

Audit Report



**Coalition Provisional Authority's
Contracting Processes Leading Up To and
Including Contract Award**

Report Number 04-013

July 27, 2004

**Office of the Inspector General
Coalition Provisional Authority**



COALITION PROVISIONAL AUTHORITY
OFFICE OF THE INSPECTOR GENERAL

July 27, 2004

**MEMORANDUM FOR HEAD OF CONTRACTING ACTIVITY, IRAQ PROJECT AND
CONTRACTING OFFICE**

**SUBJECT: Coalition Provisional Authority's Contracting Processes Leading Up To and
Including Contract Award**

We are providing this audit report for your information and use. We performed the audit in accordance with our statutory duties contained in Public Law 108-106 which mandates the conduct of audits relating to the treatment, handling, and expenditure of funds by the Coalition Provisional Authority or its successor entities on Iraq reconstruction, and of the programs, operations, and contracts carried out in utilizing such funds. We considered management comments on a draft of this report in preparing the final report.

Management does not concur with the recommendation to request a post-award audit of contract DABV01-03-C-0015. We continue to believe the recommendation is valid and will work with the Head of Contracting Activity to reach a mutually satisfactory resolution. We will accomplish audit follow-up to evaluate management corrective actions.

We appreciate the courtesies extended to the staff. Questions should be directed to Mr. Brian Flynn at (703) 343-9229 or Mr. Kevin Ellenberger at (703) 343-9230. Management may request a formal briefing on the results of this audit. See Appendix D for the report distribution.

Stuart W. Bowen, Jr.
Inspector General
Coalition Provisional Authority

**Office of the Inspector General
Coalition Provisional Authority**

Report Number 04-013

July 27, 2004

**Coalition Provisional Authority's Contracting Processes
Leading Up To and Including Contract Award**

Executive Summary

Introduction. Exercising the authority granted to them by the Administrator of the Coalition Provisional Authority (CPA), the CPA Contracting Activity, Iraq Project and Contracting Office informed us that it had awarded 1,988 contracts, grants, and purchase and delivery orders valued at approximately \$1.04 billion as of April 4, 2004. Of this total, 1,928 contracts valued at approximately \$847 million were awarded with Development Funds for Iraq (DFI).

The Coalition Provisional Authority (CPA) issued Coalition Provisional Authority Memorandum No. 4 (the Memorandum), "Contract and Grant Procedures Applicable to Vested and Seized Iraqi Property and the Developmental Fund for Iraq," August 19, 2003, to establish procedures applicable to the execution of contracts and grants using Iraqi funds for the benefit of the Iraqi people. Although the use of Iraqi funds is not subject to the same laws and regulations that apply to U.S. appropriated funds, the CPA was expected to manage Iraqi funds in a transparent manner that fully comported with CPA obligations under international law, including United Nations Security Council Resolution 1483.

Objective. The objective of the audit was to evaluate the procedures used by the CPA Contracting Activity to award contracts. Specifically, we evaluated policies and procedures associated with acquisition planning, source selection, use of competition, and contract negotiation.

Conclusion. The CPA Contracting Activity had not issued standard operating procedures or developed an effective contract review, tracking, and monitoring system. In addition, contract files were missing and incomplete. Further, contracting officers did not always ensure that contract prices were fair and reasonable, contractors were capable of meeting delivery schedules, and payments were made in accordance with contract requirements. As a result, the CPA Contracting Activity was not accurately reporting the number of contracts actually awarded by the CPA Contracting Activity. This hindered the CPA Contracting Activity's ability to demonstrate the transparency required of the CPA when it awarded contracts using DFI funds.

Management Actions. During the course of our audit, the Head of Contracting Activity established and staffed a policy and compliance officer position with a contracting professional to develop and standardize contracting procedures and processes for the procuring contracting officers assigned to the Iraq Project and Contracting Office. The duties for the policy and compliance officer are to:

- Draft and issue a Standard Operating Procedure;
- Review contract actions and draft, review, and issue standard contract clauses;

- Review, track, recommend, and compile warrant packages for the Army's Principal Assistant Responsible for Contracting; and
- Track and monitor contract actions and dollars.

We believe the scope of these actions will be sufficient to strengthen the controls for tracking and monitoring contracts and the additional problems discussed in this report. Further, we believe these actions should result in data that is available and accurate to ensure transparency in reporting. Therefore, we did not make recommendations for this area.

Recommendation. We recommended the Head of Contracting Activity request the Defense Contract Audit Agency perform a post-award audit of contract DABV01-03-C-0015, the National Currency Exchange Program.

