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Report No. D-2008-097 May 23, 2008

Inspector General

United States Department of Defense

Hurricane Relief Effort Costs on the Navy Construction Capabilities Contract

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To request copies of this report, contact Mr. Henry F. Kleinknecht at (703) 604-9324 (DSN 664-9324) or Mr. Patrick J. Nix at (703) 604-9332 (DSN 664-9332).

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Acronyms

BMS	Business Management System
CMARK	Commercial Marketing Corporation
CONCAP	Construction Capabilities
CPPC	Cost-Plus-Percentage-of-Cost
DCAA	Defense Contract Audit Agency
FAR	Federal Acquisition Regulation
GAO	General Accountability Office
GCC	Global Contingency Construction
IG	Inspector General
KBR	Kellogg, Brown, and Root
NAVFAC	Naval Facilities Engineering Command

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INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

May 23, 2008

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS
NAVAL INSPECTOR GENERAL

SUBJECT: Report on Hurricane Relief Effort Costs on the Navy Construction Capabilities Contract (Report No. D-2008-097)

We are providing the report for review and comment. This audit is a follow-on to our audit of the procedures used by the Navy to award the Construction Capabilities contract. We considered comments from the Naval Facilities Engineering Command on a draft of this report when preparing the final report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. The Naval Facilities Engineering Command comments were partially responsive. We request additional comments on Recommendation C. by June 25, 2008.

If possible, please send management comments in electronic format (Adobe Acrobat file only) to patrick.nix@dodig.mil. Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Questions should be directed to Mr. Henry F. Kleinknecht at (703) 604-9324 (DSN 664-9324) or Mr. Patrick Nix at (703) 604-9332 (DSN 664-9332). See Appendix E for report distribution. The team members are listed inside the back cover.

Richard B. Jolliffe
Assistant Inspector General
Acquisition and Contract Management

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Department of Defense Office of Inspector General

Report No. D-2008-097 **May 23, 2008**
(Project No. D2006-D000CH-0110.000)

Hurricane Relief Effort Costs on the Navy Construction Capabilities Contract

Executive Summary

Who Should Read This Report and Why? Acquisition and contracting personnel within DoD and the Military Departments who award contracts for rapid emergency construction and engineering services should read this report because it concerns inadequate cost controls and the use of an illegal cost-plus-percentage-of-cost system of contracting.

Background. This audit is a follow-on to our audit of the award of the Navy Construction Capabilities (CONCAP) contract to Kellogg, Brown, and Root (KBR). The Naval Facilities Engineering Command (NAVFAC) Atlantic issued the cost-plus-award-fee, indefinite-delivery, indefinite-quantity contract with a $500 million not-to-exceed amount over a 5-year period to KBR on July 26, 2004. The Navy reached the contract ceiling and issued a follow-on contract on August 4, 2006. The follow-on contract was a cost-plus-award-fee, indefinite-delivery, indefinite-quantity, multiple-award contract that was awarded to three contractors other than KBR. The KBR contract provided NAVFAC customers with a rapid emergency construction and engineering services capability. As a part of our previous audit, we found the rates paid to some subcontractors that KBR used to supply labor to support the Hurricane Ivan recovery effort were significantly higher than the prevailing Bureau of Labor Statistics rates for the areas impacted by the storm. Although NAVFAC personnel provided possible reasons for the higher rates, we determined additional review was needed before any conclusions could be drawn about the reasonableness of the rates paid to the subcontractors used to support natural disaster recovery efforts.

In accordance with its Disaster Preparedness Plan, NAVFAC Southeast (formerly the NAVFAC Southern Division) assembles and deploys facilities disaster assessment teams to the regions affected by a storm to assess the damage and develop plans to restore the damaged military facilities to their pre-storm condition. The CONCAP contract was used primarily to repair facilities supporting critical DoD missions and to dry-in, dry-out (stabilize) noncritical facilities to prevent further damage.

Results. NAVFAC Southeast contracting officials did not effectively implement cost control procedures for three CONCAP contract task orders issued to KBR for recovery efforts associated with Hurricanes Ivan and Katrina. As a result, the Navy had no means to measure contractor cost performance on task orders totaling more than $229 million and was basically just monitoring the contractor's spend rate. Establishing basic contract forms, either the completion contract form or the term (or level-of-effort) contract form and implementing procedures to ensure contracting officials: (1) obtain and evaluate contractor cost estimates, (2) negotiate and base task order funding (and potential award fee) on the target cost of work requested, and (3) track how much is spent on each task

and adjust task order funding (not the award fee) to actual performance costs, would allow the Navy to monitor how efficiently its infrastructure is repaired. In addition, negotiating specific levels of effort for the key skills required to support the Navy's natural disaster recovery efforts for use until requirements can be determined would enable the Navy to better estimate its repair costs and decrease the extent of Government oversight required (finding A).

NAVFAC Southeast contracting officials also provided insufficient oversight of KBR's subcontracting efforts for the three task orders. As a result, KBR awarded sole-source or limited competition subcontracts that paid roofers hourly rates of up to [redacted], purchased $4.1 million of meals and services that "should have" cost $1.7 million, and paid a markup on material and equipment of $7.2 million that increased proportionally to increases in material costs expended in performance, a cost-plus-percentage-of-cost system of contracting. Establishing procedures to verify that subcontract costs are adequately analyzed and only appropriate costs are included in labor rates and addressing liability for excess material procured by commercial contractors would allow the infrastructure damaged by natural disasters to be repaired more economically. In addition, the Navy might be able to recoup as much as $8.4 million paid to KBR for an excessive equipment lease and profit on material (finding B).

NAVFAC Southeast contracting officials also administered the three hurricane recovery task orders as prohibited cost-plus-percentage-of-cost contracts. As a result, the award fee available to KBR of about [redacted] increased proportionally to increases in costs expended in performance rewarding inefficiency and non-economical performance because higher costs meant higher profit to KBR. The Navy might be able to recoup some fees awarded under the illegal contract provisions for work that cost in excess of what would be considered reasonable (finding C).

NAVFAC Southeast contracting officials did not adequately support the award fee determinations for the hurricane recovery task orders. As a result, despite numerous performance deficiencies, the Navy authorized that KBR be paid 100, 96, and 88 percent of the available fee on the task orders we reviewed for what appears to be marginal-to-average performance. In addition, the Navy could not defend award fee determinations in excess of $7.5 million for its hurricane recovery efforts. Reconciling the assessments made by the contracting officer and the technical representatives against each other and ensuring written statements match ratings would allow the Navy to better defend its award fee determinations (finding D).

Review of Internal Controls. NAVFAC internal controls were not adequate. We identified material internal control weaknesses for procurement and contract administration relating to the cost control procedures for the CONCAP contract.

Management Comments and Audit Response. We received comments from the Naval Facilities Engineering Command. The Assistant Commander for Acquisition generally agreed with the report recommendations. However, the Assistant Commander non-concurred and provided management comments that did not address Recommendation C. relating to the Navy administering the three hurricane recovery task orders as prohibited cost-plus-percentage-of-cost contracts. Therefore, we request the Navy to provide additional comments to the final report on Recommendation C. by June 25, 2008.

b(4)

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Background

This audit is a follow-on to our audit of the award of the Navy Construction Capabilities (CONCAP) contract to Kellogg, Brown, and Root (KBR). The Naval Facilities Engineering Command (NAVFAC) Atlantic issued the cost-plus-award-fee, indefinite-delivery, indefinite-quantity contract with a $500 million not-to-exceed amount over a 5-year period to KBR on July 26, 2004. The Navy reached the contract ceiling and issued a follow-on contract on August 4, 2006. The follow-on contract was a cost-plus-award-fee, indefinite-delivery, indefinite-quantity, multiple-award contract that was awarded to three contractors other than KBR. The KBR contract provided NAVFAC customers with a rapid emergency construction and engineering services capability. As a part of our previous audit, we found the labor rates paid to some subcontractors that KBR used to support the Navy's Hurricane Ivan recovery effort were significantly higher than the prevailing Bureau of Labor Statistics rates for the area impacted by the storm. Although NAVFAC personnel provided possible reasons for the higher rates, we determined additional review was needed before any conclusions could be drawn about the reasonableness of the rates.

Assessing the Storm Damage. In accordance with its Disaster Preparedness Plan, NAVFAC Southeast, formerly the NAVFAC Southern Division, assembled and deployed facilities disaster assessment teams to the regions affected by Hurricanes Ivan and Katrina to assess the damage and to develop plans to restore damaged military facilities to their pre-storm condition. Each team was composed of a team leader; structural, mechanical, electrical, civil, and environmental engineers; acquisition/contracting officers; and KBR personnel. In addition, the teams were augmented with utility, roofing, or safety specialists when the situation dictated. The teams also interacted with the base Public Works offices, the customer-base, and Naval Installation Command personnel. Figure 1 shows the process the teams used to assess the damage and select the appropriate contract vehicle for repairing or replacing the facilities damaged by the storms.

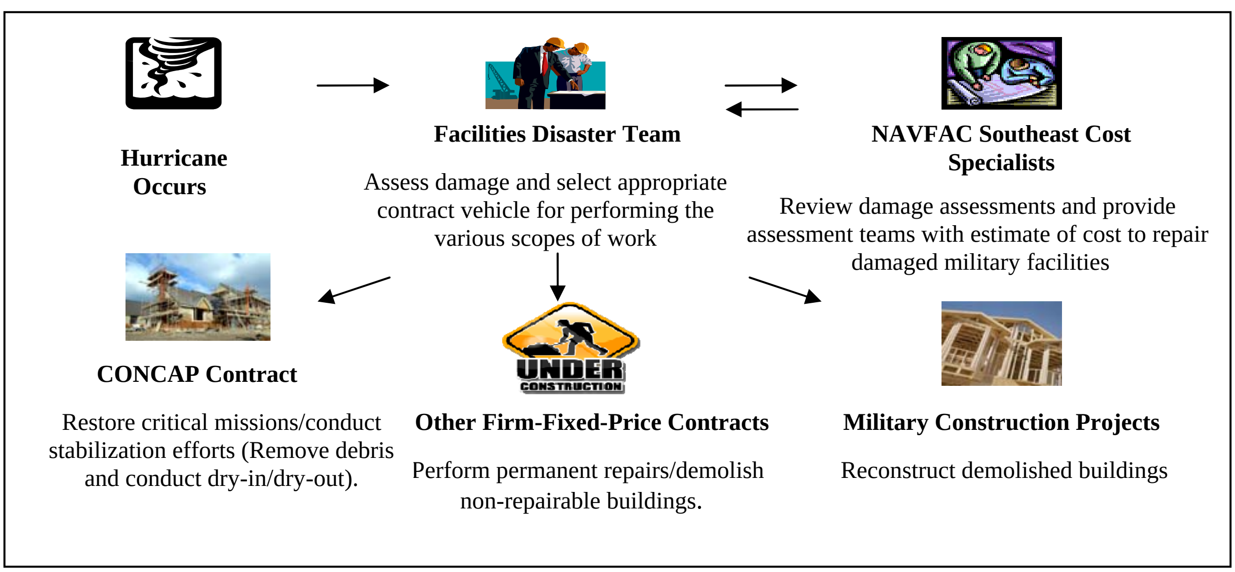

Figure 1. Process to Repair Damage From Natural Disaster

CONCAP Contract Task Orders. The Navy issued eight task orders worth an estimated $270 million against the CONCAP contract to support its recovery efforts after Hurricanes Ivan and Katrina. We reviewed the three largest task orders issued. As Table 1 shows, those task orders, issued by NAVFAC Southeast, had a collective estimated value of more than $229 million and represent 85 percent of estimated cost of the Navy hurricane recovery efforts.

Table 1. Task Orders Funding

	Task Order No. 2	Task Order No. 16	Task Order No. 17	Total	Percent
Cost	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Award Fee	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Total	**$ 46,819,259**	**$ 84,961,021**	**$ 97,346,447**	**$ 229,126,727**	**100**

These task orders were used to repair Navy facilities that supported critical missions and to dry-in/dry-out (stabilize) noncritical facilities to prevent further damage. Figure 2 shows typical tasks that KBR and its subcontractors performed.


Remove water-damaged carpet and drywall (dry-out)


Apply temporary roofing to damaged roof (dry-in)


Remove debris placed outside by displaced military personnel


Build trailer park site for displaced Navy families

Figure 2. Basic Tasks Performed by KBR

NAVFAC Southeast personnel stated that KBR performed additional tasks to include: setting up on-site field offices to support NAVFAC Southeast forward deployed assets; assisting in defining scopes of work and estimating repair costs; repairing electrical and potable water distribution systems; repairing buildings;

and providing temporary housing and meals to military, civilian, and contractor personnel located in areas affected by the storm.

Objective

Our overall audit objective was to review the reasonableness of costs incurred on task orders for relief efforts after Hurricanes Ivan and Katrina. Specifically, we reviewed whether the methods and procedures used by the Navy ensured the Government paid fair and reasonable prices for the labor and material used to support the hurricane relief efforts. See Appendix A for a discussion of the scope, methodology, and prior coverage related to the objective.

Review of Internal Controls

We identified material internal control weaknesses for NAVFAC as defined by DoD Instruction 5010.40, "Managers' Internal Control (MIC) Program Procedures," January 4, 2006. NAVFAC did not have the following internal controls for procurement and contract administration:

- a procedure to ensure contracting officials establish basic contract forms, either the completion form contract wherein the contractor is required to deliver a specified, definitive end product, or the term (or level-of-effort) form contract wherein the contractor is required to provide simple labor-hours (day, months, or years) over a designated period of time;

- a procedure to ensure contracting officials obtain contractor cost estimates, evaluate proposed prices, and negotiate and document a target cost and fixed fee for contract requirements that are defined in clear, specific, and objective terms with measurable outcomes;

- a procedure to ensure that contracting officials base task order funding and potential award fee on the target cost of the specific scopes of work that are requested;

- a procedure to verify that subcontract prices for natural disaster recovery efforts are adequately analyzed and only appropriate costs are included in the labor rate;

- a procedure to address liability for excess material procured by commercial contractors;

- a procedure to review all subcontracts with an estimated value of more than $1 million to ensure they comply with contract and statutory requirements; and

- a procedure to reconcile the assessments made by the contracting officer and technical representatives against each other and ensure written statements match ratings for award fee determinations.

Implementing Recommendations A.1.a., A.1.b.1.–4., B.2., and D. will improve NAVFAC procurement and contract administration procedures and could result in the recovery of an unspecified amount of funds. A copy of the final report will be provided to the senior official responsible for internal controls in the Naval Facilities Engineering Command.

A. Cost Controls on the Construction Capabilities Contract

NAVFAC Southeast contracting officials did not effectively implement cost control procedures on CONCAP contract task orders issued to KBR for recovery efforts associated with Hurricanes Ivan and Katrina. Specifically, NAVFAC Southeast contracting officials did not:

- establish basic contract forms, either the completion form contract wherein the contractor is required to deliver a specified, definitive end product; or the term (or level-of-effort) form contract wherein the contractor is required to provide simple labor-hours (day, months, or years) over a designated period of time;

- obtain contractor cost estimates; evaluate proposed prices; and negotiate a target cost and fixed fee for contract requirements that were defined in clear, specific, and objective terms with measurable outcomes; and

- document negotiations.

As a result, the Navy had no means to measure contractor cost performance on task orders totaling more than $229 million and was basically just monitoring the contractor's "spend rate." KBR also had an incentive to increase contract costs to earn additional profit creating an illegal cost-plus-percentage-of-cost (CPPC) system of contracting (see finding C for details of the CPPC system of contracting).

Guidance

Cost-Reimbursement Contracts. With cost-reimbursement contracts, the Government is required to reimburse the contractor for all allowable and allocable costs reasonably incurred in contract performance up to the amount originally estimated for contract performance. Once funds run out, the contractor must stop work unless the contracting officer authorizes additional funding. A cost-plus-award-fee contract is a cost-reimbursement contract that provides for the negotiation of an estimated or target cost and an award fee. The award fee is broken down into a base fee (which may be zero) and an award fee (or profit), which is paid based on the Government's subjective evaluation of the contractor's performance. The award fee will not be adjusted for cost overruns or when contract requirements are completed at less than the total estimated cost. The amount of the award fee portion to be paid is a unilateral Government decision and not subject to dispute, unless the decision was arbitrary or capricious.

Contract Form Types. A cost-plus-fixed-fee contract is a cost-reimbursable contract that may take one of two basic contract forms to reflect a contractor's legal obligation to deliver specified end products—completion or term (level-of-effort).

Completion Contract Form. The completion contract form describes the scope of work by stating a definite goal or target and specifying an end product. This form of contract normally requires the contractor to complete and deliver the specified end product (for example, repair Building 606's roof) within the estimated cost, if possible, as a condition for payment of the entire award fee. However, in the event the work cannot be completed within the estimated cost, the Government may require more effort without increase in fee, provided the Government increases the estimated cost.

Term Contract Form. The term contract form, on the other hand, describes the scope of work in general terms and obligates the contractor to devote a specified "level of effort" for a stated time period (for example, 1,000 staff days of debris removal over a 3-month period). Under this form of contract, if the performance is considered satisfactory by the Government, the award fee is payable at the expiration of the agreed-upon period, upon contractor statement that the level of effort specified in the contract has been expended in performing the contract work. Renewal for further periods of performance or additional effort is a new acquisition that involves new cost and fee arrangements.

Contract Pricing and Negotiation. Federal Acquisition Regulation (FAR) Subpart 15.4, "Contract Pricing," prescribes cost and price negotiation policies for pricing negotiated prime contracts and contract modifications. The contracting officer is responsible for evaluating the reasonableness of the offered prices. The contracting officer's analysis develops a negotiation position that permits the contracting officer and the offeror to reach agreement on a fair and reasonable price. FAR Subpart 36.214, "Special Procedures for Price Negotiation in Construction Contracting," prescribes additional cost and price negotiation policies for contracts involving construction. For those contracts:

> (a) Agencies shall follow the policies and procedures in Part 15 when negotiating prices for construction.
>
> (b) The contracting officer shall evaluate proposals and associated cost or pricing data or information other than cost or pricing data and shall compare them to the Government estimate.
>
> (1) When submission of cost or pricing data is not required (see 15.403-1 and 15.403-2), and any element of proposed cost differs significantly from the Government estimate, the contracting officer should request the offeror to submit cost information concerning that element (*e.g.,* wage rates or fringe benefits, significant materials, equipment allowances, and subcontractor costs).
>
> (2) When a proposed price is significantly lower than the Government estimate, the contracting officer shall make sure both the offeror and the Government estimator completely understand the scope of the work. If negotiations reveal errors in the Government estimate, the estimate shall be corrected and the changes shall be documented in the contract file.

FAR Subpart 15.406-3, "Documenting the Negotiation," requires the contracting officer to document in the contracting file the principle elements of the negotiated agreement. The documentation (for example, price negotiation memorandum) shall include the purpose of the negotiation, a description of the acquisition, a summary of the contractor's proposal, any field pricing assistance recommendations, including the reasons for any pertinent variances from them, the Government's negotiation objective, the negotiated position, and documentation of fair and reasonable pricing.

CONCAP Contract Ordering Procedures. The "Task Orders for Cost Reimbursement Contract" section of the CONCAP contract establishes detailed procedures for placing orders against the contract. Specifically, the section requires that the contracting officer provide KBR with a description of the specified work requirement, obtain and evaluate a cost estimate, and negotiate and execute an order that establishes the estimated cost of performance (target cost) and award fee for each delivery order.

> (a) The Contracting Officer shall furnish the contractor with a written request for estimate. The request shall include:
>
> > (1) A description of the specified work requirement (including a designation of whether the work is service or construction),
> > (2) the desired delivery schedule,
> > (3) the place and manner of inspection and acceptance, and
> > (4) any other pertinent information (such as applicable Davis-Bacon Wage Act wage determination or Service Contract Act wage determination).
>
> (b) The contractor shall, within the time specified, provide the Contracting Officer with:
>
> > (1) a detailed cost estimate showing direct and indirect costs;
> > (2) dollar amount and type of proposed subcontract,
> > (3) maximum award fee (calculated at the contract rate), and
> > (4) total estimated cost plus award fee.
>
> (c) Upon receipt of the estimate, the Contracting Officer and other representatives, as deemed necessary, shall review the estimate to ensure acceptability to the Government, enter into such discussions with the contractor as may be necessary to correct and/or revise the proposed order estimate, and effect whatever internal review processes are required.
>
> (d) Upon completion of this process, the Contracting Officer shall prepare a task order . . . and forward it to the contractor . . . Only after receipt of such an executed order, signed by the Contracting Officer, shall the contractor commence work.

Further, the "Task Order and Modification Proposals-Price Breakdown" section of the CONCAP contract established the procedures for modifying the orders. The section states:

> The Contractor, in connection with any proposal made for a contract modification, shall furnish a cost breakdown, itemized as required by the Contracting Officer. Unless otherwise directed, the breakdown shall contain sufficient detail to permit an analysis of all material, labor, equipment, subcontract, and indirect costs, as well as fee, and shall cover all work involved in the modification, whether such work

> was deleted, added, or changed. Any amount claimed for subcontractors shall be supported by similar cost breakdown.

Basic Contract Forms

NAVFAC Southeast contracting officials failed to use basic contract forms (either the completion form contract or the term form contract) to reflect KBR's legal obligation to perform the required hurricane recovery efforts. We reviewed the contracting process for the three largest task orders issued to support the hurricane recovery efforts. Although NAVFAC Southeast's contracting officials issued technical directions to fill in details or otherwise complete the task orders' general description of work, we were unable to determine whether KBR was required to deliver specific end products such as repairing Building 606's roof [completion form] or a certain level-of-effort such as providing 1,000 roofing hours over a designated period of time [term form]. See Appendix B for a list, description, and the value of the individual task orders, task order modifications, and technical directions.

Task Order Number 2. NAVFAC Southeast issued task order number 2 on September 17, 2004, for $600,000 to mobilize KBR to the Naval Air Station Pensacola, Florida, to assist in assessing the damage caused by Hurricane Ivan, and to start removing debris from the Pensacola Complex area. NAVFAC Southeast also issued 18 modifications that added an additional $46.2 million to the task order and 42 technical directions to provide KBR additional information on the work requested, to add new or delete previously requested work, or to shift the emphasis among the various scopes of work. The basic statement of work included with the task order was for damage assessment and debris removal. The basic task order states:

> Funding in the amount of $100,000.00, inclusive of award fee, is provided for a planning cell to report to Naval Air Station Pensacola, Florida. The planning effort is in preparation for recovery efforts from Hurricane Ivan and shall include initial assessments to the base operating systems including but not limited to the electrical distribution system, the water/wastewater treatment plant and road and airfield accessibility. The contractor shall be required to monitor and track costs on a daily basis and provide daily reports to the Contracting Officer or designated representative. The reports shall include estimated costs of labor, subcontracts, and any other direct costs associated with the efforts required by this statement of work.
>
> Funds in the amount of $500,000.00, inclusive of award fee, are provided for the debris removal effort in the Pensacola Complex Area.

On September 20, 2004, the contracting officer issued modification number 2 for $5 million and added the following tasks to KBR's scope of work.

