

Inspector General

United States
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Funding for Enhancements to the Standard Procurement System

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Acronyms and Abbreviations

ACA	Army Contracting Agency
ACC	Army Contracting Command
ADA	Antideficiency Act
ASA(FM&C)	Assistant Secretary of the Army (Financial Management and Comptroller)
BTA	Business Transformation Agency
CLIN	Contract Line Item Number
COR	Contracting Officer's Representative
DoD FMR	DoD Financial Management Regulation
ITEC4	Information Technology, E-Commerce and Commercial Contracting Center
JCC-I/A	Joint Contracting Command-Iraq/Afghanistan
NCR	National Capital Region
O&M	Operation and Maintenance
PWS	Performance Work Statement
SPS	Standard Procurement System
USCENTCOM	U.S. Central Command



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

December 14, 2011

MEMORANDUM FOR AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Funding for Enhancements to the Standard Procurement System (Report No. DODIG-2012-032)

We are providing this report for review and comment. Army Contracting Agency, Information Technology, E-Commerce and Commercial Contracting Center officials inappropriately used approximately \$755,000 on Standard Procurement System enhancements with FY 2008 Operation and Maintenance funds rather than Procurement funds. This report discusses a potential violation of the Antideficiency Act. We considered management comments on a draft of this report when preparing the final report.

DoD Directive 7650.3 requires that recommendations be resolved promptly. The Assistant Secretary of the Army (Financial Management and Comptroller) comments were not responsive. We request additional comments on the recommendation by January 13, 2012.

If possible, send a .pdf file containing your comments to audfmr@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) 601-5868 (DSN 329-5868).

A handwritten signature in cursive script that reads "Patricia A. Marsh".

Patricia A. Marsh, CPA
Assistant Inspector General
Financial Management and Reporting



Results in Brief: Funding for Enhancements to the Standard Procurement System

What We Did

During our audit of the Standard Procurement System (SPS) at the Joint Contracting Command-Iraq/Afghanistan, we identified funding issues with SPS. Our audit objective was to determine whether Army officials properly funded SPS enhancements for the Joint Contracting Command-Iraq/Afghanistan.

We reviewed funding documentation related to the SPS enhancements in task order 0105, contract number W91V38-07-D-0001.

What We Found

Army Contracting Agency, Information Technology, E-Commerce and Commercial Contracting Center (ACA-ITEC4), contracting officials inappropriately used approximately \$755,000 of FY 2008 Operation and Maintenance (O&M) funds rather than Procurement funds for the SPS enhancements. This occurred because ACA-ITEC4 contracting officials misinterpreted the DoD Financial Management Regulation. As a result, the ACA-ITEC4 potentially may have created a Purpose Statute violation and may have violated the Antideficiency Act.

What We Recommend

We recommend that the Assistant Secretary of the Army (Financial Management and Comptroller) (ASA[FM&C]) initiate a preliminary review for the potential Antideficiency Act violation identified, ensure that the preliminary review is completed within 14 weeks, and report the results of the review to the DoD Office of Inspector General.

Management Comments and Our Response

The Deputy Assistant Secretary of the Army (Financial Operations) responded for the ASA(FM&C). The Deputy Assistant Secretary of the Army (Financial Operations) disagreed with our recommendation and stated that, based on his coordination with the Army Contracting Command-National Capital Region, he found no evidence that O&M funds were misused. He also stated that even if O&M funds were misused, the Army had sufficient Other Procurement, Army funds to adjust the accounts.

The Deputy Assistant Secretary's comments were not responsive. He did not agree that a potential Antideficiency Act violation occurred. However, the additional documentation he provided was not persuasive and did not change our finding or recommendation.

Therefore, we request that the Deputy Assistant Secretary of the Army (Financial Operations) reconsider his position on our recommendation and provide additional comments in response to this report by January 13, 2012. Please see the recommendation table on the back of this page.

Recommendation Table

Management	Recommendation Requires Comment	No Additional Comments Required
Assistant Secretary of the Army (Financial Management and Comptroller)	Yes	

Please provide comments by January 13, 2012.

