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**CONTRACT
MANAGEMENT**

**Contracting for Iraq
Reconstruction and for
Global Logistics Support**

Statement of David M. Walker
Comptroller General of the United States



Chairman Davis, Ranking Member Waxman, and Members of the Committee:

I appreciate the opportunity to be with you today to discuss some of the work the General Accounting Office (GAO) is undertaking to address various operations and rebuilding efforts in Iraq. Specifically, GAO has a body of ongoing work looking at a range of issues involving Iraq, including Iraq's transitional administrative law, efforts to restore essential services to the Iraqi people, and the effectiveness of logistics activities during Operation Iraqi Freedom, among others. Importantly, given the challenging security environment in Iraq and the various other accountability organizations involved in the oversight process, we are attempting to coordinate our engagement planning and execution with other organizations as appropriate.

Today, I would like to discuss (1) our report that we released yesterday on the contract award procedures for contracts awarded in fiscal year 2003 to help rebuild Iraq¹ and (2) our preliminary findings on the military's use of global logistics support contracts. These support contracts have emerged as important tools in providing deployed military services with a wide range of logistics services.

Before I discuss our findings, I would like to briefly touch upon the scope of these two efforts. First, given the widespread congressional interest in ensuring that Iraq reconstruction contracts are awarded properly and administered effectively, we initiated a review under my authority that focused on reconstruction-related contract actions by the Department of Defense (DOD) (primarily the U.S. Army, including the Army Corps of Engineers), the U.S. Agency for International Development (USAID), and the Department of State. Specifically, we judgmentally selected 25 fiscal year 2003 contract actions, consisting of 14 new contracts awarded using other than full and open competition and 11 task orders issued under existing contracts. These 25 contract actions represented about 97 percent of the nearly \$3.7 billion that had been obligated for Iraqi reconstruction through September 30, 2003. We conducted this work between May 2003 and April 2004 in accordance with generally accepted government auditing standards.

¹ See U.S. General Accounting Office, *Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges*, [GAO-04-605](#) (Washington, D.C.: June 1, 2004).

Second, our work on the military's use of global logistics support contracts, initiated at the request of the Ranking Members of this committee and the House Committee on Energy and Commerce, is one of a series of studies we have done on the military's use of private contractors to support deployed forces.² This work looks broadly across each of the services and includes four contracts: (1) the Army's Logistics Civil Augmentation Program (LOGCAP) contract; (2) the Air Force's Contract Augmentation Program (AFCAP) contract; (3) the U.S. Army, Europe's Balkan Support Contract (BSC); and (4) the Navy's Construction Capabilities (CONCAP) contract. We have completed our fieldwork and are now drafting our report, which we expect to publish this summer. In performing our work, we examined a wide range of contract documents and contracting guidance and met with contracting officers, contract customers, and the contractors to gain a comprehensive understanding of the contracts, the contract management process, and the issues related to using these contracts. We conducted this work between August 2003 and June 2004 in accordance with generally accepted government auditing standards.

Summary

With regard to the award of fiscal year 2003 Iraq reconstruction contracts, we found that agencies generally complied with applicable laws and regulations governing competition when using sole-source or limited competition approaches to award new contracts. However, they did not always do so when issuing task orders under existing contracts. In several instances, we found that contracting officers issued task orders for work that was not within the scope of the underlying contracts. The out-of-scope work under these orders should have been awarded using competitive procedures or, because of the exigent circumstances involved, supported by a justification for other than full and open competition in accordance with legal requirements. In this regard, given the needs relating to and the challenges associated with Iraq reconstruction efforts, such justifications were likely possible but needed to be made and documented to comply with the law and protect the taxpayer's interests.

² See, for example, U.S. General Accounting Office, *Contingency Operations: Opportunities to Improve the Logistics Civil Augmentation Program*. [GAO/NSIAD-97-63](#) (Washington, D.C.: Feb. 11, 1997); U.S. General Accounting Office, *Contingency Operations: Army Should Do More to Control Contract Cost in the Balkans*. [GAO/NSIAD-00-225](#) (Washington, D.C.: Sept. 29, 2000); and U.S. General Accounting Office, *Military Operations: Contractors Provide Vital Services to Deployed Forces But Are Not Adequately Addressed in DOD Plans*, [GAO-03-695](#) (Washington, D.C.: June 24, 2003).

We made several recommendations to the Secretary of the Army, including reviewing out-of-scope task orders to address outstanding issues and take appropriate actions, as necessary. We also recommended that the Secretary of Defense evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate acquisition staff and other resources can be made available in a timely manner. DOD generally concurred with our recommendations.

