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Report No. D-2011-047 March 2, 2011

Inspector General
United States Department of Defense

Improvements Needed in Contract Administration of the Subsistence Prime Vendor Contract for Afghanistan

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Acronyms and Abbreviations

COR	Contracting Officer's Representative
DCAA	Defense Contract Audit Agency
DFARS	Defense Federal Acquisition Regulation Supplement
DLA	Defense Logistics Agency
FAR	Federal Acquisition Regulation
GFM	Government-Furnished Material
MPA	Military Personnel, Army
OMA	Operation and Maintenance, Army
PV	Prime Vendor
QASP	Quality Assurance Surveillance Plan
STORES	Subsistence Total Order and Receipt Electronic System

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MAR 2 2011

MEMORANDUM FOR COMMANDER, DEFENSE LOGISTICS AGENCY
TROOP SUPPORT

SUBJECT: Improvements Needed in Contract Administration of the Subsistence Prime Vendor Contract for Afghanistan (Report No. D-2011-047)

We are providing this report for your information and use. As of May 31, 2010, Defense Logistics Agency Troop Support personnel paid the prime vendor about $3 billion, including $1.6 billion for food and water and $1.4 billion for nonfood items, such as transportation and storage costs. The subsistence prime vendor for Afghanistan provided the food products required by the contract, but subsistence contracting officials at the Defense Logistics Agency Troop Support did not provide sufficient oversight of contract costs and performance. We considered management comments on a draft of this report in preparing the final report.

The comments from the Senior Procurement Executive, Defense Logistics Agency and the Acting Commander, Defense Logistics Agency Troop Support, conformed to the requirements of DoD 7650.3. Therefore, no additional comments are required.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-8866 (DSN 664-8866).

for Richard B. Vasquez
Alice F. Carey
Assistant Inspector General
Readiness, Operations, and Support

Results in Brief: Improvements Needed in Contract Administration of the Subsistence Prime Vendor Contract for Afghanistan

What We Did

As of May 31, 2010, Defense Logistics Agency Troop Support personnel paid the prime vendor about $3 billion, including $1.6 billion for food and water and $1.4 billion for nonfood items, such as transportation and storage costs. Our objectives were to evaluate the contract administration of the prime vendor contract for subsistence in support of Afghanistan and to review whether the assignment of contracting officer's representatives and execution of the Quality Assurance Surveillance Plan and procedures were effective.

What We Found

The subsistence prime vendor for Afghanistan provided the food products required by the contract. However, subsistence contracting officials at the Defense Logistics Agency Troop Support did not provide sufficient oversight of contract costs and performance. Specifically, the contracting officer did not adhere to certain provisions of the Federal Acquisition Regulation and the DoD supplement, or develop a Quality Assurance Surveillance Plan and written procedures to monitor contractor costs and performance. Our review showed that troop support personnel:

- overpaid the prime vendor potentially $98.4 million in transportation costs;
- overpaid the prime vendor approximately $25.9 million for triwall* costs;
- paid $454.9 million to the prime vendor for airlifting fresh fruit and vegetables without incorporating the airlift requirement in the contract and without documenting whether the airlift price of $3.74 per pound was fair and reasonable;
- did not validate whether $103.6 million in triwall costs was accurate and chargeable to the contract; and
- did not monitor the accountability of Government-furnished material.

Also, Troop Support personnel billed the Army $56.5 million in transportation, triwall, and storage costs to the incorrect FY appropriation for FYs 2006 through 2009. Correcting the billing problems may cause Antideficiency Act violations.

What We Recommend

We recommend that the Commander, Defense Logistics Agency Troop Support, direct responsible officials to:

- establish fair and reasonable prices for transportation, triwall, and airlift costs, and modify the contract to incorporate those prices;
- compute and recover overpayments for transportation and triwall costs. If the current price for airlift costs from Sharjah, United Arab Emirates is found not to be fair and reasonable, compute and recover airlift overpayments; and
- refund $56.5 million to the Army that was not charged to the correct FY appropriations and bill the Army $56.5 million to the correct FY appropriations.

Management Comments and Our Response

The Senior Procurement Executive, Defense Logistics Agency, and the Acting Commander, Defense Logistics Agency Troop Support, agreed with our recommendations and provided responsive comments on the recommendations. No further comments are required. Please see the recommendations table on the back of this page.

*Triwalls are three-layered corrugated boxes used for packaging and shipping chilled or frozen food products, such as fresh fruits and vegetables, ice cream, meat, and dairy products.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Commander, Defense Logistics Agency Troop Support		A and B

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Introduction

Objectives

Our overall objective was to evaluate the contract administration of the Prime Vendor (PV) contract for subsistence in support of Afghanistan. Specifically, we reviewed whether the assignment of contracting officer's representatives (CORs) and execution of the Quality Assurance Surveillance Plan (QASP) and procedures were effective for assessing contractor costs and performance.

We performed this audit pursuant to Public Law 110-181, "The National Defense Authorization Act for Fiscal Year 2008," section 842, "Investigation of Waste, Fraud, and Abuse in Wartime Contracts and Contracting Processes in Iraq and Afghanistan," January 28, 2008. Section 842 requires:

> thorough audits to identify potential waste, fraud, and abuse in the performance of (1) Department of Defense contracts, subcontracts, and task and delivery orders for the logistical support of coalition forces in Iraq and Afghanistan; and (2) Federal agency contracts, subcontracts, and task and delivery orders for the performance of security and reconstruction functions in Iraq and Afghanistan.

Background on Prime Vendor Contract

DoD Directive 5101.10, "DoD Executive Agent (DoD EA) for Subsistence," September 27, 2004, established the Director, Defense Logistics Agency (DLA) as the executive agent for procuring, managing, distributing, and insuring the wholesomeness of the Class I[1] supply (subsistence products) throughout the supply chain. The Director delegated Class I supply chain responsibilities to DLA Troop Support[2] (Troop Support), specifically the Food Service Customer Business Unit within the Subsistence Directorate. This unit has overall responsibility for providing worldwide dining hall support to authorized customers, to include providing contract administration. To assist them in accomplishing their mission, contracting officials in the Subsistence Directorate (subsistence contracting officials) use the PV program. PV is a concept of support whereby a single commercial distributor serves as the major provider of products to various Federal customers within a geographical region or zone. The subsistence PV provides commercially available items under a contractual agreement established by the officials. Usually, the PV is required to deliver the items within a specified period of time after the order is placed. The PV provides the items either at the cost paid to obtain them or at a price agreed to in advance by the contracting officer in the Subsistence Directorate.

The transportation of subsistence items from suppliers/manufacturers located in the continental United States to the PV's warehouses in Afghanistan is accomplished under separate contracts with the U.S. Transportation Command. The PV is responsible for placing orders with its suppliers and manufacturers and retains ownership of those items

[1]DoD's supplies are grouped by class to facilitate supply management and planning. Class I supplies are rations and gratuitous issues of health, morale, and welfare items.

[2]Before July 19, 2010, DLA Troop Support was known as the Defense Supply Center Philadelphia.

until they are accepted by an ordering activity. The U.S. Transportation Command also provides transportation support for certain types of items, such as soda, milk, and bakery products that are procured locally within the Middle East.

To provide subsistence support to the Middle East, subsistence contracting officials issued a single PV solicitation dividing the region into five zones[3] and subsequently issued contracts to four PVs, with one PV providing subsistence support to two zones, United Arab Emirates and Oman (zone 2) and Djibouti (zone 5).

Prime Vendor Contract and Verbal Change Order

On June 3, 2005, the contracting officer issued the zone 3 PV contract (SPM300-05-D-3130) to Supreme Foodservice AG[4], headquartered in Ziegelbrücke, Switzerland, to distribute a full line of food and nonfood products to authorized customers in Afghanistan. The 60-month fixed price, indefinite quantity contract started December 3, 2005, and was valued at about $726.2 million. When the contract ended in December 2010, subsistence contracting officials extended the contract for an additional 2 years. At the time the contract was awarded, the PV was required to provide food and nonfood distribution support to four activities in Afghanistan—Bagram, Kabul, Salerno, and Kandahar. The cost to deliver the products from the PV's warehouse in Kabul (see Figure 1) to the four sites was included in the contract distribution fees which, in addition to the transportation costs, included the PV's profit, general and administrative expenses, and overhead expenses.

Figure 1. PV's Warehouse–Kabul, Afghanistan

[3]Zone 1 covers Iraq, Kuwait, and Jordan; zone 2 covers United Arab Emirates and Oman; zone 3 covers Afghanistan; zone 4 covers Bahrain, Qatar and Saudi Arabia; and zone 5 covers Djibouti.

[4]Effective January 2010, Supreme Foodservice AG changed its name to Supreme Foodservice GmbH.

On August 26, 2005, the contracting officer issued a verbal change order for the PV to provide the same food and distribution support to 68 additional activities in zone 3. However, security concerns within the warzone and the austere environment, to include the lack of developed roadways in Afghanistan, prevented the PV from always using ground transportation to service the additional activities. Consequently, the contracting officer verbally authorized the PV to support the activities using a combination of fixed-wing aircraft, helicopters, and ground transportation. As of September 2009, the PV provided food and distribution support to over 150 ordering activities within Afghanistan. As of May 31, 2010, Troop Support personnel paid the PV about $3 billion, including $1.6 billion for food and water and $1.4 billion for nonfood items, such as transportation and storage costs.

> *…security concerns within the warzone and the austere environment…prevented the PV from always using ground transportation…*

In July 2006, the PV submitted an equitable adjustment claim, valued at $33.5 million, for additional transportation and packaging expenses incurred from December 13, 2005, through June 30, 2006. Of the $33.5 million, $27.3 million was for employing fixed-wing aircraft (see Figure 2), helicopters (see Figure 3), and ground transportation to move subsistence items, and the remaining $6.2 million was for triwalls[5] (see Figures 4 and 5).

Figure 2. Fixed-wing aircraft used to deliver supplies

Figure 3. Helicopter used to deliver supplies

Figure 4. Triwall used for frozen products

Figure 5. Triwall used for chilled products

[5]Triwalls are three-layered corrugated boxes used for packaging and shipping chilled or frozen food products, such as fresh fruits and vegetables, ice cream, meat, and dairy products.

Contract Modification 10: Formalizes Verbal Order

Almost 1 year later, on August 2, 2006, the contracting officer issued contract modification 10 to formalize the verbal change order. To compensate for the additional transportation and triwall expenses, contract modification 10 established the provisional rates as shown in Table 1.

Table 1. Transportation and Triwall Provisional Rates

Type	Rate
Fixed-Wing Aircraft	$2.65 per pound
Helicopter	$8.35 per pound
Ground	$0.48 per pound
Triwall Frozen	$302.00 per box
Triwall Chilled	$241.00 per box

Contract modification 10 also authorized payments of $25 million, which covered about 75 percent of the PV's $33.5 million equitable adjustment claim. The remaining $8.5 million would be paid pending the contracting officer's verification and approval.

Contract Modification 12: Establishes Reimbursement Rates

On October 10, 2006, the contracting officer issued contract modification 12. In it, both parties agreed that from July 2006 forward, Troop Support personnel would reimburse the PV monthly at 75 percent of the rates in contract modification 10, pending the results of a Defense Contract Audit Agency (DCAA) review, which would be used to definitize final rates. The reimbursement rates are shown in Table 2.

Table 2. Reimbursement Rates at 75 Percent

Type	Rate
Fixed-Wing Aircraft	$1.99 per pound
Helicopter	$6.26 per pound
Ground	$0.36 per pound
Triwall Frozen	$226.50 per box
Triwall Chilled	$180.75 per box

Supplying DoD Customers

Troop Support personnel tracked orders from activities (such as Class I warehouses, dining facilities, and forward operating bases) using an automated system referred to as the Subsistence Total Order and Receipt Electronic System (STORES). STORES is managed by the Subsistence Directorate, and it is designed to automate all installation-level subsistence ordering and receipting for DoD customers.

The PV fills customer orders from its distribution warehouse in Kabul. Authority for accepting the items is assigned to the ordering activity, which is responsible for ensuring that the quantities delivered match the quantities recorded on the delivery ticket, annotating any discrepancies related to short shipments, or items that were damaged or spoiled to ensure that Troop Support personnel only approve payment for items that were actually accepted.

The PV invoices Troop Support daily for items delivered and accepted by ordering activities, weekly for triwall and airlift costs from Sharjah, twice a month for transportation costs within Afghanistan, and once a month for the storage of Government-Furnished Material[6] (GFM). After Troop Support personnel review and approve PV invoices for payment, Defense Finance and Accounting Service personnel pay the PV, and Troop Support personnel bill the Army for the amount that was paid the PV plus a subsistence surcharge.

Need to Improve Controls Over Contract Administration

DoD Instruction 5010.40, "Managers' Internal Control Program (MICP) Procedures," July 29, 2010, requires DoD organizations to implement a comprehensive system of internal controls that provide reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. We identified internal control weaknesses associated with the administration of this contract. Specifically, the contracting officer did not adhere to provisions of the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS), relating to timely definitizing and issuing change orders, documenting that prices paid were fair and reasonable, monitoring the accountability of GFM, and making sure that the correct FY appropriation was used to pay for transportation, triwall, and storage costs. Also, the contracting officer did not develop a formal QASP and written procedures for oversight of PV costs and performance. Implementing Recommendations A and B should correct the internal control weaknesses identified in this report. We will provide a copy of the final report to the senior official responsible for internal controls in DLA.

