Audit Report

CONTINUED USE OF A SINGLE CONTRACTOR
FOR CONTRACT RECONCILIATION WORK

Report Number 98-099 April 2, 1998

Office of the Inspector General
Department of Defense

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Acronyms

DFAS	Defense Finance and Accounting Service
DLA	Defense Logistics Agency
FAR	Federal Acquisition Regulation
SBA	Small Business Administration

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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ARLINGTON, VIRGINIA 22202

April 2, 1998

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER)
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
DIRECTOR, DEFENSE LOGISTICS AGENCY

SUBJECT: Audit Report of the Continued Use of a Single Contractor for Contract Reconciliation Work (Report No. 98-099)

We are providing this report for review and comment. The Under Secretary of Defense (Comptroller) did not respond to the draft report; however, comments from the Defense Finance and Accounting Service and the Defense Logistics Agency were considered in preparing the final report.

DoD Directive 7650.3 requires that audit recommendations be resolved promptly. The Defense Logistics Agency comments to Recommendation 2. were not responsive. Comments provided by the Defense Finance and Accounting Service were responsive. However, we request that it provide comments explaining when a review of staff action will be completed. We request the Under Secretary of Defense (Comptroller) provide comments and the Defense Logistics Agency provide additional comments by June 2, 1998.

Questions on the audit should be directed to Mr. Terry L. McKinney, Audit Program Director, at (703) 604-9288 (DSN 664-9288) or Mr. Bruce A. Burton, Audit Project Manager, at (703) 604-9282 (DSN 664-9282). See Appendix C for the report distribution. The audit team members are listed inside the back cover.

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Office of the Inspector General, DoD

Report No. 98-099 **April 2, 1998**
(Project No. 7CK-8009)

Continued Use of a Single Contractor for Contract Reconciliation Work

Executive Summary

Introduction. This report is the first in a series about complaints made to the Defense Hotline about contracting at the Defense Finance and Accounting Service. The complaint questioned the contracting relationship between the Defense Finance and Accounting Service and the Coopers and Lybrand contractor. Specifically, the complaint alleged that Coopers and Lybrand was receiving favorable treatment in the award of contracts for reconciliation services. From 1989 through 1997, four contracts were awarded to Coopers and Lybrand with a value of $77.9 million.

Audit Objectives. Our objective was to determine whether the complaint to the Defense Hotline had merit and if the Government performed contracting functions properly. We also reviewed the adequacy of the management control program as it applied to the audit objective. The management control program will be discussed in another report.

Audit Results. The complaint to the Defense Hotline had merit. From 1989 through 1997, the Defense Logistics Agency and the Defense Finance and Accounting Service did not plan the scope or depth of reconciliation services and continuously used Coopers and Lybrand to obtain these services. The Defense Logistics Agency and the Defense Finance and Accounting Service established initial contact with Coopers and Lybrand when it was a subcontractor on an existing sole-source contract. The Defense Logistics Agency and the Defense Finance and Accounting Service awarded Coopers and Lybrand the follow-on contract after limited competition. The Defense Logistics Agency and the Defense Finance and Accounting Service awarded Coopers and Lybrand two additional contracts by issuing sole-source awards claiming unusual and compelling urgency and uniqueness of capabilities for performing the work. As a result, DoD has no idea of the reconciliation requirements and has allowed one contractor to be the sole provider of reconciliation services for over 8 years. In addition, DoD lost the benefits that result from contract competition. See Part I for a discussion of the details and Appendix A for the audit process.

Summary of Recommendations. We recommend that the Under Secretary of Defense (Comptroller) establish an independent panel to determine the extent of reconciliation services, and within 6 months arrange for a competitive acquisition using firm-fixed price or incentive award contracts, and terminate the current reconciliation services contract. We also recommend that the Directors of the Defense Finance and Accounting Service and the Defense Logistics Agency review the circumstances of the procurement and take appropriate action against any personnel involved in using inappropriate justifications to award contracts.

Management Comments. The Under Secretary of Defense (Comptroller) did not provide comments to the draft audit report. The Defense Finance and Accounting Service agreed to review applicable staff actions and take appropriate action against those involved in using inappropriate justifications to award contracts. The Defense Logistics Agency believed that it had done a good job of planning and awarding the contracts. The Defense Logistics Agency stated it had reviewed applicable staff actions and determined that no action was warranted for the acquisition officials involved. See Part I for a summary of the comments on the findings and recommendations and Part III for the full text of the management comments.

Audit Response. Although the Defense Logistics Agency reviewed the applicable staff actions and stated that no actions were necessary, we question the veracity of its review of the deficiencies noted in the report. For example, it is difficult to believe it is an acceptable acquisition practice for a senior acquisition official to approve a sole source award justification yet write that he did not believe it. We request the Under Secretary of Defense (Comptroller) provide comments. We request the Defense Finance and Accounting Service provide comments on its review of staff actions and the Defense Logistics Agency reconsider its position and provide additional comments by June 2, 1998.

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Part I - Audit Results

Audit Background

The review was performed in response to a complaint to the Defense Hotline. This report is one in a series regarding complaints made to the Defense Hotline about the Defense Finance and Accounting Service (DFAS). This complaint questioned the contracting relationship between the DFAS and Coopers and Lybrand, a contractor. Specifically, the complaint alleged that Coopers and Lybrand was receiving favorable treatment over other contractors in the award of contracts for reconciliation services.

Reconciliation Services Contracts. Reconciliations were performed to ensure that fund balances were accurate, disbursements were properly supported by obligations, and that contractors were not excessively paid. From 1989 through 1997, the Defense Logistics Agency (DLA) and DFAS awarded four contracts valued at $77.9 million to Coopers and Lybrand for reconciliation services. This work was initiated when DLA began transferring accounting and finance functions to the DLA Finance Center, Columbus, Ohio. The Columbus Center was originally established in July 1988 to consolidate payment processes throughout the DLA. The Columbus Center became part of DFAS in 1991, when DFAS was created. The DFAS continued to use the DLA to contract for reconciliation services until 1997.

DFAS Contracting Authority. The Director, Defense Procurement, established DFAS as a contracting organization in November, 1996. Prior to 1996, DFAS obtained contracting services from other DoD organizations and, in some cases, other Federal agencies.

Audit Objectives

The primary audit objective was to determine whether the complaint to the Defense Hotline had merit and if the Government performed contracting functions properly. Because this report is the first in a series, the management control program will be discussed in a subsequent report. See Appendix A for a discussion of the audit process and a summary of prior coverage.

DFAS Reconciliation Services

The Defense Finance and Accounting Service and the Defense Logistics Agency did not determine the scope and depth of reconciliation services and did not adequately plan to acquire these services. Procurement officials also made faulty justifications and took inappropriate actions to award sole-source contracts. This occurred because procurement officials did not follow and, in some cases, misused procurement regulations. As a result, DoD has no idea of the reconciliation requirements and has allowed one contractor, Coopers and Lybrand to be the sole provider of these services for over 8 years. DoD has paid a higher price for reconciliation services and has lost the benefits that would accrue from competition.

