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U.S. Air Forces Central
War Reserve Materiel Contract

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Acronyms and Abbreviations

ACO	Administrative Contracting Officer
AFCENT	U.S. Air Forces Central
CLIN	Contract Line Item Number
DCAA	Defense Contract Audit Agency
DFARS	Defense Federal Acquisition Regulation Supplement
FAR	Federal Acquisition Regulation
FDO	Fee Determining Official
FMR	Financial Management Regulation
HMMWV	High Mobility Multipurpose Wheeled Vehicle
MMC	Minor Military Construction
QAE	Quality Assurance Evaluator
PCO	Procurement Contracting Officer
SLIN	Sub-Contract Line Item Number
U.S.C.	United States Code
WRM	War Reserve Materiel



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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September 23, 2009

MEMORANDUM FOR ASSISTANT SECRETARY OF THE AIR FORCE
(FINANCIAL MANAGEMENT AND COMPTROLLER)
AUDITOR GENERAL, DEPARTMENT OF THE AIR FORCE
DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY

SUBJECT: U.S. Air Forces Central War Reserve Materiel Contract (Report No. D-2009-108)

We are providing this report for review and comment. We considered management comments on a draft of the report in preparing the final report.

DOD Directive 7650.3 requires that all recommendations be resolved promptly. The comments from the Acquisition and Management Integration Center, Air Combat Command, were partially responsive. Therefore, we request additional comments on Recommendation C.3 by October 23, 2009.

If possible, please send a .pdf file containing your comments to audacm@dodig.mil. Copies of the management comments must contain the actual signature of the authorizing official. We are unable to accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-8901 (DSN 664-8901).

A handwritten signature in black ink, appearing to read "Mary L. Ugone".

Mary L. Ugone
Deputy Inspector General for Auditing



Results in Brief: U.S. Air Forces Central War Reserve Materiel Contract

What We Did

The audit objective was to determine whether Air Force contracting officials managed and administered the DynCorp International (DynCorp) war reserve materiel contract in accordance with Federal and DOD contracting policies.

What We Found

U.S. Air Forces Central officials did not effectively manage or administer the war reserve materiel contract in accordance with Federal or DOD policies or provide sufficient oversight of contract administration actions and decisions. The contracting officer:

- could not provide basic, general information and documentation on the contract;
- executed 75 of the 120 contract modifications that did not completely define or specify the work to be accomplished by DynCorp;
- did not effectively monitor or track \$161.1 million in costs incurred on the contract and frequently failed to document key decisions;
- inappropriately authorized \$893,160 in award fees after actual costs were determined, resulting in a prohibited cost-plus-a-percentage-of-cost system of contracting; and
- improperly obligated \$6 million and as much as \$56 million in Operations and Maintenance funds for minor military construction projects.

We identified potential monetary benefits totaling approximately \$273,000 because contracting personnel did not adequately

oversee the sale of Government property. As a result of issues raised during the audit, Air Force officials revoked the contracting officer's warrant in September 2008.

What We Recommend

We recommend the Assistant Secretary of the Air Force (Financial Management and Comptroller) initiate a preliminary review of the potential violations of the Antideficiency Act related to \$56 million obligated to the contract for minor military construction. We recommend the Commander, U.S. Air Forces Central, ensure the war reserve materiel contract is appropriately closed out. We recommend the Director, Acquisition Management and Integration Center, Air Combat Command, improve war reserve materiel contract management and oversight. We recommend the Regional Director, Central Region, Defense Contract Audit Agency, conduct a cost audit of the contract that ended on September 30, 2008, to identify unallowable costs.

Management Comments and Our Response

Comments from the Assistant Secretary of the Air Force (Financial Management and Comptroller); the Commander, U.S. Air Forces Central; the Air Force Program Executive Officer for Combat and Mission Support; and the Regional Director, Central Region, Defense Contract Audit Agency, were responsive. The comments from the Acquisition and Management Integration Center, Air Combat Command were partially responsive; therefore, we request additional comments regarding minor military construction project acceptance. Please see the recommendation table on the back of this page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Assistant Secretary of the Air Force (Financial Management and Comptroller)		D.1, D.2
Commander, U.S. Air Forces Central		A.1, E.1, F.1
Director, Acquisition Management and Integration Center, Air Combat Command	C.3	A.2, B.1, C.1, C.2, E.2, F.2, G, H.1, H.2
Air Force Program Executive Officer for Combat And Mission Support		A.3
Regional Director, Central Region, Defense Contract Audit Agency		A.4, B.2

Please provide comments by October 23, 2009.

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Introduction

Objective

The audit objective was to determine whether Air Force contracting officials managed and administered the DynCorp International (DynCorp) war reserve materiel (WRM) contract in accordance with Federal and DOD contracting policies. This audit was performed based on a referral from the Defense Criminal Investigative Service.

Background

The U.S. Air Forces Central (AFCENT) utilized the WRM contract to provide support for deployed forces in Southwest Asia by pre-positioning, maintaining, reconstituting,¹ deploying, and supporting war reserve materiel required to support U.S. Central Command operational plans and contingencies. AFCENT-managed WRM operating locations include Seeb, Oman; Thumrait, Oman; Masirah, Oman; Al Udeid, Qatar; Manama, Bahrain; Al Jaber, Kuwait; Al Dhafra, United Arab Emirates; and Albany, Georgia. The AFCENT Logistics Directorate had overall responsibility for the WRM program.

The WRM program comprises nine functional areas:

- the supply functional area manager oversees the mobility readiness spares packages for fuels mobility support equipment, basic expeditionary airfield resources, and aerospace ground equipment WRM assets;
- the vehicles functional area manager is responsible for AFCENT vehicle operations and maintaining the fleet of AFCENT vehicles;
- the fuels mobility support equipment functional area manager is responsible for repositioning air transportable fuels assets;
- the functional area manager responsible for all tanks, racks, adapters, and pylons is also responsible for alternate mission equipment, including external fuel tanks, weapons pylons, missile launchers, and weapons loaders;
- the medical functional area manager oversees medical WRM sites in Seeb, Oman; Thumrait, Oman; and Manama, Bahrain. The medical sites include blood donor centers, air transportable clinics, and shelter first aid kits;
- the munitions functional area manager oversees the WRM munitions stockpile in the AFCENT area of responsibility and facilitates movement of munitions from the theater to the continental United States;

¹ Air Force Instruction 25-101, “WRM Program Guidance and Procedures,” defines reconstitution as measures taken to bring required resources together in appropriate quantities to restore an effective U.S. Air Force operational force or support function after being used.

- the basic expeditionary airfield resources² functional area manager is responsible for recommending maintenance, repair, and reconstitution of basic expeditionary airfield resource assets;
- the aerospace ground equipment functional area manager is responsible for coordinating the movement of aerospace ground equipment throughout the AFCENT area of responsibility, including power carts, air compressors, light carts, air conditioners, bomb loaders, and munitions handling equipment; and
- the traffic management office functional area manager is responsible for the management function involved in the movement of cargo and equipment.

WRM Contract

The Air Force Air Combat Command awarded the WRM contract, F44650-00-C0006, as a cost-plus-award-fee contract to DynCorp in April 2000, with an estimated value of \$174.1 million. The contract ended on September 30, 2008, with a total contract value of \$621 million. The WRM contracting officer was located at AFCENT headquarters, Shaw Air Force Base, South Carolina, and two administrative contracting officers (ACOs) were located in Southwest Asia near the DynCorp program office.

The basic WRM contract consisted of a 2-month phase-in period from May 2000 through June 2000; a 3-month base year from July 2000 through September 2000³; six 1-year options from FY 2001 through FY 2006; and two extension periods from October 2006 through September 2008. The WRM contracting officer established 83 contract line item numbers (CLINs) and 579 sub-contract line item numbers (SLINs) to track funding on the WRM contract throughout the life of the contract.

Quality Assurance Evaluators (QAEs), located in Muscat, Oman, were responsible for oversight and evaluation of DynCorp performance.⁴ The QAEs performed periodic inspections to evaluate DynCorp compliance with WRM contract quality standards. The QAEs documented DynCorp performance for historical and award fee evaluation purposes and submitted inspection reports to the quality assurance program coordinator for consolidation. The quality assurance program coordinator consolidated all QAE surveillances for each award fee period into quality assurance surveillance reports.

Memorandum to Assistant Secretary of the Air Force (Contracting)

The audit team issued a memorandum to the Deputy Assistant Secretary of the Air Force (Contracting) on September 23, 2008, stating that audit fieldwork identified a lack of contract management, administration, and oversight at the program management and contracting officer levels. Additionally, the memorandum stated that the audit fieldwork

² Basic expeditionary airfield resources consist of a variety of systems and equipment that, when combined, make up the infrastructure needed to establish an air base in a deployed environment.

³ The phase-in period for the Qatar operating site was 153 days; therefore, the base year did not apply to Qatar.

⁴ The QAEs worked for the Executive Coordinating Agency that reported to the AFCENT Logistics Directorate.

identified that the WRM contract files were poorly maintained and did not sufficiently document decisions made by contracting officials. As a result of the memorandum, Air Force Air Combat Command officials terminated the WRM contracting officer's warrant on September 24, 2008.

New WRM Contract

Air Force Air Combat Command personnel stated that they competed and awarded a new WRM contract, FA4890-08-C-0004, to DynCorp on June 11, 2008, as a hybrid firm-fixed-price and cost-plus-award-fee contract. The total estimated contract value for the base year and 7 option years was \$420.4 million.

Review of Internal Controls

We identified internal control weaknesses in the WRM contract as defined by DOD Instruction 5010.40, "Managers' Internal Control (MIC) Program Procedures," January 4, 2006. The Air Force's internal controls were not properly implemented because AFCENT did not follow Federal and DOD policies. The Defense Contract Audit Agency's (DCAA) internal controls were not properly implemented because DCAA did not follow DCAA Contract Audit Manual policies and procedures. Implementing the recommendations will improve the current WRM contract, AFCENT internal controls, and DCAA internal controls. We will provide a copy of this report to the senior official responsible for internal controls for the Department of the Air Force and DCAA.

Finding A. Contract Management and Administration

AFCENT officials did not effectively manage or administer a cost-plus-award-fee contract with numerous undefined requirements for WRM in accordance with Federal or DOD policies. AFCENT officials also did not provide sufficient oversight of contract administration actions and decisions. The WRM contracting officer could not provide basic, general information and documentation on the WRM contract, or reliable or complete information on the WRM services rendered by DynCorp.

Specifically, the contracting officer:

- executed 75 of the 120 contract modifications that did not completely define or specify the work to be accomplished by DynCorp or provide sufficient information to protect DOD interests (finding B);
- did not effectively monitor or track \$161.1 million in costs incurred on the contract and frequently failed to document key decisions (findings B and E);
- could not identify the minor military construction (MMC) projects funded by the WRM contract and could not link obligated funds to MMC projects (findings C and D);
- improperly administered portions of the contract, valued at \$893,160, as a prohibited cost-plus-a-percentage-of-cost system of contracting (finding E);
- could not account for all sales of Government property (finding F);
- could not provide a Justification and Approval for Other Than Full and Open Competition for requirements, valued at \$23.5 million, that were executed under the WRM contract but that were outside the scope of the original performance work statement (finding G); and
- could not provide QAE's surveillance reports for the first 5 years of the contract (finding H).

As a result, AFCENT officials could not accurately account for \$161.1 million of the \$621 million obligated to the WRM contract.

WRM Contract and Performance Requirements

In April 2000, Air Force Air Combat Command officials awarded a cost-plus-award-fee contract to DynCorp for managing prepositioned war reserve materiel in Southwest Asia. The WRM program was not managed by an engaged program manager who acknowledged his program management responsibilities, and the WRM contracting officer did not have an appropriate chain of command for ensuring independent, unbiased actions and decisions for most of the WRM contract performance period. In addition, the contracting officer had two WRM ACOs in Southwest Asia, but the contracting officer constrained them from executing effective contract administration oversight.

Contract Type

A cost-plus-award-fee contract is a type of cost-reimbursement contract that provides for payment of allowable incurred costs. Cost-reimbursement contracts:

- establish a total cost estimate for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed without the approval of the contracting officer,
- are suitable when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract, and
- place minimal responsibility for the performance costs on the contractor.

A cost-plus-award-fee contract provides for the negotiation of estimated costs and an award fee. The fee consists of a base amount fixed at the beginning of the contract and an award amount based on a judgmental evaluation of contractor performance by the Government. A cost-plus-award-fee contract should contain specific acquisition objectives by establishing reasonable and attainable targets that are clearly communicated to the contractor. A cost-plus-award-fee contract places the burden of risk on the Government and, consequently, increases the amount of resources and time necessary to provide sufficient contract oversight and surveillance.

WRM Contract Performance Requirements

The WRM contract was awarded to DynCorp to manage prepositioned war reserve materiel in support of combat forces deployed to Southwest Asia. Specifically, the WRM contract gave DynCorp responsibility for

asset receipt, accountability, serviceability, storage, security, periodic inspection and test, maintenance, repair, outload, and reconstitution of prepositioned WRM in the USCENTAF Area of Responsibility . . . [DynCorp] will be requested to provide support for scheduled exercises/events by assisting in the deployment of assets/systems from storage sites, setting-up camp at the in-use location and assisting in camp tear-down and subsequent storage of assets/systems.

The contract defined some performance requirements and specified how and when certain tasks would be accomplished, but the contract also included undefined performance requirements. For example, the contract included a requirement for DynCorp to support exercises and events; contract modifications outlining the estimated requirements and costs associated with exercises or events were to be negotiated when the specific requirements were identified. Consequently, the work to be performed by DynCorp on the WRM contract included undefined requirements, clearly necessitating diligent contract oversight and surveillance.

WRM Program and Contracting Personnel

The WRM program manager was responsible for ensuring the overall management of the AFCENT WRM program. Additionally, he was responsible for coordinating with the contracting officer on all WRM contract-related matters and evaluating DynCorp performance. The WRM contracting officer, located at AFCENT Headquarters, Shaw Air Force Base, South Carolina, was the only contracting officer with responsibility for the DynCorp WRM contract for the life of the contract. The contracting officer had two ACOs in Southwest Asia located near the DynCorp program office.

WRM Program Manager

The WRM program did not have an engaged program manager who acknowledged his program management responsibilities, and WRM program officials provided materially conflicting information related to program management responsibilities. The WRM program manager's personnel documents and performance appraisals indicated he was responsible for the DynCorp contract from FY 2000 through FY 2008; the performance appraisals document his WRM program management responsibilities and accomplishments.⁵ In addition, the program manager signed the contracting officer's performance appraisals as the first line supervisor for 4 years of the 8-year contract. However, the WRM program manager stated that he was not responsible for the WRM program or the DynCorp WRM contract from September 2000 through July 2007.⁶ Specifically, the WRM program manager stated that in September 2000 the AFCENT Director of Logistics⁷ informed him that he no longer had program manager responsibilities and that his only responsibilities were as the AFCENT Logistics financial manager.

The AFCENT Director of Logistics and Deputy Director of Logistics⁸ stated that the WRM program manager presented himself as the program manager and then denied that he had any authority or any responsibility for WRM management. In March 2008, the AFCENT Deputy Director of Logistics documented the program manager's lack of engagement in WRM program management review. The AFCENT Deputy Director of Logistics also noted that the program manager lacked a rudimentary knowledge of WRM and could not speak conversantly about the WRM program with program officials and contractor representatives. Additionally, in April 2008, the AFCENT Director of Logistics documented his lack of confidence in the program manager's abilities as a manager and a leader; however, the Director of Logistics did not remove the program manager until September 24, 2008, only 6 days before the end of the DynCorp WRM contract performance period. Consequently, the WRM program was not managed by an engaged program manager who acknowledged his program management responsibilities for 8 years.

⁵ The WRM program manager's performance appraisals were acceptable from FY 2000 through FY 2008 and he received performance awards in every rating period.

⁶ The WRM contract was awarded in April 2000.

⁷ The AFCENT Director of Logistics had overall responsibility for the WRM program.

⁸ The AFCENT Director of Logistics took the position in July 2007; the AFCENT Deputy Director of Logistics took the position in November 2006.

WRM Contracting Officer

The WRM contracting officer was not supervised or evaluated in accordance with DOD policies and procedures for contracting officers. Specifically, the WRM contracting officer did not have an appropriate chain of command for ensuring unbiased and independent actions and decisions for most of the WRM contract performance period. In addition, the contracting officer's performance appraisals were not prepared by someone with direct knowledge of the contracting officer's job performance.

DOD guidance⁹ states that contracting officers' evaluations will be performed within their own career program channels to retain a degree of independence that allows unbiased advice. DOD Instruction 5000.66, "Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development," December 21, 2005, establishes requirements for the evaluation of contracting officers and requires the heads of the DOD Components to ensure that at least first-level evaluations of contracting officers are performed within the contracting career chain. The first-level evaluation must be provided by a contracting official who has direct knowledge of the individual's performance and is at least one level above the contracting officer.

The contracting officer was unsupervised and not evaluated in accordance with DOD guidance, allowing him to administer the WRM contract without oversight from other contracting or program officials. The contracting officer stated that he reported to and was evaluated by the WRM program manager and the AFCENT Director of Contracting at different times during the 8½ years he administered the DynCorp WRM contract. The contracting officer stated that when the WRM contract was awarded in April 2000, he reported to the AFCENT Director of Contracting. The contracting officer stated that when his rating period ended 1 year later on March 30, 2001, he began reporting to the WRM program manager. The contracting officer stated that he reported to and was evaluated by the WRM program manager until April 1, 2005, when he again began reporting to the AFCENT Director of Contracting. We confirmed that the contracting officer's performance appraisals for this period were signed by the WRM program manager. The contracting officer stated that he reported to and was evaluated by the Director of Contracting for the next 3½ years. We also confirmed that the contracting officer's performance appraisals for this period were signed by the Director of Contracting in place at the time.

Consequently, the contracting officer reported to the WRM program manager for 4 of the 8½ years of the contract, and the WRM program manager was not a contracting official. In addition, the WRM program manager stated that he did not have any responsibility for managing the WRM program, the DynCorp contract, or the contracting officer. The

⁹ The Under Secretary of Defense for Acquisition, Technology, and Logistics issued memoranda, dated June 2, 1993, and November 23, 2004, with the subject line, "Functional Independence of Contracting Officers." The Deputy Secretary of Defense issued a memorandum, dated August 27, 2008, with the subject line, "Reinforcing the Evaluation Requirements of Contracting Officers under DOD Instruction 5000.66," that established requirements for the evaluation of contracting officers.

contracting officer also reported to the AFCENT Director of Contracting for 4½ years of the contract. However, the Director of Contracting in place for the last year of the contract stated he did not have oversight of the WRM contract or the contracting officer and that the contracting officer did not report to him. Consequently, the Director had no involvement with the execution or administration of the WRM contract and no direct knowledge of the contracting officer's performance.

WRM Administrative Contracting Officers

The contracting officer had two ACOs assigned to the WRM contract in Southwest Asia and located near the DynCorp program office, but the contracting officer constrained their responsibility for contract oversight and surveillance. The contracting officer issued appointment letters to the ACOs, officially delegating responsibilities to the ACOs for “perform[ing] the functions detailed in the FAR [Federal Acquisition Regulation] as delegated by the CONUS [Continental United States] contracting officer.” However, the ACOs stated that the contracting officer restricted their contract administration duties to supervising the QAEs who performed periodic inspections at the WRM storage sites. The ACOs stated that the contracting officer did not delegate and they did not execute any other contract administration duties, to include issuing or administering modifications to the contract, having visibility over contract funding, or reviewing DynCorp cost proposals or interim public vouchers. Consequently, the ACOs could not determine the allowability of costs or disapprove costs. In addition, one of the ACOs did not have a contracting officer warrant; the ACO stated that he did not have a warrant because the contracting officer stated the ACO would not perform administration duties that would require a warrant. The Federal Acquisition Regulation (FAR) requires ACOs to have a contracting officer warrant; the WRM contracting officer should not have issued an ACO appointment letter to anyone who did not have a contracting officer warrant.

The ACOs were located in Southwest Asia and had direct access to DynCorp's program office and all of the WRM storage sites. The ACOs were in a position to perform many contract administration functions because they could physically observe the contract work performed and monitor contractor performance. However, the contracting officer did not delegate any contract administration functions detailed in the FAR to the ACOs nor did the contracting officer perform these functions himself.¹⁰ The contracting officer limited ACO responsibility to supervising QAEs. Consequently, AFCENT officials did not have contracting officials in Southwest Asia with responsibility and authority for overall contract oversight and surveillance.

Basic WRM Contract Information and Documentation

WRM program and contracting personnel did not have basic, general information on the WRM contract and failed to maintain adequate contract files. WRM program and contracting officials could not provide essential contract documentation required by the

¹⁰ See findings B through H for issues related to functions that the contracting officer failed to perform.

FAR and necessary to justify decisions and document a proper audit trail. More importantly, missing documentation notwithstanding, the contracting officer frequently could not sufficiently explain or answer questions on the administration of the WRM contract. Many of our requests for information and documentation were forwarded by AFCENT personnel to DynCorp as taskings for DynCorp to provide the information; DynCorp subsequently charged the contract for the time and resources spent on AFCENT requests for basic contract-related information.

Information Requested

WRM program and contracting personnel could not provide basic contracting support documents for contract funding, MMC projects, contracting officer authorizations to DynCorp for additional work, sales of Government property, quality assurance surveillance reports, and out-of-scope work. The contract files for most of the 120 modifications were materially incomplete. Although we gave WRM program and contracting personnel numerous opportunities over more than 11 months to respond to our requests for information and they provided repeated assurances that they would make the contract documentation available, the contract files remained materially deficient.

- **Contract Funding.** The WRM contracting officer could not provide documentation to sufficiently support WRM contract funding changes in 75 of the 120 contract modifications. Specifically, the WRM contracting officer could not explain how he determined the amounts obligated to different CLINs and SLINs, did not track DynCorp expenditures on the WRM contract, and could not provide interim public vouchers submitted by DynCorp during the life of the contract.¹¹ AFCENT personnel tasked DynCorp to provide the audit team with the interim public vouchers and then requested the results of our analysis for their records. (finding B)
- **MMC Projects.** AFCENT personnel could not provide DynCorp acceptance certificates for 10 of the 105 MMC projects, valued at \$1.5 million, which were charged to the WRM contract and, according to AFCENT personnel, completed by DynCorp. AFCENT personnel could not provide any of the 105 acceptance certificates but obtained some of the acceptance certificates from DynCorp. However, the acceptance certificates were signed by DynCorp personnel; the DOD Financial Management Regulation (FMR) volume 3, chapter 17 states that the acceptance of real property must be documented by a user organization. Therefore, AFCENT personnel did not properly document the acceptance of the MMC projects as the user organization. In July 2008, we requested a list of all of the minor construction projects funded by the WRM contract, including the contract modifications associated with each project. The WRM procurement analyst did not have the information readily available but provided a spreadsheet 90 days later that was incomplete, inaccurate, and unreliable. In addition, WRM

¹¹ The WRM contract was established using CLINs and SLINs to identify services to be acquired under the contract separately.

program and contracting personnel were unable to explain the sources for the information in the spreadsheet. (findings C and D)

- **Contracting Officer Authorizations for Additional Work.** WRM contracting personnel could not provide contracting officer authorizations for DynCorp to begin work on additional requirements that were within the general scope of the contract. (finding E)
- **Sales of Government Property.** WRM contracting personnel could not provide a list of all sales of Government property and could not document that the Government reviewed and approved the sales. WRM contracting personnel tasked DynCorp to provide the number of sales of Government property, the Government property sold, the sale dates, the proceeds from the sales, and the credits to the WRM contract from the proceeds. WRM contracting personnel provided us incomplete documentation that did not adequately demonstrate that the Government reviewed assets and approved sales prior to DynCorp conducting the sales. In addition, AFCENT officials could not provide any documentation to demonstrate that the proceeds from sales of Government property were properly credited back to the WRM contract, as required by the FAR. We obtained our information directly from DynCorp. (finding F)
- **Out-of-Scope Work.** WRM contracting personnel could not provide a Justification and Approval for Other Than Full and Open Competition or a legal determination pertaining to requirements that were executed under the WRM contract but that were outside the scope of the original performance work statement. Specifically, WRM contracting personnel used the DynCorp WRM contract to execute a High Mobility Multipurpose Wheeled Vehicle (HMMWV) Refresh Program at Al Udeid Air Base and support Navy munitions located in Oman. Neither of these requirements were within the scope of the contract performance work statement. (finding G)
- **Quality Assurance Surveillance Reports.** WRM QAEs could not provide QAE surveillance reports for the first 5 years of the contract. (finding H)

Information Provided By DynCorp

The contracting officer tasked DynCorp to provide contract documentation to us that we requested from AFCENT because AFCENT personnel could not provide the contract documentation.

