Under Secretary of Defense for Personnel and Readiness; Vice Chairman of the Joint Chiefs of Staff; Commander, U.S. Transportation Command; Commander, U.S. Joint Forces Command; Assistant Secretary of Defense for Networks and Information Integration/DOD Chief Information Officer; and Director,

Program Analysis and Evaluation (Advisory). Every month the DBSMC convenes under the personal direction of the Deputy Secretary of Defense.

Investment Review Boards

Investment Review Boards (IRBs) support the decision making process by making investment recommendations to the appropriate Certification Authority. Those recommendations are eventually approved or disapproved by the DBSMC. The IRBs oversee investment review processes for the business capabilities that support activities in their designated areas of responsibility. Each IRB assesses modernization investments relative to their impact on end-to-end business process improvements as documented in the business enterprise architecture. The four IRBs (Human Resources Management; Weapon System Lifecycle Management and Materiel Supply and Service Management; Real Property and Installations Lifecycle Management; and Financial Management) have reviewed each candidate system investment and have recommended certification for systems.

Criteria

DOD Financial Management Regulation Appropriation Guidance

Annual appropriation acts define the uses of each appropriation and set specific timelines for use of the appropriations. The DOD Financial Management Regulation, volume 2A, chapter 1, “Budget Formulation and Presentation,” provides guidelines on the most commonly used DOD appropriations for determining the correct appropriation to use when planning acquisitions.

Research, Development, Test, and Evaluation

DOD organizations fund development, test, and evaluation requirements, including designing prototypes and processes, with RDT&E appropriations. DOD organizations use RDT&E funds to develop major system upgrades, to purchase test articles, and to conduct developmental testing and/or initial operational testing and evaluation before the DOD organizations accept systems. In general, RDT&E funds should be used for all developmental activities involved with new systems or major upgrades. RDT&E funds are available for obligation for 2 years.

Operations and Maintenance

Expenses incurred in continuing operations and current services are funded with O&M appropriations. The Under Secretary of Defense (Comptroller) considers all modernization costs under \$250,000 to be expenses, as are one-time projects such as developing planning documents and conducting studies. O&M funds are available for obligation for 1 year.

Antideficiency Act Violations

The ADA is a set of laws that allows Congress to exercise its constitutional control of the public purse. The ADA is codified in a number of sections of title 31 of the United States Code (such as 31 U.S.C 1341, 1342, and 1517). Section 1341, title 31, United States

Code (31 U.S.C. 1341), “Limitations on Expending and Obligating Amounts,” states “an officer or employee of the United States Government . . . may not (A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation” or “(B) involve either Government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.” Violations of the ADA are subject to administrative and penal sanctions of fines not more than \$5,000 and imprisonment for not more than 2 years, or both.

Use of Government Funds

DOD activities transferred funds through military interdepartmental purchase requests to CPMS for the acquisition of the ESS. Thereafter, CPMS and OPM entered into an interagency agreement for contract support from OPM on the ESS acquisition. However, CPMS did not adhere to Federal appropriation law and DOD financial guidance during the acquisition of the ESS. Therefore, CPMS may have incurred three potential ADA violations due to the failure to obtain DBSMC certification, use correctly appropriated funds, and ensure there was a bona fide need for purchase.

Certification Approval

CPMS officials failed to obtain DBSMC certification prior to obligation of FY 2007 and FY 2008 funds for the ESS acquisition. Section 2222, title 10, United States Code (which was added to the United States Code by section 332, Public Law 108-375, “Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005”) requires funds used for a DBS modernization in excess of \$1 million to receive approval authority from the DBSMC. Furthermore, section 332, Public Law 108-375 defines the DBS as an information system operated by, for, or on behalf of DOD, including financial systems, mixed systems, financial data feeder systems, and information technology and information assurance infrastructure used to support business activities, such as human resource management. Section 332, Public Law 108-375 also defines DBS modernization as the acquisition or development of a new DBS, or any significant modification or enhancement of an existing DBS (other than what is necessary to maintain current services). The Office of the Secretary of Defense delegates responsibility for review of existing DBS modification or enhancement of an operation system that will have a total cost in excess of \$1 million. Finally, the law states that the obligation of funds for a business modernization system over \$1 million that has not been certified is a violation of 31 U.S.C. 1341(a)(1)(A). Prior to obligating any funds for a business system modernization, DOD activities must obtain IRB certification and DBSMC approval of that certification in accordance with section 332, Public Law 108-375.

CPMS officials should have obtained certification prior to obligation of DOD funds totaling \$4,236,325 in FY 2008. On March 11, 2008, and April 21, 2008, the Chief of System Management and Program Administration, HR-BITS, informed the Executive Director of HR-BITS (now Acting Deputy Director, CPMS) that the DBSMC certification was essential for SaaS acquisition because CPMS exceeded the \$1 million threshold for the DBS. Upon further discussion with the Defense Human Resource Activity (DHRA) General Counsel, CPMS realized that certification was necessary for

the ESS acquisition. A DHRA official informed CPMS that the acquisition of a service does not mean that a system is not being acquired. The DHRA General Counsel also stated that if it should later be determined that failure to obtain DBSMC certification led to an ADA violation, it was unintentional and the individuals were acting with the highest intent. However, the DOD Financial Management Regulation, volume 14, chapter 3, dated February 2008, states that “upon learning of or detecting a possible violation of the Antideficiency Act . . . the individual concerned shall, within 10 working days, report the possible violation to his or her chain of command.”

CPMS officials should have taken more appropriate steps early on in the acquisition process when deciding whether the National Defense Authorization Act for FY 2005 would apply to this purchase. DHRA General Counsel legal advice was not sought until after DOD funds were sent to OPM. CPMS actions during the DBS acquisition that exceeded the \$1 million threshold for DBSMC certification could have resulted in an ADA violation (31 U.S.C. 1341[a][1][A]). Subsequently, CPMS managed to obtain DBSMC certification on August 21, 2008.

