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Report No. D-2011-033

January 12, 2011

Inspector General

United States
Department of Defense



DoD Needs to Improve the Management and Oversight of
Operations at the Defense Reutilization and Marketing
Office-Camp Arifjan, Kuwait

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Acronyms and Abbreviations

APL	Acceptable Performance Level
COR	Contracting Officer Representative
DAISY	DRMS Automated Information System
DLA	Defense Logistics Agency
DRMO	Defense Reutilization and Marketing Office
DTID	Disposal Turn-in Document
JLIST	Joint Service Lightweight Integrated Suit Technology
R2TF	Responsible Reset Task Force

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INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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January 12, 2011

MEMORANDUM FOR DIRECTOR, DEFENSE LOGISTICS AGENCY DISPOSITION SERVICES

SUBJECT: DoD Needs to Improve the Management and Oversight of Operations at the Defense Reutilization and Marketing Office-Camp Arifjan, Kuwait (Report No. D-2011-033)

~~(FOUO)~~ We are providing this report for review and comment. Improved processes and procedures are needed at the Defense Reutilization and Marketing Office-Camp Arifjan, Kuwait, to better manage the proper receipt and disposition of over \$1.2 billion of equipment. Specifically, controls to account for, process, protect, reutilize, and destroy equipment in accordance with applicable guidance, needed improvement. We also identified that the Government did not equitably benefit from an estimated [REDACTED] in contractor sales of scrap and useable property.

DoD Directive 7650.3 requires that recommendations be resolved promptly. We considered management comments when preparing the final report. The Defense Logistics Agency Disposition Services' comments are partially responsive to Recommendation D because actions taken do not fully comply with DRMS Instruction 4160.14, which requires all visitors and trucks to be escorted or monitored at all times. Comments to Recommendation E.2 are partially responsive because Defense Logistics Agency Disposition Services' officials did not state whether a control plan will be developed or implemented. We request additional comments on those recommendations by February 11, 2011. See the Recommendations table on page ii of this report.

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

We appreciate the courtesies extended to the staff. Please direct questions to [REDACTED] at (703) 604-[REDACTED] (DSN 664-[REDACTED]).

Daniel R. Blair
Deputy Inspector General
for Auditing

cc:
U.S. Central Command
U.S. Army Central
Defense Logistics Agency

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Results in Brief: DoD Needs to Improve Management and Oversight of Operations at the Defense Reutilization and Marketing Office-Camp Arifjan, Kuwait

What We Did

We conducted this audit in response to a U.S. Central Command request to focus oversight on U.S.-funded assets. At the Defense Reutilization and Marketing Office (DRMO) at Camp Arifjan, Kuwait, we determined that improved processes and control procedures were needed to better manage the receipt and disposition of over \$1.2 billion of equipment.

What We Found

The contracting officer and DRMO officials did not ensure the contractor had adequate controls in place to validate that all items were received or demilitarized in accordance with guidance. Specifically, DoD officials did not ensure the contractor timely accounted for all items; protected items from the environment; or restricted from reutilization 171 items that should have been destroyed. DRMO and contractor officials also inappropriately certified and/or verified that 34 items requiring demilitarization were destroyed. These issues occurred because (1) the contracting officer did not hold the contractor accountable for deficiencies in receiving operations, (2) the contracting officer representatives did not conduct effective oversight of receiving and demilitarization operations, and (3) Defense Logistics Agency (DLA) Disposition Services officials did not develop a performance measure for demilitarization. As a result, items were vulnerable to theft and environmental damage, and items with potential safety or health hazards were improperly re-issued, placing DoD personnel at an increased risk to injury. DRMO officials also lacked reasonable assurance that items were properly demilitarized.

DRMO and contractor officials did not provide adequate physical security over items because DRMO officials over relied on contractor and Army officials to perform security operations, which increased the risk of pilferage. DRMO officials also did not ensure the contractor had controls in place to prevent unauthorized access to

export-controlled items and technology. This occurred because DLA Disposition Services and DRMO officials believed controls were in place to prevent unauthorized personnel from obtaining access and did not incorporate an export-control clause into the DRMO contract. Access to export-controlled items could result in disclosures of controlled technologies to foreign nationals which could have military or economic ramifications.

~~(FOUO)~~ Lastly, DLA Disposition Services officials provided the contractor with minimal incentive to challenge or change questionable condition codes and unit pricing of potentially serviceable items. This occurred because the acquisition strategy and the terms and conditions of the contract allowed the contractor to retain all proceeds from the sale of scrap and useable items. As a result, the Government did not equitably benefit from an estimated [REDACTED] in contractor sales of scrap and useable items associated with DRMO operations in Iraq, Afghanistan, and Kuwait for calendar year 2009.

On June 30, 2010, the contracting officer terminated the DRMO contract for convenience and awarded a new contract on August 6, 2010, which was also terminated for convenience. As of December 2010, the DRMO contract was being re-solicited. Because of the contract terminations, our recommendations are primarily directed toward improving future DRMO contracts.

What We Recommend

Among other recommendations, we recommend the Director, DLA Disposition Services:

- Ensure appropriate performance measures for receiving and demilitarization and an export-control clause are included in the new contract;
- Develop procedures to ensure compliance with receiving, demilitarization, physical security, and export-control requirements; and
- Implement procedures to ensure receiving officials are challenging questionable condition codes and inaccurate unit prices with the generating activity.

Management Comments and Our Response

We commend DLA Disposition Services for taking action to improve the receipt and disposition of excess equipment. DLA Disposition Services' comments on Recommendations D and E.2 are partially responsive. Comments on the remaining recommendations are responsive. DLA Disposition Services disagreed with the conclusions and assumptions in Finding E with regard to export-control laws, regulations, and guidance. Please see the recommendations table below.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Director, Defense Logistics Agency Disposition Services	D, E.2	A.1, A.2.a-d, A.3.a-b, B, C.1.a-d, C.2, E.1, F.1, F.2

Please provide comments by February 11, 2011.

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Introduction

Objectives

The overall objective of our audit was to evaluate whether management processes and control procedures were in place to ensure the proper disposition of equipment at the Defense Reutilization and Marketing Office (DRMO)-Camp Arifjan, Kuwait. Specifically, we evaluated whether adequate controls existed to ensure the proper receipt, inspection, coding, and disposition of equipment at the DRMO. See Appendix A for a discussion of the audit scope and methodology; Appendix B for prior coverage related to the audit objectives; Appendix C for a description of the flow of equipment and materiel through a DRMO; Appendix D for examples of collaboration efforts to increase the reutilization of items; and Appendix E for a discussion of unaccounted for sensitive items.

Throughout the audit we conducted multiple briefings with DLA Disposition Services and Camp Arifjan DRMO officials to communicate our initial observations and provide preliminary recommendations. We commend DLA Disposition Services for implementing corrective actions throughout the audit. See Management Actions in Finding A-C for actions taken during the audit.

Background

We conducted this audit (1) in response to a U.S. Central Command request to focus oversight on U.S.-funded assets to ensure they are properly accounted for and that there is a process for their proper transfer, reset,¹ or disposal; and (2) based on previous fieldwork performed at the Camp Arifjan DRMO for DoD Inspector General (IG) Report No. D-2010-027, in which we reported DRMO officials disposed of potentially serviceable Interceptor Body Armor components.²

Defense Logistics Agency Disposition Services

The Defense Logistics Agency (DLA) Disposition Services, formerly Defense Reutilization and Marketing Service, a subordinate command to the DLA, is responsible for the proper reuse, transfer, donation, sale, or disposal of excess items turned in by DoD Components. In FY 2009, DLA Disposition Services reported that DoD Components turned in 211.6 million items with an acquisition value of \$36.5 billion to its field sites worldwide. Within the field sites, DRMOs are considered to be the Government's last chance to salvage property before disposal. DRMOs may transfer reutilized property within DoD and Federal agencies or donate the property to qualified organizations. Prior

¹ The term "reset" refers to a series of actions taken to restore units to a desired level of readiness based on mission requirements.

² DoD IG Report No. D-2010-027, "Army's Management of the Operations and Support Phase of the Acquisition Process for Body Armor," December 8, 2009.

to transfer, sale, or disposal, DRMOs are also responsible for demilitarizing property with inherent military characteristics, rendering the property useless from its originally intended purpose.

Camp Arifjan DRMO

The Camp Arifjan DRMO is the largest DRMO in the world. In calendar year (CY) 2009, approximately 6.4 million excess items with a total acquisition value of \$1.2 billion, were turned in to the Camp Arifjan DRMO. Of those 6.4 million items, DRMO officials transferred 714,199 items (11 percent), with a total acquisition value of \$80.6 million, to DoD and Federal agencies or other qualified organizations for reutilization. The remaining items (89 percent) were sold as scrap, useable property, or disposed of as trash.

Contractor Operations

On November 29, 2007, the DLA Disposition Services contracting officer awarded a contract to Taos Industries to operate six DRMOs in Southwest Asia, one of which was the Camp Arifjan DRMO. The contractor was responsible for conducting DRMO operations to include receiving, storing, property issuing, demilitarization, and selling scrap and usable property.

The contract was worth an estimated \$45.2 million with three schedule tiers: firm-fixed price, time and material, and cost reimbursement fixed-fee. The contract included a 12-month base period and four 12-month option periods. The duration of the first task order under the base period was March 3, 2008, through June 30, 2009. The task order for the first option period was July 1, 2009, through June 30, 2010. Effective July 1, 2010, the contracting officer terminated the contract for convenience, and on August 6, 2010, DLA Disposition Services officials awarded a new contract for conducting DRMO operations at Camp Arifjan, which the contracting officer also terminated for convenience on September 20, 2010.³ As of December 2010, the contract for conducting DRMO operations at Camp Arifjan was being re-solicited.

Contractor Oversight

Although the contracting officer retained overall responsibility for contract management and oversight, two onsite administrative contracting officers and 18 on-site contracting officer representatives (CORs) were responsible for monitoring contractor performance. The administrative contracting officers were responsible for monitoring compliance with

³ According to the first contract termination memorandum, Taos Industries, an affiliate of Public Warehousing Company, was suspended by the DLA on November 16, 2009, until completion of the legal proceedings against Public Warehousing Company. For the second termination, DLA Disposition Services officials stated that due to a protest, the contract issued August 6, 2010, was also terminated for convenience, and a new solicitation is being issued.

contract requirements while the CORs provided day-to-day oversight of 34 U.S. citizens and 181 foreign nationals⁴ performing various DRMO operations.

Disposition Guidance

The contract required the contractor to comply with various guidance to include DoD 4160.21-M, "Defense Materiel Disposition Manual," August 18, 1997; and DRMS Instruction 4160.14, "Operating Instructions for Disposition Management," May 12, 2008. DoD 4160.21-M provides guidance on the disposition processes for useable and scrap property. DRMS Instruction 4160.14 implements that guidance and provides procedures for receiving, inspecting, processing, and disposing excess equipment (see Appendix C for a description of the flow of equipment and materiel through a DRMO based on the DRMS guidance). The Instruction also provides definitions of sensitive and pilferable items. Sensitive items are defined as property requiring a high degree of protection and control due to statutory or regulatory requirements. Pilferable items are those that by virtue of condition, intrinsic value, or resale potential, are highly desirable and, therefore, a primary target for theft.

Iraq Drawdown

On January 1, 2009, the United States entered into an agreement with the Government of Iraq for a complete withdrawal of U.S. forces and equipment from Iraq by December 2011. As of May 2009, DoD estimated that the drawdown from Iraq would include the withdrawal of approximately 3.4 million pieces of equipment. Within the U.S. Central Command's Theater of operations, the U.S. Army Central has overall responsibility for Army operations. A subordinate command of U.S. Army Central, the 1st Theater Sustainment Command, has operational control of the Theater Retrograde, Camp Arifjan, which acts as a theater collection point for excess equipment. Theater Retrograde officials process serviceable and unserviceable materiel, to include sending excess serviceable and unserviceable items to the DRMO for reutilization or disposal.⁵ As the drawdown progresses, the U.S. Central Command, in coordination with U.S. Army Central, Army Materiel Command, DLA Disposition Services, and other organizations, is working collaboratively to increase the reutilization of potentially serviceable items and limit waste. See Appendix D for examples of those collaborative efforts.

Review of Internal Controls

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 provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. At the Camp Arifjan DRMO,

⁴ For consistency within the report, we use the term "foreign nationals" to refer to both local nationals and third-country nationals.

⁵ Serviceable equipment is considered to be new, used, repaired, or reconditioned materiel issuable to customers for its intended purpose. Unserviceable equipment can include items that require repair, reconditioning, additional parts, or materiel that is condemned.

we determined that internal controls were not always in place or effective to provide reasonable assurance that equipment was properly received and dispositioned in accordance with DoD and DRMS guidance.

DRMO officials were not effectively overseeing receiving and demilitarization operations and [REDACTED]

[REDACTED]. DLA Disposition Services officials also did not incorporate the applicable export-control clause in the DRMO contract, which could have mitigated the risk of unauthorized access to export-controlled items. Implementing the recommendations in Findings A through C should ensure officials properly process, secure, and store items, and provide reasonable assurance that items are properly demilitarized, rendering them useless for their originally intended purpose. Implementing the recommendations in Findings D and E should reduce the risk that sensitive and pilferable materiel is vulnerable to loss or theft and should protect export-controlled items from unauthorized disclosure.

The acquisition strategy and contract terms and conditions used by DLA Disposition Services officials provided the contractor with minimal incentive to challenge or change questionable condition codes and unit prices. In addition, the contractor had minimal incentive to turn away generating activities from improperly turning in serviceable items. Implementing the recommendations in Finding F should increase the reutilization of items by ensuring officials challenge and change questionable condition codes and unit prices, when warranted. We will provide a copy of the report to the senior officials responsible for internal controls at DLA Disposition Services and the Camp Arifjan DRMO.

Finding A. Receiving Requirements Not Always Met

The contracting officer and DRMO officials did not always ensure the contractor received and processed items in accordance with DRMS guidance and contract requirements. Specifically, the contracting officer and DRMO officials did not make certain the contractor timely accounted for all items received and took steps to protect some items from the environment. This occurred because the contracting officer did not require the contractor to correct deficiencies identified by the CORs and did not hold the contractor accountable for its consistent failure to correct those deficiencies. Also, DRMO officials did not assign an appropriate number of CORs for conducting oversight of contractor receiving operations, verify that contractor officials had the training necessary to properly receive and process items, and ensure items were protected from environmental damage. As a result, potentially serviceable pilferable and sensitive items were vulnerable to loss, theft, and environmental damage.

DLA Disposition Services and DRMO officials took action to address some of the receiving issues we identified during the audit. On February 28, 2010, DRMO officials provided the CORs and contractor officials training on the identification and processing of pilferable and sensitive items. Subsequent to the contracting officer terminating the contract for convenience on June 30, 2010, the contracting officer withheld payment from the contractor in the amounts of \$23,412.83 and \$46,825.66 for failure to meet receiving requirements. See Management Actions on page 10 for a complete discussion of the actions taken.