Reconciliation Services History

From 1989 through 1997, DLA and later DFAS obtained contractor support for reconciliation services from Coopers and Lybrand. The following figure shows the Coopers and Lybrand contracts valued at $77.9 million.

Contract Number	Contractor	Type of Award (T&M)*	Award Date	Initial Contract Value (Millions)	Total Contract Value (Millions)
DLAH00-89-D-0010 (Delivery Order 6)	Coopers and Lybrand (Subcontractor)	Sole Source	8/18/89	$2.3	$4.7
DLA600-90-D-5047	Coopers and Lybrand	Limited Competition	4/06/90	$14.8	$35.0
SP0600-95-D-5523	Coopers and Lybrand	Sole Source	2/23/95	$20.0	$32.8
MDA220-97-D-0032	Coopers and Lybrand	Sole Source	8/29/97	$5.4	$5.4
Total					**$77.9**

* Time-and-Materials Contract

Figure 1. Reconciliation Services Contract Awards 1989 Through 1997

DLA awarded contract DLAH00-89-D-0010 on April 14, 1989, to Network Solutions Incorporated (reconciliation services were later added). This letter contract had a minimum value of $40,000 and a maximum value of $10 million. The contract was definitized on October 1, 1990, for $24.6 million. DLA awarded the sole-source contract under the small-disadvantaged business set-aside program for telecommunications and automated data processing services. Coopers and Lybrand, a subcontractor to Network Solutions, Incorporated, began reconciliation services under this contract after DLA issued a delivery order on August 18, 1989. The value of the delivery order was approximately $4.7 million.

The DLA, through the Defense Fuel Supply Center, awarded a second reconciliation services contract to Coopers and Lybrand on April 6, 1990. Contract DLA600-90-D-5047 was considered competed with a 4-year duration that was extended for an additional year. The estimated contract value was $14 million, however, through modifications and additions, the contract increased to approximately $35 million.

Using the Defense Fuel Supply Center, DLA awarded a third reconciliation services contract to Coopers and Lybrand on February 23, 1995. DLA awarded contract SP0600-95-D-5523 on a sole-source basis. The justification for use of a sole-source contract was that services were unique and specialized, and Coopers and Lybrand was the only contractor that could perform the work. The contract was awarded for a 6-month base period with options. The estimated contract value was $20 million, however through May 1997, the contract cost increased to $32.8 million.

DFAS issued its first contract for reconciliation services on August 29, 1997. DFAS awarded sole-source contract MDA220-97-D-0032 to Coopers and Lybrand. The justification for award of a sole-source contract was an urgent and compelling need for services. The estimated contract value was $5.4 million. DFAS officials stated that the contract was issued as a 1-year bridge contract to be followed by multiple award contracts that would cover a base and option years.

Procurement Planning

DLA and DFAS significantly underestimated the scope and depth of reconciliation services contracts. Procurement officials did not define the requirements. Instead, the officials continued to expand the scope and cost of these contracts while claiming that the requirements were nonrecurring ending with each contract. In addition, contracting officials repeatedly used time-and-materials contracts that placed most of the risk on the Government.

Scope and Depth of Reconciliation Services Contracts. DLA and DFAS failed to gauge the scope and depth required of reconciliation services contracts, and costs increased for each contract award.

Work and Cost of Services. Costs for each contract, except the fourth, increased significantly beyond the initial award amount. The first reconciliation services contract for $2.3 million was awarded in August 1989. However, within 3 months, from December 1989 to February 1990, six modifications were issued that doubled the contract cost to $4.7 million. The second contract was awarded in April 1990 for $14.8 million. In January 1992, DFAS requested a ceiling increase to $20 million. A memorandum for record in the contract file justified the increase as follows:

> Modification P00021 revised the ceiling price of $14,848,000 to $20,000,000. This revision was based on DFAS letter dated 17 Jan 92. Because there were no good estimates for the number of contracts that needed to be reconciled, the original price of $14,848,000 was a guess without much data to support it . The ceiling is now increased to $20,000,000 based on more accurate data now available. The ceiling will probably be further increased before all work is completed.

The $20 million estimate was also inaccurate because the memorandum correctly predicted that the ceiling would increase again. In September 1992, DFAS requested an additional ceiling increase of $10 million. In January 1994, DFAS requested a contract extension to April 1995, and in November 1994 DFAS again requested that the contract be increased to $35 million. In total, the second contract more than doubled in value from the original ceiling and the

period of performance increased by more than a year from the original contract. The third contract was awarded for $4 million with a period of performance of 6 months with two 1-year options. This contract eventually increased to $32 million with both options being exercised because other centers, services and agencies ordered from this contract. The DFAS Denver and Cleveland Centers, Tinker Air Force Base, the Marine Corps System Command, and the Defense Contract Management Command ordered services from this contract. As an example, Coopers and Lybrand provided training, valued at $30,000, to the Defense Contract Management Command for work that was outside the scope of the contract. The following figure illustrates the average annual value of the three contracts awarded from 1989 to 1995.

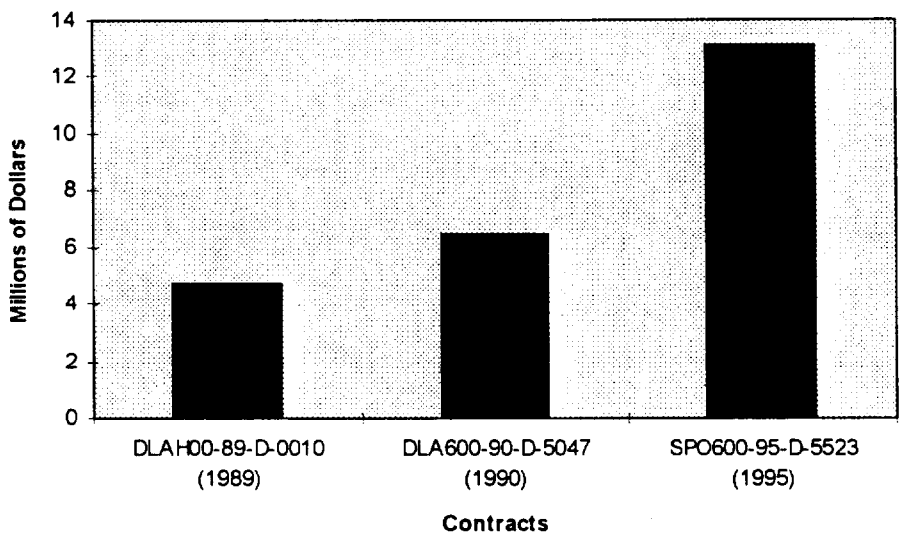

Figure 2. Average Annual Value for Contracts

The fourth contract was awarded in September 1997 with work other than reconciliation services added to the scope. The statement of work was vague, and stated that Coopers and Lybrand would conduct special studies. Also, the contract has a provision for Coopers and Lybrand to perform research to determine the scope of future reconciliation services. DLA and DFAS continued to allow costs to escalate for 8 years and then decided to allow the contractor to determine work parameters.