Incorrect Appropriation

CPMS officials may have also violated the purpose statute (31 U.S.C. 1301) by using O&M funds instead of RDT&E funds when contracting for the ESS. The ESS effort to improve the DOD civilian staffing and recruiting process primarily used O&M funds for the Pilot Management Plan and RDT&E funds for the Defense Civilian Personnel Data System interface that is required to support the flow of employee and position data between DOD and the contractor system. CPMS personnel said that O&M funds were used for the purchase due to the contractor system only being “tweaked” by the contractor. CPMS officials added that they did not have expanded authority¹ for the use of O&M funds and the decision to use O&M funds for the ESS project was made at an ESS executive committee meeting that normally includes DOD Component attendees (Army, Navy, Air Force, National Guard, Defense Finance and Accounting Service, Defense Logistics Agency, Department of Defense Education Activity, Washington Headquarters Service, and the CPMS). Though CPMS officials were unable to provide executive committee meeting minutes related to funding discussions, CPMS personnel stated that O&M funds were used because DOD was contracting for a service, not obtaining ownership of a system. However, a CPMS official stated that a DOD Component did offer RDT&E funds originally. CPMS officials turned the Component down. CPMS officials compared the ESS acquisition to obtaining Microsoft Office where only minor configuration changes are made, not significant changes to source code that led to development. Moreover, a DHRA Associate General Counsel provided his opinion that the purchase was for a commercial off-the-shelf (COTS) item that only required minor tweaking that used RDT&E funds, totaling \$512,082, for the minor adjustments (Defense Civilian Personnel Data System interface) and O&M funds for all other requirements.

¹Certain organizations involved in research and development are permitted to use their appropriated O&M funds for RDT&E purposes.

According to 31 U.S.C. 1301(a), “appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.” The DOD Financial Management Regulation, volume 2A, chapter 1, says “items that require engineering design, integration, test, or evaluation effort shall be procured with RDT&E funds in sufficient numbers to support such effort.” Furthermore, end items that require design and development in order to accept the COTS or non-development item should be budgeted with RDT&E funds, for the entire effort. After the initial use of RDT&E funds for the design or develop of major changes or improvements to meet the Government requirements for the service, the leased service will ultimately be financed with O&M funds. However, if the item had been purchased from a commercial source without alteration or modification, the purchase would be funded in either the procurement or O&M appropriation. Additionally, the Under Secretary of Defense issued a July 16, 2007, memorandum, “Human Resource Management Investment Review Board Guidance for Use of Operations and Maintenance Funds for Business System Modernization,” which says that O&M money should not be inappropriately spent on development, modernization, and/or procurement. Instead, O&M funds should be used for continuing operations and current services of business systems.

Though CPMS officials claim they are acquiring a service from a contractor, evidence shows that CPMS is actually attaining services from a contractor system that required interface modifications to meet their needs. A CPMS official reported that the interface is close to completion; however, the Avue Validation Control Report, dated February 2, 2009, identified approximately 200 system functionality deficiencies that are still in the process of being resolved. One example of the deficiencies listed involved development work for the National Security Personnel System. These deficiencies were still pending and delayed deployment of the ESS Pilot Management Plan that was originally scheduled on May 1, 2008. The ESS pilot launch was next expected for June 2008; another delay pushed the scheduled launch to February 28, 2009, and then to May 2009. In July 2009, CPMS said there was no new launch date due to a contract dispute. Finally, on August 27, 2009, CPMS announced the cancellation of the ESS Pilot. CPMS added that steps are in progress to determine an alternative solution. According to a CPMS official, the contractor was supposed to resolve 90 percent of 330 system patches by February 15, 2009. As noted above, the contractor was still addressing approximately 200 deficiencies on February 2, 2009. Though CPMS officials compared the ESS acquisition to obtaining Microsoft Office where only minor configuration changes are made, the number of changes and length of time brings into question whether the requirement involves minor tweaks or significant changes. As far as the interface, modifications required the use of RDT&E funds for the system. Thus the DOD Financial Management Regulation, volume 2A, chapter 1, states that end items that require design and development in order to accept the COTS use RDT&E funds. Upon the completion of modifications to the end item, O&M funds should be used for continuing operations.

Bona Fide Needs

CPMS officials potentially violated the bona fide needs rule (31 U.S.C 1502[a]) that could lead to an ADA violation (31 U.S.C. 1341 [a][1]) for the ESS purchase, valued at approximately \$153 million. Specifically, DOD authorities may have violated the bona

bona fide needs rule by using incorrect annual O&M appropriations to fund the purchase of services that were contracted for and received in the year after the appropriation expired. For instance, CPMS officials sent FY 2007 O&M funds on September 12, 2007, totaling approximately \$4,452,347, to OPM for the ESS acquisition. A CPMS budget official stated that the funds for the requirement were obligated upon the completion of the interagency agreement between CPMS and OPM. Furthermore, the CPMS budget official stated that the use of FY 2007 funds for the FY 2008 requirement was allowed since the interagency agreement was used to obligate funds in FY 2007.

The CPMS position conflicts with the October 16, 2006, Acting Deputy DOD Chief Financial Officer, Office of the Under Secretary of Defense (Comptroller), “Non-Economy Act Orders” memorandum that states “an amount shall be recorded as an obligation only when supported by documentary evidence” that the order serves a bona fide need arising in the fiscal year that the appropriation is available for obligation and execution occurs before the end of the period of availability for new obligation of the appropriation. Though funds were sent over in FY 2007, the contractor selection did not occur until FY 2008. In addition, the contract for the ESS acquisition was not awarded until February 22, 2008. Use of FY 2007 funds to satisfy a FY 2008 requirement does not meet the intent of the bona fide needs rule and resulted in a potential ADA violation. Funds that are past their period of availability cannot be used to finance new requirements and must be deobligated by DOD officials.

CPMS Financial Personnel Actions

CPMS financial management officials misapplied funding guidance that led to three potential ADA violations. As already mentioned, CPMS officials failed to obtain DBSMC certification prior to obligation of funds and misused appropriated funds. CPMS officials’ opinion that they could use O&M funds for an SaaS acquisition, which they later determined was a system, and their position that funds were obligated when the interagency contract was signed, demonstrates the need for financial management officials to receive training that clarifies the use of funds. Also noted earlier, the Chief of System Management and Program Administration informed the Executive Director, HR-BITS, that the DBSMC certification was essential for the acquisition. Furthermore, the Chief stated that the ESS project should include RDT&E funds for the requirement. Despite this, actions were not taken to address the discrepancies until a complaint was made to the DOD Hotline. Establishing a team approach that involves adequately trained finance officers, program officials, warranted contracting officers, and legal staff early in the procurement process could improve business judgment and reduce the possibility of incurring potential ADA violations. DOD officials should ensure funding guidance is being correctly followed prior to CPMS sending DOD funds to non-DOD agencies.

Conclusion

CPMS management officials’ acquisition of the ESS system failed to comply with appropriations law and DOD procurement regulations. CPMS officials did not adhere to the 2005 National Defense Authorization Act requirements by obtaining DBSMC certification for the acquisition of the ESS. Furthermore, CPMS officials potentially

violated the purpose statute and bona fide needs rule that could result in potential ADA violations. Abrupt planning and insufficient reviews early in the acquisition process resulted in these funding issues. CPMS officials should have taken steps to become more familiar with interagency acquisitions, obligation of funds requirements, and legal restrictions placed on appropriations. Seeking advice from and coordinating with DOD contracting officers and DHRA General Counsel earlier on in the acquisition process and complying with funding guidance for acquisitions would better assist CPMS officials to properly use Government funds and reduce the possibility of incurring potential ADA violations. DOD officials' funding reviews should be completed prior to CPMS sending DOD funds to non-DOD agencies. The Under Secretary of Defense (Comptroller)/Chief Financial Officer should direct DHRA to conduct preliminary reviews to determine whether ADA violations occurred due to CPMS use of funds.