> The nature of work requires rapid stabilization of damaged facilities to allow for future repair. Eliminate moisture penetration to interior of facility from the exterior environment.
>
> If the facility exhibits minor roof damage that can be repaired before the next forecast precipitation, then fix to full repair. If extensive,

> labor-intensive roof damage exists that cannot be repaired quickly, use more expedient repair as appropriate to roof type, i.e. tarp, plywood, hot mop to prevent further damage.
>
> Seal open penetrations in exterior walls. All damaged exterior windows and doors that cannot be shut shall be removed and openings sealed with plywood, maintain at least two entries that can be opened. Remove and dispose of all damaged building material from interior of facility, including but not limited to drywall, carpet, and ceiling tile. Dry out all remaining building interior materials including but not limited to salvageable carpet, walls and fixtures. Dehumidify the interior atmosphere of facility to prevent mold and bacterial growth.

Although the task order's "not to exceed" amount and language in the statement of work requiring KBR to monitor, track, and report its daily costs to the contracting officer suggests a level of effort, the task order does not include a measurable outcome such as staff days or hours and a price of performance. Consequently, it is not possible to establish what KBR was legally obligated to complete and deliver. The statement of work language is not clear as to whether the Government wanted the moisture penetration eliminated, the roof/exterior wall damage repaired, and the debris removed and disposed for a specific number of buildings (completion form) or a specific number of labor hours performed towards the accomplishment of those tasks over a designated period of time (term form). The contracting officer also issued modification numbers 1, 4, 7–17, 19, and 20 to add additional funding to the task order with only a general description of the work to be performed. For example, modification number 1 was issued on September 18, 2004, to add an additional $3.5 million to the task order for the "Hurricane Ivan Emergency repairs." Specifically, the modification states:

> The purpose of this modification is to add additional money for the Hurricane Ivan Emergency repairs. The Government hereby issues an undefinitized modification with Government Limited Liability of $3,500,000.00

Again, the modification language is not clear as to whether the Government wants additional repairs to be done (completion form) or additional repair hours (term form). While NAVFAC Southeast contracting officials issued technical directions to provide KBR more detail on the requirements, the technical directions did not identify a completion or term form of contract either and for the most part failed to identify associated funding. For example, technical direction number 5 specified that:

> Effective immediately, KBR shall provide all labor, material, transportation supervision equipment and quality control necessary to perform trouble-shooting, make repairs and energize various mechanical systems to include: chiller, air handling unit, DDC controls, boilers, condenses, compressed air, and related equipment within the NAS Pensacola Region. This may also require replacement of equipment.

The technical direction is not clear as to whether the Government wanted a specific number of mechanical systems repaired and energized (completion form) or a specific number of mechanical systems repair hours over a designated period of time (term form). In another example, technical direction number 6 specified:

> Effective immediately, KBR shall stage marketable pine trees and certain other trees separate from other vegetative debris. Marketable pines and [12-inch minimum diameter] butt with 12 [foot] minimum log length. Other trees are pecan, cedar, hickory and live oak [between 16 and 36 inches in diameter] with a log length between [6 and 16 feet]. Logs solid with no heart rot.

Again, the technical direction is not clear as to whether the Government wanted a specific number of trees staged (completion form) or a specific number of tree staging hours over a designated period of time (term form).

Task Order Number 16. NAVFAC Southeast issued task order number 16 on August 29, 2005, for $150,000 to support the Hurricane Katrina recovery efforts in the New Orleans area. NAVFAC Southeast also issued 17 modifications that added an additional $84.8 million to the task order and 47 technical directions to provide KBR additional information on the work requested, to add new or delete previously requested work, or to shift the emphasis among the various scopes of work. The basic statement of work included with the task order was for the initial disaster response. The basic task order states:

> Initial Disaster Respon[s]e for Hurricane Katrina. Mobilization of initial responders.

The statement of work language is not clear as to whether the Government wanted specific tasks to be performed (completion form) or a specific number of repair hours over a designated period of time (term form). The contracting officer also issued modification numbers 2–5, 8–11, 13, 15, 16, and 18–21 to add additional funding to the task order with only a general description of the work to be performed. For example, modification number 11 was issued on October 7, 2005, to add an additional $10 million to continue the Hurricane Katrina recovery. Specifically, the description included with the modification states:

> The purpose of this modification is to add $10,000,000.00 to this delivery order for continued Hurricane Katrina recovery.

Again, the modification language is not clear as to whether the Government wanted more debris removed, buildings stabilized, or repairs to be performed (completion form) or more debris removal, stabilization, or repair hours to be provided over another designated period of time (term form). While NAVFAC Southeast contracting officials issued technical directions to provide KBR more detail on the requirements, the technical directions did not identify a completion or term form of contract and for the most part failed to identify associated funding. For example, technical direction number 24 specified that:

> Remove and reset loose tiles in showers stalls on the 4th and 5th floor of H-100 building, [Naval Support Activity New Orleans] where work has been completed.

The technical direction is not clear as to whether the Government wanted a specific number of loose tiles removed and replaced (completion form) or a specific number of loose tile removal and replacement hours over a designated period of time (term form). Further, the reference to "where work has been completed" suggests this technical direction may not have been issued to initiate new work but rather for rework required to address quality deficiencies resulting from poor workmanship.

Task Order Number 17. NAVFAC Southeast issued task order number 17 on August 30, 2005, for $12.5 million to mobilize KBR to Naval Air Station Pascagoula, Naval Air Station Gulfport, Stennis Space Center, and other Navy installations in the Gulf Coast region to assist in assessing the damage caused by Hurricane Katrina, as well as to start stabilizing the damaged buildings and removing debris. NAVFAC Southeast also issued 12 modifications that added an additional $84.8 million to the task order and 58 technical directions to provide KBR additional information on the work requested, to add new or delete previously requested work, or to shift the emphasis among the various scopes of work. The basic statement of work included with the task order was for damage assessment and debris removal for the initial disaster response. The basic task order states:

> Initial Disaster Response for Hurricane Katrina. Mobilization/ Stabilization, debris removal, and assessments at [Naval Air Station] Pascagoula, [Naval Air Station] Gulfport, Stennis Space Center and other Navy installations in the Southeast Region.

Again, the statement of work language is not clear as to whether the Government wanted specific tasks to be performed (completion form) or a specific number of repair hours over a designated period of time (term form). The contracting officer also issued modification numbers 1, 2, 4–6, 8, 9, 12, 14, and 15 to add additional funding to the task order with only a general description of the work to be performed. For example, modification number 1 was issued on September 4, 2005, to add an additional $3 million to continue the Hurricane Katrina recovery. Specifically, the description included with the modification states:

> The purpose of this modification is to add funds for the stabilization, debris removal, and assessments at [Naval Air Station] Pascagoula, [Naval Air Station] Gulfport, Stennis Space Center and other Navy installations in the Southeast Region.

Again, the modification language is not clear as to whether the Government wanted additional debris removed, buildings stabilized, or repairs to be performed (completion form) or more debris removal, stabilization, or repair hours to be provided over another designated period of time (term form). While NAVFAC Southeast contracting officials issued technical directions to provide KBR more detail on the requirements, the technical directions did not identify a completion or term form of contract and for the most part failed to identify associated funding. For example, technical direction number 1 states:

> Provide labor, materials, supplies, services to repair electrical distribution system, provide temporary dry-in of roofs and building envelopes, debris removal, dry-out, and 4 [Megawatt] generator.

NAVAFAC Southeast contracting officials modified technical direction number 1 five times to require KBR to complete and deliver what appears to be specified end products or deliverables (completion form). Specifically, NAVFAC Southeast contracting officials modified the technical direction to add two buildings to the temporary dry-in requirement, to direct the replacement of items removed due to mold and water damage, and to direct the glass in several buildings be replaced. However, a second technical direction (technical direction number 42) was issued to further clarify technical direction number 1's requirements. That technical direction stated that KBR should:

> Provide all labor material and equipment necessary to replace a not to exceed amount of 1000 [square feet] of sheet rock, floor coverings, and/or ceiling tiles only for various buildings.

The reference to 1,000 square feet of sheet rock suggests a completion contract form. However, the "not to exceed' reference is vague and makes it unclear whether the Navy wants 500, 750, or 1,000 square feet of sheet rock, floor coverings, and/or ceiling tiles.

Clear, Specific, and Objective Requirement Language Needed. There are many risks and unknowns associated with natural disaster recovery work and without clear, measurable outcomes in the task orders it is not possible to determine what KBR was required to deliver. NAVFAC Southeast needs to establish procedures that verify contracting officials establish basic contract forms, either the completion form contract when the contractor is required to deliver a specified, definitive end product, or the term (level-of-effort) form contract when the contractor is required to provide simple labor hours (day, months, or years) over a designated period of time.

Cost Estimates and Ordering Procedures

The contracting officer did not consistently obtain contractor cost estimates; evaluate proposed prices and negotiate a target cost and fixed fee for contract requirements defined in clear, specific, and objective terms with measurable outcomes; or effectively implement the procedures for placing orders against the CONCAP contract.

Obtaining Contractor Cost Estimates. The CONCAP contract had detailed procedures requiring contractor cost estimates and although the contracting officer stated the task orders' "not to exceed" values (and the award fee pools) were based on contractor cost estimates obtained, we were unable to substantiate the claim. The cost estimates that NAVFAC Southeast obtained from KBR failed to sum to the $229 million estimated cost of performance ("not to exceed" values) for the three hurricane recovery task orders. Table 2 shows that NAVFAC Southeast contracting officials did not obtain cost estimates from KBR for much of the work performed in support of the Navy hurricane recovery efforts.

Table 2. Cost Estimates Obtained by KBR

Task Order Number	Estimated Cost of Performance	Contractor Cost Estimates: Basic and Modifications	Technical Directions	Combined	Percent
2	$46,819,259	$468,000	$ 170,000	$ 638,000	1.4
16	84,961,021	-	17,295,459	17,295,459	20.0
17	97,346,447	-	46,663,095	46,663,095	48.0
Total	**$229,126,727**	**$468,000**	**$64,128,554**	**$64,596,554**	**28.0**

As shown above, KBR provided cost estimates for only 28 percent of estimated cost to repair for damaged infrastructure. Although the contract documentation linked technical directions to some of the task orders and specific modifications, the cost estimates the Navy obtained from KBR for the respective technical directions failed to sum to the amounts added to the task orders. For example, the contract file for task order number 17 showed that modification number 9 was issued to add about $33.6 million to fund technical direction numbers 28, 29, 32, 34, 42–45, and 54. However, as Table 3 shows, the cost estimates the Navy obtained from KBR for those technical directions totaled only $189,268, or less than 1 percent of the work.

Table 3. Cost Estimates for Tasks Funded by Modification Number 9 Failed to Sum to $33.6 Million

Technical Direction	Cost Estimate
28	-
29	-
32	-
34	$100,350
42	-
43	21,988
44	20,900
45	83,230
54	(37,200)
Total	**$189,268**

Without contractor cost estimates, NAVFAC Southeast contracting officers were unable to evaluate proposed prices and negotiate a target cost and fixed fee for clearly defined contract requirements. NAVFAC Southeast needs to establish procedures to verify that contract ordering procedures are followed for engineering and construction services contracts for future natural disaster recovery efforts. Specifically:

- Cost estimates must be obtained from the contractor for all work requested. The cost estimates need to contain sufficient detail to enable price reasonableness or cost realism determinations to be made.

- Contractor proposals and associated cost or pricing data must be evaluated, including comparing proposed costs to an independent Government estimate.

Documenting Negotiations and Task Order Funding

Price Negotiation Memorandums. We were unable to determine how the Navy determined that the prices paid to KBR were fair and reasonable. NAVFAC Southeast's contracting officials did not document the principle elements of negotiated agreements in the contract files. Contrary to NAVFAC Southeast's contracting officials' claim that task orders' "not to exceed" values (estimated cost of performance) were based on contractor cost estimates, the Navy just periodically increased task order funding to pay for what KBR was projected to expend over some unknown future period (based on KBR's rate of spending at the time). Task order modifications were not tied to specific scopes of work and just simply issued to add funds to continue the recovery work. The Navy also did not obtain proposals from KBR. Therefore, the Navy could not evaluate proposed prices, perform cost realism analyses[1] to determine the probable cost to complete the tasks requested, or negotiate a target cost and fixed fee for contract requirements. The failure to base task order funding and the potential profit that KBR could earn on the negotiated target cost of definable tasks that KBR was directed to perform also created a CPPC system of contracting prohibited by section 2306(a), of title 10, United States Code (10 U.S.C. 2306[a]) (see finding C).

Document Contract Negotiations and Establish Funding Procedures. NAVFAC Southeast needs to establish procedures to verify that contracting officers document the principal elements of the negotiated agreement in the contract file. A target cost and fixed fee for contract requirements that are defined in clear, specific, and objective terms with measurable outcomes must be negotiated and documented. The funding (not the award fee) associated with a specific scope of work must only be increased if costs overrun and must be decreased when the contractor performs efficiently and completes the requested work for less than the negotiated target cost. Thus, how much is spent to complete each task must also be tracked and procedures established to adjust task order funding when actual performance costs differ for negotiated amounts.

[1] Cost realism analysis is the process of independently reviewing and evaluating specific elements of each offeror's proposed cost estimate to determine whether the estimated proposed cost elements are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the unique methods of performance and materials described in the offeror's technical proposal.

Improving Contracting Processes

The Navy needs to improve its contracting processes for hurricane recovery efforts. An improved process may be for NAVFAC Southeast to pre-negotiate an acceptable range for labor rates for the key skills required to support the Navy's natural disaster recovery efforts. The negotiated rates could be used until the Navy has fully assessed the damage and quantified its repair requirements. Once that has occurred, the Navy could use competitively awarded firm-fixed-price contracts to fulfill its remaining requirements. NAVFAC Southeast may also want to consider unit prices, such as square-footage rates for temporary roofing repairs and cubic-yard rates for debris removal, instead of time and materials for its level-of-effort contracts in the future. This would shift risk to the contractor, enable the Navy to better estimate repair costs, and decrease the extent of Government oversight required. Figure 3 shows how NAVFAC Southeast might obtain the labor and material needed to support the Navy's hurricane recovery efforts.

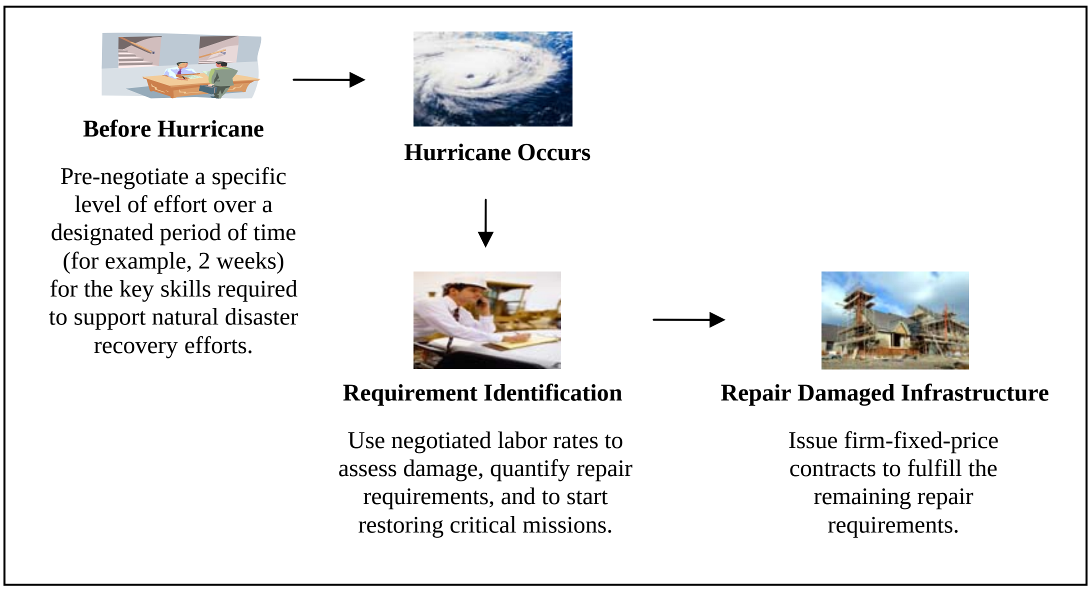

Figure 3. CONCAP Management Approach

NAVFAC needs to convene a performance improvement team composed of representatives from all relevant stakeholders to plan and execute a reengineered approach for obtaining the rapid emergency construction and engineering services needed to support the Navy's hurricane recovery efforts.

Recommendations, Management Comments, and Audit Response

A.1. We recommend the Commander Officer, Naval Facilities Engineering Command Southeast:

a. Establish procedures that verify contracting officials establish basic contract forms, either the completion form contract wherein the contractor is required to deliver a specified, definitive end product, or the term (level-of-effort) form contract wherein the contractor is required to provide simple labor-hours (day, months, or years) over a designated period of time.

b. Establish procedures to verify that contract ordering procedures are followed for engineering and construction services contracts for natural disaster recovery efforts. Specifically, contracting personnel must:

1. Request and obtain cost estimates for all work performed. The cost estimates need to contain sufficient detail to enable price reasonableness or cost realism determinations to be made.

2. Evaluate proposals and associated cost or pricing data, to include comparing proposed costs to an independent Government estimate.

3. Document the principal elements of the negotiated agreement in the contract file.

4. Base task order funding and potential award fee on the probable cost of the specific scopes of work that are requested.

5. Track how much is spent on each task that is requested and adjust task order funding to actual performance costs when known. The funding (not the award fee) associated with those scopes of work must only be increased if cost overruns occur and must be decreased when the contractor performs efficiently and completes the requested work for less than the negotiated cost.

A.2. We recommend the Commander Officer, Naval Facilities Engineering Command Atlantic convene a performance improvement team composed of representatives from all relevant stakeholders to plan and execute a reengineered approach for obtaining the rapid emergency construction and engineering services needed to support the Navy's hurricane recovery efforts.

Management Comments. The Assistant Commander for Acquisition concurred and stated that NAVFAC reengineered its approach to contracting for emergency construction and engineering services through the award of the Global Contingency Contract (GCC) contract. Specifically, there are controls in place with the GCC contract that require a more defined scope of work. In addition, the Assistant Commander stated that the NAVFAC Business Management System (BMS) process, Global Contingency Construction, issued on March 24, 2008, addresses the requirement for the contracting officer to specify either a completion form or term form contract. The process also addresses that each task order or modification shall include a scope of work and either a completion date or period of performance. The Assistant Commander stated the NAVFAC BMS process requires a detailed Government estimate in order to negotiate a fair and reasonable price for the deliverables required. In addition, a detailed cost estimate will be required from the contractor on all requests for proposals for task orders, modifications, and technical directions issued. All proposals from the contractor will be reviewed and compared to an independent estimate. Furthermore, each contract task order or modification will be negotiated to establish a target cost, with applicable award fee, for the required scope of work, which will be documented in accordance with BMS procedures. In addition, the target cost for task orders will only be adjusted commensurate to increases or decreases in the scope of work. Award fee will not be adjusted for any cost overruns. NAVFAC Atlantic will host a training session in the May-to-June 2008 time frame on the new ordering and administration procedures.

Audit Response. We consider the comments responsive.

B. Subcontract Costs

NAVFAC Southeast contracting officials did not provide adequate oversight on subcontracts valued at almost $242 million[2] awarded by KBR in support of the three task orders for hurricane recovery efforts on the CONCAP contract. The subcontract oversight was insufficient because NAVFAC Southeast contracting officials believed it was unnecessary since KBR had an approved purchasing system and the Defense Contract Audit Agency would be auditing task order costs at contract close out. Unfortunately, the three methods that KBR used to support price reasonableness for subcontracts (competition, market research, and other) were inadequate due to the abnormal market conditions and either cost or pricing data or some type of cost analysis were necessary to determine price reasonableness. As a result, KBR awarded sole-source and limited competition subcontracts that paid roofers hourly rates of up to [redacted], purchased $4.1 million of meals and services that "should have" cost approximately $1.7 million, and inappropriately paid a markup (or profit) on material and equipment totaling $7.2 million that increased proportionally to material and equipment costs expended in performance, a cost-plus-percentage-of-cost (CPPC) system of contracting.

Guidance

Contracting Officer and Prime Contractor Responsibilities. FAR Subpart 15.404-3, "Subcontract Pricing Considerations," requires contracting officers to determine price reasonableness for prime contracts, including subcontracting costs. Further, the prime contractor must also evaluate subcontractor prices to establish price reasonableness as a part of the prime contract proposal. Specifically, the FAR states:

> (a) The contracting officer is responsible for the determination of price reasonableness for the prime contract, including subcontracting costs. The contracting officer should consider whether a contractor or subcontractor has an approved purchasing system, has performed cost or price analysis of proposed subcontractor prices, or has negotiated the subcontract prices before negotiation of the prime contract, in determining the reasonableness of the prime contract price. **This does not relieve the contracting officer from the responsibility to analyze the contractor's submission, including subcontractor's cost or pricing data**.
>
> (b) The prime contractor or subcontractor shall—
>
> (1) Conduct appropriate cost or price analyses to establish the reasonableness of proposed subcontract prices;
> (2) Include the results of these analyses in the price proposal; and
> (3) When required by paragraph (c) of this subsection, submit subcontractor cost or pricing data to the Government as part of its own cost or pricing data.

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[2] KBR subcontracts not-to-exceed amounts exceeded the Navy's task order funding.

b(4)

> (c) Any contractor or subcontractor that is required to submit cost or pricing data also shall obtain and analyze cost or pricing data before awarding any subcontract, purchase order, or modification expected to exceed the cost or pricing data threshold, unless an exception in 15.403-1(b) applies to that action. **[Emphasis Added]**

Contractor Purchasing System Review. FAR Part 44.3, "Contractors Purchasing Systems Review," permits the administrative contracting officer to perform a contractor purchasing system review to evaluate the efficiency and effectiveness with which the contractor spends Government funds and complies with Government policy when subcontracting. The review provides the administrative contracting officer a basis for granting, withholding, or withdrawing approval of the contractor's purchasing system. When a contractor purchasing system review is conducted, special attention is given to the degree of price competition and pricing policies and techniques used by the contractor.

Consent to Subcontract. FAR Subpart 44.201-1, "Consent Requirements," states if a contractor has an approved purchasing system, consent is not required for subcontracts, unless they are specifically identified in the subcontract's clause.

Exceptions to Cost or Pricing Data Requirements. FAR 15.403-1, "Prohibition on Obtaining Cost or Pricing Data (10 U.S.C. 2306a and 41 U.S.C. 254b)," provides guidance on exceptions to cost or pricing data requirements relating to adequate price competition, prices set by law or regulation, and commercial items.

Commercial Item Definition. Commercial services are defined in 41 U.S.C. 403, "Definitions," as services that are sold competitively and in substantial quantities in the commercial marketplace.