Time-and-Materials Contracts. The Federal Acquisition Regulation (FAR) defines a time-and-materials contract as one that provides no positive profit incentive to the contractor or labor efficiency because most of the risk remains on the Government. FAR 16.601(b), states, " 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." Also, contracting officers should avoid the protracted use of time-and-materials contracts after experience provides a basis for firmer pricing. If a time-and-materials contract is issued, the contracting officer must write a determination and finding justification detailing the Government's position.

The DLA and DFAS continuously used time-and-materials contracts to obtain reconciliation services without any indication that firm pricing of these services was a procurement concern. After the fourth contract expires in September 1998, DLA and DFAS will have used Coopers and Lybrand for reconciliation services for approximately 10 years. Both agencies justified a time-and-materials contract as the only type of contract that could be used. Determination and findings justifications were issued for the 1990 and 1995 contracts. Both contracts stated that the extent or duration of the work could not be estimated and that this was a nonrecurring requirement. The DFAS contracting officer was required but did not issue a determination and finding justification for the 1997 time-and-materials contract. Firm-fixed priced contracts should have been considered and awarded, especially for the 1995 and 1997 contracts since these services had been continuous for approximately 6 to 8 years. Both agencies should have planned and controlled costs based on the history of prior contracts.

Planning. DLA and DFAS did not adequately plan for the acquisition of reconciliation services. FAR 7.102 requires agencies to perform acquisition planning and market research to establish full and open competition. To facilitate attainment of the acquisition objectives, plans should identify decisions and milestones and address all technical, business, management and other significant considerations to control the acquisition. Other factors for consideration include such elements as contract history, cost, extent and results of market research, basis for obtaining competition, and timing for submission and evaluation of proposals. Acquisition planning should begin as soon as the agency need is identified, preferably well in advance of the fiscal year in which contract award is necessary.

Initial Acquisition for Reconciliation Services. DLA poorly planned the initial contract on which acquisition officials attached the requirement for reconciliation services. Contract files did have formal justification for adding the reconciliation requirement. In November 1988, Wilson Hill Associates, a contractor, prepared an acquisition plan and independent Government cost estimate for a proposed contract for automatic data processing services. No plan or detailed cost estimate was prepared by DLA officials. The contractor plan did not provide for competition, source selection, or market research although the estimated value of the contract was expected to be as much as $143.8 million. The procurement was designated for a small business selected by DLA because the contractor was already performing work under a prior Army delivery order that was near expiration. DLA officials knew that this contract would expire in February 1989, yet no planning was initiated until Wilson Hill Associates prepared the acquisition plan in November. The plan was not used to obtain sources for competition or establish milestones, but to select the small business contractor. In a February 15, 1989, memorandum, the DLA contracting officer stated, ". . . this letter contract must be in place no later than 28 February 1989, so that Network Solutions can continue automated data processing support . . . . Negotiation of a definitive contract is not possible within the time frames necessary to begin contractor performance." The letter contract still was not issued until April 14, 1989, with an effective date of March 1. Small Business Administration (SBA) officials subsequently determined that Network Solutions, Incorporated, was not eligible as a small business for the automated data processing services.

The contract solicitation specified that services under the contract included, but were not limited to :

- Voice/data telecommunications analysis, planning and design,
- Quality assurance and testing,
- ADP support/data entry planning and support,
- Applications software design,
- Modification/conversion and maintenance,
- Systems integration,
- Acquisition support,
- Studies and analyses,

o Voice/data telecommunications data base and software database analysis, design, development,

o Operations and maintenance,

o Systems and data audits,

o Training,

o Milnet/TCP/IP networking services and support and,

o Contingency planning for system redundancy.

On August 18, 1989, the DLA contracting officer issued Delivery Order 6 to add reconciliation services. There was no separate evaluation of this requirement or any indication in the file that the contractor was capable of performing this work, or that award to the small business was in the Government's best interest. In fact, the contractor did not perform the majority of the work. Over 85 percent of these services were performed by a subcontractor, Coopers and Lybrand. In addition, the reconciliation services requirement was so poorly planned that the delivery order was issued after the first phase of performance was completed. The first phase of contract performance covered the period May 31 through July 31, 1989. Over $600,000 of costs were incurred prior to issuance of the delivery order.

Second Contract. The second contract also showed evidence of planning problems. In October 1989, DLA officials prepared an acquisition plan for a second contract for reconciliation services. The acquisition plan called for a 3-year contract. The purchase history section of the plan stated, "this is a new procurement of this type of service and therefore, there is no price history." This statement was included in spite of Coopers and Lybrand's performance of these same services on the first contract. The plan also indicated that competition was expected. A determination and finding justification prepared at the same time conflicted with the plan stating that the proposed contract would last 4 years. The basis for the long-term contract was to encourage competition and allow potential contractors to spread initial start up costs over a reasonable length of time. Subsequently, in January 1990, a new determination and finding justification was prepared stating that efforts would be completed approximately 3 years from contract award, that the requirement was nonrecurring, and that extended arrangements were not anticipated.

Although, DLA officials stated that competition was anticipated and a long-term contract was planned to encourage proposals, procurement officials actions inhibited competitors from bidding. No other bids were received and a 4-year contract was issued to Coopers and Lybrand. At least two prospective contractors expressed concern that they were not given a fair opportunity to compete. DLA amended the solicitation to limit payment of actual effort to no more than 10 percent above the estimated number of hours for each labor category. The prospective bidder felt that first hand knowledge of reconciliation services and related processes were integral to estimating total costs. Competitors were told that site visits would not be allowed. Therefore, competitors felt that Coopers and Lybrand had an unfair advantage from this first hand knowledge. Another prospective contractor stated that their company was not aware of the announcement because the solicitation was misclassified in a miscellaneous category instead of the normal procedure. The DLA determination and finding justification categorized the services as "advisory and assistance" which tended to support the potential bidder's concern. Even in the face of these concerns, DLA awarded the full 4-year contract to Coopers and Lybrand with no plans for competition. The solicitation had allowed for awards as small as 1 year. Also, we believe that because of fairness concerns and the lack of competition, prudent business practices would have necessitated a short contract period. Competition could then have been resolicited.

In spite of the contracting officer's assertion in the determination and finding justification that the effort would be completed in 3 years and extended arrangements were not anticipated, DLA and DFAS used the full 4 years of the contract. In addition, DFAS contracting officials issued two memorandums to DLA to extend the contract for an additional year with no justification that this was in the Government's best interest.

Third Contract. In November 1994, DLA prepared an acquisition plan for a sole-source contract award to Coopers and Lybrand and prepared a justification for other than full and open competition stating that

> No other contractor is capable of performing the objective of completing the implementation and turnover of the system to DFAS. As stated in the attached certification from DFAS, the supplies/services cannot be purchased from any other source (s) and are only available from C&L.