Management Comments on the Finding and Our Response

Civilian Personnel Management Service Comments

The Acting Director provided comments for CPMS. First, the Acting Director stated that the OPM contracting officer awarded the contract for the pilot that could be expanded to support the DOD civilian enterprise workforce. Second, the Acting Director disagreed that CPMS officials did not adhere to the National Defense Authorization Act for Fiscal Year 2005 by failing to obtain the DBSMC certification of funds. The Acting Director further stated these matters will be addressed in the preliminary review now underway to determine whether the improper use of Government funds for the ESS initiative resulted in ADA violations. Finally, the Acting Director stated that the audit report does not provide a basis for the statement that CPMS officials were offered RDT&E funds by DOD Components. The Acting Director said that CPMS management officials are not aware of any Components offering RDT&E funding for the effort, therefore CPMS disagrees with the statement.

Our Response

We agree that the OPM contracting officer only awarded the pilot; therefore we corrected the sentence to reflect that the contract can be expanded to include a base year and four 1-year options. We also agree that the preliminary finding review will determine whether potential ADA violations occurred for the purchase; however, we stand by the report statement that CPMS officials did not adhere to the National Defense Authorization Act for Fiscal Year 2005 by failing to obtain the DBSMC certification prior to obligation of funds. As noted in the report, the law requires that the obligation of funds for a business modernization system over \$1 million that has not been certified is a violation of 31 U.S.C 1341 (a)(1)(A). CPMS did not obtain IRB certification and DBSMC approval of that certification prior to obligating funds for the defense business system modernization, as a result potentially incurred an ADA violation. Finally, we maintain that a CPMS official stated that a DOD Component originally offered RDT&E funds. The CPMS official informed OIG DOD auditors that CPMS management rejected the

DOD Component's attempt to send RDT&E funds during a verbal discussion. Instead, the DOD Component was notified that O&M funds were sufficient.

Recommendations, Management Comments, and Our Response

A.1. We recommend the Under Secretary of Defense (Comptroller)/Chief Financial Officer direct the Civilian Personnel Management Service to initiate preliminary reviews to determine whether the improper use of Government funds for the Enterprise Staffing Solution purchase resulted in Antideficiency Act violations or other funding violations in accordance with DOD 7000.14-R, "Financial Management Regulations."

Under Secretary of Defense (Comptroller)/Chief Financial Officer Comments

The Deputy Chief Financial Officer, responding for the Under Secretary of Defense (Comptroller)/Chief Financial Officer, agreed. The Deputy Chief Financial Officer stated that CPMS was directed to initiate a preliminary review on August 6, 2009. The preliminary review is intended to determine whether ADA violations or other funding violations resulted from the ESS purchases mentioned in the report.

Civilian Personnel Management Service Comments

Although not asked to comment, the Acting Director of CPMS agreed with the recommendation. The Acting Director stated that coordination occurred with the Comptroller's office that led to the Executive Director of DHRA appointing an individual to conduct a preliminary review to determine whether the improper use of Government funds for the CPMS ESS resulted in ADA violations or other funding violations in accordance with DOD 7000.14-R. The Acting Director also stated that a complete report of the findings, including coordination by the Office of General Counsel, was to be submitted to the Comptroller by September 21, 2009.

Our Response

Management comments are responsive. No further comments are necessary.

A.2. We recommend the Acting Director of the Civilian Personnel Management Service require financial personnel to receive training that focuses on compliance with the funding requirements included in DOD Financial Management Regulation, volume 2A, chapter 1, "Budget Formulation and Presentation." The training should also emphasize the bona fide needs rule, purpose statute, and potential Antideficiency Act violations.

Civilian Personnel Management Service Comments

The Acting Director agreed with the recommendation and stated that CPMS has scheduled an Appropriations Law and ADA training for all of its key management officials. Furthermore, CPMS will develop a plan to ensure that all financial personnel

and key management officials receive on-going training to ensure they stay abreast of any new changes in DOD Regulations.

Our Response

The Acting Director, CPMS, comments were responsive. No further comments are required.

Finding B. Acquisition of the DOD Enterprise Staffing Solution Initiative

CPMS officials did not comply with DOD acquisition guidance when planning and initiating the ESS project. Specifically, CPMS officials:

- did not obtain DOD Component Chief Information Officer confirmation of compliance with the CCA that is required for all mission-critical or mission-essential information technology systems;
- did not adequately perform an analysis of alternatives that justified the decision to use SaaS alternative for satisfying the ESS requirement;
- significantly understated the life cycle costs made available to the IRB that may have impacted the DBSMC certification decision; and
- did not document that the non-DOD contract was in the best interest of DOD.

This occurred because CPMS officials involved with the planning and initiation of ESS misinterpreted the acquisition regulations and were not acquisition certified. CPMS did not have any acquisition guidelines or procedures delineating the acquisition process including oversight responsibilities. In addition, DOD has no specific guidance addressing the acquisition of SaaS. As a result, CPMS officials had no assurance that the ESS purchase was based on best value and whether the DBSMC would have certified the project knowing the full extent of the costs.

Criteria

DOD Instruction 5000.2 and the Clinger-Cohen Act

DOD Instruction 5000.2, "Operation of the Defense Acquisition System," provides guidance for Defense technology projects and acquisition programs. The Instruction states the milestone decision authority shall not enter into any phase that requires a milestone approval for an acquisition program for a mission-essential system until the Chief Information Officer confirms that the system is being developed in accordance with Division E of Public Law 104-106, the Information Technology Management Reform Act of 1996, known as the Clinger-Cohen Act (CCA). The CCA is a 1996 Federal law designed to improve the way the Federal Government acquires, uses, and disposes of information technology. The CCA provides a list of requirements for all IT acquisitions that shall be satisfied before the award of a contract. See Appendix C for list of CCA requirements.

Acquisition Planning

CPMS officials did not adequately plan for the acquisition of the ESS. Further, they failed to periodically re-evaluate the project even though costs were significantly higher than originally anticipated. Acquisition-certified personnel were not involved in the project and therefore, important acquisition steps were not taken. DOD cannot be sure the ESS was the best alternative to replace its current human resources staffing tool.