> (12) The term "commercial item" means any of the following:
>
> (A) Any item, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes, and that--
>
> (i) has been sold, leased, or licensed to the general public; or
>
> (ii) has been offered for sale, lease, or license to the general public.
>
> (B) Any item that evolved from an item described in subparagraph (A) through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation.
>
> (C) Any item that, but for --
>
> (i) modifications of a type customarily available in the commercial marketplace, or
>
> (ii) minor modifications made to meet Federal Government requirements, would satisfy the criteria in subparagraph (A) or (B).
>
> (D) Any combination of items meeting the requirements of subparagraph (A), (B), (C), or (E) that are of a type customarily combined and sold in combination to the general public.
>
> (E) Installation services, maintenance services, repair services, training services, and other services if --

(i) the services are procured for support of an item referred to in subparagraph (A), (B), (C), or (D), regardless of whether such services are provided by the same source or at the same time as the item; and

(ii) the source of the services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government.

(F) Services offered and sold competitively, in substantial quantities, in the commercial marketplace based on established catalog or market prices for specific tasks performed and under standard commercial terms and conditions. [Emphasis added]

Time-and-Materials Contracts. FAR 16.601, "Time-and-materials contracts," provides guidance on acquiring services under time-and-materials contracts.

(b) *Description*. A time-and-materials contract provides for acquiring supplies or services on the basis of—

(1) Direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and

(2) **Actual cost for materials** (except as provided for in 31.205-26(e) and (f)).

. . . .

(c) *Application*. A time-and-materials contract may be used only when it is not possible at the time of placing the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence . . . .

(3) *Material handling costs.* When included as part of material costs, material handling costs shall include only costs clearly excluded from the labor-hour rate. Material handling costs may include all appropriate indirect costs allocated to direct materials in accordance with the contractor's usual accounting procedures consistent with Part 31. [Emphasis added]

Government Purchasing System Reviews

NAVFAC officials stated they relied heavily on the Defense Contract Management Agency's approval of KBR's purchasing system. However, the Defense Contract Audit Agency (DCAA) had identified significant deficiencies with KBR's purchasing system over the last couple of years. DCAA Report Number 3311-2005K12030001, "Purchasing System Internal Controls," issued on June 23, 2006, discusses the KBR purchasing system internal controls. The report disclosed that KBR's policies, procedures, and practices for subcontract award and administration were not adequate. DCAA also found that KBR did not perform regular internal compliance reviews of its overall procurement system and failed to maintain documentation that adequately justified its subcontract awards and demonstrated that negotiated subcontract prices were based on adequate cost or price analysis. In addition, DCAA found that KBR did not have a process in place for seeking and taking advantage of prompt pay discounts and did not always accurately report contractor achieved cost savings. As a result, DCAA recommended that the Defense Contract Management Agency disapprove those portions of the KBR purchasing system. Despite these shortcomings, the

Defense Contract Management Agency extended its approval of KBR's purchasing system because KBR initiated actions to address the issues raised by the DCAA audits. NAVFAC officials stated KBR's purchasing system approval status heavily influenced the extent of oversight they devoted to KBR's subcontracting efforts.

Subcontract Oversight

NAVFAC Southeast contracting officials did not provide adequate oversight over the subcontracts that KBR awarded in support of three task orders for hurricane recovery efforts on the CONCAP contract.

KBR Subcontracting Process. The "KBR Government and Infrastructure Procurement Policy and Practices Manual," March 21, 2006, prescribes the policy and procurement practices that all KBR employees and organizations must follow that are involved in any procurement activity. Figure 4 shows the prescribed process to issue subcontracts.

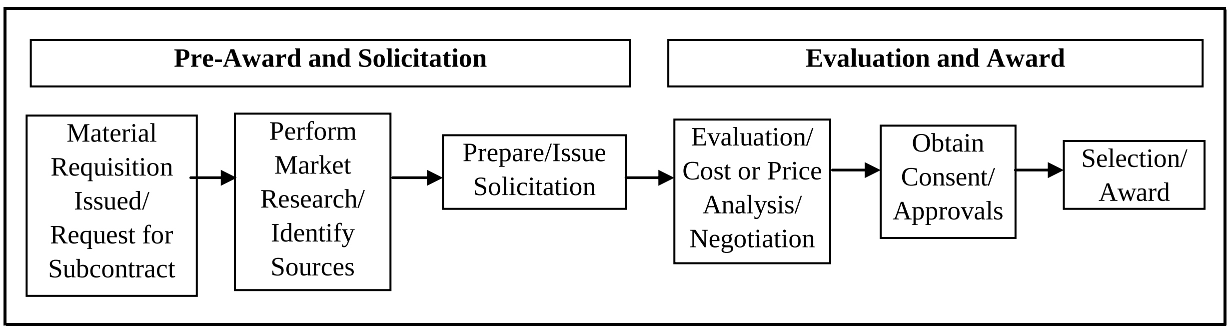

Figure 4. KBR Subcontracting Process

Navy Oversight. NAVFAC Southeast's contracting officials chose not to review KBR's analysis of subcontractor prices, including subcontractor cost or pricing data (not obtained by KBR), since KBR had an approved purchasing system and NAVFAC Southeast's contracting officials thought that any problems with KBR's subcontract pricing would be uncovered by DCAA during its cost incurred audits prior to the task orders being closed out.

Table 4 shows, as of August 31, 2007, subcontract costs amounted to almost $193 million or 85 percent of the funds expended to support the three hurricane recovery task orders.

Table. 4 Hurricane Recovery Costs

	Task Order Number 2	Task Order Number 16	Task Order Number 17	Total	Percent
Labor	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Travel	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Other direct costs	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Overhead	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
General and Administrative	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
KBR' s Cost	[redacted]	[redacted]	[redacted]	[redacted]	
Subcontracts	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Subtotal	[redacted]	[redacted]	[redacted]	[redacted]	
KBR' s profit	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Total	**$46,348,906**	**$84,327,848**	**$96,521,087**	**$227,197,841**	**100.0**

To evaluate the impact of NAVFAC Southeast's decision, we reviewed the contracting process for the 34 subcontracts with estimated values of more than $1 million that KBR issued to support the Navy recovery efforts after Hurricanes Ivan and Katrina. Table 5 shows that KBR used either competition, market research,[3] or other means to support price reasonableness for subcontract prices. The KBR CONCAP Program Manager and one of KBR's subcontract administrators stated that KBR did not obtain cost or pricing data from its subcontractors because they were prohibited from doing so because the offerors' proposed prices met one of the exceptions identified in FAR 15.403-1, "Prohibition on Obtaining Cost or Pricing Data (10 U.S.C 2306a and 41 U.S.C. 254b)." According to the KBR representatives, this was because the prices paid had been based on adequate price competition, were set by regulation (utility services), or because KBR had acquired a commercial service. See Appendix C for specifics on the subcontracts reviewed.

Table 5. Basis for Price Reasonableness (in Millions)

Task Order Number	Competition	Market Research	Other
2	$ 29.3	$ 0.0	$ 8.2
16	15.3	5.1	33.2
17	75.4	37.5	38.0
Total	**$120.0**	**$42.6**	**$79.4**

Unfortunately, the three methods (competition, market research, or other) that KBR used to support price reasonableness for subcontract prices were inadequate

[3] Comparisons of the offered prices to prices paid for similar services during prior hurricane recovery efforts.

due to the abnormal market conditions, either cost or pricing data or some type of cost analysis were necessary to determine price reasonableness.

Competition and Market Research

Limited Competition - $120 Million. According to KBR's "Award Document Summaries," only 16 (or 47 percent) of the 34 subcontracts valued at more than $1 million were awarded "competitively." KBR waited until after the storms before soliciting offerors for proposals to perform the tasks the Navy requested. At that point, market forces were out of balance and KBR representatives stated that many subcontractors were only willing to perform the requested tasks on a time-and-materials basis. There was also intense political, public, and operational pressure to restore lost capabilities and to stabilize the buildings damaged to prevent their further damage, and demand for the labor and material needed to perform the repairs was at its peak. KBR had to compete with other Federal, state, and local agencies, as well as the private sector, for the labor and materials it needed. As a result, the process of getting competitively priced contracts in place and ready for immediate execution posed significant difficulty for KBR and, according to NAVFAC Southeast representatives, the Navy had to accept rates 20 to 40 percent higher than those available before the storm.

Based on our review of the "competitions" that KBR conducted to select the subcontractors used to repair roofs, we believe the actual number of subcontracts awarded competitively is far less and the premium was much greater than 20 to 40 percent. For example, KBR solicited five contractors to repair the roofs damaged by Hurricane Ivan. The contractors were requested to propose fully burdened hourly labor rates inclusive of all costs associated with the work other than material. The rates were to be based on staffing the work 12 hours per day, 7 days per week, weighted for overtime and include all burdens and benefits, supervision, tools, equipment, other overhead costs, and profit.

As Table 6 shows, the rates proposed by the bidders ranged from $68.20 to $120.00. The table also shows that, despite the more than 76 percent difference between the lowest and highest proposed prices and the 167 percent difference between the lowest proposed price and the hourly rate that the Bureau of Labor Statistics reports that the top 10 percent of roofers in Pensacola, Florida, receive, the KBR subcontract manager concluded that adequate price competition existed and found the prices proposed by all but the highest were acceptable for award. Based on that determination, KBR awarded each of the contractors a piece of the total roof repair requirement.

Table 6. Roofing Companies' Proposed Rates

Contractor	Hourly Rate	Price Evaluation Method	Received Award
[redacted]	[redacted]	Adequate Price Competition	No
[redacted]	[redacted]	Adequate Price Competition	Yes
[redacted]	[redacted]	Adequate Price Competition	Yes
[redacted]	[redacted]	Adequate Price Competition	Yes
[redacted]	[redacted]	Adequate Price Competition	Yes

According to the Bureau of Labor Statistics, the top 10 percent of roofers receive $25.59 per hour in the Pensacola, Florida, area.

We believe the 46.6 percent difference between acceptable bids and the more than 150 percent premium over the prevailing hourly roofing rate for the Pensacola area should have prompted KBR to request cost or pricing data or other cost information from the offerors. FAR 15.402, "Pricing Policy," requires contracting officers to purchase goods and services from responsible sources at fair and reasonable prices. KBR defines a reasonable price as the "price that a prudent and competent buyer would be willing to pay, given available data on market conditions, alternatives for meeting the requirement, the evaluated price of each alternative, and technical evaluation factors." KBR requires the determinations be made using price analysis when cost or pricing data are not required and using price analysis in conjunction with cost analysis when cost and pricing data are required. KBR also requires its procurement personnel to obtain sufficient data to perform the cost or price analysis for making the determinations. Had KBR performed some cost analysis, it would have discovered numerous problems with the pricing offered. We met with representatives from three of the roofing subcontractors: [redacted]

b(4)

As Table 7 shows, combined, the roofing companies were paid approximately $27.5 million or 56.6 percent of the $48.5 million spent through September 2006 to repair roofs damaged by Hurricanes Ivan and Katrina.

Table 7. Roofing Subcontractors Reviewed

Contractor	Task Order No. 2	Task Order No. 16	Task Order No. 17	Total
Reviewed				
[redacted]	$1,177,169	$3,260,840	$7,070,774	$ 11,508,783
[redacted]	1,236,289	-	-	1,236,289
[redacted]	2,953,823	11,158,559	614,859	14,727,241
Subtotal				**$27,472,313**
Not Reviewed				
[redacted]	3,215,358	-	-	3,215,358
[redacted]	-	-	8,454,603	8,454,603
[redacted]	1,620,321	-	-	1,620,321
[redacted]	-	-	2,884,730	2,884,730
[redacted]	-	-	2,088,282	2,088,282
[redacted]	-	-	2,815,548	2,815,548
Subtotal				**$21,078,842**
Total				**$48,551,155**
Percent Reviewed				**56.6**

During our visits, we obtained other cost information to support the composition of each roofing company's labor rate. Table 8 shows a breakout of the various cost elements that each roofing company used its Hurricane Ivan labor rate to recoup. We found that costs that should have been charged as other direct costs, such as meals, gas, cell phone service, and mobilization were built into the rates.

Table 8. Hurricane Ivan's Labor Rates

	[redacted]		[redacted]		[redacted]	
	Hourly	Daily	Hourly	Daily	Hourly	Daily
Wages	[redacted]	[redacted]			[redacted]	[redacted]
Fringe	[redacted]	[redacted]			[redacted]	[redacted]
Taxes	[redacted]	[redacted]			[redacted]	[redacted]
Insurance	[redacted]	[redacted]			[redacted]	[redacted]
Small tools	[redacted]	[redacted]			[redacted]	[redacted]
Overhead	[redacted]	[redacted]			[redacted]	[redacted]
Subtotal	[redacted]	[redacted]			[redacted]	[redacted]
Meals	[redacted]	[redacted]			[redacted]	[redacted]
Gas	[redacted]	[redacted]			-	-
Cell phones	[redacted]	[redacted]			-	-
Mobilization	[redacted]	[redacted]			-	-
Subtotal	[redacted]	[redacted]			[redacted]	[redacted]
Profit	[redacted]	[redacted]			[redacted]	[redacted]
Rate	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

* [redacted]

b(4)

In addition, we found many of the cost elements the companies built into their labor rates were unsupported, overstated, or just questionable. KBR also agreed to pay some costs outside the labor rate. The net result of these issues caused the rates to be overstated and incomparable to one another.

Unsupported Costs. The roofing companies could not support all the cost elements included in their rates. For example, [redacted] was already performing work at NAS Pensacola when KBR issued its request for proposal soliciting bids to repair the roofs damaged by Hurricane Ivan. The vice president stated that the response time to the request for proposal was short and did not allow for an in-depth analysis or accumulation of quotes. Thus, using the information he had available, his years of knowledge and experience in the roofing business, and taking into consideration the conditions under which the work would be performed, the vice president projected a loaded rate of [redacted] per hour for all costs except material. The vice president further stated the rate was developed taking into consideration that additional personnel would have to mobilize (assemble, outfit, and transport) from San Antonio; it would be necessary to work long days; lodging and food costs in the area were above [redacted] policy for per diem or what was recognized for the area in the Federal Travel Regulations; and there was higher risk involved in successfully locating and obtaining or shipping tools, equipment, and other services and necessities required to perform the work. However, after their subcontract was awarded, [redacted] found that people located in the Florida area could be used to supplement their personnel already working in the area. Thus, although factored into its rate, [redacted] did not mobilize any additional people to repair the damaged roofs. Further, their roofers worked almost no overtime.

[redacted], on the other hand, was unable to support the amount included in its rate for overhead costs. [redacted] Chief Financial Officer stated the dollar value was developed using the company's historical rate, but could not provide cost data to support the rate that was used to derive the amount included in its rate to recoup its overhead costs.

Overstated Costs. Other cost elements were overstated. To assess the reasonableness of the amounts that [redacted] and [redacted] included in their rates for wages,[4] we compared the impact that those amounts had on the rates to the amounts that the companies would have charged had their roofers' actual wages been used to develop the labor rates. As a result, we concluded [redacted] wage estimate caused its labor rate to be approximately 20 percent overstated. In addition, we found the amounts that the roofing companies included in their rates to recoup the cost of feeding their employees were significantly higher than the $32 a day that the Federal Travel Regulations recognized for the Pensacola, Florida, area. As stated above, a number of [redacted] employees lived locally and, thus, were not entitled to per diem but it was built into their labor rate. KBR also agreed to pay [redacted] and [redacted] more than the amount recognized by the Federal Travel Regulations (31 and 125 percent more respectively). In addition, although they received per diem as a part of their rates, some subcontractors' employees, including those of [redacted], also received meals from the base galleys

[4] We were unable to determine how much of [redacted] labor rate was designed to recoup what the company paid to its employees because its rate was not formally developed.

and dining services that KBR provided during the Hurricane Katrina recovery effort at no cost.

Questionable Costs. Other cost elements included in the rates were designed to recoup questionable costs. For example, [redacted] included $1.50 per hour to recoup the cost of extra cell phones it expected its employees would need to perform the work. Based on the 12-hour days that each employee was expected to work, we calculate that KBR paid [redacted] $540 a month (30 days) per employee for each employee to have a cell phone while repairing the damaged roofs. [redacted] also included a $2.00 charge in its hourly rate or $720 a month per employee to pay for additional gas it expected to use during the performance of the work, despite KBR agreeing to provide fuel for "all [redacted]] trucks and transportation requirements." In addition to finding these charges excessive, we question their appropriateness. Normally, these charges, if appropriate, should be recouped as other direct costs.

Two of the roofing companies also used their labor rates to recoup anticipated one-time nonrecurring costs. As stated above, [redacted] Vice President developed its rate based on personnel mobilizing from San Antonio to perform the work. However, that never happened. Instead, the company found people already located in Florida who could perform the work. Thus, that portion of its rate converted to additional profit for the company. [redacted], on the other hand, included $33.13 in its hourly rate to recoup the $248,900 that it expected to incur mobilizing its 40 employees from San Antonio, Texas, and to purchase trailers for the employees to stay in while they repaired the damaged roofs. [redacted] based this plus-up on a guarantee of work for a 2-week period. However, KBR never renegotiated the rate after the 2-week period lapsed. As a result, the Navy paid $97,209 more than necessary for these costs. Although [redacted] failed to include anything in its rate to recoup its mobilization cost for Hurricane Ivan, [redacted] Chief Financial Officer stated that KBR agreed to pay the company an additional $250 for each individual it deployed to repair roofs damaged by Hurricane Katrina. Again, these costs, if appropriate, should have been charged as other direct costs and not included in labor rates.

NAVFAC needs to establish procedures to verify that subcontract costs for natural disaster recovery efforts are adequately analyzed and only appropriate costs are included in the labor rate.

Market Research - $42.6 Million. KBR also used questionable market research to determine that the prices paid for nine other subcontracts were reasonable. Specifically, KBR compared the prices paid under those subcontracts to each other and to those proposed by the offerors that participated in the limited competitions that were held. For example, KBR used the prices offered by the roofing companies that were awarded competitive roofing contracts to support a determination that the [redacted] per hour price offered by [redacted] to fix roofs damaged by Hurricane Katrina was fair and reasonable. However, our review of the composition of [redacted] Hurricane Katrina labor rate, as well as one of the rates used to support KBR's reasonableness determination found that both suffered from the same problems we discussed previously. KBR required the same pricing methodology be used for these subcontracts as was used for the roofing subcontractors, thus in all likelihood, the problems noted with the roofing companies' labor rates also exists with these subcontractors' rates as well.

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Had KBR adequately analyzed prices in the past, the labor rates paid during prior hurricane recovery efforts most likely would have been based only on appropriate costs and KBR's comparisons of offerors' proposed prices to those paid for similar services during previous efforts most likely would have produced accurate price reasonableness determinations. Thus, we are not making any recommendations related to this area.

Other - $79.4 Million. We found little or no support for how KBR determined the prices paid under the remaining nine subcontracts valued at more than $1 million were fair and reasonable. For the subcontracts that we were able to obtain information on the method used to establish price reasonableness, KBR either failed to obtain cost or pricing data, compared an offeror's proposed prices to either dissimilar or a subset of the requirements, or made the determination after it agreed to the price. For example, on September 4, 2005, the Navy issued technical direction number 2 to task order number 16 to direct KBR:

> to . . . provide 2,000 man tent camp with [food service], temporary toilet facilities, and other necessary utilities to service up to 7,500 military, civilian, and contractor personnel."

On September 5, 2005, KBR requested the [redacted] to provide a lump sum weekly quote for serving 2,500 meals per day and a unit price for each meal served above the first 2,500. In response to the solicitation, [redacted] proposed serving 2,500 meals per day for a lump sum of [redacted] and charging an additional [redacted] for each meal served thereafter. On September 9, 2005, the KBR CONCAP Program Manager increased the scope of the work and pricing structure. Specifically, KBR requested [redacted] to provide a lump sum weekly quote for serving three meals to 2,500 personnel per day and a unit price for each meal served over that amount. Thus, [redacted] revised its proposal to serving the 7,500 meals each day for [redacted] weekly and charging an additional [redacted] for each meal served over 7,500.

Notice to Proceed and Price Reasonableness. Due to the urgency to issue the "Notice to Proceed," the KBR CONCAP Program General Manager authorized awarding a sole-source subcontract to [redacted] for a not-to-exceed amount of $9.1 million. The KBR CONCAP Program General Manager stated, "The price is fair and reasonable. We have a pricing structure that will ensure we pay for actual meals served only." He also instructed [redacted] to "proceed with mobilizing assets to New Orleans while [KBR's] Procurement folks work on getting the subcontract issued." We were unable to determine how the KBR CONCAP Program Manager determined that the prices were fair and reasonable; there is nothing in the subcontract's procurement file to document how the determination was made. On September 16, 2005, the KBR Senior Subcontract Administrator requested [redacted] to "provide the breakdown for food, equipment, labor, overhead, and profit for the [offered prices]."

Table 9 shows the per person daily pricing breakout that [redacted] provided to KBR for its lump sum weekly quote for serving 3 meals to 2,500 personnel per day.

Table 9. Daily Per Person Pricing Breakdown	
Item Description	Unit Price
Food and materials	[redacted]
Equipment and supplies	[redacted]
Labor	[redacted]
Overhead and profit (17.66%)	[redacted]
Total	[redacted]

According to KBR's Negotiation Memorandum, KBR's procurement personnel found:

> [redacted] to be high, particularly the food cost and equipment per person. [redacted] was then provided a spreadsheet that requested their fixed cost and variable cost, such as food and consumables. The prices that were provided averaged out to the original [redacted] per person per day. [redacted] was then asked why the equipment cost was so high, at which [redacted] could not provide an acceptable answer. At that point, [redacted] was asked to go back and reduce their costs. It was also pointed out that KBR would not pay higher than the current Per Diem rate for Fiscal Year 2005 in that area, which was $47.00. [redacted] claimed to be feeding the personnel items such as steak and eggs and other higher cost food items. Again, [redacted] was advised that KBR would not pay higher than the going Per Diem rate in the area. [KBR] also stated that [it] wanted to see a cost scale that decreased as the numbers in the camp increased.

On September 22, 2005, [redacted] revised its pricing structure to the following:

- Lump sum of [redacted] weekly or [redacted] per person per day for providing THREE meals for 2,500 people a day [redacted]
- Meals with a headcount of 2,501–3,500, the cost shall be [redacted] a day;
- Meals with a headcount of 3,501–4,500, the cost shall be [redacted] a day;
- Meals with a headcount of 4,501–5,500, the cost shall be [redacted] a day;
- Meals with a headcount of 5,501–6,500, the cost shall be [redacted] a day;
- Meals with a headcount of 6,501–7,500, the cost shall be [redacted] a day; and
- $215,000 to cover initial startup costs and $55,000 for demobilization.