No market research was performed and the plan stated that only one source would be solicited. The justification from DFAS, under the section on statement of actions to remove or overcome barriers to competition, stated that upon

completion of this transition, the requirement to overcome any barriers to competition before any subsequent acquisition for the services will not exist. A memorandum for record from the Acquisition Review Board states, "DFAS stated that they should be finished reconciling contracts in 6 months, despite the fact that the current contract was extended for quite some time. If the requirement is ongoing, justifying a sole-source procurement gets more difficult." The lack of planning and control was evident again when both option years of the contract had to be exercised after the initial performance period was completed.

Fourth Contract. The most recent 1997 award typifies the lack of planning. DFAS did not prepare an acquisition plan, use market research, or otherwise plan far enough in advance of the need to prepare for a competitive procurement. Procurement officials stated as early as 1990 that the requirement was nonrecurring and reconciliation services contracts have continued to be procured with expenditures totaling over $77 million. Contracting officers are in no better position now to establish firm requirements for these services than they were when they initially procured the services. The current acquisition strategy, as outlined in the justification and approval, is to use the 1997 contract as a bridge contract. DFAS states that although this contract covers 1 year, to provide maximum flexibility, DFAS does not plan to execute the full year. A long-term contract will be synopsized in the Commerce Business Daily and competed.

Procurement Actions. Besides the planning deficiencies, DLA executed a series of questionable procurement actions including: awarding an unauthorized Section 8(a) contract, and issuing a delivery order for reconciliation services outside the scope of a telecommunications and automated data processing contract after much of the work was already completed. In addition, DLA did not compete reconciliation services requirements among other small businesses if, in fact, the decision was properly made to include the requirements in the small business program.

Small Business. The DLA erred when it provided inaccurate information to the SBA during a request to contract with a specific Section 8(a) contractor. DLA requested SBA approval to contract with Network Solutions, Incorporated, under standard industrial code 4813, "Telecommunications." The intention of DLA was to continue contracting with the same contractor that was used on an expiring contract. However, the SBA determined prior to awarding

the contract that the preponderance of work would be standard industrial code 7370, "Automated Data Processing," in which Network Solutions, Incorporated, was not classified as a small business. The SBA agreed to sign the letter contract with DLA to continue performance for a maximum of 180 days, with the stipulation that DLA pursue another contract with an approved Section 8(a) firm and terminate the letter contract.

Out of Scope. DLA erred again when it issued a delivery order for reconciliation services that was outside the scope of contract DLAH00-89-D-0010. The contract had been awarded for the procurement of automated data processing and telecommunications services to support the implementation of the DLA consolidated finance center in Columbus, Ohio. DLA contracting officials and the contract files do not explain the rationale for using the contract for these services.

Competition. Public Law 100-656, "The Business Opportunity Development Reform Act of 1988," requires that an acquisition offered under the Section 8(a) Program to the Small Business Administration shall be awarded on the basis of competition if the anticipated award price of the contract (including options) exceeds $3 million (for service contracts), and if a reasonable expectation exists that at least two Section 8(a) firms will submit offers at a fair market price. Federal Acquisition Regulation part 19.805 "Competitive 8(a)," implements Public Law 100-656.

DLA should not have added reconciliation services to contract DLAH00-89-D-0010. The estimated value of reconciliation services exceeded the $3 million FAR threshold for competition among small business firms and should have been procured through competition.

Justifications. Instead of using potential sources interested in performing reconciliation services work and seeking to maximize competition, DLA and DFAS used faulty justifications that continued the sole sourcing to Coopers and Lybrand.

Uniqueness. DLA made an inappropriate determination when it used "uniqueness," and the rationale that no other contractor was capable of performing reconciliation services as a justification for awarding contract SP0600-95-D-5523. Procurement officials should have been aware that a number of other accounting firms had the ability to perform this work. Even the Commander, Defense Fuel Supply Center, with final approval authority expressed disbelief with the stated rationale. After reading the justification for

other than full and open competition for contract SP0600-95-D-5523, which stated that no other contractor was capable of performing the objective of completing the implementation and turnover of the system to DFAS, the Commander, Defense Fuel Supply Center, in a written note on the justification and approval, stated that "I don't believe this, but I signed it come see me."

Urgency. DLA used false urgency as an excuse before awarding the initial contract that included reconciliation services. Even though contracting officials knew that the prior delivery order would be expiring and had a contractor prepare an acquisition plan in November 1988, the contracting officer waited 13 days before the order expired to initiate a new contract. On February 15, 1989, the contracting officer requested that a letter contract be in place by February 28, 1989. The contracting officer included in the rationale that if services were not continued, the implementation schedule would be adversely impacted. Also, the contracting officer stated that a definitive contract was not possible within the time frames necessary to begin contract performance. A definitive contract estimate would take four months to complete. The DLA used urgency as the reason for contract DLA600-90-D-5047 when it decided it needed to conduct negotiations without waiting for the results of a Defense Contract Audit Agency audit. However, DLA was not consistent with its use of urgency. While officials felt an urgency to conduct negotiations before all data was available on contract DLA600-90-D-5047, there was no urgency to definitize the prior contract until October 1990, approximately 18 months after the letter contract was issued. The contracting officer also showed no urgency when Delivery Order 6 was issued to this contract in August after the first phase of the delivery order was already complete. By conducting business in this manner, the DLA contracting officer reduced the contractor's risks since actual costs were available and were considered in the pricing.

DFAS officials used the same false urgency justification in 1997 that was used initially, and awarded contract MDA220-97-D-0032, a 1-year sole-source contract to Coopers and Lybrand citing FAR part 6.302.2, "Unusual and Compelling Urgency." DFAS contracting officials stated that "It is imperative that DFAS avoids any break in the current contractor services provided by Coopers and Lybrand for contract reconciliation."

Procurement officials were unable to provide acceptable rationale for the need to avoid any breaks in service for a function that continued more than 8 years with no end in sight. DFAS legal officials at the Denver, Colorado, center questioned the lack of competition in contract MDA220-97-D-0032 by stating,

> The J&A adequately explains the critical nature of the requirement, the imminent gap in contractual coverage, and why DFAS cannot withstand a break in service, but does not address why a competitive procurement was not initiated in time to provide follow-on contractual coverage on October 1, 1997. Explain how this requirement became urgent.

DFAS clearly did not meet the FAR requirements of part 7.104. Although the requirement was evident, planning for competition was never initiated. The contract was awarded in the face of open legal concerns with the statement that legal concurrence would be obtained after the award. The Denver legal office did not concur with award. The action has been moved to the Columbus, Ohio, office for review.

In our opinion, it is incredible that after 8 years of continuous and recurring reconciliation service, that DFAS would use the justification that a sole-source award is made of an urgent and compelling basis because of its inability to plan the requirements in time frames to allow for a competitive award.