Although not specifically addressed in DOD Instruction 5000.2, dated May 3, 2003, the revised version, DOD Instruction 5000.2, dated December 12, 2008, now requires that program managers be experienced and certified in acquisition management. CPMS officials should require that their program managers comply with the current DOD Instruction 5000.2, and are properly trained and certified in acquisition management.

Compliance With Clinger-Cohen Act and DOD Instruction 5000.2

The Under Secretary of Defense for Acquisition, Technology, and Logistics memorandum, “Clinger-Cohen Act Compliance Policy,” March 8, 2002, states “Compliance with the CCA is required for all IT [information technology] systems . . . The basic requirements of the CCA that relate to the Department’s acquisition process have been institutionalized in DOD Instruction 5000.2.” DOD Instruction 5000.2, “Operation of the Defense Acquisition System,” May 12, 2003,² stated that DOD Components shall not award a contract for the acquisition of a mission-critical or mission-essential information technology system, at any level, until (1) the DOD Component registers the system with the DOD Chief Information Officer, (2) the DOD CIO determines the system has an appropriate information assurance strategy, and (3) the DOD Component Chief Information Officer confirms that the system is being developed in accordance with the CCA. Since the ESS is a mission-essential system, these requirements are applicable to the ESS acquisition. CPMS officials, however, did not comply with any of these three requirements prior to the award of the ESS contract. According to the CPMS Acting Deputy Director, the ESS system was developed in accordance with the CCA; however, confirmation by the DOD Component CIO, as required for a mission-essential information technology system, was never obtained.

CPMS officials thought that because ESS is replacing Resumix, through an SaaS contract, that ESS was therefore considered a service and not a system. As such, they decided that DOD Instruction 5000.2 requirements did not apply to this acquisition. However, DOD Instruction 5000.2 clearly states that it applies to all Defense technology projects and acquisition programs. Furthermore, DOD Instruction 5000.2 includes a section titled “Acquisition of Services” detailing the additional guidance for the acquisition of information technology services. One of the requirements of the section is that the acquisition shall be acquired by business arrangements that are in the best interest of DOD. However, CPMS never determined that using OPM to acquire the ESS was in the best interest of DOD. The section also requires the creation of mandatory procedures

²DoD Instruction 5000.2 was updated on December 8, 2008. CPMS officials performed acquisition planning for the ESS under the prior issuance of the instruction.

for the acquisition and a management review process that provides for a consistent review and approval of the service acquisition. CPMS officials had no acquisition procedures and no management review process for the ESS project that may have helped CPMS to avoid some of the deficiencies noted during our audit. Finally, the section requires a documented acquisition strategy that shall be updated as changes occur. CPMS provided a Business Case Analysis (BCA) of the alternatives and a life-cycle return on investment analysis on the selected alternative. However, the information on both documents was never updated as changes occurred to show the actual numbers, resulting in the award of the ESS contract as a SaaS based on inaccurate information.

On March 11, 2008, the Chief of System Management and Program Administration, HR-BITS, sent an e-mail to the Executive Director, HR BITS, notifying her that the ESS project is not compliant with DOD Instruction 5000.2 and the CCA. The e-mail states, "I am providing this to you because, in my judgment, serious issues exist for the Enterprise Staffing Solution under its current plan All of these figures break thresholds, such that CPMS is in violation of DODD 5000.1 and DODI 5000.2." The e-mail further states "Moving out on a POM [Project Objective Memorandum] initiative of the magnitude of over \$200 million requires that the Program Manager has exercised due diligence in accordance with the Clinger-Cohen Act . . ." However, no actions were taken to correct the issues noted in the e-mail. CPMS officials should have taken a more proactive approach to determining the merits of the Chief of System Management and Program Administration's March 11, 2008, concerns and not needed a DOD Hotline complaint to get them to take appropriate action. CPMS officials should ensure the ESS acquisition is in compliance with all DOD Instruction 5000.2 and CCA requirements.

Analysis of Alternatives

In August 2007, CPMS officials issued a BCA to present a set of methodology, set of alternatives, recommendation, and cost/benefit analysis for the replacement of the Resumix system. The BCA considered four alternatives: custom design and development of a system, with an estimated cost of \$28.3 million; contract with OPM for the use of USA Staffing system, with an estimated cost of \$13.6 million; contract with a COTS system, with an estimated cost of \$22.1 million; or contract with a vendor to provide the ESS as a service, with an estimated cost of \$21.8 million. The BCA states that the last two options, contract with a COTS system and contract with a vendor to provide the ESS as a service were both viable, relatively low-risk options with equivalent costs. The first two alternatives were either too high-risk or inadequate. The BCA concluded that the selection of the contract with vendor would provide the best solution in meeting DOD needs while remaining financially responsible.

The estimated cost in the BCA for the ESS as a service was \$21.8 million over a 5-year period. This cost was based on an independent government cost estimate (IGCE) prepared by other CPMS officials. The IGCE states that the costs were based on market research conducted in early 2007. However, CPMS officials were unable to provide the market research used to develop the IGCE or any other documentation that would support it. The IGCE was grossly inaccurate, as evidenced by the actual cost of the ESS contract at \$153 million for the 6-month pilot, base year, and 4 option years, as proposed by the

vendor on October 11, 2007. According to the vendor proposal, recurring costs beyond the first 5 years would run more than \$30 million per year. The IGCE states that those recurring costs would only be \$4.5 million per year. The contract with a vendor alternative would cost approximately \$300 million over the first 10 years, whereas the IGCE costs for that same period would have totaled approximately \$44 million.

The BCA provided support for the SaaS alternative at a cost of \$21.8 million. However, the BCA did not provide support to the SaaS alternative at a cost of \$153 million as proposed by the vendor and accepted by CPMS. The BCA seemed to favor the contract with a COTS system as the best value to the Government, when considering the actual \$153 million cost for the contract with a vendor alternative. If CPMS officials still wanted to proceed with the contract with a vendor after realizing the actual costs of over \$153 million, they should have performed a new BCA to support that alternative as the best choice for the Government. Based on the existing BCA, that is not the case. As a result, DOD had no assurance it obtained the best value with the acquisition of the ESS as a service. Further, DOD has not issued specific acquisition guidance on SaaS. Guidance in this area may have helped CPMS officials in making decisions on the ESS acquisition.

DOD Investment Review Board

DOD has set up an IRB to review the system acquisitions. The IRB has the responsibility for reviewing the planning, design, acquisition, development, deployment, operation, maintenance, modernization, and project cost benefits and risks of DBS investments. The IRB then determines whether or not to recommend certification of a system development or modernization funding request. The recommendation is made to the DBSMC, which has final certification approval authority for all defense business system development/modernization investments. In June 2008, the DOD Business Transformation Agency advised that ESS is a system.