With regard to DOD's use of global logistics support contracts, we found mixed results in each of the four areas we reviewed: planning, oversight, efficiency, and personnel. For example, we found that some DOD customers planned quite well for the use of the contracts, following service instructions and including the contractor early in planning. Conversely, we found that the use of the LOGCAP contract in Kuwait and Iraq was not adequately planned, nor was it planned in accordance with applicable Army guidance. Given the lack of early and adequate planning and contractor involvement, two key ingredients needed to maximize LOGCAP support and minimize cost—a comprehensive statement of work and early contractor involvement—were missing. We also found that while oversight processes were in place and functioning well in some places, there were several areas needing improvement, such as in reaching agreement on terms, specifications and prices of services to be delivered. We also found that while some military commands actively looked for ways to save money, others exhibited little concern for cost considerations. Finally, shortages in personnel trained in contract management and oversight is also an issue that needs to be addressed. Our report will make a number of recommendations to address these shortcomings.

Compliance with Competition Requirements

We found that the agencies responsible for rebuilding Iraq generally complied with applicable requirements governing competition when awarding new reconstruction contracts in fiscal year 2003. While the Competition in Contracting Act of 1984 requires that federal contracts be awarded on the basis of full and open competition, the law and implementing regulations recognize that there may be circumstances under which full and open competition would be impracticable, such as when contracts need to be awarded quickly to respond to unforeseen and urgent needs or when there is only one source for the required product or service. In such cases, agencies are given authority by law to award contracts under limited competition or on a sole-source basis, provided that the proposed actions are appropriately justified and approved.

We reviewed 14 new contracts that were awarded in fiscal year 2003 using other than full and open competition: a total of 5 sole-source contracts awarded by the Army Corps of Engineers, the Army Field Support Command, and USAID; and 9 limited competition contracts awarded by the Department of State, the Army Contracting Agency, and USAID. For 13 of these new contracts, agency officials adequately justified their decisions and complied with the statutory and regulatory competition requirements. For example, USAID officials awarded seven contracts under limited competition and two sole-source contracts citing an exception to the competition requirements that was provided for under the Federal Property and Administrative Services Act.³ USIAD concluded that the use of standard competitive procedures would not enable it to put in place foreign aid programs and activities for Iraq in a timely manner. We found that USAID's justification and approval documentation supporting the award of these contracts complied with applicable requirements. As I will shortly discuss in more detail, we also found that the Army Corps of Engineers properly justified the award of a sole-source contract to restore Iraq's oil infrastructure. In one case, however, the Department of State justified and approved the use of limited competition under a unique authority that, in our opinion, may not be a recognized exception to the competition requirements. At the same time, State took steps to obtain some competition by inviting offers from four firms. In addition, it is likely that State could have justified and approved its limited competition under recognized exceptions to the competition requirements.

With respect to issuing a task order under an existing contract, the competition law does not require competition beyond that obtained for the initial contract award,⁴ provided the task order does not increase the scope of the work, period of performance, or maximum value of the contract under which the order is issued. The scope, period, or maximum value may be increased only by modification of the contract, and competitive procedures are required to be used for any such increase unless an authorized exception applies. As we noted in our report released yesterday, determining whether work is within the scope of an existing

³ The Act's authority for waiving competitive contracting procedures that would impair foreign aid programs was recently recodified and enacted into positive law (40 U.S.C. § 113(e)).

⁴ If more than one contractor was awarded a contract, however, then all the contractors are required to be provided a fair opportunity to be considered for the task order.

task order contract is primarily an issue of contract interpretation and judgment by the contracting officer.

- We found several compliance problems when agencies issued task orders under existing contracts. Specifically, of the 11 task orders we reviewed, 7 were, in whole or part, not within scope. For example, the Defense Contracting Command-Washington (DCC-W)⁵ improperly used a General Services Administration (GSA) schedule contract to issue two task orders to the Science Applications International Corporation with a combined value of over \$107 million for work that was outside the scope of the schedule contract. One order involved developing a news media capability—including radio and television programming and broadcasting—in Iraq. The other required the contractor to recruit people identified by DOD as subject matter experts, enter into subcontracts with them, and provide them with travel and logistical support within the United States and Iraq. The GSA schedule contract, however, was for management, organizational, and business improvement services for federal agencies. In our view, the statements of work for both task orders were outside the scope of the schedule contract.
- Another example of an agency issuing a task order that was outside the scope of the underlying contract involved the Army Field Support Command's \$1.9 million task order for contingency planning for the Iraqi oil infrastructure mission under the LOGCAP contract with Kellogg Brown & Root.⁶ This task order, issued in November 2002, required the contractor to develop a plan to repair and restore Iraq's oil infrastructure should Iraqi forces damage or destroy it. Because the contractor was knowledgeable about the U.S. Central Command's planning for conducting military operations, DOD officials determined that the contractor was uniquely positioned to develop the contingency support plan. DOD also determined that developing the contingency plan was within the scope of the overall LOGCAP contract. We have concluded, however, that preparation of the contingency support plan for this specific mission (i.e. restoring Iraq's oil infrastructure) was beyond the scope of the contract. Specifically, we read the LOGCAP statement of work as providing for contingency planning only when the execution of the mission involved is within the scope of the

