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Report No. D-2011-032

January 7, 2011

# Inspector General

United States  
Department of Defense



## Logistics Civil Augmentation Program Support Contract Needs to Comply With Acquisition Rules

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## Acronyms and Abbreviations

ASA(ALT)	Assistant Secretary of the Army for Acquisition, Logistics, and Technology
BCAT	Base Closure Assistance Team
COR	Contracting Officer's Representative
DCMA	Defense Contract Management Agency
DPD	Deputy Program Director
FAR	Federal Acquisition Regulation
LOGCAP	Logistics Civil Augmentation Program
MNC-I	Multi-National Corps-Iraq
MPRI	Military Professional Resources Incorporated
PCO	Procuring Contracting Officer
PWS	Performance Work Statement
QASP	Quality Assurance Surveillance Plan
RICC	Rock Island Contracting Center
U.S.C.	United States Code
USF-I	U.S. Forces-Iraq





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January 7, 2011

MEMORANDUM FOR ARMY AUDITOR GENERAL

SUBJECT: Logistics Civil Augmentation Program Support Contract Needs to Comply  
With Acquisition Rules (Report No. D-2011-032)

We are providing this report for review and comment. In February 2007, the Army awarded an indefinite-delivery, indefinite-quantity contract to Serco, Incorporated, to provide support and analysis for the Logistics Civil Augmentation Program throughout the world. Army contracting officials did not properly manage this contract, valued at approximately \$117 million; instructed the contractor to perform work outside the scope of the contract; and did not provide adequate oversight and surveillance. We considered management comments on a draft of this report when preparing the final report.

We received comments from the Logistics Civil Augmentation Program support contract award fee determining official, the Logistics Civil Augmentation Program support contract procuring contracting officer, and the Rock Island Contracting Center non-Logistics Civil Augmentation Program contracting officers too late to include them in the final report. DOD Directive 7650.3 requires that all recommendations be resolved promptly. Therefore, if the Rock Island Contracting Center and Logistics Civil Augmentation Program personnel do not submit additional comments by February 7, 2011, we will consider the comments received as the response to the final report. Comments from the Assistant Secretary of the Army for Acquisition, Logistics, and Technology were partially responsive. Therefore, we request additional comments on Recommendation A.3 that clarify management's intended actions by February 7, 2011.

If possible, send a .pdf file containing your comments to [audacm@dodig.mil](mailto: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).

Richard B. Jolliffe  
Assistant Inspector General  
Acquisition and Contract Management

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# Results in Brief: LOGCAP Support Contract Needs to Comply With Acquisition Rules

## What We Did

We reviewed management and administration of the Army Logistics Civil Augmentation Program (LOGCAP) support contract, valued at approximately \$117 million. Army contracting officials did not properly manage this contract, instructed the contractor to perform work outside the scope of the contract, and did not provide adequate oversight and surveillance.

## What We Found

~~(FOUO)~~ LOGCAP officials instructed the LOGCAP support contractor to provide requirements development assistance for at least 71 non-LOGCAP contract requirements valued at approximately \$1 billion and did not appropriately address potential organizational conflicts of interest or the support contractor's access to proprietary information with regard to non-LOGCAP contracts. This occurred because contracting officials concluded that the work was within scope, [REDACTED]

[REDACTED] As a result, Army contracting officials allowed the support contractor to assist in developing requirements for non-LOGCAP contracts that it could have potentially competed and may have violated Federal regulations by providing support contractors with other contractors' proprietary information.

The procuring contracting officer (PCO) issued a task order for base closure assistance teams (BCATs), valued at \$9.3 million, that was outside the scope of the support contract. Rock Island Contracting Center (RICC) and LOGCAP officials concluded that the task order could be executed to support LOGCAP even though the work was to support the Multi-National Corps-Iraq. As a result, the requirements were not competed.

The PCO did not provide adequate oversight, and the contracting officer's representatives (CORs) in-theater did not adequately monitor the contractor's performance. This occurred because the PCO did not develop a requirements-based quality assurance surveillance plan (QASP) and did not effectively communicate with the CORs. As a result, the PCO has no assurance that the Army received services in accordance with contract requirements or that a portion of the contractor's \$2.3 million in performance-based award fees was justified.

## What We Recommend

The LOGCAP support contract PCO should compete non-LOGCAP requirements. Non-LOGCAP contract PCOs should also advise bidders that a third-party contractor may have access to their proposals. Additionally, the LOGCAP support contract PCO should prohibit the support contractor from performing work on any contract resulting from their services, not exercise the option year for the BCAT task order, write a proper QASP for each task order, and develop and implement a process for communicating with CORs effectively.

## Management Comments and Our Response

The Assistant Secretary of the Army for Acquisition, Logistics, and Technology (ASA[ALT]) agreed to review the actions of LOGCAP contracting personnel. However, the comments were only partially responsive. RICC contracting officials provided comments, but they were received too late to be incorporated into the final report. We request that the ASA(ALT) provide additional comments by February 7, 2011. Please see the recommendations table on the back of this page.

## Recommendations Table

<b>Management</b>	<b>Recommendations Requiring Comment</b>	<b>No Additional Comments Required</b>
Assistant Secretary of the Army for Acquisition, Logistics, and Technology	A.3.a and b	A.3.c
Logistics Civil Augmentation Program Support Contract Award Fee Determining Official	C.2	
Logistics Civil Augmentation Program Support Contract Procuring Contracting Officer	A.1, B, C.1	
Rock Island Contracting Center Non-Logistics Civil Augmentation Program Contracting Officers	A.2	

**Please provide comments by February 7, 2011.**

# Table of Contents

<b>Introduction</b>	1
Audit Objective	1
Background on LOGCAP Support Contract	1
Additional Controls Needed for the LOGCAP Support Contract	2
<b>Finding A. Support Contractor Allowed to Perform Non-LOGCAP Work</b>	4
Out of Scope Work	4
Added Work Created Conflict of Interest	8
Conclusion	12
Recommendations, Management Comments, and Our Response	13
<b>Finding B. Task Order for Multi-National Corps-Iraq Outside the Scope of the Contract</b>	16
Base Closure Assistance Teams Task Order Issuance	16
Multi-National Corps-Iraq Base Closure Assistance Teams Requirement Outside the Scope of the LOGCAP Support Contract	17
Procuring Contracting Officer Did Not Restrict Base Closure Assistance Teams' Operations	20
United States Forces-Iraq to Issue New Base Closure Contract	20
Conclusion	20
Recommendation	21
<b>Finding C. Oversight Improvements Needed for the LOGCAP Support Contract</b>	22
Criteria for Contract Oversight	22
Lack of a Requirements-Based Quality Assurance Surveillance Plan	22
More Oversight and Monitoring is Needed	24
Contractor May Have Received Unjustified Award Fees	28
Conclusion	31
Recommendations	32
<b>Appendix. Scope and Methodology</b>	34
Prior Coverage	35
<b>Management Comments</b>	
Assistant Secretary of the Army for Acquisition, Logistics, and Technology	37





# Introduction

## Audit Objective

Our audit objective was to determine whether Army officials managed and administered the Logistics Civil Augmentation Program (LOGCAP) support contract in accordance with Federal and DoD guidance. See the Appendix for a discussion of the scope and methodology and prior audit coverage related to the audit objectives.

We performed this audit pursuant to Public Law 110-181, “The National Defense Authorization Act for Fiscal Year 2008,” section 842, “Investigation of Waste, Fraud, and Abuse in Wartime Contracts and Contracting Processes in Iraq and Afghanistan,” January 28, 2008. Section 842 requires:

Thorough audits to identify potential waste, fraud, and abuse in the performance of (1) Department of Defense contracts, subcontracts, and task and delivery orders for the logistical support of coalition forces in Iraq and Afghanistan; and (2) Federal agency contracts, subcontracts, and task and delivery orders for the performance of security and reconstruction functions in Iraq and Afghanistan.

## Background on the LOGCAP Support Contract

LOGCAP is an initiative by the Army to plan for contingency operations during peacetime, using contractors to provide logistics support with reasonable assurance of success and within reasonable cost. Under the LOGCAP IV program, the Army competed and awarded LOGCAP IV performance contracts to three performance contractors: DynCorp International, Fluor Intercontinental, and Kellogg, Brown, & Root Services. Subsequent to the performance contract awards, the Government needed an independent planning contractor to avoid the real or perceived conflict of having one of the LOGCAP IV performance contractors plan and develop task order performance work statements (PWSs) that all LOGCAP IV performance contractors would compete on. According to the LOGCAP IV acquisition plan, the independent contractor would work closely with Government staff in developing the plans and coordinate with the LOGCAP IV performance contractors on those plans.

The LOGCAP IV support contract, W52P1J-07-D-0010, was awarded to Serco, Incorporated (Serco), on February 16, 2007, to provide resources and expertise for LOGCAP. Specifically, the contract stated that the program management analysis and support requirements should focus on LOGCAP capabilities and/or resources to support the Army, DoD Component, other Federal agencies, and non-governmental and coalition forces when approved by the Department of the Army. The indefinite-delivery, indefinite-quantity contract included 1 base year and 4 option years, with a contract ceiling of \$45 million per year. In February 2010, the Army exercised option year 3, and the procuring contracting officer (PCO) definitized option year 3 in August 2010, increasing the contract value to approximately \$117 million.

## **Support Contract Management**

The Army Sustainment Command, located in Rock Island, Illinois, is the LOGCAP executive agent with overall responsibility for program management. The LOGCAP Executive Directorate, located at Fort Belvoir, Virginia, is responsible for program execution and reports to the Army Sustainment Command. LOGCAP support contractor employees at the LOGCAP Executive Directorate assist the LOGCAP Director with operations support.

Rock Island Contracting Center (RICC) is the acquisition center and awards and administers LOGCAP contracts. LOGCAP support contractor employees at RICC assist with program support. The Deputy Program Directors (DPDs) in Kuwait, Iraq, and Afghanistan are responsible for oversight of the LOGCAP program in Southwest Asia. LOGCAP support contractor employees deployed with the DPDs assist with program and event support.

## **Task Orders**

Table 1 shows the task order requirements and the 18 task orders<sup>1</sup> issued to Serco by the PCO under the LOGCAP support contract.

**Table 1. LOGCAP Support Contract Task Orders**

<b>Task Order Requirement</b>	<b>Task Order No.</b>
Base Closure Assistance Teams	18
Multi-National Corps-Iraq, Cost Analyst Support	12, 17
Multi-National Force-Iraq, Logistical Planning Support	8
Operations Support	2
Program Management Office Staffing	1
Program Management Support and DPD Support	3, 6, 15, 19
Task Order Competition Support	11,16
Training and Exercise Support	2, 5, 7, 9, 10, 14
Travel	4

## **Additional Controls Needed for the LOGCAP Support Contract**

DoD Instruction 5010.40, “Managers’ Internal Control Program (MICP) Procedures,” July 29, 2010, requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls.

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<sup>1</sup> Task order 13 was skipped in the sequential numbering of the task orders; therefore, only 18 task orders have been issued.