Each DOD Component, in this case CPMS, is responsible for designating a Pre-Certification Authority that is assigned accountability for the Component's business system investments. When a system's package is uploaded to the IRB Portal for review and certification, the Pre-Certification Authority validates that all information provided has been reviewed and determined to be accurate.

On June 20, 2008, the CPMS Pre-Certification Authority submitted a memorandum for the Human Resources Management IRB Chairperson, stating that the program manager of the ESS initiative requests authority to obligate funds in the amount of \$10.6 million for the replacement of the Resumix recruiting system. The memorandum stated, "I have performed a review of this initiative and have verified that the information contained in the Defense Information Technology Portfolio Repository (DITPR) has been updated and is complete and accurate as of June 20, 2008." The memorandum further stated: "An Economic Viability Analysis was completed and reviewed by the program's cost authority who concurs with the financial metrics recorded in DITPR and reflected on the certification dashboard." Based on her review, the Pre-Certification Authority recommended that the Human Resources Management IRB certify to the DBSMC approval of the request.

The Pre-Certification Authority stated that a completed ESS project certification dashboard and life-cycle return on investment analysis had been placed on the IRB Portal for review by the IRB Chairperson. However, the return on investment posted on the IRB portal included the costs per the IGCE, which were grossly understated. The IGCE had costs for the ESS project of \$4.5 million to \$4.7 million for years 2010 through 2015. The return on investment failed to include the actual costs of the ESS project, and thereby, may have influenced the certification review and decision by the IRB and DBSMC. On August 8, 2008, the Pre-Certification Authority submitted another memorandum to the IRB Chairperson, requesting authority to obligate an additional \$7 million (\$3 million for FY 2008 and \$4 million for FY 2009) for the replacement of the Resumix system. The memorandum included the exact same language that was in the June 20, 2008, memorandum. The return on investment posted to the IRB Portal still did not include the actual costs. It was just updated to reflect the increase of \$7 million to the project. At the time of these memoranda (June 20, 2008, and August 8, 2008), CPMS officials and the Pre-Certification Authority knew that the costs for the ESS were approximately \$25 million to \$30 million for each of the years 2010 through 2015, as the contractor provided CPMS a price estimate with those costs on October 11, 2007. Both the Pre-Certification Authority and the IRB Chairperson agreed that providing the actual return on investment life-cycle costs could have had an impact on the certification decision. Staffing changes occurred at CPMS during this time frame, which may have contributed to inaccurate information provided to the IRB. Acquisition-certified staff may have recognized the issues and may have provided the updated information to ensure the best decisions were being made.

Best Interest Determination

CPMS personnel did not follow DOD guidance when using OPM to acquire the ESS on behalf of DOD. The Principal Deputy Under Secretary of Defense (Comptroller) and Acting Under Secretary of Defense for Acquisition, Technology, and Logistics issued an October 29, 2004, memorandum, “Proper Use of Non-DOD Contracts” (DOD October 29, 2004, memorandum). The memorandum directs Military Departments and Defense agencies to establish procedures for reviewing and approving the use of non-DOD contract vehicles when procuring supplies and services on or after January 1, 2005, for amounts exceeding the simplified acquisition threshold. The procedures for assisted acquisitions must include evaluating whether using a non-DOD contract is in the best interest of DOD. Further, the October 16, 2006, Under Secretary of Defense (Comptroller) memorandum, “Non-Economy Act Orders,” states “each requirement must be evaluated in accordance with DOD Components’ procedures to ensure that non-Economy Act orders are in the best interest of DOD.”³

CPMS did not prepare a memorandum stating that it was in the best interest of the government to use OPM. However, on August 28, 2007, CPMS requested an Army contracting officer review of the proposal package to be submitted to OPM, as required

³Non-Economy Act Orders guidance is now covered in the DoD Financial Management Regulation, volume 11A, chapter 18.

by guidance. The Army contracting officer stated in an August 31, 2007, memorandum that “the requirement has been reviewed and no areas of concern were found.” However, the memorandum did not state or determine that using OPM for the ESS acquisition was in the best interest of DOD. In addition, the requirement amount that was provided to the Army contracting officer as part of the ESS package was \$3.8 million, when the approximate actual cost for the first year is \$32 million. The Deputy Director, CPMS, stated that CPMS officials decided to use OPM to acquire the ESS because she and the deputy project manager had worked there previously and knew OPM had the contract. CPMS officials did not comply with the best interest determination requirement, as they did not determine that the use of OPM for the acquisition of the ESS was in the best interest for DOD.

Civilian Personnel Management Service Acquisition Oversight

CPMS management oversight of the ESS acquisition was lacking. CPMS had no local guidance regarding staffing of significant acquisitions, delineating acquisition procedures to be followed, including review and approval requirements for acquisitions. In addition, program management officials involved in the ESS acquisition were not acquisition-certified and there were no contracting personnel at CPMS. For example, originally, the Director, CPMS, agreed that ESS was mission-essential but not designated as such. The deputy project manager stated that the ESS acquisition is not considered mission-essential because it is a pilot program. However, the ESS was registered as mission-essential in the DOD Technology Portfolio Repository (DITPR) by August 2008. Non-certified staff led to CPMS personnel making decisions without considering requirements such as CCA compliance confirmation by the DOD Component Chief Information Officer and not ensuring that use of OPM was in the best interest of DOD. Also, there is no documentation of anyone questioning why initial costs in the business case analysis were so wrong or whether another alternative should have been considered or used when it was determined that the costs were seven times higher than originally estimated. No local guidance and a lack of certified personnel contributed to the noncompliance with DOD and Federal acquisition laws and regulations.

The lack of acquisition-certified personnel contributed to CPMS officials’ mis-interpretation of acquisition laws and regulations. Having acquisition-certified individuals and following a comprehensive acquisition policy that includes detailed guidelines and procedures including oversight responsibilities and review and approval requirements for planning and initiating acquisitions would help eliminate the acquisition problems identified during this audit.

Software as a Service Guidance

CPMS officials incorrectly assumed that SaaS did not constitute a system and, therefore, the DOD Instruction 5000.2 and certification requirements did not apply to the ESS acquisition. It was not until the DOD Hotline complaint that they determined through their General Counsel that, although they were acquiring SaaS, it was still considered an acquisition of a system and compliance with DOD Instruction 5000.2 was required.

SaaS is a relatively new approach to satisfying information technology needs within DOD, and currently, there is no DOD guidance that addresses SaaS acquisitions. Guidance needs to be developed to highlight this new area. The guidance needs to address the requirements and proper procedures to be followed when acquiring SaaS. Acquisition officials need to understand that although they may be acquiring information technology as a service, it may still be considered a system, and all requirements for the acquisition of an information technology system would apply. Further, SaaS has drawbacks that need to be considered. The provider could go bankrupt. Once DOD decides to use a vendor, there may be no other sources to provide the service or options for substitutability. The vendor could dramatically increase the costs and DOD may have no option but to continue with the current contractor until another contract could be awarded, which could take considerable time. The provider could be sold and decide to stop supporting the Federal Government after the current contract runs out. Finally, there could be security issues with the data being processed. These types of issues need to be considered and addressed when DOD uses SaaS.