⁵ DCC-W, a division within the office of the Administrative Assistant to the Secretary of the Army, provides administrative support, including contracting support, to DOD components located in the National Capital Region.

⁶ The LOGCAP contract, which was competitively awarded in 2001, requires the contractor to provide the Army and other entities with planning and a broad range of logistics services in wartime and other operations. The Army has used LOGCAP to support both military operations and reconstruction efforts in Iraq.

contract. In this regard, all parties—including GAO and DOD—agree that repairing Iraq’s oil infrastructure would not have been within the scope of the LOGCAP contract. Consequently, we concluded that planning the oil infrastructure restoration was also not within the scope of the contract. The Army Field Support Command should have prepared a written justification to authorize the work without competition. In light of the exigent circumstances, such a justification was likely possible but needed to be made and documented to comply with the law and protect the taxpayer’s interests.

- DOD planners believed early on that issuance of this task order would result in Kellogg Brown & Root being uniquely qualified to initially execute the plan for restoring the Iraqi oil infrastructure, the so-called “RIO contract.” Subsequently, the RIO contract was awarded in March 2003 to Kellogg Brown & Root.⁷ The contracting officer’s written justification for the sole-source contract outlined the rationale for the decision.⁸ The justification was approved by the Army’s senior procurement executive, as required. We reviewed the justification and approval documentation and determined that it generally complied with applicable legal standards. We made several recommendations to the Secretary of the Army to review out-of-scope task orders to address outstanding issues and take appropriate actions, as necessary. DOD generally concurred with the recommendations and noted that it was in the process of taking corrective actions. DOD also agreed with our recommendation that the Secretary of Defense evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate acquisition staff and other resources can be made available in a timely manner.

DOD’s Use of Logistics Support Contracts

I will now turn to discussing our ongoing work on DOD’s use of global logistics support contracts. As I previously noted, we looked at four such contracts, which have been used by all the military services to provide a wide array of services, including operating dining facilities and providing housing, in more than half a dozen countries, including Iraq, Kuwait, and Afghanistan. In total, the estimated value of the work under the current contracts is \$12 billion, including \$5.6 billion for work in Iraq through

⁷ According to the Army Corps of Engineers, more than \$2.5 billion had been obligated on the contract as of May 2004.

⁸ As we reported, DOD concluded that there was only one source with the capability to perform emergency repairs to the oil infrastructure given (1) the classified nature of the planning efforts, (2) the contractor’s role in those efforts, and (3) the imminent commencement of hostilities.

May 2004. Before summarizing our preliminary findings, let me first make an overall observation about the vital services that these types of contracts provide. The contractors and the military services have, for the most part, worked together to meet military commanders' needs, sometimes in very hazardous or difficult circumstances. For example, the LOGCAP contract is providing life and logistics support to more than 165,000 soldiers and civilians under difficult security circumstances in Iraq, Afghanistan, Kuwait, and Djibouti, and customers told us they are generally pleased with the service the contractor is providing. The AFCAP contractor is providing air traffic management at air bases throughout central Asia, supplementing scarce Air Force assets and providing needed rest for Air Force service members who also perform this function. Using the CONCAP contract, the Navy has constructed detainee facilities (including a maximum security prison) at Guantanamo Bay on time and within budget. Projects at Guantanamo have increased the safety of both the detainees and the U.S. forces guarding them and resulted in real savings in reduced personnel tempo. Finally, the BSC continues to provide a myriad of high quality services to troops in Kosovo and Bosnia, and the customer works with the contractor to identify costs savings.

Within this overall context, we found mixed results in each of the four areas we reviewed—planning, oversight, efficiency and personnel—with variations occurring among the four contracts and among the various commands using them. Our report, which will be issued later this year, will make a number of recommendations to address the shortcomings we identified in these areas.