The KBR Senior Subcontract Administrator "found [the new prices] to be fair and reasonable to both KBR and the [Government]" because they were "lower than the prevailing Per Diem at the time." As a result, the Navy was obligated to buy three meals for 2,500 personnel each day even if they were not needed, which ended up being the case. As Figure 5 shows, over the 34-day contract performance period, KBR purchased 227,500 meals for [redacted] through this provision, even though [redacted] served only 113,654 meals because the personnel located in the area had other food service options.[5]

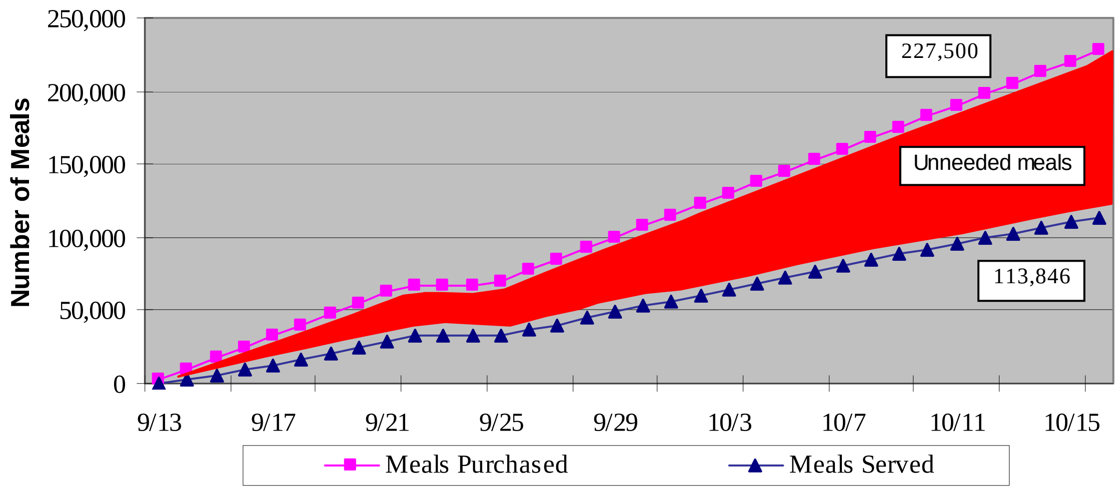

Figure 5. Unneeded Meals Purchased

According to a [redacted] representative, the excess meals were discarded because they could not be stored at the temperature prescribed by food safety guidelines. We also found the prices KBR agreed to pay were greatly inflated. The Navy paid approximately [redacted] for meals and services that we calculate should have cost $1.7 million, more than a [redacted] difference.

[5] [redacted] started serving meals the evening of September 13, 2005, and did not provide any food service for a 3-day period due to all personnel being evacuated during Hurricane Rita.

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Table 10 shows the price [redacted] charged KBR, the [redacted] cost, a price we calculate would be fair and reasonable for all the meals [redacted] purchased (including those that were reportedly discarded), and a price we calculate would be fair and reasonable to purchase only the meals actually eaten.

Table 10. Reasonable Cost for Meals Served

	[redacted]		Fair and Reasonable Price*	
Description	Price	Cost	All Meals	Meals Served
Mobilization	[redacted]	[redacted]	[redacted]	[redacted]
Meals and consumables	[redacted]	[redacted]	[redacted]	[redacted]
Equipment	[redacted]	[redacted]	[redacted]	[redacted]
Labor	[redacted]	[redacted]	[redacted]	[redacted]
Subtotal	[redacted]	[redacted]	[redacted]	[redacted]**9**
[redacted] fee		[redacted]	[redacted]	[redacted]
Subtotal		[redacted]	[redacted]	[redacted]**62**
KBR fee [redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Total	[redacted]	[redacted]	[redacted]	[redacted]

* Our calculations assume KBR paid a fair price to lease [redacted] cooking equipment for the 34-day contract performance period since the equipment was not provided to the Navy and that [redacted] was paid [redacted] percent for profit and its overhead as was originally agreed upon by the CONCAP Program General Manager.

Unfortunately, KBR stated it did not obtain cost or pricing data or cost information to include uncertified cost data because it was acquiring a commercial item and, thus, was prohibited from requiring [redacted] to provide the data. We disagree. There is not a marketplace where food service for 7,500 personnel is offered and sold competitively in substantial quantities, nor were there catalog or market prices for the services as required. KBR should have obtained cost or pricing data or, at a minimum, uncertified cost data. Had KBR done that, it would have determined [redacted] spent $367,994 to purchase the equipment that KBR leased for $1,122,914 and most likely would have concluded the reasonable price to buy and serve the food consumed by the Navy personnel operating in the New Orleans region was between $1.7 and $2.7 million (depending on the number of meals purchased).

DCAA has also been reviewing the [redacted] subcontract as a part of its incurred costs audits. In Audit Report number 3321-2007K17900006, DCAA also recommended that [redacted] of the [redacted] that KBR paid [redacted] be disallowed because they were associated with meals that were not served and labor and equipment costs that was not required. NAVFAC should, at a minimum, recover fair costs and fees associated with equipment totaling $1,368,077 that was purchased by [redacted] and never delivered to the Navy [redacted]

Material Handling Costs

KBR inappropriately paid subcontractors a profit on material costs through a provision that was also administered as a prohibited cost-plus-percentage-of-cost system of contracting. The provision, which was incorporated into 17 of the 28 time-and-materials subcontracts valued at more than $1 million, provided for material handling costs to be recouped through a markup paid on the material and equipment purchased to perform the needed repairs. As Table 11 shows, KBR paid about $7.2 million through the material and equipment markup provisions. The table also shows that the markup was strictly additional profit for two of the roofing companies we visited, while it was part profit/part reimbursement of material handling charges for the other company.

Table 11. Subcontractors With Material and Equipment Markup Provisions

Subcontract	Contractor	Materials	Equipment	Total Cost	Profit Percent	Profit Paid
Reviewed/ Pure Profit						
[redacted]	[redacted]	$ 2,907,727	$ 320,561	$ 3,228,288	[redacted]	[redacted]
[redacted]	[redacted]	564,706	90,169	654,875	[redacted]	[redacted]
[redacted]	[redacted]	94,836	19,687	114,523	[redacted]	[redacted]
Subtotal		**3,567,269**	**430,417**	**3,997,686**		[redacted]
Reviewed/ Mixed						
[redacted]	[redacted]	411,385	293,829	705,214	[redacted]	[redacted]
[redacted]	[redacted]	121,105	11,364	132,469	[redacted]	[redacted]
Subtotal		**532,490**	**305,193**	**837,683**		[redacted]
Not Reviewed						
[redacted]	[redacted]	204,479	-	204,479	[redacted]	[redacted]
[redacted]	[redacted]	252,750	24,792	277,542	[redacted]	[redacted]
[redacted]	[redacted]	630,900	82,609	713,509	[redacted]	[redacted]
[redacted]	[redacted]	9,940	-	9,940	[redacted]	[redacted]
[redacted]	[redacted]	193,097	410,855	603,952	[redacted]	[redacted]
[redacted]	[redacted]	470,499	142,382	612,881	[redacted]	[redacted]
[redacted]	[redacted]	1,752,284	140,495	1,892,779	[redacted]	[redacted]
[redacted]	[redacted]	30,556	2,227,604	2,258,160	[redacted]	[redacted]
[redacted]	[redacted]	6,031,291	21,418,417	27,449,708	[redacted]	[redacted]
[redacted]	[redacted]	2,121,848	69,530	2,191,378	[redacted]	[redacted]
[redacted]	[redacted]	1,514,968	573,692	2,088,660	[redacted]	[redacted]
[redacted]	[redacted]	525,854	-	525,854	[redacted]	[redacted]
Subtotal	[redacted]	**13,738,466**	**25,090,376**	**38,828,842**	[redacted]	[redacted]
[redacted]						[redacted]
Total		[redacted]		[redacted]		[redacted]

[redacted]

Representatives from [redacted] and [redacted] stated they had the material needed to repair the damaged roofs delivered directly to the work site and any time spent handling the material was recouped through their employees' labor hours. Consequently, any markup on their material and equipment costs

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represents profit that is unallowable on material and equipment costs. [redacted] President, on the other hand, provided support that showed its markup was designed to recoup a number of charges, to include those associated with its warehouse and purchasing personnel, managers, and supervisors, the renting of its warehouse, taxes, utilities, insurance, and for material handling equipment. However, based on our review of the cost data that were provided, we believe some of the charges may also be included in [redacted] labor rate. Although contractors are allowed to include material handling costs, if appropriate, as a part of material costs, those costs can only include costs clearly excluded from the labor rates.

According to the KBR CONCAP Project Manager, it was an industry standard to use a markup to pay companies for their material handling charges. Our review found otherwise: different companies handle those costs differently. It was KBR's responsibility to determine whether these indirect material handling costs were in accordance with contract accounting practices or profit. By using a markup to pay companies for their material handling charges, KBR also created a CPPC system of contracting prohibited by 10 U.S.C. 2306(a). The markup on material and equipment purchases meets the Government Accountability Office (GAO) four-point test (see Finding C). Payment was based on predetermined percentages (GAO #1) that were applied to the subcontractors' material and equipment costs (GAO #2). The payments resulting from the markups were not certain until all the repairs were complete and actual equipment and material costs known (GAO #3). Lastly, as Figure 6 illustrates, the profit that KBR and its subcontractors derived from the markup increased proportionally to increases in material costs (GAO #4). KBR agreed to pay a [redacted] markup on the materials that [redacted] purchased to repair the roofs damaged by Hurricanes Ivan and Katrina. KBR also earned [redacted] on every dollar [redacted] spent on materials. Thus, for every additional dollar spent on material, the profit KBR and [redacted] derived by the markup increased by a fixed percent.

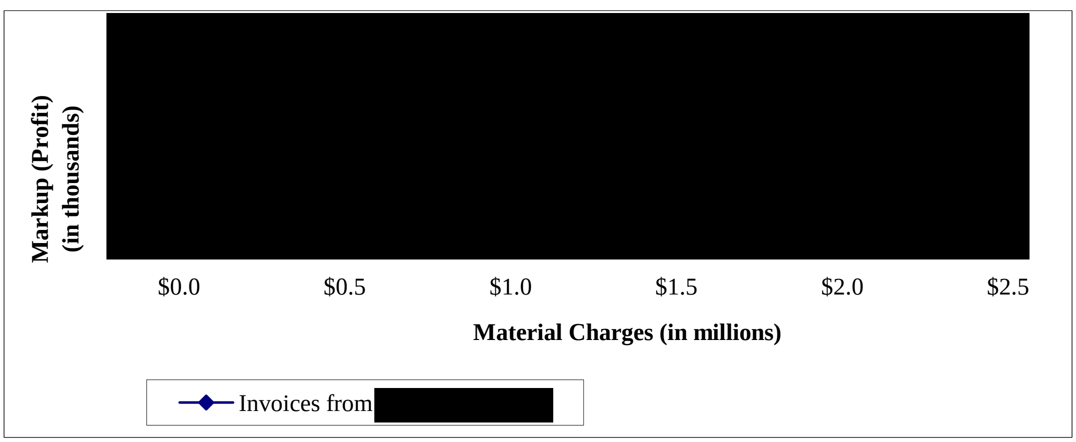

Figure 6. Profit Derived From the Markup Provisions Increased Proportional to Increases in Material and Equipment Charges

Obviously, the provisions encouraged the subcontractors to spend liberally on material and equipment, as it meant more profit. Our review of the material costs for the three roofing companies we visited shows that some of KBR's

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subcontractors may have done just that. One would expect those companies to use the same “rough order of magnitude” of material to perform the same type of services. However, as Table 12 shows, [redacted] material costs were a disproportionate higher percentage of labor when compared to that of the other companies used by KBR to repair the Navy’s damaged roofs. [redacted] and [redacted] material costs were 7.35 percent and 8.40 percent of labor, while The [redacted] was 25.20 percent of labor. We question why [redacted] needed over 200 percent more material to provide the same roofing services and received a [redacted] profit on this material.

Table 12. Subcontractor Material Purchases

	[redacted]	[redacted]	[redacted]
Labor	$ 1,121,766	$ 5,462,772	$ 12,062,357
Material	$ 82,466	$ 458,647	$ 3,039,918
Percent of Labor	**7.35**	**8.40**	**25.20**

In addition, it appears many contractors bought more material than they required to complete the needed repairs. According to a NAVFAC Southeast technical representative, the Navy filled a warehouse with the excess inventory KBR turned over to the Government at the completion of the Hurricane Ivan recovery efforts. The representative also stated KBR turned over in excess of $900,000 left over material after the Hurricane Katrina recovery efforts in the New Orleans region.

Assessment Needed. NAVFAC Southeast needs to request the Defense Contract Audit Agency review all the costs paid under the material markup provisions and determine what amounts relate to material handling costs and what amounts relate to profit. NAVFAC Southeast should request KBR to refund any amount determined to represent profit. We calculate that the Navy could recover as much as $7.2 million from KBR for the inappropriate payments. In addition, the Navy needs to develop procedures to address liability for excess material procured by commercial contractors.

Conclusion

The CONCAP contract’s ordering procedures, as written, do not ensure that effective competition and reasonable pricing are obtained for hurricane recovery efforts. KBR waited until after the storms before it solicited and awarded subcontracts to obtain the labor and material needed to support the Navy’s recovery efforts. At that point, market forces were out of balance and, as stated by KBR, many subcontractors were only willing to perform the requested tasks on a time-and-materials basis. There was also intense political and public pressure to restore lost capabilities and to stabilize the buildings damaged to prevent their further damage, and demand for the labor and material needed to perform the repairs was at its peak. In light of all problems that occurred with the subcontracts awarded to support the three hurricane recovery task orders, we believe NAVFAC Southeast needs to establish procedures to verify that subcontracts used to support natural disaster recovery efforts that are anticipated to be valued at more than $1 million are adequately reviewed to ensure reasonable pricing has been obtained and the taxpayer funds are spent wisely. The Navy

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should also consider using DCAA's services to help oversee the issuance of subcontracts used to support future natural disaster recovery efforts.

Recommendations, Management Comments, and Audit Response

B.1. We recommend the Commander Officer, Naval Facilities Engineering Command Southeast:

a. Request a refund for $1,368,077 from Kellog, Brown, and Root for the unreasonable lease charge and fees associated with cooking equipment purchased by Commercial Marketing Corporation.

b. Request the Defense Contract Audit Agency review all the costs paid under the material markup provisions and determine what amounts relate to material handling costs and what amounts relate to profit.

c. Request Kellog, Brown, and Root to refund any amount paid under the material markup provisions determined to represent profit. We calculate this could result in the Navy recovering as much as $7.2 million from Kellog, Brown, and Root for the inappropriate payments.

Management Comments. The Assistant Commander for Acquisition concurred and stated all payments on task order number 16 have been suspended. The Assistant Commander also stated that a Form I had been issued to KBR for the unreasonable lease charge and fees associated with the cooking equipment purchased by the Commercial Marketing Corporation and that NAVFAC would work with DCAA to determine what amount of the markups paid on the material purchased were improper and seek recovery as appropriate.

Audit Response. We consider the comments responsive.

B.2. We recommend the Commander Officer, Naval Facilities Engineering Command Atlantic:

a. Establish procedures to verify that subcontract costs for natural disaster recovery efforts are adequately analyzed and only appropriate costs are included in the labor rate.

b. Develop procedures to address liability for excess material procured by commercial contractors.

c. Establish procedures to verify that subcontracts used to support natural disaster recovery efforts that are anticipated to be valued at more than $1 million are adequately reviewed to ensure that effective cost or price analysis is performed and that cost or pricing data are obtained when necessary.

Management Comments. The Assistant Commander for Acquisition concurred and stated contracting officials will comply with required oversight of prime contractor's internal controls on management and accounting systems. The

Assistant Commander also stated NAVFAC will conduct periodic reviews of the contractor's systems and major subcontracts as prescribed in the GCC contract administration plan.

Audit Response. We consider the comments responsive.

C. Prime Contractor Costs

NAVFAC Southeast contracting officials awarded KBR three task orders on its cost-plus-award-fee CONCAP contract for hurricane recovery efforts valued at about $229 million that were administered as prohibited cost-plus-percentage-of-cost (CPPC) contracts. This condition occurred because the NAVFAC Southeast contracting officials never obtained proposals from KBR and negotiated agreements for contract requirements that conclusively fixed the amount of fee or profit for a specific scope of work or level of effort. As a result, the award fee available to KBR of about [redacted] increased proportionally to costs expended in performance rewarding inefficiency and non-economical performance because higher costs meant higher profit to KBR.

Guidance

United States Code. Section 2306(a) of title 10, United States Code prohibits the use of the CPPC system of contracting. The underlying intent of Congress in prohibiting the CPPC system of contracting was to protect the Government from a contractor who has a contract for payment of undetermined future costs to pay liberally for reimbursable items because higher costs means higher profit for him.

Supreme Court Decision. Supreme Court in "Muschany v. United States, 324 U.S. 49, 61-62 (1945)" addressed CPPC contracts.

> The purpose of Congress was to protect the Government against the sort of exploitation so easily accomplished under Cost-Plus-Percentage-of-Cost (CPPC) contracts under which the Government contracts and is bound to pay costs, undetermined at the time the contract is made and to be incurred in the future, plus a commission based on a percentage of these future costs. **The evil is that the profit of the other party to the contract increases in proportion to that other party's cost expended in the performance.** The danger guarded against by the Congressional prohibition was the incentive to a Government contractor who already had a binding contract with the Government for payment of undetermined future costs **to pay liberally for reimbursable items because higher costs meant higher fee to him, his profit being determined by a percentage of cost.***** Congress*** indicated it did not care how the contractor computed his fee or profit **as long as the fee or profit was finally and conclusively fixed in amount at the time when the Government became bound to pay it by its acceptance of the bid [emphasis added].**

Test for Cost-Plus-Percentage-of-Cost Contracts. The Comptroller General of the United States has rendered numerous decisions[6] involving the issue of whether certain types of contractual arrangements constituted prohibited CPPC arrangements. The guidelines applicable to this consideration and also referred to as the GAO "four-point test" are:

GAO #1: payment for profit is based on a predetermined percentage rate,

GAO #2: the predetermined percentage rate is applied to actual performance costs,

GAO #3: contractor entitlement is uncertain at the time of contracting, and

GAO #4: contractor entitlement increases commensurately with increased performance costs.

Cost-Plus-Percentage-of-Cost Task Orders

NAVFAC Southeast administered the three largest task orders awarded to KBR on its cost-plus-award-fee CONCAP contract for hurricane recovery efforts as prohibited CPPC contracts.

[6] Such as Comptroller General Decisions on "Marketing Consultants International Limited," 55 Comp. Gen. 554, B-183705 (December 10, 1975) and "Contracts -- Cost-Plus-a-Percentage-of-Cost Prohibition – Administrative Controls – Payment Basis," 38 Comp. Gen. 38 (July 21, 1958).

Table 13 shows that KBR’s fee or profit was based on a predetermined percentage rate. Every time funds were added or subtracted from the task orders, KBR’s profit increased or decreased by the [redacted] award fee rate (GAO #1). In essence, this means there was never an instance where a task overran or underrun.

Table 13. Award Fee Increases

	Task Order 2			Task Order 16			Task Order 17		
Mod. #	Estimated Cost	Award Fee	Fee Percent	Estimated Cost	Award Fee	Fee Percent	Estimated Cost	Award Fee	Fee Percent
Basic	$ 96,154	[redacted]	[redacted]						
Basic	480,769	[redacted]	[redacted]	$ 144,231	[redacted]	[redacted]	$ 12,019,231	$ [redacted]	[redacted]
1	3,365,385	[redacted]	[redacted]	-	-	-	2,884,615	[redacted]	[redacted]
2	4,807,692	[redacted]	[redacted]	4,279,384	[redacted]	[redacted]	961,538	[redacted]	[redacted]
3	-	-	-	3,893,693	[redacted]	[redacted]	-	-	-
4	1,153,846	[redacted]	[redacted]	7,500,000	[redacted]	[redacted]	2,884,615	[redacted]	[redacted]
5	195,386	[redacted]	[redacted]	9,615,385	[redacted]	[redacted]	3,302,087	[redacted]	[redacted]
6	240,385	[redacted]	[redacted]	(924,729)	[redacted]	[redacted]	101,923	[redacted]	[redacted]
7	197,940	[redacted]	[redacted]	-	-	-	3,596,154	[redacted]	-
8	5,769,231	[redacted]	[redacted]	2,884,615	[redacted]	[redacted]	956,731	[redacted]	[redacted]
9	450,000	[redacted]	[redacted]	3,979,557	[redacted]	[redacted]	32,274,323	[redacted]	[redacted]
10	961,538	[redacted]	[redacted]	705,769	[redacted]	[redacted]	-	-	-
11	2,884,615	[redacted]	[redacted]	9,615,385	[redacted]	[redacted]	-	-	-
12	353,077	[redacted]	[redacted]	-	-	-	2,410,730	[redacted]	[redacted]
13	3,846,154	[redacted]	[redacted]	10,865,385	[redacted]	[redacted]	(1,133)	[redacted]	[redacted]
14	1,923,077	[redacted]	[redacted]	(1,634,615)	[redacted]	[redacted]	31,730,769	[redacted]	[redacted]
15	8,653,846	[redacted]	[redacted]	2,884,615	[redacted]	[redacted]	480,769	[redacted]	[redacted]
16	3,701,929	[redacted]	[redacted]	11,538,462	[redacted]	[redacted]	-	-	-
17	1,923,077	[redacted]	[redacted]	-	-	-			
18	-	-	-	8,653,846	[redacted]	[redacted]			
19	1,611,350	[redacted]	[redacted]	961,538	[redacted]	[redacted]			
20	2,405,000	[redacted]	[redacted]	6,250,000	[redacted]	[redacted]			
21				480,769	[redacted]	[redacted]			
Total	**$ 45,116,605**	[redacted]		**$ 81,693,290**	[redacted]		**$ 93,602,352**	[redacted]	

Fixed Fee or Profit

NAVFAC Southeast contracting officials never received nor accepted a proposal from KBR that conclusively fixed in amount the fee or profit for any of the work on task order numbers 2, 16, and 17. As described in finding A, NAVFAC Southeast contracting officials did not establish whether the contracts were completion or term form contracts, and failed to request and obtain proposals from KBR or enter into negotiated agreements that conclusively fixed the fee or profit for a specific scope of work or level of effort. Accordingly, funds were added to the task orders based on calculations made by the Navy related to KBR’s “spend rate” and caused KBR’s award fee to be derived from actual performance costs (GAO #2).

Contract Terms for Award Fee Calculation and Payment. The CONCAP contract included appropriate terms relating to the calculation of the award fee and payment aimed at preventing a CPPC system of contracting if the terms were followed.

> Each task order will contain a maximum award fee, which is established by multiplying the total [negotiated target] cost of [the] individual task order by the contract award fee rate [redacted] **The award fee will <u>not</u> be adjusted for cost overruns or when an order has been completed at less than the total cost estimated cost.** Adjustments to the award fee will be made for modifications, which cause an increase or decrease to the scope of the delivery order. (NOTE: ALL REWORK WILL BE NON-FEE BEARING) **[emphasis added]**

However, without a cost proposal that related the award fee to a specific scope of work or level of effort, the Navy could not determine overruns or underruns on orders completed at costs more or less than estimated. We found the Navy frequently modified the task orders to add additional funding (and potential award fee) so KBR could continue working on previously requested tasks without first determining whether the scope of work had changed. For example, modification number 15 to task order number 2 increased the cost and associated award fee by [redacted] in part to add additional funding to continue previously requested work as well as to increase the scope of work. The modification stated:

> The purpose of this modification is to incorporate guidance for [buildings] 606, [and] 3910 and to add additional funding for continued stabilization.
>
> [Building] 606:
>
> The purpose of this modification is to **continue with the permanent repairs to Building 606, previously identified** by modification #[8]. **Further, the modification increases the scope of work to include permanent repairs to the roof system.** The previous completion date of 4 November 2004, will be extended when additional technical direction is provided.
>
> [Building] 3910:
>
> **The purpose of this modification is to continue with the permanent repair to NATTC barracks. Specifically, this modification provides additional funds for the permanent repairs to [building] 3910. [Emphasis added].**

Although the contracting officer did add additional scope with the work associated with the permanent repair to roofing system for Building 606, the work associated with permanent repairs to Buildings 606 and 3910 did not identify any scope increase. However, the award fee was increased for the total amount of the modification.