We identified internal control weaknesses associated with the management of the LOGCAP support contract. LOGCAP officials did not have adequate internal controls for managing and administering the LOGCAP support contract. Specifically, LOGCAP contracting officials did not: communicate effectively and provide guidance to personnel stationed in Iraq so the base closure assistance team (BCAT) work would be executed within the scope of the PWS, develop quality assurance surveillance plans (QASPs) for the LOGCAP support task orders, or provide proper contractor oversight. In addition, LOGCAP contracting officials did not have controls to mitigate the potential for organizational conflicts of interests between the support contractor and the non-LOGCAP contractors and did not have controls in place for notifying non-LOGCAP contractors in Kuwait that the LOGCAP support contractor may have access to their proprietary information. For specific results of the weaknesses identified, see Findings A, B, and C of this report. Implementing recommendations A.2. and C.1. will resolve the identified weaknesses. We will provide a copy of the report to the senior official responsible for internal controls in the Department of the Army.

We issued Report No. D-2010-059, “Contingency Contracting: A Framework for Reform,” on May 14, 2010. The report identified systemic contracting issues related to the issues discussed in this report. The report also included a “Key Aspects of the Contracting Process” flowchart, which is a useful tool for contracting officers to assess the strengths and weaknesses in their contracting approaches and provides real-time awareness of areas that might be susceptible to fraud and contributors to waste and abuse. The flowchart should be used by LOGCAP and RICC personnel as they continue to manage and administer the current and any future LOGCAP support contracts.

## Finding A. Support Contractor Allowed to Perform Non-LOGCAP Work

~~(FOUO)~~ Army officials did not manage and administer the LOGCAP support contract in accordance with Federal and DoD guidance. Specifically, LOGCAP officials instructed the LOGCAP support contractor to perform work that was outside the scope of the LOGCAP support contract. The LOGCAP support contractor provided requirements development assistance for at least 71 non-LOGCAP contracts or task orders for requirements valued at approximately \$1 billion, according to the LOGCAP DPD for Kuwait. Further, the PCO did not address:

- the potential organizational conflicts of interest or
- the LOGCAP support contractor's inappropriate access to other contractors' proprietary information while supporting the non-LOGCAP contracts.

This occurred because RICC contracting officials<sup>2</sup> concluded that the additional work was within the scope of the LOGCAP support contract, [REDACTED]

[REDACTED] Further, the PCO did not comply with section 2383, title 10, United States Code (10 U.S.C. §2383 [2010]) requirements to preclude organizational conflicts of interest. The LOGCAP DPD in Kuwait did not inform the PCO of an organizational conflict of interest that the non-LOGCAP work created between the support contractor and a subcontractor. As a result, RICC officials:

- did not obtain the cost savings from competing the out of scope work and violated the Competition in Contracting Act, 41 U.S.C. §253 (2010);
- gave the support contractor a potential competitive advantage on the work for which it was developing requirements;
- violated the Federal Acquisition Regulation (FAR) and potentially violated the Trade Secrets Act, 18 U.S.C. §1905 (2010) by providing the support contractor with other contractors' proprietary information; and
- created the potential for additional problems after the Army informs non-LOGCAP contractors that their proprietary data was provided to the support contractor without their permission or contractual protections.

### Out of Scope Work

Army officials instructed Serco, the LOGCAP support contractor, to perform work that was outside the scope of the LOGCAP support contract. According to the LOGCAP DPD for Kuwait, Army officials instructed the LOGCAP support contractor to provide requirements development assistance for at least 71 non-LOGCAP contracts or task orders for requirements valued at approximately \$1 billion. Further, the PCO did not modify the contract to include the additional requirements or appropriately address

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<sup>2</sup> RICC contracting officials included the Principal Assistant Responsible for Contracting, the Deputy Principal Assistant Responsible for Contracting, and the LOGCAP Contracting Branch Chief.

potential organizational conflicts of interest with regard to the non-LOGCAP contracts or the LOGCAP support contractor's access to other contractors' proprietary information. RICC contracting officials issued four task orders for the base year and 3 option years for LOGCAP DPD support in Kuwait, Iraq, and Afghanistan.

### ***Non-LOGCAP Contract Support***

LOGCAP officials instructed Serco to perform work that was outside the scope of the LOGCAP support contract. In September 2007, the Secretary of the Army visited the Kuwait contracting office in response to serious problems involving fraud, waste, and abuse in Southwest Asia and directed the LOGCAP DPD office in Kuwait to develop all requirements in Kuwait in order to exercise management controls in the contracting process. As a result, in September 2007, an operations order established an Army Sustainment Command U.S.-based contracting reachback cell to manage and execute specific contracts and requirements in order to strengthen Kuwait contracting operations. The order tasked the LOGCAP Director to provide management and oversight of all contracts executed by the contracting reachback cell at RICC and of the Combat Service Support Contract-Kuwait.

The LOGCAP DPD office in Kuwait assumed responsibility for assisting with developing more than \$1 billion in annual requirements after the operations order was established. These included supply, maintenance, transportation, public works, information management, training, and services requirements. The Military Surface Deployment and Distribution Command also used the LOGCAP DPD office in Kuwait to assist in developing requirements for terminal services for Umm Qasr, Jordan, Qatar, the United Arab Emirates, Oman, Bahrain, Saudi Arabia, and Pakistan. Personnel in the LOGCAP DPD office in Kuwait, including LOGCAP support contract employees, assisted with creating PWSs, QASPs, and independent cost estimates and also facilitated technical proposal evaluations for both LOGCAP and non-LOGCAP contracts.

According to the LOGCAP DPD for Kuwait, the LOGCAP DPD office in Kuwait was responsible for assisting in requirements development, valued at approximately \$1.2 billion; however, only \$200 million was for LOGCAP requirements. The non-LOGCAP requirements were supported by 12 of 13

LOGCAP support contractor employees in the LOGCAP DPD office in Kuwait; only 1 LOGCAP support contractor employee worked full time on LOGCAP requirements. According to RICC personnel, LOGCAP support contractor employees were supporting at least 71 non-LOGCAP contracts or task orders and only 3 LOGCAP task orders.

*. . . LOGCAP support contractor employees were supporting at least 71 non-LOGCAP contracts or task orders and only 3 LOGCAP task orders.*

### ***Improper Scope Determination***

~~(FOUO)~~ RICC contracting officials concluded that the additional work performed by the LOGCAP support contractor in the LOGCAP DPD office in Kuwait was within the scope of the LOGCAP support contract [REDACTED]



[REDACTED]

(FOUO) [REDACTED]

RICC contracting officials stated that they believed that the support to non-LOGCAP contracts was within the scope of the LOGCAP support contract because, although there were three LOGCAP IV performance contracts, the LOGCAP “program” encompassed more than the LOGCAP “contracts.” RICC officials stated that because the LOGCAP support contract was awarded to support the LOGCAP program, the additional support was within the scope of the LOGCAP support contract because the mission of the LOGCAP program had expanded to include similar support to non-LOGCAP contracts.

According to Army Regulation 700-137, “Logistics Civil Augmentation Program (LOGCAP),” December 1985, the LOGCAP objective is to plan for the use of civilian contractors to perform selected services in wartime to augment Army forces. Further, according to the LOGCAP IV acquisition plan, LOGCAP is an initiative by the Army to plan for contingency operations during peacetime, using contractors to provide logistics support with reasonable assurance of success and within reasonable cost. Although RICC officials contended that the LOGCAP program was separate from the LOGCAP contract, the objective of the LOGCAP program was to plan for the use of contractors. The Army Regulation required the Army Materiel Command<sup>3</sup> to assist in developing and awarding LOGCAP contracts and did not mention other, non-LOGCAP contracts. Therefore, support provided by the LOGCAP support contractor should have been solely associated with the LOGCAP performance contracts. Further, clauses in the LOGCAP support contract make it clear that officials did not foresee the LOGCAP support contractor providing support for non-LOGCAP contracts.

The LOGCAP IV acquisition plan stated that the Government required an independent planning contractor to avoid the real or perceived conflict of having one of the

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<sup>3</sup> The Army Sustainment Command is a subordinate command of the Army Materiel Command.

LOGCAP IV performance contractors do the planning that is considered in developing any PWS that the LOGCAP IV performance contractors would compete on for task orders. Further, the LOGCAP support contract solicitation stated that “it is anticipated that the planning services provided under this solicitation will require access to, and knowledge of, the proprietary information of the LOGCAP IV performance contractors.” These statements clearly indicated that RICC intended to use the LOGCAP support contractor to assist and support the LOGCAP IV performance contractors.

The work supporting non-LOGCAP contracts was outside the scope of the LOGCAP support contract because the work had not been contemplated or foreseen when RICC contracting officials initially awarded the contract. In *Freund v. United States*, 260 U.S. 60, 63, (1922), the U.S. Supreme Court stated that work performed under a contract falls within the general scope of the contract if it could be “regarded as having been fairly and reasonably within the contemplation of the parties when the contract was entered into.” The test employed in determining whether work has been improperly added to a contract was further stated in *American Air Filter Co.*, 57 U.S. Comp. Gen. 567, 78-1 CPD para.443 (1978):

The impact of any modification is in our view to be determined by examining whether the alteration is within the scope of the competition which was initially conducted. Ordinarily, a modification falls within the scope of the procurement provided that it is of a nature which potential offerors would have reasonably anticipated under the changes clause.

To determine what potential offerors would have reasonably expected, consideration should be given, in our view, to the procurement format used, the history of the present and related past procurements, and the nature of the supplies or services sought.

The initial task order for LOGCAP DPD support, including support in Iraq and Afghanistan, was issued in March 2007 and definitized on May 21, 2007, for \$6.3 million for DPD support. The PWS stated that the LOGCAP support contractor should support the DPD in Kuwait with 6 personnel: 2 logistics management specialists, 3 cost analysts, and 1 administrative specialist. RICC personnel exercised Option Year 3 in February 2010, and definitized DPD support requirements on August 30, 2010, for \$23.7 million, an increase of \$17.4 million. As of April 2010, 13 LOGCAP support contractor personnel were supporting the LOGCAP DPD office in Kuwait. Although we could not determine how much of the dollar increase was associated with the support of non-LOGCAP contracts, according to the LOGCAP DPD in Kuwait, only one LOGCAP support contractor employee in Kuwait was working full time on LOGCAP requirements. Therefore, we concluded that a part of the \$17.4 million increase can be attributed to work supporting non-LOGCAP contracts.

*. . . only one LOGCAP support contractor employee in Kuwait was working full time on LOGCAP requirements.*

According to FAR Part 6, “Competition Requirements,” which implements the Competition in Contracting Act, contracting officers must promote and provide for full

and open competition when awarding out-of-scope modifications to existing Government contracts. A justification and approval for other than full and open competition must be issued for every contract action awarded without full and open competition and it must contain a reference to one of the seven authorities under which the contract was awarded. Therefore, the PCO should have competed the additional requirements or issued an appropriate justification and approval document when the support provided by the LOGCAP support contractor significantly increased.