Management Comments. The Head of Contracting Activity non-concurred with the recommendation and stated, "It is important to note that Contract DABV01-03-C-0015, National Currency Exchange was a DFI (Development Fund for Iraq) funded contract that is not subject to the Federal Acquisition Regulation. We noted that the DCAA (Defense Contract Audit Agency) documentation in the file is not a DCAA audit rather; it is a request for pricing assistance by the contracting officer. While not in the original file, documentation recently obtained from DCAA (Attachment 1), indicates that the Contracting Officer would negotiate the reduced rate unless justification was provided from the contractor. Justification was provided from the contractor as originally documented in the file and the contract was awarded for \$ 24,770,738 vice \$ 31.7 million."

Audit Response. The Contracting Activity Office comments were not responsive to our recommendation. We continue to believe the recommendation is valid and we will work with the Head of Contracting Activity to reach a mutually satisfactory resolution.

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Background

Exercising the authority granted to them by the Administrator of the Coalition Provisional Authority (CPA), the CPA Contracting Activity, Iraq Project and Contracting Office had awarded 1,988 contracts, grants, and purchase and delivery orders valued at approximately \$1.04 billion as of April 4, 2004. Of this total, 1,928 contracts valued at approximately \$847 million were awarded with Development Funds for Iraq (DFI). The scope and methodology used to perform this audit are discussed at Appendix A. The acronyms used in this report are shown at Appendix C and the audit team members are shown at Appendix E.

Coalition Provisional Authority Memorandum No. 4 – Purpose. The Coalition Provisional Authority (CPA) issued Coalition Provisional Authority Memorandum No. 4 (the Memorandum), “Contract and Grant Procedures Applicable to Vested and Seized Iraqi Property and the Developmental Fund for Iraq,” August 19, 2003, to establish procedures applicable to the execution of contracts and grants using Iraqi funds for the benefit of the Iraqi people. Although the use of Iraqi funds is not subject to the same laws and regulations that apply to U.S. appropriated funds, the CPA was expected to manage Iraqi funds in a transparent manner that fully comported with CPA obligations under international law, including United Nations Security Council Resolution 1483.

Coalition Provisional Authority Memorandum No. 4 – Applicability. The Memorandum states “This Memorandum applies to contracts and grants executed by or on behalf of the CPA, when those instruments obligated and expended Iraqi Funds. It covers contracts and grants executed by. . . CPA's Head of Contracting Activity, or designee(s),. . . .”

Objective

The objective of the audit was to evaluate the procedures used by the CPA Contracting Activity to award contracts. Specifically, we evaluated policies and procedures associated with acquisition planning, source selection, use of competition, and contract negotiation.

Contracting Processes

The CPA Contracting Activity had not issued standard operating procedures or developed an effective contract review, tracking, and monitoring system. In addition, contract files were missing and incomplete. Further, contracting officers did not always ensure that contract prices were fair and reasonable, contractors were capable of meeting delivery schedules, and payments were made in accordance with contract requirements. This occurred because the CPA Contracting Activity did not provide adequate administrative oversight and technical supervision over the contracting actions completed by procuring contracting officers as required by the Memorandum. As a result, the CPA Contracting Activity was not accurately reporting the number of contracts actually awarded by the CPA Contracting Activity. This hindered the CPA Contracting Activity's ability to demonstrate the transparency required of the CPA when it awarded contracts using DFI funds.

Technical Supervision

The Memorandum provided that "The Head of Contracting Activity, CPA, shall be responsible for providing technical supervision over Contracting Officers. . . . This technical supervision may include prescribing training requirements and prescribing appropriate forms for use in solicitations, contract awards, and grant awards. For contracting officers assigned to the CPA Contracting Activity, the Head of Contracting Activity, CPA, shall provide administrative oversight as well as technical supervision."

Contracting Processes

The CPA Contracting Activity had not issued standard operating procedures or developed an effective contract review, tracking, and monitoring system. In addition, contract files were missing and incomplete. Further, contracting officers did not always ensure that contract prices were fair and reasonable, contractors were capable of meeting delivery schedules, and payments were made in accordance with contract requirements.

Contract Tracking and Monitoring System. The spreadsheets used by the CPA Contracting Activity to review, track, and monitor contract actions provided inaccurate and unreliable information and, therefore, were not effective. Specifically, spreadsheets developed by the CPA Contracting Activity to track contract files were not adequately maintained and could not be relied upon to ensure compliance with the Memorandum or be used as a source of information for Congressional reporting. We attempted to reconcile spreadsheets to the contract files by verifying contracts with a total value of \$5 million or more. The CPA Contracting Activity was unable to locate 13 of 62 contract files listed in the spreadsheets.