Some of the basic contract documentation WRM contracting personnel tasked DynCorp to provide included:

- contractor interim public vouchers,
- documentation of acceptance of completed construction projects, and
- records of sales of Government property (see finding F).

DynCorp charged the WRM contract for the time and resources spent gathering and submitting the documentation requested by the contracting officer.

Contract Files

In many cases, the WRM contract files were materially inadequate. In addition to the significant issues addressed above, WRM contracting personnel did not use a consistent format for dating contract modifications; did not verify mathematical computations contained in contract modifications; did not date supporting documentation in the contract file; and did not implement procedures for protecting and retaining electronic contract documentation after an unusual and questionable number of computer crashes and information technology problems. Without adequate documentation and sufficient record retention policies, WRM program and contracting personnel were generally unable to explain many WRM contract actions, even though the same contracting officer was in charge of the contract for the entire performance period.

Monitoring and Tracking Costs

The contracting officer did not effectively monitor or track \$161.1 million of the \$621 million obligated to the contract and frequently failed to document key decisions.

WRM program and contracting personnel did not monitor and track funding changes, allowed DynCorp personnel to propose and draft contract modifications, and relied on DynCorp to track contract funding. The contracting officer routinely rearranged funds on the contract at the request of DynCorp. For example, in FY 2002, the contracting officer requested a draft modification bid schedule from DynCorp and made the following statement in an e-mail:

Go ahead and send me a “draft P00034” bid schedule and I will get it [the modification] done. One question, I hope you can move money in CLIN 0302 to cover as we don’t need to get any more FY 02 money. We have so far secured additional \$29M for FY 03 so don’t worry about money at this point, keep spending, just have to put in right place.

The contracting officer stated that he realigned funds between CLINs and SLINs in many modifications for billing purposes. However, the contracting officer could not explain whether funds were moved to prevent cost overruns or because additional requirements arose, nor could the contracting officer explain why funds were no longer needed on the SLIN from which the contracting officer removed funds. The WRM contracting officer requested and obtained funds without reviewing DynCorp cost estimates, moved funds for billing purposes after DynCorp spent the funds, and encouraged DynCorp to keep spending; consequently, the WRM contracting officer provided no incentive for DynCorp to control costs. Further, the contracting officer relied on DynCorp to track how much the Government spent for specific requirements and was unable to independently account for the funds spent on the WRM contract.

AFCENT officials did not have a method for tracking miscellaneous tasks given to DynCorp by the contracting officer. The contracting officer routinely issued Procurement Contracting Officer (PCO) taskers¹² to DynCorp, through e-mail, to task DynCorp with requirements. However, the costs charged by DynCorp to execute these taskers could not be traced back to the contract. Furthermore, AFCENT contracting and program office personnel could not provide the majority of the PCO taskers issued to DynCorp because contracting and program office personnel claimed that their computers had crashed. Consequently, we could not review the PCO taskers to determine whether the work requirements documented in the PCO taskers were within the general scope of the WRM contract.

Cost-Plus-a-Percentage-of-Cost Contract

The WRM contracting officer inappropriately administered portions of the WRM contract as a prohibited cost-plus-a-percentage-of-cost system of contracting. A contract is considered cost-plus-a-percentage-of-cost if it meets the following four-point test:

- payment is on a predetermined percentage rate,
- the percentage rate is applied to actual performance costs,
- the contractor's entitlement is uncertain at the time of award, and
- the contractor's entitlement increases commensurately with increased performance costs.

A cost-plus-a-percentage-of-cost contract can be harmful to the Government because it does not provide an incentive for the contractor to control costs. Furthermore, contractors have an incentive to increase costs because a higher cost earns a higher fee for the contractor. According to section 2306(a), title 10, United States Code (10 U.S.C. 2306 [a]), a cost-plus-a-percentage-of-cost system of contracting may not be used. FAR Part 16, "Types of Contracts," implements the statutory provision.

Operations Enduring Freedom and Iraqi Freedom resulted in a major increase in the workload on the WRM contract with DynCorp. The WRM contracting officer acknowledged that AFCENT did not use the WRM storage contract for its intended purposes once Operation Enduring Freedom began in 2002. The contracting officer executed undefinitized contract actions to mobilize the contractor to begin immediately performing additional work within the general scope of the contract when AFCENT did not have time to negotiate a price. The contracting officer issued contract modifications for undefinitized requirements at not-to-exceed prices but did not establish DynCorp's award fee pertaining to the requirement. The contracting officer often definitized requirements after actual costs were known, in some instances years after awarding the work to DynCorp. Once the contracting officer definitized the requirement and agreed to a price with DynCorp, the contracting officer determined DynCorp's award fee for the

¹² WRM contracting officials used the term "PCO taskers" to refer to any requirement communicated by the contracting officer to DynCorp regardless of the method of communication.

work. This resulted in the contracting officer administering the contract as a prohibited cost-plus-a-percentage-of-cost system of contracting for many WRM contract actions (See finding E).

In one example of such a contract action, the contracting officer obligated funds on August 12, 2002, at a not-to-exceed price for DynCorp to reconstitute all non-mission-capable vehicles in Qatar. The contracting officer did not definitize this requirement or agree to a price until September 25, 2007. The negotiated price of the requirement was based on actual costs. The WRM contracting officer authorized a fee of 6 percent of the actual costs, which included a 2 percent base fee and 4 percent award fee, the same as established in the basic contract. The contracting officer administered this contract action as a prohibited cost-plus-a-percentage-of-cost system of contracting by not establishing a fee when he awarded the work to DynCorp, later paying an award fee based on the predetermined percentage rate established in the basic contract, and applying the percentage rate to the actual performance costs.

FAR Part 16 states that in the course of a single, long-term contract, changing circumstances may make a different contract type appropriate in later periods than that used at the beginning of the contract. The contracting officer should not have exercised options on the WRM contract with DynCorp once he realized that the major increase in the WRM workload associated with Operation Enduring Freedom would require that it use the contract for purposes other than those intended. In addition, major increases in requirements typically warrant competition of the new requirements. Consequently, the contract should have been allowed to expire in the FY 2002 through FY 2003 time frame and the requirements re-competed.

Requirements Definition

The WRM contracting officer executed 75 of the 120 contract modifications that did not completely define or specify the work to be accomplished by DynCorp or provide sufficient information to protect DOD interests. The contracting officer stated that Operations Enduring Freedom and Iraqi Freedom resulted in a major increase in the WRM workload requirement that was not anticipated when the Air Combat Command initially awarded the WRM contract in April 2000. The decision to use the DynCorp WRM contract to execute this increase in requirements meant that AFCENT contracting officials had to communicate the specific requirements of the increased workload to DynCorp to properly execute any given task.

The WRM basic contract and the performance work statement did not address a process for communicating work requirements to DynCorp that were not specifically defined in the WRM contract. The WRM contract stated that modifications outlining the estimated requirements and costs associated with future exercises or events were to be negotiated when the specific requirements were identified. Consequently, the contracting officer used PCO taskers as part of administrative procedures to document and track communication in the WRM contract.

The contracting officer directed the contractor via e-mail, phone call, or PCO tasker to execute the work associated with the significant increase in identified requirements, but the requirements were often general, lacking in sufficient detail to be measurable, and often not documented by WRM program and contracting personnel. Additionally, there was no way to relate work requirements communicated in this manner to contract modifications or to any costs associated with the requirements. AFCENT personnel were unable to completely define and, consequently, accurately account for services provided by DynCorp. In addition, the WRM contracting officer should not have executed undefinitized contract actions when modifying the contract. The Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 217.74, "Undefinitized Contract Actions," states that undefinitized contract actions do not include contract modifications that are within the scope and under the terms of the contract. The WRM contracting officer established 182 SLINs as undefinitized contract actions that required DynCorp to perform additional work that was within the scope of the performance work statement and therefore the contracting officer should not have used undefinitized contract actions. Instead, reasonable estimated costs should have been determined before or shortly after the work began.

The WRM contracting officer recognized that the requirements had outgrown the WRM storage contract in 2002; consequently, he should not have exercised the additional option years on the WRM contract. Instead, the contracting officer should have considered terminating the DynCorp WRM contract, re-competing the requirements, and awarding an indefinite-delivery, indefinite-quantity contract type to ensure that requirements were properly defined and communicated. An indefinite-delivery contract may be used to acquire supplies and services when the exact time and exact quantities of future deliveries are not known when the contract is awarded. Indefinite-delivery, indefinite-quantity contracts permit flexibility in both quantities and delivery scheduling and ordering supplies or services after requirements materialize. An indefinite-delivery, indefinite-quantity contract would have given the WRM contracting officer flexibility for determining and specifying requirements as they evolved. By issuing task orders for specific requirements, WRM contracting personnel could have accurately tracked services performed by DynCorp and accounted for the costs associated with those services.

Conclusion

The DynCorp WRM contract warranted diligent and continuous oversight and surveillance because of the:

- undefined performance requirements included in the contract performance work statement,
- risks associated with executing a cost-reimbursement type of contract, and
- challenges associated with managing a contract in Southwest Asia from the Continental United States.

Furthermore, WRM management in the AFCENT area of responsibility became critical within 2 years of contract award as a result of Operation Enduring Freedom.

WRM program and contracting personnel could not fully or accurately account for \$161.1 million of the \$621 million obligated to the WRM contract and did not adequately track DynCorp-rendered services. AFCENT officials did not implement sufficient internal control mechanisms to ensure that the WRM contract met Federal and DOD requirements for contract management and administration. When contracting for services, agency officials must ensure that a sufficient number of trained and experienced personnel are available within the agency to manage and oversee the contract administration function. The contracting officer did not administer the WRM contract in the best interest of DOD. The cumulative actions or inaction of the WRM program and contracting personnel and the lack of internal controls created an environment with a high risk for potential fraudulent activity; inadequate documentation resulted in either no audit trail or one so complex that accountability was questionable.

Recommendations, Management Comments, and Our Response

A.1. We recommend the Commander, U.S. Air Forces Central:

a. Perform a thorough review of the U.S Air Forces Central contracting command structure to determine whether contracting concerns identified in this report exist for other contracting efforts administered by U.S. Air Forces Central and take appropriate corrective action.

b. Ensure a qualified and capable contracting officer is assigned to appropriately close out the war reserve materiel contract (F44650-00-C0006).

AFCENT Comments

The Chief of Staff for the Commander, AFCENT, agreed with the recommendation, stating that the Chief of Staff will appoint a multi-functional team to complete a review of the command and control relationships; contract and contractor oversight; and policy compliance for all contracts that are administered by AFCENT headquarters or directly support AFCENT headquarters. Additionally, the Chief of Staff stated that AFCENT will either request support from the Defense Contract Management Agency for contract closeout or request hiring authority and assistance from the Air Combat Command to obtain contracting officer support to perform contract closeout by March 2011.

Our Response

The Chief of Staff's comments were responsive and met the intent of the recommendation. No additional comments are required.

A.2. We recommend the Director, Acquisition Management and Integration Center, Air Combat Command, determine whether:

a. War reserve materiel program personnel are qualified and capable of managing the war reserve materiel program in accordance with DOD and Air Force guidance.

b. War reserve materiel contracting personnel are qualified and capable of administering the new war reserve materiel contract (FA4890-08-C-0004), in accordance with Federal Acquisition Regulation Subpart 1.6, “Career Development, Contracting Authority, and Responsibilities,” and DOD Instruction 5000.66, “Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development.”

Acquisition Management and Integration Center Comments

The Director of Installations and Mission Support, Air Combat Command, agreed with the recommendation, stating that the program manager assigned to the war reserve materiel program is qualified to manage the war reserve materiel contract in accordance with Air Force Instruction 63-124, “Performance Based Service Acquisition,” August 1, 2005, and the contracting officers assigned to the program were properly appointed under the authority of FAR Subpart 1.6. Regarding Recommendation A.2.a, the Director of Installations and Mission Support, Air Combat Command, noted that the war reserve materiel program requirements are the responsibility of AFCENT, not the Acquisition Management and Integration Center, Air Combat Command, and advised us to also direct recommendation A.2.a to the Commander, AFCENT.

Our Response

Comments from the Director of Installations and Mission Support, Air Combat Command, were responsive and met the intent of the recommendation. The war reserve materiel program manager and contracting officer responsible for contract F44650-00-C0006 that ended September 30, 2008 have been removed. No additional comments are required. An additional recommendation was not made to the Commander, AFCENT, because this recommendation pertains only to WRM program management, not WRM requirements development.

A.3. We recommend the Air Force Program Executive Officer for Combat and Mission Support evaluate the annual execution review to ensure the war reserve materiel program manager or procuring contracting officer performs a thorough review of war reserve materiel contract (FA4890-08-C-0004) costs, schedules, and performance, as required by Air Force Instruction 63-101, “Acquisition and Sustainment Life Cycle Management.”

Air Force Program Executive Officer for Combat and Mission Support Comments

The Air Force Deputy Assistant Secretary of Financial Operations responded for the Air Force Program Executive Officer for Combat and Mission Support and agreed with the

recommendation, stating that a review of the contract status, program issues, schedules, finances, performance, and metrics was completed for contract FA4890-08-C-0004 on July 28, 2009.

Our Response

Comments from the Air Force Deputy Assistant Secretary of Financial Operations for the Air Force Program Executive Officer for Combat and Mission Support were responsive and met the intent of the recommendation. We request that the Air Force Program Executive Officer for Combat and Mission Support provide a copy of the review completed on July 28, 2009. No additional comments are required.

A.4. We recommend the Regional Director, Central Region, Defense Contract Audit Agency:

a. Conduct a cost audit of the old war reserve materiel contract (F44650-00-C0006) that ended on September 30, 2008, with a focus on award fee, minor military construction, exercises and events, proceeds from the sale of Government property, and port handling inland transportation contract line items to identify unallowable costs.

b. Perform additional testing on DynCorp International incurred cost submissions from FY 2000 through FY 2004.

DCAA Comments

The Regional Director, Central Region, DCAA, agreed with the recommendation, stating that DCAA will audit direct costs incurred under contract F44650-00-C0006 and anticipated testing to be completed by September 30, 2010. The Regional Director stated that the audit will include a review of award fee base calculations, costs incurred for MMC, costs incurred during exercises and events, proceeds from the sale of Government property, and port handling inland transportation costs. The Regional Director indicated that the incurred cost audit may be adversely impacted by the lack of defined requirements in the contract performance work statement. The Regional Director also stated that DCAA will perform additional testing of incurred costs for FY 2000 through FY 2004.

Our Response

Comments from the Regional Director, Central Region, DCAA, were responsive and met the intent of the recommendation. No additional comments are required.

We are not making additional recommendations for finding A because the war reserve materiel program manager and contracting officer, responsible for the war reserve materiel contract (F44650-00-C0006) that ended September 30, 2008, have been removed and specific recommendations related to the issues discussed are in findings B through H.

Finding B. Contract Funding, Expenditures, and Payments

The WRM contracting officer could not support \$161.1 million obligated to the WRM contract. Additionally, DOD officials did not adequately account for DynCorp expenditures and payments on the WRM contract. Specifically,

- the WRM contracting officer did not track DynCorp’s expenditures on the WRM contract, and
- WRM contracting personnel and DCAA personnel allowed inaccurate interim public vouchers to be submitted directly to and paid by the Defense Finance and Accounting Service.

These conditions occurred because:

- the WRM contracting officer did not have written, binding agreements with DynCorp that defined specific requirements for services provided,
- the WRM contracting officer did not require DynCorp to comply with billing instructions defined in the basic contract, and
- DCAA personnel failed to perform required surveillance of DynCorp’s billing system and annual testing of paid interim public vouchers.

As a result, AFCENT officials may have overpaid for services that DynCorp performed, paid for services that DynCorp did not perform, paid interim public vouchers that DynCorp did not prepare and submit in accordance with the contract requirements, and used inappropriate funds. In addition, the contracting officer may have inaccurately calculated base, award, and construction fees.

Criteria

The United States Code provides guidance on documentary evidence needed for the Government to obligate funds. The FAR provides guidance on performing contract administration and submitting interim payments. The DOD FMR provides guidance for reviewing obligations at year-end. The DFARS and the DCAA Contract Audit Manual provide guidance on authorizing contractors to direct bill.

United States Code

Section 1501, title 31, United States Code (31 U.S.C. 1501), “Documentary Evidence Requirement for Government Obligations,” requires that a Government obligation be supported by a written, binding agreement between the Government and another party that specifies goods to be delivered or services to be provided and is executed before the end of the appropriation or fund period of availability.

FAR Subpart 4.8: “Government Contract Files”

FAR Subpart 4.8 states that contract administration files should document actions reflecting the basis for and the performance of contract administration responsibilities to include official copies of supporting documentation.

FAR 32.905: “Payment Documentation and Process”

FAR 32.905 states that a public voucher payment will be based on receipt of a proper public voucher and satisfactory contract performance. An interim payment under a cost-reimbursement service contract constitutes a proper voucher when it includes all the information required by the contract.

DOD FMR Volume 3, Chapter 15: “Receipt and Distribution of Budgetary Resources at the Execution-Level”

Volume 3, chapter 15 of the DOD FMR states that, at year-end, installations must ensure that obligations are accurate based on the most current information available.

DFARS 242.8: “Disallowance of Costs”

DFARS 242.8 states that the contract auditor, acting as the representative of the contracting officer, is allowed to authorize a contractor to submit interim public vouchers directly to Government disbursing (paying) offices if the contractor maintains an adequate billing system.

DCAA Contract Audit Manual, Volume 1, Section 6-1007: “Direct Submission of Interim Public Vouchers to Disbursing Offices (Direct Billing)”

DCAA Contract Audit Manual, volume 1, section 6-1007 states that a contractor’s continued participation in the direct billing program will be based on the results of DCAA ongoing surveillances of the contractor’s billing systems. DCAA must perform annual testing of paid vouchers to determine whether the contractor’s internal controls can be relied on for the preparation of public vouchers. The sampling plan used to test paid vouchers should be documented and updated annually.

Contract Funding

The WRM contracting officer executed 120 contract modifications, many of which made funding changes on the contract; 75 of the contract modifications did not completely define or specify the requirements for the services DynCorp was tasked to perform. The WRM contracting officer obligated a total of \$594.1 million to the WRM contract from FY 2000 through FY 2008¹³; only \$433 million was supported by Government negotiations that resulted in written, binding agreements that defined the specific

¹³ We excluded base, award, and construction fees from the total obligated amount because these are based on the estimated costs obligated to the contract, and based on our analysis of funds obligated, these fees may have been miscalculated.

requirements for the services to be provided by DynCorp.¹⁴ Consequently, the WRM contracting officer could not support \$161.1 million obligated to the WRM contract.

For example, on July 30, 2003, the WRM contracting officer issued modification P00041 that established and funded an FY 2003 SLIN for \$21.4 million for asset collection and reconstitution support; however, the contract file contained no support for why that SLIN was established and had no written, binding agreement between AFCENT and DynCorp that defined specific requirements for asset collection and reconstitution. On August 14, 2003, the WRM contracting officer issued modification P00042 that decreased the value of the FY 2003 SLIN to \$20.4 million; however, the contract file contained no support for why the funded amount was decreased. On September 28, 2003, the WRM contracting officer issued modification P00045, the last modification that changed the FY 2003 SLIN, that increased the value of the FY 2003 SLIN to \$23 million; however, the contract file contained no support for why the contracting officer obligated additional funds to the FY 2003 SLIN.

Additionally, on March 15, 2004, the WRM contracting officer issued modification P00050 that established and funded an FY 2004 SLIN for \$12.7 million for Operation Iraqi Freedom support; however, the contract file contained no support for why that SLIN was established and had no written, binding agreement between AFCENT and DynCorp that defined specific requirements for Operation Iraqi Freedom support. On March 29, 2004, the WRM contracting officer issued modification P00051 that decreased the value of the FY 2004 SLIN to \$10.3 million; however, the contract file contained no support for why the funded amount was decreased. On December 1, 2004, the WRM contracting officer issued modification P00061, the last modification that changed the FY 2004 SLIN, that increased the value of the FY 2004 SLIN to \$13.4 million; however, the contract file contained no support for why the contracting officer obligated additional funds to the FY 2004 SLIN.

The WRM contracting officer could not support \$161.1 million obligated to the WRM contract. The WRM contracting officer could not explain why he obligated:

- an additional \$3.7 million in estimated costs during the 2-month phase-in period without a written, binding agreement that defined the specific requirements for services to be provided by DynCorp;
- \$0.7 million less than the estimated costs negotiated during the 3-month base year;
- an additional \$2.9 million in estimated costs without a written, binding agreement that defined the specific requirements for services to be provided by DynCorp in option year one;

¹⁴ Government negotiations include estimated costs negotiated on the basic contract and subsequent price negotiation memoranda. The estimated costs established in the basic contract were negotiated during the pre-award process. Additionally, the price negotiation memoranda represented written, binding agreements that specified the services to be provided by DynCorp.

- an additional \$13.4 million in estimated costs without a written, binding agreement that defined the specific requirements for services to be provided by DynCorp in option year two;
- an additional \$66.8 million in estimated costs without a written, binding agreement that defined the specific requirements for services to be provided by DynCorp in option year three;
- an additional \$28.3 million in estimated costs without a written, binding agreement that defined the specific requirements for services to be provided by DynCorp in option year four;
- an additional \$21.9 million in estimated costs without a written, binding agreement that defined the specific requirements for services to be provided by DynCorp in option year five;
- an additional \$15.4 million in estimated costs without a written, binding agreement that defined the specific requirements for services to be provided by DynCorp in option year six;
- an additional \$6.2 million in estimated costs without a written, binding agreement that defined the specific requirements for services to be provided by DynCorp in extension period one; and
- an additional \$3.2 million in estimated costs without a written, binding agreement that defined the specific requirements for services to be provided by DynCorp in extension period two.