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Introduction

Audit Objective

During our audit of the Standard Procurement System (SPS) at the Joint Contracting Command-Iraq/Afghanistan (JCC-I/A),¹ we identified funding issues with SPS. Our audit objective was to determine whether Army officials properly funded the SPS enhancements for JCC-I/A. See the Appendix for the scope and methodology and prior coverage of SPS. See the Glossary of Technical Terms for the definitions of terms used in this report.

Background

Standard Procurement System

SPS is a program under the Business Transformation Agency's (BTA's) Defense Business System Acquisition Executive Directorate. The Defense Business System Acquisition Executive Directorate is responsible for driving the successful implementation of DoD systems and initiatives in support of the Department's business transformation goals. SPS automates and streamlines the procurement process within a workflow management solution that ties the logistical, contracting, and fiscal aspects of procurement into one enterprise business system.

SPS also provides a mobile configuration of the system for contingency contracting. Contingency contracting is defined as direct contracting support to those tactical and operational forces engaged in conflicts and military operations (both domestic and overseas), including war, other military operations, and disaster or emergency relief. This mobile configuration works either in a stand-alone or in a client/server configuration.

SPS has about 23,000 users across DoD, including all Services and 13 other Defense agencies. Contracting officers use SPS in contingency contracting environments around the world, including Iraq, Afghanistan, Saudi Arabia, Kuwait, Bosnia, Colombia, Thailand, and the Philippines.

Joint Contracting Command-Iraq/Afghanistan

JCC-I/A was responsible for providing responsive, operational contracting support to the Chiefs of Mission, United States Forces-Iraq,² and United States Forces-Afghanistan. The Command acquired supplies, services, and construction in support of the coalition forces and the relief and reconstruction of Iraq and Afghanistan. The Commander of JCC-I/A served as the Head of Contracting Authority throughout U.S. Central Command's

¹ DoD IG Report No. D-2010-050, "Standard Procurement System Synchronization Utility," April 2, 2010, CLASSIFIED.

² Multi-National Force-Iraq and Multi-National Corps-Iraq became United States Forces-Iraq on January 1, 2010.

(USCENTCOM's) theater of operations. JCC-I/A operated under the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), for contracting authority, but reported to the United States Forces-Iraq for overall command and control. United States Forces-Iraq operates under the Commander, USCENTCOM. In FY 2008, JCC-I/A performed more than 41,000 contract actions, valued at over \$7.5 billion. In FY 2009, JCC-I/A performed more than 33,000 actions, valued at over \$5 billion.

On June 11, 2010, the responsibilities of JCC-I/A were redesignated under the USCENTCOM Contracting Command.

Business Transformation Agency

The Deputy Secretary of Defense established BTA in October 7, 2005, to guide the transformation of business operations throughout the Department of Defense and to deliver Enterprise-level capabilities that align to warfighter needs. On August 16, 2010, the Secretary of Defense ordered the disestablishment of BTA. The Defense Logistics Agency will assume responsibility of SPS upon the disestablishment of BTA.

Army Contracting Agency

The Assistant Secretary of the Army (Acquisition, Logistics, and Technology) established the Army Contracting Agency (ACA) on October 1, 2002. The ACA's mission was to provide command and control of the regional headquarters, contracting centers, and installation directorates of contracting; the Information Technology E-Commerce and Commercial Contracting Center (ITEC4); the overseas contracting activities; and the contingency contracting function. The Army Contracting Command (ACC) was created in October 2008 as a major subordinate command within the Army Materiel Command. ACA-ITEC4 is within the ACC-National Capitol Region (ACC-NCR).

Review of Internal Controls

We determined that an internal control weakness in the funding for SPS enhancements existed as defined by DoD Instruction 5010.40, "Managers' Internal Control Program (MICP) Procedures," July 29, 2010. Specifically, ACA-ITEC4 contracting officials inappropriately used approximately \$755,000 of FY 2008 Operation and Maintenance (O&M) funds rather than Procurement funds for the SPS enhancements. We will provide a copy of the report to the senior official responsible for internal controls at the Army Contracting Command.

Finding. Funding Issues With the Standard Procurement System

ACA-ITEC4 contracting officials inappropriately used approximately \$755,000 of FY 2008 Operations and Maintenance (O&M) funds rather than Procurement funds for the SPS enhancements for JCC-I/A. This occurred because ACA-ITEC4 officials misinterpreted DoD Regulation 7000.14-R, “DoD Financial Management Regulation” (DoD FMR). As a result, ACA-ITEC4 potentially created a Purpose Statute violation and may have violated the Antideficiency Act.