Incomplete or Missing Documentation. The Procuring Contracting Officer did not comply with the contract procedures outlined in the Memorandum. Specifically, 29 (67 percent) of 43 small and large purchase contracts we analyzed had incomplete or missing documentation and the current status of five contracts was unclear. Additionally, because of the absence of receiving reports and complete invoices and payment vouchers, we were unable to determine if the goods specified in the contract were ever received, the total amount of payments made to the contractor, or if the contractor fully complied with the requirements of the contract.

Fair and Reasonable Price. The CPA Contracting Activity did not ensure that a fair and reasonable price was negotiated for contract DABV01-03-C-0015, National Currency Exchange, valued at \$ 31.7 million. Specifically, when the contractor developed the contract proposal for

the Iraqi banknote exchange project, it stated that the proposed contract price was calculated as accurately as possible based upon current prices and historical costs from existing contracts. However, the proposed costs were not based on contractor's most recent contract (a contract for guard/security services for the Republican Presidential Palace in Baghdad), and the contractor was not able to provide a justification for the increased proposed costs.

The Defense Contract Audit Agency (DCAA) conducted a pre-award contract review of the contractor's cost proposal and issued an audit memorandum on August 29, 2003, that recommended potential cost reductions of over \$5 million. According to the memorandum, the contractor could not provide any reasonable and supportable explanation as to why the proposed daily labor rates should exceed the rates used to determine their most current security contract with CPA. Nevertheless, the contract was awarded at the contractor's proposed price. The contract file contained no documentation of any further negotiations by the contracting officer.

Meeting Delivery Schedules. The Procuring Contracting Officer did not ensure contractor compliance with the proposed delivery for the date of purchase order DABV01-04-M-0018, Extended Cab Pickup Trucks for the Border Police. The statement of work required a 30-day delivery schedule for the vehicles. However, the contractor was awarded the contract even though the contractor proposed a modified delivery schedule of 60 days. That bid should have been considered non-responsive to the contract requirement for the delivery of the vehicles. Additionally, there was little evidence the contracting officer sought widespread competition for this requirement. As such, it is not known whether a more responsive contractor could have been awarded the contract

Payment in Accordance with Contract Requirements. The Procuring Contracting Officer did not comply with the schedule of payments of contract DABV01-03-C-5003, the Mitsubishi L200 Double Cab Trucks for the Maysan Police. Specifically, the contracting officer approved and paid an advanced payment of \$87,500 to the contractor despite the contract terms stating payments shall be made upon delivery of the vehicles. Further, the remaining balance of \$100,000 was paid to the contractor without written documentation showing that the contractor had actually delivered the vehicles.

Conclusion

We believe these problems occurred because the CPA Contracting Activity did not provide adequate administrative oversight and technical supervision over the contracting actions completed by procuring contracting officers as required by the Memorandum. As a result, the CPA Contracting Activity was not accurately reporting the number of contracts actually awarded by the CPA Contracting Activity. This hindered the CPA Contracting Activity's ability to demonstrate the transparency required of the CPA when it awarded contracts using DFI funds. We do not believe that transparency can be achieved when pertinent data is unavailable or inaccurate.

Management Corrective Actions

During the course of our audit, the Head of Contracting Activity established and staffed a policy and compliance officer position with a contracting professional to develop and standardize contracting procedures and processes for the procuring contracting officers assigned to the Iraq Project and Contracting Office. The duties for the policy and compliance officer are to:

- Draft and issue a Standard Operating Procedure;

- Review contract actions and draft, review, and issue standard contract clauses;
- Review, track, recommend, and compile warrant packages for the Army's Principal Assistant Responsible for Contracting; and
- Track and monitor contract actions and dollars.

We believe the scope of these actions will be sufficient to strengthen the controls for tracking and monitoring contracts and the additional problems discussed in this report. Further, we believe these actions should result in data that is available and accurate to ensure transparency in reporting.

Recommendations, Management Comments, and Audit Response

We recommend the Head of Contracting Activity request the Defense Contract Audit Agency perform a post-award audit of contract DABV01-03-C-0015, the National Currency Exchange Program.

Management Comments. The Head of Contracting Activity non-concurred with the recommendation and stated, "It is important to note that Contract DABV01-03-C-0015, National Currency Exchange was a DFI funded contract that is not subject to the Federal Acquisition Regulation. We noted that the DCAA documentation in the file is not a DCAA audit rather; it is a request for pricing assistance by the contracting officer. While not in the original file, documentation recently obtained from DCAA (Attachment1), indicates that the Contracting Officer would negotiate the reduced rate unless justification was provided from the contractor. Justification was provided from the contractor as originally documented in the file and the contract was awarded for \$24,770,738 vice \$31.7 million."