Conversely, modification number 19 to task order number 2 valued at $1,675,000, shows that funds associated with "savings" for previous efforts were moved to other projects along with the award fee. Consequently, it was not possible for

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KBR to earn the full award fee on tasks that were completed at less than the estimated cost (funding level). The modification states:

> <u>Building 3910:</u>
>
> Perform additional repairs, including painting, carpeting, additional sheetrock, electrical switches, 3-inch firewall ratings, moving furniture, exterior caulking, and scaling. **Funds for this are provided through savings from previous obligations for Building 3910** . . .
>
> <u>Building 3901-08:</u>
>
> Additional funds . . . are obligated for repairs to include: Painting, drywall corner and L bead, replace drywall base, add drywall 3-inch firewall rating, moving furniture and exterior caulking and sealing. **Additional funds . . . are provided for the work through savings from . . . Building 3910**.

Consequently, the Navy was not following the CONCAP contracts terms and conditions associated with the award fee that required the available award fee to be fixed in amount and associated with a specific scope of work or level of effort to prevent a CPPC system of contracting. Instead, the Navy just added funds to the task orders based on calculations it made related to KBR's "spend rate." As a result, KBR's available award fee ended up being derived from actual performance costs, which were clearly not certain until all the repairs were complete (GAO #2 and #3).

Award Fee Increased Proportional to Costs

The award fee available to KBR of about [redacted] increased proportionally to increases in costs expended in performance and, thus, encouraged inefficiency and non-economical performance because higher costs meant higher profit to KBR (GAO #4).

Award Fee Increased Proportionally to Increases in Repair Costs. Figures 7, 8, and 9 show because the Navy added funds to the task orders based on calculations related to KBR's "spend rate," the award fee pool and potential profit that KBR could earn increased by [redacted] for every additional dollar KBR spent repairing the Navy's damaged infrastructure. Although it is conceivable that KBR might not receive every dollar that was added to the award fee pool, the figures also show that KBR received almost the entire amount added to the award fee pools for the three task orders we reviewed. NAVFAC awarded KBR 100 percent of the money added to the award fee pool for task order number 2.

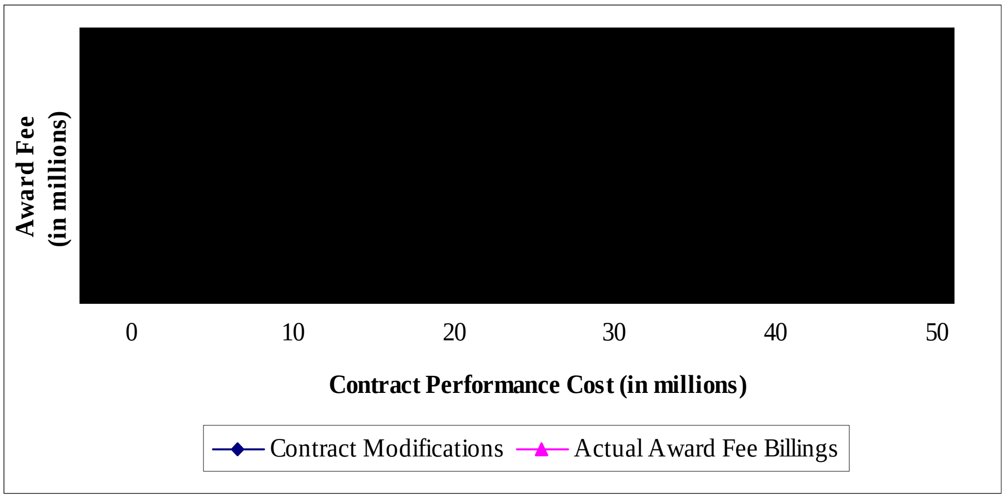

Figure 7. Award Fee Earned on Task Order Number 2 Increased Proportionally to Repair Costs

NAVFAC awarded KBR 96 percent of the money added to the award fee pool for task order number 16.

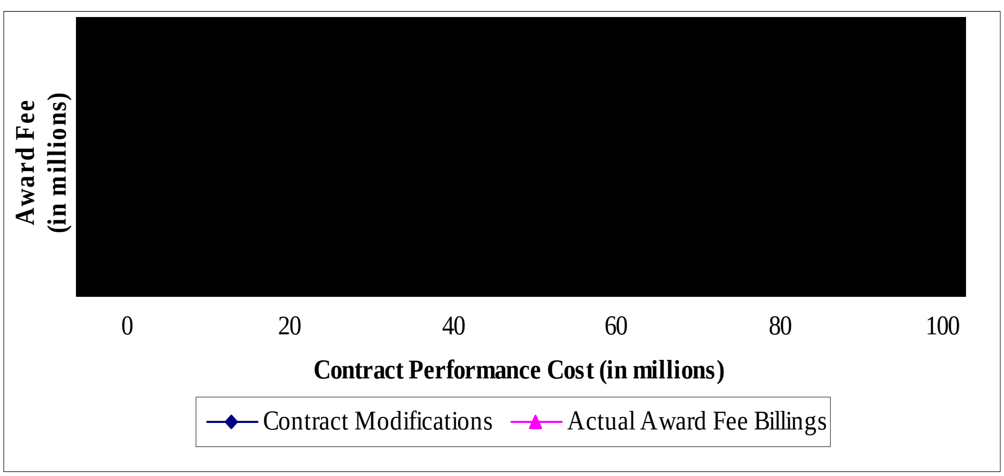

Figure 8. Award Fee Earned on Task Order Number 16 Increased Proportionally to Repair Costs

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NAVFAC awarded KBR 88 percent of the money added to the award fee pool for task order number 17.

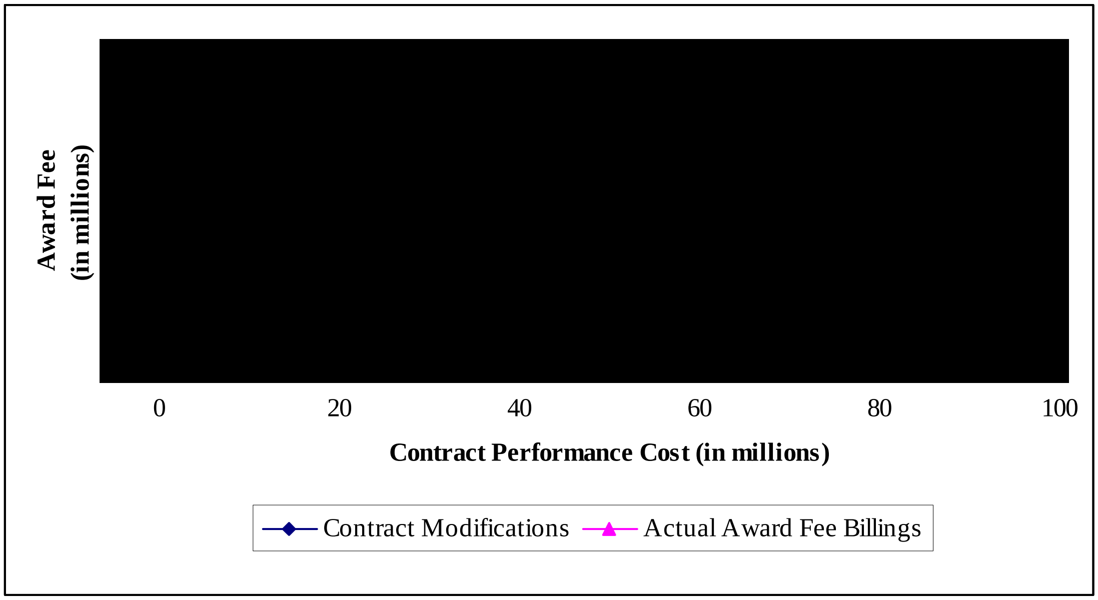

Figure 9. Award Fee Earned on Task Order Number 17 Increased Proportionally to Repair Costs

Rewarding Inefficiency and Non-Economical Performance. KBR received additional fee or profit for inefficiency and non-economical performance because higher costs meant higher profit.

- The Navy paid additional fees for numerous tasks that had to be redone due to poor workmanship. For example, the Navy tasked KBR to construct a number of trailer parks to house service members displaced by Hurricane Katrina. As a part of the task, KBR was required to provide each trailer stall with 200 amps of electricity and lay piping to supply water to the parks. However, the subcontractors KBR hired installed disconnects that limited the camps' electrical grid to 100 amps and failed to lay the piping to the depth prescribed by the local building code. These deficiencies caused insufficient electricity to be supplied to the trailer stalls and led to numerous pipes being broken when the Navy installed tie-down straps on the trailers as a preventive measure against future inclement weather. Thus, the contracting officer issued technical direction number 46 of task order number 16 to add an additional $200,000 (inclusive of additional award fee), to "[c]omplete electrical work at [recreation vehicle parks in addition to repairing plumbing and electrical damage done by Mobile Home installing contractor." In another instance, the Navy tasked KBR to restore the Navy Lodge to its pre-storm condition. However, after a year of substandard performance that caused numerous repairs to be reworked, the Navy directed KBR to leave the work site and hired another contractor to correct the deficiencies with KBR's workmanship and to complete the renovations.

- KBR also provided questionable management of its subcontractors. For example, one of the technical experts that the Navy used to assess KBR's performance stated in his evaluation that his “rub with KBR was how blind they were to their performance on the mold issue. Despite our constant harping on them, they continued with the same [subcontractor], who was extremely inefficient and lacking in what our needs were. For example, they pack[ed] a BEQ room for 4-5 workers who [did not] really know what they were doing, while at CDC, one worker proudly showed me the 20 soda cans that he had just decontaminated, meanwhile mold was growing. It got to a point, where [NAVFAC Southeast] brought in two mold companies.” Another of the technical experts the Navy used stated he “witnessed 10-15 workers sweeping water around in a parking lot with no apparent supervision. KBR received its fee for every hour its subcontract employees worked, even the unproductive hours.

Conclusion

Under the terms of the contract, the maximum award fee (or potential profit) KBR could earn was supposed to be established by multiplying the negotiated target cost for the tasks requested by the [redacted] contract award fee rate (GAO #1). However, because NAVFAC Southeast contracting officials failed to relate fee or profit to a specific scope of work or level of effort (finding A), the [redacted] contract award fee rate was applied to actual performance costs (GAO #2), which were uncertain at the time of contracting (GAO #3). As a result, the maximum award fee that KBR could earn increased proportionally to performance costs and encouraged KBR to perform inefficiently and non-economically, as increased cost meant increased profit (GAO #4). Based on the illegal CPPC system of contracting that was inadvertently created for the CONCAP contract hurricane recovery task orders, NAVFAC Southeast needs to determine whether the amount paid to KBR represents the fair and reasonable value of services accepted, and if not, take appropriate action to recover the excessive award fee.

Recommendation, Management Comments, and Audit Response

C. We recommend the Commanding Officer, Naval Facilities Engineering Command Southeast determine whether the amount paid to KBR represents the fair and reasonable value of services accepted, and if not, take appropriate action to recover the excessive award fee.

Management Comments. The Assistant Commander for Acquisition disagreed that the Navy administered the hurricane recovery task orders as illegal CPPC contracts. The Assistant Commander stated that the Navy task orders were administered as authorized cost-plus-award-fee contracts because the Navy conducted a subjective evaluation of KBR’s performance in order to determine KBR’s fee rather than calculating KBR’s fee as a straight percentage of costs. The Assistant Commander further stated that, as a result of the subjective evaluation, the contracts do not constitute illegal CPPC contracts. The Assistant Commander cited Comptroller General Decision B-217211, *United Food Services, Inc.*, and *National Electronic Laboratories, Inc. v. United States*, 148 Ct. CI.308, 313-14 180 F. Supp. 337 (1960) to support his position that a CPPC

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system of contracting does not exist when the contract provides for contractor's performance and "efficiency, economy, and ingenuity" to be examined before awarding compensation to a contractor.

Audit Response. We do not consider management's comments to be responsive. The Navy has commented that the CONCAP contract is a lawful cost-plus-award-fee contract in accordance with criteria set forth by the Comptroller General. However, an examination of the Comptroller General criteria reveals that the Navy failed to structure the award fee framework to prevent the contract from operating as a CPPC contract. The Navy likened the CONCAP task order contracts to the contract that the Comptroller General in *United Food Services, Inc.*, found to be a cost-plus-award-fee contract authorized by the FAR and did not constitute a CPPC contract. The Comptroller General in United Food cited two measures that operate to safeguard against the contractor's incentive to increase performance cost.

> First, we note that a cost-plus-award-fee type of contract is authorized under the FAR, 48 C.F.R. §§ 16.305 and 16.404-2. It is distinguished from a prohibited cost-plus-a-percentage-of-cost contract, as the latter automatically allows the contractor a fee based on a fixed percentage which increases unchecked as costs increase, thus providing an incentive for inefficient performance. United Food Services Inc. offered no evidence that this would be the case under the Army's proposed cost-plus-award-fee method of reimbursement. To the contrary, as discussed above, the award fee rewards efficient performance and so, **while with increased costs the base for the fee calculation will be higher, the amount of fee to which the contractor will be entitled will decrease as contractor costs increase. Also, the total fee is subject to a fixed dollar ceiling. [emphasis added]**

Consequently, although the Award Fee Determination Board can provide an objective evaluation of the contractor's performance providing that the contractor might not get the entire percentage of costs, the Navy has not shown that the award fee penalized inefficient performance by decreasing when costs increase and the total fee was not subject to a fixed dollar ceiling. Therefore, the CONCAP contract fails to be analogous to the contract in *United Food Services, Inc.*, that included an award fee that not only penalized inefficient performance but was also subject to a fixed dollar ceiling. Similarly, in *National Electronic Laboratories,* the contract had a price revision clause with a specific limit by which the revised price could not exceed. As noted in *Marketing Consultants*, the fact that the contractor may get a lesser percentage fee does not eliminate the incentive for the contractor to increase costs. Therefore, we request the Navy to provide additional comments to the final report that address the specific recommendation.

D. Award Fee Determinations

NAVFAC contracting officials did not adequately support the award fee determinations for the hurricane recovery task orders. Specifically, the Navy failed to capture the information needed to effectively assess how well KBR controlled costs and did not reconcile the contracting officers' and technical representatives' assessments against each other or the characteristics identified in the award fee plan. As a result, despite numerous performance deficiencies the Navy authorized KBR be paid 94 percent of the available fee for the task orders we reviewed for what appears to be marginal-to-average performance and the Navy cannot adequately defend award fee determinations in excess of [redacted] for its hurricane recovery efforts.

Guidance

FAR Subpart 16.405-2, "Cost-Plus-Award-Fee Contracts," states that an award fee is "an award amount that the contractor may earn in whole or in part during performance and that is sufficient to provide motivation for excellence in such areas as quality, timeliness, technical ingenuity, and cost-effective management. The amount of the award fee to be paid is determined by the Government's judgmental evaluation of the contractor's performance in terms of the criteria stated in the contract. This determination and the methodology for determining the award fee are unilateral decisions made solely at the discretion of the Government."

Award Fee Determinations

The Navy paid KBR a high percent of the available award fee for what appears to be marginal-to-average performance for the hurricane recovery task orders we reviewed. Despite numerous performance deficiencies, the Navy concluded that KBR's performance had generally to substantially exceeded expectations and, as Table 14 shows, awarded KBR [redacted] or 94 percent of the [redacted] fee available.

Table 14. KBR's Award Fee for Task Order Numbers 2, 16, and 17

			Award Fee		
Task Order	Award Fee Pool	Percent Complete	Available Amount	Rating Percent	Amount Paid
2	[redacted]	100	[redacted]	[redacted]	[redacted]
16		100			
17		79			
Total	[redacted]		[redacted]	[redacted]	[redacted]

[redacted].

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Award Fee Determination Process. Every 4 months the Performance and Award Fee Evaluation Boards evaluate KBR's performance on open task orders and submit a formal report to the fee determination official with a recommendation of how much of the available fee KBR should be awarded. For the task orders we reviewed, the contracting officers requested Navy technical representatives to rate KBR's performance against the criteria contained in the award fee plan for the following areas: cost control, responsiveness, effective performance (quality), and overall contract program management. They also obtained self-evaluations from KBR. Using that data, the contracting officers prepared and submitted consolidated reports to the boards that summarized their evaluation of KBR's performance and recommended how much of the available fee KBR should be awarded.[7] The following identifies the possible ratings and scores that KBR could have been assigned and the percent of available fee each rating dictates be awarded.

- Level I: Performance substantially exceeds expectations (92–100). Rating results in being awarded 96–100 percent of the available fee.
- Level II: Performance generally exceeds expectations (85–91). Rating results in being awarded 65–91 percent of the available fee.
- Level III: Performance meets expected levels (76–84). Rating results in being awarded 28–59 percent of the available fee.
- Level IV: Performance does not meet levels (61–75). Rating results in being awarded 1–20 percent of the available fee.
- Level V: Performance is unacceptable (60 and below). Results in no fee.

Upon receipt of the reports, the boards discussed the contracting officers' recommendations and came to a consensus on how well KBR performed and whether the suggested award fee payout was acceptable. A formal award fee evaluation report was then prepared and forwarded to the fee determination official for review and approval and a letter was sent to KBR to convey the results. See Appendix D for a copy of the award fee plan.

Hurricane Recovery Task Order Performance Evaluations. The contracting officers' and technical representatives' statements do not support the award fee ratings. Specifically, the Navy failed to capture the information needed to effectively assess how well KBR controlled costs and did not reconcile the assessments made by the contracting officers and technical representatives against each other or the characteristics identified in the award fee plan to be associated with the various expected levels of performance.

Task Order Number 2. Table 15 shows the NAVFAC Southeast contracting officials reported that the performance of KBR had substantially

[7] The recommendation of how much fee should be awarded to KBR is derived by multiplying each area's proposed score by the appropriate weight and then totaling the results to derive a summary performance score. The award fee conversion chart is then used to convert that value into the percent of the available award fee to be paid out. See Appendix D.

exceeded expectations for all areas evaluated and recommended they be given an overall performance score of 100 and be awarded 100 percent of the available award fee.

Table 15. Task Order Number 2 Award Fee Recommendations			
Rating Factor	Rating	Weight	Score
Cost control	Level I	30	100
Responsiveness	Level I	30	100
Effective performance (quality)	Level I	30	100
Overall contract program management	Level I	10	100
Overall performance score			**100**
Recommended award fee payout			**100 Percent**

Although statements made by the officials involved in managing the task order support that the performance of KBR had substantially exceeded the Navy's expectations, KBR's ability to control costs could not be properly evaluated without effective implementation of the ordering procedures and tracking how much was spent to accomplish each task requested. The Navy failed to negotiate target costs for the tasks requested and did not measure how much KBR spent to complete each task. Thus, it is impossible to determine whether KBR completed the tasks in an efficient and cost-effective manner. None of the examples listed to support that "KBR provided cost effective solutions to work" identify a concrete example of actions taken by KBR that minimized or reduced costs or highlighted instances of where products were delivered below a negotiated amount. With all the problems that have been identified with KBR's cost control efforts and subcontract costs, we question how KBR could be rated any higher than what the award fee plan describes as "Level III" performance for cost control (see findings A, B, and C and Appendix D).

Task Order Number 16. The statements made by the contracting officer and technical evaluators do not support the award fee ratings that KBR received for task order number 16. In addition, as Table 16 shows, there was also a considerable difference between the ratings that the contracting officer and technical evaluators felt best reflected KBR performance.

Table 16. Task Order Number 16 Award Fee Recommendations						
	Contracting Officer		Technical Evaluators			
			Number 1		Number 2	
Rating Factor	Rating	Score	Rating	Score	Rating	Score
Cost control	Level II	90.0	Level IV	61.0		
Responsiveness	Level I	93.0	Level III	76.0	Level IV	65.0 - 68.0
Effective performance (quality)	Level I	92.0	Level V	50.0	Level IV	62.0 - 64.0
Overall contract program management	Level II	90.0	Level IV	61.0	Level IV	65.0 - 68.0
Overall performance score		**91.5**		**62.0**		**65.0**
Recommended award fee payout		**96 Percent**		**2 Percent**		**5 Percent**

Contracting Officer Statements for the "Cost Control" Rating Factor. The contracting officer stated that the comments provided by technical representatives who were on site during hurricane relief efforts were considered when determining KBR's performance level for the "Cost Control" rating factor. The contracting officer provided the following statements to the Performance and Award Fee Evaluation boards to justify giving KBR a "Level II" rating.

> KBR was asked to track and project costs on a daily basis and were able to react to changes in projected funding availability. In order to add a more conscious cost control, KBR was requested to provide [estimates of what it would cost to complete each task requested].
>
> Significant material and equipment savings were realized during the procurement activities associated with the tent camp. The HVAC units for the berthing, galleys, and shower tents were negotiated to bring down costs to $2,752 per unit; equating to a total savings of $462,000 over the original estimated price. KBR was able to generate a cost saving of $2,400,000 by using the base system for electrical power instead of . . . renting generators.
>
> **A significant reduction in scope by the client caused an excess in material already procured.** KBR did attempt to minimize the cost impact that would have been realized by requiring restocking/return of these materials. For example, the laundry facilities at the RV parks were designed around excess material, which included 2x6 structural components, 3/4" plywood, a five ton air conditioning unit and on hand electrical components. In addition, the decks for the child development center, which covered over 10,000 square feet, were also built from excess tent camp material. A large percentage of the electrical and plumbing supplies required for the mobile home parks were also supplied from excess material. Similarly, one of the largest roofs on base was roofed with excess material from Hanger 5.
>
> **There was still a large amount of excess material remaining [at project completion]. It is the Government's position that KBR did not exhaust the potential for greater re-use or re-sell efforts. Based on the recovery effort of the Gulf Coast, there is still a need for plywood. The excess inventory list identifies over 2,936 sheets of treated plywood and 3,168 sheets of cabinet grade plywood. Total excess inventory totals [approximately] $76,858.00.**
>
> The **process of getting competitively priced subcontracts in place** and ready for immediate execution **seemed to pose significant difficulty for KBR.** Because of the local market conditions, KBR was issuing most of their subcontracts in a Time/Material environment which require more supervision than fixed price subcontracts.
>
> As the project was nearing completion, ROICC CONCAP and KBR worked the exit plan and had agreed to the remaining funding required to complete current commitments. KBR neglected to adequately account for completing the presently assigned work. **That error resulted in approximately $2 million in additional budgetary funding.** Even though KBR had prepared [cost estimates] for the work, **they discovered that they had not included the full amount of applicable overheads which resulted in substantial costs that had not been included in the previous agreed to budget plan [emphasis added].**

Although the contracting officer cited actions that KBR took that may have minimized costs, many more instances were identified that highlighted actions or inactions that resulted in the Government incurring more costs than necessary. For example, it was the Government's position that KBR did not go far enough to minimize the cost impact that a significant reduction in scope by the client had. The contracting officer also noted the Navy felt that KBR had not utilized competition effectively in awarding the subcontracts and provided inaccurate cost estimates that required the Navy to increase its funding requirements by approximately $2 million.