[6]Government-furnished material includes feeding rations, such as meal, ready-to-eat, and group rations.

Finding A. Better Contract Administration of Prime Vendor Costs and Performance Needed

The subsistence PV for Afghanistan provided food and nonfood product distribution support as required by the contract. However, subsistence contracting officials did not provide sufficient oversight of the PV contract, valued at more than $3 billion. This occurred because the contracting officer did not timely definitize or issue contract modifications, as required by the FAR and DFARS, and did not develop a QASP and written procedures to monitor the PV's costs and performance. As a result, Troop Support personnel:

- overpaid the PV potentially $98.4 million for transportation costs within Afghanistan from December 13, 2005, through December 31, 2008;
- overpaid the PV approximately $25.9 million for triwall costs from December 13, 2005, through May 28, 2010;
- overbilled the Army approximately $136.2 million (comprised of the $98.4 million and $25.9 million of the above mentioned overpayments and Troop Support subsistence surcharges of approximately $11.9 million);
- paid the PV approximately $454.9 million for services to airlift fresh fruit and vegetables from Sharjah, United Arab Emirates to Afghanistan from December 13, 2005, through May 28, 2010, without incorporating the airlift requirement in the contract or documenting that the airlift price of $3.74 per pound was fair and reasonable;
- did not know whether the quantity of triwalls billed were accurate or that all of the $103.6 million in triwall costs from December 2005 through May 28, 2010, were actually chargeable to the contract;
- had no assurance that the performance-based distribution fees paid to the PV were warranted. For the 12-month period ending October 31, 2008, the fees were estimated to be $1.8 million; and
- did not monitor the accountability of GFM stored by the PV. The PV stored approximately $22.1 million in GFM throughout February 2010.

Meeting Contract Requirements

The subsistence PV for Afghanistan provided food and nonfood product distribution support as required by the contract. The contract requires the PV to stock items in sufficient quantities to fill all the ordering activities' requirements. In addition, the contract establishes a minimum acceptable performance metric that the PV is required to meet. The PV is expected to deliver at least 96.5 percent of the items ordered by the activities. According to the PV semiannual Contractor Performance Assessment Reports prepared by the contracting officer, the PV's exceeded the 96.5 percent requirement for the 48 ½ months ending December 31, 2009.

Noncompliance With the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement

The contracting officer did not definitize or issue contract modifications in a timely manner, as required by the FAR and DFARS. Specifically, the contracting officer did not establish permanent transportation rates in a timely manner and did not document that higher reimbursement rates for triwalls were fair and reasonable, which resulted in the PV being potentially overpaid $98.4 million for transportation within Afghanistan, overpaid approximately $25.9 million for supplying triwalls, and the Army being overbilled approximately $136.2 million as a result of the overpayments. In addition, the contracting officer did not issue a contract modification to require airlifting of fresh fruits and vegetables to Afghanistan for which Troop Support personnel paid approximately $454.9 million to the PV.

Undefinitized Contract Modification

The contracting officer did not establish permanent transportation rates in a timely manner, which resulted in the PV being potentially overpaid $98.4 million for transportation within Afghanistan, and the Army being overbilled approximately $108.5 million.

The verbal change order issued on August 26, 2005, to provide food distribution support to 68 additional activities remained undefinitized as of December 2010. DFARS subpart 217.74, "Undefinitized Contract Actions," requires contract actions to be definitized within 180 days of a contract modification for additional supplies or services. DFARS 217.7404-5, "Exceptions," allows the head of an agency to waive the 180-day limit if necessary to support a contingency operation. As of April 2010, subsistence contracting officials had not requested a waiver from the Director, DLA.

Additionally, DFARS 217.7404-6, "Allowable profit," states that when the final price of an undefinitized contract action is negotiated after a substantial portion of the required performance has been completed, the profit allowed should reflect:

- any reduced cost risk to the contractor for costs incurred during contract performance before negotiations of the final price; and
- the contractor's reduced cost risk for costs incurred during performance of the remainder of the contract.

~~**(FOUO)**~~ The PV's $33.5 million equitable adjustment claim proposed applying profits of [redacted] percent for fixed-wing aircraft costs, [redacted] percent for helicopter costs, and [redacted] percent for ground (truck) transportation costs. Subsistence contracting officials, during the definitization of Modification 10, should analyze the contract's proposed profit rates to ensure that the rates reflect any reduced cost risks. Profit rates should reflect the reduced cost risk as a result of more than 4 years of actual contract performance. According to cost data provided by the contracting officer as of May 28, 2010, approximately $830.1 million in transportation services were billed since December 2005. As a result of not definitizing the change order in a timely manner, the PV was overpaid for transportation services.

Transportation Overpayments

Using the cost data from the period of December 13, 2005, through December 31, 2008, which the PV provided, we estimated that the PV was potentially overpaid $98.4 million for transportation costs within Afghanistan. As illustrated in Table 3 (page 9), we computed the overpayments by comparing PV's incurred costs and proposed profits with the transportation payments. The PV was overpaid because the contracting officer did not establish permanent transportation rates in a timely manner and reimbursement rates were significantly higher than the rates needed to reimburse the vendor for costs and associated profits. In addition, Troop Support personnel approved payment to the PV for minimum shipping weights per order (such as 2,000 pounds for deliveries by a certain type of helicopter) when actual weights were less.

> *The PV was potentially overpaid $98.4 million for transportation costs.*

~~(FOUO)~~ In 2007, the PV was overpaid approximately $19.8 million for helicopter transportation costs as shown in column F of Table 3 (page 9). Of the $19.8 million, approximately $[redacted] million resulted from the helicopter reimbursement rate being much higher than the rate needed to reimburse the PV for helicopter-related costs and associated profit. For example, in 2007, the reimbursement rate for helicopters was $6.26 per pound compared to the PV-claimed cost of $[redacted] per pound. The remaining $[redacted] million resulted from payments for orders being based on minimum weights (2,000 pounds) instead of the actual weights when they were less than the minimum weights. To illustrate, in 2007, the PV was paid for transporting 8.8 million pounds by helicopter. The PV's records showed that the actual weight transported was only [redacted] million pounds. We multiplied the difference of [redacted] million pounds by the helicopter reimbursement rate ($6.26) to calculate the $[redacted] million. As of August 2008, Troop Support personnel discontinued paying for additional pounds billed above the actual weights.

> *The PV was paid for transporting 8.8 million pounds by helicopter…actual weight transported was only [redacted] million pounds.*

On August 22, 2006, the contracting officer requested that the DCAA European branch audit the PV's $33.5 million equitable adjustment claim received in July 2006. Since the PV's records at that time were maintained in Kabul, the European branch transferred the request to the DCAA Iraq branch. In March 2007, the PV informed the Iraq branch that its records had been transferred from Kabul to the United Arab Emirates. The Iraq branch cancelled the audit in September 2007, but did not advise the European branch that it again was responsible for the requested audit. About 7 months later, in May 2008, the contracting officer requested an audit update, which prompted the European branch to initiate an audit of the PV's claimed transportation costs of $81.4 million for 2006 and 2007. In December 2008, DCAA personnel issued their audit report[7] and questioned approximately $[redacted] million of the $81.4 million in claimed transportation costs. Items that DCAA questioned were approximately $[redacted] million in distribution fees, $[redacted] million in central overhead costs, $[redacted] million in consultancy costs,

[7]DCAA Report 2191-2008M17200001, "Report on Audit of Equitable Adjustment Proposal for Charge Related to Outbound Transportation Effort," December 19, 2008.

$[redacted] million in depreciation, $[redacted] million in financing costs, and $[redacted] in miscellaneous costs. As of December 2010, the contracting officer had not finalized the negotiation of the aforementioned costs with the PV.

The total overpayments will be affected by the contracting officer's negotiation of the DCAA questioned costs, establishment of a fixed 5-year reimbursement rate for transportation within Afghanistan for each mode of transportation, and the establishment of negotiated minimum order weight requirements.

Table 3. Estimated Transportation Overpayments ~~(FOUO)~~

A	B	C	D	E	F
Mode/Year	**Prime Vendor's Incurred Costs**	**Prime Vendor's Proposed Profit[1]**	**Total (Column B+C)**	**Payment to Prime Vendor[2]**	**Amount Overpaid[3] (Column E-D)**
Fixed Wing/ 2006	$[redacted]	$[redacted]	$7,501,236	$8,524,930	$1,023,694
Helicopter/ 2006	[redacted]	[redacted]	7,634,411	10,793,488	3,159,077
Ground/ 2006	[redacted]	[redacted]	11,707,335	18,685,800	6,978,465
Fixed Wing/ 2007	[redacted]	[redacted]	11,391,854	17,045,205	5,653,351
Helicopter/ 2007	[redacted]	[redacted]	35,144,863	54,989,478	19,844,615
Ground/ 2007	[redacted]	[redacted]	17,045,529	32,929,866	15,884,337
Fixed Wing/ 2008	[redacted]	[redacted]	32,302,736	42,451,996	10,149,260
Helicopter/ 2008	[redacted]	[redacted]	102,381,818	132,305,038	29,923,220
Ground/ 2008	[redacted]	[redacted]	33,212,976	39,026,979	5,814,003
Total	**$[redacted]**	**$[redacted]**	**$258,322,758**	**$356,752,780**	**$98,430,022**

[1]The PV's proposed profit of $[redacted] million includes $[redacted] million for a fixed-wing aircraft, $[redacted] million for a helicopters, and $[redacted] million for ground transportation.

[2]In accordance with modification 12, Troop Support personnel approved payment of 75 percent of the provisional rates agreed to in modification 10. Total payments were obtained from PV's financial records.

[3]Amounts will be affected by final settlement of DCAA questioned costs, the establishment of permanent rates, and establishment of minimum order weight requirements.

Estimating transportation overpayments for FYs 2009 and 2010 was not possible because the PV's financial records were not readily available. The negotiating approaches proposed by the contracting officer to resolve DCAA questioned costs and to establish permanent transportation rates will, identify additional overpayments for FYs 2006 through 2011.

Triwall Overpayments

Using cost data provided by the contracting officer, we estimated that the PV was overpaid about $25.9 million in triwall costs from the inception of the contract through May 28, 2010. We estimated the overpayment by multiplying costs of $103.6 million for triwalls during the period by 25 percent. We did this because Troop Support personnel approved payment of 100 percent instead of 75 percent of triwall rates as stated in modification 12.

We estimated that the PV was overpaid about $25.9 million in triwall costs.

In December 2006, the PV sent an e-mail to the contracting officer and claimed that 100 percent of triwall rates were fair and reasonable and that triwalls should not be included as part of the requested DCAA audit. The PV also requested immediate payment of the 25 percent of triwall rates withheld to date and asked that future triwall invoices be reimbursed at the provisional rates in contract modification 10. The contracting officer promptly agreed with the PV's request, and authorized the payment of the 25 percent of triwall costs withheld. However, the contract file did not include documentation as to how the new reimbursement rates were determined to be fair and reasonable as prescribed by FAR. FAR 15.406-3, "Documenting the Negotiation," prescribes that the contracting officer shall document in the contract file the principal elements of the negotiated agreement, the purpose of the negotiation, and documentation of fair and reasonable pricing.

The PV billed and Troop Support personnel approved payment of $302 and $241 instead of the $226.50 and $180.75 for respective frozen and chilled triwalls. Table 4 lists the estimated triwall overpayments. The overpayments occurred because the contracting officer agreed to pay 100 percent of the triwall rates without (1) having the rates audited by DCAA as both parties agreed to in contract modification 12, (2) documenting in the contract file the basis for determining that the higher reimbursement rates were fair and reasonable, and (3) issuing a contract modification to formally incorporate the higher reimbursement rates in the contract.

Table 4. Estimated Overpayments for Triwalls[8]

Fiscal Year	Prime Vendor's Invoiced Costs	Percentage Overpaid	Amount Overpaid
2006	$9,582,716	25 percent	$2,395,679
2007	16,392,315	25 percent	4,098,079
2008	24,192,220	25 percent	6,048,055
2009	32,212,538	25 percent	8,053,135
2010	21,245,649	25 percent	5,311,412
Total	**$103,625,438**		**$25,906,360**

[8]The $25.9 million in estimated overpayments includes $14.0 million that we identified subsequent to issuing our memorandum on August 7, 2009 (see page 12 of the report).

Since a contract modification was not issued, the terms agreed to in contract modification 12 are still in effect, and as such, the contracting officer should request repayment of the triwall costs paid in excess of the 75 percent reimbursement rates agreed to in modification 12.