The lack of acquisition guidance related to SaaS within the Government contributed to CPMS officials not registering the mission-essential system with the DOD Chief Information Officer prior to contract award, and not fully complying with DOD Instruction 5000.2.

Conclusion

DOD officials should continue to develop innovative ways to procure and meet Defense requirements. However, as CPMS officials identify new ways to meet human resource requirements, they should seek guidance early in the process to ensure all laws and regulations are being followed. For instance, consulting the General Counsel earlier could have mitigated issues identified during the audit.

Further, CPMS officials need to develop acquisition guidelines and procedures that include management oversight responsibilities and the review and approval process for CPMS acquisitions. CPMS officials should also ensure that individuals involved in making acquisition decisions are acquisition-certified so that laws and DOD regulations are complied with. In addition, DOD officials need to develop guidance addressing the acquisition of SaaS, so that some of the confusion noted during this audit with purchasing SaaS can be avoided in the future.

Finally, CPMS officials must also ensure that all acquisition decisions are supported by best value determinations that are accurate and current for the acquisition at hand. Although CPMS had made a best value decision to purchase the ESS through SaaS, the

best value decision was based on significantly lower costs than what was eventually contracted for. When CPMS officials obtained the contractor's bid, over \$100 million more than the IGCE, they should have stopped and re-evaluated the acquisition. Early in the process, CPMS officials received cost proposals showing significant cost differences when compared to the BCA costs, and a new analysis of alternatives should have been completed to ensure DOD obtained the best value.

Management Comments on the Finding and Our Response

Civilian Personnel Management Service Comments

The Acting Director provided comments for CPMS. First, the Acting Director did not agree with the report statement that says that CPMS officials understated the life-cycle cost of the project that may have impacted the certification decision. The Acting Director stated CPMS officials received guidance from the Human Resources Management IRB Chair to provide only the pilot cost, since no decision was made to continue the project after the pilot phase. Second, the Acting Director wrote that the report incorrectly states that CPMS took no action after being notified several times about problems with the ESS project. The Acting Director added that documentation and e-mails supporting management's action to solve the ESS problems were provided to the DOD Inspector General on July 7, 2009.

Our Response

We disagree with the Acting Director comments. The Human Resources Management IRB Chair stated CPMS should have provided the actual estimate costs of the project, and those costs could have impacted the decision on whether to certify the project. Although CPMS did provide the estimate costs for the project, those costs were grossly understated. Furthermore, an IRB official stated that the original package they received for approval from CPMS did not say the ESS project was a pilot program. We also disagree with the Acting Director comments that CPMS took action to solve the problems noted by a CPMS official. While it is true the Acting Director provided some e-mails and documentation, none of them support their position. All documentation provided is dated in the period that the hotline complaint was made, showing CPMS officials took action to solve the problems after the complaint was made.

Recommendations, Management Comments, and Our Response

B.1. We recommend that the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics issue specific guidance for the acquisition of software as a service that will provide guidelines to help ensure acquisition regulations are followed for purchases above the simplified acquisition threshold.

Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics Service Comments

The Director, Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, did not agree. The Director stated that the existing rules in DOD Instruction 5000.2 are sufficient for the acquisition of SaaS and there is no need for special rules for this type of acquisition.

Our Response

We disagree with the Director's comments. We maintain that specific guidance should be developed for future SaaS acquisitions. SaaS is a new approach to acquiring the use of systems that is evolving at a fast pace, and it appears that more DOD organizations will continue to use this new type of service. Because of the innovative nature of the SaaS, there is a lot of confusion whether DOD Instruction 5000.2 applies to it or not. In the case of the ESS, CPMS initially determined that 5000.2 did not apply and did not follow the guidance because officials thought they were contracting for a service, not a system. Specific SaaS guidance could have helped the ESS acquisition to be a success. The ESS project was cancelled on August 27, 2009, after approximately \$9 million being spent on the pilot. Accordingly, we request that the Director, Defense Procurement and Acquisition Policy, reconsider the recommendation and provide comments on the final report.

Civilian Personnel Management Service Comments

Although not required to comment, the Acting Director, CPMS, agreed. The Acting Director stated that CPMS will assist the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics to develop guidance for the acquisitions of software as a service.

Our Response

Management comments are responsive. No further comments are necessary.

B.2. We recommend that the Acting Director, Civilian Personnel Management Service, staffs the Enterprise Staffing Solution project with acquisition-certified personnel to ensure that DOD guidance and acquisition regulations are followed.

Civilian Personnel Management Service Comments

The Acting Director, CPMS, agreed. The Acting Director stated that for the ESS project, CPMS will ensure the necessary training is provided. The Acting Director added CPMS will ensure a mix of acquisition-certified personnel assigned to future projects. In addition, positions requiring acquisition certifications will be opened.

Our Response

Management comments are responsive. No further comments are necessary.

Appendix A. Scope and Methodology

We conducted this Defense Hotline-requested audit from January 2009 through July 2009 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.

This audit was performed in response to allegations made to the Defense Hotline. We reviewed the acquisition process for ESS by meetings with CPMS officials to discuss the details of the acquisition. CPMS personnel provided us with documentation for our review and analysis. These acquisition documents, dated from August 2007 through May 2009, included military interdepartmental purchase requests, interagency agreements, BCA, the ESS Pilot Management Plan, Lifecycle Return on Investment Analysis, Program Budget Decision, IGCE, vendor proposals, memoranda, e-mails, and miscellaneous correspondence.

We interviewed personnel at CPMS and reviewed:

- interagency agreements between CPMS and OPM and contract actions to determine whether CPMS followed Public Law 108-375, “Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005”;
- military interdepartmental purchase requests and the DOD Financial Management Regulation to determine whether the correct appropriations were used to fund the Enterprise Staffing Solution project;
- the CPMS BCA, IGCE, CPMS e-mails, and CPMS memoranda to the IRB to determine whether CPMS managed the project in accordance with DOD Instruction 5000.2, “Operation of the Defense Acquisition System,” and the CCA; and
- the Army contracting officer memorandum and CPMS BCA to determine whether proper acquisition planning was performed according to DOD policy.

Use of Computer-Processed Data

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

Prior Coverage

During the last 5 years, the Government Accountability Office and the Department of Defense Inspector General have not issued any reports discussing CPMS.