Receiving Process

The DRMO receiving process is one of the most critical and important stages in determining equipment disposition. DRMS Instruction 4160.14 provides guidance on that process, which begins when a generating activity⁶ turns in an item using a DD Form 1348-1A, "Issue Release/Receipt Document," July 1991, which is often referred to as a Disposal Turn-in Document (DTID). Prior to acceptance of an item, a DRMO receiving official inspects the item to determine its eligibility for turn-in. If the item is not eligible for turn-in, it is rejected back to the generating activity. If eligible for turn-in, the receiving official verifies the item's condition and ensures the quantities of items received match the DTID data. If the DTID data is incorrect or incomplete, the receiving official may assist the generating activity in making corrections or can reject the item from turn-in. Once the information is verified, a DRMO receiving official enters the item's information into the DRMO property record (the Defense Reutilization and Marketing Service Automated Information System [DAISY]).⁷ Once entered into

⁶ A generating activity is any customer authorized to turn items into the DRMO.

⁷ All item documentation is also scanned into WebDocs, a DLA Disposition Services internet based application that allows for the indexing and retrieval of hard copy documentation.

DAISY, the item can be seen by DRMO customers,⁸ who have 42 days to claim the item from the DRMO. If the item is not claimed within 42 days, the item is downgraded to scrap or demilitarized.

If the DRMO receiving official does not enter the item's information into DAISY within a specified time frame, the item is staged in a backlog area and should be processed on a first-in, first-out basis. A DRMO receiving official completes a DRMS Form 355 for each item in the backlog area with the date received and the generating activity's DoD Activity Address Code.⁹ See Appendix C for a description of the flow of equipment and materiel through the DRMO receiving process.

Items Not Accounted for Timely

The contracting officer did not ensure that the DRMO contractor officials entered all items into DAISY within the 7 days required in the contract. We reviewed the contractor's reports from November 12 through December 11, 2009, and determined that, on average, the daily number of DTIDs not processed within 7 days was 1,260 DTIDs.¹⁰ DRMO and contractor officials continued to report during their monthly contractor performance review that the contractor remained unable to account for items within 7 days. Failure to enter items into DAISY in a timely manner increases the risk that lost or stolen items will go undetected because items are not accounted for.

The contractor also did not enter all pilferable and sensitive items into DAISY upon receipt. DRMS Instruction 4160.14 states pilferable items (and sensitive items), which can include items such as tools, ammunition, and organizational clothing and equipment, should be immediately brought to record and secured in a designated secure storage area. During our site visit, we observed on several occasions unsecured and unaccounted for pilferable and sensitive items in the backlog area, to include body armor, tools, and reflex sights (see Figures 1-3).

Figure 1. Body Armor



Figure 2. Tools



Figure 3. Reflex Sight



⁸ A customer can be any DoD entity with a valid DoD Activity Address Code and Letter of Authorization.

⁹ A DoD Activity Address Code is a six-digit code that uniquely identifies a unit, activity, or organization that has the authority to requisition and/or receive materiel.

¹⁰ We could not determine the exact number of items not accounted for within 7 days because backlog is tracked by DTID number and multiple items can be annotated on one DTID.

On January 31, 2010, we observed unsecured pilferable items such as tools, tool boxes, and computer disks in the receiving backlog area. According to the DRMS Form 355s, those items were received on January 16, 2010. Although contractor officials stated that they were processing the backlog items daily, when we revisited the backlog area on February 4, 2010, the items identified during our January 31 site visit remained unprocessed and unsecured. Until pilferable and sensitive items are secured and accounted for, those items are at an increased risk of loss or theft.

Property Damaged from Environmental Exposure

DRMO officials did not ensure the contractor protected some items from the environment in accordance with the contract. The contractor's operational technical plan, which was incorporated into the contract, states the contractor should protect items from environmental damage and cover items in outdoor storage. However, we observed items, such as electronic power outlets and helmets that appeared to have weather damage from being stored in outdoor containers without lids. The accompanying DRMS Form 355s and DTIDs were also difficult to read due to water damage.

We also identified items that appeared to have severe environmental damage. For example, we observed approximately 75 uncovered tri-wall containers of Joint Service Lightweight Integrated Suit Technology (JLIST) items and body armor components held for potential reutilization, which were not covered with a lid and collapsing due to environmental damage (Figures 4 and 5). We also observed container lids in the JLIST area not being used (Figure 6).

Figure 4. Exposed JLIST Items



Figure 5. Collapsed JLIST Containers



Figure 6. Excess Container Lids



We compared the cost of the lids to the acquisition cost of the items in the exposed tri-wall containers and determined the lid cost to be minimal in relation to the acquisition cost of the items. According to the Federal Logistics Database, a tri-wall container lid costs approximately \$43, while the estimated acquisition cost of one container of JLIST items was approximately \$39,000.

We compared the cost of the lids to the acquisition cost of the items in the exposed tri-wall containers and determined the lid cost to be minimal in relation to the acquisition cost of the items.

Proper environmental protection of potentially serviceable items is critical to reutilization.

Contractor Not Held Accountable

The contracting officer did not ensure the contractor corrected receiving deficiencies identified by the CORs. While the contracting officer withheld partial payment from a 1-month invoice in CY 2009 for noncompliance with receiving requirements, the contracting officer did not continue to hold the contractor accountable for their consistent failure to correct deficiencies identified by the CORs.

Performance Problems Previously Reported

The contractor's failure to comply with accountability requirements had been reported by the CORs since July 2008. Based on the COR reports, the contracting officer issued a cure notice¹¹ to the contractor on August 24, 2008, which required the contractor to develop a corrective action plan to address the concerns. On September 8, 2008, the contractor provided a corrective action plan to the contracting officer citing specific actions to be taken to comply with requirements to timely enter items into DAISY. From September 2008 to October 2008, DLA Disposition Services officials also took action by providing the contractor with assistance to reduce backlog and enter items into DAISY.¹² However, not until July 23, 2009 (10 months after receipt of the corrective action plan), did the contracting officer withhold payment for the contractor's continued noncompliance with receiving requirements. Specifically, the contracting officer reduced payment to the contractor by \$23,413, (10-percent of a 1-month invoice), for the contractor's failure to follow the corrective action plan.

Performance Problems Continue

During CY 2009, DRMO officials continued to identify and report the contractor's noncompliance with accountability requirements. For example, on July 20, 2009, a COR issued a corrective action request because the contractor was not meeting the 7-day requirement for entering items into DAISY. We also reviewed DRMO official and contractor monthly performance assessments of the acceptable performance level (APL) for receiving, which requires the contractor to achieve 100-percent compliance for entering items into DAISY within 7 days. As shown in Table 1, using a 5-percent variance, both COR and contractor officials continuously reported that the contractor failed to meet the APL for 7 out of 12 months for CY 2009.

¹¹ A cure notice may be issued to a contractor once it is determined that actions or inactions on the part of the contractor are endangering performance under the contract. The cure notice requires the contractor to address what will be done to correct the situation.

¹² The contracting officer reduced the contractor's November 2008 monthly invoice by \$76,047 for providing Government assistance to reduce the backlog.

Table 1. 2009 Acceptable Performance Level to Establish a Record Of Property within 7 Days

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Contractor	87	100	100	97	84	89	88	78	75	87	96	94
DRMO Officials	88	100	100	97	84	90	88	88	78	93	96	96

Note: We used the DLA Disposition Services, *Acceptable Performance Level (APL) Key*, which uses a 5-percent variance to visually display compliance with an APL goal of 100 percent. Green indicates a variance of greater than or equal to 95-percent compliance, yellow indicates 85- to 94-percent compliance, and red indicates anything lower than 85-percent compliance with the APL.

Although DRMO and contractor officials continued to report that the contractor did not achieve the APL for receiving, the contracting officer did not further reduce contractor payments in response to those reports. Incorporated as a clause to the contract, Federal Acquisition Regulation 52.246-4, Inspection of Services– Fixed Price, allows the

Although DRMO and contractor officials continued to report that the contractor did not achieve the APL for receiving, the contracting officer did not hold the contractor accountable for continued noncompliance with the contract requirement.

Government to hold the contractor accountable for failure to ensure compliance with contract requirements and to request consideration to include a reduction in payment. However, based on our review of the contractor’s monthly invoices for the remainder of 2009 (August through December), the contracting officer did not

further reduce contractor payments other than the payment withheld on July 23, 2009.

Better Oversight and Training Needed at Receiving Area

DRMO officials did not assign an appropriate number of CORs for conducting oversight of contractor receiving operations. DRMO officials also did not verify contractor officials had the training necessary to properly receive and process sensitive and pilferable items, and ensure items were properly protected from environmental conditions in accordance with applicable guidance.

Insufficient Number of CORs at Receiving Area

DRMO officials did not assign an appropriate number of CORs to perform oversight of the contractor’s receiving operations, one of the most critical processes in the flow of equipment and materiel through a DRMO. Although there were 18 CORs eligible for monitoring contractor performance, DRMO officials reported only one COR was assigned to perform oversight of receiving operations during the day, and one COR was assigned to perform oversight of all DRMO functions at night. However, during multiple site visits in January 2010 and February 2010, we did not observe a COR present in the receiving area. Although we did not identify guidance dictating the number of CORs needed to perform oversight of receiving operations, the lack of oversight is indicative of recurring issues within the U.S. Central Command Theater of operations. As previously

reported in multiple GAO and DoD reviews,¹³ DoD continues to have an inadequate number of personnel to conduct oversight of its contractors.

Training on Pilferable and Sensitive Items

DRMO officials did not verify that contractor employees had the training necessary to properly process pilferable and sensitive items. The contractor's operational technical plan, which was incorporated into the contract, anticipated that monthly training on pilferable and sensitive items would be required for contractor employees responsible for the receiving process. However, our review of contractor employee training records indicated that receiving officials only completed pilferable and sensitive training for 3 months during CY 2009. Contractor officials stated that given the environment of contingency operations and turnover of personnel, they were not always able to provide monthly training. While we understand the challenges of operating in a contingency environment, DRMO officials should verify that contractor employees responsible for the receiving process have the technical training necessary to identify pilferable and sensitive items to make certain those items are promptly accounted for and protected from loss or theft.

...receiving officials only completed pilferable and sensitive training for 3 months during CY 2009.

Protection of Potentially Serviceable Items

DRMO and contractor officials were unaware that the contractor should protect items from environmental damage. Instead, officials stated that they are not responsible for protecting items that arrived at the DRMO in uncovered containers. DRMO officials also stated they requested a storage facility be built at the DRMO to protect property from environmental damage; however, building restrictions at Camp Arifjan prevented the construction of a permanent covered storage facility. Based on the amount of items we observed that were environmentally damaged, it is imperative that potentially serviceable items are protected from the elements to increase the reutilization of items and save Government resources.

Management Actions to Improve Receiving Operations

DLA Disposition Services and DRMO officials took action to address some of the conditions identified during the audit. On February 28, 2010, 20 COR and contractor officials attended "Pilferable/Sensitive and Basic Receiving Review" training. The training included instruction on proper identification and processing of sensitive and

¹³ GAO, "Warfighter Support: Continued Actions Needed by DoD to Improve and Institutionalize Contractor Support in Contingency Operations," GAO 10-551T; GAO, "Military Operations: DoD Needs to Address Contract Oversight and Quality Assurance Issues for Contracts Used to Support Contingency Operations," GAO-08-1087; GAO, "Military Operations: High-Level DoD Action Needed to Address Long-standing Problems with Management and Oversight of Contractors Supporting Deployed Forces," GAO-07-145; DoD IG "Contingency Contracting: A Framework for Reform," D-2010-059; DoD IG, "Defense Contract Management Agency Acquisition Workforce for Southwest Asia," D-2010-051; DoD IG, "Challenges Impacting Operations Iraqi Freedom and Enduring Freedom Reported by Major Oversight Organizations Beginning FY 2003 through FY 2007," D-2008-086.

pilferable items. In addition to the training, DLA Disposition Services officials stated DRMO officials took immediate action to protect property from environmental damage using existing materials and will order protective lids to be placed on tri-wall containers to protect equipment from the elements. We commend DLA Disposition Services and DRMO officials for taking prompt management action during the audit.

Subsequent to the contracting officer terminating the DRMO contract for convenience on June 30, 2010, the contracting officer withheld payment from the contractor for failure to meet two receiving APLs. Specifically, on July 6 and 8, 2010, the contracting officer withheld payments in the amounts of \$23,412.83 and \$46,825.66, respectively.

DLA Disposition Services officials awarded a new contract for conducting DRMO operations at Camp Arifjan on August 6, 2010, which the contracting officer also terminated for convenience on September 20, 2010. The contract for conducting operations at Camp Arifjan is being re-solicited. As a result, our recommendations are primarily directed towards improving future management and oversight of receiving operations at the Camp Arifjan DRMO.

Recommendations, Management Comments, and Our Response

A.1 We recommend that the Director, Defense Logistics Agency Disposition Services, identify the personnel accountable for not ensuring the contractor corrected receiving deficiencies identified by contracting officer representatives and initiate administrative action regarding these personnel as deemed appropriate by the Director.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation, stating that the Director, DLA Disposition Services and J-7 reviewed the issue and determined administrative action was not warranted.

Our Response

DLA Disposition Services' comments are responsive and no additional comments are required.

A.2. We recommend the Director, Defense Logistics Agency Disposition Services, in coordination with the contracting officer, ensure the following are included in subsequent DRMO contracts:

a. Performance measures to verify whether the contractor entered all items into the Defense Reutilization and Marketing Service Automated Information System within a required timeframe.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation, stating that currently government personnel are performing all functions at DLA Disposition Services Camp Arifjan [Camp Arifjan DRMO]. The new contract solicitation does not require the contractor to perform property data entry. Rather, government personnel will continue to perform this function. However, if future Camp Arifjan contracts have a requirement for the contractor to enter property into the accountability system, an appropriate performance measure will be utilized to evaluate contractor performance, ensuring all property data are entered into the system within a required timeframe.

Our Response

DLA Disposition Services' comments are responsive. Although Government personnel are performing all functions at the Camp Arifjan DRMO, DLA Disposition Services should verify that procedures are in place to ensure all items are entered into the Defense Reutilization and Marketing Services Automated Information System within the required timeframe. No additional comments are required.

b. Terms and conditions to hold the contractor accountable for continued noncompliance with contract requirements to include a reduction in payment option.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that under the Inspection of Services clause, if any services do not conform to contract requirements, the government may require the contractor to perform services again at no increase in contract amount. If the deficient service cannot be corrected by re-performance, the government may also reduce the contract price to reflect the reduced "value" of the services performed. DLA Disposition Services will also consider including a price reduction schedule in future contracts tied to performance metrics.

Our Response

DLA Disposition Services' comments are responsive. Subsequent to providing official comments, we confirmed with DLA Disposition Services officials that the Inspection of Services clause was incorporated into the new contract solicitation. No additional comments are required.

c. Requirement to make certain contractor receiving personnel are properly trained to process and account for pilferable and sensitive items.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that although the prior contract did not require monthly training on pilferable and sensitive items for contractor receiving officials, DLA Disposition Services immediately initiated contractor training to identify, process, and handle pilferable and sensitive items. The training and additional process improvements implemented will remain in place and occur monthly once the new contract begins. In addition, DLA Disposition Services provided separate and secure storage areas and lockable containers to segregate sensitive and pilferable material from other inventory which will continue under any Camp Arifjan follow-up contract.

