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DEFENSE CONTRACT MANAGEMENT AGENCY
DCMA IRAQ/AFGHANISTAN
MNC-I AMC LOGCAP
C-Main Unit 91400
APO AE 09342-1400



IN REPLY
REFER TO DCMA Iraq/Afghanistan

25 February 2008

MEMORANDUM FOR DIRECTOR, DCMA
THRU COMMANDER, DCMA INTERNATIONAL

SUBJECT: Response to Representative Altmire's Congressional Inquiry of 19 February 2008

1. Introduction. Enclosed is a complete summary packet highlighting the pertinent chronology of communications, actions, and all other related supporting documents as required to respond to Representative Altmire's Congressional Inquiry, dated 19 February 2008.

2. Background. The Radwaniyah Palace Complex (RPC) was originally under USACE GRD contract (W912ER-04-D-0005, 0010) to perform ground and facilities Operations and Maintenance (O&M) (Reference A). The contractor was KBR/MERO and the basic period of performance was from 26 February 2006 to 22 February 2007. In December 2006, the Special Forces command submitted a Joint Acquisition Review Board (JARB) requirements packet to exercise a 6-month option period for the GRD contract (References B & C).¹ The option period of performance was intended for 23 February 2007 to 21 August 2007. MNC-I approved the JARB packet but chose not to exercise the option with GRD.

3. DCMA I/A Involvement. On 4 February 2007, the Unit Commander requested a KBR cost estimate for O&M services under LOGCAP III (Reference D). On 8 February 2007, the Logistics Support Officer (LSO) requested a formal cost estimate from KBR (References E). On 19 February 2007, KBR provided an estimate (later revised on 23 February 2007) to perform O&M and Multi National Corps-Iraq (MNC-I) funded the requirement on 23 February 2007 (References F & I).

4. Statement of Facts. On 23 February 2007, the then Army Sustainment Command (ASC) forward Procuring Contracting Officer (PCO) and Deputy LOGCAP Project Director signed an Administrative Contracting Officer Change Letter (ACL) 07-139-D9-005, authorizing KBR to perform O&M services on 126 buildings within the RPC (Reference G & I). Government approval was provided by the ASC PCO, not the DCMA I/A Administrative Contracting Officer (ACO) for that site location (Reference I). The scope of effort awarded under the ACL included O&M services for the building in which the soldier died (References G & H). This authorization was negotiated and funded for \$3.2M and the period of performance on the service was scheduled from 24 February 2007 to 31 August 2007 (Reference I). In less than 15 days, an ACL was awarded to KBR under the LOGCAP III contract and Task Order 139 (Statement of Work Change 1) to perform O&M services (Reference H). KBR stipulated in the Assumptions block of its cost estimate that time constraints prevented a complete technical inspection of "each building" (Reference J). This action was inconsistent with the SOW requirements as outlined in

¹ References A, B, and C have not been included as they are contained in a classified JARB packet.

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1

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paragraph 8.1.2 (Reference K). Prioritization of work to be done is noted in TO 139, SOW, Change 1 as the responsibility of the Mayor's Cell (Reference L). Though not having sufficient time to conduct a full technical inspection, KBR conducted a limited technical inspection on 10 February 2007 (Reference M) and budgeted for the cost of known repairs required at the time of the estimate.² KBR performs service order or work request repairs per direction of Level B maintenance efforts established by the unit mayor cell and its prioritization system (Reference L). Level B maintenance is limited. The brief accompanying this response contains a contracting chronology of events and actions (Reference W).

5. Key Points. The internal Army CID MFR contains inaccurate contractual statements of fact, which were inappropriately provided to the Next of Kin (NOK) as well as unit personnel (Reference R). The CID agent(s) based the contents of their internal memo on sworn statements containing errors of fact that misrepresented the contracting process under LOGCAP III; moreover, the report incorrectly made assumptions and presumptions relating to a causal connection of the incident to either acts or omissions by DCMA I/A (References P, Q, R and S). Our review of internal records and statements made by KBR employees to CID establishes the basis of our objection to the contents of CID's MFR and responses to the NOK. The totality of the records collected and reviewed by this command clearly establish that DCMA I/A had no prior knowledge of potential electrical shower safety hazards existed with the water pump in the facility utilized by SSG Maseth prior to his death; moreover, KBR did not notify DCMA I/A of such hazards prior to SSG Maseth's death (Reference R1). DCMA I/A did not fail to direct KBR to make such repairs. Following the death of SSG Maseth, on 2 January 2008, DCMA I/A directed KBR to perform a "complete" technical inspection of all 126 RPC facilities (Reference N & O). The findings and deficiencies were submitted by KBR on 21 January 2008 (Reference R1). The overwhelming majority of these findings in the Legion Security Force area were identical to those findings or problems as either alleged or identified in the 10 February 2007 limited inspection. These results indicate KBR failed to correct known deficiencies budgeted for in their estimate under Assumption 16 and approved by the PCO on 23 February 2007 (References M and R1). Though the United States government was aware of deficiencies from the February 2007 inspections, these deficiencies neither establish nor imply a causal connection to the incident.