It is clear that the LOGCAP support contract was intended to provide support for the LOGCAP IV performance contracts. When Army officials significantly expanded the mission of the LOGCAP DPD office in Kuwait to support non-LOGCAP contracts and used LOGCAP support contractor employees to execute the support, they circumvented the Competition in Contracting Act by not properly competing the additional requirements.

## **Added Work Created Conflict of Interest**

The PCO did not modify the LOGCAP support contract to include the additional requirements or appropriately address potential organizational conflicts of interest or LOGCAP support contractor employee access to proprietary information. The Army Sustainment Command began using the LOGCAP DPD office in Kuwait and LOGCAP support contractors to support non-LOGCAP contracts in October 2007; however, the PCO never modified the LOGCAP support contract to include these additional requirements. The PWS in the basic contract stated that the requirement for LOGCAP DPD support would be stated and updated separately on an annual basis. However, the PCO exercised 3 option years on the LOGCAP support contract after Serco began supporting non-LOGCAP requirements and did not reference the additional requirements in the PWSs for those years.

## ***Organizational Conflicts of Interest***

The PCO did not appropriately address potential organizational conflicts with regard to the added work. Further, the PCO did not comply with 10 U.S.C. §2383 (2010) requirements to preclude organizational conflicts of interest. Consistent with FAR Subpart 9.5, “Organizational and Consultant Conflicts of Interest,” 10 U.S.C. §2383 (2010) allows agencies to enter into a contract for the performance of acquisition functions closely associated with inherently governmental functions only if the contracting officer addresses any potential organizational conflict of interest of the contractor in the performance of the functions under the contract. FAR 9.504 requires contracting officers to analyze planned acquisitions in order to identify and evaluate potential organizational conflicts of interest, and avoid, neutralize, or mitigate significant potential conflicts. An organizational conflict of interest may result when factors create an actual or potential conflict of interest on a contract or when the nature of the work to be performed on the contract creates an actual or potential conflict of interest on a future acquisition.

According to FAR 9.505-2, when a contractor is used to assist in preparing performance work statements, the contractor might often be in a position to favor its own products or

capabilities, creating a conflict of interest. In order to mitigate this risk, the PCO incorporated a clause into the LOGCAP support contract prohibiting the contractor from performing work under any of the LOGCAP IV performance contracts as a prime contractor, subsidiary, subcontractor, vendor, supplier, joint venture, or in any other business capacity that may result in an organizational conflict of interest. However, the PCO did not modify the support contract to prohibit the LOGCAP support contractor

*. . . the PCO did not modify the support contract to prohibit the LOGCAP support contractor from performing work under the non-LOGCAP contracts or task orders . . .*

from performing work under the non-LOGCAP contracts or task orders once the Army began using the LOGCAP support contractor to assist in developing PWSs for non-LOGCAP requirements. RICC contracting officials stated that they believed that any potential conflicts of interest with regard to the non-LOGCAP contracts were mitigated by the existing LOGCAP support contract and the

LOGCAP support contractor's existing organizational conflict of interest plan.

Clause H-4, "Business Integrity and Organizational Conflict of Interest," in the LOGCAP support contract states:

It is anticipated that the planning services required... will require access to, and knowledge of, the proprietary information of the LOGCAP IV performance contractors' non-public government information, pre-solicitation information, and information which would impair the planning/support contractors' objectivity.

The clause goes on to state that "the planning contractor cannot have any actual or pending financial interest in the LOGCAP IV performance contractors for the period of this contract" and prohibits the planning contractor from performing under any of the LOGCAP IV performance contracts. Although the contract states that "the intent of the provision is to prevent . . . any actual or perceived personal or organizational conflict of interest that might arise in the performance of this contract," the clause specified conflicts relating only to the LOGCAP performance contracts.

RICC contracting officials claimed that the LOGCAP support contractor's organizational conflict of interest plan addressed potential conflicts with regard to the non-LOGCAP contracts. The LOGCAP support contractor's organizational conflict of interest plan submitted with the proposal identified a type of conflict in which information made available to a company could be used in subsequent procurements to the competitive advantage of that company. For example, a company drafts a specification under the first contract and then bids on a subsequent opportunity in which that same specification is the subject of the procurement. However, the plan stated that this type of conflict did not exist; therefore, the plan did not address any mitigating factors. In a February 10, 2009, revised organizational conflict of interest plan, the LOGCAP support contractor provided a methodology for preventing conflicts of interest between the LOGCAP support contractor and the LOGCAP IV performance contractors. However, the plan did not mention non-LOGCAP contractors and did not specify how conflicts would be mitigated in support of the non-LOGCAP contractors.

In February 2008, the PCO issued a letter to the LOGCAP support contractor stating that if there was a possibility that the LOGCAP support contractor would bid on a requirement that it had been tasked to support, even if the requirement was not a LOGCAP requirement, then the LOGCAP support contractor must inform the PCO of the potential conflict. When the LOGCAP support contractor identified a potential conflict, the PCO required the LOGCAP support contractor to mitigate the risks presented by the conflict, including the fact that the LOGCAP support contractor may have received pre-procurement information, influenced the way the requirement was developed, or helped develop documents that could be used in competitive evaluation. Additionally, the letter stated that if the LOGCAP support contractor was tasked to support a requirement or acquisition for which a potential bidder was a LOGCAP support contract subcontractor, partner, or direct competitor, the PCO must immediately be informed of the appearance of a conflict. Although the letter attempted to address any potential organizational conflicts of interest, the PCO did not contractually mitigate the organizational conflicts of interest by prohibiting the LOGCAP support contractor from competing on the non-LOGCAP requirements.

Military Professional Resources Incorporated (MPRI), a subcontractor on the LOGCAP support contract with Serco, had MPRI employees working in the LOGCAP DPD office in Kuwait when Serco began assisting in developing PWSs for non-LOGCAP contracts. MPRI was also part of the Combat Support Associates team performing work on the Combat Service Support Contract-Kuwait, a non-LOGCAP contract that Serco provided contract support to as part of its work under the LOGCAP support contract. This created a potential conflict of interest because, as a subcontractor for both the LOGCAP support contract and a non-LOGCAP performance contract, MPRI may have been in a position to favor its own products or capabilities when developing performance work statements for requirements that it may perform. A LOGCAP support contractor employee in the LOGCAP DPD office in Kuwait identified the potential conflict of interest and reported it to the LOGCAP DPD in Kuwait. In response, the LOGCAP support contractor discontinued the use of MPRI as a subcontractor in the LOGCAP DPD office in Kuwait and converted all of the MPRI employees to Serco employees. However, the LOGCAP DPD in Kuwait stated that he did not inform the PCO of the situation, and the PCOs did not recall hearing about the potential conflict of interest with MPRI. Consequently, the LOGCAP support contract was never modified to prevent this from occurring in the future.

*. . . MPRI may have been in a position to favor its own products or capabilities when developing performance work statements . . .*

### ***Support Contractor Access to Proprietary Information***

The PCO did not appropriately address LOGCAP support contractor employee access to proprietary information with regard to the non-LOGCAP contracts. FAR 9.505-4 states that when a contractor requires proprietary information from other contractors to perform a Government contract, the contractor may gain an unfair advantage unless restrictions are imposed. These restrictions protect the information and encourage companies to provide it only when necessary for contract performance.



FAR 9.505-4 requires that a contractor that gains access to other companies' proprietary information in performing advisory and assistance services for the Government must enter into an agreement with the other companies to protect their information from unauthorized use or disclosure and refrain from using the information for any purpose other than that for which it was furnished. Further, the PCO should obtain copies of these agreements and ensure that they are properly executed. The LOGCAP support contract required the support contractor to enter into agreements with the LOGCAP IV performance contractors to ensure proper access to, and protection of, the performance contractors' proprietary information.

In addition to obtaining access to the LOGCAP performance contractors' proprietary information, the LOGCAP support contractor employees were assisting in facilitating technical proposal evaluations for the non-LOGCAP contracts as part of the support provided to the LOGCAP DPD office in Kuwait. According to LOGCAP support contractor employees, this assistance sometimes included receiving and securing technical proposals that may have contained proprietary information. LOGCAP support contractor employees signed personal nondisclosure agreements for some of the non-LOGCAP requirements that they were involved with; however, the non-LOGCAP contractors did not sign the nondisclosure agreements. Additionally, the requests for proposals for the non-LOGCAP requirements did not inform potential offerors that the LOGCAP support contractor may have had access to their proprietary information. Therefore, the potential offerors for the non-LOGCAP contracts were not aware that the LOGCAP support contractor may have had access to their proprietary information. In some cases, the contracting officers at RICC were not aware that LOGCAP support contractor employees had access to the technical proposals and did not execute any agreements between the LOGCAP support contractor and the non-LOGCAP contractors.

The Procurement Integrity Act, 41 U.S.C. §423 (2010), prohibits Federal employees from knowingly disclosing contractor bid or proposal information before the award of a Federal agency procurement contract to which the information relates. The Trade Secrets Act, 18 U.S.C. §1905 (2010), provides financial penalties and imprisonment for the unauthorized disclosure of trade secrets. Under some circumstances, proprietary data may be deemed a trade secret by the company that developed the data. Army officials may have violated the Trade Secrets Act by providing the technical proposals for non-LOGCAP requirements to LOGCAP support contractor employees without the contractors' knowledge or consent.

It is imperative that the Government implement controls to prevent this from happening. Based on interviews with LOGCAP support contractor and RICC personnel, there appeared to be confusion about the duties that the LOGCAP support contractor was actually performing. In order to meet FAR requirements, RICC contracting officials should add a clause in all requests for proposals that Serco provides support for that indicates that the LOGCAP support contractor may have access to proprietary information submitted in response to the request for proposal.

## Conclusion

The PCO did not properly compete non-LOGCAP requirements executed under the LOGCAP support contract and may not have paid fair and reasonable prices for the additional work. The Competition in Contracting Act requires that agencies allow all sources capable of satisfying the Government's need to compete for a contract award. Congress implemented the Competition in Contracting Act to increase the number of competitors for Government acquisitions and to increase cost savings through lower, more competitive pricing. Additionally, a competitive environment encourages competitors to develop and institute innovative and cost-effective methods of performing the work. However, by not competing these requirements, Army officials had no assurance that they obtained fair and reasonable prices and that the LOGCAP support contractor provided the best value to satisfy the Government's requirements.

Additionally, Army officials allowed the LOGCAP support contractor to assist in developing requirements that they could have potentially competed for. Contractors are prohibited from supplying services acquired on the basis of performance work statements resulting from their services in order to avoid the appearance of bias. RICC officials effectively implemented controls to prevent this from happening to the LOGCAP performance contracts by prohibiting the support contractor from providing services for the LOGCAP performance contracts. However, with the expansion of LOGCAP support

*... Army officials improperly provided LOGCAP support contractor employees with contractor proprietary information without the knowledge or consent of the non-LOGCAP contractors.*

contractor services to non-LOGCAP contracts, the PCO should have included similar measures in the LOGCAP support contract to avoid either real or perceived conflicts of interest relating to the non-LOGCAP contracts.