Table 1. Contract Funding
(in millions)

Contract Period	Total Estimated Costs Obligated	Estimated Costs Supported by Government Negotiations	Total Estimated Costs Obligated Without a Written, Binding Agreement
Phase-in period	\$7.0	\$3.3	\$3.7
Base year	5.1	5.8	(0.7)
Option year one	32.6	29.7	2.9
Option year two	75.4	62.0	13.4
Option year three	123.5	56.7	66.8
Option year four	81.2	52.9	28.3
Option year five	80.1	58.2	21.9
Option year six	53.2	37.8	15.4
Extension period one	71.0	64.8	6.2
Extension period two	65.0	61.8	3.2
Total	\$594.1	\$433	\$161.1

In accordance with the requirements in the WRM contract, DynCorp was entitled to a 2 percent base fee, 4 percent award fee, and 5 percent construction fee, based on estimated costs. DynCorp should not have received any additional fees based on actual costs. The WRM contracting officer may have inaccurately calculated base, award, and construction fees because he funded \$161.1 million on the WRM contract without a written, binding agreement that defined specific requirements for DynCorp services. However, we could not determine how the WRM contracting officer calculated base, award, and construction fees. For additional discussions on award fee, see finding E. For additional discussion on construction fee, see finding C.

Expenditures and Payments

Government officials did not adequately account for DynCorp expenditures and payments on the WRM contract.

DynCorp Expenditures

Government personnel did not track DynCorp's expenditures on the WRM contract. The WRM contracting officer allowed DynCorp to bill for more than the total amount obligated for specific CLINs and SLINs, did not identify unnecessary and excess funds, and was unable to provide all the interim public vouchers that DynCorp had submitted for the life of the contract.

The WRM contracting officer allowed DynCorp to bill for more than the total dollar amount obligated for specific CLINs and SLINs. The Air Combat Command established the WRM basic contract that required that DynCorp bill using a CLIN and SLIN structure. This made sense because costs were estimated and funds were obligated for work using that structure. However, the Defense Finance and Accounting Service did not disperse funds using the CLIN and SLIN structure and instead disbursed funds against lines of accounting. DynCorp interim public vouchers were paid by the Defense Finance and Accounting Service as long as there were sufficient funds available in the associated line of accounting. However, the funds may not have been available in the CLIN or SLIN that the work was performed under. For example, DynCorp billed and was paid 257 percent of an FY 2004 SLIN funded for operation and maintenance support at Al Udeid, Qatar. The WRM contracting officer obligated \$3.3 million against the FY 2004 SLIN, but DynCorp billed \$8.5 million against the FY 2004 SLIN and was paid by the Defense Finance and Accounting Service. Therefore, DynCorp billed and was paid an additional \$5.2 million that was not obligated against the FY 2004 SLIN. Consequently, the Government may have paid for services for which funds had not been estimated and properly obligated, as required by the FAR.

The WRM contracting officer did not monitor DynCorp expenditures in order to identify unnecessary and excess funds. Specifically, the WRM contracting officer allowed \$21.3 million in Operations and Maintenance funds from FY 2000 through FY 2003 to be cancelled. Funds are cancelled after 5 years and are no longer available for adjustments or payment obligations. Since the WRM contracting officer allowed this to happen, these funds were not needed and were excess. The WRM contracting officer should have de-

obligated the \$21.3 million in Operations and Maintenance funds prior to them being cancelled so that the funds could have been used for other purposes.

The WRM contracting officer did not review DynCorp interim public vouchers before or after they were paid by the Defense Finance and Accounting Service. Additionally, the WRM contracting officer did not maintain copies of DynCorp's interim public vouchers and instead tasked DynCorp to respond to our requests for copies of interim public vouchers. Consequently, AFCENT could not independently account for expenditures to DynCorp pertaining to any individual requirement and may have paid for services DynCorp did not perform or overpaid for services that DynCorp performed.

DynCorp Payments

WRM contracting personnel and DCAA personnel allowed inaccurate interim public vouchers to be submitted directly to and paid by the Defense Finance and Accounting Service.

The WRM contracting officer did not require DynCorp to comply with billing instructions established in the WRM basic contract when submitting interim public vouchers for payment. DCAA authorized DynCorp to directly submit interim public vouchers to the Defense Finance and Accounting Service for payment; however, DCAA did not perform ongoing surveillance of the DynCorp billing system or perform annual testing of paid interim public vouchers as required by DFARS and the DCAA Contract Audit Manual. Additionally, prior to FY 2003, AFCENT personnel did not ensure that DynCorp services were paid using appropriate year funds.

Billing Instructions

The WRM contracting officer did not require DynCorp to comply with billing instructions established in the WRM basic contract. Specifically, interim public vouchers submitted by DynCorp did not identify the period of performance on the public voucher. DynCorp personnel stated that the period of performance listed on a public voucher covers an option year of the WRM contract. However, on several interim public vouchers the period of performance covered several years or less than a year, which does not equate to a WRM contract option year.¹⁵ Additionally, DynCorp interim public vouchers did not detail the quantity of services performed and did not include a written certification that the services were performed during the public voucher period as required by the WRM basic contract. As a result, the Government may have paid for services DynCorp did not perform.

Direct Billing

DCAA authorized DynCorp to directly submit interim public vouchers to the Defense Financial Accounting Service for payment in FY 2000. DFARS allows the contract auditor to authorize contractors that maintain adequate billing systems to submit interim public vouchers directly to Government disbursing offices. A contractor's continued

¹⁵ A WRM contract option year was equivalent to a Government fiscal year.

participation in the direct billing program should be based on the results of DCAA ongoing surveillance of contractors' billing systems. The DCAA Contract Audit Manual requires DCAA to perform annual testing of paid interim public vouchers to ascertain whether continued reliance can be placed on contractors' internal controls for the preparation of interim public vouchers.

DCAA did not perform ongoing surveillance of the DynCorp billing system for the life of the WRM contract. DCAA had completed three billing system audit reports since the WRM contract began in FY 2000. The first report, completed in FY 2003, found that the DynCorp billing system internal controls were adequate based on testing performed from January 2001 to July 2003; however, DCAA's audit disclosed six areas of improvement for the system. The second report, completed in FY 2004, found that the DynCorp billing system internal controls were adequate based on testing performed from March 2003 to October 2003, even though DCAA's audit disclosed two areas of improvement for the system.

DCAA issued a memorandum rescinding the FY 2004 billing system report on October 2, 2008. The memorandum stated that DCAA rescinded the FY 2004 billing system report because DCAA's current guidance for system internal controls audits incorporates new generally accepted government auditing standards definitions related to reporting internal control deficiencies as material weaknesses. DCAA determined that the internal control deficiencies identified in the FY 2004 billing system report would now be considered deficiencies significant enough to cause the billing system to be assessed as either "inadequate in part" or "inadequate." As a result of the October 2008 memorandum, DynCorp should not have been authorized to continue participation in the direct billing program.

DCAA conducted audits of DynCorp incurred costs to determine the allowability, allocability, and reasonableness of the costs charged to a contract. During the FY 2005 through FY 2007 DCAA audit of incurred cost claims, DCAA determined that at least \$2.5 million billed to the WRM contract was not reasonable. The DCAA audit of incurred cost claims was ongoing, as of June 2009. DCAA personnel stated that they recognized the severity of the WRM contract cost issues, and they have increased the scope of the ongoing audit and reopened audits completed for FY 2000 through FY 2004 to perform additional testing. As a result, DCAA issued a Form 1, "Notice of Contract Cost Suspended and/or Disapproved" on January 30, 2009, to suspend the \$2.5 million subcontract payment. DCAA stated that, consequently, DynCorp would not be allowed to direct bill any additional costs associated with the WRM contract.

DCAA issued the third DynCorp billing system audit report on April 23, 2009, after the WRM contract ended, and determined that DynCorp billing system internal controls were inadequate based on testing performed from December 2008 to March 2009. DCAA disclosed five significant deficiencies that were considered to be material weaknesses in the DynCorp billing system that resulted in inaccurate Government billings.

Furthermore, DCAA did not perform annual testing of paid vouchers for the WRM contract during the time DynCorp was allowed to directly bill the Government. DCAA had no sampling plan for testing public vouchers and only tested one public voucher in FY 2008 for the WRM contract. The DCAA Contract Audit Manual states that DCAA should perform annual testing of paid public vouchers to determine whether continued reliance can be placed on the contractor's internal controls when preparing public vouchers. DCAA is required to verify that DynCorp's billings are in compliance with contract terms and that the total amount billed does not exceed any funding limitations. The sampling plan used to test paid public vouchers must be documented and updated annually. DCAA also has the option of performing the annual testing of the paid public vouchers as part of another audit; however, if this occurs, the DCAA auditor must generate a memorandum for record that specifies the audit assignment that documents the decision to allow DynCorp to continue participating in the direct billing program. DCAA personnel stated that they only tested one public voucher in FY 2008 for the WRM contract because DCAA was concentrating its resources on other audit efforts.

WRM Contracting Personnel Review of Public Vouchers

Prior to FY 2003, AFCENT personnel did not ensure that DynCorp services were paid using appropriate year funds. For example, during our review of DynCorp interim public vouchers in 2008, AFCENT financial management personnel noticed that DynCorp billed for services performed in FY 2000 and FY 2001 but was paid by the Defense Finance and Accounting Service with FY 2000 funds; a portion of the public voucher should have been paid with FY 2001 funds. AFCENT personnel should have reported the mistake to the Defense Finance and Accounting Service, and the Defense Finance and Accounting Service should have credited the FY 2000 funds that were used to pay for services performed in FY 2001; however, FY 2000 and FY 2001 funds had been cancelled by the time the mistake was identified in July 2008, and, as a result, funds were no longer available to make the correction. AFCENT financial management personnel stated that in FY 2003 they started comparing DynCorp interim public vouchers to the Defense Finance and Accounting Service payment vouchers to ensure that DynCorp interim public vouchers were paid using appropriate funds. AFCENT financial management personnel stated that, since FY 2003, they have verified that the fund cite balance of the unexpended, committed, and paid amounts reconciled with the fund cites established on the WRM contract and DynCorp interim public vouchers.

Conclusion

AFCENT contracting personnel did not maintain contract files that detailed the basis for funding changes. We requested all contract modifications and supporting documentation for the WRM contract before our first site visit to AFCENT and over the next 9 months; however, they were unable to provide documentation to sufficiently support the WRM contract modifications as required by the FAR.

WRM contracting personnel had no internal controls in place to ensure that estimated costs were properly obligated on the WRM contract. The WRM contracting officer issued modifications that did not sufficiently define requirements for \$161.1 million

obligated on the WRM contract from FY 2000 through FY 2008. For example, the contracting officer de-obligated funds from an FY 2005 SLIN in FY 2005 without support for the de-obligation. In FY 2007 the contracting officer issued a WRM contract modification that stated that the Defense Finance and Accounting Service had not de-obligated funds for the FY 2005 SLIN from its system. The contracting officer reversed his FY 2005 de-obligation and authorized DynCorp to have full use of the total funds available prior to the de-obligation. The WRM contracting officer executed similar contract actions during the life of the WRM contract that may have caused the Government to overpay for services DynCorp performed or paid for services that DynCorp did not perform. Contracting officials should perform a thorough analysis of contract actions and DynCorp interim public vouchers to determine whether services that were performed were properly paid and that the Government did not pay for services that were not performed.

The WRM contracting officer should have tracked DynCorp expenditures on the WRM contract. Instead, AFCENT officials allowed the Defense Finance and Accounting Service to pay interim public vouchers that were not submitted in accordance with the contract requirements, used inappropriate funds when paying for DynCorp services, and did not de-obligate unnecessary and excess funds prior to the funds being cancelled. Contracting officials should maintain and review all of DynCorp interim public vouchers to ensure that DynCorp submits interim public vouchers as specified in the contract, and that the interim public vouchers are paid using the appropriate funds. DCAA should conduct ongoing reviews of DynCorp internal controls and determine whether DynCorp internal controls are adequate.

Recommendations, Management Comments, and Our Response

B.1. We recommend the Director, Acquisition Management and Integration Center, Air Combat Command:

a. Require that a Government obligation be supported by a written, binding agreement between the contracting officer and DynCorp International, in accordance with section 1501, title 31, United States Code.

b. Review obligations at year's end to determine whether unnecessary and excess funds were obligated to the new war reserve materiel contract (FA4890-08-C-0004).

c. Ensure the contracting officer requires DynCorp International to comply with billing instructions defined in the new war reserve materiel contract (FA4890-08-C-0004).

d. Ensure the contracting officer conducts contract reconciliation between the new war reserve materiel contract (FA4890-08-C-0004), paying office records,

and accounting records as required by DOD Financial Management Regulation, volume 10, chapter 20, “Contract Reconciliation.”

Acquisition Management and Integration Center Comments

The Director of Installation and Mission Support, Air Combat Command, agreed with the recommendation, stating that all obligations on contract FA4890-08-C-0004 will be executed bilaterally and within the parameters of the appropriations and purposes cited, unless authorized to be executed unilaterally. The Director indicated that Acquisition Management and Integration Center personnel will review extensive contract financial records on a weekly basis to ensure obligations, expenditures, and payments are applied correctly and that reviews will be done after year’s end to determine if excess funds remain on the contract. Additionally, the Director stated that Acquisition Management and Integration Center personnel, the AFCENT logistics financial manager, and contractor financial managers meet quarterly to discuss the status of obligations, expenditures, and payments; if the contractor does not comply with billing instructions, the contracting officer will issue a letter of concern.

Our Response

Comments from the Director of Installation and Mission Support, Air Combat Command, were responsive and met the intent of this recommendation. No additional comments are required.

B.2. We recommend the Regional Director, Central Region, Defense Contract Audit Agency:

a. Perform the required surveillance of DynCorp International internal controls as required by the Defense Contract Audit Agency Contract Audit Manual.

b. Perform testing of DynCorp International interim public vouchers for contract F44650-00-C0006 and contract FA4890-08-C-0004, as required by the Defense Contract Audit Agency Contract Audit Manual 6-1008, “Review and Approval of Interim Public Vouchers Submitted to the Auditor.” The auditors should consider DynCorp International a high-risk contractor when selecting a sample for testing.

DCAA Comments

The Regional Director, Central Region, DCAA, agreed with the recommendation, stating that audits of DynCorp’s billing, labor, and compensation systems have been completed within the last 6 months. The Regional Director stated that audits of the accounting, estimating, purchasing, indirect costs, and other direct costs systems are in process with estimated completion dates of August 2009 through November 2009. The Regional Director indicated that audits of the budgeting and material systems are planned for FY 2010, and that DCAA is currently auditing an interim voucher submitted under contract F44650-00-C0006 and will review a sample of any additional interim vouchers DynCorp submits under contract F44650-00-C0006. The Regional Director stated that interim vouchers submitted under contract FA4890-08-C-0004 are subject to pre-

payment interim voucher review processes because DCAA rescinded DynCorp's authority to participate in the direct billing program. Finally, the Regional Director stated that DCAA implemented processes to perform post-payment interim voucher reviews of DynCorp invoices.

Our Response

Comments from the Regional Director, Central Region, DCAA, were responsive and met the intent of the recommendation. We request that the Regional Director provide results of the DCAA audit work completed within the last 6 months and those audits estimated to be completed by November 2009. No additional comments are required.

Finding C. Minor Military Construction

AFCENT personnel did not use an appropriate type of contract action when contracting for MMC. A cost-plus-fixed-fee type of contract action was inappropriate because AFCENT personnel did not provide adequate Government surveillance to ensure that the contractor executed the MMC projects efficiently and with effective cost controls. In addition, AFCENT personnel were unable to identify the universe of MMC projects executed under the WRM contract. AFCENT personnel failed to:

- prepare independent Government cost estimates to negotiate prices for MMC projects,
- provide oversight or quality assurance for MMC projects, and
- document acceptance of completed MMC projects.

As a result, AFCENT personnel could not identify the MMC projects funded by the WRM contract. We identified \$62 million obligated to the contract for 191 MMC projects. Furthermore, AFCENT personnel may not have paid fair and reasonable prices for MMC projects. AFCENT personnel have no assurance that MMC projects were adequately completed. In order to improve construction contracting and accountability, officials should:

- consider using a firm-fixed-price, indefinite-delivery, indefinite-quantity type of contract for construction requirements;
- obtain fair and reasonable prices by preparing independent Government cost estimates and using negotiation procedures for MMC projects; and
- assign a QAE for quality assurance and acceptance of MMC projects.

Criteria

The FAR and the DOD FMR provide guidance for MMC project contracting and execution.

FAR Subpart 15.4: “Contract Pricing”

FAR Subpart 15.4 states that the objective of proposal analysis is to ensure that the final agreed-upon price is fair and reasonable. The Government may use various price and cost analysis techniques and procedures to ensure a fair and reasonable price.

FAR Subpart 16.3: “Cost-Reimbursement Contracts”

FAR Subpart 16.3 states that a cost-reimbursement contract may only be used when appropriate Government surveillance during performance will provide reasonable assurance that efficient methods and effective cost controls are used.

FAR Part 36: “Construction and Architect-Engineer Contracts”

FAR Part 36 requires that a contracting activity evaluate contractor performance and prepare a performance report for each construction contract of at least \$550,000. An independent Government cost estimate of construction costs should be prepared and furnished to the contracting officer at the earliest practicable time for each proposed contract and for each contract modification anticipated to cost \$100,000 or more. Generally, firm-fixed-price contracts should be used to acquire construction. Contracting officers may use a cost-reimbursement contract to acquire construction only when its use is consistent with FAR Subpart 16.3 and Part 15.

DOD FMR Volume 3, Chapter 17: “Accounting Requirements for Military Construction Projects”

DOD FMR volume 3, chapter 17 states that project files should be maintained for each project and should contain a complete historical record of the project from inception to completion. Construction agents are responsible for holding the historical project files. The installation commander, responsible engineering official, and the responsible fiscal officer must sign a certification of costs prepared within 60 days after physical completion of a project. The certification must include statements of the total cost incurred on the project, the funded portion of total costs, the unfunded portion of total costs, and a statement that funded costs incurred do not exceed authorized amounts. Additionally, the acceptance of real property by a user organization must be documented.

MMC Project Funding and Contracting

AFCENT personnel could not identify the universe of MMC projects executed under the WRM contract and did not properly obligate funds for the MMC projects executed under the DynCorp WRM contract. Additionally, the WRM contracting officer did not properly administer the WRM contract when procuring MMC services from DynCorp. The WRM contracting officer obligated approximately \$62 million to the WRM contract for MMC requirements. The contracting officer subsequently de-obligated \$18 million and re-aligned \$11 million for other requirements. As of September 30, 2008, approximately \$33 million remained on the WRM contract for MMC requirements. AFCENT personnel could not explain how they obtained funding for MMC projects, how much AFCENT paid for individual MMC projects, or how the contracting officer defined project requirements in the WRM contract.

Project Universe

AFCENT personnel could not identify the universe of MMC projects executed under the WRM contract. Documentation in the contract modification files indicated that the WRM contracting officer authorized DynCorp to proceed with 77 MMC projects. However, according to DynCorp’s Construction, Repair, and Alteration Report,¹⁶

¹⁶ The WRM contract required DynCorp to prepare a Construction, Repair, and Alteration Report on a monthly basis.

DynCorp completed construction on 91 MMC projects. Because of the discrepancy between the DynCorp data and the contract file documents, we asked AFCENT personnel for a complete list of MMC projects executed under the WRM contract; they were unable to provide the information. In October 2008, AFCENT personnel provided a spreadsheet to us that indicated 185 MMC projects had been funded by the WRM contract; however, the spreadsheet did not contain 6 of the 77 projects authorized by the contracting officer in contract modification files. We identified errors in the data and concluded that the spreadsheet data were inaccurate, incomplete, and unreliable. In addition, AFCENT personnel could not explain the source of the information in the spreadsheet. We determined that the WRM contract funded 191 MMC projects based on the 185 projects contained in the spreadsheet provided by AFCENT personnel and the 6 additional projects listed in the contract modifications; however, we cannot be certain that this is a reliable universe of projects because AFCENT personnel could not provide verifiable data.

Project Funding

AFCENT personnel could not explain the process used to obtain funding for MMC projects under the WRM contract. According to AFCENT civil engineering personnel, the civil engineering directorate was responsible for securing funding for MMC projects executed by the civil engineering directorate; however, the WRM program manager was responsible for securing funding for MMC projects executed through the WRM contract. Additionally, written AFCENT procedures for acquiring MMC services from DynCorp specified that the WRM program manager was to secure funding for validated MMC projects. However, the WRM program manager, who did not acknowledge any responsibility for WRM program management, stated that he did not secure funding for any MMC projects and was unable to explain how AFCENT personnel secured the funding for the MMC projects.

The WRM contract did not identify the prices for specific MMC projects. The WRM contracting officer obligated lump sum amounts for MMC requirements and often did not identify MMC projects associated with the obligated funds. When the WRM contracting officer did identify MMC projects in the WRM contract, the lump sum amount obligated to the contract for the MMC projects did not equal the total estimated costs of the projects. Consequently, we could not determine the amount funded for individual MMC projects, and AFCENT personnel were unable to explain how much AFCENT paid for each project.

In order to protect the interests of the Government, MMC projects should only be funded when they are a Government priority. Further, funded amounts should be based on estimated costs when using a cost-reimbursement contract. Without having controls in place to ensure that only priority MMC projects were funded and that funded amounts accurately reflected the estimated costs of MMC projects, AFCENT officials cannot be sure that funds were expended responsibly and for valid requirements.

Contracting for MMC

The WRM contracting officer did not properly administer the WRM contract when procuring MMC services from DynCorp. Specifically, the contracting officer did not properly define all MMC project requirements in the WRM contract. Furthermore, the contracting officer did not use an appropriate type of contract action when contracting for MMC projects, did not ensure that AFCENT paid a fair and reasonable price for the MMC projects, and allowed DynCorp to receive fees for MMC projects that were never completed.

The contracting officer wrote the contract modifications poorly by not properly defining all MMC project requirements in the WRM contract. The contracting officer issued contract modifications obligating funds for MMC projects; however, the contract modifications did not sufficiently define the MMC projects. Specifically, the contracting officer issued 25 contract modifications to obligate, de-obligate, or re-align funds for at least 77 MMC projects; however, 16 of these modifications did not specify which project the modification applied to or explain the reason for the contracting officer's actions. For example, the contracting officer obligated \$21 million for Operation Iraqi Freedom facilities in modification P00045 on September 28, 2003; however, the modification did not specify which MMC projects the \$21 million applied to or why AFCENT needed the projects. We were unable to conclusively identify MMC projects funded or executed through the WRM contract because the contracting officer did not contractually specify the MMC projects to be constructed by DynCorp.

Contract Type

AFCENT personnel did not use an appropriate type of contract action when contracting for MMC projects. Firm-fixed-price contracts generally should be used when acquiring construction. A cost-reimbursement contract may be used when appropriate Government surveillance during performance will provide reasonable assurance that efficient methods and effective cost controls are used. However, AFCENT personnel did not provide adequate Government surveillance to ensure that the contractor executed the MMC projects efficiently and with effective cost controls because AFCENT personnel relied on DynCorp to provide project surveillance.

AFCENT personnel should consider using a firm-fixed-price, indefinite-delivery, indefinite-quantity type of contract for MMC requirements. Indefinite-delivery, indefinite-quantity contracts provide flexibility for both quantities and delivery scheduling and allow the Government to acquire services when the exact times and quantities are not known at the time of contract award. WRM MMC requirements were derived from WRM storage requirements and, as a result, can be unpredictable. Therefore, an indefinite-delivery, indefinite-quantity contract would allow AFCENT contracting personnel the flexibility to contract for MMC requirements as the requirements arise. Additionally, construction contracts should generally be firm-fixed-price. By issuing a firm-fixed-price contract, the contractor assumes the cost risks of construction and has a higher incentive to perform efficient construction and use effective cost controls.