Potential Antideficiency Act Violation

ACA-ITEC4 contracting officials did not comply with appropriation laws and regulations when they used approximately \$755,000 of FY 2008 O&M funds rather than Procurement funds for the SPS enhancements. The SPS contracting officer’s representative (COR) justified the use of O&M funds for this contract delivery order by stating that the contractor performed only minor modifications to the existing SPS functionality and that each of these modifications was less than \$250,000, which is the threshold for O&M funds. ACA-ITEC4 may have created a potential violation of the Purpose Statute that could have led to an Antideficiency Act violation as noted in the DoD FMR, Volume 14, Chapter 2, Paragraph 020101, “Antideficiency Act Violations.”³

SPS Enhancements for JCC-I/A

On September 30, 2008, the ACA-ITEC4 awarded task order 0105 against contract W91V38-07-D-0001 for approximately \$755,000 of FY 2008 O&M funds. The Military Interdepartmental Purchase Requests that provided the funds for the requirement were from the Assistant Deputy Assistant Secretary of the Army (Procurement) via the SPS Joint Program Management Office to the ACA-ITEC4. The task order provided SPS enhancements for the JCC-I/A user community to meet the requirements of the procure-to-pay process in Iraq and Afghanistan. According to the task order, these enhancements provided the capability for the JCC-I/A sites to more accurately manage their workload, further reduce the amount of manual entries, and have complete visibility throughout the procure-to-pay process.

The task order provided the JCC-I/A site administrators the ability to:

- enter Data Universal Numbering System numbers or Commercial and Government Entity codes for vendors that they do not want to synchronize with the Central Contractor Registration;
- routinely schedule the export and insertion of all recently released awards, modifications, delivery orders, delivery order modifications, and recently approved purchase requests from a source database into a target database; and

³ The Purpose Statute is codified in section 1301, title 31, United States Code (31 U.S.C. § 1301[1982]). ACA-ITEC4 may have specifically violated 31 U.S.C. § 1341(a)(1)(A)(1990).

- enter default Federal Procurement Data System–Next Generation pre-fill data for the site, specifically for:
 - reason for interagency contracting,
 - purchase card used as payment method,
 - contingency humanitarian peacekeeping operations,
 - principal place of performance information code,
 - sea transportation,
 - Small Business Administration/Office of Federal Procurement Policy synopsis waiver pilot, and
 - alternative advertising.

Funding for SPS Enhancements

According to the performance work statement (PWS) for task order 0105, the SPS enhancements were critical to JCC-I/A because SPS “will not work out of the box” using the standard contracting capabilities for the client/server environment. On February 3, 2010, we met with the SPS COR and contracting officials from the Army Contracting Command-National Capital Region (ACC-NCR) to discuss funding for the SPS enhancements. The SPS COR stated that SPS was functional in JCC-I/A before these enhancements. The ACC-NCR contracting officer stated that the wording used in the PWS was incorrect, although the document had had numerous reviews.

The SPS COR also stated that under the contractor’s proposal, dated September 26, 2008, each task totaled less than \$250,000.

- Tasks 1 and 2 were \$123,132 each.
- Task 3 was \$241,870.
- Contractor support cost was \$267,380, which brought the contractor proposal total to about \$755,000.

The SPS COR stated that the use of O&M funds was appropriate because each individual task, as the contractor proposed, was less than \$250,000. However, the task order did not list line items for each of the tasks. Instead, it had only one line item, with a unit cost of

ACA-ITEC4 contracting officials should have used Procurement funds for this order and maintained formal documentation to justify funding.

about \$755,000. This one order, as well as the sum total of the modifications, exceeded the \$250,000 threshold for the use of O&M funds. In addition, the ACC-NCR attorney-advisor could not provide formal documentation that justified the use of O&M funds for the SPS enhancements.

ACA-ITEC4 contracting officials should have used Procurement funds for this order and maintained formal documentation to justify funding. DoD FMR, Volume 2A, Chapter 1, “Budgeting for Information Technology and Automated Information Systems,” states that “acquiring and deploying a complete system with a cost of \$250,000 or more is an investment and should be budgeted in a Procurement appropriation.” It also states that, “For

modification efforts, only the cost of the upgrades (for example, new software, hardware, and technical assistance) are counted towards the investment threshold.”