Overbillings to Army

After Troop Support personnel review and approve PV invoices for payment, Defense Finance and Accounting Service officials pay the PV, and DLA Finance, Troop Support personnel bill the Army for the amount paid to the PV plus a subsistence surcharge. We estimate that DLA Finance, Troop Support personnel overbilled the Army $136.2 million in transportation and triwall costs. The $136.2 million consists of the following:

- $98.4 million overpaid PV for transportation (Table 3),
- $25.9 million overpaid PV for triwalls (Table 4), and
- $11.9 million in subsistence surcharges that DLA Finance, Troop Support personnel billed the Army on those overpayments, as shown in column D of Tables 5 and 6 below.

Table 5. Estimated Transportation Overbillings to the Army

A	B	C	D	E
Year	**Transportation Overpaid[1]**	**Subsistence FY Surcharge Rate**	**Subsistence Surcharge[2] (B*C)**	**Total Overbilled[3] (B+D)**
2006	$11,161,236	11.10 percent	$1,238,897	$12,400,133
2007	41,382,303	12.40 percent	5,131,406	46,513,710
2008	45,886,483	8.00 percent	3,670,919	49,557,402
Total	**$98,430,022**		**$10,041,222**	**$108,471,245**

[1]Amount represents the total from Table 3 that the PV was overpaid.

[2]We applied subsistence FY surcharge rates (column C) to the year's overpaid transportation cost (column B) to estimate overbillings because records of overpayments to PV by FY were not available.

[3]Estimating overbilling for FYs 2009 and 2010 was not possible because the PV's financial records were not available to calculate possible transportation overpayments.

Table 6. Estimated Triwall Overbillings to the Army

A	B	C	D	E
Fiscal Year	**Triwalls Overpaid[1]**	**Subsistence FY Surcharge Rate**	**Subsistence Surcharge (B*C)**	**Total Overbilled (B+D)**
2006	$2,395,679	11.1 percent	$265,920	$2,661,599
2007	4,098,079	12.4 percent	508,162	4,606,241
2008	6,048,055	8.0 percent	483,844	6,531,899
2009	8,053,135	4.6 percent	370,444	8,423,579
2010	5,311,412	4.6 percent	244,325	5,555,737
Total	**$25,906,360**		**$1,872,695**	**$27,779,055**

[1]Amount represents the total from Table 4 that the PV was overpaid.

DoD OIG's Memorandum for the Commander, Troop Support

On August 7, 2009, we issued a memorandum for the Commander, Troop Support, addressing concerns pertaining to overpayments to the PV for transportation and triwall costs within Afghanistan, along with overbillings of those costs to the Army. See Appendix C for a copy of the memorandum, and Appendix D for the response provided by the Commander, Troop Support.

Subsistence contracting officials took preliminary steps to address the overpayments identified during our review. In response to our recommendations, the Commander, Troop Support stated that in May 2009 the contracting officer requested that the PV change their pricing to reflect the lower transportation costs incurred. However, the PV claimed that because of the number of locations and distances traveled that they were justified in keeping the rates as is, pending negotiations and final definitization. The Commander also stated that an audit of triwall costs by the DCAA was requested and that they expected the results in December 2009. As of April 2010, the contracting officer informed us that DCAA personnel are awaiting data from the PV in order to complete the audit. Further, the Commander stated that the contracting officer was currently negotiating with the PV regarding transportation and triwall costs and upon completion of the negotiations, all overpayments (difference between reimbursement rates and the negotiated rates) would be recovered and the Army would be reimbursed accordingly. However, until the results of the DCAA triwall audit are received, the contracting officer should not negotiate final triwall rates.

No Airlift Requirement for Fresh Fruit and Vegetables

The contracting officer did not issue a contract modification to require airlift of fresh fruits and vegetables to Afghanistan for which the PV had been paid approximately $454.9 million from December 2005 through May 28, 2010. The PV acquires fresh fruits and vegetables locally from the United Arab Emirates, airlifts them to Afghanistan, and bills Troop Support for the transportation costs at a rate of $3.74 per pound. However, the airlift requirement was not incorporated into the contract and documentation supporting fair and reasonable pricing, as prescribed by FAR 15.406, "Documentation," was not in the contract file. See Appendix B for FAR guidance.

> *…the PV had been paid approximately $454.9 million…However, the airlift requirement was not incorporated into the contract…*

Since the contract did not include provisions for airlifting fresh fruit and vegetables into Afghanistan, we questioned subsistence contracting officials about the $3.74 rate. The officials informed us that the rate was agreed to under a contract with a different vendor who was providing support for operations in Afghanistan before December 2005. The current PV was a subcontractor providing the airlift of fresh fruit and vegetables into Afghanistan under this prior contract. The U.S. Department of Justice issued a criminal indictment against the other vendor on November 23, 2009, for defrauding the U.S. Government at various times over the past 6 years. When the $3.74 was agreed to, subsistence contracting officials were not aware of any potential criminal activity involving

the other vendor. We questioned whether the $3.74 rate, in use since December 2005, was fair and reasonable considering the rate was negotiated with a different vendor.

Subsistence contracting officials informed us that not including the $3.74 rate in the current contract was an oversight, but since the rate was negotiated on the prior contract, they considered it to be fair and reasonable. However, when we asked for support, the officials were unable to provide documentation on how the rate was determined to be fair and reasonable. In addition, using the rationale that the rate was previously fair and reasonable, when the prior contractor was involved in questionable contracting practices, makes little sense.

According to financial records, from December 2005 through May 28, 2010, approximately $454.9 million in costs were incurred for airlifting services that were not included in the contract, and were based on a rate that may not be fair and reasonable. Contracting officials should request a DCAA audit of airlift costs and use the results to determine whether the $3.74 rate is fair and reasonable, modify the contract to incorporate the airlift requirement and price, and reconcile any payment differences with the PV.

Subsistence Contracting Officials Need to Improve Their Monitoring of Prime Vendor Costs and Performance

The contracting officer did not develop a QASP and written procedures to monitor the PV's costs and performance. As a result, subsistence contracting officials did not know whether the quantity of triwalls billed were accurate or actually chargeable to the contract, had no assurance that performance based distribution fees paid to the PV were warranted, and did not know whether GFM stored by the PV was adequately safeguarded.

The contracting officer formally appointed two qualified CORs in accordance with the DFARS 201.602-2, "Contracting Officer Responsibilities." The supplement states that the contracting officer must designate a properly trained and experienced COR in writing and specify the extent of the COR's authority to act on behalf of the contracting officer. In addition to the two CORs, the contracting officer had contract specialists located at Troop Support and in Europe to assist in administering and monitoring the PV's costs and performance. However, these individuals did not have a QASP or written procedures to help them monitor such a complex contract.

Quality Assurance Surveillance Plan and Operating Procedures

A QASP provides a systematic, structured method for contracting officials to monitor contractor performance. The contracting officer did not develop a QASP to monitor vendor performance because subsistence contracting officials believed that the Contract Management Plan for OCONUS Subsistence Prime Vendors was the QASP. However, that plan did not meet FAR requirements for a QASP as detailed in Appendix B. The Office of Federal Procurement Policy, "A Guide to Best Practices for Contract Administration," October 1994, states that a contract management plan should contain a separate QASP as a subpart.

The management plan was generic for all overseas PV subsistence contracts and did not include a QASP or written procedures to supplement the plan. The management plan provided a general framework for administering overseas PV subsistence contracts, but did not provide the specific instructions needed to effectively administer the PV contract for Afghanistan. Specifically, the plan did not list the work requiring surveillance, the method of surveillance, the technical requirements, or the specifications for inspections and testing. For example, the management plan calls for the contracting officer to monitor the contract on a daily basis, but does not provide specific guidance on how the monitoring should be performed. As a result, there was no assurance that the PV's performance was adequately monitored.

Although there was no QASP, the CORs and contract specialists performed various monitoring functions. The CORs' appointment letters were helpful in outlining some oversight and monitoring functions; however, the letters were not supplemented by detailed procedures on how the CORs were to accomplish the monitoring functions. For example, there were no written procedures detailing how to check and verify fill rates or validate invoices.

The contract solicitation detailed various performance requirements that should be included in a QASP. For example, the solicitation details 17 PV recurring reports that must be submitted to the contracting officer. However, since there was no QASP, there were no procedures for analyzing the reports. According to a COR and a contract specialist, only 5 of the 17 reports (Fill Rates With Substitutions; Fill Rates Without Substitutions; Not In Stock, Returned, Damaged, and Mispicked; Small Business Subcontracting; and Customer Service), were analyzed. However, the analyses were not documented and appeared to be limited in scope as discussed in the paragraph verifying fill rates on page 15.

Authorizing Triwall Payments

Subsistence contracting officials did not effectively review the quantities of triwalls being billed by the PV. As a result, DoD has paid $103.6 million for triwalls billed through May 28, 2010, but has no assurance that the triwalls were chargeable to the contract. See Table 4 on page 10.

> *DoD has paid $103.6 million for triwalls…has no assurance that the triwalls were chargeable to the contract.*

We reviewed "combined invoices" and supporting documentation for $180.5 million of the $302.5 million in airlift and triwall costs listed on a spreadsheet that a subsistence contracting official provided us, which listed offline costs incurred from the inception of the contract through April 24, 2009. Of the $180.5 million in invoices reviewed, $150.5 million of the invoices was for airlift costs, and the remaining $30 million was for triwalls.

We did not identify any problems with the authorization of airlift billings. Invoice files included documentation from STORES that showed contract specialists routinely compared billing weights on weekly invoices to five customer orders and billing weights were generally accurate. However, we did identify problems with the authorization of billings for triwall quantities and for triwalls that were not chargeable to the contract.

Subsistence contracting officials did not independently verify that the number of triwalls billed were correct because customers at forward operating bases were not required to note the quantity of triwalls received. When we discussed the lack of verification procedures with the officials, we were informed that contract specialists gauged the number of triwalls billed based on the average weights transported per triwall. But in reviewing $30 million of triwall invoices, we saw no evidence that contract specialists questioned the number of triwalls billed. However, we did note cases where it appeared that the number of triwalls billed should have been questioned. On some invoices, airlift charges were deducted for items that were previously billed incorrectly, but triwalls quantities associated with the items were not deducted. For example, the invoice for the week ending August 25, 2008, deducted airlift charges for 4,440 pounds, but did not deduct for the associated triwalls. Similar occurrences were noted on invoices for 16 of the other 79 weeks we reviewed.

Authorizations of triwall billings also did not ensure that triwalls billed were actually chargeable to the contract. Subsistence contracting officials understood from the contract that triwalls delivered by road to the nonforward operating bases identified in the basic contract were not chargeable to the contract because costs for those triwalls were included in product distribution fees. However, the contracting officer had not developed written procedures to ensure that triwall deliveries by road to nonforward operating bases were excluded from PV invoices. For example, our review of invoices for the week ending January 24, 2009, showed that the Troop Support personnel paid $1,086 for four triwalls delivered by road to a nonforward operating base. Before September 2008, such overbillings may have been routine. According to an e-mail that a contract specialist at Troop Support Europe and Africa sent to the contracting officer, a review of triwall billings for the week ending August 23, 2008, showed that the PV had incorrectly billed for triwalls delivered by road to four nonforward operating bases. The specialist also estimated that the PV has been overpaid approximately $2 million annually because of this issue.

Subsequently (for invoices from the end of July through September 2008), the contracting officer reduced triwall payments by $1.1 million until the full extent of overbillings could be determined and reconciled with the PV. However, when we asked about the overpayments reconciliation in April 2010, the contracting officer informed us that the reconciliation had not been completed because the PV had not provided the requested data. In response to our query, the contracting officer instructed the PV to provide a full reconciliation of triwalls delivered by road to nonforward operating bases since 2006 and to refund any overpayments.

Triwall invoices we reviewed subsequent to September 2008 generally excluded triwalls delivered by road to the nonforward operating bases, except for the invoice for the week ending January 24, 2009. However, the contracting officer had not developed any written procedures for authorizing triwall or airlift payments. The contracting officer needs to develop written procedures that incorporate requirements to confirm the quantity of triwall deliveries and verify that triwalls delivered by road to nonforward operating bases are excluded from billings.

Verifying Fill Rates and Performance Based Distribution Fees

~~(FOUO)~~ The CORs need to document their reviews of the PV's reported fill rate calculations. The fill rate calculations are based on the total number of cases shipped and accepted divided by the total number of cases ordered. The contract allows the PV to be paid a 5-percent increase in performance based distribution fees for exceeding a semiannual fill rate (without substitution) of 97.5 percent along with an overall rating of excellent on the Contractor Performance Assessment Report.[9] The 5-percent increase is in addition to the normal distribution fees. To illustrate, as a result of achieving a [redacted] percent fill rate and an overall performance rating of excellent during the 6-month period July through December 2008, the PV was entitled to 5-percent higher distribution fees for the following 6 months. In 2008, we estimated that the PV was paid approximately $1.8 million[10] in performance based distribution fees for exceeding the 97.5 percent fill rate and achieving excellent ratings.

The CORs stated that they review the fill rate metric on a routine basis as part of their contract administration duties. However, based on data provided by the contracting officer, we estimated that CORs only reviewed about 1.6 percent[11] of the orders to determine accuracy of the fill rates. When we requested support for the reviews performed, the CORs were unable to provide us with documentation. Considering that the annual performance based fee represented approximately $1.8 million in additional costs to the Government for 2008, we believe that procedures should be established for maintaining the documentation supporting the review of the fill rates.