Planning

In assessing DOD's planning, we found that some customers planned quite well for the use of the contracts, following service guidance and including the contractor early in planning. For example, in planning for Operation Iraqi Freedom, U.S. Army, Europe, was tasked with supporting the anticipated movement of troops through Turkey into Iraq, and our review of that planning showed that the command followed applicable Army guidance to good effect. In October 2002, the command brought contractor personnel to its headquarters in Europe to help plan and develop the statement of work. According to a briefing provided by U.S. Army, Europe, contractor planners brought considerable knowledge of contractor capabilities, limitations, and operations, and their involvement early in the planning efforts increased understanding of the requirements and capabilities, facilitated communication regarding the statement of work, and enhanced mission completion.

Conversely, we found that the use of LOGCAP in Kuwait and Iraq was not adequately planned, nor was it planned in accordance with applicable Army guidance. Given the lack of early and adequate planning and contractor involvement, two key ingredients needed to maximize LOGCAP support and minimize cost—a comprehensive statement of work and early contractor involvement—were missing. Specifically:

- A plan to support the troops in Iraq was developed in May 2003, but was not comprehensive because the contractor was not involved in the early planning and it did not include all of the dining facilities, troop housing, and other services that the Army has since added to the task order. According to an official from the 101st Airborne Division, there was a lack of detailed planning for the use of LOGCAP at the theater and division levels for the sustainment phase of the operation. He added that Army planners should develop a closer working relationship with the divisions and the contractor.
- Task orders were frequently revised. These revisions generated a significant amount of rework for the contractor and the contracting officers. Additionally, time spent reviewing revisions to the task orders is time that is not available for other oversight activities. While operational considerations may have driven some of these changes, we believe others were more likely to have resulted from ineffective planning. For example, the task order supporting the troops in Iraq was revised 7 times in less than 1 year. Frequent revisions have not been limited to this task order. Task order 27, which provides support to U.S troops in Kuwait (estimated value of \$426 million as of May 2004), was changed 18 times between September 2002 and December 2003, including 5 changes in one month, some on consecutive days. As of May 11, 2004, the contracting office, DCMA, and the contractor had processed more than 176 modifications to LOGCAP task orders.

Contract Oversight

In some cases, we found that contract oversight processes were in place and functioning well. For example, the Defense Contract Management Agency (DCMA) had principal oversight responsibility for the LOGCAP and AFCAP contracts and the BSC,⁹ and DCMA generally provided good overall contract oversight, although we found some examples where it could have improved its performance. For example:

⁹ While oversight of a contract is the responsibility of the contracting officer, the contracting officer may delegate some oversight responsibilities to DCMA.

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- Effective oversight of the diverse functions performed under the contracts requires government personnel with knowledge and expertise in these specific areas. DCMA contract administrators are contracting professionals, but many have limited knowledge of field operations. In these situations, DCMA normally uses contracting officer's technical representatives. Contracting officer's technical representatives are customers who have been designated by their units and appointed and trained by the administrative contracting officer. They provide technical oversight of the contractor's performance. We found that DCMA had not appointed these representatives at all major sites in Iraq. Officials at the 101st Airborne Division, for example, told us that they had no contracting officer's technical representatives during their year in Iraq, even though the division used LOGCAP services extensively.
 - For task orders executed in southwest Asia, the AFCAP procuring contracting officer delegated the property administration responsibility to DCMA administrative contracting officers. However, contract administrators in southwest Asia did not ensure that the contractor had established and maintained a property control system to track items acquired under the contract. In addition, DCMA contracting officers in southwest Asia did not have a system in place to document what the contractor was procuring in support of AFCAP task orders and what was being turned over to the Air Force. As a result, as of April 2004, neither DCMA nor the Air Force could account for approximately \$2 million worth of tools and construction equipment purchased through the AFCAP contract.

An important element of contract administration is the definitizing of task orders, that is, reaching agreement with the contractor on the terms, specifications, or price of services to be delivered. All of the contracts included in our review were cost-plus award fee contracts. These contracts allow the contractor to be reimbursed for reasonable, allowable, and allocable costs incurred to the extent prescribed by the contract and provide financial incentives based on performance. Cost-plus award fee contracts allow the government to evaluate a contractor's performance according to specified criteria and to grant an award amount within designated parameters. Award fees can serve as a valuable tool to help control program risk and encourage excellence in contract performance. To reap the advantages that cost-plus award fee contracts offer, the government must implement an effective award fee process. Any delays in definitizing task orders, however, make cost-control incentives in these award fee contracts less effective as a cost control tool since there is less work remaining to be accomplished and therefore less costs to be controlled by the contractor.