Contract Price

The WRM contracting officer did not ensure that AFCENT paid fair and reasonable prices for MMC projects. The FAR states that contracting officers must purchase services from responsible sources at fair and reasonable prices. Further, the FAR states that an independent Government cost estimate of construction costs must be prepared and furnished to the contracting officer for each proposed construction contract or contract modification over \$100,000. However, AFCENT personnel did not prepare independent Government cost estimates for any of the MMC projects. Although AFCENT civil engineering personnel stated that they evaluated DynCorp's estimated project costs documented on DD Forms 1391¹⁷ to determine whether the costs were reasonable, the AFCENT personnel had no historical data for cost comparisons and the evaluations were based solely on DynCorp's estimated costs. In addition, AFCENT personnel could not provide DD Forms 1391 for 32 of the 191 MMC projects that AFCENT personnel claimed were funded by the WRM contract. Therefore, the contracting officer had no independent basis for determining whether construction prices were fair and reasonable.

AFCENT personnel should ensure that fair and reasonable prices are obtained by preparing independent Government cost estimates and using negotiation procedures for MMC projects. The contracting officer can develop a negotiation position to negotiate a fair and reasonable price with the contractor by comparing proposed prices with independent Government cost estimates to determine how well the proposed costs represent what the cost of the contract should be.

Contract Fee

The WRM contracting officer allowed DynCorp to receive fixed fees for MMC projects that were never completed. According to AFCENT contracting personnel, DynCorp received a 5 percent fixed fee for MMC projects instead of receiving award fees for the projects. The fixed fee was guaranteed at project completion, whereas an award fee is based on evaluation of contractor performance. We were unable to verify that the Government did not pay DynCorp award fees for the projects because the contract did not consistently specify MMC projects and AFCENT officials did not accurately calculate award fee pools (see finding E). AFCENT contracting personnel could not explain why they used a fixed fee for MMC or how they determined that 5 percent was an appropriate fee amount. The contracting officer established three SLINs in the contract for the 5 percent fee, totaling \$1,367,116.

The Government overpaid DynCorp for the fixed fee on two separate occasions, and may have overpaid DynCorp on a third occasion; however, we could not determine how much DynCorp was overpaid because we could not identify the costs associated with each MMC project or the MMC projects associated with the fixed fees. On August 2, 2001, the contracting officer established a 5 percent fixed fee, totaling \$84,734, for 10 MMC

¹⁷ A DD Form 1391 is a project document signed by an appropriate approving official that allows an independent reviewer to understand the project requirement, benefit, and total cost. DynCorp prepared the DD Forms 1391 to document project requirements and AFCENT officials approved them.

projects in Qatar and authorized DynCorp to bill for the fixed fee for each project after completion and acceptance of the individual project. AFCENT personnel subsequently cancelled 4 of the 10 MMC projects but DynCorp billed and was paid for the entire fixed fee for all 10 MMC projects.

On November 22, 2005, the contracting officer established a 5 percent fixed fee, totaling \$915,548, and also authorized DynCorp to bill for the fee after MMC projects associated with SLINs 0402AG and 0402BG were completed. Contract modification P00034 listed 42 MMC projects associated with SLIN 0402AG. Based on the contract files, we could not determine whether any MMC projects were associated with SLIN 0402BG. The total estimated costs for the MMC projects associated with SLIN 0402AG were \$11,272,590. Therefore, DynCorp should have been entitled to a maximum fee of \$563,630, or 5 percent of the estimated costs, upon completion of all 42 MMC projects associated with SLIN 0402AG. AFCENT personnel subsequently cancelled 14 of the 42 MMC projects, and DynCorp should only have been paid for the fee for the estimated costs of the 28 completed MMC projects. However, DynCorp billed and was paid for the entire \$915,548 initially established as the fixed fee.

On November 22, 2005, the contracting officer established a 5 percent fixed fee totaling \$366,834 for “all construction projects associated with SLINs 0302AF, 0302AH, 0302AN, and 0302AO.” On September 25, 2007, the contracting officer authorized DynCorp to bill for the fee after completing the MMC projects associated with SLINs 0302AF, 0302AH, 0302AN, and 0302AO. However, the contract did not specify any MMC projects associated with these SLINs and AFCENT personnel did not maintain historical project files. Therefore, we were unable to determine what MMC projects were associated with these SLINs, the costs of the projects associated with these SLINs, or whether the projects associated with these SLINs were completed. DynCorp billed and was paid for the entire fixed fee. We could not determine whether DynCorp was overpaid for the fixed fee because the contract did not specify what MMC projects the fee was associated with.

Project Management and Accountability

AFCENT personnel did not provide adequate Government oversight and allowed DynCorp personnel to perform inherently governmental functions by providing project oversight and performing acceptance duties for the MMC projects. Additionally, AFCENT personnel could not account for the actual costs of MMC projects.

Oversight and Acceptance

In January 2002, the contracting officer expressed concerns to AFCENT civil engineering personnel regarding WRM MMC execution. The contracting officer indicated that DynCorp had difficulty executing the MMC projects that it had been tasked to perform because DynCorp was primarily focused on maintaining and reconstituting WRM assets and had not focused on executing the MMC projects. The contracting officer stated that AFCENT’s use of DynCorp would result in slow MMC project execution with little to no project management and oversight. The contracting officer recommended using the

Army Corp of Engineers or the Air Force Civil Augmentation Program for future MMC projects. In response to the contracting officer's concerns, the then-AFCENT Chief of Civil Engineering rejected the use of the Army Corp of Engineers and stated that the use of the Air Force Civil Augmentation Program may be a future possibility. The former AFCENT Chief of Civil Engineering could not recall why he rejected the use of the Army Corp of Engineers or whether he later considered the use of the Air Force Civil Augmentation Program for WRM MMC projects.

Despite the contracting officer's concerns about DynCorp's ability to execute and manage the MMC projects, AFCENT personnel did not provide oversight during the construction process. The FAR requires that the Government implement appropriate contract oversight that provides reasonable assurance that the contractor used efficient methods and effective cost controls when using a cost-reimbursement contract. AFCENT civil engineering personnel did not oversee the MMC projects because they considered DynCorp responsible for oversight. AFCENT officials created a Facilities Maintenance QAE position in July 2005. However, the Facilities Maintenance QAE evaluated DynCorp's ongoing maintenance responsibilities for existing WRM facilities, and did not have oversight of the MMC projects.

AFCENT personnel relied on DynCorp to administer oversight of DynCorp's own performance. Therefore, DynCorp personnel inappropriately performed inherently governmental functions prohibited by the FAR, and AFCENT officials had no assurance that DynCorp used efficient means to complete the MMC projects or that DynCorp implemented effective cost controls. AFCENT personnel did not prepare a performance evaluation report for any project performed under the WRM contract, as required by the FAR. Therefore, AFCENT personnel had no impartial means of evaluating DynCorp's performance.

AFCENT personnel also violated the FAR by allowing DynCorp personnel to perform inherently governmental functions by accepting the MMC projects. AFCENT personnel did not accept MMC projects on behalf of the Government, as required by DOD FMR volume 3, chapter 17, and instead relied on DynCorp's acceptance certificates for project acceptance. Furthermore, AFCENT personnel could not provide DynCorp acceptance certificates for 10 of the 105 MMC projects AFCENT personnel claimed DynCorp completed. AFCENT personnel did not maintain any of the acceptance certificates; AFCENT personnel acquired the available acceptance certificates from DynCorp in September 2008 in order to satisfy our audit request. AFCENT procedures require DynCorp to submit an acceptance certification and a Letter of Release of Claims to the WRM program manager upon project completion and final payment for construction work. However, the WRM program manager never received any acceptance paperwork, nor did the WRM program manager ask DynCorp for the paperwork or inquire about project acceptance.

As a result, AFCENT personnel have no assurance that MMC projects were adequately completed. For example, DynCorp personnel completed a sandblasting facility in February 2008 at the WRM storage site located in Thumrait, Oman. On June 22, 2008,

the Facilities Maintenance QAE conducted a special surveillance of the newly constructed sandblasting facility. The Facilities Maintenance QAE found that the facility was non-operational. During the surveillance, the Facilities Maintenance QAE identified seven deficiencies that affected facility operations. According to the Facilities Maintenance QAE, the facility had not operated effectively since DynCorp's acceptance in February 2008. However, because the Facilities Maintenance QAE did not routinely inspect newly constructed facilities, AFCENT personnel had no assurance that all of the buildings constructed by DynCorp were operational. The contracting officer should assign a QAE to perform project oversight and to accept MMC projects in order to protect the Government's interest and ensure that MMC projects are completed efficiently and effectively.

Minor Military Construction Project Accountability

AFCENT personnel cannot account for the actual costs of individual MMC projects and have no assurance that DynCorp used effective cost controls when performing MMC. The DOD FMR requires the installation commander, responsible engineering official, and the responsible fiscal officer to sign a certification of costs prepared within 60 days after physical completion of a project. The certifications must include statements of the total cost incurred on the project, the funded portion of total costs, the unfunded portion of total costs, and a statement that funded costs incurred do not exceed authorized amounts. AFCENT officials did not prepare the required cost certifications for any of the MMC projects.

Additionally, construction agents must maintain historical project files representing a complete historical record of each construction project from inception to completion. AFCENT personnel did not maintain project files for the MMC projects. Because AFCENT personnel did not maintain files for the MMC projects and did not consistently define MMC project requirements in the WRM contract modifications, AFCENT personnel were unable to provide the most basic information pertaining to MMC, including the MMC projects funded by the contract, project start dates, cancellation dates, project costs, or project completion dates.

Conclusion

The Government did not have internal controls in place to ensure that MMC costs were properly obligated, managed, and paid. The contracting officer wrote the contract modifications poorly by not including specific MMC projects and specific costs, making it impossible to identify the required MMC projects, the estimated costs for those MMC projects, and whether the costs were reasonable. Further, Government officials did not monitor DynCorp billings (see finding B). Therefore, AFCENT personnel have no assurance that they obtained required services at fair and reasonable prices.

AFCENT personnel did not manage the MMC projects and instead allowed DynCorp to perform inherently governmental functions by overseeing its own performance and executing final acceptance of completed MMC projects. Additionally, AFCENT personnel did not maintain proper documentation pertaining to the MMC projects.

AFCENT personnel had no independent evaluations of DynCorp's performance, and AFCENT may not have received the best value for the services performed.

AFCENT personnel did not act in the best interest of the Government when acquiring MMC services from DynCorp. AFCENT personnel did not consistently establish contractual agreements with DynCorp for MMC projects to be performed, ensure that the MMC projects were fair and reasonably priced, oversee DynCorp's project execution, or properly accept MMC projects on behalf of the Government. In order to improve construction contracting and accountability, officials should:

- consider using a firm-fixed-price, indefinite-delivery, indefinite-quantity type of contract for MMC requirements;
- ensure that fair and reasonable prices are obtained by preparing independent Government cost estimates and using negotiation procedures for MMC projects; and
- assign a QAE for quality assurance and acceptance of MMC projects.

Recommendations, Management Comments, and Our Response

C. We recommend the Director, Acquisition Management and Integration Center, Air Combat Command, require contracting personnel to:

1. Consider using a firm-fixed-price, indefinite-delivery, indefinite-quantity type of contract for minor military construction requirements and justify in writing, if appropriate, using other than a firm-fixed-price, indefinite-delivery, indefinite-quantity type contract for minor military construction requirements for the new war reserve materiel contract (FA4890-08-C-0004).

Acquisition Management and Integration Center Comments

The Director of Installations and Mission Support, Air Combat Command, agreed with the recommendation, stating that minor military construction projects performed under the new war reserve materiel contract (FA4890-08-C-0004) will be executed on a firm-fixed-price basis through a modification or a separate contract vehicle.

Our Response

Comments from the Director of Installations and Mission Support, Air Combat Command, were responsive and met the intent of the recommendation. No additional comments are required.

2. Ensure that fair and reasonable prices are obtained by preparing independent Government cost estimates and using negotiation procedures for minor military construction projects.

Acquisition Management and Integration Center Comments

The Director of Installations and Mission Support, Air Combat Command, agreed with the recommendation, stating that independent Government estimates will be obtained for MMC projects performed under the new war reserve materiel contract (FA4890-08-C-0004) and negotiations will occur prior to the issuance of a Notice to Proceed for the MMC projects.

Our Response

Comments from the Director of Installations and Mission Support, Air Combat Command, were responsive and met the intent of the recommendation. No additional comments are required.

3. Define the duties of a quality assurance evaluator for quality assurance and acceptance of minor military construction projects.

Acquisition Management and Integration Center Comments

The Director of Installations and Mission Support, Air Combat Command, agreed with the recommendation and stated that QAEs will provide quality assurance oversight of MMC projects but will not provide acceptance of the projects. The Director stated that the contractor will submit a completion report and a DD Form 1354 to accept the MMC projects. Additionally, the Director stated that the Acquisition and Management Integration Center recommended that the WRM contractor only perform MMC projects below the simplified acquisition threshold and that another Government agency execute and accept all MMC projects over the simplified acquisition threshold.

Our Response

Comments from the Director of Installations and Mission Support, Air Combat Command, were partially responsive to the intent of the recommendation. Air Force officials could not ensure that MMC projects were adequately completed because Air Force personnel did not provide project oversight or accept MMC projects on behalf of the Government. Additionally, Air Force officials allowed DynCorp to perform inherently governmental functions by overseeing its own performance and executing final acceptance of completed MMC projects. The intent of the recommendation is for the Air Force to provide appropriate oversight over the MMC process and ensure that the MMC projects are adequately completed by providing project acceptance. The Director's comments adequately address the portion of the recommendation pertaining to quality assurance oversight of MMC projects. However, by relying on a completion report submitted by the contractor for project acceptance without Government personnel validating the information in the report, the Air Force has no independent assessment that the project was adequately completed. We request that the Director provide additional comments specifically addressing the use of the completion reports submitted by the contractor to accept the projects and describing how the Air Force will independently validate that MMC projects were adequately completed.

Finding D. Bona Fide Needs Rule

The WRM contracting officer obligated at least \$6 million in Operations and Maintenance funds for MMC projects in 1 fiscal year when the projects were not programmed and approved until a later fiscal year. In some cases, MMC requirements were not approved until 4 years after AFCENT personnel claimed the WRM contracting officer obligated funds. This occurred because the WRM contracting officer did not consistently apply the bona fide needs rule when executing MMC projects with Operations and Maintenance funds.

In addition, we could not determine whether \$50 million obligated to the WRM contract for MMC violated the bona fide needs rule because the contract modifications did not properly identify the MMC projects or link obligated funds to specific MMC projects, as required by 31 U.S.C. 1501. As a result, the WRM contracting officer used expired Operations and Maintenance funds to execute MMC projects and may have violated the Antideficiency Act.

Criteria

The United States Code and the DOD FMR provide guidance for the appropriation and obligation of funds. Appropriations are only available for limited periods of time. An agency must incur a legal obligation to pay money within an appropriation's period of availability. If an agency fails to obligate funds before they expire, they are no longer available for new obligations. Expired funds retain their "fiscal year identity" for 5 years after the end of the period of availability. During this time, the funds are available to adjust existing obligations or to liquidate prior valid obligations. However, expired funds are not available for new obligations nor can they be used to purchase new requirements.

United States Code

According to 31 U.S.C. 1501, an obligation of the Government must be supported by a written, binding agreement between the Government and another party that specifies the services to be provided and is executed before the end of the period of availability for the funds being used.

According to 31 U.S.C. 1502(a), appropriations are available only for the bona fide needs of an appropriation's period of availability. The bona fide needs rule states that the balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability, or to complete contracts properly made within that period of availability and obligated consistent with 31 U.S.C. 1501. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

The Antideficiency Act consists of several statutes that mandate administrative and criminal sanctions for the unlawful use of appropriated funds (31 U.S.C. 1341, 1342,

1350, 1351, and 1517–1519). These statutory provisions enforce the Constitutional budgetary powers entrusted to Congress with respect to the purpose, time, and amount of expenditures made by the Federal Government. Violations of other laws may trigger violations of Antideficiency Act provisions (for example, the “the bona fide needs rule,” 31 U.S.C. 1502[a]). Violators of the Antideficiency Act may be subject to administrative or criminal sanctions.

DOD FMR

Volume 3, chapter 15 of the DOD FMR states that at year’s end, installations must ensure that obligations are accurately stated in view of the most current information available. Installations should review and validate unfilled project orders funded by expiring accounts, cancel orders that will not be started by January 1 of the ensuing fiscal years, and review estimated obligations for possible overstatement or understatement.

AFCENT Compliance With the Bona Fide Needs Rule

The WRM contracting officer did not always follow the bona fide needs rule when acquiring services for MMC with Operations and Maintenance funds.¹⁸ We determined that the WRM contracting officer obligated at least \$6 million in Operations and Maintenance funds for MMC projects when MMC requirements were not appropriately programmed or approved. We could not determine whether the contracting officer violated the bona fide needs rule for \$50 million obligated to the WRM contract for MMC because we could not conclusively identify MMC projects funded by these funds. The bona fide needs rule states that the balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability, or to complete contracts properly made and obligated within that period of availability. The contracting officer obligated \$62 million for MMC requirements. We could not identify all the MMC projects funded by the \$62 million because the contracting officer executed inadequate contract modifications that did not identify MMC projects or link obligated funds to specific MMC projects (see finding C).

The contracting officer issued 8 contract modifications that tasked DynCorp to perform 77 MMC projects. The contracting officer violated the bona fide needs rule by obligating funds for MMC projects in two of those eight modifications. Additionally, we could not determine whether the funds obligated in a third modification violated the bona fide needs rule because AFCENT personnel could not provide adequate documentation. The contracting officer appropriately obligated funds in the five remaining modifications. In addition to the eight modifications that identified MMC projects, the contracting officer issued nine additional contract modifications that did not identify MMC projects

¹⁸ In determining when the contracting officer established a bona fide need for MMC projects, we examined programming documents; communications between the contracting officer and DynCorp; subcontracts; and any other documentation provided by AFCENT personnel to determine when MMC projects were approved, when the contracting officer gave DynCorp consent to award a subcontract, or when subcontracts were awarded.

associated with the funds obligated. We could not determine whether the contracting officer violated the bona fide needs rule for the nine other contract modifications because the contract did not properly identify MMC projects or link obligated funds to specific MMC projects.

MMC Projects Identified in the WRM Contract

The contracting officer issued 8 contract modifications that identified 77 MMC projects to be performed by DynCorp and obligated \$12 million for the MMC projects. However, the contracting officer did not specify the amount of funds being obligated for each project. The contracting officer violated the bona fide needs rule by obligating funds for MMC projects in two of those modifications. Additionally, we could not determine whether the funds obligated in a third modification violated the bona fide needs rule because AFCENT personnel could not provide adequate documentation.

Fiscal Year 2001

The contracting officer obligated FY 2001 Operations and Maintenance funds for MMC projects that may not have been valid requirements for FY 2001. Specifically, on August 24, 2001, the contracting officer issued a contract modification that obligated approximately \$400,000 for 10 MMC projects. However, nine of the DD Forms 1391 did not include an approval date, as required by Air Force guidance. AFCENT personnel could not provide the DD Form 1391 for one project. Furthermore, AFCENT personnel could not provide evidence that the contracting officer had given DynCorp consent to award subcontracts¹⁹ for the MMC projects. Therefore, we could not determine when AFCENT officials approved these requirements and whether the requirements were bona fide needs of FY 2001.

Fiscal Year 2002

The contracting officer obligated FY 2002 Operations and Maintenance funds for MMC projects that were not valid requirements for FY 2002. Specifically, the contracting officer issued a contract modification on August 12, 2002, authorizing DynCorp to proceed with 10 MMC projects. The modification did not state when the contracting officer obligated funds for the MMC projects or what funds the contracting officer used to fund the MMC projects. We determined that the MMC projects were funded in earlier modifications with FY 2002 or earlier funds because an October 4, 2002, memorandum from DynCorp to the contracting officer stated that the funding for the MMC projects was included on existing CLINs; however, we could not determine the amount obligated for the MMC projects or which modifications obligated funds for the MMC projects.

AFCENT officials did not program or approve five MMC projects until after FY 2002 and we could not determine when AFCENT officials approved the remaining five MMC projects. AFCENT officials approved DD Forms 1391 for five MMC projects between

¹⁹ DynCorp subcontracted MMC services. The contracting officer required DynCorp to obtain his consent prior to awarding subcontract. AFCENT contracting personnel stated that they considered the contracting officer's consent to be a binding agreement between AFCENT and DynCorp specifying the MMC services to be performed.

March 2003 and February 2005. Additionally, the DD Forms 1391 for four MMC projects did not include an approval date, as required by Air Force guidance, and AFCENT personnel could not provide a DD Form 1391 for one project.

FY 2002 Operations and Maintenance funds are available only for payment of expenses properly incurred during FY 2002, or to complete contracts properly made and appropriately obligated during FY 2002. Obligations must be supported by a written, binding agreement that specifies the services to be provided. DynCorp should not have incurred expenses for five MMC projects with estimated costs of \$4 million in FY 2002 because the MMC projects were not approved during FY 2002. Additionally, the contracting officer did not appropriately obligate the funds for these MMC projects because the contracting officer did not have a written agreement specifying the services to be provided when he obligated the funds. Therefore, the contracting officer violated the bona fide needs rule by using expired FY 2002 funds to fund these MMC projects that AFCENT officials approved in later years. However, we were unable to determine the amount the contracting officer obligated that violated the bona fide needs rule for these MMC projects because the modification did not connect obligated funds with specific MMC projects.

Furthermore, AFCENT personnel could not provide DD Forms 1391 with approval dates, evidence of an agreement between AFCENT and DynCorp specifying the work to be performed, or subcontracts for the remaining five MMC projects with total estimated costs of at least \$250,000. Consequently, we were unable to determine whether the contracting officer followed the bona fide needs rule when obligating funds for these MMC projects.

Fiscal Year 2003

The contracting officer obligated \$6 million in FY 2003 Operations and Maintenance funds for MMC projects that were not valid requirements for FY 2003. Specifically, the contracting officer issued a contract modification on December 17, 2002, authorizing DynCorp to proceed with 42 MMC projects and obligated \$6 million for the effort. We determined that 39 of the MMC projects were not valid FY 2003 requirements. AFCENT officials approved DD Forms 1391 for 28 MMC projects between April 2004 and April 2006, did not approve DD Forms 1391 for 8 MMC projects, and could not provide DD Forms 1391 for 3 MMC projects.

AFCENT did not have a written agreement with DynCorp specifying the services to be performed at the time of obligation. The contract modification simply listed project titles and did not include project descriptions or specifications. Furthermore, AFCENT contracting personnel stated that the written agreement specifying services to be performed transpired when the contracting officer gave DynCorp consent to subcontract for individual MMC projects. AFCENT personnel could provide only contracting officer consent for 21 of 39 MMC projects; however, the contracting officer gave his consent for these MMC projects between December 2004 and October 2005, over a year after he obligated the funds.