Technical Evaluator Statements for the "Cost Control" Rating Factor. The contacting officer also failed to account for numerous instances identified by the technical representatives where substandard workmanship increased costs. The technical evaluators who were asked to assess KBR's performance reported that:

> **Work associated with mobile homes and [recreational vehicle] sites was not completed within negotiated costs. KBR did not strive to minimize costs. [Government] had to pay added costs for KBR to rework and correct work in violation of applicable codes. One laundry facility remains unusable.**
>
> **I concur with . . . comments on this evaluation items about the amount of rework that had to be performed (at the government's expense) due to design/workmanship and quality issues. We certainly paid twice for some of the work that was done directly because of design and workmanship deficiencies on the part of KBR.**
>
> **It's my humble opinion, but there is no way on God's green earth that you have blown through $500,000 in the work for this [technical direction]. If this is the case, then I need a breakdown of the costs for the work to date particular to this [technical direction] #45 [Emphasis added].**

When those statements are also considered, KBR's actual success in controlling costs seems most consistent with what the award fee plan describes as characteristic of "Level IV" performance (see Appendix D).

Contracting Officer Statements for the "Effective Performance [Quality]" Rating Factor. The contracting officer considered comments provided by technical representatives who were on site during hurricane relief efforts when determining KBR's performance level for the "Effective Performance [Quality]" rating factor. The contracting officer provided the following statements to the Performance and Award Fee Evaluation boards to justify giving KBR a "Level I" rating.

> The environment in the aftermath of Katrina tremendously increased the difficulty of executing work. The surrounding infrastructure and local labor pool was decimated. Housing for the labor was non-existent. The only option was to house the workforce in tents, and RVs at an abandoned airfield at the Naval Air Station. KBR should be commended on the efforts to accommodate the volume of individuals and maintain cleanliness and safety.

> **Numerous complaints were brought to the attention of the Program Manager regarding the initial NSA Site Supervisor's performance, and he was quickly replaced.**
>
> Both temporary and permanent roofing contractors, with a highly skilled workforce well practiced in CONCAP hurricane recovery operations, were used for NSA and NAS. Temporary repairs were completed quickly and efficiently and permanent roofs at the Naval Air Station are of the highest quality by everyone's account.
>
> ROICC CONCAP coordinated with the base to ensure the security of the base, as well as meeting contractual requirements on the process of ensuring proper screening and documenting of the workforce. KBR was very proactive in the process to ensure proper workforce is working on the multiple federal installations covered by the CONCAP task orders.
>
> KBR was constantly redirected due to changing guidance relative to the application of the mold specifications and difficulties in obtaining and maintaining access to the facilities requiring the work. Despite the fact that the scope was being changed routinely and being faced with numerous other challenges, construction was fully and successfully completed within budget and schedule due to KBR's willingness to work through these issues.
>
> KBR's comprehensive safety programs ensured absolutely no lost time accidents in over 700,000 work hours. The speed in which KBR mobilized and brought the required resources on the critical mission requirements while maintaining safety, at the Naval Air Station and the Naval Support Activity were exceptional, considering the complete breakdown in civilian infrastructure in the surrounding area.
>
> Trailer and pre-manufactured homes sites were built at both the Naval Air Station and the Naval Support Activity, including air conditioned laundry facilities complete with restrooms, 16 washers and 20 dryers, and electrical water heaters. **However, there were poor workmanship and design code violations, which impacted completion of Mobile Home sites, RV sites, and several building exterior repair sites. There were numerous problems with workmanship, electrical code (both design and workmanship) [that] resulted in rework and additional costs.**
>
> **Navy has requested that KBR provide a warranty binder that includes the warranty, name of contractor who performed the work with point of contact information, technical manuals, warranty information, as-builds, asbestos/mold survey and clearance documents... To date, that information has not been received. ACO even specifically requested the information just for the trailer/mobile homes be provided ASAP, as the information was urgently needed to provide to the mobile home contractor in order to assist in the maintenance of the lift stations. To date, that information has not been received as well [emphasis added].**

Again, although the contracting officer cited instances where KBR performed effectively, the contracting officer identified just as many instances where KBR's performance was substandard. For example, poor workmanship and design code violations affected the completion of mobile home sites, recreational vehicle sites, and several building exterior repair sites and resulted in rework and additional costs. The contracting officer also noted the Navy repeatedly requested KBR to provide a warranty binder that includes the warranty, name of contractor who performed the work with point of contact information, technical manuals, warranty information, as-builds, asbestos/mold survey, and clearance documents. To date, the Navy has not received that information.

Technical Evaluator Statements for the "Effective Performance [Quality]" Rating Factor. In addition, the contracting officer's statements fail to convey the full extent of some of the deficiencies the technical evaluators noted with the quality of the products and services that KBR provided and at times seem to justify the problems KBR encountered or contradict descriptions the technical evaluators provided for the same work. For example, one technical evaluator reported that KBR had

> **[N]umerous problems with workmanship, electrical code violations (both in design and workmanship), rework items, handling and coordination of subcontractors, ineffective Quality Control, damage to facilities (Navy Lodge) during repair renovation, delayed or missing documentation (as-builds for the mobile home sites) [emphasis added].**

Another technical evaluator reported that:

> **Quality products/materials [were] not provided in the construction of [the mobile home and Recreational vehicle] sites and BOQ facility at NSA. Electrical conduit fittings and boxes and wiring methods did not comply with codes.**
>
> **Poor on-site management and resources resulted in numerous areas of rework and added [to the Government's cost]**
>
> **Subcontractor choice and KBR's lack of quality control contributed to unsatisfactory results in subcontractor workmanship and selection of materials.**
>
> **Ineffective communication and coordination with [Government personnel existed though most of the planning and execution of tasks. [emphasis added]**

Clearly, the extent of the problems that KBR had completing tasks was more extensive than what the award fee plan identifies as characteristic of "Level I'' performance. The descriptions provided of the quality of the products and services delivered by KBR seem most like what the award fee plan describes as "Level IV" performance (see Appendix D). We noted similar issues with the other rating factors as well.

Task Order Number 17. The statements made by the contracting officer and technical evaluators do not support the award fee ratings that KBR received for task order number 17. Table 17 shows that there was also a considerable difference between the ratings that the contracting officer and technical evaluators felt best reflected KBR's performance.

Table 17. Task Order Number 17 Award Fee Recommendations

	Contracting Officer		Technical Evaluators					
			No. 1		No. 2		No. 3	
Rating Factor	Rating	Score	Rating	Score	Rating	Score	Rating	Score
Cost control	Level II	90.0	-	-	-	-	-	-
Responsiveness	Level II	90.0	Level III	88.0	Level II	85.0	Level I	96.0
Effective performance (quality)	Level II	90.0	Level III	88.0	Level II	85.0	Level I	92.5
Overall contract program management	Level II	90.0	Level II	89.0	-	-	-	-
Overall performance score		**90.0**		**88.3**		**85.0**		**94.0**
Recommended award fee payout		**88 Percent**		**80 Percent**		**65 Percent**		**97 Percent**

Contracting Officer Statements for the "Responsiveness" Rating Factor. The contracting officer stated comments provided by technical representatives who were on site during hurricane relief efforts were considered when determining KBR's performance level for the "Responsiveness" rating factor. The contracting officer provided the following statements to the Performance and Award Fee Evaluation boards to justify giving KBR a "Level II" rating.

> KBR was issued Task Order 0017 on 30 August 2005 and began reporting to NCBC Gulfport on the same day. They mobilized, set up and became fully operational in two days where substantial emergency recovery efforts were underway. Subcontracts were awarded for primary and secondary electrical power distribution repairs, debris removal and stabilization of facilities, which included dry-in and dry-out. Their base camp was located in a warehouse at NCBC where they set up offices, telephone and broadband Internet capability. Within a week they built a temporary shower and restroom facility for all of KBR's staff, subcontractors and government personnel since all were sharing the same warehouse for berthing over the next five weeks.
>
> KBR's initial major tasking was to restore the power to the base. Crews worked around the clock to restore electrical power, which occurred in the first ten days. Due to the power outage, the lift stations were inoperable. It became critical because the base sewage began backing up in the system and was about to overflow and discharge into the environment. A verbal direction was given at 11pm at night and by 8 am the next morning; KBR had vacuum trucks working around the clock to collect, transport, and dispose base sewage, preventing a serious environmental incident. Their quick response allowed personnel uninterrupted usage of restroom facilities across the base.
>
> **KBR was slow to mobilize their roof assessment teams.** This requirement was clearly identified in the contract and after insisting on a schedule to begin, a team was finally mobilized. The Government's roofing specialist spent a lot of time advising their team on what was needed to meet the contract requirements which was clearly a contractor responsibility. **While the end product was acceptable, this delay caused by the lack of preparation of the KBR roofing**

assessment team was not. KBR's task order also contained a requirement for permanent roof repairs. They were awarded various roofs and required to give the Navy their initial roofing submittals. **There were several delays in their submission causing an overall delay for the roof repairs. The Navy wanted the roofs completed by the end of [December 2005] and KBR initially said they could meet the schedule. However, due to the submittal delays, they were not able to meet their commitments.**

Although the contracting officer cited instances where KBR was responsive, other occurrences were identified that affected KBR's ability to perform requested tasks in established time frames. KBR did not respond in a prompt and thorough manner in all critical situations.

Technical Evaluator Statements for the "Responsiveness" Rating Factor. The contracting officer also excluded a number of deficiencies the technical evaluators noted with the responsiveness of KBR that caused the extent and impact of the problems KBR encountered to be understated. Specifically, the technical evaluators asked to assess KBR's performance reported that:

> **Dry-in and dry-out teams had their problems in the first two weeks, including showing up at the wrong place or time and missing escorts needed to take teams through buildings, teams being turned away at gates with improper identification, etc. A Certified Industrial Hygienist was brought in under a separate contract to certified buildings rather than utilizing the [Certified Industrial Hygienist] from KBR's subcontractor. Additionally, KBR initially had difficulty providing enough roofers to make needed repairs.**
>
> **Dry-out was exceedingly substandard** despite constant Government concerns, [KBR] continued with their plan with disregard to schedule and cost – forced the Government to pay for dry out with other contractors.
>
> **KBR was slow to mobilize their roofing assessment teams.** This requirement was clearly identified in the contract requirements and after insisting on a schedule to begin these assessments, a team was finally mobilized. **The initial personnel sent down to perform this service were less than desirable, but eventually they were able to mobilize acceptable teams to complete the work with a lot of guidance from [the Navy roofing specialist]. This is a very important item and KBR in my opinion initially failed and did not use the subs the government recommended, instead [used] small mom & pop team.**
>
> **I do not believe that the overall [Program Manager] . . . had a good handle on some major issues that were occurring. There were numerous times we met and he said things were taken care of, yet it did not happen.** An example being the temporary roofing element. Time and time again we would ask about certain critical [buildings] and [were] told they would be dried in soon. **We were very fortunate that it did not rain hardly any for 4 weeks after the storm thus**

> **preventing a lot of further damage to facilities that were not dried in.**
>
> **Contractor generally provided responsive service however roof repairs that were requested in 60 days but took twice the time.** Contractor failed to get adequate roofing crews and the qualit[y] of crews [was] average to poor. Submittal were hard to get from Contractor.

When that information is also considered, the responsiveness of the support KBR provided seems more indicative of what the award fee plan describes as characteristic of "Level IV" performance (see Appendix D).

Contracting Officer Statements for the "Effective Performance [Quality]" Rating Factor. The contracting officer considered comments provided by technical representatives who were on site during hurricane relief efforts when determining KBR's performance level for the "Effective Performance [Quality]" rating factor. The contracting officer provided the following statements to the Performance and Award Fee Evaluation boards to justify giving KBR a "Level II" rating for the "Effective Performance [Quality]" rating factor.

> The environment in the aftermath of Katrina tremendously increased the difficulty of executing work. The surrounding infrastructure and local labor pool was decimated. Housing for the labor was non-existent. The only option was to house the workforce in tents, and RVs at various locations on the Base. KBR should be commended on the efforts to accommodate the volume of individuals and maintain cleanliness and safety.
>
> ROICC CONCAP coordinated with the base to ensure the security of the base, as well as meeting contractual requirements on the process of ensuring proper screening and documenting of the workforce. KBR was very proactive in the process to ensure proper workforce is working on the multiple federal installations covered by the CONCAP task orders.
>
> **The quality of KBR's workmanship on the roofs initially did not meet contract requirements. KBR struggled with its QC program and was eventual issued a non-compliance notice on 09 December 2005 for failure to implement an effective Program. Corrective measures were proposed and partially applied by the contractor. However, the government continued to observe undocumented deficiencies . . . [that] had the potential to compromise the integrity of the final finished roof.**
>
> **However, overtime and with Government oversight, Gulfport achieved a high level of roofing workmanship.**

Again, although the contracting officer cited instances where KBR performed effectively, the contracting officer identified as many incidents where KBR's performance was substandard. The products and services that KBR provided were not of predominantly high quality in form and content.

Technical Evaluator Statements for the "Effective Performance [Quality]" Rating Factor. In addition, although the contracting officer included some deficiencies the technical evaluators noted with the quality of the products and services that KBR provided, the extent of the problems KBR encountered was not fully presented. For example, the technical evaluators also reported that:

> **Although the building envelope and utilities were performed satisfactory, building dry-out and mold remediation were very poor – subcontractor management was unacceptable.**
>
> **Contractor failed to implement an effective quality control program. The quality control staff was chronically undermanned and inadequately trained.** After repeated prodding Contractor provided somewhat better staffing and improved documentation of work by submitting daily production and quality control reports. **The contractor never fully trained and staffed quality control program which resulted in areas where the work was substandard.**

Clearly, the extent of the problems that KBR had completing tasks were more extensive than what the award fee plan identifies as characteristic of "Level II'' performance. The KBR quality control program was ineffective, insufficient, or incompetent resources were devoted to fulfilling requirements; and numerous problems occurred with workmanship. All of these resulted in increased cost and products being delivered late. When all the information available is considered, the quality of the support delivered by KBR seems most like what the award fee plan describes as "Level IV" performance (see Appendix D). We noted similar issues with the other rating factors as well.

Conclusion

Award fees are designed to motivate excellence in performance in terms with the criteria stated in the contract. However, NAVFAC paying out nearly all of the available award fees to KBR regardless of whether the acquisition outcomes fell short, met, or exceeded expectations lessened the motivation of KBR to strive for excellent performance. As a result, NAVFAC awarded KBR the majority of the available award fees for what appears to be marginal-to-average performance with no means to effectively evaluate cost control on the hurricane recovery task orders. If the recommendation made in findings A, B, and C are implemented, the Navy will have the information needed to effectively assess how well costs were controlled. Therefore, we are not making a recommendation relating to this issue. However, NAVFAC needs to establish procedures to reconcile the assessments made by the contracting officer and technical representatives against each other and ensure written statements match the performance ratings.

Recommendation, Management Comments, and Audit Response

D. We recommend the Commander Officer, Naval Facilities Engineering Command Atlantic establish procedures to verify that award fee assessments made by the contracting officer and technical representatives

are reconciled against each other and ensure written statements match the performance ratings.

Management Comments. The Assistant Commander for Acquisition concurred and stated that the contracting officer will be responsible for collecting the award fee assessments from technical representatives and forwarding them to the NAVFAC Atlantic contracting officer. The task order contracting officer may provide additional input to the award fee board for consideration; however, the assessment from the technical representative shall not be altered. Appointed technical representatives to the contract and task orders will be advised of the award fee plan and its application to the task order. The award fee evaluation process will be reviewed at the GCC training session.

Audit Response. We considered management's comments responsive.

Appendix A. Scope and Methodology

We performed this audit from January 2006 through February 2008 in accordance with generally accepted government auditing standards. Those standards require 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We reviewed task order numbers 2, 16, and 17 under the CONCAP contract, the three largest task orders the Navy issued to KBR for recovery efforts relating to Hurricanes Ivan and Katrina. Specifically, we reviewed how the Navy assessed the storm damage and identified and assigned tasks. We also reviewed how NAVFAC Southeast monitored and evaluated KBR's performance, as well as NAVFAC Southeast's method of controlling costs and ensuring it paid a fair and reasonable price for the labor and material used to repair damaged infrastructure.

We visited NAVFAC Southeast contracting personnel in Charleston, South Carolina, to review contract files for the three task orders. We also met with representatives from KBR and three of the roofing subcontractors that repaired roofs damaged by the storms. We obtained and reviewed documentation to support KBR's charges, the composition of the labor rates paid, and the material and equipment purchased. Further, we visited the Naval Air Station Joint Reserve Base and Naval Support Activity in New Orleans, Louisiana, and the Naval Air Station in Pensacola, Florida, to observe the recovery work that KBR performed under the CONCAP contract.

Use of Computer-Processed Data. We relied on computer-processed data from KBR's billing system to include the invoices paid by the Navy. To verify the accuracy of the information, we compared the charges shown on KBR's invoices to amounts contained in KBR's payroll records and other documentation related to KBR's travel and other direct costs, as well as to amounts shown on documents obtained during our visit with a number of the subcontractors that KBR hired to support the Navy's hurricane recovery work.

Use of Technical Assistance. We did not use technical assistance to perform this audit

Government Accountability Office High-Risk Area. GAO has identified several high-risk areas in DoD. This report provides coverage of the "Defense Contract Management" high-risk area.

Prior Coverage

During the last 5 years, GAO, the DoD Inspector General (IG), and the U.S. Army Audit Agency have issued six reports that either discussed the CONCAP contract, advanced contract initiatives, or price negotiation memorandums. Unrestricted GAO reports can be accessed over the Internet at http://www.gao.gov. Unrestricted DoD IG reports can be accessed at http://www.dodig.mil/audit/reports. Unrestricted U.S. Army Audit Agency reports can be accessed at http://www.aaa.army.mil/reports.htm.

GAO

GAO Report No. GAO-04-854, "Military Operations: DoD's Extensive Use of Logistics Support Contracts Requires Strengthened Oversight," July 19, 2004

GAO Report No. GAO-04-869T, "Contract Management: Contracting for Iraq Reconstruction and for Global Logistics Support," June 15, 2004

DoD IG

DoD IG Report No. D-2007-079, "Performance-Based Service Contract for Environmental Services at the Navy Public Works Center, San Diego, California," April 3, 2007

DoD IG Report No. D-2007-038, "U.S. Army Corps of Engineers' "Operation Blue Roof" Project in Response to Hurricane Katrina," December 22, 2006

DoD IG Report No. D-2006-061, "Source Selection Procedures for the Navy Construction Capabilities Contract," March 3, 2006

Army

U.S. Army Audit Agency Report No. A-2007-0016-FFD, "Debris Removal Contracts: U.S. Army Corps of Engineers," November 9, 2006

Appendix B. Task Order Awards, Modifications, and Technical Directions

Table B-1A. Task Order No. 2 Contract Award and Modifications

Modification Number	Date	Description	Total
Basic	9/17/2004	Damage assessment and debris removal	$ 600,000
1	9/18/2004	Additional funding added for Hurricane Ivan emergency repairs	3,500,000
2	9/20/2004	Statement of work added for stabilization and roof repairs- temporary and permanent	5,000,000
3	9/22/2004	Deletion of NAVFAC funding and addition of Commander Naval Installations funding for Hurricane Ivan repairs	-
4	9/27/2004	Additional funding added for stabilization efforts at NAS[1] Pensacola	1,200,000
5	9/30/2004	Correction of housing debris removal in the line of accounting for the scope	203,201
6	9/30/2004	Addition of detailed housing assessments at NAS Pensacola and Corry Station	250,000
7	9/30/2004	Additional funds added for Phase II Corry Station and Saufley stabilization	205,858
8	10/1/2004	Additional funds added for stabilization at NAS Pensacola	6,000,000
9	10/7/2004	Additional funds added for permanent interior repairs to Building 606	468,000
10	10/7/2004	Additional funds added to make permanent repairs to Buildings 3901–3908 and 3910 (Navy Air Technical Training Center barracks)	1,000,000
11	10/7/2004	Additional funding added for continued stabilization	3,000,000
12	10/7/2004	Additional funds added for debris removal from the NAS Housing Complex Pensacola	367,200
13	10/8/2004	Additional funds added for stabilization	4,000,000
14	10/15/2004	Additional funds added for stabilization at NAS Pensacola	2,000,000
15	10/19/2004	Additional funds added for stabilization and permanent roof repairs to Buildings 606 and 3910	9,000,000
16	10/20/2004	Additional funds added for permanent roof repairs to Buildings 606 and 3910	3,850,000
17	11/1/2004	Additional funds added for permanent repairs to Buildings 3901–3908 (Navy Air Technical Training Center barracks)	2,000,000
18	11/19/2004	Changing of the Defense Financial Accounting Service office	-
19	11/23/2004	Funds added for additional repairs for exterior and interior to Buildings 606, 3901–3908, and 3910	1,675,000
20	12/14/2004	Funds added for additional interior and exterior repairs to Buildings 3905, 3906, 3907, and 3908	2,500,000
Total			**$46,819,259**

Note: See list of acronyms at the end of the appendix

Table B-1B. Technical Directions for Task Order No. 2

Number	Date	Description	Est. Cost
1	9/19/2004	Establish onsite field office to support 15 personnel by September 22, 2004	-
2	9/26/2004	Segregate all debris being collected and prepare a debris management plan	-
3	9/30/2004	Ensure no known cultural resource sites are disturbed	-
4	9/30/2004	Provide ActivCard software and SmartCard readers	-
5	9/30/2004	Perform troubleshooting, make repairs, and energize various mechanical systems within the NAS Pensacola region	-
6	9/29/2004	Segregate and stage marketable trees	-
7	9/30/2004	Cease stabilization efforts in all family housing units at NAS	-
8	10/8/2004	Perform troubleshooting, make repairs, and energize various mechanical systems within the Naval Air Technical Training Center barracks (not to exceed 50,000 per building)	-
9	10/8/2004	Perform repairs to the interior of Building 606	$ 468,000
10	10/22/2004	Remove asbestos-containing material	-
11	10/19/2004	Stop all dry-in and dry-out work on 35 facilities as of 1:00 p.m. on October 18, 2004	-
12	10/22/2004	Cease organic debris removal efforts as of October 25, 2004	-
13	10/22/2004	Resume dehumidification at Quarters A; perform dry-in efforts on garage structure	-
14	10/25/2004	Maintain 40,000/day or less burn rate for debris removal as of October 25, 2004	-
15	10/25/2004	Provide permanent power to all trailers adjacent to Building 746	-
16	10/26/2004	Inspect, assess, and repair freight/passenger elevator in Building 603	-
17	10/27/2004	Cease stabilization efforts in Building 631 as of October 27, 2004	-
18	10/27/2004	Continue dry-out efforts only on buildings with priority numbers 2–169 as of October 27, 2004	-
19	10/28/2004	Continue dry-out on 25 buildings	-
20	10/28/2004	Remove debris from intersection of John Towers Road and Taylor to Ski Beach Roads	-
21	10/29/2004	Remove debris at Bayou Grande Marina and the outbound lane of the main bridge	30,000
22	11/1/2004	Removal and replacement of missing unsound sealant at the four-corner brick parapet coping crack sealing in Building 606	-
23	11/1/2004	Resume dry-out efforts at the Mess Steward outbuilding of Quarters A	-
24	11/5/2004	Remove tree stumps and fill holes at the Lighthouse Terrace housing area	-
25	11/5/2004	Remove tree stumps from Quarters A only and fill holes at the Lighthouse Terrace housing area	-