Our Response

DLA Disposition Services' comments are responsive. No additional comments are required.

d. Requirement for protecting potentially serviceable items from the environment.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that although there was no specific requirement in the prior contract to protect property from environmental damage or to cover property in outdoor storage, the contractor was required to prevent degradation in property condition and value. Therefore, DLA Disposition Services provided lockable containers to the contractor and purchased protective lids to cover open tri-wall boxes and will continue this arrangement under any Camp Arifjan follow-up contract.

Our Response

The DLA Disposition Services' comments are responsive. We commend DLA Disposition Services for implementing corrective actions to protect property from environmental damage. No additional comments are required.

A.3 We recommend the Director, Defense Logistics Agency Disposition Services, in coordination with the contracting officer and the chief, Defense Reutilization and Marketing Office at Camp Arifjan:

a. Increase the number of contracting officer representatives at receiving to validate contractor compliance with receiving requirements, to include timely accounting for all items received, processing and accounting for pilferable and sensitive items, and protecting potentially serviceable items from the environment.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that although Government personnel are currently performing all functions at DLA Disposition Services Kuwait [Camp Arifjan, DRMO], once the follow-on contractor is in place, DLA Disposition Services will appoint sufficient, trained contracting officer representatives to ensure adequate government oversight of contractor performance.

Our Response

DLA Disposition Services' comments are responsive. We contacted a DLA Disposition Services official for clarification on how the adequacy of government oversight will be determined. The official stated that on a monthly basis, the contracting officer will coordinate with the site manager to verify that appointed and trained contracting officer representatives are actively observing and reporting on contractor performance. No additional comments are required.

b. Conduct periodic unannounced reviews to verify contractor compliance with contract requirements.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that the DLA Accountability Office and DLA Disposition Services Internal Audit Staff will coordinate to conduct unannounced audits to verify contractor compliance requirements on any Camp Arifjan follow-up contract.

Our Response

DLA Disposition Services' comments are responsive and no additional comments are required.

Finding B. Demil Code F Items Not Restricted from Reutilization

DRMO officials did not ensure the contractor complied with disposition instructions when processing demil code F items for reutilization.¹⁴ Specifically, the contractor did not restrict from reutilization 171 of 684 items that, due to their nature, had specific disposition requirements known as demil code F items, and were received at the DRMO from July 1, 2009, to March 1, 2010. Of those 171 items, 47 were improperly issued to DoD personnel. This occurred because DRMO officials did not verify that contractor employees had received adequate training on processing demil code F items. As a result, DoD personnel were at increased risk of injury from using items that could present safety or health hazards.

During the audit, DRMO officials took immediate action to provide training on the proper identification and processing of demil code F items to prevent improper processing of those items. Because we already recommend incorporating training for receiving personnel into the new contract in Finding A, we focused our recommendation here on DRMO officials retrieving and destroying demil code F items that were improperly issued to DoD personnel. See Management Actions on page 17 for a complete discussion of the actions taken.

Disposition Instructions

Some demil code F items are considered sensitive items, which present hazards to personal safety, health, or the environment during use or demilitarization. These items require specific disposition instructions. DRMS Instruction 4160.14 states when turning in demil code F items to the DRMO, the generating activities are to provide copies of the disposition instructions. The DRMS Instruction also states if generating activities do not provide disposition instructions for demil code F items, DRMO officials should obtain the instructions to ensure items are properly demilitarized.

To determine whether demil code F items were properly dispositioned, we conducted a census review¹⁵ of the documentation for all 684 demil code F infrared equipment, infrared illuminators, and borelight systems¹⁶ received from July 1, 2009, to March 1, 2010. Each of the items we reviewed had similar disposition instructions stating these items should not be issued. For example, the borelight system disposition instructions state the items are not to be sold, issued, or provided to any Government, DoD, State, local law enforcement agency, civilian organization, or individual due to

¹⁴ A demil code describes whether the item requires mutilation or destruction and demil code F items are items that, due to their nature, have specific disposition requirements.

¹⁵ A census review is a review of all items within a population, which produces results that are certain.

¹⁶ According to the Army Field Manual 3-22-9, infrared equipment is a laser aiming device which is used in conjunction with night vision equipment; an infrared illuminator is a laser used to direct fire and illuminate and designate targets; and a borelight system is a laser used to calibrate and aim laser aiming devices.

laser safety precautions. Therefore, the items are to be destroyed. The disposition instructions further state that prior to turn-in, the generating activity should demilitarize the laser borelight system by breaking the light emitting diode [or LED] and annotating its destruction on the DTID. Further demilitarization is then performed at the DRMO.

Some Items Were Improperly Issued

DRMO officials did not ensure the contractor complied with disposition instructions when processing demil code F items for reutilization. Our census review indicated that the contractor improperly processed 171 of the 684 (25 percent) demil code F items and made them available for reutilization. As a result of the items not being restricted from reutilization, the contractor

improperly issued 47 of the 171 demil code F items to DoD personnel. For

Our census review indicated that the contractor improperly processed 171 of the 684 (25 percent) demil code F items and made them available for reutilization.

example, the DRMO improperly issued infrared equipment to an individual authorized by a unit commander to receive equipment from the DRMO. The DRMO also improperly issued infrared illuminators to an individual authorized by a major Army command to receive equipment from the DRMO.

Training Requirements Not Met

As previously stated in Finding A, DRMO officials did not verify that contractor employees had the training necessary to properly receive sensitive items, which can include demil code F items. Specifically, receiving officials were only provided monthly training on pilferable and sensitive items for 3 of 12 months during CY 2009. Without proper training, receiving officials may disregard or overlook demil code F disposition instructions.

As shown in Table 2, of the 171 items improperly made available for reutilization, the generating activity turned in 142 of 171 (83 percent) items with the disposition instructions. For the remaining 29 of 171 (17 percent) items that did not have disposition instructions turned in with the items, contractor officials should have obtained the proper disposition instructions in accordance with DRMS guidance.

Table 2. 171 Demil Code F Items Improperly Made Available for Reutilization

Description	Number of Items	Percentage of Items
Items Received with Disposition Instructions:	142	83 percent
Items Not Received with Disposition Instructions:	29	17 percent

Note: The table depicts all demil code F infrared illuminators, infrared equipment, and borelight systems received and improperly made available for reutilization at the Camp Arifjan DRMO from July 1, 2009 to March 1, 2010. See Appendix A for a description of the census review.

Implementing the Recommendations in Finding A should prevent those items from being made available and ensure they are destroyed in accordance with the disposition

guidance. Implementing the recommendation in this finding will ensure that demil code F items that were improperly issued are retrieved and destroyed.

Personnel at an Increased Risk of Injury

Because demil code F items may present hazards to the environment, safety, or health, it is imperative that receiving officials comply with disposition instructions to reduce these risks. We contacted the item manager for infrared equipment who confirmed that the items should not have been issued and should have been destroyed, and added that improper use of the items could damage or impair one's vision. We immediately briefed DRMO officials that contractor officials inappropriately issued demil code F items and recommended they identify similar, improper issuances of these items. We also found that some of these items were unaccounted for by Army Components. See Appendix E for examples of unaccounted items improperly issued by the DRMO. DRMO officials stated they would attempt to locate and retrieve the items that were improperly issued to ensure they were properly destroyed.

Management Actions to Improve Reutilization Controls

In response to our interim audit briefings, DRMO officials took action on February 28, 2010, by conducting "Pilferable/Sensitive and Basic Receiving Review" training for 20 CORs and contractor officials, which included guidance on the proper acceptance and processing of demil code F items. On June 30, 2010, the contracting officer terminated the contract for convenience.

Recommendation, Management Comments, and Our Response

B. We recommend the Director, Defense Logistics Agency Disposition Services, direct the chief, Defense Reutilization and Marketing Office at Camp Arifjan, to contact the DoD Components that received the demil code F items that were improperly reissued and ensure those items are retrieved and destroyed.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that some of the items were returned due to the DLA Disposition Services Kuwait staff's repeated attempts to contact the DoD personnel who were improperly issued demil code F items. However, some of the items are in the possession of DoD personnel, who have redeployed. Based on DoD 4160.21-M-1, "Defense Demilitarization Manual," February 14, 1995, once those DoD personnel no longer need the items for their mission; they should demilitarize and or turn the items into a DLA Disposition Services location for demilitarization.

Our Response

DLA Disposition Services' comments are responsive. We contacted DLA Disposition Services requesting further assurance that officials had exhausted all measures to retrieve

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the demil code F items that were improperly reissued. DLA Disposition Services officials provided documentation to support that the DoD Component's home stations had been notified to return all items to their nearest DRMO, subsequent to their redeployment. In addition, officials stated that follow-up with those components will be encouraged. No additional comments are required.

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Finding C. Noncompliance with Demilitarization Requirements

From December 2009 to February 2010, DRMO and contractor officials inappropriately certified and/or verified that 34 items were demilitarized in accordance with DRMS guidance. Specifically, DRMO and contractor officials:

- certified and verified destruction of three infrared equipment, three radio beacons, and one infrared illuminator when in fact the items had been issued to DoD Components,
- certified and verified destruction of the same 26 microcircuits on two different dates, and
- did not verify the destruction of an antenna element.

This occurred because DLA Disposition Services officials did not develop and incorporate a performance measure for the demilitarization process into the contract. In addition, DRMO officials did not adequately monitor contractor compliance with demilitarization and training requirements and did not assign an appropriate number of personnel to verify items were properly demilitarized. As a result, DoD officials lacked reasonable assurance that contractor officials properly demilitarized items to prevent technologies or their components from being used for their originally intended purposes.

DRMO officials took immediate action to address some of the deficiencies identified during the audit. On February 18, 2010, DRMO officials required certifying officials that were deficient in training to complete the proper training requirements. In addition, on February 25, 2010, the DRMO chief stated she appointed two additional CORs to oversee demilitarization operations. See Management Actions on page 25 for a complete discussion of management actions taken.

Demilitarization Process

DoD items are demilitarized to prevent the future use of the equipment, material, and components from being used for their intended military purpose. Demilitarization is generally conducted at a DRMO in accordance with the item's demil code. A demil code describes whether the item requires mutilation (deforming, cutting, melting, crushing) or destruction (shredding, burning, cutting, crushing). All items with a demil code other than "A" require some type of demilitarization. Unserviceable items requiring demil may be processed for demilitarization upon receipt at the Camp Arifjan DRMO. The DTIDs for unserviceable items are stamped with the following (Figure 7):

I certify that the item(s) listed hereon has been demilitarized in accordance with DoD 4160.21-M-1, Defense Demilitarization Manual, Appendix 4, Category ____, Paragraph ____, and/or the following applicable regulation__.

Figure 7. Disposal Turn-in Document Stamped With Demilitarization Certificate Statement

The form is a multi-section document. At the top, it contains a header with various codes and a date stamp '01 JAN 10'. Below this is a 'DAISY INPUT' stamp with the date '31 MAR 10'. The central part of the form is a 'DEMILITARIZATION CERTIFICATE' section, which includes a signature line and a date stamp '10 JAN 10'. To the right of this section is a 'XRI-DML' stamp. The form also contains several barcode areas and various alphanumeric codes throughout.

Source: WebDocs

Serviceable items requiring demilitarization are first made available for reutilization. If the items are not reutilized within the standard 42-day reutilization period, the DAISY system automatically prints a demil certificate (Figure 8). Contractor officials stated multiple demil certificates may be printed as a reminder, until the items are demilitarized.

Figure 8. Demilitarization Certificate Printed After 42-Day Expired Reutilization Period

The form is a demilitarization certificate. It starts with a header section containing the following information: DTID: W15GK89271H452L, STOCK ID: 5805 012466826, QUANTITY: 7, UI: EA, DEMIL CODE: C, SITE/STORAGE: A0 D020102B0. Below the header is a certification statement: 'I CERTIFY THAT THE ITEM(S) LISTED ABOVE WERE DEMILITARIZED IN ACCORDANCE WITH DOD 4160.21-M-1, DEFENSE DEMILITARIZATION MANUAL, APPENDIX...'. The form also includes a signature line and a date stamp '01/22/10 19:32'.

Source: WebDocs

The Camp Arifjan DRMO has three demil areas, each of which uses a different demilitarization tool (shredder, ammo shell casing deformer, and torch cutter). For our review, we primarily focused on items demilitarized in the torch cutting area. In this area, demil personnel lay out items in rows (Figure 9), and the certifier reconciles the items and quantities contained on the DTIDs to the information on the demil certificates. Discrepancies are noted on the demil certificates by circling and changing the number of items listed on the certificates to the actual number of items counted (Figure 10). Once the counts are complete and reconciled, the items are demilitarized.

Figure 9. Demilitarization Torch Cutting Lanes



Figure 10. Adjusted Demilitarization Certificate

udweb4001.rpt.011		DAISY		WT. 80 Lbs		DAISY DROPPED!	
Location: SQ6A		DEMIL CERTIFICATE 10022				01/22/10	
DTID		STOCK ID		QUANTITY		SITE/STORAGE	
W52H099209001B		1240 014111265		54 (56) EA		AD D020102A5	
ITEM NAME: SIGHT, REFLX							
I CERTIFY THAT THE ITEM(S) LISTED ABOVE WERE DEMILITARIZED IN ACCORDANCE WITH							
DOD 4160.21-M-1, DEFENSE DEMILITARIZATION MANUAL, APPENDIX <u>14</u> ,							
CATEGORY <u>X11</u> , PARAGRAPH <u>12</u> AND/OR THE FOLLOWING APPLICABLE							
REGULATION _____ DEMIL CERTIFIED BY _____, DATE <u>02/03/10</u> ,							
DEMIL PERFORMED CODE <u>14</u> , VERIFY <u>2-3-10</u> <u>TC 11-9213</u>							

Source: WebDocs

DRMS Instruction 4160.14 states demil certificates require two signatures, one by a certifier and one by a verifier.¹⁷ Having two people sign each demil certificate reduces the risk of errors or fraud. Certification is normally accomplished once demilitarization is completed. First, the certifier will either perform or witness the demilitarization process. Once the process is complete, the certifier signs and dates the demilitarization certificate validating the quantities demilitarized. The verifier must witness the demilitarization or inspect the residue, and then the verifier countersigns the demilitarization certificate validating the quantities and adequacy of demilitarization. The DRMS Instruction also states that signing a false certificate constitutes a felony and may subject the individual to criminal prosecution.

¹⁷ The certifier can be a foreign national or U.S. citizen contractor official. The verifier must be a U.S. citizen and a Government official.