FY 2003 Operations and Maintenance funds are available only for payment of expenses properly incurred during FY 2003, or to complete contracts properly made and appropriately obligated during FY 2003. AFCENT officials did not approve 39 MMC projects until FY 2004 or later. Therefore, DynCorp should not have incurred expenses for these MMC projects in FY 2003. Additionally, the contracting officer did not appropriately obligate the funds for these MMC projects because he did not have a written agreement specifying the services to be provided when he obligated the funds. Therefore, the contracting officer violated the bona fide needs rule by using expired FY 2003 funds to fund these MMC projects that AFCENT officials approved in later years.

MMC Projects Not Identified in the WRM Contract

In addition to the modifications that identified MMC projects, the contracting officer issued nine other contract modifications that obligated or realigned prior obligations totaling \$50 million for MMC requirements; however, the contracting officer did not identify MMC projects associated with those funds. The contracting officer improperly obligated these funds because AFCENT did not have a written agreement specifying the services to be performed when the contracting officer obligated the funds. According to 31 U.S.C. 1501, an obligation must be supported by a written, binding agreement between the Government and another party. The agreement protects both parties by specifying the service or deliverable and the related costs.

The contracting officer obligated funds near the end of a fiscal year with the apparent intention of using the funds for future requirements. For example, on September 30, 2002, the contracting officer issued a contract modification obligating approximately \$6 million to minor construction SLINs. The contract modification did not identify any MMC projects. On September 28, 2003, the contracting officer issued another contract modification obligating \$21 million to minor construction SLINs, again without identifying any MMC projects. In July 2008, we requested a list of all MMC projects funded by the WRM contract and the contract modifications associated with the projects. In October 2008, AFCENT personnel provided a list that included 97 MMC projects funded through these 2 modifications but could not explain how they determined which MMC projects were funded through the modifications. Consequently, we could not verify that the 2 modifications funded the 97 MMC projects. AFCENT personnel did not have approved project requirements for the 97 MMC projects until years after the contracting officer obligated the funds in these contract modifications, and some MMC projects were not approved at all. AFCENT officials did not approve DD Forms 1391 for 21 of the 97 MMC projects and could not provide DD Forms 1391 for 23 additional MMC projects. Of the remaining 53 MMC projects, AFCENT officials approved 6 of the MMC projects in FY 2004 and 42 MMC projects in FY 2005 and FY 2006. AFCENT officials did not approve five MMC projects that were initially funded in 2003 until June and July 2007.

We could not determine whether the contracting officer violated the bona fide needs rule for nine contract modifications that obligated funds for MMC projects because the contract did not properly identify MMC projects or relate obligated funds to specific MMC projects. Additionally, AFCENT personnel could not provide documentation

showing when the contracting officer gave consent to DynCorp to subcontract for 99 MMC projects that AFCENT personnel claimed were funded by the WRM contract or when construction started on the MMC projects. AFCENT personnel should conduct a thorough review of MMC projects funded by the WRM contract to determine whether contracting officials may have inappropriately obligated funds and violated the Antideficiency Act.

AFCENT Bona Fide Needs Rule Application

AFCENT officials did not have procedures in place to ensure that the WRM contracting officer consistently followed the bona fide needs rule. The contracting officer stated that he “tried to have a DD Form 1391 signed before putting the project on contract.” However, only 3 of the 191 MMC projects funded by the WRM contract had DD Forms 1391 approved before the contracting officer funded the MMC projects. AFCENT personnel stated that the DD Forms 1391 for the remaining MMC projects had “probably” been signed when the MMC projects were funded. AFCENT personnel stated that the contracting officer gave DynCorp a notice to suspend some MMC projects because of changing DOD priorities after the MMC projects had been funded. According to AFCENT personnel, when AFCENT tasked DynCorp to resume construction, AFCENT personnel revised and approved the DD Forms 1391 again. However, AFCENT personnel could not provide the notices to suspend MMC projects, the direction to resume the MMC projects, or any DD Forms 1391 that AFCENT officials approved prior to putting the funds on the contract.

AFCENT personnel cited an AFCENT Staff Judge Advocate legal opinion as the basis for using expired funds to execute MMC projects. The legal opinion dated September 2004 stated that because AFCENT tasked DynCorp to perform the work in the year of the funds’ availability and a period of inactivity occurred later, AFCENT met the requirements of the bona fide needs rule because the bona fide needs rule is measured at the time the agency incurs an obligation. However, AFCENT personnel could not provide evidence that the contracting officer tasked DynCorp to perform the work in the year of the funds’ availability for 114 of the 191 MMC projects; the 114 MMC projects had estimated costs of \$34 million.

Additionally, the legal opinion stated that the contracting officer obligated approximately \$27 million in FY 2003 funds in modification P00052 that identified 72 MMC projects and contained CLINs for design and construction. However, the contracting officer issued modification P00052 in FY 2004, not FY 2003. Furthermore, modification P00052 did not identify MMC projects, did not obligate \$27 million, and did not contain CLINs for design or construction. Therefore, the Staff Judge Advocate determined that the 72 MMC projects met AFCENT’s bona fide needs based on incorrect information. AFCENT personnel could not explain why the Staff Judge Advocate’s legal opinion contained erroneous information. Based on the inaccurate information in the legal opinion, we determined that the legal review does not adequately document a basis for using expired funds for the MMC projects.

Conclusion

The WRM contracting officer used expired Operations and Maintenance funds to execute MMC projects and may have violated the Antideficiency Act. While it is acceptable to use expired funds for MMC projects in situations where the funds were obligated with the intention of beginning work without unnecessary delay, AFCENT personnel could not provide evidence that funds were obligated for construction with the intention of beginning work immediately. Further, by obligating funds within days of the end of a fiscal year for unknown requirements, it appears that the contracting officer was trying to circumvent the bona fide needs rule by improperly “banking” Operations and Maintenance funds for future year needs.

Additionally, installations must ensure that obligations are accurately stated at fiscal year’s end when considering the most current information available. AFCENT personnel should have reviewed unfilled project orders funded by expiring accounts at the end of each fiscal year and cancelled orders not expected to be started by January 1 of the following fiscal year. Subcontracts for 49 of the MMC projects clearly indicate that work was not started by January 1 of the fiscal year following the year of obligation. AFCENT personnel could not provide subcontracts or start dates for the remaining 142 MMC projects AFCENT personnel claimed were funded through the WRM contract. AFCENT personnel stated that they cancelled 69 of these MMC projects. AFCENT personnel could not explain when or why the MMC projects were cancelled or whether the funds were de-obligated for the cancelled MMC projects. The WRM contracting officer de-obligated a total of \$18 million from construction SLINs in various contract modifications; however, most of the modifications did not explain why the contracting officer de-obligated the funds. AFCENT officials should conduct a thorough review of the use of all the funds obligated to the WRM contract for MMC to ensure that the proper year funds were used when executing MMC projects.

Recommendations, Management Comments, and Our Response

D. We recommend the Assistant Secretary of the Air Force (Financial Management and Comptroller):

1. Initiate a preliminary review of the potential violations of the Antideficiency Act related to funds obligated to the old war reserve materiel contract (F44650-00-C0006) for minor military construction within 10 days of this report as required by DOD Regulation 7000.14-R, Financial Management Regulation, volume 14, chapter 3, “Administrative Control of Funds and Antideficiency Act Violations.”

2. Complete the preliminary review within 90 days as required by DOD Regulation 7000.14-R, Financial Management Regulation, volume 14, chapter 3, “Administrative Control of Funds and Antideficiency Act Violations,” and provide the results of the preliminary investigation to the DOD Office of Inspector General.

Assistant Secretary of the Air Force (Financial Management and Comptroller) Comments

The Air Force Deputy Assistant Secretary of Financial Operations responded for the Assistant Secretary of the Air Force (Financial Management and Comptroller) and agreed with the recommendation, stating that the Assistant Secretary of the Air Force (Financial Management and Comptroller) has initiated a preliminary Antideficiency Act review and will complete the investigation within 90 days.

Our Response

Comments from the Air Force Deputy Assistant Secretary of Financial Operations for the Assistant Secretary of the Air Force (Financial Management and Comptroller) were responsive and met the intent of the recommendation. No additional comments are required.

Finding E. Award Fee

The WRM contracting officer:

- inappropriately authorized additional award fees after actual costs were determined, resulting in a prohibited cost-plus-a-percentage-of-cost system of contracting;
- may have overpaid award fees for work that was not performed across the entire award fee period; and
- may have authorized additional award fee for DynCorp performance that was not evaluated.

Additionally, AFCENT officials improperly calculated award fee pools and did not adequately support final award fee determinations. These conditions occurred because AFCENT officials did not comply with basic contract requirements for calculating award fees and the Department of the Air Force Award Fee Guide. As a result, AFCENT officials:

- inappropriately authorized an additional \$893,160 in award fees,
- overpaid DynCorp by approximately \$195,000, and
- cannot justify 4 of 17 final award fee determinations.

Criteria

FAR 16.102, "Policies," states that the cost-plus-a-percentage-of-cost system of contracting will not be used.

The Department of the Air Force Award Fee Guide states that there is no single approach required by the FAR for establishing the amount of an award fee pool; however, the approach should be logically developed and reflect the complexity of the contract effort.

The Department of the Air Force Award Fee Guide also requires the fee determining official (FDO) to explain and document in the contract file the rationale for any determination that differs from the contract award fee board recommendation.

Award Fee Process

The objective of an award fee is to create contractor incentive for performance in areas that are the most critical to the Government. DynCorp's performance rating was based on QAE evaluations. QAEs evaluated DynCorp's performance and reported to the ACO. The QAE reports were analyzed by the ACO and consolidated into quarterly quality assurance surveillance reports by functional area. The results of these reports were then presented to the contract award fee board on a semi-annual basis when each contract

award fee board member considered DynCorp's performance and voted on a proposed numerical rating. An overall assessment, less the numerical ratings, was then provided to DynCorp for comment, and based on DynCorp's response, any necessary adjustments were made to both the assessment and respective ratings. Finally, an integrated assessment was presented to the FDO, who made the semiannual award fee determination.

Award Fee Payments

The WRM contracting officer inappropriately authorized DynCorp to bill \$893,160 for additional award fee after actual costs were determined, resulting in a prohibited cost-plus-a-percentage-of-cost system of contracting. Specifically, the WRM contracting officer authorized an additional:

- \$44,079 for option year one, period one in contract modification P00015²⁰;
- \$58,551 for option year one, period two in contract modification P00025;
- \$371,689 for option year three, period one in contract modification P00044; and
- \$418,841 for nine award fee periods throughout the contract life in contract modification P00088.

AFCENT personnel stated that in some cases DynCorp was required to perform additional work when the initial estimated cost was unknown. In those cases, the WRM contracting officer added funding to the contract so that DynCorp could begin performing the required services without submitting a proposal. The WRM contracting officer stated that he definitized the additional work when AFCENT and DynCorp agreed on a final and actual cost after the work was performed. The WRM contracting officer then issued a contract modification that authorized DynCorp to receive an additional fee, up to the percentage of award previously authorized by the FDO, in the award fee period that the work was performed. The WRM contracting officer definitized work anywhere from 6 months to 3 years after the work was completed.

The basic contract required that estimated costs be used as the basis for determining award fee and no additional fee would be paid on actual costs. However, the WRM contracting officer authorized DynCorp to bill for the additional award fee that was calculated using actual costs as the basis. In most cases the WRM contracting officer had DynCorp proposals with estimated costs dated within the award fee period in which the work was performed; however, the WRM contracting officer did not definitize the additional work until after the work was completed and based the additional award fees on actual costs. The WRM contracting officer should have based the additional award fee on DynCorp's estimated costs as required by the basic contract. Consequently, the WRM contracting officer administered the WRM contract as a prohibited cost-plus-a-

²⁰ The WRM contract was structured with two award fee periods for each option year. The first award fee period was from October 1 through March 31 and the second award fee period was from April 1 through September 30.

percentage-of-cost system of contracting because he authorized additional award fees based on actual costs after work was completed.

In addition, the contract files did not always contain authorizations from the WRM contracting officer for DynCorp to begin work on additional requirements that were within the general scope of the contract, as required by the basic contract. For example, the WRM contracting officer authorized an additional \$47,619 of award fee in contract modification P00025 for work performed in support of Operation Enduring Freedom during option year one, period two. On September 30, 2001, the last day of option year one, the WRM contracting officer obligated funding for DynCorp to bill for Operation Enduring Freedom. The WRM contracting officer did not authorize DynCorp to begin work in support of Operation Enduring Freedom in any contract modifications dated prior to September 30, 2001. Without prior authorization from the WRM contracting officer, DynCorp should not have performed any work in support of Operation Enduring Freedom prior to September 30, 2001. Therefore, the WRM contracting officer authorized DynCorp to bill for an additional \$47,619 in award fee for work performed for only one day of the award fee period.

We requested WRM contracting personnel to provide the WRM contracting officer's authorization for DynCorp to begin additional work that was within the general scope of the contract and that was definitized after the end of each award fee period in which the WRM contracting officer authorized additional award fees; however, WRM contracting personnel could not provide the WRM contracting officer's authorizations. We cannot determine whether the WRM contracting officer authorized additional award fees that were for work actually performed for the entire award fee period without the date the WRM contracting officer authorized DynCorp to begin work.

Furthermore, the WRM contracting officer may have authorized additional award fees for DynCorp performance that was not evaluated. In the award fee process, the contract award fee board evaluates DynCorp's performance for the entire award fee period and recommends a percentage of the available award fee pool to the FDO for approval; however, there was no evidence in the contract file that the WRM contracting officer determined whether DynCorp's performance on additional requirements that were within the general scope of the contract was adequate to receive additional award fees up to the percentage awarded by the FDO. Had the work been definitized during the award fee period, DynCorp's performance evaluation would have been included in the contract award fee board's review and the overall percentage of award fee earned may have been different based on how well DynCorp performed the additional work.

Calculation of Award Fee Pools

AFCENT contracting personnel improperly calculated 12 award fee pools resulting in DynCorp being overpaid by approximately \$195,000. AFCENT personnel did not define procedures to calculate award fee pools in the WRM award fee plan. AFCENT personnel should have included detailed procedures to calculate the award fee pools in the WRM

award fee plan to ensure that DynCorp's award fee accurately reflected its performance for the entire award fee period.

The WRM contracting officer stated he used 4 percent²¹ of the entire estimated value of all CLINs and SLINs used to calculate the award fee pool during each 6-month award fee period. The estimated value of the fee-bearing CLINs and SLINs was based on DynCorp's performance level, which varied throughout the award fee period. We determined that the WRM contracting officer used the pool value that reflected DynCorp's highest performance level during the period as the basis for calculating the award fee for the entire period. DynCorp's performance throughout the award fee period was not always at the highest level that the WRM contracting officer based the award fee on. As a result, DynCorp often received a higher award fee than it should have because the WRM contracting officer calculated an award fee pool that did not accurately reflect DynCorp's varying performance level throughout the period. The WRM contracting officer should have prorated DynCorp's award fee based on DynCorp's different performance levels during the award fee period.

For example, for option year two, period two, the WRM contracting officer calculated an award fee pool of \$1,143,404 for the entire award fee period. The FDO awarded DynCorp \$1,051,932 in award fees, or 92 percent of the award fee pool. We determined that DynCorp increased its workload for the last 50 days, or approximately 28 percent of the 180-day award fee period.²² The award fee pool that reflected DynCorp's defined workload at the beginning of the award fee period was \$525,522, and the award fee pool that reflected DynCorp's increased workload at the end of the award fee period was \$1,245,744. The award fee pool used to calculate DynCorp workload for the first 130 days should have been approximately 72 percent of \$525,522; the award fee pool used to calculate DynCorp workload for last 50 days should have been approximately 28 percent of \$1,245,744. Therefore, we determined that the total available award fee pool for the entire award fee period should have been \$725,584 and DynCorp should have earned \$667,537 based on the 92 percent of award fee authorized by the FDO. AFCENT officials awarded DynCorp \$384,395 more than they should have because the WRM contracting officer did not calculate an award fee pool for the award fee period that accurately reflected DynCorp's performance.

The following table shows the award fee pool and subsequent award that the WRM contracting officer calculated compared to the prorated calculations for each award fee period. We calculated the pool amounts based on DynCorp's performance level for each day in the period. In addition, the table shows the amount of award fee that the WRM contracting officer authorized DynCorp to bill for in the contract modification for each award fee period.

²¹ The 4 percent was in accordance with WRM basic contract requirements.

²² Percentages above were rounded; however, dollars were calculated without rounding.

Table 2. Award Fee Miscalculations

Award Fee Period	WRM Contracting Officer Calculated Award Fee Pool	Percent of Award Fee Pool DynCorp Earned	Award Fee Authorized	Our Calculation of Award Fee Pool	Award Fee DynCorp Should Have Earned	Award Fee Authorized by WRM Contracting Officer in Contract Modification	Net Amount of Award fee Over or (Under) Paid to DynCorp
Base Year	\$233,831	63	\$147,313	\$233,850 ¹	\$147,326	\$147,313	(\$13)
Option Year 1, Period 1	\$411,648	75	\$308,736	\$411,681 ¹	\$308,761	\$306,736	(\$2,025)
Option Year 1, Period 2	\$467,754	96	\$449,044	\$423,210 ²	\$406,282	\$449,044	\$42,762
Option Year 2, Period 1	\$534,619	96	\$513,234	\$525,522 ¹	\$504,501	\$513,234	\$8,733
Option Year 2, Period 2	\$1,143,404	92	\$1,051,932	\$725,584 ²	\$667,537	\$1,051,932	\$384,395
Option Year 3, Period 1	\$548,274	100	\$548,274	\$548,274	\$548,274	\$548,274	\$0
Option Year 3, Period 2	\$919,959	96	\$883,161	\$672,169 ²	\$645,282	\$883,159	\$237,877
Option Year 4, Period 1	\$947,443	92	\$871,647	\$947,444	\$871,647	\$871,647	\$0
Option Year 4, Period 2	\$948,752	88.97	\$844,105	\$947,956 ²	\$843,397	\$842,940	(\$457)
Option Year 5, Period 1	\$966,826	79.57	\$769,303	\$966,826	\$769,303	\$769,303	\$0
Option Year 5, Period 2	\$966,826	83.5	\$807,300	\$966,826	\$807,300	\$798,315	(\$8,985)
Option Year 6, Period 1	\$837,400	90	\$753,660	\$826,630 ¹	\$743,967	\$883,309	\$139,342
Option Year 6, Period 2	\$837,400	89.97	\$753,409	\$826,630 ¹	\$743,719	\$848,010	\$104,291
Extension Year 1, Period 1	\$1,253,978	79	\$990,643	\$1,879,130 ¹	\$1,484,513	\$1,122,366	(\$362,147)
Extension Year 1, Period 2	\$1,215,673	90.94	\$1,105,533	\$1,371,124 ¹	\$1,246,900	\$1,006,065	(\$240,835)
Extension Year 2, Period 1	\$1,302,146	86	\$1,119,846	\$1,302,146	\$1,119,846	\$1,119,846	\$0
Extension Year 2, Period 2	\$1,127,988	80	\$902,390	\$1,263,412 ¹	\$1,010,730	\$902,390	(\$108,340)
TOTAL			\$12,819,530		\$12,869,285	\$13,063,883	\$194,598

¹We used the WRM contracting officer’s methodology to calculate the award fee pool for this award fee period, which resulted in a different award fee pool than what the WRM contracting officer calculated.

²DynCorp’s workload varied during this award fee period. We calculated this award fee pool by taking the weighted average of the total estimated value of all fee bearing CLINs and SLINs during the award fee period.

The WRM contracting officer improperly calculated 12 out of the 17 award fee pools for the WRM contract. In addition, the WRM contracting officer improperly modified the contract in 8 out of the 17 award fee periods by authorizing DynCorp to bill for an amount different than the award fee authorized by the FDO. Because of the errors made by the WRM contracting officer, DynCorp was:

- overpaid in six award fee periods,
- underpaid in seven award fee periods, and
- correctly paid in four award fee periods.

As a result DynCorp was overpaid approximately \$195,000 in award fees.

If AFCENT officials had implemented detailed procedures to calculate award fee pools that reflected the complexity of the contract effort, DynCorp may have been paid award fees that were logical, reasonable, and sufficient to properly compensate the contractor. In addition, if the contract award fee board had reviewed the WRM contracting officer's award fee pool calculations, AFCENT officials would have had reasonable assurance that the award fee was based on accurate data.

Final Award Fee Determinations

Final award fee determinations in 4 of 17 award fee periods were not adequately supported. Specifically, the FDO did not support his final award fee determination when it differed from the contract award fee board's recommendation in accordance with DOD guidance. The FDO did not document his rationale for:

- increasing the award fee by \$10,966 for option year three, period one;
- increasing the award fee by \$8,374 for option year six, period two;
- decreasing the award fee by \$88,280 for extension year one, period one; and
- decreasing the award fee by \$59,247 for extension year two, period one.

The WRM award fee evaluation plan did not comply with the Department of the Air Force Award Fee Guide that required the FDO to document his rationale for any determination that differed from the contract award fee board recommendation. The original award fee evaluation plan was updated twice during the life of the WRM contract. The second version was the only version of the three award fee evaluation plans that stated the contract file must include supporting rationale if the FDO's determination of earned award fee differs from the contract award fee board recommendation.

If AFCENT had complied with the Department of the Air Force Award Fee Guidebook, the Government would have had reasonable assurance that the final award fee determinations were justified.

Conclusion

The WRM contracting officer inappropriately authorized DynCorp \$893,160 in additional award fees based on actual costs, resulting in a prohibited cost-plus-a-percentage-of-cost system of contracting. If the WRM contracting officer had calculated award fees based on estimated costs as required by the basic contract, the Government would not have violated the FAR by authorizing award fees based on actual costs. Additionally, DynCorp may have been paid award fees for work that the WRM contracting officer did not authorize DynCorp to perform in that specific award fee period. Because the WRM contracting officer did not calculate award fees that accurately reflected DynCorp's performance over the life of the contract, AFCENT officials may have overpaid DynCorp by approximately \$195,000.

AFCENT officials did not adhere to DOD guidance for documenting final award fee determinations. The FDO did not document his rationale for authorizing award fee amounts that differed from the contract award fee board's recommendation. If AFCENT officials had adhered to DOD guidance, the Government would have reasonable assurance that the FDO made final award fee determinations with a reasonable basis.

Recommendations, Management Comments, and Our Response

E.1. We recommend the Commander, U.S. Air Forces Central, require the chairman of the award fee board to perform a detailed review of the award fee pool calculations made under the old war reserve materiel contract (F44650-00-C0006) and identify and correct any under or overpayments made to DynCorp International for award fees.

AFCENT Comments

The Chief of Staff for the Commander, AFCENT, agreed with the recommendation, stating that the Commander will appoint a team of functional experts to complete a review of the award fee pool calculations made under the old war reserve materiel contract by February 2010. Additionally, the Chief of Staff indicated that the contract closeout team will include the results of the review in the final settlement with DynCorp International.

Our Response

The Chief of Staff's comments were responsive and met the intent of the recommendation. We request that the Chief of Staff provide the results of the review of the award fee pool calculations made under the old war reserve materiel contract. No additional comments are required.