Note: See list of acronyms at the end of the appendix

Table B-1B. Technical Directions for Task Order No. 2 (cont'd)

26	11/10/2004	Relocate any furniture in Buildings 3901–3908 and 3910 for 60-day duration	-
27	No date or description provided		-
28	11/18/2004	Continue using one dozer, one knuckle-boom truck, and crew to maintain mixed debris staging area through November 24, 2004	-
29	11/18/2004	Provide temporary roof to Building 38	-
30	11/18/2004	Stop all stabilization efforts in 83 facilities	-
31	11/19/2004	Complete roof dry-in at Building 73	-
32	11/22/2004	Cease roof dry-in at Building 73 (Cancel TD 31)	-
33	11/29/2004	Assess two passenger elevators (#1 and #2) in Building 3910 to determine all necessary repair work to bring elevators to full working condition	-
34	12/7/2004	Proceed with full interior painting in Building 3905	-
35	12/7/2004	Perform repairs to two passenger elevators (#3 and #4) in Building 3910	-
36	12/17/2004	Provide six 45-passenger buses on December 17 and 18 from 0700–1700	-
37	1/7/2005	Perform necessary repairs to exterior lighting in the emergency exit stairwells for Building 3910	-
38	1/7/2005	Perform necessary repairs to exterior lighting in the emergency exit stairwells for Buildings 3901–3908	-
39	1/7/2005	Perform necessary repairs to the four air handling units on the first floor in Building 3910	-
40	1/28/2005	Perform testing and necessary repair and/or replacement of all exterior lighting in Naval Aviation Technical Training Center Complex; construct alterations to Building 624	140,000
41	2/23/2005	Proceed with refurbishment of Building 624 and relocation of furniture	-
42	12/21/2004	Stop the re-caulking of the exteriors of the Naval Technical Training Center barracks; provide caulking for buildings 3901–3908 and 3910	-
Total			**$638,000**

Note: See list of acronyms at the end of the appendix

Table B-2A. Task Order No. 16 Contract Award and Modifications

Modification Number	Date	Description	Total
Basic	8/29/2005	Initial disaster response	$ 150,000
1	8/29/2005	Contract change from firm-fixed-price to cost-plus-award-fee	-
2	8/31/2005	Additional funds added for the restoration of the reserve assets in the New Orleans area	4,450,559
3	9/1/2005	Additional funds added for stabilization, debris removal, and assessments at the NSA[2] New Orleans, JRB[3] New Orleans, and other Navy installations in the south region	4,049,441
4	9/3/2005	Additional funds added for stabilization, debris removal, and assessments at NSA New Orleans, JRB New Orleans, and other Navy installations in the south region	7,800,000
5	9/4/2005	Additional funds added for support of Marines for stabilization, debris removal, and assessments at NSA New Orleans, JRB New Orleans, and other Navy installations in the south region	10,000,000
6	9/6/2005	Deobligated funds used for stabilization, debris removal, and assessments at NSA New Orleans, JRB New Orleans, and other Navy installations in the south region	(961,718)
7	9/13/2005	Suspension of Davis-Bacon Act wage determinations	-
8	9/26/2005	Additional funds added for continued hurricane efforts in the New Orleans area	3,000,000
9	9/30/2005	Additional funds added for continued hurricane efforts in the New Orleans area	4,138,739
10	9/30/2005	Additional funding added for specification requirements for Building 30 and roof repair and replacement to Building 41	734,000
11	10/7/2005	Additional funding added for specification requirement with continued hurricane efforts in the New Orleans area	10,000,000
12	10/12/2005	Reinstatement of Davis-Bacon Act wage determinations	-
13	10/14/2005	Additional funding added for continued Hurricane Katrina recovery	11,300,000
14	10/17/2005	Deobligated funds of $1,700,000 from delivery order 16, of which $65,385 was an award fee	(1,700,000)
15	10/21/2005	Additional funds added to the total delivery order for Hurricane Katrina recovery	3,000,000
16	10/26/2005	Additional funds added to the total delivery order for Hurricane Katrina recovery	12,000,000
17	10/27/2005	Clarification that Davis-Bacon Act wage determinations do apply to the entire performance period of the task order	-
18	11/8/2005	Additional funds of $3,000,000 added for labor, material, equipment, supervision, and quality control for travel trailers and mobile homes at NAS and NSA New Orleans; additional funds of $6,000,000 added for continued Hurricane Katrina recovery	9,000,000
19	11/16/2005	Additional funds added for continuation of Hurricane Katrina recovery; Davis-Bacon Act wage determination correction for modification number 12	1,000,000
20	11/28/2005	Additional funds added for continuation of Hurricane Katrina recovery efforts	6,500,000
21	2/1/2006	Additional funds added for stabilization	500,000
Total			**$84,961,021**

Note: See list of acronyms at the end of the appendix

Table B-2B. Technical Directions for Task Order No. 16

Number	Date	Description	Est. Cost
1	9/3/2005	Equip on-site field office	$ 85000
2	9/4/2005	Repair primary power distribution system, install 5 one-megawatt generators and provide 2,000-man tent camp	400,000
3	9/5/2005	Remove all food spoilage from food storage areas	200,000
4	9/8/2005	Provide and maintain 100 port-a-lets for 90 days	270,000
5	9/8/2005	Procure and install double-wide trailer for 8 months	200,000
6	9/16/2005	Establish potable water emergency procedures	-
7	9/18/2005	Provide two recreational vehicles, remove debris, repair roads, and other various tasks	664,000
8	9/18/2005	Provide 300 meals for east and west NSA and relocate 15 port-o-lets	8,000
9	9/20/2005	Building 439 roof system repair and replacement	750,000
10	9/29/2005	Ensure compliance with base solid waste management plan	156,000
11	10/1/2005	Apply mold specification to all remaining facilities at NAS, JRB, and NSA (Canceled)	-
12	10/2/2005	Provide two additional trailers/recreational vehicles (monthly)	3,000
13	10/6/2005	Modification to mold specification guidance	-
14	10/7/2005	Implementation of microbial remediation plan	7,230,000
15	10/7/2005	Implement applicable microbial remediation guidance	-
16	10/7/2005	Additional microbial remediation guidance	-
17	10/7/2005	Restore electrical power to mobile lab behind Building 50	10,000
18	10/11/2005	Repair hot water heater, damaged brick wall, and vent piping for Building 703	42,685
19	10/13/2005	Clean asbestos roofing debris	10,000
20	10/19/2005	Repair and replace if necessary 2,000 linear foot chain link fencing and remove 50 stumps	200,000
21	10/19/2005	Clean and remove all port-o-lets at NSA	-
22	10/23/2005	Replace chiller, controls, and hydronic specialties at Buildings 705 and 4; remove fan coil in room 121 at Building 700	185,000
23	10/24/2005	Complete dry-in/dry-out repairs to the galley by November 8, 2005	65,000
24	10/25/2005	Replace loose tiles in shower stalls on the 4th and 5th floors of Building H-100 by October 29, 2005	5,000
25	10/28/2005	Repair two of the four overhead hanger doors in 2 weeks	68,375
26	10/30/2005	Replace loose tiles in Buildings 703, 705, and 710 on 1st, 2nd, and 3rd floors	3,260
27	11/2/2005	Complete utility connections to Child Development Center trailers by November 13, 2005	350,000
28	11/3/2005	Complete site development for travel trailers and mobile homes by December 1, 2005	2,716,839
29	Not Issued	Establish storm water pollution prevention plan	-
30	11/8/2005	Complete Hangar 3 dry-out (including mold remediation) by November 18, 2005	645,000

Note: See list of acronyms at the end of the appendix

Table B-2B. Technical Directions for Task Order No. 16 (cont'd)

31	11/10/2005	Complete all repairs to the roof of Building 601 by November 23, 2005	200,250
32	11/10/2005	Complete dry-in efforts for Building 22 by November 18, 2005	14,250
33	11/10/2005	Complete roof replacement on Buildings 31, 41, and 197; vent replacement on Building 263 by December 31, 2005	1,500,000
34	11/10/2005	Complete repairs to interior finishings on 4th and 5th floors of Building 601 by November 23, 2005	250,000
35	11/15/2005	Complete permanent repairs to Building 724 by November 23, 2005	225,000
36	11/15/2005	Complete repairs to roof and interior finishes on Building 41 by November 30, 2005	75,000
37	11/16/2005	Complete repairs to air conditioner at Building 731 by November 23, 2005	4,000
38	11/17/2005	Perform interior repairs to Building 2	350,000
39	11/17/2005	Construct wood decking at Child Development Center trailers	200,000
40	12/16/2005	Perform dry-out in Building 101 and lay down carpet in Building 8	-
41	12/28/2005	Install carpet and ceiling tiles at bowling alley	-
42			-
43	1/12/2006	Reassemble modular workstations and system furniture at Building 603 by January 27, 2006	-
44	1/13/2006	Install 150A breakers and replace carpet in Building 102	9,800
45	1/14/2006	Repair mobile home electrical issues	187,285
46	2/1/2006	Complete electrical work at mobile home park and repair plumbing and electrical work	200,000
47	2/9/2006	Provide furniture for Building 771, Navy Lodge (Canceled)	-
Total			**$17,482,744**

Note: See list of acronyms at the end of the appendix

Table B-3A. Task Order No. 17 Contract Award and Modifications

Modification Number	Date	Description	Total
Basic	8/30/2005	Hurricane Katrina recovery in NAS Pascagoula, NAS Gulf Coast, and Stennis Space Center	$12,500,000
1	9/4/2005	Additional funds added for stabilization, debris removal, and assessments at NAS Pascagoula, NAS Gulfport, Stennis Space Center, and other Navy installations in the southeast region	3,000,000
2	9/10/2005	Additional funds added for housing recovery in the Navy Gulf Coast region	1,000,000
3	9/13/2005	Suspension of the Davis-Bacon Act wage determinations	-
4	9/26/2005	Additional funds added for continued hurricane recovery efforts in the Gulf region	3,000,000
5	9/27/2005	Additional funds added for housing recovery in the Navy Gulf Coast region	3,434,170
6	9/28/2005	Additional funds added for dry-in and dry-out with medical/dental Buildings 30 (Construction Battalion Center) and 295 (Pascagoula)	106,000
7	9/30/2005	Additional funds added and the incorporation of statements of work for projects 5, 10, and 14 at the Naval Construction Training Center	3,740,000
8	9/30/2005	Additional funds added for specifications associated with building; statement of work added for Buildings 295 and 296 for roof repairs and replacements	995,000
9	9/30/2005	Additional funds added for stabilization in the Gulf Coast area; statement of work added for roof repair/replacements at Naval Construction Battalion Center, Gulfport; incorporation of Performance Technical Specification Section B30 to task order	33,565,296
10	10/12/2005	Reinstatement of Davis-Bacon Act wage determinations	-
11	10/27/2005	Clarification that Davis-Bacon Act wage determinations did apply to the entire performance period	-
12	11/3/2005	Additional funds added for continued Hurricane Katrina recovery for housing in the Gulf Coast area, Mississippi	2,507,159
13	11/4/2005	Reduction of funds for Hurricane Katrina recovery, Gulf Coast area, Mississippi	(1,178)
14	11/15/2005	Additional funds added for the continuation of hurricane recovery efforts; correction to Davis-Bacon wage determination dates	33,000,000
15	2/2/2005	Additional funding added for permanent roof repairs at Naval Construction Training Center, Gulfport	500,000
16	2/27/2006	Contractor’s change of address effective January 2006	-
Total			**$97,346,447**

Note: See list of acronyms at the end of the appendix

Table B-3B. Technical Directions for Task Order No. 17

Number	Date	Description	Est. Cost
1	9/1/2005	Electrical distribution system repair, debris removal, dry-in and dry-out ; install four-megawatt generators	-
2	9/3/2005	Equip on-site field office	-
3	9/3/2005	Pump out lift stations at Construction Battalion Center base	$ 28,560
4	9/4/2005	Dry-in, dry-out, pump out; repair roof for Building 118; add 12 rooms at Lakeside barracks for abatement	1,099,051
5	9/4/2005	Perform utility survey at the pier, Pascagoula	407,669
6	9/4/2005	Perform permanent repairs and roof replacement for Building 9322	1,998,030
7	9/6/2005	Assess and patch roofs in Sand Hill housing area; install generator; provide 50 port-a-lets	228,590
8	9/8/2005	Perform dry-in, dry-out of the 3rd floor in Locker House Building 3101	22,950
9	9/9/2005	Install washers and dryers in warehouse (Canceled)	-
10	9/9/2005	Replace traffic safety signs	92,200
11	9/10/2005	Provide operator/crane capable of removing about 60 tons in a 50-foot radius	10,100
12	9/10/2005	Complete shower facilities for Construction Battalion Center	191,000
13	9/12/2005	Restore perimeter fence to a pre-hurricane condition; provide permanent roof repairs at Sand Hill housing	235,820
14	9/16/2005	Repair fence for Building 397; repair structural damage to Building 313; repair walls of Building 31	421,432
15	9/17/2005	Repair Building 69 roof and air compressor; complete construction of trailer park in 10–14 days	900,000
16	9/18/2005	Provide furnished office trailer for 38 office personnel	146,400
17	9/19/2005	Perform dry-in and install overhead doors; complete work for request for information	613,054
18	9/22/2005	Demolish the fencing, bleachers, and lights at the tennis court	14,000
19	9/24/2005	Repair paint booth; complete remaining repairs on all housing and barrack quarters	4,700,000
20	9/24/2005	Repair the armory	5,800
21	9/26/2005	Dispose of refrigerators at Pascagoula and Lakeside housing	3,100
22	9/26/2005	Provide additional furnished office trailer at Stennis	150,000
23	9/27/2005	Provide furnished office trailer at Gulfport	40,000
24	9/29/2005	Evaluation of three separate sites for insulation of manufactured housing units	7,500
25	10/4/2005	Provide site prep for housing units; insulate all domestic water supply piping	555,500
26	10/5/2005	Provide site furnishings, fencing for mobile home parks, gravel rock, stump grinding, and roof ventilators; repair utility automation network	1,105,500
27	10/7/2005	Provide office space for eight people at Building 1100	49,500
28	10/7/2005	Provide clarification to the scopes of work for roof replacements	-
29	10/12/2005	Provide further clarification to scopes of work for roof replacements	-
30	10/15/2005	Remove carbon dioxide system	5,800

Note: See list of acronyms at the end of the appendix

Table B-3B. Technical Directions for Task Order No. 17 (cont'd)

31	10/17/2005	Delete Building 385 at the Naval Training Center Complex	-
32	10/20/2005	Delete 10 buildings	-
33	10/21/2005	Site prep for installation of nine modular facilities at Child Development Center	61,000
34	10/23/2005	Complete repairs to Building 335 Youth Center	100,350
35	10/24/2005	Delete air units for Building 70 scope	-
36	10/25/2005	Repair fencing, test utility at Picayune, and repair siding on Building 429	261,380
37	10/27/2005	Ensure remaining building dry-outs are in accordance with mold specification	-
38	11/3/2005	Repair 47 carports and 48 sheds at Ladd Circle;	363,000
39		install electricity metering equipment for public works sites 2 and 3, Mobile Home Parks, Tidal Serge, and Hurricane Alley	14,300
40	11/8/2005	Perform mold assessment for bedrooms only in Barracks 45	4,550
41	11/8/2005	Replace Building 381 roof; provide clarification to Naval Construction Training Center	-
42	11/11/2005	Replace a not-to-exceed amount of 1,000 square feet of sheet rock, floor coverings, and/or ceiling tiles	-
43	11/14/2005	Install and finish oak baseboards for Building 68; replace fixtures, all lights, and overhead doors	21,988
44	11/15/2005	Provide utility hook-ups at Child Development Center; adjust occupational safety requirements for four buildings; perform roof work on Building 16	20,900
45	11/17/2005	Remove pavilions and floors in Buildings 178 and 68; provide utility hook-ups; perform temporary commissary repairs	83,230
46	11/18/2005	Repair sidewalk damage; construct ramps; and install grease trap at Child Development Center	71,500
47	11/18/2005	Provide an estimate and statement of work for all Naval Construction Battalion Center buildings	24,210,000
48	11/21/2005	Provide 8-foot master backflow preventer; modify water supply system	27,800
49	11/23/2005	Revise roof package with 12 buildings	6,799,991
50	11/26/2005	Delete Buildings 67 and 69; provide water, sewer, and all utility connections for trailers; make repairs to street and parking lights	334,000
51	12/1/2005	Delete gutter and downspout work for Buildings 67 and 69; install a foundation; complete roof repairs for 13 buildings; perform remediation and repairs to Building 397	1,231,350
52	12/7/2005	Complete dry-in and dry-out for Building 9	-
53	12/7/2005	Replace exterior church sign marquee for Building 366, chapel	7,440
54	12/9/2005	Revise roof work for Building 118	(37,200)
55	12/12/2005	Complete investigation of leak source in Building 114	44,000
56	12/19/2005	Re-glaze 13 windows and replace the glass in three interior doors	9,460
57	2/2/2006	Remove one pole foundation in the parking area of Building 320	1,800
58	2/16/2006	Connect all interior telephone wires to the outside distribution box only at Liberty Center	700
Total			**$46,663,095**

Acronyms

[1]NAS Naval Air Station
[2] NSA Naval Support Activity
[3]JRB Joint Reserve Base

Appendix C. Subcontracts Reviewed

Task Order Number	Subcontract Number	Contractor	Description of Service	Contract Type	Contract Value April 2006	Method for Establishing Price Reasonableness
	[redacted]					
2	[redacted]	CMC, Inc.	Roofing	T&M[1]	$ 3,300,000	Competition
2	[redacted]	Carothers, Inc.	Building Restoration	FFP[2]	3,963,534	Competition
2	[redacted]	BMS Catastrophe	Building Restoration	T&M	3,987,984	Competition
2	[redacted]	Cleveland Construction	Building Restoration	FFP	3,867,921	Competition
2	[redacted]	T.F.R. Enterprises, Inc.	Debris Removal	T&M	8,700,000	Competition
2	[redacted]	The Young Group	Roofing	T&M	3,100,000	Competition
2	[redacted]	American Roofing	Roofing	T&M	1,177,169	Competition
2	[redacted]	Cram Roofing	Roofing	T&M	1,236,289	Competition
	Subtotal				**29,332,897**	
	[redacted]					
16	[redacted]	LJC Defense Contracting	Building Restoration	T&M	3,249,556	Competition
16	[redacted]	IKBI Incorporated	Building Restoration	T&M	12,000,000	Competition
	Subtotal				**15,249,556**	
17	[redacted]	Storm Reconstruction Services	Debris Removal	T&M	2,656,143	Competition
17	[redacted]	TESI Contracting	Roofing	T&M	1,500,000	Competition
17	[redacted]	T.F.R. Enterprises, Inc.	Debris Removal	T&M	14,713,000	Competition
17	[redacted]	The Young Group	Roofing	T&M	16,000,000	Competition
17	[redacted]	Punum Roofing	Roofing	T&M	1,063,000	Competition
17	[redacted]	BMS Catastrophe	Building Restoration	T&M	39,500,000	Competition
	Subtotal				**75,432,143**	
	Competition Total				**$120,014,596**	

Acronyms

[1]T&M Time and Materials
[2] FFP Firm-Fixed-Price

b(4)

Subcontracts Reviewed (cont'd)

T.O. Number	Subcontract Number	Contractor	Description of Service	Contract Type	Contract Value April 2006	Method for Establishing Price Reasonableness
	[redacted]:					
16	[redacted]	Dillard Smith Construction	Utility Repair	T&M	2,000,000	Market Research
16	[redacted]	Shaw Environmental	Utility Repair	T&M	3,100,000	Market Research
	Subtotal				**5,100,000**	
17	[redacted]	LVI Environmental Services	Building Restoration	T&M	18,800,000	Market Research
17	[redacted]	Punum Roofing	Roofing	T&M	2,300,000	Market Research
17	[redacted]	Punum Roofing	Roofing	T&M	1,346,000	Market Research
17	[redacted]	American Roofing	Roofing	T&M	7,621,172	Market Research
17	[redacted]	TESI Contracting	Utility Repair	T&M	1,257,065	Market Research
17	[redacted]	Electrical Apparatus Repair Co.	Utility Repair	T&M	1,035,469	Market Research
17	[redacted]	Gulf Electric	Utility Repair	T&M	5,169,500	Market Research
	Subtotal				**37,529,206**	
	Market Research Total				**$42,629,206**	
2	[redacted]	Belfor USA	Building Restoration	T&M	**$ 8,230,000**	Other
	[redacted]:					
16	[redacted]	BE&K Government Group	Building Restoration	T&M	22,000,000	Other
16	[redacted]	BE&K Government Group	Building Restoration	T&M	1,200,000	Other
16	[redacted]	Alaska Structures	Misc - A/C units	FFP	1,089,528	Other
16	[redacted]	Commercial Marketing Corp.	Misc - Food Services	FFP	8,927,500	Other
	Subtotal				**33,217,028**	
17	[redacted]	TESI Contracting	Roofing	FFP	1,034,330	Other
17	[redacted]	Environmental Chemical Corp.	Building Restoration	T&M	29,060,000	Other
17	[redacted]	RB Ailing	Roofing	T&M	1,802,600	Other
17	[redacted]	Construction Services, Inc.	Roofing	FFP	6,141,778	Other
	Subtotal				**38,038,708**	
	Inadequate Total				**$79,485,736**	

b(4)

Appendix D. Award Fee Plan

AWARD FEE PLAN

FOR

**EMERGENCY CONSTRUCTION
CAPABILITIES CONTRACT
(CONCAP III), WORLDWIDE**

N62470-04-R-4017

Attachment (a): Award Fee Determination Worksheet
Attachment (b): Award Fee Conversion Chart
Attachment (c) : Sample calculation of Award Fee

I. INTRODUCTION:

A. This plan covers the administration of the award fee provisions for Contract Number N62470-04-R-4017.

B. The following matters, among others, are covered in the contract:

1. The objective of this contract is to obtain services for providing civilian construction, engineering, and associated services to provide the Navy an immediate response. The construction and construction related engineering and services would be in response to natural disasters, humanitarian assistance, conflict, or projects with similar characteristics. This includes occasional projects to ensure readiness to perform under emergency situations. The scope includes the capability to provide general mobilization services (embarkation) for personnel, equipment and material in support of Naval Construction Forces (NCF) mobilization efforts and similar mobilization efforts. The work also includes the capability to set up and operate Material Liaison Office (MLO) at a deployed site in support of NCF operations. The Contractor may be tasked to participate in military exercises.