Finally, Army officials improperly provided LOGCAP support contractor employees with contractor proprietary information without the

knowledge or consent of the non-LOGCAP contractors. Although the PCO executed nondisclosure agreements between the LOGCAP support contractor and the LOGCAP performance contractors, the PCO did not implement any measures to protect the non-LOGCAP contractors' data. RICC contracting officials should include appropriate language in all of the requests for proposals supported by the LOGCAP support contractor. RICC contracting officials should also advise potential bidders that a third-party contractor may have access to any proposals submitted in response to the request in order to protect proprietary information and to eliminate the risk of the LOGCAP support contractor gaining an unfair competitive advantage through the misuse of proprietary information.

According to Government Accountability Office Report 10-693, "Contractor Integrity: Stronger Safeguards Needed for Contractor Access to Sensitive Information," September 10, 2010, protection of sensitive information is critical because unauthorized disclosure can erode the integrity of Government operations and lead to use of that information for private gain, potentially harming important interests. In the report, the Government Accountability Office identified six effective management control practices

to help prevent contractor disclosure and misuse of sensitive information. The controls include:

- training or informing employees of their obligations to maintain confidentiality and not misuse sensitive information,
- obtaining written consent from the agency to disclose sensitive information,
- passing sensitive information provisions to subcontractors,
- executing a nondisclosure agreement for each employee and subcontractor as a condition of access to sensitive information,
- promptly notifying key agency officials of the misuse or unauthorized disclosure of sensitive information, and
- being informed of the consequences for violations.

To safeguard against the misuse or unauthorized disclosure of potentially sensitive information, the contracting officer should incorporate measures into the LOGCAP support contract to implement these control practices.

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

A.1. We recommend that the Logistics Civil Augmentation Program support contract procuring contracting officer:

a. Omit non-Logistics Civil Augmentation Program contract support in the Option Year Four Deputy Program Director requirements on the Logistics Civil Augmentation Program support contract and prepare a separate statement of work for the non-Logistics Civil Augmentation Program contract support and compete those requirements.

b. Modify the Logistics Civil Augmentation Program support contract to prohibit the Logistics Civil Augmentation Program support contractor from performing work on any contract resulting from its services.

c. Incorporate measures into the Logistics Civil Augmentation Program support contract to implement the six effective management control practices identified in Government Accountability Office Report 10-693, “Contractor Integrity: Stronger Safeguards Needed for Contractor Access to Sensitive Information,” September 10, 2010.

### ***Management Comments Required***

We granted the U.S. Army Materiel Command an extension to the date by which we needed to receive comments. Despite the extension, U.S. Army Materiel Command provided comments too late to be incorporated into the final report. Therefore, if the U.S. Army Materiel Command does not submit additional comments, we will consider those comments as management’s response to the final report.

A.2. We recommend that Rock Island Contracting Center non-Logistics Civil Augmentation Program contracting officers include appropriate language in requests for

proposals supported by the Logistics Civil Augmentation Program support contractor that advises potential bidders that a third-party contractor may have access to any proposals submitted in response to the request.

### ***Management Comments Required***

We granted the U.S. Army Materiel Command an extension to the date by which we needed to receive comments. Despite the extension, U.S. Army Materiel Command provided comments too late to be incorporated into the final report. Therefore, if the U.S. Army Materiel Command does not submit additional comments, we will consider those comments as management's response to the final report.

#### **A.3. We recommend that the Assistant Secretary of the Army for Acquisition, Logistics, and Technology perform an independent review to:**

**a. Identify all non-Logistics Civil Augmentation Program contractors' proprietary data accessed by the Logistics Civil Augmentation Program support contractor.**

**b. Notify all non-Logistics Civil Augmentation Program contractors that the Logistics Civil Augmentation Program support contractor had access to their proprietary data and ask them to identify any adverse consequences.**

### ***Assistant Secretary of the Army for Acquisition, Logistics, and Technology Comments***

The Assistant Secretary of the Army for Acquisition, Logistics, and Technology (ASA[ALT]) agreed. The Director, Operational Contracting Support and Policy, responded on behalf of the ASA(ALT), and stated that he will request that the Army Materiel Command prepare and implement a corrective action plan for RICC. The Director, Operational Contracting Support and Policy, stated that, if necessary, the ASA(ALT) will instruct RICC to identify all non-LOGCAP contractors' proprietary data accessed by the LOGCAP support contractor, notify all non-LOGCAP contractors that have been affected, and identify any adverse consequences.

### ***Our Response***

The ASA(ALT) comments are partially responsive. However, the ASA(ALT) should inform us whether the corrective action plan appropriately addressed our recommendation or if additional action was taken by the ASA(ALT).

**c. Review the actions of the Logistics Civil Augmentation Program support procuring contracting officer, the non-Logistics Civil Augmentation Program procuring contracting officers, and Logistics Civil Augmentation Program managers that created the organizational conflicts of interest and other problems (Finding A) and that sponsored the out of scope base closure assistance teams' work for Multi-National Corps-Iraq (Finding B). Initiate, as appropriate, any administrative action and training required.**

### ***Assistant Secretary of the Army for Acquisition, Logistics, and Technology Comments***

The ASA(ALT) agreed. The Director, Operational Contracting Support and Policy, responded on behalf of the ASA(ALT), and stated that he will request that the Army Materiel Command provide a corrective action plan that requires RICC to review the contract actions of the respective contracting officers and determine whether administrative action and training will be required. Additionally, the Director, Operational Contracting Support and Policy, stated that the ASA(ALT) will conduct a program management review of RICC contracting processes in June 2011, to include the status of the corrective action plans put in place as a result of our report.

### ***Our Response***

The ASA(ALT) comments are responsive, and no further comments are required.



## **Finding B. Task Order for Multi-National Corps–Iraq Outside the Scope of the Contract**

The PCO issued a \$9.3 million task order in October 2009 for BCATs for the Multi-National Corps-Iraq (MNC-I)<sup>4</sup> that was outside the scope of the LOGCAP support contract. The purpose of the BCAT work was to directly support MNC-I. However, the RICC and LOGCAP officials concluded that the BCAT task order could be executed to support the LOGCAP DPD in Iraq and substituted the words “LOGCAP” for “MNC-I” in the task order statement of work. In addition, the PCO did not restrict contractor performance to operations that supported the LOGCAP DPD in Iraq and allowed the contractor to provide services for MNC-I that extended beyond the scope of the LOGCAP support contract. As a result, the Army did not get the cost benefits from competing the requirement and violated the Competition in Contracting Act. Subsequently, United States Forces-Iraq (USF-I) officials determined that the LOGCAP support contract was not the most effective contracting vehicle for supporting the follow-on BCAT requirement and issued a new solicitation in June 2010.

### **Base Closure Assistance Teams Task Order Issuance**

The Commander, Multi-National Force-Iraq, issued guidance on April 20, 2009, for the closure of U.S. bases in Iraq. The guidance established a theater-wide assistance team that would provide base closure support to commanders at every level. The memorandum stated that MNC-I was responsible for establishing the teams, and in June 2009, MNC-I attempted to staff the BCATs with military personnel. However, due to shortages of Service members with the correct skills, MNC-I ultimately acquired contractor personnel to execute the BCAT requirement under the LOGCAP support contract. USF-I officials could not identify why the BCAT requirement was put on the LOGCAP contract because of employee turnover and staff rotations. However, RICC officials drafted a memorandum for the record in September 2009 stating that there was a LOGCAP requirement for BCATs and that the BCATS would be under the control of the LOGCAP DPD in Iraq. In October 2009, RICC issued task order 18, valued at \$9.3 million, for the LOGCAP support contractor to provide BCATs for 1 year with the option to issue follow-on task orders. The task order represented more than 20 percent of the LOGCAP support contract’s yearly maximum value of \$45 million.

The BCATs were used to support the MNC-I base closure initiative and were not a LOGCAP support contract requirement. MNC-I generated the requirement and fully funded the task order through a Military Interdepartmental Purchase Request. The BCAT requirement was for six teams of five contractor personnel to support MNC-I by providing technical expertise to facilitate, advise, and assist commanders in the timely

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<sup>4</sup> In January 2010, five major commands in Iraq, to include MNC-I and Multi-National Force-Iraq, merged to become the unified command USF-I. As result, the BCAT mission was absorbed by USF-I.

execution of base closures. MNC-I maintained operational control over BCATs and directed BCATs to perform work based on their needs.

## **Multi-National Corps-Iraq Base Closure Assistance Teams Requirement Outside the Scope of the LOGCAP Support Contract**

When the LOGCAP support contract was awarded to Serco in February 2007, BCAT services were not required in Iraq, and RICC contracting officials did not consider the MNC-I BCAT requirement when they drafted and awarded the LOGCAP support contract. When MNC-I expressed a need for BCAT support in April 2009, the intent was for the work of the BCATs to expand beyond LOGCAP supported bases, to include all U.S. base closures in Iraq. However, RICC and LOGCAP officials tried to limit BCATs to provide services for only LOGCAP-specific base closure requirements.

BCATs were not identified or described in the LOGCAP acquisition plan, the solicitation, the basic contract, or any contract modification. Specifically, the scope of the work in the solicitation did not include a provision for teams to advise and assist military commanders in Iraq on base closures. According to Government Accountability Office Decision B-402349, “Dyncorp International LLC,” March 15, 2010, a task order is outside of the scope of the original contract if:

*BCATs were not identified or described in the LOGCAP acquisition plan, the solicitation, the basic contract, or any contract modification.*

- there is a material difference between the task order and the contract, and
- the offerors could not have reasonably anticipated the nature of the work in the task order.

## **Program Officials Attempted to Establish BCAT as a LOGCAP Requirement**

The purpose of the BCAT work was to directly support MNC-I. However, the RICC and LOGCAP officials concluded that the BCAT task order could be executed to support the LOGCAP DPD in Iraq. LOGCAP officials determined that the BCATs could support LOGCAP drawdown operations and assist in planning for the movement or repositioning of LOGCAP assets and personnel from various bases. RICC and LOGCAP officials determined that the BCATs would be managed by the LOGCAP DPD in Iraq and the BCATs would directly assist the LOGCAP DPD in the drawdown effort. RICC officials determined that the base closure advisory services must be restricted to bases supported by LOGCAP to remain within scope of the LOGCAP support contract. However, MNC-I never intended for the BCATs to be restricted to LOGCAP drawdown operations.

MNC-I officials originally developed the PWS for the BCAT task order and provided it to the LOGCAP support PCO in August 2009. The PWS stated the principal purpose of the BCAT was to provide technical expertise to facilitate, advise, and assist MNC-I base commanders in the timely execution of the required procedures associated with base closure. The PWS defined BCATs as an MNC-I requirement and did not include any

mention of LOGCAP or the LOGCAP DPD in Iraq. Furthermore, MNC-I officials confirmed that it was never their intent to make BCAT part of LOGCAP.