Waivers. Once the 1995 contract was in place, DFAS Headquarters and field activities requested waivers to use sole-source contracts in lieu of normal contracting procedures. The DFAS Headquarters Resource Management office granted one-time waivers to use the sole-source contract based on the assumption that the use was in the best interest of the Government with the lowest overall cost. The Cleveland, Ohio, DFAS office, in its one sentence justification, stated " . . . the option to utilize the contract reconciliation vehicle is the best solution." DFAS could not provide evidence to support the determination that the use of a sole-source contract was in the best interest of the Government or the lowest overall cost.

Contract Options. The DLA contracting officer exercised options under the 1995 sole-source contract by stating the exercise option was the most advantageous method of fulfilling the Government's need, price, and other factors considered. The action was initiated when DFAS submitted a letter providing funds. The contracting officer stated that a market survey was not feasible based on the uniqueness of the functional and technical expertise of Coopers and Lybrand. The contract officer did not document the file to show that the exercising of the option was the most advantageous method of fulfilling the Government's need.

Deliberate Actions. DLA ignored the SBA instructions on the use of a specific Section 8(a) contractor.

After determining that Network Solutions, Incorporated, was not considered a small business for the majority of work to be performed under contract DLAH00-89-D-0010, the SBA agreed to sign letter contract DLAH00-89-D-0010 between DLA and Network Solutions, Incorporated. The contract would continue work being performed under an expiring delivery order by Network Solutions, Incorporated, with the stipulation that within 180 days, DLA would pursue another contract with an approved 8(a) firm, and terminate the contract with Network Solutions, Incorporated, as soon as that contract was in place. Instead of quickly terminating the contract within 180 days and finding another Section 8(a) contractor, DLA continued to use Network Solutions, Incorporated, under the letter contract from April 14, 1989, through October 1990.

Benefits of Competition

Competition utilizes market forces to stimulate innovation and ensure reasonable prices. Since 1809, the Federal Government has held the conviction that competition should be employed as the basic model for Federal procurement. The emphasis has been on price competition, whereby setting prices and selecting sources is based on the lowest offer from among a maximum number of qualified sources. The benefits of this rivalry follow the proposition that the offered price is driven toward the minimum cost of production (including profit). DoD policies, for its millions of procurement actions, require competition to "the maximum practical extent." Studies have shown that competition can generate 25 percent to 40 percent savings in contract prices.

Conclusion

Instead of competing requirements among various qualified contractors, DFAS has allowed Coopers and Lybrand to be the sole provider of reconciliation services for more than 8 years with the possibility that service may continue for 14 years or longer. DoD has lost the benefits that result from contract competition. In addition, the DLA and DFAS pattern of using urgency and uniqueness to obtain Coopers and Lybrand for reconciliation services makes it unlikely that DFAS contracting officials could be unbiased in future contracting for reconciliation services. In our opinion, DFAS planned actions to initiate multiple-award competitive contracts in the future will not solve the problems.

Based on past actions, we believe future work would continue to be directed to Coopers and Lybrand and that an independent panel would be needed to establish fair competition.

Recommendations, Management Comments, and Audit Response

1. We recommend that the Under Secretary of Defense (Comptroller):

a. Establish an independent panel to determine the required amount of reconciliation services with the necessary time frames to complete the requirements, and arrange for a fair competition of this work using a firm-fixed price or incentive award contract. The team should be given a goal of completing actions within 6 months.

b. Terminate contract MDA220-97-D-0032 for reconciliation services when the firm-fixed price or incentive award contract is in place.

Under Secretary of Defense (Comptroller) Comments. The Under Secretary of Defense (Comptroller) did not provide comments to the draft audit report.

DFAS Comments. Although not required, DFAS provided comments. DFAS partially concurred with the recommendation and agreed to establish an independent panel but disagreed that firm-fixed price contracts should be used. DFAS stated that the fourth contract was urgent, it should not be terminated but rather discontinued when a new contract is in place.

Audit Response. Although the DFAS suggestion of discontinuing use of the existing contract has some merit, it does not provide any assurance that the status quo would not exist. Furthermore, after 8 years of experience, DFAS should have some idea of the cost to perform reconciliation services so that a contract other than time and materials could be used. We believe the decision on the type of contract should be made by an independent panel. We disagree with the perceived urgency of DFAS for the fourth contract. FAR Part 7 requires the agency to identify requirements and perform acquisition planning as early as possible. Yet, DFAS did not give the Fleet Industrial Supply Center the requirement for the current contract until November 1996. DFAS knew a contract was necessary before November 1996 but took no action, thereby causing the urgency. DFAS also controlled the transfer of the reconciliation contracting function from the Fleet Industrial Supply Center to DFAS. It was DFAS' decision to transfer the reconciliation function and it determined when the transfer would occur. Therefore, any timing problem existing because of the transfer was caused by DFAS. The contract could have been awarded by the Fleet Industrial Supply Center and subsequently transferred to DFAS. We request that the Under Secretary of Defense (Comptroller) provide comments.

2. We recommend that the Directors of the Defense Finance and Accounting Service and the Defense Logistics Agency review applicable staff actions and take appropriate action against those involved in using inappropriate justifications to award contracts.

DFAS Comments. DFAS concurred.

DLA Comments. DLA concurred, stating that it had reviewed the applicable staff actions and determined that no action against those involved in these contracting actions is warranted. DLA felt that it did a fairly good job of planning for reconciliation contracts given the circumstances of not knowing the scope and depth of work for which it was contracting. DLA felt planning was proper when the initial requirement for reconciliation services was added to an existing Section 8 (a) contract. DLA believed that the regulatory requirements for the second contract were met and that the reconciliation contracts costs would not have changed regardless of the amount of competition. In addition, DLA took exception to our statement that it had prepared an acquisition plan for a sole-source award to Coopers and Lybrand after receiving a justification from DFAS stating that Coopers and Lybrand was the only contractor capable of doing the work. DLA stated the Commander, Defense Fuel Supply Center, approved the sole source award because he had no data to dispute the DFAS analysis, and that the determination was also signed by the contracting officer, the contracting office Division Chief, the Director of Contracting, and the Competition Advocate.

Audit Response. We disagree that DLA did an adequate job planning reconciliation services procurements. It did not plan for competition or perform a market survey on the initial award. Instead, DLA added reconciliation services requirements to an unrelated Section 8(a) contract that was awarded for telecommunications and automated data processing services. Reconciliation services work clearly did not belong on the Section (8a) contract as evidenced by the fact that almost all the reconciliation services work was performed by a major CPA firm. Lack of planning procedures was also demonstrated by allowing work to be performed before the delivery order for reconciliation services was awarded. The DLA contention that reconciliation services requirements were within the appropriate thresholds for not competing requirements adds credence to our belief that DLA provided DFAS whatever it wanted without giving consideration to the regulations.

The lack of planning on the first contract also impacted the competitive fairness of the second contract. Coopers and Lybrand was the only contractor with a

detailed knowledge of DLA records, and the status of the requirements at locations where the reconciliation services work was performed. DLA denied other major firms the opportunity for on-site evaluations prior to bidding on the second contract. At least two other firms were interested but did not bid on the contract. Yet, even as DLA knew of other interest in the contract, it did not believe anything was amiss when only the incumbent bid on the new requirement. If DLA had been truly interested in promoting competition, it should have assured that all companies were on equal footing and that no restrictions were placed on Coopers and Lybrand's competitors.