> *CORs only reviewed about 1.6 percent of the orders to determine accuracy of the fill rates.*

Developing Procedures for Validating Transportation Invoices

The contracting officer needs to develop written procedures for validating the PV's transportation invoices. Twice a month, the PV submits a transportation invoice. The invoice bills for the total weight of deliveries made through ground and air to the various ordering activities. To validate the PV's invoice, the CORs stated that for each invoice they routinely review about 10 orders related to ground transportation and 6 orders related to air deliveries. Their reviews generally consisted of obtaining the billed weights for the individual orders, comparing them to the signed customer invoices, and annotating any differences. However, we had trouble reconciling the documents that the CORs

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[9]Contractor Performance Assessment Report is a semiannual rating prepared by the contracting officer assessing the PV's overall performance. There are three primary categories that the contracting officer rates: (1) quality of service, (2) meeting schedule delivery date, and (3) general business relations. The fill rate is reported in the quality of service section of the rating.

[10]Subsistence contracting officials were unable to provide the total paid for performance based distribution fees. However one of the officials provided us data showing that the average monthly distribution fee for November 2007 through October 2008 (including the five percent performance base increase) was $3,081,455. We extrapolated the data, and estimated that the average monthly performance fee would be $146,736 ($3,081,455 – ($3,081,455/ 1.05)) or $1,760,832 a year ($146,736 * 12 months).

[11]The contracting officer informed us that during the 11-month period ending August 26, 2009, there were 21,339 orders filled for an average of 1,940 per month (21,339 / 11). The contracting officer stated that the CORs spot checked approximately 32 orders per month. Dividing the 32 orders reviewed by the 1,940 average results in a 1.6 percent rate of review.

reviewed. For example, the weight on an invoice for an April 2009 air delivery showed 311 pounds transported while Troop Support personnel were billed 356 pounds. The COR accepted the billed weight of 356 pounds. As of March 2010, the COR was unable to provide an explanation for the difference.

In addition, in September 2008, Troop Support contracting officials identified a problem where the PV had overbilled for minimum order weights for deliveries made by a particular type of helicopter. Between May 2008 and August 2008, the PV charged Troop Support 5,512 pounds as the minimum order weight instead of 2,000 pounds. The maximum capacity limit for this model of helicopter could not accommodate orders of 5,512 pounds. At the request of a contract specialist, the PV researched the overbillings and determined that Troop Support was overbilled a total of $4.1 million, which was subsequently reimbursed in November 2008. Before April 2009, the COR's validation of transportation invoices did not include a review of minimum order weights. Had written procedures been established for reviewing invoices, the CORs may have prevented the overpayments.

Had written procedures been established for reviewing invoices, the CORs may have prevented the overpayments.

Accountability of Government-Furnished Material

Subsistence contracting officials did not monitor the accountability of GFM stored by the PV. The terms of the contract calls for the PV to store GFM. Although the Army technically owns the material, the officials should provide oversight of the GFM as part of the overall administration of the contract. The CORs are also responsible for validating that the GFM storage costs are accurate. According to the contract, the PV is paid for storage of GFM that has been in their possession for greater than 30 days. There is no storage charge for the first 30 days. The CORs randomly selected storage items that were billed once a month and relied on the PV's inventory system to ensure that the count and corresponding storage costs were accurate. In addition, the CORs also checked whether stored items were issued on a first-in, first-out basis. From December 2005 through May 28, 2010, the PV was paid approximately $35.8 million for storing GFM.

The contracting officer appointed two CORs to monitor costs and performance at the PV's warehouse. However, the contracting officer did not designate either of them to monitor GFM stored at the warehouse. Neither of the two COR appointment letters listed responsibilities for monitoring GFM. During February 2010, the PV stored, on average, about $22.1 million in GFM inventory. The contracting officer should ensure GFM is adequately safeguarded by appointing a Property Administrator and developing written procedures to monitor the accountability of GFM.

Action Taken by Contracting Officer to Mitigate Lack of a Quality Assurance Surveillance Program

During the audit, the contracting officer initiated COR checklists to monitor fill rate compliance, inventory management, inspection procedures, security, and sanitation and pest control. The CORs have been using these checklists since March 24, 2009. While the checklists are a step in the right direction for contract oversight because of the

magnitude of this contract and to ensure continuous and effective contractor surveillance, Troop Support should develop a formal QASP. In addition, the contracting officer should develop written procedures implementing the checklists, specifying work requiring surveillance, and specifying the methods of surveillance.

Conclusion

The subsistence PV for Afghanistan provided food and nonfood product distribution support required by the contract. However, the contracting officer did not adhere to certain provisions of the FAR and DFARS, to include (1) timely definitizing and issuing contract modifications and (2) developing a QASP and written procedures to monitor contractor costs and performance. As a result, the PV was overpaid about $124.3 million in transportation and triwall costs, and Troop Support personnel paid the PV about $454.9 million for airlifting fresh fruit and vegetables without the airlift requirement being incorporated in the contract or documenting whether the airlift price of $3.74 per pound was fair and reasonable. In addition, subsistence contracting officials did not validate whether $103.6 million in triwall costs was accurate and chargeable to the contract, and did not monitor the accountability of GFM. Consequently, the Commander Troop Support should review the overall contract administration and initiate, as appropriate, any administrative actions warranted by the review.

Management Comments on the Finding and Our Response

The Senior Procurement Executive, DLA, provided the response for the Acting Commander, DLA Troop Support. The Acting Commander concurred with our findings and recommendations and stated that DLA Troop Support had implemented corrective actions for some of the recommendations and indicated that the other recommendations would require more planning and coordination to execute. While the Acting Commander agreed with the overall findings, he provided some comments for consideration.

Transportation Overpayment

The Acting Commander, DLA Troop Support requested that we use the phrase "potentially overpaid," when referring to the approximately $98.4 million in transportation overpayments made to the PV from December 13, 2005, through December 31, 2008. The Acting Commander stated that both Troop Support and the PV are continuing efforts to resolve the issue through negotiations. For the full text of the Acting Commander, Troop Support comments, see the Management Comments section of the report.

Our Response

We recognize that the exact amount of the overpayment will be affected by the contracting officer's negotiating approaches to resolve DCAA questioned costs and to establish permanent transportation rates for FYs 2006 through 2011. Since the exact amount of overpayment will not be known until the final rates are negotiated, we revised the report to address the Acting Commander's request.

Reasonableness of Airlift Rate

The Acting Commander, Troop Support stated that while documentation for the fair and reasonable price determination was not available for the audit team to analyze, the rate used to pay the PV to airlift fresh fruit and vegetables to Afghanistan was based on comparisons to existing U.S. Transportation Command tender rates utilizing similar routes.

Our Response

Although the documentation for evaluating the fair and reasonableness of the $3.74 rate for airlifting fresh fruits and vegetables into Afghanistan was not available for review, the comments provided by Troop Support to recommendation A.2, satisfy the intent of our recommendation.

Recommendations, Management Comments, and Our Response

A.1. We recommend that the Commander, Defense Logistics Agency Troop Support, direct the contracting officer for subsistence support in Afghanistan to:

a. Determine fair and reasonable prices for transportation and triwalls and use those prices to definitize the August 2005 verbal change order, which was formalized in Modification 10.

b. Recover triwall overpayments ($25.9 million as of May 28, 2010) that were not in accordance with contract modification 12, and use contract modification 12 reimbursement rates to pay future prime vendor triwall bills, until such time as fair and reasonable triwall rates are determined and the verbal change order of August 2005 is definitized.

c. Compute and recover the overpayments of the difference between the reimbursement rates paid to the prime vendor and the finalized rates since December 2005, after the rates are established.

d. Coordinate with Defense Logistics Agency Finance, Troop Support personnel to refund the Army for overpayments recovered from the prime vendor in response to recommendations A.1.c and A.2.c, and associated surcharges that were applied to the overpayments since December 2005.

Defense Logistics Agency Troop Support Comments

The Acting Commander, Defense Logistics Agency Troop Support agreed and stated that Troop Support was making every effort to determine fair and reasonable prices to definitize the August 2005 verbal change order, and that once the rates are finalized, Troop Support will compute and take actions to recover the difference between the reimbursement rates paid to the prime vendor and the finalized rates. The Acting Commander also stated that Troop Support will use contract modification 12 as the basis for future triwall payments until the contract is definitized, and will make every effort to recover [triwall] overpayments that were not paid in accordance with contract modification 12. Further, the Acting Commander stated that Troop Support would make

appropriate adjustments with the Army for overpayments [recovered] and associated surcharges that were applied to the adjustments. Lastly, the Acting Commander stated that Troop Support anticipates that all recommendations will be fully implemented no later than December 31, 2011.

Our Response

The Acting Commander, Defense Logistics Agency Troop Support comments are responsive. No additional comments are required.

A.2. We recommend that the Commander, Defense Logistics Agency Troop Support, have the contracting officer:

a. Request assistance from the Defense Contract Audit Agency in determining a fair and reasonable price for airlift requirements from Sharjah, United Arab Emirates.

b. Use the results of the Defense Contract Audit Agency assistance to determine and document a fair and reasonable price for airlift requirements from Sharjah into Afghanistan and formally modify the contract to incorporate the airlift requirement.

c. Compute the difference between the $3.74 per pound rate paid to the prime vendor and the finalized airlift rate since December 2005, after the airlift rate is established. If applicable, recover any differences.

Defense Logistics Agency Troop Support Comments

The Acting Commander, Defense Logistics Agency Troop Support agreed and stated that Troop Support will request assistance from the Defense Contract Audit Agency and will use the results to determine and document a fair and reasonable price for airlift requirements from Sharjah, United Arab Emirates, to Afghanistan. The Acting Commander also stated that the Contracting Officer would formally modify the contract to incorporate the airlift requirement. Further, the Acting Commander stated that Troop Support would compute the difference between the $3.74 per pound rate paid to the prime and the finalized airlift rate and would attempt to recover any differences. Lastly, the Acting Commander stated that Troop Support anticipates that all recommendations will be fully implemented no later than December 31, 2011.

Our Response

The Acting Commander, Defense Logistics Agency Troop Support comments are responsive. No additional comments are required.

A.3 We recommend that the Commander, Defense Logistics Agency Troop Support have the contracting officer develop a quality assurance surveillance plan and written procedures for monitoring the prime vendor's costs and performance. The plan and procedures should address areas to include the (1) validation of triwall invoices, to include verification of the quantity of triwalls delivered and that the quantity delivered by road to nonforward operating bases are excluded from billings, (2) verification of fill rates, to include the requirement that reviews of the

contract fill rate calculations are documented and retained, and (3) appointment of a Property Administrator to monitor accountability of Government-furnished material, to ensure Government property is adequately safeguarded.

Defense Logistics Agency Troop Support Comments

The Acting Commander, Defense Logistics Agency Troop Support agreed and stated that Troop Support will develop a quality assurance surveillance plan and written procedures for monitoring the prime vendor's cost and performance. In addition, the Acting Commander stated that the plan and procedures would address areas to include the (1) validation of triwall invoices, (2) verification of fill rates, and (3) appointment of a Government official to monitor accountability of Government-furnished material. Lastly, the Acting Commander stated that Troop Support anticipates that all recommendations will be fully implemented no later than December 31, 2011.

Our Response

The Acting Commander, Defense Logistics Agency Troop Support comments are responsive. No additional comments are required.

A.4. We recommend that the Commander, Defense Logistics Agency Troop Support:

a. Perform a review of the contract administration of the prime vendor subsistence contract for Afghanistan in light of (1) excessive delay in definitizing the verbal change order of August 2005, (2) the payment of $454.9 million in airlift costs without having a requirement for the service in the contract, (3) the agreement to pay 100 percent of triwall provisional rates without documenting how the rates were determined to be fair and reasonable, and (4) the lack of a quality assurance surveillance plan and written procedures to monitor contractor costs and performance.

b. Initiate as appropriate any administrative actions warranted by the review.

Defense Logistics Agency Troop Support Comments

The Acting Commander, Defense Logistics Agency Troop Support agreed and stated that Troop Support will perform a review of the contract administration of the prime vendor subsistence contract for Afghanistan and will initiate, as appropriate, any administrative actions warranted by the review by no later than December 31, 2011.

Our Response

The Acting Commander, Defense Logistics Agency Troop Support comments are responsive. No additional comments are required.

Finding B. Appropriation Funds Used for FY-End Transportation, Triwall, and Storage Costs Need Corrections

Troop Support personnel billed the Army about $56.5 million in transportation, triwall, and storage costs incurred for FYs 2006 through 2009 to the incorrect FY appropriation fund on the subsistence PV contract for Afghanistan. Most of the incorrect charges resulted from a systemic problem with STORES, which precluded orders processed after a FY ended from being charged to the prior FY. As a result, the incorrect charges created the potential for the Army to incur possible Antideficiency Act violations.

Subsistence contracting officials became aware of the problem and initiated some corrective action at the end of FY 2008. The corrective action, however, was not completely effective because it did not include (i) reversing incorrect charges from earlier FYs, (ii) ensuring that invoices with costs that crossed FYs were correctly processed, and (iii) properly handling PV overpayments identified after a FY ended.