RICC officials revised a draft PWS in October 2009 by replacing the term “MNC-I” with “LOGCAP,” but made no other material changes. For example, the original PWS stated, “the contractor shall facilitate and provide guidance and expertise to MNC-I and base commanders in order to successfully close or return coalition bases,” while the new PWS written by RICC officials stated, “the contractor shall facilitate and provide guidance and expertise to the LOGCAP Iraq Deputy Program Director in order to successfully close or return coalition bases.” RICC officials revised a draft PWS in order to clarify that the BCAT task order would be executed as a LOGCAP requirement and intended for the contractor to provide base closure advisory services to the LOGCAP DPD in Iraq to support the LOGCAP drawdown, not to support MNC-I base closure requirements. However, the PCO executed the task order as the initial PWS intended, which was to directly support MNC-I. The PCO did not restrict BCATs to work only in direct support of LOGCAP, and BCATs directly supporting MNC-I became common practice. Additionally, both the original and the revised PWS stated that BCATs should:

*RICC officials revised a draft PWS in October 2009 by replacing the term “MNC-I” with “LOGCAP,” but made no other material changes.*

- provide technical expertise to facilitate, advise, and assist military leaders in the timely execution of the required procedures associated with base closure;
- periodically assess the progress of the base commander’s closure plan; and
- review and recommend changes to the theater’s base closure process to ensure that the systems support the theater and base mission.

Although these were not LOGCAP-specific tasks, RICC officials revised the PWS in an attempt to restrict the overall task order performance to LOGCAP. Therefore, LOGCAP support contractor personnel in Iraq performed work beyond the scope of the LOGCAP support contract and the revised BCAT PWS when they provided direct support to MNC-I.

### ***RICC and LOGCAP Intentions for BCATs***

The LOGCAP support contract solicitation required the contractor to provide full time logistics management specialists as well as cost and pricing analysts. The support the contractor provided to the LOGCAP DPD in Iraq was for LOGCAP operations. For example, one support contract cost analyst in Iraq was tasked with determining the cost-per-person of administering each LOGCAP-operated dining facility at Camp Victory to identify efficiencies and lower LOGCAP-operated dining facility costs.

LOGCAP responsibilities included providing food services, sanitation, laundry, power generation, and facilities management for United States Forces. The LOGCAP services had to be discontinued or reduced as bases in Iraq were closed, transferred to the Government of Iraq, or downsized as part of the United States withdrawal. For example, when a base in Iraq was closed, the dining facilities that were operated by LOGCAP had to be closed as well. If the BCATs were assisting with closing the dining facility, the

BCATs were directly supporting the LOGCAP DPD in Iraq. However, the work of the BCATs went beyond LOGCAP support because it included providing inventories, site surveys, and transportation planning for MNC-I, which was not the LOGCAP DPD's responsibility and outside the scope of the LOGCAP support contract. For example, one BCAT assisted in a review of contractor-managed, Government-owned inventory at an Abu Ghraib warehouse. The Abu Ghraib warehouse was not a LOGCAP-supported property. The funding, maintenance, and management of the warehouse was done through Iraqi Security Forces. The BCAT was told by MNC-I that it required base closure support at Abu Ghraib, and MNC-I officials then coordinated a BCAT site visit. MNC-I personnel assigned and directed BCAT work, not the LOGCAP DPD. In addition, the LOGCAP DPD was not notified by MNC-I personnel that they would be using the BCAT at Abu Ghraib. As a result, the LOGCAP support contractor provided support services to MNC-I that were outside the scope of supporting the LOGCAP DPD in Iraq.

*MNC-I assigned and directed BCAT work, not the LOGCAP DPD.*

### ***MNC-I Intentions for BCATs***

MNC-I intended for the BCAT support to expand beyond LOGCAP operations and included supporting base closure activities on all U.S. bases in Iraq, including bases not supported by LOGCAP. The BCAT requirement intended for the contractor to assist in base closures in accordance with the MNC-I base closure task list. The task list

*MNC-I intended for the BCAT support to expand beyond LOGCAP operations and included supporting base closure activities on all U.S. bases in Iraq, including bases not supported by LOGCAP.*

contained more than 80 different tasks that needed to be executed to successfully close bases. Some of these tasks, such as coordination with the contract administrators and coordination with the contractors performing work on the base, could have supported LOGCAP if LOGCAP contractors were located on that specific base. However, other services, such as real estate and deed matters, environmental surveys, and the close-out

of non-LOGCAP contracts, were outside the scope of LOGCAP DPD support. For example, for real estate and deed matters, the LOGCAP support contractor assisted MNC-I in determining who owned the land the U.S. bases were located on before Operation Iraqi Freedom. This included assisting with the transfer of land held by the United States back to the Iraqi owners. Additionally, the LOGCAP support contractor support of non-LOGCAP contracts included providing advice on closing out contracts being executed by the Joint Contracting Command-Iraq and had no association with the LOGCAP DPD.

Services that did not directly support the LOGCAP DPD in Iraq were not related to LOGCAP operations and were not requirements that potential offerors would have anticipated under the solicitation for the LOGCAP support contract. The Army should not have purchased services that directly supported MNC-I and the military commanders under the LOGCAP support contract since those services extended beyond the scope of LOGCAP operations.

## **Procuring Contracting Officer Did Not Restrict Base Closure Assistance Teams' Operations**

The PCO should have identified that the work the LOGCAP support contractor performed was not supporting the LOGCAP DPD in Iraq and taken action to stop the LOGCAP support contractor from performing work that supported the MNC-I BCAT requirements. However, the PCO did not restrict contractor operations to only those that supported the LOGCAP DPD in Iraq and allowed the contractor to provide services for MNC-I that extended beyond the scope of the LOGCAP support contract. The PCO executed the BCAT task order in accordance with the original intent of the MNC-I requirement. MNC-I maintained operational control of the BCATs and directed their day-to-day operations. Furthermore, the support contractor provided BCAT work products directly to MNC-I officials, and the LOGCAP DPD did not generally receive the LOGCAP support contractor's work products. The LOGCAP support contractor provided multiple reports to the LOGCAP support contract PCO that identified work performed beyond support of LOGCAP. One report stated that weekly support included communicating BCAT status and feedback with MNC-I, developing and socializing team reassignments to meet modified MNC-I theater-wide coverage requirements, and developing standard operating procedures to meet MNC-I requests.

## **United States Forces-Iraq to Issue New Base Closure Contract**

USF-I officials determined that the LOGCAP support contract was not the most effective contracting vehicle for satisfying the follow-on BCAT requirements. USF-I and RICC officials disagreed on the use of BCATs in Iraq. RICC officials intended to limit BCAT support to the LOGCAP DPD in Iraq; whereas USF-I officials required BCATs to support the drawdown of United States Forces in Iraq. USF-I officials determined that BCATs were not in direct support of the LOGCAP DPD and should be under the direction of USF-I. Therefore, the LOGCAP support contract PCO should not continue to use the LOGCAP support contract to fulfill BCAT requirements or exercise the next option year for BCATs. USF-I officials confirmed that the Army Contracting Command expects to issue a new contract in late 2010 that includes the BCAT requirement. RICC officials issued the solicitation for awarding the BCAT requirement in June 2010 and included requiring the contractor to facilitate and provide guidance and expertise to USF-I in order to successfully close or return U.S. bases back to the Government of Iraq. Under the new contract, USF-I officials will have operational control of BCATs, and LOGCAP will no longer be involved in acquiring BCAT services.

## **Conclusion**

RICC officials did not properly compete the MNC-I BCAT requirements, valued at \$9.3 million. The MNC-I requirement for base closure advisory services was not considered when RICC officials awarded the LOGCAP support contract. Although the PWS was written by RICC officials for BCATs to support the LOGCAP DPD in Iraq, the LOGCAP support contractor was performing BCAT tasks directly to support MNC-I, and MNC-I never intended for the BCATs to be restricted to performing work only on



LOGCAP drawdown operations. Additionally, MNC-I directed BCATs to perform work, and the LOGCAP DPD in Iraq was often not informed by MNC-I of the work being assigned. Furthermore, the PCO was aware that BCATs were supporting MNC-I, not LOGCAP, but did not take action to restrict the work being performed so that it was within the scope of the LOGCAP support contract. Ultimately, RICC officials violated the Competition in Contracting Act by directing the contractor to provide 30 additional personnel under the LOGCAP support contract to perform work that was outside the scope of the contract, and the Army did not get the cost benefits from competing the BCAT requirement.

*The MNC-I requirement for base closure advisory services was not considered when RICC officials awarded the LOGCAP support contract.*

## **Recommendation**

B. We recommend that the Logistics Civil Augmentation Program support contract procuring contracting officer not exercise the next option year for Base Closure Assistance Teams.

### ***Management Comments Required***

We granted the U.S. Army Materiel Command an extension to the date by which we needed to receive comments. Despite the extension, U.S. Army Materiel Command provided comments too late to be incorporated into the final report. Therefore, if the U.S. Army Materiel Command does not submit additional comments, we will consider those comments as management's response to the final report.

## **Finding C. Oversight Improvements Needed for the LOGCAP Support Contract**

The PCO did not provide adequate oversight of the LOGCAP support contract. Furthermore, the CORs in-theater did not adequately monitor the contractor's performance. This occurred because the PCO did not develop or receive a requirements-based QASP to help ensure contractor performance could be properly measured in accordance with Federal guidance. Additionally, the PCO did not effectively communicate with CORs for the LOGCAP support contract. As a result, the PCO had no assurance that the Army received services in accordance with contract requirements. In addition, the contractor may have received unjustified performance-based fees on cost-plus-award-fee task orders.

### **Criteria for Contract Oversight**

FAR 1.602-2 "Responsibilities," states that the PCO is responsible for performing all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships.

FAR Subpart 46.4, "Government Contract Quality Assurance," states that QASPs should be prepared in coordination with the PWS. Additionally, QASPs should identify all work requiring surveillance and the type of surveillance. The surveillance can be performed at any time or location deemed necessary to ensure that services conform to contract requirements.

The Defense Federal Acquisition Regulation Supplement, Section 201.602-2, "Procedures, Guidance, and Information," states that a COR assists in the technical monitoring or administration of a contract.

### **Lack of a Requirements-Based Quality Assurance Surveillance Plan**

The LOGCAP support PCO did not develop requirements-specific QASPs for each task order. Instead, the PCO developed one QASP that did not provide metrics to evaluate the contractor. The QASP was intended to assist the PCO and CORs in evaluating the technical performance of the contractor. The QASP stated that the PCO had the ultimate responsibility for determining the adequacy of the contractor's performance. The QASP also stated that the COR was responsible for providing detailed technical oversight of the contractor's performance and for reporting findings to the PCO in a timely manner. Additionally, the CORs were responsible for submitting monthly evaluation reports to the PCO to use to conduct interim performance reviews and to provide relevant feedback to the contractor.