E.2. We recommend the Director, Acquisition Management and Integration Center, Air Combat Command:

a. Require the war reserve materiel contracting officer to calculate the award fee for the new war reserve materiel contract (FA4890-08-C-0004) based on estimated costs to avoid violating Federal Acquisition Regulation Subpart 16.1, “Selecting Contract Types.”

b. Develop and implement detailed procedures to calculate award fee pools for the new war reserve materiel contract (FA4890-08-C-0004) based on the complexity of the contract effort.

c. Require the fee determining official to document final award fee determinations that differ from the contract award fee board’s recommendation for the new war reserve materiel contract (FA4890-08-C-0004) in accordance with the Department of the Air Force Award Fee Guide.

Acquisition Management and Integration Center Comments

The Director of Installations and Mission Support, Air Combat Command, agreed with the recommendation, stating that the Acquisition and Management Integration Center will base the award fee on estimated costs and has developed an Award Fee Pool Calculation Tool to validate pool amounts. Additionally, the Director stated that it is Acquisition and Management Integration Center policy that the FDO document final award determinations that differ from the contract award fee review board’s recommendation.

Our Response

Comments from the Director of Installations and Mission Support, Air Combat Command, were responsive and met the intent of the recommendation. No additional comments are required.

Finding F. Government Property

WRM contracting personnel did not adequately oversee the sale of Government property. Specifically, WRM contracting personnel did not review and approve the sale of assets prior to DynCorp conducting sales or ensure that the proceeds from all sales were credited to the WRM contract. Additionally, WRM contracting personnel did not adequately review DynCorp's property control system. These conditions occurred because the WRM contracting officer did not execute his property administration duties or delegate responsibility for property administration to the ACOs. As a result, AFCENT personnel could not fully account for proceeds from 86 sales of Government property. Additionally, AFCENT officials cannot be sure that all assets DynCorp disposed of were appropriately classified as unusable scrap.

Criteria

The FAR provides guidance on inherently government functions, contract administration, property administration, and sales of Government property. The Department of Defense Manual provides guidance on property system analysis.

FAR Subpart 7.5: "Inherently Government Functions"

FAR 7.503(c)(11) states that the determination to dispose of Government property is an inherently government function.

FAR 42.302: "Contract Administration Functions"

FAR 42.302 states that the contracting officer normally delegates property administration duties to the cognizant contract administration office. FAR Part 45, "Government Property," defines property administration as policies and procedures used for providing Government property to contractors; the contractor's use and management of Government property; and reporting, redistributing, and disposing of Government property.

FAR Subpart 45.6: "Reporting, Reutilization, and Disposal"

FAR 45.602-1 states that the plant clearance officer must review and accept an SF 1428, "Inventory Disposal Schedule," or return it for correction within 10 days following receipt from a contractor. The plant clearance officer will use an SF 1423, "Inventory Verification Schedule," to verify accepted inventory disposal schedules. Additionally, the plant clearance officer will promptly prepare an SF 1424, "Inventory Disposal Report," following the disposition of the property identified on an inventory disposal schedule. The inventory disposal report is sent to the contracting officer and lists the total amount of proceeds that need to be credited to the contract from the sale of the assets listed on the inventory disposal schedule.

FAR 45.105: “Contractors’ Property Management System Compliance”

FAR 45.105 states that the agency responsible for contract administration will review and approve the contractor’s property control system.

DOD Manual 4161.2-M: “Manual for the Performance of Contractor Property Administration”

DOD Manual 4161.2-M states that the property administrator will evaluate the contractor’s property control system, which includes the contractor’s written procedures and the application of and/or compliance with those procedures. All property system analysis must include reviews comparing records to property and property to records. The property administrator must also establish a property control data file that contains the records of property system analysis performed on the contract. When the contractor’s property control system is acceptable, the property administrator will advise the contractor in writing.

Sales of Government Property

WRM contracting personnel did not adequately oversee the sale of Government property²³ related to the WRM contract with DynCorp. From 2001 through 2008, DynCorp conducted 86 sales of Government property, valued at approximately \$600,000. FAR 45.101 defines Government property as both Government-furnished property and contractor-acquired property. Government-furnished property is defined as property acquired by the Government and made available to the contractor. Contractor-acquired property is defined as property that the Government has title of and was acquired or provided by the contractor to perform contract requirements.

WRM contracting personnel did not review Government property and approve DynCorp to conduct 83 of 86 sales, allowing DynCorp to perform an inherently Government function by determining what Government property DynCorp was going to sell. Additionally, WRM contracting personnel did not ensure that proceeds from 51 sales of Government property, valued at approximately \$273,000, were fully credited to the WRM contract.

²³ Government property refers to non-WRM assets that are used to support the WRM contract.

Government Review and Approval of Sales

WRM contracting personnel did not review Government property and approve DynCorp to conduct 83 of 86 sales, allowing DynCorp to perform an inherently Government function by determining what Government property DynCorp was going to sell. Specifically:

- For 15 sales, WRM contracting personnel issued approvals for DynCorp to conduct the sales without reviewing the assets DynCorp requested to dispose of.
- For 68 sales, WRM contracting personnel did not conduct a review of the assets DynCorp requested to sell, or issue an approval for DynCorp to conduct the sales.

Additionally, the Government cannot be sure that all assets DynCorp disposed of were appropriately classified as unusable scrap²⁴ because WRM contracting personnel did not review and approve assets prior to disposal.

The WRM contracting officer stated that the Supply QAE was responsible for inspecting and verifying the quantity and condition of Government property during scheduled inspections prior to DynCorp conducting sales. The Supply QAE documented the inspection results in Supply QAE Reports that were consolidated into overall quality assurance surveillance reports. We reviewed all quality assurance surveillance reports from September 2000 through September 2008 and determined that the Supply QAE did not inspect or verify the quantity or condition of Government property prior to DynCorp conducting sales.

Additionally, WRM contracting personnel did not issue approvals prior to DynCorp selling 32 of 77 vehicles classified as Government property. DynCorp provided sale award letters and cash disbursement vouchers showing that it had sold 77 vehicles. DynCorp's cumulative sales tables²⁵ showed multiple sales of unserviceable vehicles; however, the tables did not contain vehicle identification numbers or sale identification numbers that could be traced back to the individual sale award letters or cash disbursement vouchers. Consequently, we were unable to determine how many of the 77 vehicles were included in the 86 sales of Government property.

The WRM contracting officer did not require DynCorp to submit an SF 1428 to request sales of assets. Additionally, the WRM contracting officer did not use an SF 1423 to record his approvals for those sales, as required by FAR Subpart 45.6. Submitting inventory disposal schedules and recording approvals on the inventory verification

²⁴ Unusable scrap is Government property that has reached the end of its useful life and is beyond economical repair.

²⁵ DynCorp provided three sales tables that list Government property sales dates, dollar values, and a short description of type of Government property sold from 2000 through 2005, 2006 through 2007, and 2008. DynCorp personnel stated that the tables list all sales of Government property that DynCorp conducted for the WRM contract.

surveys would have allowed the WRM contracting officer to track each sale of Government property and whether those sales were properly credited to the WRM contract.

Crediting the WRM Contract

WRM contracting personnel did not ensure that proceeds from 51 sales of Government property, valued at approximately \$273,000, were fully credited to the WRM contract.

- For 35 sales, valued at approximately \$239,000, DynCorp provided documentation showing that the proceeds from the sales were fully credited to the WRM contract.
- For three sales, DynCorp provided documentation showing that it received proceeds totaling \$105,000; however, DynCorp was only able to show that \$88,000 of the proceeds were credited to the WRM contract. The remaining \$17,000 was not credited to the WRM contract.
- For 48 sales, valued at approximately \$256,000, the WRM contract was not credited.

WRM contracting personnel did not review DynCorp-generated sales documentation to ensure that proceeds from the sales were being credited to the WRM contract. WRM contracting personnel stated that they knew that the proceeds were being credited back to the contract, but they could not explain the sale credit process; no individual in the WRM program office actually verified whether the sale proceeds were credited to the WRM contract.

We requested DynCorp to provide documentation showing that the proceeds from the sales were credited to the WRM contract because WRM contracting personnel could not provide the documentation. DynCorp personnel stated that while gathering the documentation, they discovered that during an accounting system conversion in 2005, several sale credits did not convert from the old to the new system; therefore, AFCENT never received \$269,000 of credits from the sales that occurred prior to the accounting system conversion in 2005. The remaining \$4,000 that was not credited to the WRM contract resulted from one sale that occurred in October 2006 and one sale that occurred in March 2008. DynCorp repayment of the \$273,000 should result in a one-time potential monetary benefit and allow those funds to be put to better use.

WRM contracting personnel did not review DynCorp public vouchers to ensure that credit was given for Government property sale proceeds. The WRM contracting officer stated that DCAA would review the sales amounts during its incurred cost audits to ensure that the proceeds from the sales were properly credited to the WRM contract. DCAA personnel stated that they did not verify or ensure that proceeds from the sale of Government property were properly credited to the WRM contract when they performed incurred cost audits in FY 2000, FY 2001, FY 2002/2003, and FY 2004.

Property Control System Review

WRM contracting personnel did not adequately review DynCorp's property control system, as required by FAR 45.105 and DOD Manual 4161.2-M. The WRM contracting officer stated that DynCorp had an approved property control system according to a letter from the Defense Contract Management Agency Dallas. The Defense Contract Management Agency letter, dated January 30, 2007, referenced attached procedures and stated that the procedures had been reviewed by the Defense Contract Management Agency Dallas and were found to be acceptable for the purpose of property administration under current contract requirements. The letter did not state what referenced procedures were reviewed, and the referenced procedures were not attached to the letter. Additionally, the Defense Contract Management Agency Corporate Administrative Contracting Officer stated that his agency had not conducted any type of property control system analysis of the WRM contract since he became the Corporate Administrative Contracting Officer in 2005, 2 years before the date of the letter. The Defense Contract Management Agency Corporate Administrative Contracting Officer added that he did not know how the WRM contracting officer received a copy of the letter because the letter did not mention the contract under which the analysis was performed and does not list the type of analysis that was performed on the property control system. Furthermore, the Defense Contract Management Agency Corporate Administrative Contracting Officer stated that property is specific to the contract it is meant to support, and the agency that is responsible for contract administration for a contract should conduct the property control system review.

WRM contracting personnel stated that they would conduct an inventory assessment of Government property when WRM contracting personnel made their annual trip to Southwest Asia each year. The inventory assessment would compare approximately 5 to 20 non-WRM assets at each WRM storage location to the DynCorp Government property list. As of April 2007, the DynCorp Government property list included approximately 6,254 assets.²⁶ Consequently, verifying 5 to 20 non-WRM assets at each WRM storage location would not provide an accurate or reliable inventory assessment or provide assurance that DynCorp has an acceptable property control system.

The WRM contracting officer stated that the Supply QAE conducted an inventory of Government property by comparing non-WRM assets to the DynCorp Government property list each time the Supply QAE performed an inspection at a WRM storage location. We reviewed all quality assurance surveillance reports from September 2000 through September 2008 and determined that from September 2000 through March 2007, the Supply QAE did not inventory Government property when the QAE performed inspections at WRM storage locations. Additionally, we determined that from April 2007 through September 2008, the Supply QAE conducted an inventory sample of Government property 19 times and noted 11 discrepancies during the surveillance.

²⁶ From late February 2009 to early April 2009, we made several attempts to obtain an updated Government property list from WRM contracting personnel; however, WRM contracting personnel never provided us with an updated list. Therefore, we used the April 2007 Government property list to complete our analysis.

Consequently, the WRM contracting officer did not ensure that DynCorp was adequately storing or tracking Government property.

Property Administration

The WRM contracting officer did not execute his property administration duties or delegate the responsibility for property administration to the ACOs in Southwest Asia. The FAR states that the contracting officer normally delegates property administration duties to the cognizant contract administration office; however, the ACO delegation letters signed by the WRM contracting officer do not list property administration as one of the delegated functions. The ACOs stated that they do not perform any property administration functions; the WRM contracting officer retained all of those responsibilities at AFCENT headquarters. In an e-mail dated July 21, 2008, an ACO stated that he was unaware that DynCorp was disposing of Government property. In an e-mail dated November 17, 2008, the same ACO stated that since he arrived in Southwest Asia in March 2008, he did not monitor the Government property sale process.

The WRM contracting officer should have delegated property administration to the ACOs in Southwest Asia because the ACOs were located near the DynCorp program office and could easily be deployed to any WRM storage location to review assets listings, approve DynCorp Government property sales, and perform reviews of DynCorp's property control system. The WRM contracting officer was located at AFCENT headquarters at Shaw Air Force Base, South Carolina, which did not allow the WRM contracting officer to monitor DynCorp's use, management, and disposal of Government property.

The WRM contracting officer would have been able to track whether assets were reviewed and approved for disposal prior to DynCorp conducting sales of Government property if he had required DynCorp to submit an SF 1428 and recorded his approvals on an SF 1423. Additionally, the WRM contracting officer would have been able to better track the proceeds made from each sale of Government property and whether those sales were properly credited to the WRM contract if he had documented Government property sale proceeds on an SF 1424. Furthermore, WRM contracting personnel could have been properly tracking sales of Government property and ensuring that proceeds from the sales were credited to the WRM contract if the WRM contracting officer had executed his property administration duties or delegated responsibility for property administration to the ACOs in Southwest Asia.

Conclusion

WRM contracting personnel did not review Government property and approve DynCorp to conduct 83 of 86 sales. Additionally, WRM contracting personnel did not ensure that the proceeds from 51 sales of Government property, valued at approximately \$273,000, were fully credited to the WRM contract. WRM contracting personnel did not maintain documentation supporting that proceeds from any of the 86 sales of Government property, valued at approximately \$600,000, were credited to the WRM contract.

DynCorp may have conducted more than 86 sales of Government property and more than 77 vehicles may have been sold resulting in the Government not receiving additional credits it was due; however, we could not determine whether additional sales occurred because the Government maintained inadequate Government property sale records.

WRM contracting officials allowed DynCorp to perform an inherently Government function by determining what Government property it was going to dispose of; consequently, DynCorp may have disposed of assets it was not authorized to sell or assets that were not appropriately classified as unusable scrap.

In order for WRM contracting officials to better track the sale of Government property and ensure that the proceeds for the sales are properly credited to the contract, the WRM contracting officer should delegate responsibility for property administration to the ACOs located in Southwest Asia. The ACOs should require the contractor to submit an SF 1428 to request sales of assets. Additionally, the ACOs should record the Government's approval for all sales of Government property on an SF 1423 and document Government property sale proceeds on the SF 1424. Furthermore, WRM contracting officials should review all SFs 1424 and DynCorp-submitted public vouchers to ensure that all proceeds from the sale of Government property are properly credited to the contract.

Recommendations, Management Comments, and Our Response

F.1. We recommend the Commander, U.S. Air Forces Central:

a. Ensure that DynCorp International credits the old war reserve materiel contract (F44650-00-C0006) for \$273,000, the amount of proceeds from Government property sales that were not credited to the war reserve materiel contract so that the funds can be put to better use.

b. Perform a review of all sales of Government property from the old war reserve materiel contract (F44650-00-C0006) to determine whether all Government property sale proceeds were credited to the contract.

AFCENT Comments

The Chief of Staff for the Commander, AFCENT, agreed with the recommendation, stating that a group of functional experts will be appointed to validate all sales of Government property and all public vouchers. The Chief of Staff stated that the review will be finished in February 2010, and the results of the review will be shared with the contract closeout team. Additionally, the Chief of Staff indicated that the contract closeout contracting officer will validate the proceeds from sales of Government property and determine the amount not credited back to the contract; the contracting officer will then notify DynCorp of the amount that needs to be paid to the Government by August 2010.

Our Response

The Chief of Staff's comments were responsive and met the intent of the recommendation. No additional comments are required.

F.2. We recommend the Director, Acquisition Management and Integration Center, Air Combat Command, require war reserve materiel contracting personnel to:

a. Delegate responsibility for property administration on the new war reserve materiel contract (FA4890-08-C-0004), in accordance with Federal Acquisition Regulation Part 45, "Government Property."

b. Obtain training on property administration procedures, including the contractor's use and management of Government property, reporting and disposing of contractor inventory, and ensuring that proceeds from sales are properly credited to the contract.

c. Obtain a Standard Form 1428, "Inventory Disposal Schedule," from the contractor to request sales of assets, as required by Federal Acquisition Regulation Subpart 45.6, "Reporting, Reutilization, and Disposal."

d. Record the Government's approval for all sales of Government property on a Standard Form 1423, "Inventory Verification Survey," as required by Federal Acquisition Regulation Subpart 45.6.

e. Document Government property sale proceeds on the Standard Form 1424, "Inventory Disposal Report," as required by Federal Acquisition Regulation Subpart 45.6.

f. Review all Standard Forms 1424 and DynCorp International-submitted invoices to ensure that all proceeds from the sale of Government property is properly credited to the new war reserve materiel contract (FA4890-08-C-0004).

g. Review the contractor's property control system annually by comparing Government property records to inventory at each war reserve materiel storage location, as required by Federal Acquisition Regulation 45.105, "Contractors' Property Management System Compliance," and DOD Manual 4161.2-M, "Manual for the Performance of Contract Property Administration."

Acquisition Management and Integration Center Comments

The Director of Installations and Mission Support, Air Combat Command, agreed with the recommendation, stating that property administration support and authority has been delegated to Acquisition Management and Integration Center logistics personnel and that the personnel have completed appropriate training. The Director indicated that the Acquisition Management and Integration Center has implemented policies for the use of forms SF 1428, SF 1423, and SF 1424, and that the Acquisition Management and Integration Center performs annual property system analyses, as required by the FAR.

The Director stated that Acquisition Management and Integration Center will conduct property management system analyses in November 2009, and if the plant clearance officer and the property administrator determine that DynCorp's property disposal process is adequate, the QAEs will physically verify a sample of the property submitted for disposal on the SF 1428. The Director stated that the plant clearance officer or the property administrator will review 100 percent of the property submitted for disposal on the SF 1428 if the Government property is considered sensitive or DynCorp's property disposal process is determined to be inadequate. The estimated completion date for the property management system analyses is January 29, 2010. Additionally, the Director noted that quality assurance personnel and ACOs are not administratively controlled by the Acquisition Management and Integration Center.

Our Response

Comments from the Director of Installations and Mission Support, Air Combat Command, were responsive and met the intent of the recommendation. We request that the Director provide the results of the property management system analyses. No additional comments are required.

Finding G. Scope Considerations

The WRM contracting officer issued contract modifications outside the scope of the WRM contract. Specifically, the contracting officer modified the WRM performance work statement to include two additional requirements, valued at \$23.5 million, that were outside the scope of the original WRM performance work statement. This occurred because the contracting officer failed to consider scope constraints when AFCENT functional personnel and U.S. Naval Forces Central Command personnel requested the use of the WRM contract for the additional requirements. As a result, the WRM contracting officer did not properly compete the additional requirements and may not have paid fair and reasonable prices.

Criteria

The United States Code provides guidance on competition requirements. The FAR provides guidance on competition requirements and service contracting.

Section 253, Title 41, United States Code

According to 41 U.S.C. 253, an Executive agency is required to obtain full and open competition through the use of competitive procedures in accordance with the FAR when procuring property or services. This is known as the Competition in Contracting Act.

FAR Part 6: “Competition Requirements”

According to FAR Part 6, contracting officers must promote and provide for full and open competition when awarding out-of-scope modifications to existing Government contracts. The competitive procedures available for fulfilling the requirement for full and open competition include sealed bids, competitive proposals, or a combination of competitive procedures. A contract awarded without providing for full and open competition must contain a reference to the specific authority under which the contract was awarded.

FAR Part 37: “Service Contracting”

FAR Part 37 states that performance-based service contracts should include a performance work statement. A performance work statement should describe the required services in terms of the desired results rather than how the work should be accomplished. Additionally, when using a performance work statement, agencies should use measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost-effective methods of performing the work.

Performance Work Statement

The WRM contracting officer awarded work that was outside the scope of the WRM contract. The contracting officer modified the WRM performance work statement to include two out-of-scope changes, valued at \$23.5 million, without providing for full and open competition.

Original Performance Work Statement

The original performance work statement, issued on April 20, 2000, stated that DynCorp was responsible for asset receipt; accountability; serviceability; storage; security; periodic inspection and test; and maintenance, repair, outload, and reconstitution of prepositioned AFCENT WRM. The performance work statement required DynCorp to inspect, inventory, and document the receipt of new WRM assets, supplies, and equipment.

Performance Work Statement Modifications

The WRM contracting officer issued two significant modifications to the performance work statement without considering proper competition requirements. Numerous contract modifications changed the performance work statement; however, WRM contracting personnel electronically updated the performance work statement only twice. The final version of the performance work statement, dated September 2007, contained two requirements that the contracting officer had previously tasked DynCorp to perform via contract modification:

- implement a High Mobility Multi-purpose Wheeled Vehicle (HMMWV) Refresh Program at Al Udeid Air Base, Qatar; and
- provide support for U.S. Navy munitions in Oman.

HMMWV Refresh Program

The WRM contracting officer modified the WRM contract to implement a HMMWV Refresh Program. The HMMWV Refresh Program required DynCorp to receive repairable HMMWVs from the field and return the HMMWVs to Air Force serviceability standards. Additionally, DynCorp was to apply armor to unarmored vehicles that had been operating in the field.

The WRM contracting officer requested DynCorp to develop a proposal for a HMMWV Refresh Program to return 351 AFCENT HMMWVs operating in the U.S. Central Command area of responsibility to Air Force serviceability standards at an average rate of 9 HMMWVs per month. On January 29, 2007, DynCorp submitted a cost proposal to the WRM contracting officer totaling approximately \$23 million for the HMMWV Refresh Program.

According to DynCorp's proposal, the contracting officer tasked DynCorp to develop the proposal on December 8, 2006. However, WRM contracting personnel could not provide the PCO tasker from the contracting officer directing DynCorp to develop the proposal. According to the contracting officer, the PCO tasker was generated by the AFCENT vehicle functional managers. The contracting officer stated that he was unsure why the

requirement arose, but that he requested the proposal based on a request from the vehicle functional manager. However, the WRM contracting officer could not provide any documentation supporting the vehicle functional manager's request. The AFCENT vehicle functional manager stated that AFCENT needed a depot-style overhaul program for HMMWVs, but that shipping costs made it unfeasible for depots in the continental U.S. to perform the work.

U.S. Navy Munitions Support

The WRM contracting officer modified the WRM contract to provide support for Navy munitions located in Oman. The Navy munitions support required DynCorp to transport, handle, maintain, repair, and inspect Navy munitions in Oman.

Naval Forces Central Command personnel relocated from Oman to Manama, Bahrain, in 2003; however, Naval Forces Central Command continued to store munitions in Oman. When Naval Forces Central Command personnel relocated to Bahrain, they requested that DynCorp perform facilities maintenance and munitions support functions through the WRM contract. In November 2003, Naval Forces Central Command officials requested a technical proposal from DynCorp to maintain Navy facilities and provide munitions support in Oman for 3 months beginning in January 2004. The WRM contracting officer stated that based on this request, he tasked DynCorp to prepare technical and cost proposals. However, WRM contracting personnel could not provide the PCO tasker. DynCorp submitted a technical proposal on January 8, 2004, and suggested that the Navy entrust the required services to DynCorp for longer than 3 months. On January 19, 2004, Naval Forces Central Command officials requested an additional technical proposal from DynCorp to provide munitions support for 1 year. DynCorp's subsequent technical proposal included a period of performance through September 30, 2004, along with two additional 1-year option periods and a 3-month phase-out period to coincide with the existing terms of the WRM contract. According to DynCorp's cost proposal, the total estimated cost of the requirement for the entire period of performance, including the option years, was \$550,489. WRM contracting personnel could not provide the PCO tasker authorizing DynCorp to proceed with the munitions support. DynCorp began executing the requirement in FY 2005 and continued to perform Navy munitions support services in Oman through the end of the WRM contract performance period. WRM contracting personnel could not provide a memorandum of understanding between AFCENT and Naval Forces Central Command documenting the details of the agreement for Naval Forces Central Command's use of the WRM contract to provide munitions support in Oman.