Appropriation Laws and Regulations

Federal agencies are required to spend appropriations within the time and amount established by congress. Under section 1502(a), title 31, United States Code (31 U.S.C. 1502[a] [2009]), commonly referred to as the "Bona Fide Needs Rule," an appropriation is available to pay expenses incurred during the time that the appropriation is available for obligation.

The identification of a possible Antideficiency Act violation requires the initiation of a preliminary review under DoD Regulation 7000.14-R, "DoD Financial Management Regulation" volume 14, chapter 3. Paragraph 030402 of the regulation provides that within 10 business days of receipt of a draft report that alleges a potential violation, the Office of the Under Secretary of Defense (Comptroller), the Office of the Assistant Secretary of the Military Department for Financial Management, or the Comptroller or Senior Financial Manager for other DoD Components, as applicable, shall request that a preliminary review of the potential violation be initiated within the next 30 days.

Army-Appropriated Funds Used

The Army reimbursed Troop Support for airlift, transportation (within Afghanistan), and triwall costs using Operation and Maintenance, Army (OMA) appropriation[12] funds. At the same time, the Army used the Military Personnel, Army (MPA) appropriation to reimburse Troop Support for the costs of storing GFM. Both are one year appropriations

[12]Before April 2007, the Army reimbursed Troop Support for transportation and related costs using the Military Personnel, Army appropriation. In the U.S Army Audit Agency report, "A-2008-0037-FFM," February 12, 2008, it was reported that such costs should be charged to the OMA appropriation. The Office of the Assistant Secretary of the Army (Financial Management and Comptroller) agreed and reversed $378 million in transactions funds charged to the Military Personnel, Army appropriation. The Office also stated that effective in April 2007, the Army would post the costs directly to the OMA appropriation.

and generally must be available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability.

Sample of Transportation and Triwall Invoices

Our review of $180.5 million in airlift and triwall invoices showed that Troop Support personnel did not correctly charge the proper FY appropriation for $6 million in airlift and triwall services incurred in FY 2007. The costs were incurred in September 2007 and resulted in charges of $6 million (invoiced costs of $5.6 million and Troop Support subsistence surcharges of about $446,000) to the FY 2008 OMA appropriation.

Expanded Review

After noting the improper charging of the $6 million, we expanded our review and found that additional PV billings for airlift, triwall, transportation, and GFM storage costs were not charged to the correct FY appropriation. The expanded review showed that Troop Support personnel did not charge about $56.5 million in airlift, triwall, transportation and storage services provided from FY 2006 to FY 2009 to the proper FY appropriation. Table 7 shows a breakdown of billings to the wrong appropriation.

Table 7. Billings Charged to Wrong Fiscal Year Appropriation

Type of Cost	Dates Costs Incurred	FY Incurred	Appropriation Charged	Charged Amount
Triwalls	Dec. 2005 – Sep. 2006	FY 2006	FY 2007 OMA	$2,700,053
Transportation	June 2006 - July 2006, and Sep. 2006	FY 2006	FY 2007 OMA	7,760,969
Transportation/ Triwalls	Sep. 2006	FY 2006	FY 2007 OMA	4,925,368
GFM Storage	Sep. 2006	FY 2006	FY 2007 MPA	301,428
Airlift	Aug. 2006 – Sep. 2006	FY 2006	FY 2007 OMA	3,425,264
Airlift	May 2007 - June 2007	FY 2007	FY 2006 OMA	469,360
Airlift and Triwalls	Aug. 2007 – Sep. 2007	FY 2007	FY 2008 OMA	6,362,016
Transportation	Aug. 2007 – Sep. 2007	FY 2007	FY 2008 OMA	24,627,240
GFM Storage	Sep. 2007	FY 2007	FY 2008 MPA	547,560
Airlift and Triwalls	Sep. 2008	FY 2008	FY 2009 OMA	1,079,853
Transportation	Nov. 2008	FY 2009	FY 2008 OMA	4,314,831
Total				**$56,513,942**

Billing for Triwall Services from December 2005 to September 2006

Triwall services of approximately $2.7 million, incurred in FY 2006, were improperly charged to the FY 2007 OMA appropriation. From the inception of the contract until October 2006, the PV billed triwalls at 75 percent of the rates agreed to in contract modification 10. In December 2006, however, the PV requested payment of the

25 percent of the rates withheld for payments through October 2006, an amount totaling $2.7 million. The contracting officer agreed with the PV request and had the invoice for the $2.7 million processed through STORES on December 21, 2006. The payment resulted in a billing to the Army of $3 million (payment of $2.7 million and a subsistence surcharge of about $335,000). The entire $3 million was charged to the FY 2007 OMA appropriation, even though $2.7 million of the $3 million applied to costs incurred in FY 2006 (December 2005 through September 2006). The remaining $300,000 applied to costs incurred in FY 2007 (October 2006).

Transportation Services in June, July, and September 2006

About $7.8 million in transportation services provided within Afghanistan in FY 2006 were improperly charged to the FY 2007 OMA appropriation. The charges were related to emergency airlift and special project costs incurred in June, July, and September 2006 whose invoices were processed through STORES in December 2006.

Transportation and Triwall Services in September 2006

About $4.9 million in transportation and triwall services provided in FY 2006 were improperly charged to the FY 2007 OMA appropriation. The costs were incurred in September 2006 and processed through STORES in December 2006.

Government-Furnished Material Storage Services for September 2006

About $301,000 in GFM storage services provided in FY 2006 were improperly charged to the FY 2007 MPA appropriation. The costs were incurred in September 2006 and were processed concurrently with GFM storage costs for October 2006 through STORES in December 2006. The combined storage costs for both months were processed as one purchase order and charged to the FY 2007 MPA appropriation.

Airlift Services for August and September 2006

About $3.4 million in airlift services from Sharjah, United Arab Emirates to Afghanistan were incurred in FY 2006, but were improperly charged to the FY 2007 OMA appropriation. The costs were incurred during August and September 2006 and processed through STORES in October 2006.

Airlift Services for May and June 2007

About $469,000 in airlift services from Sharjah, United Arab Emirates to Afghanistan were incurred in FY 2007 but were improperly paid from the FY 2006 OMA appropriation. In May 2007, the PV notified the contracting officer that Troop Support had overpaid the PV about $418,000 because of pricing problems that had occurred from January to April 2006 in FY 2006. As a result of the overpayments, the FY 2006 OMA appropriation was incorrectly charged by about $469,000, comprised of $418,000 in airlift costs and a $51,000 subsistence surcharge. The PV proposed to settle the overpayment by deducting about $70,000 each from six weekly invoices for airlift costs in May and June 2007. The contracting officer agreed and the deductions were made from invoices that were charged to the FY 2007 OMA appropriation. Settling the overcharges with the PV was within the contracting officer's authority under FAR 33.210. What the contracting officer did not do, in conjunction with the settlement, was to have DLA Finance, Troop Support refund the

$469,000 in overpayments from the FY 2006 OMA appropriation and charge all airlift services for May and June 2007 to the FY 2007 OMA appropriation. Handling the overpayments this way resulted in the FY 2006 OMA appropriation being used to pay for FY 2007 costs.

Airlift and Triwall Services for August and September 2007

About $6.4 million in airlift and triwall services provided in FY 2007 were improperly charged to the FY 2008 OMA appropriation. The services were provided in September 2007 and processed through STORES in October 2008.

Transportation Services for August and September 2007

About $24.6 million in transportation services were provided in Afghanistan in FY 2007 and improperly charged to the FY 2008 OMA appropriation. The costs were incurred in August and September 2007 and processed through STORES in October 2007.

Government-Furnished Material Storage Services for September 2007

About $548,000 in GFM storage services were provided in FY 2007 but were improperly charged to the FY 2008 MPA appropriation. Costs for the services were incurred in September 2007 and processed through STORES in October 2007.

Airlift and Triwall Services for September 2008

About $1.1 million in airlift and triwall services were provided in FY 2008 but were improperly charged to the FY 2009 OMA appropriation. The charges represented costs for September 28 through 30, 2008, which were included as part of a PV's invoice that included costs that crossed FYs. The invoice detailed daily costs for the week ended October 4, 2008 and resulted in billing to the Army of $2.3 million. The entire invoice amount was processed through STORES in October 2008 and charged to the FY 2009 OMA appropriation. Only the $1.2 million in services provided from October 1 through 4, 2008, should have been charged to the FY 2009 OMA appropriation. The PV contract was a 60-month fixed price, indefinite quantity contract. Consequently, the contract was not a one year severable services contract that crosses FYs; therefore, the bona fide need rule exception under section 2410a, title 10, United States Code does not apply.

Transportation Services for November 2008

About $4.3 million in transportation services were provided in Afghanistan in FY 2009 but were improperly paid from the FY 2008 OMA appropriation. In September 2008, the PV notified the contracting officer that it had overcharged Troop Support by about $4.1 million for transportation costs incurred from May through August 2008 because invoice charges for those months included incorrect minimum weights used to bill helicopter transportation. The overcharges had caused a $4.3 million overcharge to FY2008 OMA appropriation funds (comprised of $4.1 million overcharge and subsistence surcharges of about $190,000). The contracting officer deducted the overcharges from the PV's transportation invoice for the first half of November 2008 and had DLA Finance, Troop Support pay the PV $5 million instead of the $9.1 million that was billed to the Army. However, the overcharge to the FY 2008 OMA appropriation

was not returned, and the FY 2009 OMA appropriation was not charged for the $4.3 million in transportation costs and surcharges for November 2008. As a result, FY 2008 OMA appropriation funds were used to pay for costs incurred in FY 2009.

The $56.5 million may not include all improper billings as our review did not include a complete review of all costs and Troop Support overpayments on the subsistence PV contract for Afghanistan or reviews of any costs for other overseas subsistence contracts.

Processing Year-End Bills

Most of the services we identified that were not charged to the appropriate FY appropriation fund involved transportation, triwall, and storage costs that occurred in one FY, but whose purchase orders were processed through STORES and billed to the Army in the subsequent FY. This was the case for the aforementioned $6 million for airlift and triwall services incurred in FY 2007 but charged to FY 2008 OMA appropriation funds. The $6 million represented costs and surcharges for the weeks ending September 15, 2007, September 22, 2007, and September 29, 2007, whose purchase orders were processed directly into STORES in October 2007.

When we discussed the problem with subsistence contracting officials in early October 2009, they told us that when offline costs from one FY were processed directly through STORES after that FY ended, systemic problems precluded STORES from recognizing that the costs should be charged to that FY's appropriation fund. Instead, STORES charged the costs to the current FY appropriation fund, and the Army was unaware that the costs were actually incurred in the prior FY. The officials further stated that they had taken corrective action at the beginning of FY 2009. The corrective action involved having invoices for costs incurred during FY 2008, but processed in FY 2009 entered directly into Troop Support's Electronic Business System, thereby bypassing STORES.

However, the corrective action did not include identifying offline costs for prior FYs that were not charged to the appropriate FY appropriation fund. Subsistence contracting officials should have identified those costs, coordinated with DLA Finance, Troop Support to return funds that were incorrectly charged, and obtained funding from the correct FY appropriation. Moreover, the corrective action did not make sure that airlift and triwall costs on invoices that crossed FYs were charged to the correct FY appropriation. This was the case with the airlift and triwall services for September 2008 previously discussed. Those costs were incurred from September 28 through 30, 2008. The $1.1 million in costs and subsistence surcharges incurred for those three days were part of invoiced costs that crossed FYs and were included in $2.3 million charged to FY 2009 OMA appropriation funds.

We alerted subsistence contracting officials about the problem with the processing of airlift and triwall invoices that crossed FYs in early October 2009 before the airlift and triwall invoice covering the last week of FY 2009 was processed. That invoice included costs for the week ended October 3, 2009. Consequently it included 4 days of costs charged to FY 2009 OMA appropriation funds and 3 days of costs charged to FY 2010 OMA appropriation funds. The officials took immediate corrective action and made sure that all the costs on the invoice were charged to the correct FY appropriations.

Processing Vendor Overpayments

Part of the problem with costs not being charged to the correct FY appropriation was the way that contracting officer resolved some vendor overpayments. We found two instances where contracting officials resolved overpayments identified after the fact by deducting the overpayments from current invoices. This is not a problem when the current invoices are for the same FY in which the overpayments occurred. It is a problem, however, when the services provided are for a different FY and the FY funds from the prior year are not refunded to the Army. This was the case in our earlier discussion of PV transportation billings for November 2008. All PV transportation costs billed for the first half of November 2008 should have been charged to FY 2009 OMA appropriation funds, and DLA Finance, Troop Support should have returned the $4.3 million in FY 2008 OMA appropriation funds that were overbilled to the Army.

When we met with subsistence contracting officials in October 2009, we provided actual and potential misbillings that we identified to date and asked that they determine the full extent of costs on subsistence PV contracts that were not charged to the appropriate FY appropriation and coordinate with the Army to correct the billings. As of June 2010, however, the officials had not completed their review.