Improper Certification and Verification

From December 2009 to February 2010, DRMO and contractor officials inappropriately certified or verified that 34 items were destroyed in accordance with DRMS guidance. Specifically, demil certifiers and/or verifiers did not always validate quantities demilitarized, likely witness demilitarization or inspect the residue, or countersign demil certificates.¹⁸

Incorrect Quantities Certified and Verified

The certifier and verifier did not always validate the quantity of all demilitarized items. For example, some of the items we reviewed, to include three pieces of infrared equipment, three radio beacons, and one infrared illuminator, were certified and verified as destroyed when the items had actually been issued to DoD Components. We identified a demil certificate printed on January 1, 2010, which indicated that 30 pieces of infrared equipment were eligible to be demilitarized. On January 20, 2010, 3 of the 30 items¹⁹ were improperly issued to a Service member.

...three pieces of infrared equipment, three radio beacons, and one infrared illuminator, were certified and verified as destroyed when the items had actually been issued to DOD Components.

On January 26, 2010, the remaining items were demilitarized using the demil certificate printed on January 1, 2010. However, both the certifier and verifier signed the demil certificate which stated all 30 items were demilitarized indicating that the certifier and verifier did not validate the correct quantity of items demilitarized. Had the certifier and verifier validated the correct quantity of items demilitarized, they would have annotated the demil certificate to state only 27 items had been demilitarized.

We identified another demil certificate, printed on January 8, 2010, indicating that 11 radio beacons were eligible to be demilitarized. On January 16, 2010, 3 of the 11 items were issued to a Service member. On January 27, 2010, the remaining radio beacons were demilitarized using the demilitarization certificate printed on January 8. However, both the certifier and verifier signed the demil certificate that stated all 11 items were demilitarized. We also reviewed a demil certificate for 77 infrared illuminators printed on January 8, 2010. Although the contractor issued one infrared illuminator on January 16, 2010, the certifier and verifier signed the demil certificate on January 29, 2010, stating that all 77 items were demilitarized. Neither demil certificate reflected the correct quantity destroyed, indicating the certifier and verifier did not actually validate the quantity demilitarized prior to signing and countersigning the demil certificates in accordance with DRMS guidance.

¹⁸ The auditors used a judgment sample to identify items inappropriately certified and/or verified. As such, the results cannot be projected across the entire population of items which required demilitarization.

¹⁹ The three items were also included in the 47 total demil code F items improperly issued to DoD Components as discussed in Finding B and Appendix E.

Witness or Inspection of Items Not Performed

The same 26 linear microcircuits were certified and verified as destroyed on two demil certificates for two different dates. The certifier and verifier signed the first certificate on December 8, 2009, stating that all 26 items were demilitarized. The same certifier and verifier signed a second certificate on December 14, 2009, stating again that the same 26 items were demilitarized. The certifier and verifier likely did not witness the demilitarization or inspect the residue, and should have identified that these 26 linear microcircuits could not have been demilitarized on both dates.

No Government Signature to Validate Demil

We identified one demil certificate for an antenna element that the verifier did not countersign. Without a countersignature, there is no assurance the DRMO official validated the adequacy of the antenna element's demilitarization to prevent its future use. Further review of the demil certificate revealed the certifier as the same individual to originally receive the item into the DRMO. Both the Office of Management and Budget and GAO provide guidance on controls necessary to ensure individuals have segregated responsibilities so as not to exceed or abuse their assigned authorities. Most notably, GAO's "Standards for Internal Controls in the Federal Government," November 1999, states,

Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event.

Although we did not identify other demil certificates without a countersignature during our review, we did identify another demil certificate (for an ejection chute) that was processed at receiving and certified as demilitarized by the same individual.

Better Management and Oversight Needed

DLA Disposition Services officials did not develop and incorporate a performance measure for the demilitarization process into the contract, and DRMO officials did not adequately monitor contractor performance to ensure strict adherence to demilitarization and training requirements. In addition, DRMO officials did not assign an appropriate number of DRMO personnel to ensure proper management and oversight of the demilitarization process.

Performance Measures for Demilitarization Needed

Although 3 of the 15 APLs used to measure contractor performance related to demil-required items, none measured contractor compliance with demilitarization requirements. For example, one APL measured whether demil-required property had an assigned location and was properly stored and labeled in that location. Another APL measured whether the property record (DAISY) matched the physical demil inventory. DRMO officials stated that in addition to the APLs, CORs monitored contractor performance by

using weekly checklists. We reviewed 21 checklists completed in CY 2009, but none contained sufficient information to determine whether the contractor performed demilitarization in accordance with DRMS guidance. For example, one DRMO official was responsible for the daily monitoring and testing of demilitarization operations for the week of April 26, 2009, as well as verifying that proper demil codes were recorded on the DTIDs. The DRMO official combined the results of both tests and simply reported that the tests results were satisfactory. The DRMO official also did not provide sufficient information to determine whether the tests performed were adequate with respect to sample size or test methodology. Developing and implementing (1) an APL to ensure 100-percent compliance with demilitarization requirements, and (2) quality assurance procedures to validate proper demilitarization, would increase assurance that items are properly demilitarized.

Certifier Training Requirements Not Met

Not all certifiers received the demilitarization training required by the contract. The DRMS Instruction states the DRMO chief is responsible for appointing all demilitarization certifiers and verifiers and ensuring they are technically qualified. To be technically qualified, individuals must complete demil training. However, of the 12 certifier and verifier training records we reviewed, 3 certifiers had not met the contract training requirements, which consisted of an initial demilitarization course and annual refresher training. As of February 2010, two certifiers had not completed refresher training since May 2008 and one certifier had not completed refresher training since November 2008. Of those three personnel, two were personnel that we identified as responsible for inappropriately certifying demilitarization.

Inadequate Number of CORs at Demilitarization

DRMO officials did not assign adequate personnel to monitor contractor performance of demilitarization operations. During our review, a COR was responsible for overseeing demilitarization operations in the torch cutting area. Although we were unable to identify guidance for determining the proper number of CORs needed to oversee demilitarization operations, physically witnessing or inspecting every demil-required item is an onerous, if not impossible, task for one COR. For example, the Camp Arifjan DRMO received approximately 1.8 million items in CY 2009, each of which would require some form of demilitarization if not reutilized.

Conclusion

Items requiring demil include advanced military technology or equipment which are national security resources the United States cannot afford to misplace. To ensure these valuable resources are not lost or stolen, it is critical DRMO officials strengthen effective oversight of contractor operations and the demilitarization process. Without holding certifiers and verifiers accountable for strict compliance with DRMS guidance to account for, witness, or inspect all residue as soon as the demilitarization is complete, DoD lacks reasonable assurance items are being properly demilitarized.

Management Actions to Improve Compliance

We commend DRMO officials for taking immediate action to correct some deficiencies identified during the audit. On February 18, 2010, DRMO officials ensured the certifiers deficient in training completed their training requirements. In addition, on February 25, 2010, the DRMO chief stated two additional DRMO officials were assigned to monitor contractor performance of demilitarization operations. The DRMO chief also developed procedures to test demil documentation and intends on inspecting five demil certificates weekly for the proper DTID number, the quantity of items on the DTID, certification and verification, and the number of items demilitarized.

On June 30, 2010, the contracting officer terminated the contract for convenience. DLA Disposition Services officials awarded a new contract for conducting operations at Camp Arifjan on August 6, 2010; however, the award was also terminated for convenience on September 20, 2010, due to a protest, and is being re-solicited as of December 2010. As a result, our recommendations are directed towards improving future management and oversight of demilitarization operations at the Camp Arifjan DRMO.

Recommendations, Management Comments, and Our Response

C.1. We recommend the Director, Defense Logistics Agency Disposition Services, direct the chief, Defense Reutilization and Marketing Office at Camp Arifjan, and the contracting officer:

a. Incorporate performance measures into the future contract to ensure the contractor is accurately performing, verifying, and certifying demilitarization to include validating the quantities of items demilitarized.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that although government personnel currently perform all operations at the DLA Disposition Services Kuwait [Camp Arifjan DRMO], a performance measure to ensure the contractor is performing demilitarization in accordance with DoD 4160.21-M-1, "Defense Demilitarization Manual," February 15, 1995, is incorporated into the solicitation for the follow-on contract. Furthermore, only DLA or DoD employees will be appointed as demil certifiers and verifiers. Appropriate procedures are in place to ensure demil certifiers and verifiers are properly trained in demil processes and ensure proper performance. These employees must complete the required training prior to deployment.

Our Response

DLA Disposition Services' comments are responsive. No additional comments are required for this recommendation.

b. Develop and implement detailed quality assurance procedures to ensure the certifier and verifier witness or inspect the residue, the correct quantity of items are verified and annotated, and the demilitarization certificate is properly signed. In addition, continuously reevaluate the proper amount of oversight of demilitarization personnel. If additional oversight is needed, assign more oversight personnel to demilitarization.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that Government personnel perform all functions at the DLA Disposition Services Kuwait [Camp Arifjan DRMO]. As previously stated [in response to Recommendation C.1.a], procedures are in place to ensure the certifiers and verifiers are properly trained in demil prior to deployment to ensure proper demil performance.

Our Response

DLA Disposition Services' comments are responsive. Based on our review, the standard operating procedures should provide additional assurance that equipment is properly demilitarized. No additional comments are required.

c. Develop and implement procedures to periodically validate certifiers of demilitarized items have completed the applicable training requirements.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that procedures are in place to ensure appointed demilitarization certifiers and verifiers are technically competent and their applicable training requirements are current. DLA Disposition Services will also ensure that each employee has met the applicable training requirements prior to their deployment.

Our Response

DLA Disposition Services' comments are responsive. No additional comments are required.

d. Conduct periodic unannounced reviews to verify certifiers and verifiers are performing, witnessing, or inspecting residue of the demilitarization process; and verify the correct quantity of items are demilitarized.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that DLA Disposition Services Kuwait [Camp Arifjan DRMO] modified their demilitarization procedures in February 2010 and formally

incorporated the new procedures into standard operating procedures. Those procedures require the verifier to annotate the demil location on the demilitarization certificate, verify the count, and initial the certificate prior to the items being demilitarized. Once demilitarization is completed, the verifier then refers to the demilitarization certificate previously annotated while conducting the inspection of the residue to ensure the certificate being signed is true and correct for the property that was demilitarized. Additionally, the facility chief is required to conduct periodic inspections of the procedures while maintaining a log of the inspections and initialing the demilitarization certificates checked, as appropriate.

Our Response

DLA Disposition Services' comments are responsive. Although DLA Disposition Services did not state whether periodic inspections would be unannounced, actions taken meet the intent of the recommendations. We commend DLA Disposition Services for taking prompt action to implement these procedures. No additional comments are required.

C.2. We recommend the Director, Defense Logistics Agency Disposition Services, determine the accountability of verifiers and certifiers who inappropriately certified and/or verified that items were destroyed and initiate administrative action regarding these personnel as deemed appropriate by the Director.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the recommendation stating that personnel responsible for inappropriately verifying demilitarization were counseled, in writing and verbally, by their supervisor and senior management. The Director, DLA Disposition Services and Disposition Services Director-Central reviewed the issue and agreed that actions taken by the supervisors and management were sufficient and appropriate. In addition, implementation of the procedures identified in response to Recommendation C.1 will mitigate the risk of future occurrences.

Our Response

DLA Disposition Services' comments are responsive and no additional comments are required.

Finding D. Physical Security Requirements Not Fully Implemented

(FOUO) DRMO and contractor officials did not provide adequate physical security at the Camp Arifjan DRMO. [REDACTED]

[REDACTED] As a result, DoD is at an increased risk for pilferage of Government property.

Physical Security Plan

DRMS Instruction 4160.14 Section 1, Chapter 4, "Security and Force Protection," provides the physical security plan for DLA Disposition Services field activities and assigns responsibility to the DRMS field activity leader or DRMO chief to implement minimum security procedures. Among those security procedures is the responsibility for controlling visitors. The Instruction states that any visitor entering the DRMO yard unchallenged and uncontrolled constitutes a serious breach of security, which could increase pilferage and fraud.

(FOUO) [REDACTED]

(FOUO) [REDACTED]

[REDACTED]

(FOUO) [REDACTED]

(FOUO) [REDACTED]

(FOUO) [REDACTED]

(FOUO) [REDACTED]

(FOUO) [REDACTED]

(Figures 11-13).

~~(FOUO)~~ Figures 11-13. [REDACTED]

[REDACTED]

(FOUO) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(FOUO)

[REDACTED]

[REDACTED]

(FOUO)

[REDACTED]

Conclusion

Throughout the audit we identified vulnerabilities that increased the risk for the theft of Government property, as discussed in Findings A and C of this report. These theft vulnerabilities are intensified by DRMO and contractor officials [REDACTED]; these procedures are essential for safeguarding the millions of excess items processed for disposition at the DRMO.

Recommendation, Management Comments, and Our Response

D. We recommend the Director, Defense Logistics Agency Disposition Services, require the chief, Defense Reutilization and Marketing Office, Camp Arifjan, to implement physical security procedures which include [REDACTED]

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the intent of the recommendation.

(FOUO) [REDACTED]

Our Response

~~(FOUO)~~ DLA Disposition Services' comments are partially responsive. To provide additional assurance that thorough security inspections are occurring, we requested the [REDACTED]. Based on our review, the standard operating procedures should ensure thorough security inspections of [REDACTED]

~~(FOUO)~~ Although DLA Disposition Services agreed with the recommendation, the procedures [REDACTED] does not fully implement the recommendation or comply with DRMS Instruction 4160.14, which requires [REDACTED]. We request that DLA Disposition Services reconsider their position on Recommendation D and provide additional comments to the final report.

Finding E. Preventing Transfer of Export-Controlled Items and Technology

DRMO officials did not ensure the contractor had adequate controls in place to prevent unauthorized access to export-controlled items and technology such as laser optics and weapon sights during the receiving, reutilization, and demilitarization process. This occurred because (1) DLA Disposition Services officials did not direct the contracting officer to incorporate into the contract the applicable Defense Federal Acquisition Regulation Supplement clause, and (2) DLA Disposition Services and DRMO officials believed other controls, such as required background checks, supervision by U.S. personnel, and physical security procedures, were in place and sufficient to prevent unauthorized personnel from obtaining access to export-controlled items and technology. DRMO officials also stated foreign national access to export-controlled items and technology is an acceptable practice in overseas operations. As a result, foreign nationals were physically and visually inspecting sensitive items during the receiving and demilitarization process, and had physical access to containers which stored sensitive items. Unless adequate controls are implemented, DoD is at an increased risk that foreign national access to export-controlled items could result in disclosures of controlled technologies, which could have military or economic ramifications.

Export Regulations, Guidance, and Targeted Technology

Export regulations restrict the transfer, by any means, of certain items to unauthorized persons. The Department of State controls the transfer of defense-related items and technology through the International Traffic in Arms Regulations, and the Department of Commerce controls the transfer of dual-use commodities²⁰ through the Export Administration Regulations.

Under the direction and control of the Under Secretary of Defense for Policy, the Defense Technology Security Administration develops and implements DoD technology security policies for export-controls consistent with national security objectives and Federal laws and regulations. In addition, to ensure DoD Components are aware of Federal regulations, the Under Secretary of Defense for Policy issued DoD Instruction 2040.02, "International Transfers of Technology, Articles, and Services," July 10, 2008. The guidance states any means of transferring export-controlled technology or technical data²¹ to foreign persons, including visual inspection, requires an export-control license or authorization for disclosure. The Instruction also provides guidance to DoD Components stating all

²⁰ Dual-use commodities are those goods or technologies that have both commercial and military use.