It is true that on the third contract DLA did not prepare an acquisition plan for a sole-source contract award to Coopers and Lybrand after receiving a justification from DFAS stating that Coopers and Lybrand was the only contractor capable of doing the work. In fact, it was DLA that issued the justification stating that

> No other contractor is capable of performing the objective of completing the implementation and turnover of the system to DFAS. As stated in the attached certification from DFAS, the supplies/services cannot be purchased from any other source (s) and are only available from C&L.

We have changed our report to reflect this fact. We cannot understand how a senior acquisition official can sign a determination of which he is skeptical. At a minimum, the acquisition officials should have asked DFAS for more information. Five signatures on a questionable justification does not make it correct. The DLA response is unacceptable because DLA has failed to accept responsibility. We request the DLA reconsider its position and provide additional comments to the final report and that DFAS provide comments explaining when it will complete a review of staff actions.

Part II - Additional Information

Appendix A. Audit Process

Scope

We reviewed documentation from FYs 1988 through 1997 related to four contracts that DLA and DFAS awarded for reconciliation services, valued at $77.9 million. Specifically, we examined justifications and approvals for other than full and open competition, determination and finding, statements of work, negotiation memorandums, and miscellaneous correspondence. We also interviewed contracting personnel at DLA and DFAS.

Audit Type, Dates, and Standards. We performed this economy and efficiency audit from March 1997 through September 1997 in accordance with audit standards issued by the Comptroller General of the United States as implemented by the Inspector General, DoD. Accordingly, we included tests of management controls considered necessary. We did not use computer-processed data to perform this audit or evaluation.

Contacts During the Audit. We visited or contacted individuals and organizations within DoD. Further details are available upon request.

Management Control Program

DoD Directive 5010.38, "Internal Management Control Program," August 26, 1996, requires DoD organizations to implement a comprehensive system of management controls that provides reasonable assurance that programs are operating as intended and requires the organizations to evaluate the adequacy of their controls.

Scope of Review of the Management Control Program. We reviewed management control procedures regarding reconciliation services contract awards. We also reviewed management's self evaluation of those management controls.

Adequacy of Management Controls. Problems related to management controls will be included in a subsequent report that will address the management controls that we reviewed.

Adequacy of Management's Self-Evaluation. Although DFAS identified acquisition as a high risk management control assessable unit, it has not performed any management control reviews of acquisition.

Appendix B. Prior Coverage

Inspector General, DoD, Report No. 98-031, "The DoD Contract Fund Reconciliation Process," December 5, 1997. The report states that Military Departments and DFAS did not routinely distribute the results of contract reconciliations and did not use standardized methods to perform contract reconciliation. In addition, the DFAS Columbus Center did not ensure that Defense agencies with Army Fiscal Station numbers received copies of internal adjustments. The report recommended that the Under Secretary of Defense (Comptroller) establish policy to assign responsibility for contract fund reconciliations to DFAS, standardize the business practices for contract fund reconciliation, and convert the current automated reconciliation systems to provide a standard process and output. The report recommended that the Director, Defense Procurement, work with the Director, DFAS, to establish parameters for the implementation and mandatory use of an automated reconciliation system compatible with DFAS systems and that the Director, Defense Contract Management Command, reemphasize the benefits of using the automated reconciliation system at the DFAS Columbus Center for contract reconciliations needed by the Defense Contract Management Command. The report also recommended that the Director, DFAS, establish an office to coordinate all contract fund reconciliation efforts performed by DoD organizations, and that the Director, DFAS Columbus Center, revise Desk Procedure 808, "Coding of Adjustments," to include the Army accounting offices and Defense agencies in the distribution of adjustments processed. The final report also recommended that the Director, DFAS, establish performance measures for the DFAS Columbus Center liaison offices. The Director, Defense Procurement, stated that she supported the overall objective of a standardized automated contract reconciliation process and would work with the Director, DFAS. The Principal Deputy Director, Defense Contract Management Command, concurred with the recommendation to use the automated reconciliation system at DFAS Columbus Center. The Under Secretary of Defense (Comptroller); the Director, DFAS; and the Director, DFAS Columbus Center; did not comment on the draft of this report.

Inspector General, DoD, Report No. 94-054, "Fund Control Over Contract Payments at the Defense Finance and Accounting Service-Columbus Center," March 15, 1994. The report states DFAS-Columbus did not develop adequate in-house capability to reconcile obligations with disbursements and had

relied on contractor support at a cost of $56.98 per hour to perform those services. Recommendations were made to terminate the contract for reconciliation services and to obtain in-house capability of those functions. DFAS-Columbus concurred and stated that the contract would be terminated and in-house personnel would be fully transitioned by April 30, 1995. Subsequent to this agreement, DFAS encountered staff reductions and stated that because of the continued high workload it would be unable to perform the work with in-house staff.

Appendix C. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense (Acquisition and Technology)
  Deputy Under Secretary of Defense (Acquisition Reform)
  Director, Defense Logistics Studies Information Exchange
  Director, Defense Procurement
Under Secretary of Defense (Comptroller)
Assistant Secretary of Defense (Public Affairs)
Assistant Secretary of Defense (Command, Control, Communications and Intelligence)

Department of the Army

Auditor General, Department of the Army

Department of the Navy

Assistant Secretary of the Navy (Financial Management and Comptroller)
Auditor General, Department of the Navy

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, Department of the Air Force

Other Defense Organizations

Director, Defense Contract Audit Agency
Director, Defense Finance and Accounting Service
Director, Defense Logistics Agency
Director, National Security Agency
  Inspector General, National Security Agency
Inspector General, Defense Intelligence Agency

Non-Defense Federal Organizations and Individuals

Office of Management and Budget
Technical Information Center, National Security and International Affairs Division, General Accounting Office

Non-Defense Federal Organizations and Individuals (cont'd)

Chairman and ranking minority member of each of the following congressional committees and subcommittees:

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on National Security, Committee on Appropriations
House Committee on Government Reform and Oversight
House Subcommittee on Government Management Information Technology, Committee on Government Reform and Oversight
House Subcommittee on National Security, International Affairs, and Criminal Justice, Committee on Government Reform and Oversight
House Committee on National Security

Part III - Management Comments

Defense Finance and Accounting Service Comments

DEFENSE FINANCE AND ACCOUNTING SERVICE

1931 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22240-5291

FEB 27 1998

DFAS-HQ/C

MEMORANDUM FOR DIRECTOR, CONTRACT MANAGEMENT DIRECTORATE, INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

Subject: DoD IG Draft Audit Report, Continued Use of a Single Contract for Contract Reconciliation Work (Project No. 7CK-8009)

Attached you will find our comments on the findings and recommendations documented in the subject draft audit report.

My point of contact is Mr. Gary Maxam, DFAS-ASO/C, (703) 607-5709.