Title 31 of the United States Code contains a number of sections that together are referred to as the Antideficiency Act (ADA). The purpose of the ADA is to enforce the constitutional powers of Congress for the purpose, time, and amount of budgetary expenditures made by the Federal Government. Specifically, 31 U.S.C. § 1301(a), “Purpose Statute,” states that “appropriations shall be applied only to the objectives for which the appropriations were made, except as otherwise provided by law.” In addition to the Purpose Statute, 31 U.S.C. § 1341(a)(1)(A) (1990), states, “An officer or employee of the United States Government or of the District of Columbia government may not— (A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation.”

By incorrectly funding task order 0105 and obligating funds in excess of the approved amount by law, Army officials may have potentially violated the ADA. DoD FMR, volume 14, chapter 2, paragraph 020202.B, states that general ADA violations occur when statutory limitations on the purposes authorized in an appropriation or fund were violated and upon correction into the proper appropriation or fund, funds were not available at the time of the erroneous obligation or were not available when the obligation was recorded in the proper appropriation or fund. In addition, volume 14, chapter 3, paragraph 0304, states that generally, when an audit report conveys a potential ADA violation, a recommendation to investigate the potential violation is included in the report. Paragraph 030202 states that preliminary reviews should be completed within 14 weeks from the date of initial discovery. Therefore, we are including a recommendation that the Assistant Secretary of the Army (Financial Management and Comptroller) (ASA[FM&C]) review the potential ADA violation in accordance with the requirements of DoD FMR, volume 14, chapter 3.

Management Comments on the Finding and Our Response

The Deputy Assistant Secretary of the Army (Financial Operations) responded for ASA(FM&C). He stated that the SPS enhancements for JCC-I/A were minor improvements to the software functionality. He indicated that Contract Line Item Number (CLIN) 1020 characterized the efforts funded under task order 0105 as “Maintenance and Service Releases.” He stated that sub-CLIN 1020 AA of task order 0105 made it clear that the enhancements were to be delivered as a separate service release in accordance with the PWS and that the SPS enhancements were appropriately funded with O&M funds.

Although not required to comment, the ACC-NCR Acting Executive Director stated that O&M funds were appropriately used in funding the SPS enhancements. He said that SPS was already in use in Iraq and Afghanistan when task order 0105 was issued. He also indicated that before task order 0105, SPS users in Iraq and Afghanistan had to find workarounds for the few issues that task order 0105 would address. For the full text of the ACC-NCR comments, see the Management Comments section of the report.

Our Response

The task order that ACC-NCR provided to us to support its response to our finding and recommendation was not a fully executed contract, as the offeror had not signed it. The task order document that BTA provided to us during the audit did not contain CLIN 1020 or sub-CLIN 1020 AA. It contained CLIN 1011, “Army Sust & Customer Spt (OPTION 1)”, and sub-CLIN 1011 AA, “JCCIA Enhancements.” However, both task orders had identical descriptions for the work performed:

- CLINs 1020 and 1011 were defined as “Technical and Functional services to support the development, deployment, and continuing support of SPS Joint Program Management Office (JPMO), service components and individual sites as described in CACI’s Technical Proposal and order under individual task orders issued in accordance with the CLIN Labor Categories and Descriptions included in Attachment A.”
- Sub-CLINs 1020 AA and 1011 AA were defined as “SPS Procurement Desktop–Defense (PD2) JCCIA Enhancements for Federal Procurement Data System–Next Generation (FPDS-NG) (pre-fills), Central Contractor Registration (CCR), Standard Procurement System–Contingency (SPS-C) Synchronization Utility Enhancements to be delivered as a separate service release in accordance with the attached PWS Procure to Pay Capability at JCCIA SPS Enhancements, Revision C dated 30 September 2009. The level of effort is described in contractor’s final proposal revision 3 dated September 26, 2008.”