²¹ DoD Instruction 2040.02 defines technical data as information of any kind that can be used, or adapted for use, in the design, production, manufacture, assembly, repair, overhaul, processing, engineering, development, operation, maintenance, adapting, testing, or reconstruction of goods or munitions. Technology is defined as the application of scientific and technical information and know-how to design, produce, manufacture, use, adapt, reconstruct, or reverse-engineer goods. We use the terms technical data and technology, interchangeably in the report.

solicitations and contracts which anticipate the contractor will need access to export-controlled items for contract performance should include a clause requiring compliance with export-control regulations. Although not specific to contractor operations, DoD Instruction 2040.02, states that DoD Components are required to implement and maintain internal controls within their facilities to prevent unauthorized access by foreign nationals. Such controls can include unique badging for foreign nationals, separate work areas for export-controlled items, and providing export-control training. Depending on the type of technology, the International Traffic in Arms Regulations and the Export Administration Regulations may also require the contractor to develop a technology transfer or internal control plan to provide assurance that sufficient procedures and oversight are in place to protect the technology. These plans can include controls such as:

- export-control training,
- security procedures for preventing access to controlled technology by unauthorized personnel, and
- procedures to ensure employees do not receive controlled technology until an export-control license or authorization is issued.

To ensure contractor compliance with Federal regulations, DoD published Defense Federal Acquisition Regulation Supplement subpart 204.73, "Export-controlled Items," revised on April 8, 2010.²² The regulation requires the Defense Federal Acquisition Regulation Supplement clause 252.204-7008, "Export-Controlled Items (April 2010)," be used in all solicitations and contracts.

We reviewed the Defense Security Service report, "Targeting U.S. Technologies: A Trend Analysis of Reporting from Defense Industry," from 2008, to identify the most frequently targeted U.S. technologies in Southwest Asia. The report identifies the most common collection methods utilized, entities attempting the collection of the targeted technologies, and the regions where these collection efforts originated. Where feasible, we focused our audit fieldwork on reviewing whether adequate controls were in place to ensure the proper disposition and protection of items for two of the ten most targeted technologies in Southwest Asia, (1) sensors, and (2) lasers and optics.

Controls Needed to Prevent Unauthorized Access

DRMO officials did not ensure the contractor had adequate controls in place to prevent unauthorized access to export-controlled items and technology. Specifically, foreign nationals were physically and visually inspecting sensitive items during the receiving and demilitarization process and had physical access to containers which stored sensitive items in the reutilization yard.

²² Defense Federal Acquisition Regulation Supplement subpart 204.73, "Export-controlled Items," revised April 8, 2010, implements Section 890(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

Initial Inspection

~~(FOUO)~~ During the initial inspection process at receiving, foreign nationals had access to potential export-controlled items and technology, such as laser optics and weapon sights. The purpose of the initial inspection is to verify the condition and quantity of items received. For example, we observed foreign nationals handling and inspecting sensitive items, such as body armor components (Figure 14).

Figure 14. Foreign Nationals Inspecting Body Armor



~~(FOUO)~~ Some of the body armor components were damaged, exposing the inner materials. Knowledge of the inner materials could be used to re-manufacture or assemble body armor components. Based on our review of the U.S. Munitions List (included in the International Traffic in Arms Regulations), the physical and visual inspection of body armor components²³ by foreign nationals could be deemed an export in accordance with DoD Instruction 2040.02. The Instruction states any means of transferring export-controlled technology or data to foreign persons, to include visual inspection, requires an export-control license or other authorization for disclosure.

... we observed foreign nationals handling and inspecting sensitive items, such as body armor components.

Reutilization Yard

~~(FOUO)~~ Once contractor officials inspect and account for the items received, serviceable items are stored in the reutilization yard and made available for potential reuse. Foreign nationals also had access to potentially export-controlled items and technology in the reutilization yard, which includes containers for storing sensitive items. According to DLA Disposition Services officials, foreign nationals are not permitted to have unescorted access to sensitive-item storage containers. However, we observed foreign nationals obtain the keys to open, enter, and handle items in sensitive storage containers that stored items such as infrared illuminators, night vision goggles, and communication equipment, without U.S. Government or contractor supervision.²⁴ Regardless of whether the foreign nationals had a supervisory escort, based on our review of the U.S. Munitions

²³ Body armor components are included in Category X of the U.S. Munitions List.

²⁴ Infrared illuminators and night vision goggles are included in Category XII, and communications equipment is included in Category XI of the U.S. Munitions List.

List, the physical and visual inspection of these sensitive items by foreign nationals could be deemed an export.²⁵

Demilitarization

~~(FOUO)~~ Export-controlled items that will not be reutilized must be demilitarized so the items cannot be used for their originally intended purpose. While reviewing the demilitarization process, we observed foreign nationals sorting through ammunition casings to find live rounds while operating the ammunition shell casing deformer. Prior to deforming the ammunition casings, the foreign nationals visually inspected and physically separated casings to ensure no live rounds entered the machine (Figure 15). A

We also observed that U.S. contractor officials were not supervising foreign nationals at the deformer to preclude the theft of live rounds.

contractor official stated when an employee finds a live round, they should turn them into a Government official who then deposits the rounds into an amnesty box. Although we did not visually observe a foreign national discover a live round, we did observe at the deformer live rounds that

contractor employees had previously identified and segregated. We also observed that U.S. contractor officials were not supervising foreign nationals at the deformer to preclude the theft of live rounds (Figure 16).

Figure 15. Foreign Nationals Operating Deforming Equipment



Figure 16. Closest U.S. Contractor to the Foreign Nationals Operating the Deforming Equipment



Based on our review of the U.S. Munitions List, ammunition and shell casings are classified as category III export-controlled items. As such, we believe the handling and visual inspection of these items by foreign nationals could be deemed an export.

~~(FOUO)~~ The International Trade in Arms Regulations also states instruction manuals for items listed on the U.S. Munitions List are considered technical data and should be controlled; however, a DRMO official stated foreign nationals are not prohibited from viewing manuals, which are received with some demil-required items. We observed

²⁵ We did not verify with Department of State officials as to whether each item we observed in the storage containers was export-controlled.

foreign nationals with access to aviation components²⁶ and a corresponding manual, which according to a DRMO official was obsolete and required demilitarization (Figure 17).

Figure 17. Manual Received With Demilitarization Required Items



Foreign national access to potentially export-controlled items and technology during the receiving, reutilization, and demilitarization process, could result in disclosures of controlled technologies which could have military or economic ramifications.

Export Clause Not Incorporated into the Contract

DLA Disposition Services officials did not direct the contracting officer to incorporate Defense Federal Acquisition Regulation Supplement clause, 252.204-7008, "Export-Controlled Items," into the contract. The clause states the contractor is required to comply with all applicable export-control laws and regulations. DoD's responsibility is reiterated in Defense Federal Acquisition Regulation Supplement section 204.73, which states DoD Components should include the export-control clause in all solicitations and contracts. The applicable sections of the clause state:

(b) The Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for Contractors to register with the Department of State in accordance with the ITAR. The Contractor shall consult with the Department of State regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR.

(c) The Contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

(d) Nothing in the terms of this contract adds to, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive orders, and regulations...

²⁶ Aviation items are included in Category VIII of the U.S. Munitions List.

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts.

Although the contractor is ultimately responsible for ensuring compliance with Federal export regulations, it is in the interest of both the Government and contractor to have a common understanding of the use and handling of export-controlled items and technology expected to be involved in contract performance. Therefore, the clause should be incorporated in any DRMO contract to inform the contractor of the legal obligations to safeguard export-controlled items and prevent disclosures of controlled technologies.

Officials Consider Other Controls to be Sufficient

~~(FOUO)~~ DLA Disposition Services officials disagreed with our conclusion that potential violations of Federal export regulations may have occurred. DLA Disposition Services officials stated that mitigating controls, such as background checks, physical security procedures, and oversight of foreign nationals by U.S. persons are sufficient to prevent unauthorized personnel from obtaining access to export-controlled technology. DRMO officials also stated that foreign national access to export-controlled items and technology is a common practice in overseas operations. DLA Disposition Services officials stated that in the majority of situations we cited, foreign nationals could garner no information relating to the technology of the export-controlled items other than what is already publically available merely by viewing or handling it while under supervision of a U.S. person. In addition, DLA Disposition Services officials stated foreign nationals are not permitted to have unescorted access to sensitive item storage containers, and foreign nationals are searched by U.S. Army base security officials before exiting the installation (see Finding D).

DLA Disposition Services officials stated that the viewing and handling of an export-controlled item could be deemed an export only in situations when information on the construction, content, or technology of the export-controlled item can be obtained. DLA Disposition Services officials reiterated the definition of technical data, "information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles..." and stated that the foreign national access to the majority of items we cited did not meet the definition of technical data. For example, DLA Disposition Services officials stated the viewing or handling of body armor or shell casings by a foreign national with U.S. citizen oversight would not result in a release of information required for the design, development, production, manufacture, assembly, operations, repair, testing maintenance, or modification of these items.

~~(FOUO)~~ We disagree with the DLA Disposition Services official's position on what may constitute a deemed export. As stated previously, we believe foreign nationals can garner information on the operation, assembly, and maintenance of export-controlled items by viewing and handling items such as weapon sites and body armor. Further, the controls that DLA Disposition Services cite as being sufficient to mitigate unauthorized access are

not in place or operating as intended. For example, the physical security controls DLA Disposition Services officials cited as being in place at the reutilization area—non-U.S. persons not being allowed to enter the area unescorted—were not in place. Specifically, we observed unsupervised foreign nationals obtain the keys to open, enter, and handle items in the sensitive storage containers which store items such as infrared illuminators, night vision goggles, and communication equipment. We also observed unsupervised foreign nationals at the deformer with access to live ammunition. Lastly, we met with U.S. Army base security officials who stated they only conduct random searches of foreign nationals exiting the base.

Conclusion

DRMO officials may have allowed foreign nationals to access export-controlled items and technology, which could result in the unauthorized disclosure of that technology. Therefore, it is critical that DLA Disposition Services and DRMO, in coordination with the Defense Technology Security Administration, develop a control plan which includes procedures to prevent unauthorized access to controlled items and technology; requires export-control training; and requires periodic assessments of contractor operations to ensure the control plan is properly implemented.

Although we focused our review of contractor operations at the Camp Arifjan DRMO, DLA Disposition Services should review all contracts and solicitations to determine if appropriate export-control clauses have been considered when DLA Disposition Services anticipates that the contractor will need access to export-controlled items and technology.

Management Comments on the Finding and Our Response

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments on the finding from DLA Disposition Services. Although DLA Disposition Services agreed with the intent of the recommendations, they disagreed with the finding's conclusions and assumptions with regard to export-control laws, regulations, and guidance. The full text of management comments and our response can be found in Appendix F on page 60.

Recommendations, Management Comments, and Our Response

E. We recommend the Director, Defense Logistics Agency Disposition Services:

1. Direct the contracting officer to incorporate Defense Federal Acquisition Regulation Supplement, clause 252.204-7008, into any follow on Camp Arifjan DRMO contract.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed

with the recommendation stating that the Defense Federal Acquisition Regulation Supplement, clause 252.204-7008, has been incorporated into its solicitations for Kuwait and Iraq follow-on contracts.

Our Response

DLA Disposition Services' comments are responsive. No additional comments are required.

2. Direct the chief, Defense Reutilization and Marketing Office at Camp Arifjan, in coordination with the Defense Technology Security Administration, develop and implement a control plan which includes procedures to prevent unauthorized access to controlled items and technology; a requirement for export-control training for those officials responsible for ensuring compliance with Federal export regulations; and a requirement to conduct periodic assessments of contractor operations to validate compliance with the Federal export regulations.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services partially agreed with the recommendation as it relates to increasing oversight, training, and security as well as performing periodic assessments of compliance with Federal export-control requirements.

Our Response

Although DLA Disposition Services partially agreed with the recommendation, management did not state whether a control plan would be developed, implemented, and coordinated with the Defense Technology Security Administration to include procedures for preventing unauthorized access to export-controlled items and technology and a requirement for conducting export-control training and periodic assessments. Therefore, we request additional comments in response to the final report identifying specific actions to prevent the transfer of export-controlled items and technology.

Finding F. Contractor Had Minimal Incentive to Challenge the Condition and Price of Items

~~(FOUO)~~ DLA Disposition Services officials provided the contractor with minimal incentive to challenge or change questionable supply condition codes assigned by the generating activity or challenge the unit price of undervalued items. The contractor also had minimal incentive to turn away generating activities from improperly turning in serviceable items. This occurred because of deficiencies in the DLA Disposition Services acquisition strategy and contract terms and conditions, which allowed the contractor to retain all proceeds from the sale of scrap and useable property.²⁷ Specifically, the acquisition strategy entitled the contractor to retain 100 percent of the proceeds²⁸ from the sale of scrap or usable property and did not consider a profit sharing arrangement over the estimated cost offset to the contract price. Furthermore, the contract terms and conditions did not require the contractor to provide the dollar value of sales, which could have been used to negotiate a lower cost to the Government when exercising option periods. As a result, the Government did not equitably benefit from an estimated [REDACTED] in CY 2009 contractor sales of scrap and useable items from DRMO operations in Iraq, Afghanistan, and Kuwait. Of that amount, approximately [REDACTED] was revenue from the sale of scrap and usable property at the Camp Arifjan DRMO.

DLA Disposition Services officials took action to address some of the acquisition and contracting deficiencies identified during the audit. DLA Disposition Services officials stated they intended to take into account increased scrap sales related to the contractor's request for an equitable adjustment and requested the contractor provide actual sales data as part of its determination. On June 30, 2010, the contracting officer terminated the contract for convenience effective July 1, 2010. DLA Disposition Services also awarded multiple 2-year scrap removal contracts in July 2010, which require the contractors to pay the Government for the removal of scrap. See Management Actions on page 46 for a list of actions taken.

Cost Offset

In response to the solicitation, the offerors were required to propose an offset amount to the contract based on anticipated proceeds from the sale of scrap and useable property, which would reduce the cost incurred in performing the contract. The objectives of this strategy were to (1) help offset the cost of the contract with anticipated proceeds from scrap sales and useable property and (2) ensure a steady removal of property so that yard

²⁷ Useable property is property sold for its originally intended purpose. Scrap is property sold for the value of its material.

²⁸ Any proceeds would exclude customs duties and fees.

capacity would not be exceeded. DLA Disposition Services officials stated that they believed the estimated offset would help achieve the best value to the Government.

To assist the offerors in developing their offset estimates, DLA Disposition Services issued two amendments to the solicitation. Amendment 7 provided a list of existing sales contracts to include the quantity and price of the commodity, and Amendment 9 governed how the proposals were to be priced and submitted. Amendment 9 Technical Exhibit-5, "Sales," paragraph g and j state respectively,

Proceeds. The Contractor is entitled to all sales proceeds collected excluding customs duties and fees. The Government anticipates such sales will offset some of the costs incurred in performing this contract. Offerors must outline in their proposals how they will conduct and enhance the sale of scrap and other property to achieve the highest revenue and show how its overall offer for this contract was reduced based on these anticipated sales.