According to the QASP, the award fee evaluation board would meet semiannually to recommend performance-based award fees that the contractor had earned. The award fee evaluation board members would rely on the CORs monthly evaluation reports, informal

contractor feedback, and final evaluations when determining the contractor's performance-based award fee for the rating period.

However, the QASP for the basic contract did not include surveillance requirements for any of the contractor tasks outlined in the basic PWS. For example, the PWS for the basic contract required the LOGCAP support contractor to provide support personnel for LOGCAP command post exercises, field training exercises, and other exercises. Exercise support was referenced in the QASP; however, it merely re-stated the PWS requirement and did not identify all work requiring surveillance, or the type of surveillance, with metrics to assess the contractor's performance.

### ***Vague Roles and Responsibilities***

The QASP for the basic contract contained general PCO, COR, and administrative contracting officer roles and responsibilities; however, the roles were not task-specific and were too general to provide for effective oversight of the services the LOGCAP support contractor performed. For example, COR duties included providing detailed technical oversight of the services performed by the contractor and reporting findings to

*The CORs did not receive adequate guidance on how to provide contractor oversight, and how to report oversight findings to the PCO.*

the PCO in a timely manner. This vague description of COR duties did not outline the contractor tasks that would require "detailed technical oversight" by the COR. The CORs did not receive adequate guidance on how to provide contractor oversight and how to report oversight

findings to the PCO. Additionally, the CORs monthly report template provided as an attachment to the QASP did not contain metrics and did not specify the CORs methods of surveillance. For example, the COR was required to discuss whether contractor personnel demonstrated that they had adequate skills to perform job duties; however, the QASP did not include a description of adequate skill sets for duties the contractor was responsible to perform. Additionally, the QASP did not describe how contractor personnel should demonstrate their skills for the COR to evaluate. The QASP was not task-order specific and did not provide the CORs enough guidance on how to monitor quality assurance when overseeing the contractor.

### ***No Specific QASP for DPD and Program Support***

The QASP for the basic contract did not adequately describe the work requiring surveillance for task order 19 issued for DPD and program support. LOGCAP DPDs had evolving requirements for the life of the LOGCAP support contract and made numerous revisions to the LOGCAP DPD support section of the PWS. The PCO issued task order 19, exercising the third option year for DPD and program support, that more clearly defined requirements than in the base year and the first 2 option years of the support contract. The task order 19 PWS clearly defined the contractor roles and responsibilities and the support that the contractor was expected to provide. However, the PCO did not update the LOGCAP support contract QASP to reflect the requirements changes. For

example, task order 19 included forward operator support,<sup>5</sup> which was not a requirement during the base year or the first 2 option years. The QASP did not address forward operator support or the specific tasks that the COR should monitor to identify whether the contractor was completing the work associated with forward operator support.

As the LOGCAP support contract requirements became more defined, the PCO should have updated the QASP to adequately document the oversight techniques that the CORs should use to provide measurable results. For example, for forward operator support, the PCO should have updated the QASP to include methods for the COR to evaluate how well the LOGCAP support contractor was supporting combatant commanders.

### ***No Specific QASP for BCAT***

The QASP for the basic contract did not address the LOGCAP support contractor services provided on task order 18 for BCATs in Iraq. The PWS for task order 18 included several contractor functions that were not addressed in the basic contract including property analysts and transportation specialists to support base closures. The QASP did not address the type or amount of oversight required because those job functions were not in the basic contract. Task order 18 did not identify measures of success or failure for the LOGCAP support contractor's performance supporting base closures. Therefore, the COR could not provide either a qualitative or quantitative assessment of the contractor's performance. The Army Audit Agency issued Report No. A-2010-0169-ALL, "Followup Audit of Forward Operating Base Closures," August 19, 2010, that stated that USF-I, in coordination with LOGCAP, should implement a BCAT-specific QASP to monitor the BCAT contractor personnel. The Army Audit Agency recommended the QASP include metrics and surveillance methods to measure the contractor's performance.

*Task order 18 did not identify measures of success or failure for the LOGCAP support contractor's performance supporting base closures.*

## **More Oversight and Monitoring is Needed**

Neither the PCO nor the CORs provided adequate oversight of the work the LOGCAP support contractor was performing. The PCO did not effectively communicate with the CORs, and PCO turnover was high on the LOGCAP support contract. In addition, the CORs in-theater did not adequately monitor and report contractor performance to the PCO.

### ***PCO Oversight***

The PCO communication from RICC to the CORs in-theater was inconsistent. The PCO oversight varied greatly between task orders and was based on where the support contractor performance occurred. For task order 19, for DPD support, the PCO required the CORs to complete and submit monthly reports. The CORs then presented an overall evaluation of the LOGCAP support contractor's performance at each semiannual award

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<sup>5</sup> Forward operator support was defined as providing advice to combatant commanders on how to best use LOGCAP.

fee board. However, the PCO did not require the CORs to submit monthly reports or other feedback for task order 17, for MNC-I cost analyst support. The COR for task order 17 stated that he had not provided, and had not been asked to provide, any evaluation of the LOGCAP support contractor's performance. Additionally, PCO interaction with the CORs varied by geographic location. The COR for task order 19 in Afghanistan stated that feedback from the PCO was too slow, taking anywhere from several days to several weeks for his concerns to be addressed. For example, the COR in Afghanistan stated that the PCO was not responsive to his requests to approve LOGCAP support contractor personnel working overtime when the LOGCAP DPD office in Afghanistan was undermanned. However, the COR for task order 19 at Fort Belvoir, Virginia, had an open line of communication with the PCO and contacted the PCO on a daily basis. The interaction between the COR at Fort Belvoir and the PCO at RICC provided the COR clarity on how to best evaluate the LOGCAP support contractor's performance and allowed the COR to get responses from the PCO quickly, whereas the PCO did not give the COR in Afghanistan the same level of attention.

*The LOGCAP support contract has had six PCOs since the contract was awarded in February 2007.*

The LOGCAP support contract has had six PCOs since the contract was awarded in February 2007. The high PCO turnover made COR communication with RICC officials difficult because each PCO had their own expectations for COR reporting and none of the PCOs documented or informed CORs of their oversight and reporting processes. The CORs would have had uniform reporting requirements regardless of PCO turnover if the PCO had developed a QASP that clearly described the type and method of surveillance.

### **COR Monitoring**

The LOGCAP support contract CORs in-theater did not adequately monitor the support contractor's performance for task orders 17, 18, and 19. According to the FAR, cost-reimbursement task orders require sufficient oversight to determine whether the contractor is completing the work assigned in the task order. FAR 7.503(d) states that services including budget preparation, acquisition planning, support in the development of statements of work, and cost analysis, while not inherently governmental functions, are in close support of inherently governmental functions. Further, 10 U.S.C. §2383 (2010) states that for contracted functions that are not inherently governmental, but are closely associated with inherently governmental duties, the PCO must ensure that appropriate military or DoD civilians will oversee the contractor's performance. The LOGCAP support contract PCO delegated duties to the contractor that closely supported inherently governmental functions, including acquisition support, cost analyst support, property analysis, and logistics management support; however, the PCO did not require the CORs to appropriately monitor the contractor. For example, one Army officer in Kuwait stated that the LOGCAP support contractor assisted him when he drafted the PWS, but he was never delegated oversight duties or asked by the COR or the PCO to provide performance feedback. Maintaining proper oversight was critical because the LOGCAP support contractor's support services gave the contractor access to proprietary and sensitive information. The LOGCAP PCO should establish a written process for assigning

appropriate military or other DoD personnel to supervise the contractor's performance for those functions that are closely associated with inherently governmental duties.

### **COR Did Not Report to the PCO for Task Order 17**

The COR for task order 17 did not provide monthly LOGCAP support contractor performance reports to the PCO. Task order 17 on the LOGCAP support contract was a \$1.8 million cost-plus-fixed-fee task order that supported MNC-I by providing cost analysts. The COR for task order 17 stated that he did not provide monthly LOGCAP support contractor performance reports and the only correspondence he had with the PCO at Rock Island Contracting Center was to exercise the option year for MNC-I cost analyst support. Additionally, the COR stated that the PCO did not provide a QASP for task order 17. The COR was co-located with LOGCAP support contractor personnel on task order 17; however, without the COR creating and providing the PCO a monthly performance report, the PCO could not determine whether LOGCAP support contractor support for task order 17 was adequate. Consequently, LOGCAP officials could not be assured that the Army was receiving services on task order 17 in accordance with contract requirements.

### **Contractor Performance for Task Order 18 in Iraq**

The COR for task order 18, a cost-plus-fixed-fee task order valued at \$9.3 million for BCATs in Iraq, did not monitor the contractor performance for that task order and relied on the contractor to self-report their performance. The COR based his oversight on contractor testimonial evidence, rather than receiving Government feedback or observing LOGCAP support contractor BCATs. The COR for task order 18 stated that he received

*The information that the COR used to create his monthly performance evaluation was LOGCAP support contractor-generated and was not Government feedback.*

bi-weekly reports from the LOGCAP support contractor's Assistant Program Manager for BCAT and that he would listen to the weekly LOGCAP support contractor BCAT teleconference to determine the work USF-I had assigned to the LOGCAP support contractor and the work the LOGCAP support contractor stated had been completed. The COR would use the information from the teleconference and

the LOGCAP support contractor Assistant Program Manager to create his COR monthly reports. The COR did not discuss employee performance with USF-I personnel that oversaw and assigned LOGCAP support contractor work on task order 18. The information that the COR used to create his monthly performance evaluation was LOGCAP support contractor-generated and was not Government feedback. The COR for task order 18 would send his monthly report to the COR for task order 19 in Iraq. The COR for task order 19 would include a synopsis of the task order 18 monthly report in her task order 19 report and provide one report for both task orders to the PCO.

The previous COR on task order 18, from October 2009 through January 2010, used two PCO-designated alternate CORs who were co-located with the USF-I personnel that assigned the BCATs work in various locations throughout Iraq. The task order 18 monthly performance reports were created by one of the alternate CORs from October 2009 until January 2010. We could not determine whether the COR for task



order 18 reviewed or approved the alternate COR-generated performance reports before providing the reports to the COR<sup>6</sup> for task order 15 who then included the reports in her monthly report to the PCO.

## Monitoring of Contractor Performance for Task Order 19

The CORs for task order 19 in Kuwait and Iraq did not adequately monitor the contractor's performance. The COR oversight for task order 19, a cost-plus-award-fee task order valued at approximately \$32.7 million, varied from location to location. Task order 19 included LOGCAP support contractor work at Fort Belvoir, Kuwait, Iraq, and Afghanistan. The PCO delegated one COR at each location to monitor contractor performance. The COR that monitored LOGCAP support contractor performance at Fort Belvoir, in addition to providing monthly reports, also communicated with the PCO on a daily basis.