The invoices for the task order reference the JCC-I/A Enhancements sub-CLIN. Although SPS was in use at two JCC-I/A sites, the PWS stated “to fully support the warfighter, the SPS JPMO needs to provide critical enhancements to meet the requirements for JCC-I/A Procure to Pay in both Iraq and Afghanistan.” It further stated the “the need exists to provide an End-to-End Procurement Capability in order for the theater sites to accurately manage their workload and have complete viability [sic] through the Procure to Pay process.”

The contractor’s proposal, dated September 26, 2008, contained two prices. The first price assumed that the enhancements were to be included in an already planned SPS release, Service Release 11. The first price included three tasks for a total price of \$487,134. Each task had a value less than the \$250,000 threshold for the use of O&M funds.

The second price was an optional proposal to develop the enhancements and deliver them in a new, separate service release, Service Release 10A. This optional proposal also included limited regression test, the building and testing of installers, and support for the Government system acceptance test.

The price for the optional proposal was about \$755,000, which exceeded the threshold for the use of O&M funds. Task order 0105 was issued for the optional proposal for a price of about \$755,000. The language on CLIN 1011, sub-CLIN 1011 AA, and the PWS

characterized the SPS enhancements as more than minor modifications. The price of task order 0105 exceeded the \$250,000 threshold for the use of O&M funds.

Recommendation, Management Comments, and Our Response

We recommend that the Assistant Secretary of the Army (Financial Management and Comptroller) initiate a preliminary review of the potential Antideficiency Act violation to determine whether a violation occurred, ensure that the preliminary review is completed within 14 weeks, and provide the results to the DoD Office of Inspector General.

Assistant Secretary of the Army (Financial Management and Comptroller) Comments

The Deputy Assistant Secretary of the Army (Financial Operations) did not agree to open an investigation to determine whether an ADA violation occurred. The Deputy Assistant Secretary stated that, based on his coordination with ACC-NCR, he found no evidence that O&M funds were misused. However, he did determine that even if O&M funds were misused, “a deficiency at the formal subdivision of funds” did not occur, since sufficient balances of Other Procurement, Army funds existed to adjust the accounts.

Our Response

The Deputy Assistant Secretary’s comments were not responsive. We did not recommend that the Army open an investigation, but rather perform a preliminary review. DoD FMR, volume 14, chapter 3, paragraph 030201 states that the purpose of a preliminary review is to gather facts and ultimately factually establish whether a reportable violation of 31 U.S.C. § 1341, 31 U.S.C. § 1342, or 31 U.S.C. § 1517 has occurred.

It further states that a preliminary review is to focus on the potential violation, not the corrective action. Applicable corrective actions are to be developed during the formal investigation, if a formal investigation is warranted.

In addition, the additional documentation the Deputy Assistant Secretary provided was not persuasive because the same language existed in both versions of the task order we reviewed and did not change the finding or recommendation of our report. We request that the Deputy Assistant Secretary of the Army (Financial Operations) reconsider his position on our recommendation and provide additional comments in response to this report.

Appendix. Scope and Methodology

We conducted this performance audit from January 2009 through August 2011 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 reviewed funding documentation related to JCC-I/A enhancements in task order 0105, contract number W91V38-07-D-0001. We interviewed personnel from BTA and the ACC-NCR.

Use of Computer-Processed Data

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

Use of Technical Assistance

We did not use technical assistance in conducting this audit.

Prior Coverage of SPS

During the last 5 years, the DoD Inspector General (DoD IG) has issued one report related to the Standard Procurement System.

DoD IG

DoD IG Report No. D-2010-050, “Standard Procurement System Synchronization Utility” (CLASSIFIED), April 2, 2010

Glossary of Technical Terms

Commercial and Government Entity Code. A Commercial and Government Entity code is a 5-digit alphanumeric code that identifies companies doing or wishing to do business with the Federal Government. The first and fifth position of the code must be numbers. The second, third, and fourth may be any mixture of letters and numbers excluding I and O.

Data Universal Numbering System. Data Universal Numbering System numbers are issued by Dun and Bradstreet, Inc., and consist of nine digits. OMB uses the Data Universal Numbering System number to keep track of how Federal organizations disperse grant money.

Procure-to-Pay Process. The procure-to-pay process includes the steps that need to be taken between making the decision to buy goods and services and finally making the payment for those goods and services; that is, forecast and plan requirements, clarify and specify needs, determine and select a source, generate a contract or purchase order, receive material and documents, and settle and pay.