While we found that AFCAP and BSC task orders were definitized quickly, and CONCAP task orders do not require definitization since the terms, specifications, and price are agreed to before work begins, we also found that many LOGCAP task orders remain undefinitized for months, and sometimes more than a year, after they were due to be completed and after billions of dollars of work had been completed. Because task orders have not been definitized, LOGCAP contracting personnel have not conducted an award fee board. I would like to note, however, that this condition is not limited to the LOGCAP contract. We stated in our report released yesterday that the Army Corps of Engineers has yet to definitize its March 2003 contract to rebuild Iraq's oil infrastructure or one of its contracts to rebuild Iraq's electrical infrastructure and recommended that the undefinitized contracts and task orders be definitized as soon as possible. DOD agreed with this recommendation and identified a number of steps being taken to do so.

Economy and Efficiency

We again found mixed results in evaluating the attention to economy and efficiency in the use of contracts. In some cases, we saw military commands actively looking for ways to save money in the contracts. For example, U.S. Army, Europe, reported savings of approximately \$200 million under the BSC by reducing labor costs, by reducing services, and by closing or downsizing camps that were no longer needed. The \$200 million is almost 10 percent of the current contract ceiling price of \$2.098 billion. In addition to these savings, U.S. Army, Europe, routinely sends in teams of auditors from its internal review group to review practices and to make recommendations to improve economy and efficiency. In others, however, most notably the LOGCAP contract in Iraq and Kuwait, we saw very little concern for cost considerations. It was not until December 2003, for example, that the Army instructed commands to look for ways to economize on the use of this contract. Similarly, we found that the Air Force did not always select the most economical and efficient method to obtain services. It used the AFCAP contract to supply commodities for its heavy construction squadrons, although use of the contract to procure and deliver commodity supplies required that the Air Force pay the contractor's costs plus an additional award fee. Air Force officials said that they used AFCAP because not enough contracting and finance personnel were deployed to buy materials quickly or in large quantities. AFCAP program managers have recognized that the use of a cost-plus award fee contract to buy commodities may not be the most cost-effective method and said that the next version of the contract may allow for either firm-fixed prices or cost-plus fixed fee procurements for commodity purchases.

Personnel and Training

We found that shortages of personnel have also made contract oversight difficult. For example, while DCMA has deployed contracting officers to several countries throughout southwest and central Asia and the Balkans to provide on-site contract administration, DCMA officials believe that additional resources are needed to effectively support the LOGCAP and AFCAP contracts. Administrative contracting officers in Iraq, for example, have been overwhelmed with their duties as a result of the expanding scope of some of the task orders. Additionally, some Army and Air Force personnel with oversight responsibilities did not receive the training necessary to effectively accomplish their jobs. Finally, we found that military units receiving services from the contracts generally lacked a comprehensive understanding of their contract roles and responsibilities. For example, commanders did not understand the part they played in establishing task order requirements, nor did they fully understand the level of support required by the contractors.

Concluding Observations

In conclusion, Mr. Chairman, the United States, along with its coalition partners and various international organizations and donors, has undertaken an enormously complex, costly, and challenging effort to rebuild Iraq in an unstable security environment. At the early stages of these efforts, agency procurement officials were confronted with little advance warning on which to plan and execute competitive procurement actions, an urgent need to begin reconstruction efforts quickly, and uncertainty as to the magnitude and term of work required. Their actions, in large part, reflected proper use of the flexibilities provided under procurement laws and regulations to award new contracts using other than full and open competitive procedures.

With respect to several task orders issued under existing contracts, however, some agency officials overstepped the latitude provided by competition laws by ordering work outside the scope of the underlying contracts. This work should have been separately competed, or justified and approved at the required official level for performance by the existing contractor. Importantly, given the war in Iraq, the urgent need for reconstruction efforts, and the latitude allowed by the competition law, these task orders reasonably could have been supported by justifications for other than full and open competition.

Logistics support contracts have developed into a useful tool for the military services to quickly obtain needed support for troops deployed to trouble spots around the world. Because of the nature of these contracts, however—that is, cost-plus award fee contracts—they require significant

government oversight to make sure they are meeting needs in the most economic and efficient way possible in each circumstance. While the military services are learning how to use these contracts well, in many cases the services are still not achieving the most cost-effective performance and are not adequately learning and applying the lessons of previous deployments. Because of the military's continuing and growing reliance on these contracting vehicles, it is important that improvements be made and that oversight be strengthened.

Mr. Chairman and Members of the committee, this concludes my statement. I will be happy to answer any question you may have.

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