6. Corrective Actions Taken. On 1 February 2008, the DCMA I/A ACO directed KBR to complete all urgent Life, Health, and Safety repairs (Reference O). As previously stated, an ACL was awarded on 23 February 2007 by the ASC PCO—not the responsible DCMA I/A ACO. This was not in keeping with the standard contracting process or change management procedures. In addition, the contractual requirement to perform a technical inspection and complete the repairs prior to assuming O&M responsibility was not complied with since the Government [ACL at Reference G] directed KBR to assume O&M without either completion or correction of any existing deficiencies. The decision on what category of O&M is applied to a building, in this case level B, was and remains the sole decision of the unit in conjunction with approval from the Mayor's Cell (Reference L). Under no circumstance does DCMA I/A make such a determination as stated in the CID internal memorandum as noted in the 5 questions and answers on page 2 of the MFR (References R & V). KBR is directed per the contract/ACL to perform inspections and preventive maintenance (upgrades) as a direct result of the level of

² The date listed on the form of the limited technical inspections was incorrectly annotated. KBR performed the technical inspections on 10 February 2007, not 2006.

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2

maintenance approved and funded by the unit in accordance with the contract SOW (References F, G, H, I, J, and K). The major failure identified stems from the quick turn-around time of the government ACL issued by ASC PCO and notice to proceed which in effect waived further technical inspection requirements (References G, I & K). This action as well as the subsequent inactions to correct deficiencies violated paragraph 8.1.2 of the SOW (Reference K). In retrospect, the actions and omissions created risk, but are not atypical of contract operations in a contingency theater of operation. The customer, mayor cell, and contracting officer have to weigh the known hazards of providing life support services with the criticality of supporting forces assigned and operating from the RPC as well as other locations.

7. Assumption of Operational Risks – Way Ahead. The operational demands for urgent base camp service support by the Special Forces commander overshadowed the required and proper steps for KBR to assume O&M under LOGCAP III (Reference K). The subsequent tight award schedule prevented a proper technical inspection from being performed. However, the Government should have insisted on a follow-up or complete inspection. The waiver of completing technical inspections posed a safety risk given the unknown maintenance conditions of the RPC facilities and occupying them “as is.” Since July 2007, the Government (ASC/PM LOGCAP and DCMA I/A) has re-engineered the LOGCAP III contracting and scope of work turn-on processes, which may preclude incidents like this in the future to potential miscommunications and performance irregularities. From a contracting perspective, a proper and complete technical inspection of each facility would have dramatically mitigated the risks or uncertainties regarding the maintenance conditions of the RPC facilities. In the future, it is paramount to insist that technical facility inspections are not waivable and should never be waived in lieu of operational or compelling reasons cited by the unit. DCMA I/A is currently drafting Command Policy relating to waivers of technical inspections. Absent an urgent operational compelling justification, no waivers of technical inspections will be granted in the future. Any emergency waivers granted will have strict timelines for full compliance with inspection requirements. Further, DCMA I/A is drafting a Letter of Technical Direction (LOTD) requiring KBR to perform a theater wide life, health, and safety inspection of local hard-stand facilities occupied where no prior inspection was performed before assumption of O&M. DCMA I/A is also technically directing KBR to review and update all facility Technical Inspection (TI) and Service Order Request (SOR) Standard Operating Procedures (SOPs).

8. Recommendations. Given the sensitivity of this matter and the risks associated with balancing customer needs versus safety/inspection requirements and assumptions, I make the following recommendations:

- The SECDEF direct the DOD Inspector General to conduct a formal investigation into (1) the contracting procedures attributable to failures causing the incident, (2) contractor performance irregularities attributable to this incident, and (3) the unit prioritization and determination procedures for requesting facilities maintenance and repairs at RPC, as well as other, operationally designated “black” areas. The concern over cost should never outweigh the safety and risk considerations of unit occupied facilities within the theater.

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- Given the uncertainty and conditions of pre-existing or local facilities, the most unfortunate accident which took the life of a soldier requires a heightened awareness of potential hazards and establishment of proper procedures. A list of suggestions, questions, and potential interviewees will be provided upon request.

9. Point of Contact. The undersigned serves as the point of contact regarding additional questions or matters and can be reached at [REDACTED] or [REDACTED]
[REDACTED]



KIRK P. VOLLMECKE
COL, USA
Commanding

22 Enclosures (Electronic)

1. Reference Index
2. Reference A, B, & C
3. Reference D
4. Reference E
5. Reference F
6. Reference G
7. Reference H
8. Reference I
9. Reference J
10. Reference K
11. Reference L
12. Reference M
13. Reference N
14. Reference O
15. Reference P
16. Reference Q
17. Reference R
18. Reference R1
19. Reference S
20. Reference T
21. Reference U
22. Reference W

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