Assistant Secretary of the Army (Financial Management and Comptroller) Comments

Final Report
Reference



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
FINANCIAL MANAGEMENT AND COMPTROLLER
108 ARMY PENTAGON
WASHINGTON DC 20310-0109

SEP 16 2011

MEMORANDUM THRU Auditor General, Department of the Army, 3101 Park Center Drive, Alexandria, Virginia 22302-1596

FOR Inspector General, Department of Defense, Defense Business Operations, 400 Army Navy Drive, Arlington, Virginia 22202-4704

SUBJECT: Discussion Draft, Funding for Enhancements to the Standard Procurement System (Project No. D2009-D000FB-0112.001)

1. We appreciate the opportunity to comment on the subject report.

2. The discussion draft asserts that Army Contracting Command (ACC) used Fiscal Year 2008 Operation and Maintenance, Army (OMA) funds in support of Standard Procurement System (SPS) enhancements that, due to the overall dollar threshold, required use of Procurement funds. Consequently, the discussion draft recommends that Army open an investigation to determine whether the suspected violation of 31 U.S.C. 1301(a), the Purpose Statute, violated the Antideficiency Act (ADA). We respectfully non-concur.

a. Based on our coordination with the Army Contracting Command-National Capital Region, we find no evidence that OMA funds were misused in the funding of task order 0105 for contract W91V38-07-D-0001. Pursuant to the Department of Defense Financial Management Regulation (DoD FMR), Volume 2A, Chapter 1, "Software releases categorized as iterations on the basic release and not involving significant performance improvements or extensive testing are considered a maintenance effort. Minor improvements in software functionality which are accomplished during routine maintenance may also be O&M funded." Contract Line Item Number (CLIN) 1020 characterizes the efforts funded under this task order as "Maintenance and Service Releases". Moreover, sub-CLIN 1020 AA makes it clear that the enhancements are to be "delivered as a separate service release" in accordance with the Performance Work Statement (PWS).

b. The DoD FMR asserts that funds available for operation and maintenance are appropriate for maintenance accomplished on existing code that does not require the procurement of a fully developed and tested modification kits or proprietary software. The DoD Deputy Chief Management Office concluded in its June 16, 2011 memorandum that the requirements in task order 0105 were an iteration on the basic software release and involved only minor improvements which are appropriately funded with FY2008 OMA funds. Similarly, the Joint Program Management Office (JPMO) for SPS confirmed that the software releases did not result in a change in performance

Added our response
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Added our response
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SUBJECT: Discussion Draft, Funding for Enhancements to the Standard Procurement System (Project No. D2009-D000FB-0112.001)

envelope, but were minor enhancements to address the needs of current SPS users in Iraq and Afghanistan who had been issuing "work-arounds". As stated above, these enhancements were service releases, which are properly classified as maintenance performed on the existing software code and not upgrades to a complete system.

c. Finally, even if the use of OMA funds would have been incorrect, there never would have been a deficiency at the formal subdivision of funds requiring investigation since sufficient balances of Other Procurement, Army (OPA) exist to adjust the accounts. Pursuant to Volume 14, Chapter 2 of the DoD FMR, violations of the Purpose Statute only result in ADA violations if the accounts cannot be corrected because proper funds were not available at the time of the erroneous obligation or were not available when the obligation was recorded in the proper appropriation or fund limitation.

3. My point of contact for this report is [REDACTED] who can be reached at [REDACTED], email: [REDACTED]


John J. Argodale
Deputy Assistant Secretary of the Army
(Financial Operations)

Army Contracting Command-National Capital Region Comments



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
ARMY CONTRACTING COMMAND - NATIONAL CAPITAL REGION
200 STOVALL STREET
ALEXANDRIA, VA 22332

CCNC

MEMORANDUM THRU Assistant Secretary of the Army, (Financial Management and Comptroller), 109 Army Pentagon, Washington, DC 20310

FOR Department of Defense Inspector General, 400 Army Navy Drive, Arlington, VA 22202

SUBJECT: DoDIG Draft Report (FOUO) Funding for the Enhancements to the Standard Procurement System