Bruce M. Carnes
Director of Resource Management

Attachments:
As stated

DFAS concurs with the facts and findings as stated in the draft audit.

Recommendation 1: We recommend that the Under Secretary of Defense (Comptroller)

a. Establish an independent panel to determine the required amount of reconciliation services with the necessary timeframes to complete the requirements, and arrange for a fair competition of this work using firm-fixed price or incentive award contract. The team should be given a goal of completing actions within six months.

DFAS Response: Concur with establishment of independent panel and full and open competition.

Nonconcur with recommendation of contract type.

DFAS Comments: Contract reconciliation services have many variables involved which prohibit the use of a Firm Fixed Price contract. This was evident in the comments provided by industry during the market research conference of January 1997. In the majority of the responses to the question regarding type of contract used commercially, the answer was either Cost Plus Fixed Fee or Time and Material. The DFAS Acquisition Support Organization contracting officer determined that should a Firm Fixed Price type contract be used, the following problems would occur: (1) unfair competitive advantage would be experienced by the incumbent; (2) overpricing of services to account for the many variables which occur in reconciliation efforts; and (3) underpriced services may occur which would require unacceptable contract maintenance. With regard to commercial services, reconciliation is undoubtedly offered to commercial business; however, the use of Financial Management Regulations, Government specific accounting systems, and a Time and Material type contract makes the use of commercial procedures impossible. A Determinations and Findings was executed for both award of the bridge contract (September 1 through August 29, 1998), and the current solicitations (Unrestricted and 8(a)).

b. Terminate contract MDA220-97-D-0032 for reconciliation services when the firm-fixed or incentive award contract is in place.

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DFAS Response: Nonconcur.

DFAS Comments: There is no legal requirement to terminate an Indefinite Delivery Type Contract (MDA220-97-D-0032). When the long-term contracts are awarded, there will be no Task Orders issued against the existing IDTC MDA220-97-D-0032. There is a concern that a termination could result in the contractor submitting settlement charges against the termination, which could create additional costs and administration time. Attached background defines the role of the DFAS Acquisition Support Organization regarding the contract reconciliation.

Recommendation 2: We recommend that the Directors of the Defense Finance and Accounting Service and the Defense Logistics Agency review applicable staff actions and take appropriate action against those involved in using inappropriate justifications to award contracts.

DFAS Response: Concur.

DFAS Comments: All contracts except for MDA220-97-D-0032 were awarded by a Defense Logistics Agency contracting organization. DFAS does not have access to the DLA contract files for review nor does DFAS have administrative control over the contracting officials who approved the award of the contracts (between 8/18/89 - 8/1/97). The award of contract MDA220-97-D-0032 does not typify the contracting practices and planning by DFAS. The interim award was made to assure continuity of service until we could award a competitive contract. A timing problem existed because of the transfer of the contracting function from the Navy Fleet Industrial Supply Center (FISC) San Diego to DFAS. DFAS officials did not use false urgency justification for contract MDA220-97-D-0032. The Justification and Approval is appropriate and the history of the requirement clearly explains how this requirement became urgent. The Justification and Approval was reviewed and approved by DFAS-Columbus, OH Legal Counsel. DFAS has initiated corrective action to remedy the findings of the audit by establishing the DFAS Acquisition Support Organization and issuing two unrestricted solicitations (closing date of April 3, 1998), which will result in multiple award contracts. One solicitation will be unrestricted, full and open competitive, and one will be a competitive 8(a) Small Business Set-Aside.

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DFAS ASO BACKGROUND

INTRODUCTION:

The Defense Finance and Accounting Service (DFAS) Acquisition Support Organization (ASO) was established in November of 1996. Although the history of contract reconciliation dates back to 1989, the Integrated Contracting Office (ICO) within the ASO can only account for the actions concerning the subject draft report as of 1997. DFAS ASO/CPI appreciates the opportunity to provide a response to the Draft Audit Report.

HISTORY OF ASO INVOLVEMENT:

Originally, the Fleet and Industrial Supply Center (FISC), San Diego was the contracting agency for DFAS regarding contract reconciliation services. FISC received a requirement for a competitive contract on 5 November 1996 with an estimated award date of 1 October 1997 to continue services when the SP0600-95-D-5523 contract expired. In January of 1997, FISC, along with DFAS requirements personnel, held an Industry Conference/Market Survey to accomplish the following: (1) Identify sources; (2) Issue a Draft Statement of Work (SOW) for comments; and (3) Determine an appropriate contract type. FISC proposed a Firm Fixed Price contract for reconciliation services with a Time and Material portion for special studies. The estimated contract value was $29 million for the base year and four one-year option periods.

On February 20, 1997, DFAS Finance requested that the reconciliation effort be transferred from FISC to DFAS ASO. On March 3, 1997 FISC forwarded all requirements documentation to DFAS. After review of the industry survey sheets from the January conference, the draft SOW and the Acquisition Strategy, DFAS ASO required more information from Finance. After several meetings, it was determined that the SOW and Acquisition Strategy were incomplete. A workshop was held in April 1997, including DFAS HQ and Centers, to write an SOW which covered all aspects of contract reconciliation, and to plan an acquisition strategy.

Attachment

4

The contract type was also discussed with Headquarters and it was agreed that a Time and Material (T&M) type contract was the most appropriate vehicle.

DFAS-HQ/F was also tasked to come up with a realistic Level of Effort (LOE) for all of DFAS. Around the June 1997 time frame, it was determined by ASO that although there was an SOW, an LOE, and a satisfactory acquisition strategy, there was insufficient time to award a competitive contract by October 1997 to continue services. In June, a bridge contract was planned to be issued to Coopers & Lybrand in accordance with FAR 6.302-2, on an Unusual and Compelling Urgency basis. As described in the Justification & Approval (J&A), there was a need for continued services to prevent serious financial injury to the Department of Defense (DoD). The contract is intended to provide the ASO adequate time to issue a competitive contract.

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Defense Logistics Agency (Headquarters) Comments

DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FT. BELVOIR, VIRGINIA 22060-6221

FEB 27 1998

PLY
FER TO DDAI

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDITING
DEPARTMENT OF DEFENSE

SUBJECT: Draft Audit Report of the Continued Use of a Single Contractor for Contract Reconciliation Work (Project No. 7CK-8009)

This is in response to your December 23, 1997, subject draft report. For any questions, call Annell Williams, 703-767-6274.

JEFFREY GOLDSTEIN
Chief (Acting), Internal Review

Encl

cc:
DLSC-POA
DLSC-BCA

Federal Recycling Program Printed on Recycled Paper

SUBJECT: Audit of the Continued Use of a Single Contractor for Contract Reconciliation Work (Project No. 7CK-8009)

FINDING: DFAS Reconciliation Services
The Defense Finance and Accounting Service and the Defense Logistics Agency did not determine the scope and depth of reconciliation services and did not adequately plan to acquire these services. Procurement officials also made faulty justifications and took inappropriate actions to award sole-source contracts. This occurred because procurement officials did not follow and, in some cases, misused procurement regulations. As a result, DoD has no idea of the reconciliation requirements and has allowed one contractor, Coopers and Lybrand to be the sole provider of these services for over eight years. DoD has paid a higher price for reconciliation services and has lost the benefits that would accrue from competition.