Sales Reports. Quarterly the Contract[or] will provide a spreadsheet showing the name, address and contact information of their resale buyers, commodity purchased and quantity.

(FOUO) In response to the solicitation, Taos included in their proposal an estimated offset of [REDACTED], to include the base and four option periods as shown in Table 3, which they developed based on various cost models and other variables such as the volatility of the international scrap market.

~~(FOUO)~~ Table 3. Contractor Estimated Offset

Period	Offset Amount
Base Year	[REDACTED]
Option Year 1	[REDACTED]
Option Year 2	[REDACTED]
Option Year 3	[REDACTED]
Option Year 4	[REDACTED]
Total Offset	[REDACTED]

Note: The offsets applied to anticipated sales for all six DRMO locations in Southwest and Central Asia.

(FOUO) [REDACTED]

²⁹ DRMS officials stated that since contract inception, the amount of scrap was considerably above what was anticipated prior to contract award.

On November 29, 2007, the contracting officer awarded the contractor an estimated \$45.2 million three-tier contract: firm-fixed price, time and material, and cost reimbursement fixed-fee. The first task order under the base period went from March 3, 2008, through June 30, 2009. The task order for the first option period went from July 1, 2009, through June 30, 2010.

Minimal Incentive to Comply with Guidance

By allowing the contractor to retain 100 percent of the proceeds from the sale of scrap and usable property, DLA Disposition Services officials provided the contractor with minimal incentive to challenge or change questionable supply condition codes in accordance with DRMS guidance, or challenge the unit price of undervalued items in accordance with DoD guidance. For example, the contractor may not challenge a serviceable item improperly coded as unserviceable because the contractor can downgrade some items to scrap upon receipt or demilitarize the item and sell as scrap without processing the item through the 42-day reutilization period. In addition, the contractor also had minimal incentive to turn away generating activities from improperly turning in serviceable items. Challenging or changing questionable condition codes and unit pricing of undervalued items could increase the opportunity for these items to be reutilized, ultimately saving the Government money from not having to repurchase the same item.

Condition Codes Not Challenged or Changed

DRMS Instruction 4160.14 states the generating activity's assigned supply condition code should be reviewed during inspection. If the supply condition code appears suspicious, the inspecting official should challenge the condition code with the generating activity. However, we observed contractor officials accepting items with unserviceable condition codes, which appeared to be serviceable. For example, on January 29, 2010, we observed a generating activity turning in potentially serviceable medical equipment at the DRMO marked condition code H (unserviceable). While we agree it may not be feasible for the contractor to assess whether medical equipment is serviceable due to its technical nature, officials should have, at minimum, challenged the condition code with the generating activity. Subsequent to our inquiry, contractor officials stated they would contact the local medical command to inspect the items and determine their serviceability.

Contractor officials not challenging or changing a questionable supply condition code during inspection could also impact the reutilization of an item. For example, a generating activity turned in a potentially serviceable crane vehicle valued at \$2,100, as scrap. Although contractor officials later changed the disposal condition code and made the crane vehicle available for reutilization, the assigned Federal condition code was "HX" or unserviceable salvage.³⁰ Therefore, unless a potential user physically observed

³⁰ The disposal condition code is used to designate the condition of an item assigned by DRMO officials after inspection of the item. The Federal condition code is a two-digit combination code comprised of a supply condition code and disposal condition code.

the crane vehicle at the DRMO, the individual would not know the vehicle could be serviceable or repairable (Figures 18 and 19). The crane was never reutilized during the reutilization period. Subsequently, the contractor sold the crane vehicle and received \$40,000 in proceeds.

Figure 18. Crane Vehicle



Figure 19. Additional Crane Parts



Unit Prices Not Challenged

The contractor also had minimal incentive to challenge inaccurate unit prices. During our review, serviceable items were available for reutilization with inaccurate unit prices, which could adversely affect their reutilization rate. While there is no DRMS guidance to challenge or change the unit prices of an item with the generating activity, DoD 4160.21-M, Chapter 3, "Receipt, Handling and Accounting," states discrepancies in item price data disclosed before acceptance should be resolved and corrected during the receipt process. However, several items were processed through receiving with inaccurate unit prices and were in the reutilization yard as shown in Table 4.

Table 4. Unit Prices in DAISY Compared to Approximate Acquisition Cost

Items	DAISY Unit Price	Approx. Acquisition Cost
Shredder	\$50.00	\$13,000.00
Solar Panel	\$50.00	\$250.00
Water Heater	\$70.00	\$700.00

Although the contractor made these items available for reutilization, the low unit prices assigned to these items by the generating activity could impact the likelihood of the items being reutilized. For example, without physical observation, an Army official with a requirement for a high-capacity shredder would have no way of knowing a shredder with a unit price of \$50 in DAISY is actually a high-capacity shredder with an acquisition cost of approximately \$13,000. After a 42-day reutilization period, these items could be downgraded to scrap and sold by the contractor or destroyed and sold as scrap without monetary benefit to the U.S. Government. Had the contractor questioned the unit price of these items with the generating activity, there may have been an increased opportunity for these items to be reutilized, ultimately saving the Government additional resources from not having to later repurchase the same item.

Improper Turn-in of Serviceable Items

The contractor also had minimal incentive to turn away units from improperly turning in serviceable items. According to Headquarters, Department of the Army guidance, "Classification and Turn-in of Items to DRMS," October 16, 2009, units are required to turn-in serviceable military specification items to a supply support activity or central issuing facility, not a DRMS facility (now known as a DLA Disposition Services facility). The guidance further states all organizational clothing and individual equipment should be turned into the central issuing facility for classification and disposition. However, we obtained DRMO receipt records from October to December 2009 and found that Army units located in Kuwait turned in a total of 727 serviceable (condition code A and B) items with a total acquisition value of \$19,900,213. These items included 705 vehicle fragmentary up armor kits (Frag Kits), valued at \$19,860,363; 12 antennas, valued at \$39,629; and 10 adaptor assemblies, valued at \$221. Of the serviceable items improperly turned in by the local Army units, 560 Frag Kits were eventually recovered from the DRMO through the Responsible Reset Task Force (R2TF) Disposal Asset Recovery Program³¹ and all 12 antennas were recovered by individuals through the DRMO reutilization screening process. The remaining 145 Frag Kits and all 10 adapter assemblies were demilitarized and downgraded to scrap after the 42-day reutilization screening period.

Even though DRMO and contractor officials agreed that the contractor should not accept serviceable military specification items from units or organizations other than from a supply support activity, a DRMO official stated that they cannot enforce or reinforce Army supply discipline. DRMO and contracting officials further stated not all supply support activities and central issuing facilities will take all items being turned in. Therefore, turning a unit away from turning in serviceable equipment and materiel may have serious ramifications preventing the unit from clearing their property books and being allowed to redeploy. However, DLA Disposition Services officials agreed to coordinate with local DoD activities to determine better ways to enforce those procedures.

Acquisition and Contract Management Weaknesses

The DLA Disposition Services acquisition strategy and contract terms and conditions were not developed to allow for the best value to the Government. Instead, the contractor was allowed to retain all proceeds from the sale of scrap and useable property.

Specifically, the acquisition strategy entitled the contractor to retain 100 percent of the proceeds from the sale of scrap or usable property and did not consider profit sharing over the estimated offset included in the contractor's proposal. Further, the contract terms and conditions

...the contractor was allowed to retain all proceeds from the sale of scrap and useable property.

³¹ The Army Materiel Command established the R2TF to work with U.S. Army Central and Army Materiel Command components to redistribute excess equipment to locations where the equipment can be properly assessed, repaired, and reissued.

did not require the contractor to provide the dollar value of scrap sales necessary to monitor the contractor's proceeds from the sale of scrap or useable property, which could have been used to negotiate a lower cost to the Government when exercising option periods.

Acquisition Strategy Should Consider Profit Sharing

Although DLA Disposition Services officials requested that the offerers develop an initial offset to lower the overall cost of the contract, they did not determine how the Government would receive further consideration for amounts over the estimated offset in their acquisition strategy. For

example, once the contractor reached the estimated proceeds used to offset the original cost of the contract, DLA Disposition Services officials could have incorporated a profit-sharing ratio

DLA Disposition Services officials reported they did not believe they had the experience or resources to effectively monitor a shared profit arrangement in a foreign environment.

in the acquisition strategy. We questioned DLA Disposition Services officials on why the acquisition strategy did not consider a profit-sharing arrangement, similar to the profit-sharing arrangement with their scrap contractor in the United States, in which DLA Disposition Services receives 80 percent of the resale proceeds. DLA Disposition Services officials reported they did not believe they had the experience or resources to effectively monitor a shared profit arrangement in a foreign environment. DLA Disposition Services officials also stated that prior to award of this contract, they had experienced difficulty arranging agreeable processes for selling property and negotiating a customs process satisfactory to both parties. By allowing the contractor to be completely responsible for the disposition of items, DLA Disposition Services officials stated they could also avoid any costs which may be associated with preparing the items for sale.

Reporting of Proceeds not Required by the Contract

Since DLA Disposition Services officials believed the Government had already received sufficient consideration for the anticipated sales proceeds through the offset, DLA Disposition Services did not require the contractor to provide sales dollar values in their quarterly sales reports. Instead, DLA

Disposition Services officials only required the contractor to include in their reports the commodity and quantity of property sold and the names of the firms who purchased the items. Therefore, DLA Disposition

... DLA Disposition Services officials could not monitor contractor sales against the estimated offset, which could have been used to negotiate a lower cost to the Government when exercising the contract options.

Services officials could not monitor contractor sales against the estimated offset, which could have been used to negotiate a lower cost to the Government when exercising the contract options.

Contractor Retains Sales Proceeds

~~(FOUO)~~ Because DLA Disposition Services officials were unable to provide the contractor's sales proceeds for CY 2009, we requested and obtained the data directly from the contractor. In CY 2009, the contractor received approximately [REDACTED] in revenue from the sale of scrap and useable property associated with DRMO operations in Iraq, Afghanistan, and Kuwait, of which the Government did not equitably benefit. Of that amount, approximately [REDACTED] was revenue from the sale of scrap and usable property at the Camp Arifjan DRMO.

The DRMO mission worldwide is to save the U.S. taxpayer money by providing opportunities to its customers to reutilize property. However, the DLA Disposition Services acquisition strategy and terms and conditions of the contract did not provide the best value to the Government. DLA Disposition Services officials did not consider the possibility of significant proceeds as well as the potential impact of encouraging the contractor to achieve its highest revenue from the sale of scrap and useable property. Had DLA Disposition Services officials taken these factors into consideration, DLA Disposition Services may have evaluated other strategies such as developing a profit-sharing ratio for any proceeds over the annual estimated offset or requiring sales dollar amounts to be included in quarterly sales reports, and used those reports to monitor and negotiate a lower cost to the Government prior to exercising the first option period.

Management to Request Contractor Sales Data

As a result of our audit, DLA Disposition Services officials stated they intended to take into account increased scrap sales related to the contractor's request for an equitable adjustment. On September 1, 2009, the contractor filed a request for equitable adjustment, based on a significant increase in workload. DLA Disposition Services officials stated that while the contractor processed additional materiel, the additional materiel also increased the amount of potential sales proceeds the contractor could have received. Subsequently, DLA Disposition Services officials stated that they would request the contractor to provide actual sales data to be used as part of its determination on whether the contractor was entitled to additional payment.

Subsequent to contract termination for convenience effective on July 1, 2010, DLA Disposition Services officials stated that multiple 2-year contracts for scrap removal were awarded and began in July 2010. Unlike the Taos contract, where the contractor retained 100 percent of the proceeds, the contractor will pay the Government for the removal of scrap. As a result of the new contracts in place for scrap sales, we did not include recommendations to correct the acquisition and contract management weaknesses discussed in this report. Instead, our recommendations are directed toward the new DRMO operations contract.

Recommendations, Management Comments, and Our Response

F.1. We recommend the Director, Defense Logistics Agency Disposition Services, require the chief, Defense Reutilization and Marketing Office at Camp Arifjan, and contracting officer, as appropriate, implement procedures at the DRMO and in future contracts to verify that the receiving officials are challenging and changing questionable condition codes and challenging inaccurate unit prices with the generating activity.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the intent of the recommendation. DoD 4160.21-M provides that personnel may change and assign the appropriate supply condition code for non-technical items and when appropriate, will re-assign the supply condition code and acquisition costs for suspect property. It is not feasible, however, for Disposition Services employees to have the technical expertise and testing capability to adequately assess the serviceability of technical property, or to easily challenge the acquisition value of all items received at this site. However, DRMO officials will re-assign supply condition codes and acquisition costs for suspect property, when appropriate. If the generating activity point of contact is not available to challenge the condition code initially assigned to the property, the Defense Reutilization and Marketing Office will continue to coordinate with local DoD resources to maximize the reutilization of property. On site Government personnel will also continue to challenge questionable condition codes and acquisition values as they are discovered.

Our Response

DLA Disposition Services' comments are responsive. No additional comments are required.

F.2. We recommend the Director, Defense Logistics Agency Disposition Services, in coordination with U.S. Army Central, implement procedures that reinforce the Headquarters, Department of the Army guidance, titled "Classification and Turn-in of Items to DRMS," October 16, 2009.

DLA Disposition Services' Comments

The DLA Executive Director for Materiel Policy, Process, and Assessment endorsed and forwarded comments from DLA Disposition Services. DLA Disposition Services agreed with the intent of the recommendation stating that DLA Disposition Services personnel will continue to train customers in Iraq and Kuwait on proper turn-in procedures. For example, Expeditionary Disposal Remediation Teams are utilized to assist Army personnel at forward operating bases, where some property is shipped directly to Camp Arifjan, Kuwait. These teams educate units on property turn-in requirements to reduce the number of improper equipment turn-ins for disposal.

Our Response

DLA Disposition Services' comments are responsive. The intent of the recommendation was to ensure increased coordination between DLA Disposition Services and U.S. Army Central to reinforce implementation of the Department of Army guidance. We contacted DLA Disposition Services officials to request additional assurance that DLA Disposition Services continues to coordinate with U.S. Army Central. DLA Disposition Services responded that DLA officials are in frequent contact with the Army regarding proper turn-in of usable property to Camp Arifjan. In addition, proper turn in procedures was a topic of discussion at the most recent DLA/Army Day at Fort Belvoir, Virginia. No additional comments are required.

Appendix A. Scope and Methodology

We conducted this performance audit from October 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To accomplish our objective, we coordinated with or interviewed officials from:

- Army Deputy Chief of Staff for Logistics (G-4)
- U.S. Central Command
- U.S. Army Central
- 1st Theater Sustainment Command
- 593rd Sustainment Brigade
- U.S. Army Area Support Group-Kuwait
- U.S. Army Materiel Command
- U.S. Army Sustainment Command
- 402nd Army Field Support Brigade
- Responsible Reset Task Force (R2TF)
- U.S. Army TACOM Life Cycle Management Command
- Communications-Electronics Command
- U.S. Army Program Executive Office Soldier
- Defense Logistics Agency
- DLA Logistics Information Service
- DLA Disposition Services
- Camp Arifjan DRMO
- Taos Industries, Inc./Agility

We obtained and reviewed relevant sections of the Federal Acquisition Regulation; the U.S. Code of Federal Regulations; the International Trade in Arms Regulations; Export Administration Regulations; Defense Federal Acquisition Regulation Supplement; specific DoD and DRMS instructions, manuals, and handbooks; and specific Department of the Army Regulations and Messages.