Audit Response. The Contracting Activity Office comments were not responsive to our recommendation. Specifically, the nature of the DCAA analysis, (i.e. audit vs. pricing assistance) does not change the DCAA results. The contractor proposed a price of \$24,770,738, of which DCAA questioned \$5,080,717 in costs, but the contract was awarded at full price. The contracting office provided us with an email stating the Procuring Contracting Officer would award the contract at the lower price and wait for an explanation for the increase. (That email also contained proprietary information and will not be included in this report.) However, we found no support to demonstrate further negotiations or that the contractor provided additional support for the proposed price. Additionally, management comments refer to a price difference in the award of \$7 million. However, the reduced price management refers to is the difference between the original contract and the final contract amount after five modifications. We continue to believe the recommendation is valid and we will work with the Head of Contracting Activity to reach a mutually satisfactory resolution. We will accomplish audit follow-up to evaluate management corrective actions.

Appendix A. Scope and Methodology

We performed this audit from April thru July 2004 in accordance with generally accepted government auditing standards.

We reviewed Coalition Provisional Authority Regulation 2, “Developmental Fund for Iraq,” June 10, 2003, and Coalition Provisional Authority Memorandum 4, “Contract and Grant Procedures Applicable to Vested and Seized Iraqi Property and the Developmental Fund for Iraq,” August 19, 2003.

We interviewed contracting officials assigned to the Coalition Provisional Authority (CPA) North, CPA South, and to the CPA Contracting Activity, part of the Iraq Project and Contracting Office. We also interviewed the Head of Contracting Activity and the Head, Policy and Compliance, at the CPA Contracting Activity.

We attempted to verify the contract listing contained in EXCEL spreadsheets maintained by the CPA Contracting Activity by comparing that contract listing to manually prepared contract registers and other source documents. We judgmentally selected 45 contracts for review from a universe of 1,928 contracts recorded in the spreadsheets and valued at approximately \$847 million. Those 45 contracts were awarded between July 4, 2003 and April 4, 2004, and were funded with Development Funds for Iraq. We reviewed each contract file to determine whether the file adequately documented actions related to acquisition planning, source selection, use of competition, and contract negotiation

Scope Limitation. Our scope was limited due to time and resource constraints. Specifically, we did not review files from the South Central contracting office (located in Al Hillah, Iraq) due to security concerns.

Appendix B. Management Comments from the Head of Contracting Activity



PROJECT AND CONTRACTING OFFICE

(formerly Program Management Office)

BAGHDAD, IRAQ



Reply to:
Contracting Activity

7 July 2004

MEMORANDUM FOR OFFICE OF THE INSPECTOR GENERAL, COALITION
PROVISIONAL AUTHORITY

SUBJECT: Response to CPA IG Audit Report Number 04-0xx, Project No. D2004-
DCPAAC-0142

Thank you for the opportunity to respond to your audit report number 04-0xx, Project No. 2004-DCPAAC-0142 entitled, Contracting Processes Leading up to and Including Contract Award. After an in-depth review of the audit report we have the following comments:

General Comments:

It is difficult to determine the true scope of the audit. While the audit scope states that "We performed this audit from April thru May 2004..." it is difficult to determine specifically to which time frame the audit is referring, e.g., contracts dated from August 2003 to April 2004 or some other period. We would appreciate more specific information on timeframe in order to determine the true nature of the problem and the circumstances impacting the contracting environment at the time. It is also important to note that scope was limited to a random sample of 45 DFI funded contracts.

Specific Comments:

Para 3, Conclusion: The first bullet states that transparency was not maintained for all contracts awarded. Transparency, as used in this report is inaccurate. Transparency, to Contracting, means a method of conducting an acquisition that benefits the Iraqis and the actual process is transparent to them. We believe that contracts awarded with Iraqi funds were for the sole benefit of the Iraqi people, without exception. There may be files lacking documentation but we believe the process followed ensured transparency. Therefore, we request that the first bullet be removed as inaccurate.

We understand that in the early stages of the Contracting Activity in Iraq there were overwhelming challenges faced by contracting professionals on board at the time. There were insufficient personnel (as supported by GAO Report, 04-902R, "CPA had 1/3 fewer staff than required") for the immense workload. In addition, the environment does not permit freedom of movement needed for contract award and distribution.