1. The Army Contracting Command-National Capitol Region (ACC-NCR) appreciates the opportunity to comment on the subject draft report. ACC-NCR has reviewed the report's facts and disagree with the conclusions. Detailed comments are enclosed.
2. The Army Contracting Command-National Capitol Region point of contact is [REDACTED] Internal Review and Audit Compliance. She can be reached via email at [REDACTED] or telephone on [REDACTED]

Enclosure


MICHAEL R. HUTCHISON
Acting, Executive Director

COMMAND COMMENTS

Project: (D2009-D000FB-0112.001) (A09112) FOUO – Funding for Enhancement to the Standard Procurement System (SPS)

DODIG Conclusion:

ACA-ITEC4 contracting officials inappropriately funded approximately \$755,000 of SPS enhancements with FY 2008 Operation and Maintenance (O&M) funds rather than Procurement Funds. This occurred because ACA-ITEC4 officials misinterpreted DOD Regulation 7000.14-R, "DOD Financial Management Regulation." As a result, ACA-ITEC4 created a potential Purpose Statute violation and may have violated the Antideficiency Act.

DODIG Recommendation for Assistant Secretary of the Army (Financial Management and Comptroller)

Initiate a preliminary review of the potential Antideficiency Act violation to determine whether a violation occurred, ensure that the preliminary review is completed within 14 weeks, and provide the results to the DOD Office of Inspector General.

ACC-NCR Response: Non-concur

O&M funds are appropriate for the Standard Procurement System (SPS) requirements in task order 0105, contract number W91V38-07-D-0001. DoDFMR, Volume 2A, Chapter 1, paragraph 010212.B.5.a provides, "Software releases categorized as iterations on the basic release and not involving significant performance improvements or extensive testing are considered a maintenance effort. Minor improvements in software functionality which are accomplished during routine maintenance may also be O&M funded." The task order 0105 requirement at issue is a software release that included minor improvement in the software functionality. The fact that the requirement is a service release is evidenced by the task order's Contract Line Item Number (CLIN) 1020 description of "Maintenance and Service Releases" as well as the sub-CLIN 1020 AA description, which provides, "SPS PD2 JCCIA Enhancements for FPDS-NG (pre-fills), CCR, SPS-C Synchronization Utility Enhancements to be delivered as a separate service release in accordance with the attached PWS...". The Performance Work Statement also makes it clear that the "enhancements" will be delivered as a "separate service release."

The service release was categorized as an iteration on the basic release and didn't involve significant performance improvements or extensive testing. The Joint Program Management Office (JPMO), which was responsible for Business Transformation Agency's (BTA's) SPS program, is in a better position than the ACC-NCR (formerly ACA-ITEC4) to characterize and explain the requirements described in task order 0105; the JPMO determined that the requirement was for minor improvements; and the facts support the JPMO's conclusion. In a February 3, 2010, conference call with the DoDIG, the JPMO indicated that the enhancements were minor. According to the JPMO, SPS was already in use in Iraq and Afghanistan when this task order was issued, but users had to find "work arounds" for a few issues that the software

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program, is in a better position than the ACC-NCR (formerly ACA-ITEC4) to characterize and explain the requirements described in task order 0105; the JPMO determined that the requirement was for minor improvements; and the facts support the JPMO's conclusion. In a February 3, 2010, conference call with the DoDIG, the JPMO indicated that the enhancements were minor. According to the JPMO, SPS was already in use in Iraq and Afghanistan when this task order was issued, but users had to find "work arounds" for a few issues that the software release would address. This fact is corroborated on page 4 of the draft report, when it provides in the first full paragraph, "The SPS COR stated that SPS was functional in JCC-I/A before these enhancements." Furthermore, the DoD Deputy Chief Management Office (DCMO) also concluded that the requirement in task order 0105 was an iteration on the basic software release and involved only minor improvements which are appropriately funded with Army FY2008 O&M funds. See June 16, 2011, Memorandum for Assistant Inspector General (Defense Payments and Accounting Operations), subject: Comments to Draft Audit Report, "Finding for Enhancements to the Standard Procurement System" (Project No. D2009-D000FB-0112.001), which is attached hereto. Pages 3-4 of the June 16, 2011, DCMO memo explain in detail what the software improvements in task order 0105 are and why they were considered minor.