Using judgment samples, we observed, analyzed, and tested CY 2009 and CY 2010 receiving, inspection, reutilization, demilitarization, and scrap removal procedures at the Camp Arifjan DRMO. As a result of concerns identified from our judgment sampling, we conducted a census review of all demil code F infrared equipment, infrared illuminators, and borelight systems turned into the DRMO between July 2009 and March 2010 (see Finding B). Upon our initial findings, we coordinated multiple briefings with DLA Disposition Services and Camp Arifjan DRMO officials to address concerns observed throughout the audit, provided recommendations, and verified actions

taken, where appropriate. We also coordinated with the Defense Criminal Investigative Service, Army Criminal Investigations Division, and 1st Theater Sustainment Command 15-6 investigation officials, who were conducting concurrent investigations that directly or indirectly related to the Camp Arifjan DRMO.

We conducted a review of the DLA Disposition Services acquisition strategy, contract management, and contract award to Taos Industries, Inc., as it applied to the audit objective. We focused our review on contractor performance of the fixed price portion of the contract at Camp Arifjan, during CY 2009. We also obtained and reviewed CY 2009 sales documentation and invoices from the contractor.

Use of Computer-Processed Data

To perform this audit, we obtained DAISY and the Management Information Distribution and Access System computer-processed data from DLA Disposition Services and DRMO officials. We obtained systems information from the DLA Logistics Information Service, DLA Disposition Services, and DRMO officials to assist in identifying the potential for errors in accuracy and completeness of the computer processed data used for this audit. Since neither the Management Information Distribution and Access System or WebDocs were considered by the DLA to be definable units, we did not perform further work on these systems. We evaluated a selection of DAISY general and application controls used to maintain accountability for the disposition of equipment at the Camp Arifjan DRMO. We observed system controls in place for data entry and processing and determined the majority of the controls we reviewed were working as intended. As a result, we believe the computer-processed data we used to support the findings and conclusions presented in this report can be relied upon.

We also used computer-processed data to reconcile whether the contractor quarterly sales data for the Camp Arifjan DRMO reconciled to contractor monthly invoices. Specifically, we obtained and reviewed monthly and quarterly reports and monthly invoices from January 1, 2009, through December 31, 2009, provided by contractor officials and calculated the differences. We also conducted testing to determine whether December 2009 weight ticket totals reconciled to the totals reported on the contractor monthly invoices to DLA Disposition Services. We did not conduct analysis on the reliability of the CY 2009 sales data provided by the contractor.

Appendix B. Prior Audit Coverage

During the last 5 years, the GAO and DoD IG have issued 11 reports on the proper disposition of excess equipment or the drawdown of U.S. forces and equipment from Iraq. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

In addition to the GAO and DoD IG audit reports listed below, in January 2010, the 1st Theater Sustainment Command initiated an investigation on materiel processing and disposition procedures in Iraq and Kuwait. The investigation found the Theater Retrograde employees were sending new, unused, and serviceable materiel to the Camp Arifjan DRMO for reutilization, destruction, or sale without direct monetary benefit to the Government. After we completed audit fieldwork in Kuwait, we briefed senior Army Materiel Command, U.S. Army Central, and 1st Theater Sustainment Command officials on the issues identified, some of which they included in their investigation report issued April 19, 2010.

GAO

GAO Report No. GAO-10-376, "Operation Iraqi Freedom, Actions Needed to Facilitate the Efficient Drawdown of U.S. Forces and Equipment from Iraq," April 19, 2010

GAO Report No. GAO-10-551T, "Warfighter Support: Continued Actions Needed by DoD to Improve and Institutionalize Contractor Support in Contingency Operations," March 17, 2010

GAO Report No. GAO-10-179, "Operation Iraqi Freedom, Preliminary Observations on DoD Planning for the Drawdown of U.S. Forces from Iraq," November 2, 2009

GAO Report No. GAO-08-930, "Operation Iraqi Freedom: Actions Needed to Enhance DoD Planning for Reposturing of U.S. Forces from Iraq," September 10, 2008

GAO Report No. GAO-07-929R, "Sales of Sensitive Military Property to the Public," July 6, 2007

GAO Report No. GAO-06-981T, "DoD Excess Property: Control Breakdowns Present Significant Security Risk and Continuing Waste and Inefficiency," July 25, 2006

GAO Report No. GAO-06-604T, "Defense Logistics: Preliminary Observations on Equipment Reset Challenges and Issues for the Army and Marine Corps," March 30, 2006

DoD IG

DoD IG Report No. D-2010-091, "DOD Needs to Improve Management and Oversight of Operations at the Theater Retrograde-Camp Arifjan, Kuwait," September 30, 2010

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DoD IG Report No. D-2010-60, "Drawdown and Reset of Equipment in Iraq-Operation Clean Sweep," June 11, 2010

DoD IG Report No. D-2010-027, "Army's Management of the Operations and Support Phase of the Acquisition Process for Body Armor," December 8, 2009

DoD IG Report No. D-2008-114, "Accountability for Defense Security Service Assets with Personally Identifiable Information," July 24, 2008

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Appendix C. DRMO Flow of Equipment and Materiel

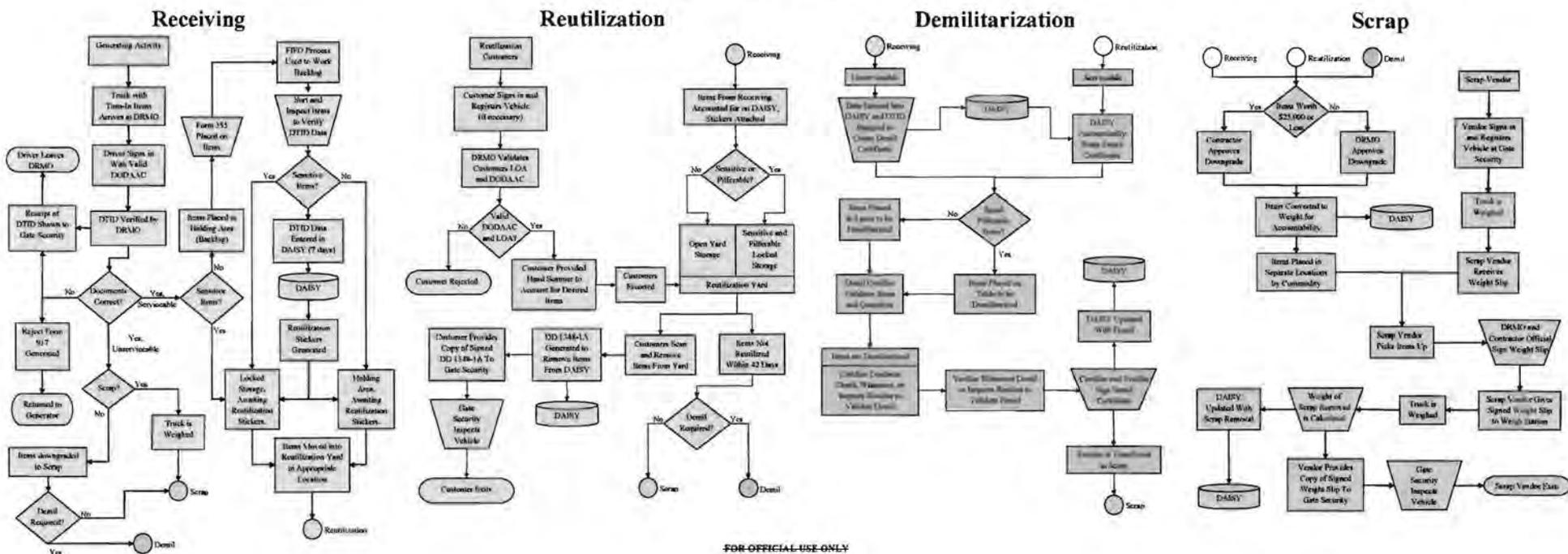
The following flowchart defines the general flow of equipment and materiel through DRMO receiving, reutilization, demilitarization, and disposition processes. The flowchart is based on our interpretation of the DRMS Instruction 4160.14, "Operating Instructions for Disposition Management," May 12, 2008. The process begins when a generating activity turns an item into the receiving area. The receiving official determines if the documentation is correct and whether the item should be processed as unserviceable or serviceable. The unserviceable items are processed as scrap or demilitarized, and serviceable items are processed for reutilization, where they are made available to customers for a 42-day period. If the serviceable items are not reutilized within the 42-day period, the items are downgraded to scrap or demilitarized. Once items are demilitarized, these items are also placed in the scrap area of the DRMO. See the fold out flowchart on the next page for more detail and a visual illustration of the processes.

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DRMO Flow of Equipment and Materiel



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Appendix D. Reutilization of Items through Collaboration

DoD entities such as the U.S. Army Materiel Command, U.S. Army Program Executive Office Soldier, the R2TF, and the Camp Arifjan DRMO are working collaboratively to increase the reutilization of potentially serviceable items and reduce waste. Although not all inclusive, some of their collaborative efforts are noteworthy and highlighted below.

R2TF officials instituted the DRMO Asset Recovery and Reutilization Program on December 9, 2009, to identify and recover potentially serviceable or unserviceable but repairable items which may have been improperly turned into the Camp Arifjan DRMO. Through February 2010, DRMO officials stated R2TF identified and removed approximately \$14.9 million of armored doors. Also, on January 30, 2010, a R2TF official stated they had identified several vehicles that could be recovered from the DRMO. Working with U.S. Army Materiel Command's Integrated Readiness Management Teams, these items were in the process of being recovered and shipped out for reutilization. As of April 2010, R2TF officials reported recovery of approximately \$87 million worth of items from the Theater Redistribution Center and the Camp Arifjan DRMO.³²

Based on our findings cited in DoD IG Report No. D-2010-027, "Army's Management of the Operations and Support Phase of the Acquisition Process for Body Armor," December 8, 2009, both DRMO and U.S. Army Program Executive Office Soldier have taken noteworthy action to prevent potentially serviceable body armor plates from being destroyed. We observed U.S. Army Program Executive Office Soldier and DRMO officials working collaboratively to identify potentially serviceable materials and ballistic plates for interceptor body armor and organizational clothing and individual equipment. U.S. Army Program Executive Office Soldier also established a permanent presence at the receiving area of the DRMO to periodically screen for these items upon receipt to ensure proper coding and disposition. As of May 2010, DRMO officials stated that U.S. Army Program Executive Office Soldier has pulled out potentially serviceable body armor and other components valued at approximately \$9.7 million, from the DRMO.

DLA Disposition Services officials took the initiative to find customers for potentially serviceable JLIST items. Although the amount of these items impacted yard capacity for an extended period of time, DLA Disposition Services officials, in coordination with U.S. Army Central, G-4 Multi National Coalition Forces, reported they were able to transfer and reutilize JLIST items, valued at \$3.9 million, in support of Lebanon.

Other actions taken included support for the Haiti Earthquake Disaster. Recognizing the urgent need, DRMO officials reported they shipped 5 containers of materiel, valued at

³² R2TF combines their reporting of items recovered from the DRMO and the Theater Redistribution Center so we could not differentiate or report only items pulled directly from the DRMO.

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approximately \$2.7 million, to Livorno, Italy, in support of the Haiti Earthquake Disaster. Materiel shipped in support of relief efforts included cots, beds, mattresses, chairs, and toiletries.

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Appendix E. Examples of Unaccounted for Sensitive Items

During our review, we conducted judgment samples of reutilized sensitive items. Although the contractor ensured the individuals removing the sensitive items from the DRMO were authorized to receive equipment, some of these sensitive items were later determined to not be properly accounted for by Army personnel, indicating these individuals were potentially retaining these items for personal use or resale. We referred our concerns to the Defense Criminal Investigative Service.

Infrared Equipment

The contractor improperly issued three infrared items to an individual authorized by his unit commander to receive equipment from the DRMO (refer to Finding B and C). We contacted the unit's accountable officer who stated the individual did not have a valid requirement for these items and the equipment would be confiscated by the unit commander. We later received confirmation from the unit commander that the equipment had been confiscated and returned to the DRMO. The audit team also obtained a copy of the DTID, which verified that the items were turned back in to the DRMO.

Infrared Illuminators

The contractor improperly issued 34 infrared illuminators to an individual authorized by a major Army command to receive equipment from the DRMO (refer to Finding B). Subsequently, the DRMO chief contacted a command official to inform them the items should not have been issued and to have the items returned to the DRMO. We were later contacted by a command official who confirmed these items were unaccounted for; however, we are unaware of whether the items were confiscated and turned in to a DRMO for demilitarization.

Ballistic Spectacles and Weapon Sites

The contractor issued four ballistic spectacles and four reflex weapon sights to an individual authorized to receive equipment from the DRMO. We contacted the unit's accountable officer who stated the individual did not have a valid requirement or account for these items. These items were immediately confiscated from the individual and were returned to the DRMO.



Appendix F. Management Comments on Finding E and Our Response

DLA Disposition Services' Comments

DLA Disposition Services officials disagreed with the finding's conclusions and assumptions with regard to export-control laws, regulations, and guidance (Finding E). Specifically, officials stated that the viewing or handling of the items referred to in the finding would almost never qualify as an export. The DLA Disposition Services officials also stated that Finding E does not appear to acknowledge that to be considered an export violation, a transfer must occur, and that the viewing or handling of an item is not, per se, a transfer. For a visual export to occur there must be a transfer of technical data such as blueprints, designs, or witnessing a dismantled or dissected piece of technology.

DLA Disposition Services officials disagreed that handling a damaged body armor plate and, specifically, seeing beneath the surface of a body armor plate could be considered an export. For example, touching and visually inspecting a body armor plate would reveal no more than its color, size, shape, heft, and weight, which officials consider to be publically available. Officials also stated that inspecting [combat] "flawed" items should not result in the release of information if the inspection does not provide for an assessment of the flaw's physical characteristics or involve knowledge of what caused the flaw. DLA Disposition Services officials also disagreed that viewing or handling items to include shell casings, live rounds, sights, or infrared sights would result in an export, in that technical data cannot be extrapolated from those items simply by viewing or handling them. DLA Disposition Services stated that gathering a general sense of what something looks like (specifically items with information available to the general domain) do not result in the transfer of technical data if technical data is not recorded, measured, or tested in any way.

Furthermore, DLA Disposition Services officials stated that the practical implication of the audit's concept of what qualifies as an export is far reaching. With overseas U.S. military installations and contractors employing thousands of third country nationals worldwide, these individuals are an integral part of the U.S. military's transportation and logistics processes. As part of those processes, third country nationals view and handle millions of export-controlled items. The officials stated that if the audit's concept of what constitutes an export is implemented worldwide as written, U.S. military operations overseas would be significantly and negatively affected.

