

Living Container Cost Issues Time Line

- **March 24, 2005** – DCAA issues Audit Report No. 3311-2005K22000002, “Report on Audit of Estimate at Completion (EAC) of 76 Largest Non-DFAC Subcontracts and EAC for DFAC Subcontracts Contained in LOGCAP III, Task Order (TO) 59”
 - Report includes questioned costs of \$158.7 million relating to unreasonable living container costs.
 - \$109.9 million of unreasonable costs due to KBRSI not using the lowest bidder to obtain living containers
 - \$48.8 million of unreasonable costs due to KBRSI not providing support for subcontractor delay and equitable adjustment claims

- **Undated** – Army issues undated PNM on the definitization of TO 59
 - Unreasonable costs due to KBRSI not using the lowest bidder – PNM states, “The parties agreed to recognize the costs of the containers acquired, but agreed the base and award fees would not apply to the \$99.6 million in questioned costs. During negotiations, the parties expressed their intent to reopen the issue of applying fee to these costs if additional supporting data could be provided.”
 - Note: The PNM amount of \$99.6 million does not reconcile to the \$109.9 million of questioned cost for this issue in the audit report.
 - Unreasonable costs due to KBRSI not providing support for subcontractor delay and equitable adjustment claims – PNM states, “Based on the magnitude of the dollars and uncertainties involved, the SCAT took the position of leaving these questioned costs relating to the FKTC claims in the estimated cost baseline, with applicable base and award fees.”

- **April 2005 thru September 2006** – KBRSI provides several data submissions to address the questioned living container cost issues. KBRSI main arguments include:
 - Paid premium prices due to war conditions and scarce availability of market inventory and price specifically included a “premium for prompt delivery.”
 - Lower bidders lacked production capacity and current inventories of living containers.
 - Army wanted uniformity of living containers within the camps.

- **June 23, 2005** – DCAA issues Form 1, Notice Number 95
 - Form 1 suspends \$10.3 million because KBRSI did not provide sufficient documentation to justify not using the lowest bidder to obtain living containers.

- **June 30, 2005** – DCAA issues Form 1, Notice Number 96
 - Form 1 suspends \$50.2 million because KBRSI did not provide adequate support for subcontractor delay and equitable adjustment claims relating to living containers.

- **July 28, 2005** – DCAA issues Form 1, Notice Number 98
 - Form 1 reduces the suspension reported on DCAA Form 1, Notice Number 95 to \$5.6 million as a result of reviewing additional information provided by KBRSI on not using the lowest bidder to obtain living containers

- **March 9, 2006** – DCAA issues Audit Report No. 3311-2005K17900026, “Report on Audit of First Kuwaiti Trading Company Subcontract Price Adjustment Proposals for Convoy Related Delay Days and Associated Impact for Delivery of Trailer Living Containers”
 - Report includes questioned costs of \$50.2 million relating to the subcontractor delay and equitable adjustment claims
 - KBRSI did not provide adequate documentation to support the subcontractor claimed costs
 - Subcontractor delay and equitable adjustment claims represent a duplication of costs already paid to FKTC in the form of a premium per unit price for each of the trailers

- **March 17, 2006** – DCAA issues Form 1, Notice Number 100
 - Form 1 disapproves \$51.3 million as a result of the questioned costs relating to unsupported delay and equitable adjustment claims reported in Audit Report No. 3311-2005K17900026, dated March 9, 2006 (see above – difference in costs in the report and Form 1 are due to indirect rate applications)

- **April 7, 2006** – DCAA issues Form 1, Notice Number 101
 - Form 1 disapproves \$4.5 million of living container costs because KBRSI did not provide sufficient documentation to justify not using the lowest bidder to obtain living containers
 - Form 1 replaces DCAA Form 1, Notice Number 98 – the \$5.6 million included in that Form 1 was reduced to \$4.5 million as a result of reviewing additional information provided by KBRSI.

- **August 30, 2006** – DCAA issues Form 1, Notice Number 103
 - Form 1 disapproves \$4.2 million of living container costs because KBRSI did not provide sufficient documentation to justify not using the lowest bidder to obtain living containers. The Form 1 is based on Audit Report No. 3311-2006K17900004 discussed below.
 - The \$4.5 million reported in DCAA Form 1, Notice Number 101 is reduced to \$4.2 million as a result of reviewing additional information provided by KBRSI.

- **September 12, 2006** – DCAA issues Audit Report No. 3311-2006K17900004, “Report on Audit of Incurred Living Unit Subcontract Costs for Task Order (TO) 59 Bed Down Mission during Contractor Fiscal Year 2004”
 - Report includes questioned costs of \$4.2 million as a result of KBRSI not providing sufficient documentation to justify not using the lowest bidder to obtain living containers.

- **December 29, 2006** – DCMA issues interim determination on DCAA Form 1, Notice Number 100, dated March 17, 2006.
 - DCMA determines that \$25.6 million of the disapproved \$51.3 million of subcontractor delay and equitable adjustment claim costs are allowable.

- **January 31, 2007** – DCAA issues Form 1, Notice Number 126
 - As a result of the December 29, 2006 DCMA determination that \$25.6 million is allowable, DCAA reduces the disapproved costs to \$25.7 million (\$51.3 million minus \$25.6 million equals \$25.7 million).

- **May 19, 2008** – DCMA issues Notice of Intent to Disallow Costs
 - DCMA reverses its December 29, 2006 initial determination of allowability for \$25.6 million of the disapproved \$51.3 million costs reported in DCAA Form 1, Notice Number 100, dated March 17, 2006.

- **June 18, 2008** – DCMA issues Demand Letter
 - Demand letter issued in the amount of \$25.6 million as a result of the May 19, 2008 Notice of Intent to Disallow Costs.