Recommendations, Management Comments, and Our Response

B. We recommend that the Commander, Defense Logistics Agency Troop Support, direct subsistence officials to:

1. Refund $56.5 million to the Army in appropriated funds identified by the audit in Table 7 (page 23) that were not charged to the appropriate FY appropriation.

2. Bill $56.5 million to the Army in appropriated funds identified by the audit in Table 7 (page 23) to the appropriate FY appropriation.

3. Establish controls to ensure that future costs on subsistence prime vendor contracts, to include refunds of prime vendor overpayments and costs on invoices that cross FY, are charged to the appropriate FY appropriation.

4. Conduct reviews of all subsistence prime vendor contracts to determine whether costs were charged to the appropriate FY appropriation. If costs are identified that were charged incorrectly, initiate corrective actions.

Defense Logistics Agency Troop Support Comments

The Acting Commander, Defense Logistics Agency Troop Support agreed and stated that Defense Logistics Agency Finance implemented recommendations B.1 and B.2 in November 2010, and processed billing adjustments correcting the FY appropriation charges. The Acting Commander also stated that Troop Support will establish controls to ensure future prime vendor costs that cross FYs and refunds of overpayments are charged to the appropriate FY appropriation. Further, the Acting Commander stated that Troop

Support will conduct reviews of all subsistence prime vendor contracts to determine whether costs were charged to the appropriate FY appropriation. Lastly, the Acting Commander stated that corrective actions would be taken on recommendations B.3 and B.4 no later than December 31, 2011 if any costs are identified as being incorrectly charged.

Our Response

The Acting Commander, Defense Logistics Agency Troop Support comments are responsive. No additional comments are required.

Appendix A. Scope and Methodology

We conducted this performance audit from February 2009 through October 2010 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 provided a reasonable basis for our findings and conclusions based on our audit objectives.

We reviewed subsistence PV solicitation SPM300-04-R-0323, September 3, 2004; amendments 1 through 4 to the solicitation; PV contract SPM300-05-D-3130, June 3, 2005; contract modifications P00001 through P00073; and four DCAA audit reports: (1) Report 2191-2007M17200001-S1, "Supplement to Report on Audit of Price Adjustment Claim for Food Spoilage," September 17, 2007; (2) Report 2191-2008M27000001, "Report on Audit of Supreme Foodservice AG's Cost Proposal for Convoy Security," June 6, 2008; (3) Report 2191-2008M17200002, "Report on Audit of Equitable Adjustment Claim for Expired Stock," August 14, 2008; and (4) Report 2191-2008M17200001, "Report on Audit of Equitable Adjustment Proposal for Change Related to Outbound Transportation Effort," December 19, 2008.

We reviewed Federal and DoD criteria regarding quality assurance and surveillance to evaluate whether contract administration of the PV subsistence contract for Afghanistan complied with the criteria. We conducted extensive research of Federal and DoD criteria related to the Troop Support Subsistence PV program, contract quality assurance and surveillance requirements, contract pricing and documentation, undefinitized contract actions, and distribution of budgetary resources. The specific criteria reviewed included United States code, FAR, DFARS, DoD instructions, DoD Financial Management Regulations, and Troop Support guidance.

The various documents provide guidance on PV program management and controls for processing subsistence transactions. We interviewed key personnel involved with the PV program at Troop Support in Philadelphia, Europe, and Afghanistan. We evaluated the controls over processing PV payments. We reviewed supporting documentation for PV transactions, including delivery transaction receipts, and shipping manifests. We analyzed data obtained from the Food Service Customer Business Unit in the Subsistence Directorate, and Defense Logistics Agency Finance, Troop Support. Lastly, we reviewed weekly, monthly, and quarterly PV reports.

Use of Computer-Processed Data

To assess the reliability of orders, receipts, and payments data from STORES, we talked with Troop Support personnel about data quality control procedures and reviewed relevant documentation. We determined that the data were sufficiently reliable for the purposes of this report.

Prior Coverage of Subsistence Prime Vendor Program

During the last 5 years, the Government Accountability Office, and the Department of Defense Inspector General have issued no reports discussing the Subsistence PV Program.

Appendix B. Regulatory Guidance

Surveillance Requirements

FAR 46.103, "Contracting Office Responsibilities," provides that contracting offices are responsible for receiving a QASP from the requesting activity when contracting for services. FAR 46.103 states: "[c]ontracting offices are responsible for receiving from the activity responsible for technical requirements any specifications for inspection, testing, and other contract quality requirements essential to ensure the integrity of the supplies or services."

According to FAR Subpart 46.4, "Government Contract Quality Assurance," a QASP should be prepared in conjunction with preparation of the statement of work and should specify all work requiring surveillance and the method of surveillance. FAR subpart 46.4 states:

> Government contract quality assurance shall be performed at such times (including any stage of manufacture or performance of services) and places (including subcontractors' plants) as may be necessary to determine that the supplies or services conform to contract requirements. Quality assurance surveillance plans should be prepared in conjunction with the preparation of the statement of work. The plans should specify–
>
> 1. All work requiring surveillance, and
> 2. The method of surveillance.

FAR 37.604, "Quality Assurance Surveillance Plans," states: "[t]he Government may either prepare the QASP or require the offerors to submit a proposed QASP for the Government's consideration in development of the Government's plan." The requirements for quality assurance and QASPs are in FAR subpart 46.4.

Contract Pricing

FAR 15.406-1, "Prenegotiation Objectives," states that prenegotiation objectives assist the contracting officer in determination of fair and reasonable prices. The objectives are to be based on the results of the contracting officer's analysis, to include consideration of all pertinent field pricing assistance, audit reports and technical analysis, fact-finding results, independent Government cost estimates and price histories. In addition, the part states the contracting officer shall establish prenegotiation objectives before the negotiation of any pricing action, and that the scope and depth of the analysis supporting the objectives should be directly related to the dollar value, importance, and complexity of the pricing action.

FAR 15.406-3 requires the contracting officer to document in the contract file the principal elements of the negotiated agreement to include the documentation of fair and reasonable pricing.

Appendix C. Memorandum for Commander, Defense Logistics Agency Troop Support

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

August 7, 2009

MEMORANDUM FOR COMMANDER, DEFENSE SUPPLY CENTER PHILADELPHIA

SUBJECT: Overpayments Identified During the Audit of Contract Administration of the Prime Vendor Program for Subsistence in Support of Operation Enduring Freedom (Project No. D2009-D000LD-0126)

During the subject audit, we identified overpayments to the prime vendor for premium transportation, along with the overbilling of premium transportation to the Army, as areas of concern. Specifically, Defense Supply Center Philadelphia (DSCP) may have overpaid the prime vendor contractor about $98.4 million for providing fixed-wing, helicopter, and ground transportation of food and food-related products to forward operating bases in Afghanistan. DSCP then billed the Army for the amount it paid the vendor plus a surcharge, resulting in potential overbillings of about $108.5 million from December 13, 2005, through December 31, 2008. Similarly, DSCP may have overpaid the prime vendor $11.9 million for packaging costs from March 8, 2007 through April 24, 2009 resulting in overbillings to the Army of $12.9 million. We are providing this memorandum for your action on the recommendations before the completion of the audit.

Our overall audit objective was to evaluate the Prime Vendor Program for subsistence in support of Operation Enduring Freedom. Specifically, we reviewed whether payments for premium transportation were fair and reasonable. We have tentatively concluded that payments for premium transportation were not fair and reasonable because the contracting officer's August 26, 2005, verbal change order expanding the number of distribution sites was not definitized in a timely manner, DSCP paid transportation expenses based on minimum order weights instead of on actual weights shipped, and DSCP paid 100 percent of packaging costs instead of 75 percent as stipulated in the contract modification. As a result, the prime vendor was overpaid and the Army was overbilled for premium transportation. We plan to issue a final report on the overall audit objective when we complete the audit fieldwork.

Basic Contract

DSCP issued the prime vendor contract to Supreme Foodservice AG, headquartered in Ziegelbrücke, Switzerland, to distribute a full line of food and nonfood products to customers in Afghanistan. The 60-month contract (SPM300-05-D-3130) dated June 3, 2005, had an effective performance start date of December 13, 2005, and was estimated to cost about $726 million. As of May 31, 2009, DSCP had paid the prime vendor about $1.7 billion.

At the time the contract was awarded, the prime vendor was required to provide food and nonfood distribution support to four primary sites in Afghanistan—Bagram, Kabul, Salerno, and Kandahar. The cost to deliver the products from the prime vendor's warehouse in Kabul to the four sites was included as part of the distribution fees, which, in addition to the transportation costs, include the prime vendor's profit, general and administrative expenses, and overhead expenses.

Verbal Change Order

On August 26, 2005, the contracting officer issued a verbal change order for the prime vendor to provide food distribution support to 68 additional sites. Security concerns and the

overall lack of developed roadways in Afghanistan prevented the prime vendor from using ground transportation to service some of the 68 additional sites. Consequently, the contracting officer verbally authorized the prime vendor to support the 68 sites using a combination of fixed-wing aircraft, helicopters, and trucks for distribution.

In July 2006, approximately 1 year after the verbal change order was issued, the prime vendor submitted an equitable adjustment claim totaling $33.5 million for premium transportation expenses incurred from December 13, 2005 through June 30, 2006. Of the $33.5 million, $27.3 million represented costs associated with fixed-wing aircraft, helicopters, and truck transportation. The remaining $6.2 million was applicable to packaging (triwall) costs.[1]

Contract Modification 10

On August 2, 2006, the contracting officer issued contract modification 10 to formalize the verbal change order. To compensate for the additional transportation and packaging expenses, modification 10 established the following rates.

Tentative Premium Rates

Helicopter	$8.35 per pound
Fixed Wing	$2.65 per pound
Ground	$0.48 per pound
Triwall Frozen	$302.00 per box
Triwall Chilled	$241.00 per box

Modification 10 also authorized two separate payments totaling $25 million, which covered about 75 percent of the prime vendor's $33.5 million equitable adjustment claim. The remaining 25 percent ($8.5 million) would be paid pending verification and approval by the contracting officer. On August 22, 2006, the contracting officer requested the Defense Contract Audit Agency (DCAA) to perform an audit of the $33.5 million claim.

Contract Modification 12

On October 10, 2006, approximately 2 months after modification 10 was signed, modification 12 was issued. In it, both parties agreed that from July 2006 forward, DSCP would reimburse the prime vendor monthly at 75 percent of the rates in modification 10, pending the results of the DCAA review. After the contracting officer establishes final premium transportation and packaging rates, adjustments to the amounts reimbursed will be made. The reimbursement rates (75 percent of the tentative premium rates) amounted to the following.

Tentative Reimbursement Rates

Helicopter	$6.26 per pound
Fixed Wing	$1.99 per pound
Ground	$0.36 per pound
Triwall Frozen	$226.50 per box
Triwall Chilled	$180.75 per box

[1]Triwalls are three layered corrugated boxes used for packaging and shipping chilled or frozen food products. For example, items such as fresh and frozen fruits and vegetables, ice cream, and dairy products require a triwall to preserve the shelf life and avoid spoilage.

Undefinitized Contract Action

As of August 3, 2009, the August 26, 2005, verbal change order remains undefinitized. Defense Federal Acquisition Regulation Supplement Subpart 217.74, "Undefinitized Contract Actions," requires contract actions to be definitized within 180 days of a contract modification for additional supplies or services. Defense Federal Acquisition Regulation Supplement 217.7404-5, "Exceptions," allows the head of an agency to waive the 180-day limit if necessary to support a contingency operation. As of July 17, 2009, DSCP had not requested a waiver from the Director of the Defense Logistic Agency. Because the change has been undefinitized for almost 4 years, we question the value of requesting a waiver at this time. We believe that the verbal change order relating to premium transportation should be promptly definitized.

Additionally, Defense Federal Acquisition Regulation Supplement 217.7404-6, "Allowable Profit," states that when the final price of an undefinitized contract action is negotiated after a substantial portion of the required performance has been completed, the profit allowed should reflect:

- any reduced cost risk to the contractor for costs incurred during contract performance before negotiations of the final price; and
- the contractor's reduced cost risk for costs incurred during performance of the remainder of the contract.

The prime vendor's $33.5 million equitable adjustment claim proposed applying profits of [redacted] percent for fixed-wing aircraft costs, [redacted] percent for helicopter costs, and [redacted] percent for ground (truck) transportation costs. We believe that DSCP during the definitization of Modification 10 should analyze the contract's proposed profit rates to ensure that the rates reflect any reduced cost risks. In our opinion, the cost risks have been reduced, and profit rates should reflect the reduced cost risk as a result of the almost 3.5 years of actual contract performance.

DCAA Audit

On August 22, 2006, the contracting officer requested that the DCAA European branch office audit the prime vendor's $33.5 million equitable adjustment claim. Since the prime vendor's records were maintained in Kabul, Afghanistan, the European branch office transferred the request to the Iraq branch office. In March 2007, the prime vendor informed the Iraq branch office that the records had been transferred from Afghanistan to the United Arab Emirates. The Iraq branch office cancelled the audit in September 2007 but never formally advised the European branch office that it again had cognizance of the requested audit. After the contracting officer requested an update on the status of the audit in April 2008, the European branch office initiated an audit of the prime vendor's total premium transportation costs of $81.4 million for 2006 and 2007. In December 2008, DCAA issued its audit report questioning approximately [redacted] percent ($[redacted] million) of the $81.4 million in claimed premium transportation costs. Items that DCAA questioned were $[redacted] million in distribution fees, $[redacted] million in central overhead cost, $[redacted] million in consultancy costs, $[redacted] million in depreciation, $[redacted] million in financing costs, and $[redacted] million in miscellaneous costs.