DLA COMMENTS:
Partially concur. The Defense Logistics Agency (DLA) procurement officials generally planned the acquisition of these services adequately, given the extent of the knowledge of the requirements they had at the time of the acquisitions, made appropriate justifications, and took proper actions to award the three contracts issued under DLA's cognizance. We consider that the problems related to procurement planning have been alleviated.

The contract reconciliation project was begun in 1989 when the DLA Finance Center, Columbus (later DFAS, Columbus) was first established. At that time, the former Defense Contract Administration Services Regions (DCASR) were the reimbursement centers for DLA-supported contracts. The establishment of DFAS meant that these contracts would be gradually transferred to DFAS for reimbursement services over a period of years. However, before DFAS would accept these contracts, it required that the current balance of payments must be reconciled. DLA did not have the internal resources to accomplish this, so it decided to contract the reconciliation services.

The initial contract action was the award of a delivery order against a contract awarded by the DLA Automated Data Processing Contracting Office (DACO). DACO awarded the contract to the Small Business Administration, which awarded a subcontract to Network Solutions, Inc. through the Section 8(a) program. Contracts awarded in this manner are not considered to be sole source or noncompetitive. Network Solutions was already performing similar work under a prior Army delivery order, and the Section 8(a) program provided a vehicle for DACO to make an award for this requirement in a timely manner.

The draft report points out that the delivery order file shows that the major subcontractor, Coopers and Lybrand (C&L), performed more than 50 percent of the work. This fact is not a major concern because the 50 percent criterion for Section 8(a) contractor performance applies to work on the entire contract.

The draft report also raises the issue in that the contract exceeded $3 million, competition should have been obtained among Section 8(a) firms. Between August 1989 and June 1995, there was an exception to the competition requirement applicable to indefinite delivery/indefinite quantity contracts, such as the Network Solutions contract. The

competition threshold was based on whether the minimum guarantee exceeded $3 million. The Network Solutions contract amount was less than $3 million prior to August 1989.

Headquarters DLA performed a Procurement Management Review (PMR) of DACO in October/November 1988. This PMR uncovered significant problems in the procurement planning area. At the time of the issuance of the delivery order, DACO was in the process of correcting these and other deficiencies contained in the PMR report. DACO completed corrective action on the reported deficiencies in July 1990.

The second and third contracts were awarded in 1990 and 1995 by the Defense Fuel Supply Center. The draft report characterizes the 1990 contract as "Limited Competition." That is incorrect; the solicitation was conducted under full and open procedures. The fact that only one offer was received does not change the process. A protest was filed with the General Accounting Office (GAO) after award of the contract. The protest was denied. In its ruling, the GAO stated that "the agency met the CICA mandate to ensure full and open competition." The GAO further states, "We find no basis to question whether full and open competition was obtained here."

The draft report states that DLA and DFAS "significantly underestimated the scope and depth of reconciliation services contracts." That is undeniably true; however, the nature of the reconciliation services, and the lack of data available to DLA regarding the status of all the contracts at the various DCASRs, made it impossible to estimate the volume of contracts requiring reconciliation accurately. To illustrate the magnitude of the problem, C&L reconciled approximately 10,000 contracts in the 1990 contract. This lack of reliable data is the reason the 1990 contract (and the 1995 contract) were awarded on a time and materials (T&M) basis. A Determination and Findings was executed for both contracts justifying the use of a T&M contract, and explaining why a fixed-price contract was not feasible.

The draft report states that the cost increases in both contracts were the result of poor procurement planning and lack of competition. If better data had been available for planning purposes, the total contract costs would not have changed; they would just have been more predictable initially. It is also important to note that the Government was entirely responsible for the total number of contracts reconciled, so the total cost of the contracts was largely outside the control of C&L. This would have been true regardless of the amount of competition. The draft report also implies that there was runaway cost growth as a result of the lack of competition. It should be noted that C&L's loaded rates increased by 4.6 percent per year in the 1990 contract, and 3.6 percent per year in the 1995 contract, which can hardly be considered runaway cost growth.

The draft report criticizes the decision to award a 4-year contract, stating that "because of fairness concerns and the lack of competition, prudent business practices would have necessitated a short (1-year) contract." As explained above, there were no "fairness" concerns, and the lack of competitive offers is not a deciding factor in the length of contract. C&L's costs were determined fair and reasonable, and they were very qualified to perform this contract. Therefore, there was no reason not to award a longer-term contract.

Regarding the third contract, the draft report states that in November 1994, "DLA prepared an acquisition plan for a sole-source contract award to C&L after receiving a justification from DFAS stating that C&L was the only contractor capable of doing the work." The justification made no such claim. The DFAS justification was based on their analysis of the cost, learning curve, and down-time associated with preparing a new contractor to perform the reconciliation. The draft report has provided no data or rationale for disputing the DFAS analysis. Instead, it apparently relies on one statement written by the DFSC Commander, who expressed his skepticism about the DFAS analysis. However, the Commander was the final approving official for the sole-source determination prepared by DFSC, and he did sign it because he also had no data to dispute the DFAS analysis. The determination was also signed by the contracting officer, the contracting office Division Chief, the Director of Contracting, and the DFSC Competition Advocate.

INTERNAL MANAGEMENT CONTROL WEAKNESS: Nonconcur

ACTION OFFICER: Gregory J. Ellsworth, DLSC-POA, (703)767-1369
REVIEW/APPROVAL: Mr. Tom Ray for Mr. Robert Molino
COORDINATION: Jeffrey Goldstein, DDAI

DLA APPROVAL:

JEFFREY GOLDSTEIN
Chief (Acting), Internal Review
For ~~RADM~~ Robert Quinnebarger
DLA, Deputy Director

SUBJECT: Audit of the Continued Use of a Single Contractor for Contract Reconciliation Work (Project No. 7CK-8009)

Recommendation No. 1: We recommend that the Director of the Defense Finance and Accounting Service and the Defense Logistics Agency review applicable staff actions and take appropriate action against those involved in using inappropriate justifications to award contracts.

DLA Comments:
DLA has reviewed the applicable staff actions and, based on the foregoing discussion relative to the finding, has determined that no action against those involved in these contracting actions is warranted.

Disposition: Action is considered complete.

ACTION OFFICER: Gregory J. Ellsworth, DLSC-POA, 703-767-1369
REVIEW/APPROVAL: Mr. Tom Ray for Robert Molino
COORDINATION: Jeffrey Goldstein, DDAI

DLA APPROVAL:

JEFFREY GOLDSTEIN
Chief (Acting), Internal Review
For RADM Robert Chamberlin
DLA, Deputy Director

Audit Team Members

This report was prepared by the Contract Management Directorate, Office of the Assistant Inspector General for Auditing, DoD.

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