The COR for task order 19 in Iraq did not receive LOGCAP support contractor work products because the LOGCAP support contractor did not provide her any support services. The COR in Iraq stated that her method of evaluating the LOGCAP support contractor employees was based on how the previous COR reported the LOGCAP support contractor's performance. The COR would receive monthly reports from two Army officers who received some LOGCAP support contractor services. The monthly reports contained an evaluation of the work the LOGCAP support contractor performed and any problems that the LOGCAP support contractor employees had during the month. Although the COR used the Army officers' monthly reports to assist in maintaining oversight, CORs are not permitted to delegate the oversight duties that they have been assigned by the PCO. The COR combined the Army officers' reports with the LOGCAP support contractor-generated weekly work accomplished summaries when creating her monthly report for the PCO. However, the two Army officers' monthly reports included evaluations of only 11 of the 29 LOGCAP support contractor personnel in Iraq. Additionally, the COR stated that she did not receive evaluation reports from LOGCAP personnel that received support from the other 18 LOGCAP support contractor personnel in Iraq. Therefore, the COR used LOGCAP support contractor-generated work accomplished summaries as her evaluation for at least 18 of the 29 contractor employees in Iraq. Furthermore, the PCO was using LOGCAP support contractor-generated work accomplished summaries to assist in determining the contractor's performance-based award fees.

*... the COR used LOGCAP support contractor-generated work accomplished summaries as her evaluation for at least 18 of the 29 contractor employees in Iraq.*

The COR for task order 19 in Kuwait stated that she based her monthly performance reports on her day-to-day interaction with the LOGCAP support contractor and would observe the work LOGCAP support contractor employees were doing. The COR in Kuwait stated that she would receive input from the Defense Contract Management

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<sup>6</sup> The previous COR for task order 18 would send the monthly performance reports to the COR for task order 15, the predecessor to task order 19.

Agency (DCMA) personnel that LOGCAP support contractor employees supported with property accountability reviews at Camp Arifjan and that the monthly COR reports evaluated all the work the LOGCAP support contractor performed to support non-LOGCAP contracts in Kuwait. However, several Army and DCMA personnel that the LOGCAP support contractor supported in Kuwait stated that they did not provide input to the COR in Kuwait on the LOGCAP support contractor's performance. Therefore, the COR was not providing a thorough performance report on all work the LOGCAP support contractor performed in Kuwait and may have provided the award fee board an inaccurate description of the quality and quantity of the support contractor's work.

## **Contractor May Have Received Unjustified Award Fees**

The inadequate oversight provided by the PCO and the COR on the LOGCAP support contract may have resulted in the LOGCAP support contractor receiving a portion of the performance-based award fees of \$2.3 million that the LOGCAP support contractor may not have earned. The PCO awarded four DPD and program support task orders with cost-plus-award-fee elements on the LOGCAP support contract. Task order 19, awarded in February 2010, is ongoing and has not been evaluated by an award fee board. The other three DPD and program support task orders have received performance-based fees.

FAR 16.401, "General," states that the basis for all award fee determinations should be documented in the contract file to include, at a minimum, a determination that the overall cost, schedule, and technical performance is at a satisfactory level. All contracts providing award fees must be supported by an award fee plan that establishes procedures for evaluating the award fee and an award fee board for conducting the award fee evaluation. Award fee plans should identify award fee evaluation criteria and describe how the contractor's performance will be measured.

### ***Award Fee Plan***

The LOGCAP support contract award fee plan stated that the contractor's performance evaluation was based on:

- corporate management, defined as the contractor's performance in managing the contract;
- technical evaluation, which included timeliness of work products, level of supervision required, and the quality of the work;
- cost control, defined as the contractor's ability to manage costs; and
- program support, defined as the contractor's performance in contributing to the overall success of LOGCAP.

Each of these four factors was rated average, good, very good, or excellent, as shown in Table 2, then averaged when calculating the overall performance on the task order.

**Table 2. Performance Ratings**

<b>Rating</b>	<b>Award Fee Percent</b>	<b>Award Fee Plan Description</b>
Excellent	82-100	There were no material deficiencies or performance problems, and the contractor was responsive in all of the areas rated.
Very Good	44-80	The contractor's performance was of a high quality and work exceeded the average performance level. Some minor problems may have been experienced during the evaluation period if they did not impact the overall level of performance.
Good	4-40	The contractor exceeded some requirements of the contract, and the work was completed at much better than minimum performance requirements. Deficiencies and minor problems had to be offset by very good performance and had to be immaterial.
Average	0	The contractor's performance was minimal, and good performance was offset by deficiencies.

However, the rating criteria in the award fee plan was subjective and did not use metrics to further define each category. According to the award fee plan, to receive a “good” rating, the performance deficiencies could not be material, and minor problems needed to be offset by very good performance. In order to receive a “very good” rating, minor problems during the task order performance could have occurred if they did not impact the overall contractor performance. The difference between “good” and “very good” in this circumstance was difficult to differentiate because both included only “minor problems” when evaluating the contractor. For example, for the first 6 months of task order 15, the COR in Iraq identified several issues with technical execution including a lack of timeliness and the LOGCAP support contractor's nonresponsiveness to database changes. Despite the deficiencies, the COR gave the LOGCAP support contractor a rating of “very good.” Had the COR given the LOGCAP support contractor a rating of “good,” the award fee board could have factored the “good” performance of the support contractor in Iraq into its evaluation. This could have resulted in the award fee board recommending an award fee of at least \$132,000, or 16 percent less. The PCO had no assurance that the contractor earned the performance-based fees it had been given because there was not a requirements-based QASP or an award fee plan that defined metrics that the CORs could use to evaluate the LOGCAP support contractor.

### ***Award Fee Determinations***

As of September 2010, there were five award fee evaluation board determinations for the LOGCAP support contract. To date, the Army has awarded the LOGCAP support contractor approximately \$2.3 million in performance-based fees for DPD and program support. Table 3 shows each DPD and program support task order that had an award fee board and the performance-based award fee the LOGCAP support contractor was awarded.

**Table 3. Award Fee Determination**

<b>Task Order</b>	<b>Period of Performance</b>	<b>Performance Rating</b>	<b>Award Fee Pool (Rounded)</b>	<b>Percent Awarded</b>	<b>Award Fee Given to Contractor (Rounded)</b>
<b>3</b>	Base year <sup>7</sup>	Very Good	\$534,838	77	\$410,909
<b>6</b>	Option year 1, period 1	Very Good	\$591,186	80	\$472,949
<b>6</b>	Option year 1, period 2	Very Good	\$650,326	76	\$494,248
<b>15</b>	Option year 2, period 1	Very Good	\$824,196	60	\$494,517
<b>15</b>	Option year 2, period 2	Very Good	\$824,196	56	\$461,550

The PCO, DCMA, and each COR for the task orders presented their evaluations of the LOGCAP support contractor's performance to the award fee evaluation board. The award fee evaluation board then recommended to the award fee determining official the amount of performance-based fees the LOGCAP support contractor should be awarded. The award fee determining official made the final determination on the fee the LOGCAP support contractor was awarded. For example, for task order 15, during the second award fee period, the award fee evaluation board heard presentations by the CORs in Kuwait, Iraq, Afghanistan, and Fort Belvoir; the PCO in Rock Island; and the administrative contracting officer from DCMA-Houston. The award fee board then made a recommendation on the performance-based fees the LOGCAP support contractor should be awarded, and the award fee determining official made the final decision to award the LOGCAP support contractor 56 percent of the total award fee pool.

As part of her presentation of the LOGCAP support contractor's corporate management, the COR for task order 15 in Iraq reported to the award fee board during the second award fee period that the LOGCAP support contractor adequately covered performance gaps when personnel went on rest and recuperation. However, an Army officer reported to the COR that he did not have LOGCAP support contractor services when a logistics management specialist went on rest and recuperation during the same award fee period. In addition, during her presentation of the LOGCAP support contractor's technical executions, the COR in Iraq reported that the LOGCAP support contractor produced an average of 200 high-quality products on a monthly basis. However, the COR in Iraq did not review LOGCAP support contractor work products and did not receive feedback from all LOGCAP support contractor customers in Iraq, so the COR had no assurance of the number, or the quality, of the LOGCAP support contractor work products. The award fee

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<sup>7</sup> There was one award fee board for the base year of the LOGCAP support contract. All option years have had semiannual award fee evaluations.

evaluation board determined corporate management and technical execution were strengths in the LOGCAP support contractor's support of the DPD in Iraq because the award fee evaluation board was unaware that the COR in Iraq was not actively monitoring all LOGCAP support contractor employees or receiving feedback from all LOGCAP support contractor users. Based on COR input to the award fee board, the LOGCAP support contractor received a "very good" performance rating and received 56 percent of the total award fee pool. Consequently, some of the \$461,550 that the LOGCAP support contractor was paid for task order 15 may have been unearned because the COR presented inaccurate information during the award fee evaluation process.

The award fee board based its recommendations to the award fee determining official on COR feedback; therefore, having proper COR oversight and reporting is essential for determining appropriate award fees. However, inconsistent COR oversight may have resulted in the LOGCAP support contractor receiving a portion of the \$2.3 million in award fees that the LOGCAP support contractor may not have earned for DPD and program support.

## **Conclusion**

The oversight on the LOGCAP support contract was inadequate. According to the FAR, cost-reimbursement contracts should be used only when appropriate Government surveillance during the period of performance would provide reasonable assurance that efficient methods and effective cost controls were used by the contractor. In addition, the United States Code requires the PCO to assign DoD personnel to supervise the performance of a contractor if contractors are executing tasks that closely support inherently governmental functions. Therefore, all of the LOGCAP support contract cost-reimbursement task orders, which contained tasks that were closely associated with inherently governmental functions, required extensive oversight so that DoD would receive efficient and effective services from the contractor. The PCO did not define a process that provided consistent interaction with the CORs for the contract, and the CORs did not provide a sufficient level of oversight in the field. Some CORs were depending on contractor-generated input and were not receiving feedback from the customers, while other CORs were not providing the PCO with any input regarding contractor performance. The COR for task order 17 did not provide reports to the PCO that evaluated the LOGCAP support contractor's cost analyst support, and the COR for task order 18 did not receive feedback from USF-I officials that assigned and oversaw BCAT work. Additionally, the LOGCAP support contract award fee plan stated:

The primary performance monitors for performance under this contract are the CORs....CORs will gather data concerning the contractor's performance, including that which exceeds the minimum performance required by the contract, and the impact of the contractor's performance on the area of responsibility based on personal observation, review of work products, and feedback from customers in accordance with the QASP.

However, for DPD and program support task orders, the CORs were not consistently monitoring the LOGCAP support contractor's performance because the CORs in-theater did not always:

- observe the LOGCAP support contractor work,
- review the LOGCAP support contractor-generated work products, or
- receive customer feedback.

Therefore, the PCO had no reasonable assurance that the LOGCAP support contractor was providing LOGCAP DPD and program support in accordance with the contract requirements. Additionally, the Government may have paid the LOGCAP support contractor performance-based award fees without accurately assessing the contractor's performance.

## **Recommendations**

C.1 We recommend that the Logistics Civil Augmentation Program support contract procuring contracting officer:

a. Develop a quality assurance surveillance plan for each task order that includes:

(1) Metrics and checklists that the contracting officer's representatives can use to provide consistent oversight of the Logistics Civil Augmentation Program support contractor.