DSCP Actions in Response to DCAA Report

The contracting officer drafted an approach to negotiate the $[redacted] million in questioned costs with the prime vendor. DSCP has not, however, finalized a unified negotiating approach. Considering the magnitude of the questioned costs, we believe that DSCP should promptly finalize its approach for negotiating final premium transportation rates.

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Estimated Overpayments of Premium Transportation

Using the incurred cost and payment data provided by the prime vendor for the period December 13, 2005, through December 31, 2008, we estimated that DSCP overpaid the prime vendor approximately $98.4 million in premium transportation costs. As illustrated in Table 1, we computed the overpayments by comparing the prime vendor's incurred costs and proposed profits with the premium transportation payments that the prime vendor reported receiving from DSCP. One reason the prime vendor was overpaid was that the tentative reimbursement rates were significantly higher than the rates needed to reimburse the vendor for costs and associated profits. The other reason was that DSCP paid the prime vendor for minimum shipping weights per order—for example, 2,000 pounds for helicopter, 5,000 pounds for fixed-wing aircraft, and 10,000 pounds for ground transportation—when actual weights were less; shipments sometimes filled all the space available in the helicopter before they reached the minimum weight. In 2007 DSCP overpaid the prime vendor approximately $19.8 million for helicopter transportation costs as shown in column F of Table 1. Of the $19.8 million, approximately $[redacted] million resulted from the helicopter reimbursement rate being much higher than the rate needed to reimburse the prime vendor for helicopter-related costs and associated profit. The remaining $[redacted] million resulted from payments for orders being based on minimum weight (2,000 pounds) instead of the actual weight when the actual weight was less than the minimum weight. To illustrate, in 2007 the prime vendor was paid for transporting 8.8 million pounds by helicopter. The prime vendor's records showed that the actual weight transported was only [redacted] million pounds. We multiplied the difference of [redacted] million pounds by the tentative helicopter reimbursement rate ($6.26) to calculate the $[redacted] million. As of June 15, 2008, DSCP discontinued paying for additional pounds billed above the actual weights. We believe the actual overpayments will be affected by the contracting officer's negotiation of the DCAA questioned costs ($29.6 million), establishment of a fixed 5-year premium transportation reimbursement rate for each mode of transportation, and the establishment of realistic minimum order weight requirements.

Estimated Overpayments of Triwalls

Using payment data provided by the contracting officer, we estimated that DSCP overpaid the prime vendor about $11.9 million in triwall costs from March 8, 2007, through April 24, 2009. We estimated the overpayment by multiplying the total payments for triwalls during the period by 25 percent. We did this because DSCP paid the prime vendor 100 percent versus 75 percent of triwall costs as stated in modification 12. For example, the prime vendor billed and DSCP paid $302 for frozen triwalls instead of $226.50. Table 2 lists the estimated triwall overpayments. The overpayments occurred because DSCP personnel who validated triwall invoices were unaware that the invoices should have been paid at 75 percent of the rate.

Table 1. Estimated Overpayments of Premium Transportation

A	B	C	D	E	F
Mode/Year	Prime Vendor's Incurred Costs	Prime Vendor's Proposed Profit[1]	Total (Column B+C)	Payment to Prime Vendor[2]	Amount Overpaid[3] (Column E-D)
Fixed Wing/ 2006	$		$ 7,501,236	$ 8,524,930	$ 1,023,694
Helicopter/ 2006			7,634,411	10,793,488	3,159,077
Ground/ 2006			11,707,335	18,685,800	6,978,465
Fixed Wing/ 2007			11,391,854	17,045,205	5,653,351
Helicopter/ 2007			35,144,863	54,989,478	19,844,615
Ground/ 2007			17,045,529	32,929,866	15,884,337
Fixed Wing/ 2008			32,302,736	42,451,996	10,149,260
Helicopter/ 2008			102,381,818	132,305,038	29,923,220
Ground/ 2008			33,212,976	39,026,979	5,814,003
Total	**$**	**$**	**$258,322,758**	**$356,752,780**	**$98,430,022**

[1]The prime vendor's proposed profit of $ million includes $ million for fixed-wing aircraft, $ million for helicopter, and $ million for ground transportation.

[2]In accordance with modification 12, DSCP paid 75 percent of the premium rates agreed to in modification 10. Total payments were obtained from the prime vendor's financial records.

[3]Amounts will be affected by final settlement of DCAA questioned costs, the establishment of permanent rates, and establishment of minimum order weight requirements.

Table 2. Estimated Overpayments for Triwalls

A	B	C	D
Fiscal Year	Payments to Prime Vendor	Percentage Overpaid	Amount Overpaid
2007[1]	$ 11,885,039	25%	$ 2,971,260
2008	24,192,220	25%	6,048,055
2009[2]	11,437,548	25%	2,859,387
Total	**$ 47,514,807**		**$ 11,878,702**

[1]FY 2007 represents 7 months of payments. Payment records for the period October 1, 2006, through March 7, 2007, were not readily available.

[2]FY 2009 represents 7 months of payments, October 1, 2008, through April 24, 2009.

Records of the actual rates that DSCP paid for triwalls before March 8, 2007, were not readily available. However, if payments for triwalls before March 8, 2007, were based on 100 percent of the triwall rates, additional overpayments would have been made. We believe that until the verbal change order is definitized, DSCP should pay only 75 percent of the triwall rates.

Verification of Triwall Rates

Triwall costs were not addressed in the DCAA audit of premium transportation. We believe that triwall costs should be audited by DCAA or that the contracting officer should determine fair and reasonable costs of triwall before definitizing the verbal change order.

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Estimated Overbillings to the Army for Premium Transportation

We estimate that DSCP overbilled the Army $121.3 million in fixed-wing, helicopter, ground transportation, and triwall costs. The $121.3 million comprised:

- $98.4 million overpaid the prime vendor for transportation (Table 1),
- $11.9 million overpaid the prime vendor for triwalls (Table 2), and
- $11.0 million in annual surcharges that DSCP billed the Army on those overpayments, as illustrated in column D of Tables 3 and 4.

Table 3. Estimated DSCP Transportation Overbillings to the Army

A	B	C	D	E
Year	Premium Transportation Overbilled[1]	DSCP Surcharge Rate[2]	DSCP Surcharge[3] (B*C)	Total Overbilled (B+D)
2006	$11,161,236	11.10%	$1,238,897	$ 12,400,133
2007	41,382,304	12.40%	5,131,406	46,513,710
2008	45,886,483	8.00%	3,670,919	49,557,402
Total	**$98,430,023**		**$10,041,222**	**$108,471,245**

[1]Amount overbilled represents the total DSCP overpaid the prime vendor from Table 1.

[2]DSCP's FY surcharge rates.

[3]We applied DSCP FY surcharge rates (column C) to the year's overbilled premium transportation cost (column B) to estimate overbillings because records of overpayments to the prime vendor by FY were not available.

Table 4. Estimated Triwall Overbillings to the Army

A	B	C	D	D
Fiscal Year	Triwall Overbilled[1]	DSCP Surcharge Rate[2]	DSCP Surcharge (B*C)	Total Overpayment (B+D)
2007[3]	$ 2,971,260	12.4%	$368,436	$ 3,339,696
2008	6,048,055	8.0%	483,844	$ 6,531,899
2009[4]	2,859,387	4.6%	131,532	$ 2,990,919
Total	**$11,878,702**		**$983,812**	**$ 12,862,514**

[1]Amount overbilled represents the total DSCP overpaid the prime vendor from Table 2.

[2]DSCP's FY surcharge rates.

[3]FY 2007 represents 7 months of payments. Payment records for October 1, 2006, through March 7, 2007, were not readily available.

[4]FY 2009 represents 7 months of payments, October 1, 2008, through April 24, 2009.

The Army used Operation and Maintenance funds to pay DSCP for the premium transportation services. Operation and Maintenance funds are annually appropriated and are generally available for obligation during one fiscal year. DSCP did not identify overpayments for premium transportation during fiscal years 2006-08. Consequently, the center did not recover overpayments during those years when the Army could have used the recovered amounts to meet other high priority requirements. In effect the Army did not have an opportunity to spend the estimated $118.3 million it was overbilled for fiscal years 2006-08 ($108.4 million for fixed-wing, helicopter, and ground transportation and $9.9 million for triwall costs) to satisfy other needs. However, the Army may be able to use the estimated $3.0 million in overpayments for FY 2009 if DSCP refunds those overpayments before September 30, 2009. Estimating overbillings to the Army on fixed-wing, helicopter, and ground transportation for FY 2009 was not possible because the prime vendor's financial records were not readily available. The

negotiating approach proposed by the contracting officer to establish premium transportation rates will, we believe, identify additional refunds for FY 2009.

DSCP Actions to Address Overpayments

On April 28, 2009, we discussed overpayments of premium transportation costs with the contracting officer. On May 5, 2009, the contracting officer informed the prime vendor that, based on the actual premium transportation costs incurred during fiscal years 2006 and 2007, she proposed to lower the tentative rates identified in modification 10 until the verbal change order is definitized. As a result of this decision, and in accordance with contract modification 12, DSCP will reimburse the prime vendor 75 percent of the proposed rates. The proposed lower premium transportation and reimbursement rates are shown in Table 5.

Table 5. Lower Proposed Premium Transportation and Reimbursement Rates

Mode	Premium Transportation (per pound)	Reimbursement Rate (per pound)
Helicopter	$4.99	$3.74
Fixed Wing	$1.52	$1.14
Ground	$0.23	$0.17

The contracting officer also planned to seek reimbursement for the premium transportation overpayments from June 15, 2008, through March 14, 2009, resulting from the difference between the initial and proposed lower reimbursement rates as shown in Table 6.

Table 6. Change in Premium Transportation Reimbursement Rates

Mode	Initial Rate (Per Pound)	Proposed Rate(Per Pound)	Difference (Per Pound)
Helicopter	$6.26	$3.74	$2.52
Fixed Wing	$1.99	$1.14	$0.85
Ground	$0.36	$0.17	$0.19

As of August 3, 2009, the contracting officer had not implemented the lower rates or recovered any premium transportation overpayments. We believe that the lower reimbursement rates should be implemented promptly considering the substantial overpayments made to date. We also believe that the plan can be improved by having the contracting officer focus on obtaining premium transportation overpayments for FY 2009 as soon as possible. After obtaining the amount overpaid, DSCP should reimburse the Army the amount overbilled for FY 2009, thereby allowing the Army to use the recovered funds for other high priority requirements. Finally, the plan should address the recovery of overpayments made since December 13, 2005, after negotiating the final premium transportation rates.

When we met with the contracting officer on April 28, 2009, we also discussed triwall rates and recommended a DCAA audit of the rates. We noted that the DCAA audit of fixed-wing aircraft, helicopter, and ground transportation costs for 2006 and 2007 questioned about 36 percent ($29.1 million) of the $81.4 million in claimed costs. Moreover, cost data provided for the audit showed large overpayments because reimbursement rates for fixed-wing, helicopter, and ground transportation were much higher than rates needed to compensate the prime vendor for costs and proposed profits. The contracting official responded that requesting an audit of the triwall costs was of questionable value and would unduly delay definitizing the August 2005 verbal change order. Without cost data, the reasonableness of proposed triwall rates is difficult to assess. Considering the large expenditures for triwall costs ($47.5 million for billings between March 8, 2007, and April 24, 2009), and the need for more triwalls because of the troop buildup

in Afghanistan, we believe that DSCP should still ask DCAA to expedite an audit of the prime vendor's triwall costs. If an audit cannot be completed in time for DSCP to definitize the verbal change order, it may be of value in assessing triwall rates for the follow-on contract.

We recommend that the Commander, Defense Supply Center Philadelphia:

- Have the contracting officer promptly implement the proposed lower premium transportation reimbursement rates and recover the overpayment of the difference between the old and lowered reimbursement rates paid since the start of FY 2009. In addition, have Defense Supply Center Philadelphia reimburse the Army for overpayments recovered and for Defense Supply Center Philadelphia annual surcharges applied to the overpayments for FY 2009.
- Request an expedited DCAA audit of the prime vendor's triwall costs.
- Definitize the August 2005 verbal change order, which was formalized in Modification 10, by approving the negotiating approach and finalizing the premium transportation and triwall reimbursement rates. After the rates are established, compute and recover the premium transportation overpayments made to the prime vendor since December 2005.