Scope Determination

The performance work statement modifications were outside the scope of the original performance work statement because they included work that AFCENT and DynCorp had not contemplated or foreseen when they negotiated the original WRM contract. In *Freund v. United States*, 260 U.S. 60 (1922), the U.S. Supreme Court stated that work performed under a contract falls within the general scope of the contract if it could be "regarded as fairly and reasonably within the contemplation of the parties when the contract was entered into." The test employed in determining whether work has been

improperly added to a contract was further stated in American Air Filter Co., 57 Comp. Gen. 567, 78-1 CPD para.443 (1978):

The impact of any modification is in our view to be determined by examining whether the alteration is within the scope of the competition which was initially conducted. Ordinarily, a modification falls within the scope of the procurement provided that it is of a nature which potential offerors would have reasonably anticipated under the changes clause.

To determine what potential offerors would have reasonably expected, consideration should be given, in our view, to the procurement format used, the history of the present and related past procurements, and the nature of the supplies or services sought.

The Air Combat Command initially awarded the WRM contract to DynCorp for the operations, maintenance, and support of prepositioned AFCENT WRM with an estimated cost of approximately \$174 million. The \$23 million HMMWV Refresh Program required DynCorp to receive repairable HMMWVs from the field that may not be part of WRM inventory, and return the HMMWVs to Air Force serviceability standards. According to Air Combat Command personnel, the HMMWVs may be transferred into the WRM vehicle inventory once DynCorp completes the refresh; however, if AFCENT WRM has fully met the HMMWV vehicle requirement, the HMMWVs may be transferred to a different deployed location or operating command. Based on the initial WRM contract and performance work statement, the requirement to refresh Air Force HMMWVs operating in U.S. Central Command, and constituting almost 15 percent of the original estimated cost of the entire contract, was not included within the scope of the original competition. Additionally, a requirement to provide operations, maintenance, and support of Naval Forces Central Command munitions, not AFCENT munitions, extends beyond the scope of the original competition.

Competition

WRM contracting personnel did not use appropriate competition procedures to award the additional requirements. Additionally, WRM contracting personnel did not properly justify the use of other than full and open competition, as required by the FAR.

HMMWV Refresh Program

According to a WRM procurement analyst, the approval for awarding the HMMWV Refresh Program requirement to DynCorp without providing for full and open competition was contained in the Justification and Approval for Other Than Full and Open Competition prepared by AFCENT officials for the second WRM contract extension from October 1, 2007, through September 30, 2008. According to the Justification and Approval for Other Than Full and Open Competition dated May 4, 2007, and incorporated into the contract via modification P00101, dated September 7, 2007, DynCorp was responsible for the operation, maintenance, and support of prepositioned AFCENT WRM. This included asset receipt; accountability; serviceability; storage; security; periodic inspection and testing; and maintenance, repair, outload, and reconstitution of pre-positioned AFCENT WRM. The Justification and

Approval for Other Than Full and Open Competition did not specifically discuss the HMMWV Refresh Program or cite a specific authority for awarding the HMMWV Refresh Program to DynCorp without competition, as required by the FAR. Furthermore, the price negotiation memorandum, dated August 17, 2007, for the period of performance extension stated that DynCorp was required to provide all labor, material, equipment, and transportation necessary to perform all operations in accordance with the current performance work statement at the time. As of August 17, 2007, the current performance work statement was dated October 1, 2003, and did not include the HMMWV Refresh Program. Therefore, the Justification and Approval for Other Than Full and Open Competition prepared for the contract extension year does not pertain to the HMMWV Refresh Program requirement and AFCENT officials did not properly compete the requirement or properly justify a reason for using other than full and open competition in accordance with the FAR.

Navy Munitions Support

A WRM procurement analyst, who was not part of the WRM program when the Navy munitions support requirement arose, stated that the contracting officer obtained a legal review that determined that the Navy munitions support was within the scope of the contract. However, the legal review that included Navy munitions support did not reference a determination regarding the contract scope. Additionally, the current AFCENT Chief of Administrative Law could not determine whether the legal review was intended to be advice regarding a scope determination based on the documentation in the contract file. Another legal review for a different modification to the WRM contract, performed by the same AFCENT Staff Judge Advocate who performed the legal review that included Navy munitions support, explicitly stated that the review was for a scope determination. The AFCENT Staff Judge Advocate approved the contracting officer's proposed change to the contract in that case because the work was within the general nature of work originally contemplated by the parties. We concluded that had the legal review that included Navy munitions support been intended to be advice regarding a scope determination, the AFCENT Staff Judge Advocate would have stated so because one legal review explicitly refers to a scope determination, while the legal review that included Navy munitions support is silent on the subject. Therefore, the legal review that included Navy munitions support does not serve as a determination regarding contract scope.

Conclusion

The Competition in Contracting Act requires that agencies allow all sources capable of satisfying the Government's need to compete for a contract award. Congress implemented the Competition in Contracting Act to increase the number of competitors for Government acquisitions and to increase cost savings through lower, more competitive pricing. Additionally, a competitive environment encourages competitors to develop and institute innovative and cost-effective methods of performing the work. However, by not competing these two requirements, AFCENT officials have no assurance that they obtained fair and reasonable prices and that DynCorp provided the best value to satisfy the Government's requirements.

Recommendation, Management Comments, and Our Response

G. We recommend the Director, Acquisition Management and Integration Center, Air Combat Command, ensure that war reserve materiel contracting officials follow all competition requirements for the new war reserve materiel contract (FA4890-08-C-0004) in accordance with the Competition in Contracting Act.

Acquisition Management and Integration Center Comments

The Director of Installations and Mission Support, Air Combat Command, agreed with the recommendation, stating that the Air Combat Command Acquisition and Management Integration Center has internal controls and performs internal reviews to ensure compliance with applicable regulations.

Our Response

Comments from the Director of Installations and Mission Support, Air Combat Command, were responsive and met the intent of the recommendation. No additional comments are required.

Finding H. Contract Quality Assurance

WRM QAEs did not adequately document acceptance of services performed by DynCorp from September 2000 through March 2005. Additionally, the WRM ACO did not maintain QAE surveillance reports that documented the validation of DynCorp's performance or the discrepancies between DynCorp's performance and the WRM contract quality standards for each surveillance performed prior to March 2005. This occurred because the ACOs and QAEs did not comply with WRM quality assurance surveillance plan requirements. As a result, AFCENT officials cannot be certain that DynCorp adequately performed services that met WRM contract quality standards for more than half of the contract life.

Criteria

FAR Part 46, "Quality Assurance," states that the contract administration office must maintain suitable records reflecting the nature of Government contract quality assurance actions and decisions regarding the acceptability of products, processes, and requirements, as well as action to correct defects.

FAR Part 46 also states that Government contract quality assurance will be performed when necessary to determine whether services meet contract requirements. Quality assurance surveillance plans should be prepared in conjunction with the preparation of the statement of work. The plans should specify all work requiring surveillance and the method of surveillance.

The Department of the Air Force Award Fee Guide requires that quality assurance personnel maintain written records of the contractor's performance in their assigned evaluation areas that detail specific examples where improvement is necessary or desired; improvement has occurred; and performance is below, meets, or exceeds contract requirements.

Quality Assurance

WRM QAEs did not adequately document acceptance of services performed by DynCorp from September 2000 through March 2005 because the ACOs and QAEs did not comply with WRM quality assurance surveillance plan requirements. The quality assurance surveillance plan stated that QAEs should review and evaluate DynCorp's specific actions taken to resolve discrepancies. The Executive Coordinating Agency issued 29 quality assurance surveillance reports²⁷ from September 2000 through March 2005 that documented the inspection of contractor services and discrepancies found during

²⁷ A quality assurance surveillance report documents all the QAE surveillances for each function for a given time period into one report.

surveillances; however, the quality assurance surveillance reports did not document DynCorp's corrective actions for QAE-identified discrepancies or the QAEs' final determination as to the acceptability of DynCorp's corrective actions.

For example, the December 2000 quality assurance surveillance report stated that munitions storage and inventory was given an unsatisfactory rating at the Al Udeid WRM storage site. The QAE noted five discrepancies for munitions storage, which exceeded the WRM contract performance standard of two discrepancies per building, per site, per month. In addition, the QAE noted three separate discrepancies for munitions inventory, which exceeded the WRM contract performance standard of one discrepancy per inventory. The quality assurance surveillance report did not contain DynCorp's corrective action or the QAEs' final acceptance of the corrective action; therefore, we cannot determine whether DynCorp corrected noted discrepancies in order to meet contract quality standards.

Additionally, the WRM ACO did not maintain QAE surveillance reports for each surveillance performed prior to March 2005 that documented the validation of DynCorp's performance or the discrepancies between DynCorp's performance and the WRM contract quality standards. The WRM quality assurance surveillance plan stated the WRM ACO should maintain all surveillance documentation throughout the contract life. The WRM ACO was responsible for providing all files to the WRM contracting officer at the conclusion of the contract for inclusion in the contract file. The WRM quality assurance surveillance plan also required that the contracting officer archive all quality assurance documentation when the WRM contract expired.

The WRM ACO could not provide surveillance reports from September 2000 through March 2005 for the nine WRM functional areas. Three AFCENT functional managers located at Shaw Air Force Base were able to provide 25 QAE reports; however, the WRM ACO should have maintained and provided the reports. Each QAE should have performed at least 1 surveillance at each WRM site per quarter for their respective functional area; therefore, each of the 9 functional area QAEs should have provided a minimum of 108 QAE reports if the QAE had performed 1 surveillance per quarter from September 2000 through March 2005 at each of the 6 WRM sites.

The quality assurance surveillance reports issued after March 2005 adequately documented inspection and acceptance of services.²⁸ Specifically, the quality assurance surveillance reports contained imbedded QAE surveillance reports that documented each service inspection and discrepancies found during the inspection. Each discrepancy was written up as a surveillance discrepancy report. Each surveillance discrepancy report provided a detailed explanation of the discrepancy as well as DynCorp's response to the discrepancy. DynCorp's response included the root cause, corrective action, and future preventative action for the discrepancy. The surveillance discrepancy report also stated whether the QAE accepted DynCorp's response and the date the discrepancy was fixed.

²⁸ See findings C and F for exceptions to adequate inspection and acceptance of services.

Conclusion

WRM contracting personnel should have maintained suitable records documenting DynCorp's performance according to contract terms. The records should have detailed specific examples of where improvement was necessary or improvement had occurred, and whether DynCorp's performance was at, above, or below contract requirements.

However, the Government did not have reasonable assurance that DynCorp adequately performed services that met WRM contract quality standards for more than half the life of the contract. The Government did not have certainty that once a QAE identified a discrepancy, that DynCorp corrected the discrepancy and effectively implemented preventative action to prevent future discrepancies. Finally, award fee determinations may not have been adequately supported because QAE surveillance documentation was either not maintained or did not contain DynCorp's corrective actions or the QAEs acceptance of those actions for noted discrepancies.

Recommendations, Management Comments, and Our Response

H. We recommend the Director, Acquisition Management and Integration Center, Air Combat Command, require war reserve materiel contracting personnel to:

1. Retain all surveillance documentation, both hard copy and electronically, for the new war reserve materiel contract (FA4890-08-C-0004).

Acquisition Management and Integration Center Comments

The Director of Installations and Mission Support, Air Combat Command, agreed with the recommendation, stating that Acquisition Management and Integration Center QAEs maintain electronic copies of all surveillance activities. The Director also stated that the system that stores surveillance information is backed up daily on-site and weekly off-site to ensure data integrity and security. Additionally, the Director indicated that Acquisition Management and Integration Center quality assurance personnel can retrieve and provide hard copy surveillance records at any time.

Our Response

Comments from the Director of Installations and Mission Support, Air Combat Command, were responsive and met the intent of the recommendation. No additional comments are required.

2. Develop a process and procedures for certifying that services have been inspected and accepted.

Acquisition Management and Integration Center Comments

The Director of Installations and Mission Support, Air Combat Command, agreed with the recommendation, stating that QAEs use the integrated performance management plan

and surveillance schedules to inspect services, and the QAEs provide a certificate of service each month. The Director also stated that Acquisition Management and Integration Center personnel review invoices for accuracy and the program manager accepts services electronically.

Our Response

Comments from the Director of Installations and Mission Support, Air Combat Command, were responsive and met the intent of the recommendation. No additional comments are required.

Appendix: Scope and Methodology

We conducted this performance audit from February 2008 through September 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We announced the project in February 2008 in order to initiate the lengthy country and theater clearance process. We began audit fieldwork in April 2008.

We evaluated whether AFCENT contracting officials properly managed and administered the DynCorp WRM contract. We conducted interviews and collected, reviewed, and analyzed documents from AFCENT, DynCorp, the Executive Coordinating Agency, DCAA, and the Defense Contract Management Agency, dated April 2000 through April 2009.

We reviewed the WRM basic contract, awarded on April 20, 2000, to DynCorp, and 120 subsequent contract modifications, dated May 1, 2000, through December 16, 2008. We reviewed contract file documentation including DynCorp cost proposals; Government price negotiation memoranda; DD Forms 1391, "Military Construction Project Data"; award fee files; quality assurance surveillance reports; Air Force Form 9 funding documentation; DCAA audit reports; DynCorp invoices; AFCENT-generated spreadsheets; and e-mail correspondence. We also reviewed DynCorp property sale records including Government property sale lists, sale award letters, and DynCorp general ledger account information.

We interviewed contracting and program office personnel at AFCENT headquarters and the Executive Coordinating Agency. We interviewed the AFCENT Director of Logistics, the AFCENT Deputy Director of Logistics, and the Commander of the Executive Coordinating Agency. We interviewed the WRM Program Manager, the War Reserve Materiel Officer, WRM functional area managers, QAEs, and other program office personnel. We interviewed the PCO, the ACOs, and other contracting personnel responsible for the WRM contract. We also interviewed AFCENT engineering personnel. We interviewed supervisory and staff auditors at the DCAA Arlington, Texas, branch office and the Corporate Administrative Contracting Officer at the Defense Contract Management Agency Dallas, Texas, branch office. We interviewed contractor personnel at DynCorp headquarters; contractor personnel at the DynCorp program support office in Muscat, Oman; and contractor personnel at the Thumrait, Oman; Seeb, Oman; Al Udeid Air Base, Qatar; Manama, Bahrain; and Al Jaber Air Base, Kuwait, WRM storage locations. We also interviewed functional area managers and personnel at Air Combat Command and financial personnel at Naval Central Command. Additionally, we interviewed accounting personnel at the Defense Financial and Accounting Service.

We reviewed applicable contracting regulations, including the United States Code, FAR, DFARS, DOD Financial Management Regulation, DOD Manuals, Air Force Guidance, and the DCAA Contract Audit Manual.

This audit contained scope limitations that may have impacted the results of the audit. The contract files for most of the 120 modifications were materially incomplete. The contract files did not contain complete support documentation for contract funding, minor military construction, contracting officer authorizations to DynCorp for additional work, sales of Government property, and out-of-scope work. Inadequate documentation resulted in either no audit trail or one so complex that accountability was highly questionable.

Use of Computer-Processed Data

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

Use of Technical Assistance

We did not require technical assistance for the execution of this audit.

Prior Coverage

During the last 5 years, the Air Force Audit Agency issued one report discussing AFCENT's WRM program. Through the Freedom of Information Act, Air Force Audit Agency reports can be obtained by e-mailing afafoia@pentagon.af.mil. Air Force Audit Agency reports can also be accessed from .mil domains over the Internet at <https://wwwd.my.af.mil/afknprod/ASPs/cop/Entry.asp?Filter=OO> by those with Common Access Cards who create user accounts.

Air Force

Air Force Audit Agency Report No. F2009-0003-FD3000, "United States Air Forces Central War Reserve Materiel," January 7, 2009

Department of the Air Force Comments



OFFICE OF THE SECRETARY

DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

FAUG 21 2009

MEMORANDUM FOR THE ASSISTANT INSPECTOR GENERAL FOR AUDITING
OFFICE OF THE INSPECTOR GENERAL
DEPARTMENT OF DEFENSE

FROM: SAF/FMP

SUBJECT: Draft Report of Audit, U.S. Air Forces Central War Reserve Materiel Contract,
(Project No. D2008-D000CK-0161.000)

In accordance with AFI 65-402, *Relations with the Department of Defense, Office of the Assistant Inspector General for Auditing and Analysis and Follow Up*, SAF/FMPR audit liaison personnel have reviewed management comments to subject draft report. Subject report contained 18 recommendations addressed to four Air Force and one DoD areas of responsibility. Two recommendations were addressed to the Assistant Secretary of the Air Force (Financial Management and Comptroller) and recommended initiating and completing a preliminary review of potential violations of the Antideficiency Act related to \$56 million obligated to the contract for minor military construction. We concurred with the recommendations and have initiated the preliminary review.

Additionally, as the Office of Primary Responsibility, we have attached management comments from the three other Air Force areas of responsibility.

My point of contact is [REDACTED]

A handwritten signature in cursive script, appearing to read "Audrey Y Davis".

AUDREY Y DAVIS
Deputy Assistant Secretary
Financial Operations
(Financial Management)

Attachments:
SAF/FMP and PEO Management Comments
AFCENT Comments
ACC/A7 Comments

DODIG Draft Report of Audit
U.S. Forces Central War Reserve Materiel Contract
(Project D2008-D000CK-0161.000)

Recommendation A.3: We recommend the Air Force Program Executive Officer for Combat and Mission Support evaluate the annual execution review to ensure the war reserve material program manager or procuring contractor officer performs a thorough review of war reserve material contract (FA4890-08-C-0004) costs, schedules, and performance, as required by AFI 63-101, “*Acquisition and Sustainment Life Cycle Management.*”

Management Comments A.3: **Concur.** The PEO/CM went to Langley AFB (ACC) and AMIC on 28 July 2009 where we reviewed the contract status, program issues, schedules, finances, performance and metrics. The program manager briefed the contracting officer providing comments as necessary. These are standard items that are reviewed during each of our Annual Execution Review and IAW AFI 63-101. (Closed)

Recommendation D: We recommend the Assistant Secretary of the Air Force (Financial Management and Comptroller):

1. Initiate a preliminary review of the potential violations of the Antideficiency Act related to funds obligated to the old war reserve material contract (F44650-00-C0006) for minor construction within 10 days of this report as required by DoD Regulation 7000.14-R, Financial Management Regulation, volume 14, chapter 3, “Administrative Control of Funds and Antideficiency Act Violations.”
2. Complete the preliminary review within 90 days as required by DoD Regulation 7000.14-R, Financial Management Regulation, “Administrative Control of Funds and Antideficiency Act Violations” and provide the results of the preliminary investigation to the DoDIG.

Management Comments D.1: **Concur.** SAF/FMPR has initiated a preliminary ADA review (P-09-13 attached document) in accordance with DoDFMR. (Closed)

Management Comments D.2: **Concur.** SAF/FMPR will ensure the preliminary potential ADA investigation is accomplished and completed within 90 days IAW the DoD FMR 7000.14-R. Upon preliminary ADA review completion, we will furnish DoDIG the results. (ECD: 4 November 2009).



DEPARTMENT OF THE AIR FORCE
UNITED STATES AIR FORCES CENTRAL (USAFCENT)
SHAW AIR FORCE BASE, SOUTH CAROLINA

MEMORANDUM FOR SAF/FMP

FROM: USAFCENT/CoS
524 Shaw Drive
Shaw AFB SC 29152-5029

SUBJECT: Report of Audit, Air Forces Central (AFCENT) War Reserve Materiel Contract,
Project D2008-D000CK-0161

USAFCENT concurs with the DoD IG Draft Report of Audit, *War Reserve Materiel Contract* comments on the subject audit results and recommendations. Specific management comments are attached.

Our contact for this audit is [REDACTED]

GERALD R. OSTERN, Col USAF
Chief of Staff

Attachment:
Management Comments

Global Power for America

**Department of Defense Inspector General
Report of Audit, Review of AFCENT War Reserve Materiel Contract
(Project D2008-D000CK-0161)**

Recommendation.

A.1a Recommend Commander, U.S. Air Forces Central:

- a. Perform a thorough review of USAFCENT contracting command structure to determine whether contracting concern in this report exist for other contracting efforts administered by USAFCENT and take appropriate action.

AFCENT/CC Comments:

A.1a Concur/nonConcur: CONCUR

The USAFCENT Chief of Staff will appoint a Multi-functional Team (MTF) consisting of FM, A7K (Contracting), and A1R (Manpower) representatives to perform a comprehensive review all contracts administered by or directly supporting HQ USAFCENT. The team will focus on C2 relationships, proper oversight of contracts/contractors, and compliance with accountability policy/directives. Results will be reported back directly to the USAFCENT Chief of Staff for further action

ESTIMATED COMPLETED DATE: February 2010

Recommendation.

A.1b Ensure a qualified and capable contracting officer is assigned to appropriately close out the WRM contract

AFCENT/CC Comments:

A.1b Concur/nonConcur. CONCUR

USAFCENT will request authority and assistance from ACC A7K to complete contract close out as follows:

- 1) Request support from Defense Contract Management Agency (DCMA) in their role to perform contract closeout activity as requested by the Services.
- Or,
- 2) Seek hiring authority and assistance from ACC for temp, term or contracted positions, and/or request TDY or "deployed" contracting officer support to perform contract closeout.

ESTIMATED COMPLETION DATE: March 2011

Attachment

Recommendation.

E.1 Recommend COMUSAFCENT require the Chairman of the award fee board perform a detailed review of the award fee calculations made under the old contract and identify and correct any under or overpayment made to DynCorp Intl for award fee.

AFCENT/CC Comments:

E.1 Concur/nonConcur: CONCUR

COMUSAFCENT will appoint a group of functional experts to perform an “outside” review of award fee calculations over the life of the contract. Results will be shared with the contract closeout team for inclusion in final calculations and closeout settlement with DynCorp.

ESTIMATED COMPLETION DATE: February 2010

Recommendation.

F.1a Ensure DynCorp Intl credits the old WRM contract \$273,000, the amount of proceeds from government property sales that were not credited to the WRM contract, so that the funds could be put to better use.

AFCENT/CC Comments:

F.1a Concur/nonConcur: CONCUR

The responsible contracting action officer appointed to close out the contract will be responsible to validate the proceeds from government property and the amount not credited back to the contract. After validation, the contracting action officer will notify DI of the proper amount that needs to be paid.

ESTIMATED COMPLETION DATE: Aug 2010

Recommendation.

F.1b Perform a review of all sales of government property from the old WRM contract IAW FAR Part 45 “Government Property”

AFCENT/CC Comments:

F.1b Concur/nonConcur: CONCUR

COMUSAFCENT will appoint a group of functional experts to validate all government property sales in conjunction with validation of public vouchers. Results will be shared with the contract closeout team for inclusion in final calculations and closeout settlement with DynCorp.