Appendix B. Allegations

The following three allegations were made to the Defense Hotline concerning the CPMS acquisition of the ESS. Specifically:

- The information technology modernization effort is covered within the Human Resource Management domain of the Business Mission Area. Accordingly, the project is subject to the requirements of section 332, Public Law 108-375, “Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.” The National Defense Authorization Act for FY 2005 requires DBSMC certification prior to the obligation of funds. The National Defense Authorization Act for FY 2005 further states that failure to obtain DBSMC certification prior to obligation of funds shall be treated as an ADA violation. CPMS did not receive certification for FY 2007 funds totaling \$6 million.
- The information technology modernization effort to replace the existing Resumix system requires an evaluation of the ESS software. Therefore, RDT&E funds should have been used instead of O&M funds. An ADA violation may have occurred, yet CPMS leadership continues to request O&M funds.
- The ESS initiative is covered within 40 U.S.C. 11101 and 44 U.S.C. 3502, which give the definition of an information system. In addition, the ESS initiative is a service capability that is covered within the scope of DOD Directive 5000.1, “The Defense Acquisition System,” and DOD Instruction 5000.2, “Operation of the Defense Acquisition System.” Approval of a Program Objective Memorandum issue paper would make the initiative an acquisition category 1 [ACAT I] program. The program management team, who are not acquisition-certified, have ignored or violated multiple provisions of the Clinger-Cohen law.

We substantiated all three complainant allegations. Our review of the ESS project found that CPMS officials did not adhere to the 2005 National Defense Authorization Act by failing to obtain DBSMC certification prior to the obligation of FY 2007 and FY 2008 funds. CPMS personnel also incurred potential ADA violations of the purpose statute and bona fide needs rule. CPMS used the wrong type of funds and award contracts with prior year funds that were no longer available for new obligations. Finally, CCA basic requirements that are relevant to the DOD acquisition process have been included within DOD Instruction 5000.2. CPMS officials did not comply with CCA or DOD Instruction 5000.2 due to the failure to register the system with the DOD Component Chief Information Officer and obtain the DOD Chief Information Officer confirmation of compliance with CCA for the mission-essential information technology system. The requirements also state that the DOD Chief Information Officer must determine whether the system has an appropriate information assurance strategy.

The mission-essential acquisition, however, did not meet the DOD Instruction 5000.2 dollar thresholds for acquisition category 1 [ACAT I] status.

Appendix C. Clinger-Cohen Act Compliance

The following table lists the requirements related to the Clinger-Cohen Act of 1996 for the acquisition of information technology.

Review Area
1. Make determination that the acquisition supports core, priority functions of the Department.
2. Establish outcome-based performance measures linked to strategic goals.
3. Redesign the processes that the system supports to reduce costs, improve effectiveness, and maximize the use of COTS technology.
4. No private sector or Government source can better support the function.
5. An Analysis of Alternatives has been conducted.
6. An economic analysis has been conducted that includes a calculation of the return on investment; or for non-AIS programs, a Life-Cycle Cost Estimate has been conducted.
7. There are clearly established measures and accountability for program progress.
8. The acquisition is consistent with the Global Information Grid policies and architecture, to include relevant standards.
9. The program has an information assurance strategy that is consistent with DOD policies, standards, and architectures, to include relevant standards.
10. To the maximum extent practicable, modular contracting has been used, and the program is being implemented in phased, successive increments, each of which meets part of the mission need and delivers a measurable benefit, independent of future increments.
11. The system being acquired is registered.

Office of the 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

SEP 14 2009

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL AND DIRECTOR,
DEFENSE FINANCIAL AUDITING SERVICE, DoDIG

THROUGH: DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS ^{7/8} 9/14/09

SUBJECT: Response to DoDIG Draft Report on DoD Enterprise Staffing Solution
(Project No. D2009-D000CF-0138.000)

As requested, I am providing responses to the general content and recommendations contained in the subject report.

Recommendation B.1.

We recommend that the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics issue specific guidance for the acquisition regulations of software as a service that will provide guidelines to help ensure acquisition regulations are followed for purchases above the simplified acquisition threshold.

Response:

Non-Concur. The existing rules in DoDI 5000.02 for the acquisition of services or the acquisition of an Information Technology system are sufficient for the acquisition of SaaS. We do not concur with the IG's recommendation that special rules are required for SaaS.

My POC is [REDACTED]. He can be reached at [REDACTED] or via e-mail at [REDACTED].

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy



Office of the Under Secretary of Defense(Comptroller)/ Chief Financial Officer Comments



COMPTROLLER

OFFICE OF THE UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100


AUG 17 2009

MEMORANDUM FOR PROGRAM DIRECTOR, DEFENSE FINANCIAL
AUDITING SERVICE, OFFICE OF THE INSPECTOR
GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Draft Audit Report, "DoD Enterprise Staffing Solution",
OIG Project No. D2009-D000CF-0138.000

This memo is in response to the subject July 27, 2009 draft report provided to this office for review and comment. Our response to the audit report recommendation, directed to the Under Secretary of Defense (Comptroller)/Chief Financial Officer, is at Attachment 1.

We appreciate the opportunity to respond to your draft audit report and look forward to resolving the cited issues. My point of contact is [REDACTED]. He can be contacted by telephone at [REDACTED] or e-mail at [REDACTED].



Mark E. Easton
Deputy Chief Financial Officer

Attachment:
As stated

cc:
ODGC(F)



Attachment 1
Response to Draft Audit Report Recommendations

Office of the Inspector General (OIG), Department of Defense (DoD)
“DoD Enterprise Staffing Solution”
OIG Project No. D2009-D000CF-0138.000

OIG Recommendation A1. We recommend the Under Secretary of Defense (Comptroller)/Chief Financial Officer direct the Civilian Personnel Management Service to initiate preliminary reviews to determine whether the improper use of Government funds for the Enterprise Staffing Solution purchase resulted in Antideficiency Act Violations or other funding violations in accordance with DoD 7000.14-R, “Financial Management Regulations.”

OSD Response. Concur. We directed the Civilian Personnel Management Service to initiate a preliminary review on August 6, 2009 to determine whether ADA or funding violations resulted from the purchases related to Enterprise Staffing Solution as cited in the above mentioned report.

Civilian Personnel Management Service Comments



DEPARTMENT OF DEFENSE
CIVILIAN PERSONNEL MANAGEMENT SERVICE
1400 KEY BOULEVARD
ARLINGTON, VA 22209-5144

SEP 03 2009

MEMORANDUM FOR DEPARTMENT OF DEFENSE OFFICE OF THE
INSPECTOR GENERAL, PROGRAM DIRECTOR
ACQUISITION AND CONTRACT MANAGEMENT

SUBJECT: Draft Audit Report on DoD Enterprise Staffing Solution
(Project No. D2009-D000CF-0138.000)

We appreciate the opportunity to provide our comments on the subject draft audit report. CPMS concurs with all four recommendations made in the report, and we are taking action on each as discussed below. We have attached clarifying comments, however, on some of the findings stated in the report.