In concluding that Procurement funds are correct, the draft IG report relies on DoDFMR, Volume 2A, Chapter 1, paragraph 010212.B.4, which provides,

Acquiring and deploying a complete system with a cost of \$250,000 or more is an investment and should be budgeted in a Procurement appropriation. Complete system cost is the aggregate cost of all components (e.g., equipment, integration, engineering support and software) that are part of, and function together, as a system to meet an approved documented requirement. For modification efforts, only the cost of the upgrade (e.g., new software, hardware, and technical assistance) is counted towards the investment threshold.

The quoted language of paragraph 010212.B.4 is inapposite, as the requirement isn't for the procurement of a fully developed and tested modification kit or proprietary software. The sentence, "For modification efforts, only the cost of the upgrade (e.g., new software, hardware, and technical assistance) is counted towards the investment threshold," cannot be read without considering the appropriation or fund's purpose or the underlying purpose of the IT effort. See DoDFMR, Vol.2A, Chapter 1, paragraphs 010212A and 010212.B. The requirement is a service release, which is essentially maintenance work being performed on the existing software code and not an upgrade as contemplated in 010212.B.4. If this requirement were considered an upgrade under 010212.B.4, it would render paragraph 010212.B.5.a meaningless. Maintenance is inherent in the purpose of the Operation and Maintenance appropriation. As can be seen by a review of the subparagraphs under paragraph 010212.B.4, it is clear that Procurement funds aren't to be used for the services being performed or other maintenance accomplished on existing code.

Under "Potential Antideficiency Act Violation," on page 3, the draft report asserts in part, "The SPS contracting officer's representative (COR) justified the use of O&M funds for this delivery order by stating that they performed only minor modifications to the existing SPS functionality and that each of these modifications was less than \$250,000, which is the threshold

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for O&M funds." The Military Interdepartmental Purchase Requests (MIPRs) that provided the funds for this requirement were sent from ADASA(P) via the SPS JPMO to the ACA-ITEC4. The SPS COR works for the JPMO, which fell under DoD's BTA; and the SPS COR doesn't work for ACC-NCR or ADASA(P). The draft report doesn't discuss any justification provided by the Budget Officer at ADASA(P) who was the Authorizing Officer on the MIPR. The ACC-NCR agrees with the COR's characterization of the extent and nature of the work being "minor;" however, ACC-NCR disagrees with the justification provided for the use of O&M. The language in DoDFMR, Volume 2A, Chapter 1, paragraph 010212.B.5, doesn't subject "minor improvements in software functionality accomplished during routine maintenance" to the expense/investment threshold, so it is irrelevant whether or not the requirement exceeds \$250,000.

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In addition to ACC-NCR's overall non-concurrence with the finding that Procurement funds, and not O&M funds, are appropriate, there are three statements of fact provided in the draft report that are not fully explained. First, page 4 of the draft report also provides in part, "The ACC-NCR contracting officer stated that the wording used in the PWS was incorrect although the document had numerous reviews." In fact, during the February 3, 2010, teleconference between the DoDIG, the SPS JPMO, and then-NCRCC (now ACC-NCR), the Contracting Officer acknowledged that the statement in section 1.2 of the PWS, which provides, "Due to the unique environment in these areas of operation the standard contracting capability of the SPS suite of products will not work out of the box using the standard applications for the client /server environment or the SPS Contingency environment," was incomplete, as SPS was functional in JCC-I/A at the time task order 0105 was awarded.

Another statement of fact included in the report that should be clarified is on page 4 of the draft report, "In addition, the ACC-NCR attorney advisor could not provide formal documentation that justified the use of O&M funds for the SPS enhancements." It should be noted that the DoDIG made no request of the ACC-NCR (then-NCRCC) attorney advisor to provide an opinion as to the appropriateness of the funds. During the February 3, 2010, teleconference, NCRCC agreed that it would search its contract file to determine if a memorandum was ever provided prior to task order award from a Resource Manager or Budget Officer of the organization providing the funds to explain the appropriateness of the funds; however, there was no such documentation in the contract file.

Finally, the report finds that, "The ACA-ITEC4 contracting officials inappropriately funded approximately \$755,000 of the Standard Procurement System enhancements..."; however, neither ACA-ITEC4 nor its successor organizations provided or certified funds for this requirement. Instead, ACA-ITEC4 obligated funds on the task order.

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