We are performing this audit in accordance with generally accepted government auditing standards and are providing you these interim results so that you may start taking appropriate corrective actions. We anticipate issuing a draft report outlining the above issues identified as a result of the audit and the stated recommendations. We would like to give you credit in both the draft and final reports for any corrective actions taken as a result of this memorandum. Therefore, we request that you apprise us of all corrective actions you take or have taken to address the recommendations by August 12, 2009. Please contact [redacted]

Joseph T. McDermott
Acting Program Director
Readiness, Operations, and Support

Appendix D. Commander, Defense Logistics Agency Troop Support Response to Memorandum

DEFENSE LOGISTICS AGENCY
DEFENSE SUPPLY CENTER PHILADELPHIA
700 ROBBINS AVENUE
PHILADELPHIA, PENNSYLVANIA 19111-5092

IN REPLY REFER TO

D

OCT 5 2009

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Overpayments Identified During the Audit of Contract Administration of the Prime Vendor Program for Subsistence in Support of Operation Enduring Freedom (Project No. D2009-D000LD-0126)

Reference is made to the Inspector General, Department of Defense letter dated August 7, 2009, subject as above.

The Defense Supply Center Philadelphia appreciates the opportunity to offer input to the subject audit especially given the unique circumstances of Subsistence support within this theater of operations. Regarding the three recommendations on page eight (8) of the referenced report, the Attachment is provided with our responses.

Each recommendation is based on events currently underway or scheduled. Based on the outcome of the tri-wall audit and upon completion of negotiations and definitization of the premium transportation change order, DSCP will coordinate with your office with either updates to the responses or provide final dispositions.

The point of contact for this action is [redacted]

GUSTAVE F. PERNA
Brigadier General, USA
Commander

Attachment

Overpayments Identified During the Audit of Contract Administration of the Prime Vendor Program

For Subsistence in Support of Operation Enduring Freedom (Project No. D2009-D000LD-0126).

1. RECOMMENDATION: Have the contracting officer promptly implement the proposed lower premium transportation reimbursement rates and recover the overpayment for the difference between the old and lowered reimbursement rates paid since the start of FY 2009. In addition, have Defense Supply Center Philadelphia (DSCP) reimburse the Army for overpayments recovered and for DSCP annual surcharges applied to the overpayments for FY2009.

RESPONSE: In May 2009, DSCP requested Supreme to change their pricing to reflect the lower premium transportation rates (based on the DCAA analysis). However, Supreme provided supporting information such as the number of locations and distances to the Contracting Officer that justified keeping the rates as is pending negotiations and final definitization. Upon completion of negotiations and definitization, all overpayments (difference between the old rate and the rate definitized) will be recovered and the Army will be reimbursed accordingly.

2. RECOMMENDATION: Request an expedited DCAA Audit of the Prime Vendor's triwall costs.

RESPONSE: A DCAA audit was requested on August 14, 2009. The contracting officer is awaiting results. Expectations are for results to be forwarded by December 1, 2009. Note, the tri-wall matter is being addressed independently from the premium rates.

3. RECOMMENDATION: Definitize the August 2005 verbal change order formalized in Modification P00010 by approving the negotiating approach and finalizing the premium transportation and triwall reimbursement rates. After the rates are established, compute and recover the premium transportation overpayments made to the Prime Vendor since December 2005.

RESPONSE: DSCP is currently in negotiations with Supreme regarding premium transportation. Additional rounds of negotiations will be held with Supreme on a face-to-face basis on October 1 & 2, 2009. An auditor from DCAA will be available for consultation during the negotiations. Upon completion of negotiations and definitization, all overpayments (difference between the old rate and the rate definitized) will be recovered and the Army will be reimbursed accordingly.

Defense Logistics Agency Troop Support Comments

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

DEC 20 2010

IN REPLY REFER TO DLA Troop Support

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Response to draft report *Improvements Needed in Contract Administration of the Prime Vendor Subsistence Contract For Afghanistan,* Report No. D2009-D000LD-0126.00

Defense Inspector General audited Defense Logistics Agency (DLA) Troop Support pursuant to Public Law 110-181, "The National Defense Authorization Act for Fiscal Year 2008," section 842, "Investigation of Waste, Fraud, and Abuse in Wartime Contracts and Contracting Processes in Iraq and Afghanistan," January 28, 2008.

The purpose of this memorandum is to provide DLA's responses to the Department of Defense Inspector General audit report recommendations.

We would like to thank the Department of Defense Inspector General staff for their time and expertise during the audit.

Nancy M. Heimbaugh

NANCY M. HEIMBAUGH
Senior Procurement Executive

Attachment

Federal Recycling Program Printed on Recycled Paper

DEFENSE LOGISTICS AGENCY
TROOP SUPPORT
700 ROBBINS AVENUE
PHILADELPHIA, PENNSYLVANIA 19111-5092

IN REPLY
REFER TO D

MEMORANDUM FOR DOD IG, ATTN: AUDIT DIVISION

THROUGH: DEFENSE LOGISTICS AGENCY, ATTN: AUDIT DIVISION

SUBJECT: Department of Defense Office of Inspector General, Improvements Needed in Contract Administration of the Prime Vendor Subsistence Contract for Afghanistan; Project No. D2009-D000LD-0126.00

DLA Troop Support has read the subject draft report and concurs with the overall findings and recommendations (with comment) contained therein. Troop Support has already implemented some of the recommendations and these are annotated in the document below. Other recommendations will require more extensive planning and coordination to implement. We anticipate all recommendations to be fully implemented no later than December 31, 2011.

We appreciate the opportunity to review and offer comments to the subject Draft Report and we would like to thank the audit team for their professionalism and attention to detail during the performance of the audit.

Please find our specific responses below:

Finding A. Better Contract Administration of Prime Vendor Costs and Performance Needed (page 6).

Concur with overall finding. However, for the sake of accuracy, we request the DODIG consider two important points and modify the report as appropriate:

Bullet 1: Since the contract has yet to be definitized, we believe it would be more prudent to use the phrase "potentially overpaid." Both parties are continuing efforts to resolve the issue through negotiations and an on-going DCAA audit.

Bullet 4: While documentation for the fair and reasonable price determination was not available for the audit team to analyze, the rate used was based on comparisons to existing TRANSCOM tender rates utilizing similar routes.

Recommendations:

A.1. We recommend that the Commander, Defense Logistics Agency Troop Support direct the contracting officer to:

(1) Determine fair and reasonable prices for transportation and triwalls and use those prices to definitize the August 2005 verbal change order, which was formalized in Modification 10.

Concur--Troop Support is making every effort to determine fair and reasonable prices for transportation and triwalls and use those prices to definitize the August 2005 verbal change order. This change order was formalized in Modification 10.

(2) Recover triwall overpayments ($25.9 million as of May 28, 2010) that were not in accordance with contract modification 12, and use contract modification 12 reimbursement rates to pay future prime vendor triwall bills, until such time as fair and reasonable triwall rates are determined and the verbal change order of August 2005 is definitized.

Concur--Troop Support will make every effort to recover any overpayments that were not paid IAW contract modification 12 and use modification 12 as the basis for future triwall payments until the contract is definitized.

(3) Compute and recover the overpayments of the difference between the reimbursement rates paid to the prime vendor and the finalized rates since December 2005, after the rates are established.

Concur-- Once the rates are finalized, Troop Support will compute the difference between the reimbursement rates paid to the prime vendor since December 2005 and the finalized rates and take action accordingly.

(4) Refund the Army for overpayments recovered from the prime vendor in response to recommendations A.1.c and A.2.c, and associated surcharges that were applied to the overpayments since December 2005.

Concur--Troop Support will make appropriate adjustments with the Army for overpayments / underpayments in response to recommendations A.1.c and A.2.c, and associated surcharges that were applied to the adjustments since December 2005.

A.2. We recommend that the Commander, Defense Logistics Agency Troop Support have the contracting officer:

(1) Request assistance from the Defense Contract Audit Agency in determining a fair and reasonable price for airlift requirements from Sharjah, United Arab Emirates.

Concur with comment. Although documentation for the fair and reasonable determination was not available for the audit team to analyze, the rate used was based on comparisons to existing TRANSCOM tender rates utilizing similar routes; however,

Troop Support will request assistance from the Defense Contract Audit Agency in

determining a fair and reasonable price for airlift requirements from Sharjah, United Arab Emirates.

(2) Use the results of the Defense Contract Audit Agency assistance to determine and document a fair and reasonable price for airlift requirements from Sharjah into Afghanistan and formally modify the contract to incorporate the airlift requirement.

Concur--Troop Support will use the results of the DCAA assistance to determine and document a fair and reasonable price for airlift requirements from Sharjah into Afghanistan. Additionally, the Contracting Officer will formally modify the contract to incorporate the airlift requirement.

(3) Compute the difference between the $3.74 per pound rate paid to the prime vendor and the finalized airlift rate since December 2005, after the airlift rate is established. If applicable, recover any differences.

Concur--Troop Support will compute the difference between the $3.74 per pound rate paid to the prime vendor and the finalized airlift rate since December 2005, after the airlift rate is established. If applicable, Troop Support will attempt to recover any differences.

A.3. We recommend that the Commander, Defense Logistics Agency Troop Support have the contracting officer develop a quality assurance surveillance plan and written procedures for monitoring the prime vendor's costs and performance. The plan and procedures should address areas to include the (1) validation of triwall invoices, to include verification of the quantity of triwalls delivered and that the quantity delivered by road to non forward operating bases are excluded from billings, (2) verification of fill rates, to include the requirement that reviews of the contract fill rate calculations are documented and retained, and (3) appointment of a Government official to monitor accountability of Government-furnished material, to ensure Government property is adequately safeguarded.

Concur --Troop Support will develop a quality assurance surveillance plan and written procedures for monitoring the prime vendor's costs and performance. The plan and procedures will address areas to include the:

(1) Validation of triwall invoices to include verification of the quantity of triwalls delivered; in addition, Troop Support will ensure the quantity delivered by road to non forward operating bases is excluded from billings.

(2) Verification of fill rates, to include the requirement that reviews of the contract fill rate calculations are documented and retained.

(3) Formal appointment of a Government official to monitor accountability of Government-furnished material, to ensure Government property is adequately safeguarded.

Final Report Reference

In the interim, we have taken actions to enhance oversight and monitoring of this contract and other prime vendor contracts until more formal procedures are issued.

A.4. We recommend that the Commander, Defense Logistics Agency Troop Support:
a. Perform a review of the contract administration of the prime vendor subsistence contract for Afghanistan in light of (1) excessive delay in definitizing the verbal change order of August 2005, (2) the payment of $454.9 million in airlift costs without having a requirement for the service in the contract, (3) agreeing to pay 100 percent of triwall provisional rates without documenting how the rates were determined to be fair and reasonable, and (4) the lack of a quality assurance surveillance plan and written procedures to monitor contractor costs and performance.

Concur--Troop Support will perform a review of the contract administration of the prime vendor subsistence contract for Afghanistan in light of:

(1) Excessive delay in definitizing the verbal change order of August 2005.

(2) The payment of $454.9 million in airlift costs without having a requirement for the service in the contract.

(3) Agreeing to pay 100 percent of triwall provisional rates without documenting how the rates were determined to be fair and reasonable.

(4) The lack of a quality assurance surveillance plan and written procedures to monitor contractor costs and performance.

Through various reviews, we continue to apply a greater focus on this contract and other prime vendor contracts. As noted above, we have taken action to enhance oversight and monitor performance.

b. Initiate as appropriate any administrative actions warranted by the review.

Concur--Troop Support will initiate, as appropriate, any administrative actions warranted by the review.

Finding B - Appropriation Funds Used for Fiscal Year End Transportation, Triwall, and Storage Costs Need Corrections

Concur—Adjustments to correct billings made to the wrong FY appropriations were completed as of November 25, 2010. We credited $56.5M to the Army that was not billed to the correct appropriation and re-billed the Army against the appropriation in effect at the time the service was received as outlined in Table 7 of the report.

Recommendations (page 25)

Page 27

B. We recommend that the Commander, Defense Logistics Agency Troop Support direct Subsistence officials to:

4

Final Report Reference

1. Refund $56.5 million to the Army in appropriated funds identified by the audit in Table 7 (page 21) that were not charged to the appropriate fiscal year appropriation.

Page 23

Concur—Action completed. DLA Finance, Troop Support has implemented the recommendation. Billing adjustments correcting the FY appropriation were completed as of November 25, 2010.

2. Bill $56.5 million to the Army in appropriated funds identified by the audit in Table 7 (page 21) that were not charged to the appropriate fiscal year appropriation.

Page 23

Concur—see B1 above.

3. Establish controls to ensure that future costs on subsistence prime vendor contracts, to include refunds of prime vendor overpayments and costs on invoices that cross fiscal years, are charged to the appropriate fiscal year appropriation.

Concur--Troop Support will establish controls to ensure future costs on subsistence prime vendor contracts, to include refunds of prime vendor overpayments and costs on invoices that cross fiscal years, are charged to the appropriate fiscal year appropriation.

4. Conduct reviews of all subsistence prime vendor contracts to determine whether costs were charged to the appropriate fiscal year appropriation. If costs are identified that were charged incorrectly, initiate corrective actions.

Concur--Troop Support will conduct reviews of all subsistence prime vendor contracts to determine whether costs were charged to the appropriate fiscal year appropriation. Corrective actions will be taken if any costs are identified as being incorrectly charged.

R.A. ELLIS
Acting Commander

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