With regard to the specific recommendations.

A.1. We recommend the Under Secretary of Defense (Comptroller)/Chief Financial Officer direct the Civilian Personnel Management Service to initiate preliminary reviews to determine whether the improper use of Government funds for the Enterprise Staffing Solution purchase resulted in Anti-Deficiency Act Violations or other funding violations in accordance with DoD 7000.14-R, "Financial Management Regulations."

CPMS Response: Concur.

Action taken: After coordinating with the Comptroller's office the Executive Director of the DoD Human Resources Activity appointed an individual to conduct a preliminary review to determine whether the improper use of government funds for the CPMS ESS resulted in Antideficiency Act violations or other funding violations in accordance with DoD 7000.14-R. A complete report of findings, including coordination by the Office of General counsel, will be submitted to the Comptroller by September 21, 2009.

A.2. We recommend the Acting Director of the Civilian Personnel Management Service require financial personnel to receive training that focuses on compliance with the funding requirements included in DoD Financial Management Regulation, volume 2A, chapter 1, "Budget Formulation and Presentation." The training should also emphasize the bona fide needs rule, purpose statute, and potential Anti-Deficiency Act violations.

CPMS Response: Concur.

Action taken: Prior to the Audit, CPMS had already begun training for all financial management personnel to include courses in Fiscal Law and Appropriations Law, as well as other financial management courses. CPMS has scheduled an Appropriations Law and Anti-Deficiency Act training for all of our key management officials. CPMS will develop a plan to ensure that all financial personnel and key management officials receive on-going training to ensure they stay abreast of any new changes in DoD Regulations.

B.1. We recommend that the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics issue specific guidance for the acquisition of software as a service that will provide guidelines to help ensure acquisition regulations are followed for purchases above the simplified acquisition threshold.

CPMS Response: Concur.

CPMS will assist the OUSD (AT&L), as necessary, to develop guidance for software as a service acquisitions.

B.2. We recommend that the Acting Director, Civilian Personnel Management Service staff the Enterprise Staffing Solution project with acquisition-certified personnel to ensure that DoD guidance and acquisition regulations are followed.

CPMS Response: Concur.

For current project staff, CPMS plans to ensure necessary training is provided. For future project personnel, CPMS will ensure that there is an appropriate mix of acquisition-certified personnel supporting the project. Positions requiring acquisition certification will be designated and the position descriptions modified to require DWIA Certification. CPMS will work with DHRA Headquarters to ensure proper training is obtained.

Our response was coordinated with the DHRA Office of General Counsel. My point of contact is [REDACTED] at [REDACTED].



Sharon Stewart
Acting Director

Attachment:
As stated

**Additional CPMS Comments
Draft Audit Report on DoD Enterprise Staffing Solution
(Project No. D2009-D000CF-0138.000)**

In General

These comments are offered to clarify several statements and findings in the Draft Report that without such clarification could lead to inaccurate inferences or conclusions.

IG Comment:

Page 3. "The OPM contracting officer awarded a task order under the multiple-award contract that covers the 6-month pilot, and a base year and four 1-year options with a total estimated cost of \$153 million for the ESS project."

CPMS Response:

The contract awarded by the Office of Personnel Management (OPM) contracting officer was only awarded for the pilot. As indicated in the "Statement of Objectives" provision of the Inter-Agency Agreement between DoD and OPM, "the purpose of this project is to procure services through the U.S. Office of Personnel (OPM) Training and Management Assistance (TMA) Program for the acquisition and implementation of an ESS pilot that can be expanded to support the DoD civilian enterprise workforce." At the end of that agreement was an estimated cost for this service which was documented on OPM's form 1617. It was this official document which was signed by both the directors of CPMS and OPM as stipulated in the FMR, volume 11A, chapter 3.

IG Comment:

Pages 4 and 6. "CPMS management officials did not comply with appropriations law or DoD financial management regulations for the acquisition of ESS. Specifically, CPMS officials did not adhere to the National Defense Authorization Act for Fiscal Year 2005 by failing to obtain the Defense Business Systems Management Committee (DBSMC) certification for funds."

CPMS Response:

We believe there is inadequate foundation for the audit report to make these statements. These matters will be addressed in the preliminary review now underway to determine whether the improper use of government funds for the CPMS ESS resulted in Anti-Deficiency Act violations.

IG Comment:

Page 7. "However, CPMS officials stated that the DoD Components did offer RDT&E funds originally."

CPMS Response:

The audit report does not provide specific information to provide a basis for this assertion. CPMS management officials are not aware of any Components offering RDT&E funding for this effort. Therefore, we respectfully disagree and request further clarification from the IG audit team.

IG Comment:

Page 11. "CPMS officials did not comply with DoD acquisition guidance when planning and initiating the ESS project. Specifically, CPMS officials: ...

- Significantly understated the life cycle costs made available to the IRB that may have impacted the DBSMC certification decision.

CPMS Response:

Prior to submission of the ESS DBSMC certification package discussions were held with the acting HR IRB Chair to discuss how to submit the package and what costs should be included. Guidance was provided that indicated since no decision had been made to adopt the application beyond a pilot effort that CPMS needed only submit the pilot cost.

IG Comment:

Page 13. "On March 11, 2008, the Chief of the System Management and Program Administration (SMPA), HR-BITS, sent an e-mail to the Executive Director, Human Resources Business Information Technology Solutions (HR BITS).....However, no actions were taken to correct the issues noted in the e-mail."

CPMS Response:

Documentation supporting management's action was provided to the IG Team on July 7, 2009. The IG Audit team failed to make changes to the discussion draft based on the information provided. The IG Audit Team was provided with an MFR of a meeting held between the Chief SMPA and the Executive Director HR BITS that directed the Chief SMPA to research the rules and regulations and to identify what corrective actions were necessary. The IG Audit Team was also provided with a copy of the briefing provided by the Chief SMPA on April 30, 2008, with the plan of action. As a result of the May 30, 2008 briefing the Chief SMPA was directed to work with the ESS Project Manager to develop the DBSMC Certification Package and to

identify and develop any missing program documentation. The DBSMC Certification Package was submitted to the HRM IRB on May 27, 2008. Submission of this package raised several questions again regarding the need for certification, the color of money, and how to address funds already expended prior to obtaining certification. After further research and legal counsel review, the package was resubmitted to the HRM IRB on June 20th. Additional emails and information were provided to the IG Audit Team to support this position.



Inspector General Department of Defense