PROJECT AND CONTRACTING OFFICE



(formerly Program Management Office)

BAGHDAD, IRAQ

Contracting Activity

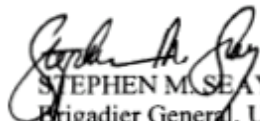
SUBJECT: Response to CPA IG Audit Report Number 04-0xx, Project No. D2004-DCPAAC-0142

Beginning in March 2004, the Contracting Activity, conducted an internal review process, procedures and documentation. As a result, we are addressing many of the same concerns expressed in this report.

Given no ability to leverage SPS until June 2004, we established a database to track contract actions in lieu of spreadsheets. The spreadsheets; however, were never intended to be used as a central tracking or reporting system. In the interim and until SPS is fully operational in this environment, a database assists in tracking contract actions.

In closing, please note we implemented process improvements and realigned our organizational structure over the past few months. In addition, we continue to improve and take action before problems arise as seen by our policy memoranda and internal reviews. We believe these steps will eliminate the problems identified in the report. Specifically, we were the first to issue a Standard Operating Procedure (SOP) for the Contracting Activity addressing all essential procedures and targets critical areas in depth as evidenced by the Appendices attached. We created a centralized filing system to include an electronic filing cabinet, as a repository for all contracts. We emphasize policy and legal review aspects of our business every step of the way. Our SOP calls out specific thresholds for review.

The point of contact for more information is Elizabeth Smith, 703-343-9225.


STEPHEN M. SEAY
Brigadier General, USA
Head of Contracting Activity

CF:
Deputy to the Director, DASA(P&P)



PROJECT AND CONTRACTING OFFICE

(formerly Program Management Office)

BAGHDAD, IRAQ



Reply to:
Contracting Activity

18 July 2004

MEMORANDUM FOR OFFICE OF THE INSPECTOR GENERAL, COALITION PROVISIONAL AUTHORITY


SUBJECT: Additional Response to CPA IG Audit Report Number 04-0xx, Project No. D2004-DCPAAC-0142

Reference: Contracting Activity, Subject: Response to CPA IG Audit Report Number 04-0xx, Project No. D2004-DCPAAC-0142, dated 7 July 2004

Thank you for the additional opportunity to respond to your final audit report number 04-0xx, Project No. 2004-DCPAAC-0142 entitled, Contracting Processes Leading up to and Including Contract Award.

It is important to note that Contract DABV01-03-C-0015, National Currency Exchange was a DFI funded contract that is not subject to the Federal Acquisition Regulation. We noted that the DCAA documentation in the file is not a DCAA audit rather; it is a request for pricing assistance by the contracting officer. While not in the original file, documentation recently obtained from DCAA (Attachment 1), indicates that the Contracting Officer would negotiate the reduced rate unless justification was provided from the contractor. Justification was provided from the contractor as originally documented in the file and the contract was awarded for \$24,770,738 vice \$31.7 Million.

Given that the contract was recently completed, the time and cost to perform a DCAA post award audit on a non FAR contract would outweigh the benefit received. If we can be of further assistance, please contact Elizabeth Smith, 703-343-9225, for more information.


STEPHEN M. SEAY
Brigadier General, USA
Head of Contracting Activity

CF:
Deputy to the Director, DASA (P&P)

Appendix C. Acronyms

CPA	Coalition Provisional Authority
DCAA	Defense Contract Audit Agency
DFI	Development Fund for Iraq

Appendix D: Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense (Comptroller)/Chief Financial Officer
Director, Program Analysis and Evaluation
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)
Inspector General, Department of Defense
Director, Defense Procurement and Acquisition

Office of the Secretary of State

U.S. Ambassador to Iraq
Inspector General, Department of State
Director, Iraq Reconstruction Management Office

Department of the Army

Assistant Secretary of the Army, Acquisition, Logistics & Technology
Assistant Secretary of the Army for Policy and Procurement
Auditor General, Department of the Army

Other Defense Organizations

Director, Defense Contract Audit Agency

Other Federal Government Organizations

Office of Management and Budget
Government Accountability Office
Inspector General, Department of Commerce
Inspector General, Health and Human Services
Inspector General, U.S. Agency for International Development

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
Senate Committee on Foreign Relations
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Committee on Government Reform
House Subcommittee on Government Efficiency and Financial Management, Committee on Government Reform
House Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform
House Subcommittee on Technology, Information Policy, Intergovernmental Relations, and the Census, Committee on Government Reform

Appendix E: Audit Team Members

The Logistics Management Division, Office of the Assistant Inspector General for Auditing, Coalition Provisional Authority, prepared this report. Personnel of the Office of the Assistant Inspector General for Auditing, Coalition Provisional Authority, who contributed to the report are listed below.

John Betar

Brian Flynn

Robert Murrell

Kevin Ellenberger

Ramon B. Miller Jr.

David Griffin

Wei Wu