(2) Methods for effective communication between the procuring contracting officer and the contracting officer's representatives.

(3) Guidance on what should be included in a contracting officer's representative's monthly report.

b. Require the contracting officer's representatives for task order 17 to submit monthly reports on the Logistics Civil Augmentation Program support contractor's performance that clearly document contractor performance as required in the contract.

c. Establish a written process, in accordance with 10 U.S.C. §2383 (2010), for assigning appropriate military or DoD civilians to supervise the contractor's performance for those functions that are closely associated with inherently governmental duties.

### ***Management Comments Required***

We granted the U.S. Army Materiel Command an extension to the date by which we needed to receive comments. Despite the extension, U.S. Army Materiel Command provided comments too late to be incorporated into the final report. Therefore, if the U.S. Army Materiel Command does not submit additional comments, we will consider those comments as management's response to the final report.

C.2 We recommend that the Logistics Civil Augmentation Program support contract award fee determining official perform a thorough review of all performance-based fees



awarded to the Logistics Civil Augmentation Program support contractor to determine whether the contractor should repay the Government for any unjustified or unearned award fees.

### ***Management Comments Required***

We granted the U.S. Army Materiel Command an extension to the date by which we needed to receive comments. Despite the extension, U.S. Army Materiel Command provided comments too late to be incorporated into the final report. Therefore, if the U.S. Army Materiel Command does not submit additional comments, we will consider those comments as management's response to the final report.

## Appendix. Scope and Methodology

We conducted this performance audit from October 2009 through October 2010 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 also performed this audit as required by Public Law 110-181, “The National Defense Authorization Act for Fiscal Year 2008,” Section 842, “Investigation of Waste, Fraud, and Abuse in Wartime Contracts and Contracting Processes in Iraq and Afghanistan,” January 28, 2008. Section 842 requires thorough investigation and auditing to identify potential waste, fraud and abuse in the performance of DoD contracts, subcontracts, and task orders for the logistical support of coalition forces in Iraq and Afghanistan.

We conducted interviews and gathered documentation covering the period from February 2007, when the support contract was awarded, to September 2010. In addition, we reviewed documentation regarding the history of LOGCAP before LOGCAP IV. We focused our review on the administration and management of the LOGCAP support contract and how the LOGCAP support contract was being used to support the LOGCAP performance contracts. We conducted site visits at the following locations:

- Defense Contract Audit Agency, Fort Belvoir, Virginia
- Defense Contract Management Agency, Houston, Texas and Camp Arifjan, Kuwait
- Army Materiel Command Headquarters, Fort Belvoir, Virginia
- Rock Island Contracting Center, Rock Island, Illinois
- LOGCAP Executive Directorate, Fort Belvoir, Virginia
- LOGCAP DPD Office, Camp Victory, Iraq
- LOGCAP DPD Office, Camp Arifjan, Kuwait

We reviewed the LOGCAP support basic contract, 18 task orders, and contract modifications, to determine whether there was adequate contract oversight in place; quality assurance plans had been established; task orders had been properly awarded; and performance based fees were awarded appropriately. We met with Government and contractor personnel to discuss support contractor responsibilities and the use of subcontractors to support the performance contractors. We met with the current and prior PCOs for the LOGCAP support contract, contracting office management, and technical and pricing subject matter experts at RICC. We interviewed LOGCAP program office managers at Fort Belvoir and DPDs and their staff in Afghanistan, Iraq, and Kuwait. We also met with LOGCAP support contractor personnel at each location. We met with Defense Contract Management Agency and Defense Contract Audit Agency personnel to determine their responsibilities for the LOGCAP support contract.

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

We relied on computer-processed data from the Electronic Document Access Web site. Electronic Document Access is a web-based system that provides secure online access, storage, and retrieval of contracts and contract modifications to authorized users throughout the Department of Defense. We used documents retrieved from Electronic Document Access to determine the approximate value of the LOGCAP support contract. We compared our analysis of the support contract task orders to data provided by the contracting office to verify the LOGCAP support contract value. As a result of our analysis, we are confident that the Electronic Document Access Web site was sufficiently reliable for the purpose of determining the approximate value of the LOGCAP support contract. In addition, we relied on data from a spreadsheet we received from the Rock Island Contracting Center to determine that the LOGCAP support contractor was supporting approximately 71 non-LOGCAP contracts in Kuwait. To verify the contents of the spreadsheet, we reviewed some of the non-LOGCAP contracts on the Electronic Document Access Web site to determine whether the contracts were LOGCAP related. In addition, we verified with Government personnel that the LOGCAP support contractor was performing work on non-LOGCAP contracts during a meeting held at the Rock Island Contracting Center. Therefore, we are confident in the reliability of the contents of the spreadsheet we received from the Rock Island Contracting Center.

## **Prior Coverage**

During the last 5 years, the Government Accountability Office (GAO), the Department of Defense Inspector General (DoD IG), and the Army Audit Agency have issued six reports regarding LOGCAP IV and the reliance on contractors. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

### **GAO**

GAO Report No. GAO-10-357, “Improvements Needed in Management of Contractors Supporting Contract and Grant Administration in Iraq and Afghanistan,” April 12, 2010

GAO Report No. GAO-10-39, “Further Actions Needed to Address Weaknesses in DoD’s Management of Professional and Management Support Contracts,” November 20, 2009

GAO Testimony No. GAO-08-621T, “DoD’s Increased Reliance on Service Contractors Exacerbates Long-Standing Challenges,” April 3, 2008

### **DoD IG**

DoD IG Report No. D-2009-114, “Transition Planning for the Logistics Civil Augmentation Program IV Contract,” September 25, 2009

***Army Audit Agency***

AAA Report No. A-2010-0169-ALL, "Followup Audit of Forward Operating Base Closures," August 19, 2010

AAA Report No. A-2006-0099-ALL, "Audit of Program Management in the Iraq Area of Operations, Audit of Logistics Civil Augmentation Program Operations in Support of Operation Iraqi Freedom," April 26, 2006

# Assistant Secretary of the Army for Acquisition, Logistics, and Technology Comments



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

NOV 22 2010

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

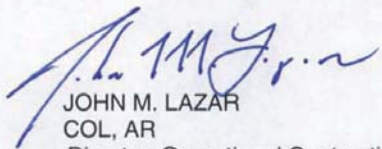
SUBJECT: Recommendations based on the draft Department of Defense Inspector General (DODIG) Audit Report, "Logistics Civil Augmentation Program (LOGCAP) Support Contract Needs to Comply with Acquisition Rules" (Project No. D2010-D000AS-031.000), dated 22 October 2010.

1. Thank you for the recommendations in your Department of Defense Inspector General's (DOD-IG's) draft audit report. The Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) will request a Corrective Action Plan (CAP) from the Rock Island Contracting Command (RICC). The CAP will provide remedies to rectify the contracting deficiencies and the three findings contained in the report: the support contractor allowed to perform Non-LOGCAP work, task orders for Multi-National Corps-Iraq awarded outside the scope of the contract, and the need for oversight improvements for the LOGCAP Support contract. The RICC CAP will also include the findings, recommendations, and corrective actions with completion milestone dates.

2. The DASA(P)'s Procurement Management Review (PMR) of the RICC's is scheduled for June 2011. The PMR team will utilize both the final DOD-IG audit report and the RICC's CAP to assess progress in resolving the findings and deficiencies. Enclosure #1 are the Assistant Secretary of the Army (Acquisition, Logistics and Technology) comments to recommendation A.3.

3. If you have any questions, my point of contact is [REDACTED]

Encl

  
JOHN M. LAZAR  
COL, AR  
Director, Operational Contracting  
Support and Policy



**Finding A. Support Contractor Allowed to Perform Non-LOGCAP Work**

Army officials did not manage and administer the LOGCAP support contract in accordance with Federal and DOD guidance. Specifically, LOGCAP officials instructed the LOGCAP support contractor to perform work that was outside the scope of the LOGCAP support contract. The LOGCAP support contractor provided requirements development assistance for at least 71 non-LOGCAP contracts or task orders for requirements valued at approximately \$1 billion, according to the LOGCAP Deputy Program Director (DPD) for Kuwait. The Procuring Contracting Officer (PCO) did not address: the potential organizational conflicts of interest or the LOGCAP support contractor's inappropriate access to other contractors' proprietary information while supporting the non-LOGCAP contracts. This occurred because RICC contracting officials concluded that the additional work was within the scope of the LOGCAP support contract, despite legal advice indicating that the work was out of scope. The PCO did not comply with Section 2383, Title 10, United States Code (10 U.S.C. §2383) requirements to preclude organizational conflicts of interest. The LOGCAP DPD in Kuwait did not inform the PCO of an organizational conflict of interest that the non-LOGCAP work created between the support contractor and a subcontractor. As a result, RICC officials did not obtain the cost savings from competing the out of scope work and violated the Competition in Contracting Act, 41 U.S.C. §253; gave the support contractor a potential competitive advantage on the work for which it was developing requirements; violated the Federal Acquisition Regulation (FAR) and potentially violated the Trade Secrets Act, 18 U.S.C. §1905 by providing the support contractor with other contractors' proprietary information; and created the potential for additional problems after the Army informs non-LOGCAP contractors that their proprietary data was provided to the support contractor without their permission or contractual protections.

**Recommendation**

A.3. The Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (ASA(ALT)) perform an independent review or a Program Management Review which will focus on several specific areas highlighted in the DOD-IG Report.

a. Identify all non-Logistics Civil Augmentation Program contractors' proprietary data accessed by the LOGCAP support contractor.

b. Notify all non-LOGCAP contractors that the LOGCAP support contractor had access to their proprietary data and ask them to identify any adverse consequences

***Concur. The ASA(ALT) will:***

1. Request the Army Material Command (AMC), prepare and implement a Corrective Action Plan from the Army Sustainment Command (ASC) for the RICC that will provide remedies to rectify the contracting deficiencies referenced in the three findings. If necessary, RICC will identify all non-LOGCAP contractors' proprietary data accessed by the Logistics Civil Augmentation Program support contractor (A.3.a), notify all non-LOGCAP contractors affected (A.3.b), and identify any adverse consequences.



c. Review the actions of the LOGCAP support PCO, the non-LOGCAP PCO, and LOGCAP managers that created the organizational conflicts of interest and other problems (Finding A) and that sponsored the out of scope base closure assistance teams' work for Multi-National Corps-Iraq (Finding B). Initiate, as appropriate, any administrative action and training required.

*Concur: The ASA(ALT) will:*

1. Request AMC provide a Corrective Action Plan from the ASC for the RICC that will provide remedies to rectify the contracting deficiencies, and implement this report recommendation, including RICC reviewing the contract actions of the respective contracting officers and determine if any administrative action and training should be undertaken.
2. Conduct a Program Management Review (PMR) of the RICC's contracting process including the status of corrective actions put in place in response to DOD-IG audit findings and recommendations.

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Inspector General  
Department *of* Defense



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