Attachment

ESTIMATED COMPLETION DATE: February 2010

Attachment



**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR COMBAT COMMAND
LANGLEY AIR FORCE BASE, VIRGINIA**

31 Jul 09

MEMORANDUM FOR SAF/FMP [REDACTED]

FROM: ACC/A7
129 Andrews St.
Langley AFB VA 23665

SUBJECT: DoD IG Draft Report Project No. D2008-D000CK-0161.000 US Air Forces Central
War Reserve Materiel Contract

1. HQ ACC/A7 concurs with all recommendations, except for Recommendation H.1 for which we concur with intent. Specific management comments are below:

a. **Recommendation A.2.a.** Determine whether war reserve materiel program personnel are qualified and capable of managing the war reserve materiel program in accordance with DoD and Air Force guidance.

Management comments: Concur. The Program Manager(s) (PM) assigned to this program are qualified to manage the WRM contract IAW AFI 63-124, Performance Based Services Acquisition. The WRM Contract Program Manager was reassigned from HQ ACC/A4, as the Command WRM Officer, to ACC AMIC in Oct 2006 in order to manage the contract recompetes, source selection, and post award program execution. Additionally this individual, a career logistics planner, was the former Program Element Manager (PEM) for command's WRM program, and is currently enrolled in Defense Acquisition University (DAU) course work for acquisition certification. Additionally, as a point of clarification, AMIC is not responsible for the AFCENT WRM program requirements IAW AFI 25-101, para 2.13, Functional Area Responsibilities, MAJCOM/Air Components. We believe this recommendation should also be aligned under Commander, U.S. Air Forces Central where WRM program requirements are established by the War Reserve Materiel Officer (WRMO) and approved by the USAFCENT/A4 for contract action. Completed 15 Jul 09.

b. **Recommendation A.2.b.** Determine whether war reserve materiel contracting personnel are qualified and capable of administering the new war reserve materiel contract (FA4890-08-C-0004), in accordance with Federal Acquisition Regulation subpart 1.6, "Career Development, Contracting Authority, and Responsibilities," and DoD Instruction 5000.66, "Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development."

Management comments: Concur. Contracting Officers (CO) assigned to this program have been appointed properly under the authority of FAR Subpart 1.6. ACC AMIC/PK procedures for issuance of Contracting Officer warrants are in conformance with FAR 1.6 and DoD Instruction

5000.66, requiring an overview of education and career experience, validation of Acquisition Professional Development Program certification levels and a review board. Completed 15 Jul 09.

c. **Recommendation** B.1.a. Require that a Government obligation be supported by a written, binding agreement between the contracting officer and DynCorp International, in accordance with section 1501, title 31, United States Code.

Management comments: Concur. Unless specifically authorized by the Federal Acquisition Regulations to be executed on a unilateral basis, all other obligations on this contract are executed bilaterally, with signatures from both parties and within the parameters of the appropriations and purposes cited. Completed 15 Jul 09. This is AMIC policy and will be adhered to throughout the life of the contract.

d. **Recommendation** B.1.b. Review obligations at year-end to determine whether unnecessary and excess funds were obligated to the new war reserve materiel contract (FA4890-08-C-0004).

Management comments: Concur. Reviews will be completed after fiscal year end when contractor receives payment for September invoice to determine if excess funds remain on contract and if present, will be deobligated. In addition, contract financial records are reviewed on a weekly basis at a minimum to ensure obligations are applied correctly. Estimated completion date: 31 Mar 10 (same annual date applies for subsequent option years).

e. **Recommendation** B.1.c. Ensure the contracting officer requires DynCorp International to comply with billing instructions defined in the new war reserve materiel contract (FA4890-08-C-0004).

Management comments: Concur. Clear and concise invoice instructions were incorporated into the contract award and recently modified to integrate Defense Contract Audit Agency's existing review into Wide Area Workflow. Quarterly financial meetings are held between the Program Manger, contractor Finance Manager, ACC AMIC/PKC Cost/Price Analyst, ACC AMIC/DRF and USAFCENT A4 Financial Manager to discuss status of obligations, expenditures and payments. If the contractor does not comply with contract terms and conditions in regards to billing, CO Letters of Concern are issued. Completed 15 Jul 09. This is AMIC policy and will be adhered to throughout the life of the contract.

f. **Recommendation** B.1.d. Ensure the contracting officer conducts contract reconciliation between the new war reserve materiel contract (FA4890-08-C-0004), paying office records, and accounting records as required by DoD Financial Management Regulation, Volume 10, chapter 20, "Contract Reconciliation."

Management comments: Concur. Contracting Officer maintains relationship with Program Manager, contractor Finance Manager, ACC AMIC/PKC Cost/Price Analyst, ACC AMIC/DRF and USAFCENT A4 Resource Advisor. Extensive financial records exist on this contract outlining obligations, expenditures and payments with proof of documents applying those items embedded within the record. PM, CO and Cost Price/Analyst review status of records on a weekly basis at a minimum to ensure obligations, expenditures and payments are applied

correctly. Completed 15 Jul 09. This is AMIC policy and will be adhered to throughout the life of the contract.

g. **Recommendation C.1.** Consider using a firm-fixed-price, indefinite-delivery, indefinite-quantity type of contract for minor military construction requirements and justify in writing, if appropriate, using other than a firm-fixed-price, indefinite-delivery, indefinite-quantity type contract for minor military construction requirements for the new war reserve materiel contract (FA4890-08-C-0004).

Management comments: Concur. It has already been determined, as part of the new contracts execution strategy, that any minor military construction projects executed through this contract will be via modification or through a separate contract vehicle and will be implemented on a firm fixed price basis. Completed 15 Jul 09. This is AMIC policy and will be adhered to throughout the life of the contract.

h. **Recommendation C.2.** Ensure that fair and reasonable prices are obtained by preparing independent Government cost estimates and using negotiation procedures for minor military construction projects.

Management comments: Concur. IAW FAR 36.203, an independent Government estimate will be obtained for minor military construction projects and negotiations will occur prior to issuance of Notice to Proceed or modification. To date, the Procurement Contracting Officer (PCO) has not issued any Notice to Proceeds or modifications. Completed 15 Jul 09. This is AMIC policy and will be adhered to throughout the life of the contract.

i. **Recommendation C.3.** Define the duties of a quality assurance evaluator for quality assurance and acceptance of minor military construction projects.

Management comments: Concur. The duties of our Quality Assurance Evaluators (QAEs) are to:

- Maintain technical competency in the functional area that he or she surveils.
- Obtain and maintain proficiency in contract surveillance procedures.
- Understand all contract and surveillance requirements of the specific contract he or she surveils.
- Perform surveillance according to the WRM Integrated Performance Management Plan (IPMP) and provide documentation of surveillance observations through established procedures to the contracting officer.

The QAE(s) will provide Quality Assurance oversight of minor military construction projects but will not provide acceptance of the projects. Contractor will submit a completion report on all minor construction (MC) projects and a DD Form 1354 on appropriate MC projects. These reports will be used by the Government to accept the project. AMIC PCE has recommended to USAFCENT changes to the Performance Work Statement (PWS) that limits MC accomplished by the WRM contractor to the Simplified Acquisition Threshold (SAT), currently at \$100K. If approved, ACOE, AFCAP or some other government agency would act as the AF's construction agent on all MC projects over the SAT. That agency would accept the project on the

government's behalf. Completed 15 Jul 09. This is AMIC policy and will be adhered to throughout the life of the contract.

j. **Recommendation E.2.a.** Require the war reserve materiel contracting officer to calculate the award fee for the new war reserve materiel contract (FA4890-08-C-0004) based on estimated costs to avoid violating Federal Acquisition Regulation Subpart 16.1, "Selecting Contract Types."

Management comments: Concur. IAW the contract terms and conditions and the Award Fee Plan, award fee is based on estimated costs. Completed 15 Jul 09.

k. **Recommendation E.2.b.** Develop and implement detailed procedures to calculate award fee pools for the new war reserve materiel contract (FA4890-08-C-0004) based on the complexity of the contract effort.

Management comments: Concur. The ACC AMIC/PKC Cost Price Analyst developed an Award Fee Pool Calculation Tool for CO use to validate pool amounts at exercise of option and other modifications as applicable. Completed 15 Jul 09.

l. **Recommendation E.2.c.** Require the fee determining official (FDO) to document final award fee determinations that differ from the contract award fee board's recommendation for the new war reserve materiel contract (FA4890-08-C-0004) in accordance with the Department of the Air Force Award Fee Guide.

Management comments: Concur. AMIC has complied with the procedure for the FDO to document final award determinations that differ from the contract award fee review board's recommendation as prescribed in the AF Award Fee Guide. This is verifiable with the WRM contract's first award fee decision. Completed 15 Jul 09. This is AMIC policy and will be adhered to throughout the life of the contract.

m. **Recommendation F.2.a.** Delegate responsibility for property administration on the new war reserve materiel contract (FA4890-08-C-0004), in accordance with Federal Acquisition Regulation Part 45, "Government Property."

Management comments: Concur. Property Administration is the responsibility of AMIC Procuring Contracting Officer (PCO) and Property Administrator (PA) with specific property administration support functions and authority delegated to AMIC/PLG. Current delegation letter has been updated and is on file. The Administrative Contracting Officer (ACO) coordinates all property administration activities with AMIC/PLG. The AMIC QA Division has received a checklist from our Property Administrator (Mr. Slate) and ACC AMIC PLG. These checklists will be reviewed by all three functions, and incorporated into our auditing system (TMS). Currently, property management oversight is being managed in accordance with contract requirements with a full property audit scheduled for the November 2009 timeframe. Estimated completion date: 31 Jul 09.

n. **Recommendation** F.2.b. Obtain training on property administration procedures, including the contractor's use and management of Government property, reporting and disposing of contractor inventory, and ensuring that proceeds from sales are properly credited to the contract. **Management comments:** Concur. AMIC/PLG personnel have completed training on Contract Property System Analysis Fundamentals, Contract Property Administration and Disposition Fundamentals and Physical Inventory. AMIC/PLG personnel also attended in-residence training from The National Property Management Association, on property management. AMIC/PLG trained personnel provided Phase II QAE training that includes property administration to the Administrative Contracting Officer (ACO) and QAEs in the AOR. Completed 15 Jul 09. This training will be reviewed for currency and conducted as required annually.

o. **Recommendation** F.2.c. Obtain a Standard Form 1428, "Inventory Disposal Schedule," from the contractor to request sales of assets, as required by Federal Acquisition Regulation Subpart 45.6, "Reporting, Reutilization, and Disposal." **Management comments:** Concur. Standard Form (SF) 1428 is used across each AMIC contract to include the WRM contract; SF 1428 is used by the contractor to report and request property disposition/disposal actions. Current AMIC procedures require concurrence on all disposition/disposal cases by AMIC/PLG, Program Manager, PA, and AFCENT or CO when required. This concurrence provides a detailed review of all SF 1428 submitted and a determination /authorization for disposal/disposition actions. AMIC PA approves all SF 1428s submitted. Current procedures require the contractor to get Defense Reutilization and Marketing Service (DRMS) approval prior to having a sale on behalf of the government. Completed 15 Jul 09. This is AMIC policy and will be adhered to throughout the life of the contract.

p. **Recommendation** F.2.d. Record the Government's approval for all sales of Government property on a Standard Form 1423, "Inventory Verification Survey," as required by Federal Acquisition Regulation Subpart 45.6. **Management comments:** Concur. DRMS provided DynCorp with authority to hold sales on behalf of DRMS; however each sale has to be approved by both DRMS and PCO. AMIC will change its current procedures to use the SF 1423 as required by the FAR and DCMA Guidebook. AMIC will visit three AOR sites in Nov 09 to conduct a Property Management System Analyses. If it is determined by the Plant Clearance Officer (PLCO) and the Property Administrator that the contractor is rated ADEQUATE or COMPLIANT in the process of property disposal, AMIC will use a SAMPLING PROCESS to verify the Inventory Disposal Schedule IAW DCMA Guidebook. Sample size will be based upon the 90% confidence rate using a generally accepted sampling process. Furthermore, if government property is sensitive as defined in FAR 45 and 52.245-1, or the contractor's property disposal process is rated INADEQUATE or NON-COMPLIANT, then the PA or PLCO (or designated representative) will conduct a 100% review of items on the inventory disposal schedule. SF 1423 will be processed IAW FAR; prior to each sale the QAEs will utilize SF 1423 to physically verify the property submitted for disposal and sale. Estimated completion date: 29 Jan 10.

q. **Recommendation** F.2.e. Document Government property sale proceeds on the Standard Form 1424, "Inventory Disposal Report," as required by Federal Acquisition Regulation Subpart 45.6.

Management comments: Concur. Response to F.2.e incorporated in F.2.f below.

r. **Recommendation** F.2.f. Review all Standard Forms 1424 and DynCorp International-submitted invoices to ensure that all proceeds from the sale of Government property is properly credited to the new war reserve materiel contract (FA4890-08-C-0004).

Management comments: Concur. AMIC will immediately institute the use of SF 1424s; AMIC had been using reports (directed by PWS) to provide the results of sales. DRMS sales approved by the Contracting Office are monitored and tracked for credit by AMIC/PMSW as the acceptor for invoices in Wide Area Work Flow (WAWF). Project is being coordinated with estimated completion date: 31 Aug 09.

s. **Recommendation** F.2.g. Review the contractor's property control system annually by comparing Government property records to inventory at each war reserve materiel storage location, as required by Federal Acquisition Regulation 45.105, "Contractors' Property Management System Compliance," and DoD Manual 4161.2-M, "Manual for the Performance of Contract Property Administration."

Management comments: Concur. AMIC annually performs property system analysis as required by the FAR. AMIC is scheduled to perform a WRM property audit November 2009; audit will be performed by AMIC PLGS/QAEs. In addition, the QAEs perform surveillance audits during each QAE visit. AMIC has reviewed the contractor's Property Control Plan (PCP) and returned it for modification; after the contractor provides sufficient changes to deficiencies noted by AMIC the PCP will be approved. Project is being coordinated with estimated completion date: 31 Aug 09.

t. **Recommendation** G. Ensure that war reserve materiel contracting officials follow all competition requirements for the new war reserve materiel contract (FA4890-08-C-0004) in accordance with the Competition in Contracting Act.

Management comments: Concur. ACC AMIC/PK has internal review and clearance controls in place regarding contract modifications to ensure compliance with FAR Parts 6 and 37 outlined in Operating Procedure 64-105. Completed 15 Jul 09.

u. **Recommendation** H.1. Retain all surveillance documentation both hard copy and electronically for the new war reserve materiel contract (FA4890-08-C-0004).

Management comments: Concur with intent. AMIC's Quality Assurance Division (AMIC/PQ) policy is to maintain electronic copies. All AMIC Quality Assurance Evaluators maintain electronic copies of all surveillance activities. AMIC's QA division is ISO 9000:2000 certified as Second Party Auditors. This certification is commensurate with industry standards and provides increased/robust surveillance practices and recognizes the fact that AMIC personnel conduct quality assurance of the contractor's quality control program/processes. Furthermore, PQA uses a Web based auditing tool called Training and Document Management System (TMS) to input and manage all audits on this program. This system is backed up daily on site and weekly off site via tape to ensure data integrity/security. Additionally, we maintain copies of all Audit schedules, Audit plans, and Audit reports on the AMIC/AFCENT WRM Contract Community of Practice (CoP) and the official file is on the AMIC QA CoP. Per the Knowledge Solution Support Center (DSN 986-2356), the data is backed up on tape daily. Should there be a system failure, the data would be restored. This is a multi-server system

further reducing the chance of failure. At any given time AMIC/PQA can retrieve and provide hardcopy surveillance/audit reports/records. Completed 15 Jul 09.

v. **Recommendation H.2.** Develop a process and procedures for certifying that services have been inspected and accepted.

Management comments: Concur. QAE(s) inspect services per the Integrated Performance Management Plan and surveillance schedule and provide a Certificate of Service each month. PLG and PCE evaluate their respective Contract Line Item (CLIN) invoices for accuracy and completeness and the PM accepts in Wide Area Work Flow. Completed 15 Jul 09. This is AMIC policy and will be adhered to throughout the life of the contract.

2. In regards to Recommendations F.2.a. and F.2.b above, although recommendations are presented to and commented on by HQ ACC AMIC/DR, it should be noted that all Quality Assurance Personnel and Administrative Contracting Officers assigned to FA4890-08-C-0004 are not aligned under nor administratively controlled by ACC AMIC.

3. Sincerely appreciate your staff's assistance on this audit. Please direct any questions to

[REDACTED]

//Signed, dch, 31 Jul09//

DAVE C. HOWE
Brigadier General, USAF
Director of Installations and Mission Support (A7)

Defense Contract Audit Agency Comments



DEFENSE CONTRACT AUDIT AGENCY
DEPARTMENT OF DEFENSE
8725 JOHN J. KINGMAN ROAD, SUITE 2135
FORT BELVOIR, VA 22060-6219

IN REPLY REFER TO

QA 225.4

August 3, 2009

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

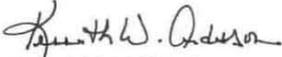
ATTENTION: Deputy Assistant Inspector General [REDACTED]

SUBJECT: DCAA Comments on Draft DoD IG Report on the U.S. Air Force Central War Reserve Materiel Contract (Project No. D2008-D000CK-0161.000)

Thank you for the opportunity to respond to the draft report. The subject report provides the results of DoD IGs review of the U.S. Air Force Central War Reserve Materiel Contract. Our detailed response to the report recommendation is contained in the attached memorandum from the DCAA Central Regional Office.

As discussed in the DCAA Central Regional Office's response, DCAA concurs in principle with the four DoD IG recommendations. See the attached response for further details.

If you have any questions, please contact [REDACTED]


for Donald J. McKenzie
Assistant Director
Integrity and Quality Assurance

Enclosure:
Central Region Response dated July 24, 2009

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Inspections & Investi

Copy Furnished:
RST-3, RD-3



IN REPLY REFER TO

**CENTRAL REGION
DEFENSE CONTRACT AUDIT AGENCY
DEPARTMENT OF DEFENSE
6321 EAST CAMPUS CIRCLE DRIVE
IRVING, TX 75063-2742**

RST-3 730.6
(09RST110)

July 31, 2009

MEMORANDUM FOR DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY

ATTENTION: DQA

SUBJECT: Comments on Recommendations Contained in DoDIG Draft Report on the U.S. Air Force Forces Central War Reserve Materiel Contract, Project No. D2008-D000CK-0161.000

In accordance with your request, dated July 7, 2009, the Central Region has reviewed the DoDIG draft report recommendations regarding audit effort related to the old and current war reserve materiel contracts. The recommendations and our responses are as follows:

DoDIG Recommendation:

A.4. We recommend the Regional Director, Central Region, Defense Contract Audit Agency:

- a. Conduct a cost audit of the old war reserve materiel contract (F44650-00-C0006) that ended on September 30, 2008, with a focus on award fee, minor military construction, exercises and events, proceeds from the sale of Government property, and port handling inland transportation contract line items to identify unallowable costs.
- b. Perform additional testing on DynCorp International incurred cost submissions from FY 2000 through 2004.

DCAA Response:

- a. Concur: DCAA will audit the costs incurred under the old war reserve materiel contract (Contract No. F44650-00-C0006) to the extent possible under the circumstances. As stated in the DoDIG Draft Report the contract statement of work may not clearly identify required effort under the contract; consequently, it may adversely impact our audit of the incurred costs. We have implemented a practice of performing direct cost audits on contingency contracts to ensure costs incurred are reasonable and the contractor is exercising proper controls. This practice was initiated after the old war reserve materiel contract was awarded and consequently it was not subjected to the same level of review current contingency contracts experience.

To the extent possible, our audit will include (i) a review of the award fee base calculations used to compute the award fee pools during the performance of the contract, (ii) an examination of costs incurred for minor military construction, (iii) an

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examination of costs incurred during/for “exercises and events”, (iv) a review of proceeds (credits resulting) from the sale of Government property, and (v) an examination of incurred port handling and inland transportation costs. We have initiated assignment number 3181-2009D101800004 to perform this testing and anticipate finalizing the testing by September 30, 2010.

- b. Concur: Although final indirect rates have been negotiated for FYs 2000 -2004, the Field Audit office will conduct additional testing of direct costs incurred during FYs 2000 – 2004, as discussed above. The Branch Manager has recommended to the Contracting Officer that the old war reserve materiel contract not be closed until our audits of the direct costs for all years and the remaining unsettled indirect costs are completed. As stated above, the Field Audit Office will perform additional direct cost testing on the old war reserve materiel contract. We anticipate completing the testing within the next government fiscal year.

DoDIG Recommendation:

B.2. We recommend the Regional Director, Central Region, Defense Contract Audit Agency:

- a. Perform the required surveillance of DynCorp International internal controls as required by the Defense Contract Audit Agency Contract Audit Manual.
- b. Perform testing of DynCorp International interim public vouchers for contract F44650-00-C0006 and contract FA4890-08-C-0004, as required by the Defense Contract Audit Agency Contract Audit Manual 6-1008, “Review and Approval of Interim Public Vouchers Submitted to the Auditor.” The auditors should consider DynCorp International a high-risk contractor when selecting a sample for testing.

DCAA Response:

- a. Concur. DCAA performs audits of the systems of internal controls related to various accounting and management systems on a cyclical basis. The Field Audit Office has completed audits of DynCorp’s (i) Billing, (ii) Labor, and (iii) Compensation systems, within the last six months; determining all to be inadequate. An audit of the General Internal Controls over DynCorp’s EDP system was completed in April 2007 and reported an inadequate-in-part opinion. Audits of the (i) Accounting, (ii) Estimating, (iii) Purchasing, and (iv) Indirect/ ODC systems are in process with estimated completion dates of August through November 2009. The remaining systems (Budgeting and Material) are planned for audit in FY 2010.
- b. Concur. The old war reserve materiel contract period of performance ended on September 30, 2008, and as such very few additional interim vouchers are expected to be submitted for payment. While the contractor has not submitted any interim

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vouchers under Contract No. F44650-00-C0006 since March 2009, the Field Audit Office is currently auditing an interim voucher submitted prior to March. In addition, the Field Audit Office will review a sample of any additional interim vouchers DynCorp submits under the old war reserve materiel contract.

Interim vouchers submitted under the current war reserve materiel contract, Contract No. FA4890-08-C-0004 will be subjected to a two phase process. Since the Field Audit Office rescinded DynCorp's authority to participate in the direct billing program, all interim vouchers are subject to pre-payment review processes. The audit staff has identified the war reserve materiel contracts as high risk and accordingly will ensure its interim vouchers are selected for review.

The Field Audit Office has also implemented a post-payment interim voucher examination process at DynCorp. Interim vouchers that have already received provisional approval for payment are examined on a sample basis. Normally the vouchers are selected for examination using statistical sampling techniques. However, since the Field Audit Office has identified the war reserve materiel contract as high risk, it will select war reserve materiel vouchers for post-payment review procedures.

DCAA has incurred cost audits in progress to determine the allowability, allocability, and reasonableness of costs for FY 2005 (expected to be issued by December 2009) and FY 2006 (expected to be issued by March 2010). The FY 2007 and 2008 incurred cost submissions are considered inadequate and audit testing will be performed once DynCorp is able to provide complete and adequate proposals.

Please direct any questions regarding this matter to [REDACTED]

//Signed//
EDWARD F. NELSON
Regional Director



Inspector General Department of Defense