2. The geographic area covered by the contract is worldwide.

3. The term of the contract is for one (1) base period and four (4) one year options.

4. The estimated award fee pool will not exceed 10% of the estimated cost of performance. The actual award fee pool will be determined by the terms as negotiated for the contract award.

C. The amount of the award fee pool measured for each Task Order (TO) may be adjusted due to scope changes and is subject to the Contracting Officer's approval.

D. Within approximately 14 days following the end of the award fee evaluation period, the contractor shall submit a concise, written self-evaluation of the contractor's performance. This report will be submitted to the Contracting Officer.

E. When TOs are not complete within an evaluation period, the Government shall develop a percentage of work complete to establish corresponding percentage of available fee. For any TO which is not 100% complete within an evaluation period, up to but no more than 75% of the total available award fee may be earned. Amounts of award fee not awarded during the current evaluation period will not be carried over to the next evaluation period and are permanently lost.

F. Award fees will be evaluated every four (4) months on active Task Orders and will continue on four (4) month intervals.

G. The Fee Determination Officer (FDO), by modification to the basic contract, may unilaterally change the award fee plan including the criteria and weights, providing the contractor received notice of the changes at least thirty (30) calendar days prior to the beginning of the evaluation period to which the changes apply.

H. Objectives of the Award Fee:

1. The objective of the award fee provisions of the contract is to afford the contractor an opportunity to earn increased fee commensurate with the achievement of optimum performance in pursuit of contractual objectives and goals.

2. The award fee is an award amount that may be earned by the Contractor in whole or in part, based upon an evaluation by LANTDIV of the Contractor's performance. The award fee is to motivate the Contractor to provide excellence in performance of activities evaluated both collectively and individually, in areas of cost control, responsiveness and effective performance (quality).

II. EVALUATION REQUIREMENTS

A. The Award Fee Determination Worksheet form is included as Attachment (a).

B. Once every four (4) months the Performance Evaluation Board (PEB) and the Award Fee Evaluation Board (AFEB) will submit a formal evaluation report to the FDO with a recommendation as to the percentage grade rating corresponding to the proposed award fee, which shall be a measure of the contractor's performance for that evaluation period.

III. PERFORMANCE EVALUATION FACTORS AND RATING GUIDELINES

A. In order to evaluate the contractor's performance, three evaluation factors were developed. This section highlights these components of the plan by defining each of the performance evaluation factors with the listed sub-facts and weights.

Factor No	Description	Weight
1.	Cost Control	30%
2.	Responsiveness	30%
3.	Effective Performance (Quality)	30%
4.	Overall Contract Program Management	10%
		100%

B. Rating Guidelines:

1. Rating guidelines for each of the performance factors are provided in paragraph D. The guidelines are provided to establish a uniform system of evaluating performance for each of the criteria.

2. The rating for each performance factor will be multiplied by its area weight (%) and then totaled with all other factors to determine the overall performance points. The score resulting from the aggregate total of all three factors will be applied to the Award Fee Conversion Chart in Attachment (b) to determine the percentage of available award fee earned. See Attachment (c) for a sample calculation.

C. Rating Factors:

Factor 1: Cost Control (30%)

Subfactors:

- Complete work within negotiated costs
- Notify Government 60 days prior to reaching 75% of the negotiated target cost.
- Report actual and project costs accurately and on time
- Provide timely notification of required addition work and costs

Award Fee Plan (cont'd)

- Aggressively strive to minimize costs
- Implement cost effective solutions to problems while maintaining schedule

Factor 2: Responsiveness (30%)

Subfactors:

- React to unforeseen problems in a timely fashion
- Provide submittals (cost proposals, implementation plans, work plans, construction submittals) on time
- Complete task within schedule
- Timely planning, procurement, transportation and mobilization of materials, equipment and personnel on site.

Factor 3: Effective Performance (30%)

Subfactors:

- Provide quality of service/products to satisfy the intended objective
- Effective onsite management of resources geared towards Government objective
- Suitability of choice of subcontractors
- Effective communications and cooperation with Government personnel in the planning and execution tasks.

Factor 4: Overall Contract Program Management (10%)

Subfactors:

- Effective corporate support of the tasked efforts
- Effective program wide/task order wide management
- Adhere to the Contractor's Purchasing System with effective performance of subcontractors
- Provide accurate and timely Monthly Progress Reports
- Complete task order close outs in a timely manner
- Provide cost accounting information to Government Agencies as needed on time

D. Rating Guidelines

The following represents a general listing of characteristics associated with the expected level of performance for each rating. This is not an all inclusive list, but rather a guide which provides an operation framework to facilitate the attainment of a common vision.

LEVEL I (92-100):

- Performance substantially exceeds expectation.
  - Effective and efficient utilization of management tools clearly reflected through performance.
  - Proactive management eliminates or significantly minimized systemic deficiencies.
  - Products submitted are of consistent high quality in form and content.
  - Contractor maintains staff of highly qualified personnel sufficient to respond to critical functions.

Award Fee Plan (cont'd)

LEVEL II (85-91):

- Performance generally exceeds expectations.
  - All critical and most basic management systems tools are effectively utilized.
  - Although minor deficiencies may exist, they are self identified and corrected promptly.
  - Products submitted are of predominantly high quality in form and content.
  - Contractor maintains staff or personnel necessary to meet program goals.
  - Innovation frequently results in time and cost saving approaches to contract actions.
  - Responses are prompt and thorough in all critical and most other situations.

LEVEL III (76-84):

- Performance meets expected levels.
  - Most critical and some basic programs management systems and tools are effectively utilized.
  - Some deficiencies exist and generally are self-identified.
  - Corrective actions are effected.
  - Products submitted meet basic technical requirements but are not always thorough and innovative in approach.
  - Contractor maintains the minimum staff necessary to meet contract requirements.
  - Some time and cost saving achievements exist.
  - Response to requirements are adequate in most situations.

LEVEL IV (61-75):

- Performance does not meet expected levels.
  - Critical program management systems and tools may be in place but are not effectively utilized.
  - Some achievements exist, but are outweighed by deficiencies.
  - Contractor does not effect corrective actions in a timely manner.
  - Products submitted require some rework to meet basic requirements.
  - Some contractor staff lacks key aspects of experience and technical expertise necessary to meet program needs.
  - Evidence of time and cost savings measures are minimal.
  - Responses to requirements are frequently late and may be inadequate, requiring rework.

LEVEL V (60 and Below)

- Performance is unacceptable
  - Critical program management systems and tools are not in place, and there is an unwillingness to implement necessary changes.
  - Few, if any, achievements exist and deficiencies result in severe impacts to program execution.
  - Products require major rework to meet basic requirements.
  - Contractor staff unable to provide technical expertise necessary to manage the program.
  - Contractor does not provide time or cost saving measures.
  - Responses to requirements are late or unacceptable.

AWARD FEE DETERMINATION WORKSHEET

TO #:____________ DATE:__________ FUND TYPE:______________ ACTUAL COSTS TO DATE: $______________
TITLE:______________________________ NEGOTIATED COSTS TO DATE: $__________
ACTIVITY LOCATION:__________________________ % OVER/UNDER BUDGET: $______________
EVAL. PERIOD NO. ________ PERIOD______ TO _______ % COMPLETE::______ BASELINE AMOUNT: $______________

1. <u>COST CONTROL (Weight = 30%)</u>

Level I (92-100) Rating:__________ Score:______
II (85-91) Rating Justifiction:
III (76-84) Score X Area Weight = Rating
IV (61-75)
V (60 and below) ______ X 30% = ________

2. <u>RESPONSIVENESS (Weight = 30%)</u>

Level I (92-100) Rating:__________ Score:______
II (85-91) Rating Justifiction:
III (76-84) Score X Area Weight = Rating
IV (61-75)
V (60 and below) ______ X 30% = ________

3. <u>EFFECTIVE PERFORMANCE (Weight = 30%)</u>

Level I (92-100) Rating:__________ Score:______
II (85-91) Rating Justifiction:
III (76-84) Score X Area Weight = Rating
IV (61-75)
V (60 and below) ______ X 30% = ________

4. <u>OVERALL CONTRACT PROGRAM MANAGEMENT (Weight = 10%)</u>

Level I (92-100) Rating:__________ Score:______
II (85-91) Rating Justifiction:
III (76-84) Score X Area Weight = Rating
IV (61-75)
V (60 and below) ______ X 10% = ________

TOTAL RATING: <u>Factor 1</u> + <u>Factor 2</u> + <u>Factor 3</u> + <u>Factor 4</u> = ______ + ______ + ______ + ______ = ______ _

CONVERTS TO TOTAL RECOMMENDED AWARD FEE PERCENTAGE OF: ________ ____________________
RATER'S SIGNATURE

ATTACHMENT (a)

AWARD FEE CONVERSION CHART

Performance Points	Adjective Rating	Percentage of Available Fee
100		100.0%
99		99.5%
98		99.0%
97		98.5%
96		98.0%
95		97.5%
94		97.0%
93		96.5%
92	LEVEL I	96.0%
91		91.0%
90		88.0%
89		85.0%
88		80.0%
87		75.0%
86		70.0%
85	LEVEL II	65.0%
84		59.0%
83		55.0%
82		51.0%
81		47.0%
80		43.0%
79		37.0%
78		34.0%
77		31.0%
76	LEVEL III	28.0%
75		20.0%
74		18.0%
73		16.0%
72		14.0%
71		12.0%
70		10.0%
69		9.0%
68		8.0%
67		7.0%
66		6.0%
65		5.0%
64		4.0%
63		3.0%
62		2.0%
61	LEVEL IV	1.0%
60 and Below	LEVEL V	

ATTACHMENT (b)

SAMPLE CALCULATION OF AWARD FEE

Available Award Fee for Task Order X0001 is $100,000.

Performance Objective	Area Weight		Score		Rating
Cost Control	30%	X	80	=	24.0
Responsiveness	30%	X	90	=	27.0
Effective Performance	30%	X	85	=	25.5
Overall Contract Program Management	10%	X	95	=	9.5
Award Fee Score					**86**
Award Fee Conversion					**70.0%**
Total Award Fee This Period	**$100,000**	**X**	**70%**	**=**	**$70,000**

ATTACHMENT (c)

Appendix E. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition, Technology, and Logistics
   Director, Acquisition Resources and Analysis
   Director, Defense Procurement and Acquisition Policy
Under Secretary of Defense (Comptroller)/Chief Financial Officer
   Deputy Chief Financial Officer
   Deputy Comptroller (Program/Budget)
Director, Program Analysis and Evaluation

Department of the Navy

Assistant Secretary of the Navy (Research, Development and Acquisition)
Naval Inspector General
Auditor General, Department of the Navy
Commanding Officer, Naval Air Station Joint Reserve Base New Orleans
Commanding Officer, Naval Air Station Pensacola
Commander, Naval Facilities Engineering Command
   Commander, Naval Facilities Engineering Command Atlantic
   Commanding Officer, Naval Facilities Engineering Command Southeast
Commanding Officer, Naval Support Activity New Orleans
Commander, Navy Installations Command

Combatant Command

Inspector General, U.S. Joint Forces Command

Other Defense Organizations

Director, Defense Contract Audit Agency
Director, Defense Contract Management Agency

Non-Defense Federal Organization

Office of Management and Budget

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 Homeland Security and Governmental Affairs
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 Management, Finance, and Accountability, Committee on Government Reform
House Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform

Naval Facilities Engineering Command Comments

DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND
1322 PATTERSON AVENUE, SE SUITE 1000
WASHINGTON NAVY YARD DC 20374-5065

April 8, 2008

MEMORANDUM FOR THE DEPARTMENT OF DEFENSE DEPUTY INSPECTOR GENERAL FOR AUDITING

Subj: DRAFT AUDIT REPORT ON HURRICANE RELIEF EFFORT COSTS ON THE NAVY CONSTRUCTION CAPABILITIES CONTRACT (PROJECT NO. D2006-D000CH-0110.000)

Ref: (a) DoD IG memo of 25 Feb 08

Encl: (1) NAVFAC Comments

In response to reference (a), Naval Facilities Engineering Command appreciates the opportunity to provide comments on the subject report. This memorandum provides concurrence or non-concurrence with each recommendation and comments as you requested.

R. M. GRIFFIN
Assistant Commander for
Acquisition

Subj: HURRICANE RELIEF EFFORT COSTS ON THE NAVY CONSTRUCTION CAPABILITIES CONTRACT; D2006-D000CH-0110.000

Ref: Draft proposed report dtd 25 Feb 08

The following responses address the recommendations of the referenced DOD Office of Inspector General findings. Of note, the audit was conducted on the cost plus award fee Emergency Construction Capabilities (CONCAP) contracts. The ordering period under the CONCAP contracts have expired; however, work continues to be completed for closeout of the contracts. NAVFAC's new contract vehicle for contingency construction is the Global Contingency Construction (GCC) contract. The GCC is a multiple award, cost plus award fee contract with a total not to exceed value of $1 billion dollars over a base year and four option years. The NAVFAC Business Management System (BMS) is a centralized NAVFAC repository of standard business processes that are required to be utilized throughout the NAVFAC organization. The NAVFAC Business Management System (BMS) now includes a comprehensive guide to contingency contracting processes and addresses the Inspector General findings as well as an earlier Naval Audit Report (N2007-0034 dtd 22 May 2007).

Finding: NAVFAC Southeast contracting officials did not:

- establish basic contract forms, either the completion form contract wherein the contractor is required to deliver a specified, definitive end product; or the term (or level-of-effort) form contract wherein the contractor is required to provide simple labor-hours over a designated period of time.
- obtain contractor cost estimates; evaluate proposed prices; and negotiate a target cost and fixed fee for contract requirements that were defined in clear, specific, and objective terms with measurable outcomes; and
- document negotiations.

Recommendation: A.1.a. Establish procedures that verify contracting officials establish basic contract forms, either the completion form contract wherein the contractor is required to deliver a specified, definitive end product, or the term (level-of-effort) form contract wherein the contractor is required to provide simple labor hours (day, months, or years) over a designated period of time.

Response: Concur. There are controls in place when using the GCC that require a more defined scope of work. In addition, NAVFAC BMS S-17.5.8.1 process, Global Contingency Construction, issued on 24 March 2008 addresses the requirement for the contracting officer to specify either a completion form or term form contract. The process also specifically addresses that each task order or modification shall include a scope of work and either a completion date or period of performance.

Action: Complete. Processes institutionalized through BMS 17.5.8.1

Recommendation: A.1.b. Establish procedures to verify that contract ordering procedures are followed for engineering and construction services contracts for natural disaster recovery efforts. Specifically, contracting personnel must:

1. Request and obtain cost estimates for all work performed. The cost estimates need to contain sufficient detail to enable price reasonableness or cost realism determinations to be made.

2. Evaluate proposals and associated cost or pricing data, to include comparing proposed costs to an independent Government estimate.

3. Document the principal elements of the negotiated agreement in the contract file.

4. Base task order funding and potential award fee on the probable cost of the specific scopes of work that are requested.

5. Track how much is spent on each task that is requested and adjust task order funding to actual performance costs when known. The funding (not the award fee) associated with those scopes of work must only be increased if cost overruns occur and must be decreased when the contractor performs efficiently and completes the requested work for less than the negotiated cost.

Response: Concur. The NAVFAC BMS process requires a detailed government estimate in order to negotiate a fair and reasonable price for the deliverables required. In addition, a detailed Rough Order of Magnitude (ROM) estimate will be required from the contractor on all requests for proposals for task orders, modifications, and technical directions issued. All proposals from the contractor will be reviewed and compared to an independent estimate. Furthermore, each contract task order or modification will be negotiated to establish a target cost, with applicable award fee, for the required scope of work which will be documented according to established procedures in the BMS. In addition, the target cost for task orders will only be adjusted commensurate to increases or decreases in the scope of work. Award fee will not be adjusted for any cost overruns.

Action: Complete. Processes institutionalized through BMS 17.5.8.1.

Recommendation: A.2. The Commanding Officer, Naval Facilities Engineering Command Atlantic convene a performance improvement team composed of representatives from all relevant stakeholders to plan and execute a reengineered approach for obtaining the rapid emergency construction and engineering services needed to support the Navy's hurricane recovery efforts.

Response: NAVFAC re-engineered its approach to contracting for emergency construction and engineering services through the award of the Global Contingency Construction (GCC) contract. NAVFAC recognized the need for an improved approach to contingency construction. Through market research and an acquisition plan, NAVFAC developed the GCC acquisition tool. The GCC is a multiple award, cost plus award fee contract with a total not to exceed value of $1 billion dollars over a base year and four option years. Three contracts were awarded under the GCC solicitation. The selection of the GCC contractors was based on corporate experience with contingency construction, past performance, contingency response plans, management approach, small business utilization, and cost. Among other things, the evaluation considered the offerors' resources to respond to contingency situations, established relationships with subcontractors and suppliers, and the effectiveness of the offerors' internal management and accounting systems. NAVFAC Atlantic will be hosting a training session in the May/June 2008 timeframe to review ordering and administration procedures under the GCC.

Action: Complete. GCC contract vehicle awarded and BMS process institutionalized. Training session planning underway.

Finding: NAVFAC Southeast contracting officials did not provide adequate oversight on subcontracts awarded by KBR in support of three task orders for hurricane recovery efforts on the CONCAP contract.

Recommendation: B.1.a. Request a refund for $1,368,077 from KBR for the unreasonable lease charge and fees associated with cooking equipment purchased by Commercial Marketing Corporation.

Response: Concur. DCAA has completed the audit and a Form 1 has been issued to KBR. All payments to Task Order 16 have been suspended. Awaiting response from KBR.

Action: On-going. Expected completion date August 30, 2008.

Recommendation: B.1.b. Request the Defense Contract Audit Agency review all the costs paid under the material markup provisions and determine what amounts relate to material handling costs and what amounts relate to profit.

Response: Concur. DCAA is reviewing.

Action: On-going. Expected completion date August 30, 2008.

Recommendation: B.1.c. Request KBR to refund any amount paid under the material markup provisions determined to represent profit. We calculate this could result in the Navy recovering as much as $7.1 million from KBR for the inappropriate payments.

Response: Concur. NAVFAC will work with DCAA to determine what amounts of the material markup provisions were improper and to seek recovery as appropriate..

Action: On-going. Expected completion date August 30, 2008.

Recommendation: B.2. The Commanding Officer, Naval Facilities Engineering Command Atlantic:

a. Establish procedures to verify that subcontract costs for natural disaster recovery efforts are adequately analyzed and only appropriate costs are included in the labor rate.

b. Develop procedures to address liability for excess material procured by commercial contractors.

c. Establish procedures to verify that subcontracts used to support natural disaster recovery efforts that are anticipated to be valued at more than $1 million are adequately reviewed to ensure that effective cost or price analysis is performed and that cost or pricing data are obtained when necessary.

Response: Concur. Through the evaluation of the GCC contracts, NAVFAC selected contractors with strong purchasing and other internal control systems. Contracting officials will comply with required oversight of prime contractor's internal controls on management and accounting systems. In addition, NAVFAC will conduct periodic reviews of the contractor's systems and major subcontracts as prescribed in the GCC contract administration plan. Oversight procedures will be reinforced at the GCC training session.

Action: On-going. Oversight and review procedures addressed in the GCC contract administration plan. Training session will be completed in May/June 2008.

Finding: NAVFAC Southeast contracting officials awarded KBR three task orders on its cost-plus-award-fee CONCAP contract for hurricane recovery that were administered as prohibited cost-plus-percentage-of-cost (CPPC) contracts.

Recommendation: C. The Commanding Officer, Naval Facilities Engineering Command Southeast determine whether the amount paid to KBR represents the fair and reasonable value of services accepted, and if not, take appropriate action to recover the excessive award fee.

Response: Non-concur. The legal conclusion that Task Order Nos. 2, 16, & 17 were administered as illegal cost-plus-percentage-of-cost contracts is not supportable. Consequently, there is no legal basis on which to recover the award fees paid to KBR under these task orders. KBR's award fee was not calculated as pre-determined percentage rate of costs; 4 percent was the maximum *available* award fee amount. Nor did KBR's award fees increase in direct proportion to increased performance costs because KBR did not receive 100% of the available fee. Rather, after performance evaluations were conducted, KBR actually received 100%, 96%, and 88% of the money added to the award fee pool for Task Orders 2, 16, and 17, respectively. The GAO has specifically found that cost-plus-award-fee (CPAF) contracts do not constitute improper CPPC contracts. See Matter of United Food Services, Inc., B-217211, 64 Comp. Gen. 880, 85-2 Comp. Gen. Proc. Dec. ¶ 326 (September 24, 1985) (CPAF contract, authorized under the FAR, is not a prohibited CPPC contract where the award fee, while based on a percentage of costs, depends on government's subjective assessment of performance); FAR 16.305; FAR 16.405-2. The Navy administered this contract as an authorized CPAF contract. The Navy conducted a subjective evaluation of KBR's performance in order to determine KBR's fee award. The Performance and Award Fee Evaluation Boards evaluated KBR's performance on open task orders and submitted a formal report to the Fee Determination Official with a recommendation of how much of the available fee KBR should be awarded. Because the Navy conducted a subjective evaluation of KBR's performance in order to determine KBR's fee award rather than calculated KBR's fee as a straight percentage of costs, the contract did not constitute an illegal CPPC contract. See National Electronic Laboratories, Inc. v. United States, 148 Ct. Cl. 308, 313-14 180 F. Supp. 337 (1960) (No CPPC contract, where contract provided for contractor's performance and "efficiency, economy, and ingenuity" to be examined before awarding compensation to a contractor).

Action: None.

Finding: NAVFAC contracting officials did not adequately support the award fee determinations for the hurricane recovery task orders. Specifically, the Navy failed to capture the information needed to effectively assess how well KBR controlled costs and did not reconcile the contracting officers' and technical representatives' assessments against each other or the characteristics identified in the award fee plan.

Recommendation: D. The Commanding Officer, Naval Facilities Engineering Command Atlantic establish procedures to verify that award fee assessments made by the contracting officer and technical representatives are reconciled against each other and ensure written statements match the performance ratings.

Response: Concur. The GCC administration plan specifically addresses the award fee evaluation and the responsibilities of the contracting officer. The contracting officer for the task order will be responsible for collecting the award fee assessment from the technical representative(s) and forwarding to the NAVFAC Atlantic contracting officer. The task order contracting officer may provide additional input to the award fee board for consideration; however, the assessment from the technical representative shall not be altered. Appointed technical representatives to the contract and task orders will be advised of the award fee plan and its application to the task order. The award fee evaluation process will be reviewed at the GCC training session.

Action: On-going. Training session will be completed in May/June 2008.

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