DLA Disposition Services officials agreed with the finding in that third country nationals were determined to have unsupervised access to export-controlled items that could be easily concealed and removed from the premises. Officials further agreed that steps need to be taken to prevent these types of thefts or transfers from occurring. DLA Disposition Services officials also agreed that coupled with increased supervision, better accountability procedures need to be implemented to prevent the theft of export-controlled items.

Our Response

We disagree with the DLA Dispositions Services' position on what may constitute a deemed export. The International Traffic in Arms Regulations state that, unless otherwise exempted, an export license is required for the oral, visual or written disclosure of technical data to a foreign national. Those exports are commonly referred to as deemed exports. The focus of the finding was not to determine whether the viewing or handling of an item qualified as a deemed export or whether an export violation or transfer actually occurred, but rather to determine whether the DRMO Camp Arifjan had adequate controls in place to prevent unauthorized access to export-controlled items and technology. We also state that we did not verify with Department of State officials as to whether each item we observed was in fact export-controlled because our focus was not whether a transfer of technical data or export violation actually occurred. Had the focus of the finding been on whether a violation or technology transfer had occurred, we would have verified with the Department of State whether an item was export-controlled and obtained evidence as to the nationality of each foreign national. We would have also further questioned contractor officials whether or not other export authorizations existed, such as licenses, waivers, or technical assistance agreements.

DLA Disposition Services officials stated that for a visual export to occur there must be a transfer of technical data such as blueprints, designs, or witnessing a dismantled or dissected piece of technology. Yet, we discuss in the finding that foreign nationals had access to this type of technical data. Specifically, foreign nationals had access to aviation components and the corresponding manual in the demilitarization area. Based on our observations, we concluded that foreign nationals had access to potential export-controlled items and technology during the demilitarization process that could result in disclosure of controlled technologies.

With regard to foreign nationals visually inspecting and handling body armor components, we observed foreign nationals inspecting body armor components which were damaged. The auditors also handled damaged body armor and visually observed the inner materials and the exposed composition of the plate. Based on the International Traffic in Arms Regulations definition, technical data is information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. Based on this definition and as stated in the finding, knowledge of the inner materials could be used to remanufacture or assemble body armor components and therefore could be deemed an export. Additionally, as defined in DoD Instruction 2040.02, the definition of technology includes the know-how to design, produce, manufacture, use, adopt, reconstruct, or reverse-engineer goods. Using this definition, understanding how to use an item could constitute a transfer of technology. Therefore, thorough visual inspections and handling of weapon sights, infrared sights and body armor plates provide the opportunity to gain knowledge on their use. Furthermore, as stated in the finding, foreign nationals had unsupervised access to the sensitive-item storage containers which may provide the opportunity for an individual to learn how to "use" the items. As such, DRMO officials should have ensured that the contractor had adequate controls in place to prevent unauthorized access to export-

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controlled items and technology, to include controls such as proper physical security controls and adequate supervision.

The focus on preventing the transfer of export-controlled items and technology access by ensuring adequate controls are in place is further reflected in the recommendation. Specifically, we recommended that DLA Disposition Services develop and implement a control plan, in coordination with Defense Technology Security Administration. The Defense Technology Security Administration is the entity responsible for administering the development and implementation of DoD technology security policies on the transfers of defense items and technologies and ensuring consistency with U.S. foreign policy and national security objectives.

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Defense Logistics Agency Disposition Services Comments



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

DEC 2 2010

IN REPLY
REFER TO J-33

MEMORANDUM FOR DIRECTOR, OFFICE OF INVESTIGATIONS AND INTERNAL AUDITS

SUBJECT: Response to Department of Defense Inspector General (DODIG)
Report: DOD Needs to Improve Management and Oversight of Operations at
the Defense Reutilization and Marketing Office-Camp Arifjan, Kuwait
(Project No. D2010-D000JA-0054.000)

The attached report is provided in response to DODIG Report D2010-D000JA-0054.000. DLA Disposition Services concur with the findings and recommendations identified in the report and are taking appropriate actions to resolve the identified deficiencies, as well as minimize their recurrence. These actions will ensure that disposal management procedures and processes are working properly to ensure efficient reutilization and disposal operations.

The point of contact for this matter is Mr. Dwayne L. Thomas, J-3312, [REDACTED]
[REDACTED] or e-mail: [REDACTED]

MICHAEL SCOTT
Executive Director
Materiel Policy, Process and Assessment

Attachment

**DLA Disposition Services Responses to DOD IG Draft Report
Project No. D2010-D000JA-0054.000**

**Audit of the Controls Over the Disposition of Equipment at the Defense
Reutilization and Office at Camp Arifjan, Kuwait**

Recommendation:

A.1 We recommend that the Director, Defense Logistics Agency Disposition Services, identify the personnel accountable for not ensuring the contractor corrected receiving deficiencies identified by Contracting Officer Representatives and initiate administrative action regarding these personnel as deemed appropriate by the Director.

Response: Concur. The DLA Disposition Services Director and J-7 reviewed the circumstances surrounding this issue and determined administrative action was not warranted.

Recommendation:

A.2. We recommend the Director, Defense Logistics Agency Disposition Services, in coordination with the Contracting Officer ensure the following are included in subsequent DRMO contracts:

A.2.a. Performance measures to verify whether the contractor entered all items into the Defense Reutilization and Marketing Service Automated Information System within a required timeframe.

Response: Concur. Currently, government personnel perform all functions at DLA Disposition Services Camp Arifjan. In addition, the current contract solicitation for the Kuwait replacement contract does not include a requirement for the contractor to perform property data entry into our automated accountability system because government personnel will continue to perform this function. However, if in the future, Disposition Services has another contract at Camp Arifjan that requires the contractor to enter property data into its property accountability system, we will insert appropriate performance measures that ensure all property is entered into that system within required timeframes, for use in evaluating contractor performance.

Recommendation:

A.2.b. Director/Contracting Officer ensure the following are included in subsequent DRMO contracts: Terms and conditions to hold the contractor accountable for continued noncompliance with contract requirements to include a reduction in payment option.

Response: Concur. Under the Inspection of Services clause, if any of the services do not conform to contract requirements, the government may require the Contractor to perform the services again in conformity with the contract requirement, at no

**DLA Disposition Services Responses to DOD IG Draft Report
Project No. D2010-D000JA-0054.000**

**Audit of the Controls Over the Disposition of Equipment at the Defense
Reutilization and Office at Camp Arifjan, Kuwait**

increase in contract amount. When the defects in services cannot be corrected by "re-performance," the government may reduce the contract price to reflect the reduced "value" of the services performed. We will consider including a price reduction schedule in future contracts tied to performance metrics.

Recommendation:

A.2.c. Director/Contracting Officer ensure the following are included in subsequent DRMO contracts: Requirement to make certain contractor receiving personnel are properly trained to process and account for pilferable and sensitive items.

Response: Concur. The prior contract with Taos did not require monthly training on pilferable and sensitive items for contractor employees responsible for the receiving process. As soon as the DOD IG identified this issue, DLA Disposition Services immediately began to train contractors in identifying, processing, and handling pilferable and sensitive items. This type of training and additional process improvements will remain in place and will occur monthly (or more often if needed) once the new contract begins at Camp Arifjan. Separate and secure storage areas and lockable containers were also provided to segregate sensitive and pilferable material from other on-hand inventory. This arrangement will continue under any Disposition Services follow-up contract at Camp Arifjan.

Recommendation:

A.2.d. Director/Contracting Officer ensure the following are included in subsequent DRMO contracts: Requirement for protecting potentially serviceable items from the environment.

Response: Concur. Although there was no specific requirement in the prior contract with Taos to protect property from environmental damage or to cover property in outdoor storage, the contractor was required to prevent degradation in property condition and value. In response to the DOD IG identified issue, DLA Disposition Services provided lockable containers to the contractor and purchased protective lids to cover open tri-wall boxes. This arrangement will continue under any Disposition Services follow-up contract at Camp Arifjan.

Recommendation:

A.3. Director, DLA Disposition Services, in coordination with the Contracting Officer and the Chief at Camp Arifjan:

A.3.a. Increase the number of Contracting Officer Representatives at receiving to validate contractor compliance with receiving requirements, to include timely

**DLA Disposition Services Responses to DOD IG Draft Report
Project No. D2010-D000JA-0054.000**

**Audit of the Controls Over the Disposition of Equipment at the Defense
Reutilization and Office at Camp Arifjan, Kuwait**

accounting for all items received, processing and accounting for pilferable and sensitive items, and protecting potentially serviceable items from the environment.

Response: Concur. Currently, government personnel perform all functions at DLA Disposition Services Kuwait. After the follow-on contractor is in place, DLA Disposition Services will appoint sufficient, trained Contracting Officer Representatives to ensure that adequate government oversight of and reporting on contractor performance occurs.

Recommendation:

A.3.b. Director/Contracting Officer/Chief - Camp Arifjan: Conduct periodic unannounced reviews to verify contractor compliance with contract requirements.

Response: Concur. The DLA Accountability Office and DLA Disposition Services Internal Audit Staff will coordinate to conduct unannounced audits to verify contractor compliance with contract requirements on any follow-up Disposition Services contract at Camp Arifjan.

Recommendation:

B. We recommend the Director, Defense Logistics Agency Disposition Services, direct the Chief, Defense Reutilization and Marketing Office at Camp Arifjan, to contact the DOD Components that received the demil code F items that were improperly reissued and ensure those items are retrieved and destroyed.

Response: Concur. The DLA Disposition Services Kuwait staff repeatedly contacted the DOD Components that were improperly issued demil code F items. We retrieved some of the items, but others are in possession of units that redeployed to CONUS or to new missions. When those items are no longer needed for their mission, in accordance with DOD 4160.21-M-1, "Defense Demilitarization Manual" (February 14, 1995) the owning units are to either demilitarize the items or turn them into a DLA Disposition Services location for demilitarization.

Recommendation

C.1. Director/Contracting Officer/Chief - Camp Arifjan:

C.1.a. Director/Contracting Officer/Chief - Camp Arifjan: Incorporate performance measures into the future contract to ensure the contractor is accurately performing, verifying, and certifying demilitarization to include validating the quantities of items demilitarized.

**DLA Disposition Services Responses to DOD IG Draft Report
Project No. D2010-D000JA-0064.000**

**Audit of the Controls Over the Disposition of Equipment at the Defense
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Response: Concur. Currently, government personnel perform all functions at the DLA Disposition Services Kuwait facility. The solicitation for the follow-on contract in Kuwait incorporates performance measures to ensure that the contractor performs demilitarization in accordance with DOD 4160.21-M-1, "Defense Demilitarization Manual" (February 14, 1995). Furthermore, only DLA or DOD staff will be appointed as demil certifiers and verifiers. Appropriate procedures are in place to ensure that demil certifiers and verifiers are properly trained (prior to deployment) in demil certification/verification processes and to ensure proper demilitarization performance. DLA Disposition Services management ensures that, prior to deployment, each employee must have training certificates in place that are valid for his or her entire deployment.

Recommendation:

C.1.b. Director/Contracting Officer/Chief - Camp Arifjan: Develop and implement detailed quality assurance procedures to ensure the certifier and verifier witness or inspect the residue, the correct quantity of items are verified and annotated, and the demilitarization certificate is properly signed. In addition, continuously reevaluate the proper amount of oversight of demilitarization personnel. If additional oversight is needed, assign more oversight personnel to demilitarization.

Response: Concur. Currently, government personnel perform all functions at DLA Disposition Services Kuwait. In addition, as previously stated, only DLA or DoD staff will be appointed as demil certifiers and verifiers. Appropriate procedures are in place to ensure that demil certifiers and verifiers are properly trained (prior to deployment) in demil certification/verification processes and to ensure proper demilitarization performance.

Recommendation:

C.1.c. Director/Contracting Officer/Chief - Camp Arifjan): Develop and implement procedures to periodically validate certifiers of demilitarized items have completed the applicable training requirements.

Response: Concur. Procedures are in place to ensure that appointed demil certifiers and verifiers are technically competent and their training is current. DLA Disposition Services management ensures that, prior to deployment, each employee must have training certificates in place that are valid for his or her entire deployment.

Recommendation:

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C.1.d. Director/Contracting Officer/Chief - Camp Arifjan: Conduct periodic unannounced reviews to verify certifiers and verifiers are performing, witnessing, or inspecting residue of the demilitarization process; and verify the correct quantity of items are demilitarized.

Response: Concur. In response to this DOD IG identified issue, DLA Disposition Services Kuwait changed their procedures on 25 February 2010. The demil verifiers identify the property being demilled by first requiring that the verifier annotate the demil location of the property on the demil placard or Defense Turn-In Document (DTID), verifying the count and initialing the document prior to the demil performance. The verifier then refers to the annotated DTID and demil placard once demil has been performed; and, during inspection of the residue to ensure that the demil certificate being signed is true and correct for the property that was demilled/inspected. These procedures have been adopted at DLA Disposition Services Kuwait and formally incorporated into standard operating procedures. The facility chief will conduct periodic inspections of the above procedures, maintain a log of such inspections, and further document these checks by initialing the DD 1348-1 and/or placards as appropriate.

Recommendation:

C.2. We recommend the Director, Defense Logistics Agency Disposition Services, determine the accountability of verifiers and certifiers who inappropriately certified and/or verified that items were destroyed and initiate administrative action regarding these personnel as deemed appropriate by the Director.

Response: Concur. DLA personnel involved in making inappropriate demil certifications were counseled (in writing and verbally) by their first line supervisor and senior management. The DLA Disposition Services Director and the Disposition Services Director - Central reviewed this issue and agree that actions taken by supervisors and management were sufficient and appropriate. Disposition Services believes adoption of the procedures identified in the responses to the DoD IG's Recommendation C.1 will mitigate the risk that these isolated instances will occur in the future.

Recommendation:

D. We recommend the Director, Defense Logistics Agency Disposition Services, require the Chief, Defense Reutilization and Marketing Office, Camp Arifjan, to implement physical security procedures which include [REDACTED]

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Response: **Concur with the intent of the recommendation.** [REDACTED]

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Recommendation:

- E. We recommend the Director, Defense Logistics Services Agency Disposition Services:
 - E.1. Direct the Contracting Officer to incorporate Defense Federal Acquisition Regulation Supplement, clause 252.204-7008, into any follow on Camp Arifjan DRMO contract.
- Response: Concur. DLA Disposition Services has already incorporated DFARS clause 252.204-7008 into its solicitations for the follow-on contracts for both Kuwait and Iraq.

Recommendation

- E.2. Direct the Chief, Defense Reutilization and Marketing Office at Camp Arifjan, in coordination with the Defense Technology Security Administration, develop and implement a control plan which includes procedures to prevent unauthorized access to controlled items and technology; a requirement for export-control training for those officials responsible for ensuring compliance with Federal

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export regulations; and a requirement to conduct periodic assessments of contractor operations to validate compliance with the Federal export regulations.

Response: Concur with the intent of the recommendation.

The DLA Disposition Services concurs with the intent of Recommendation 2, as additional oversight, training and security, as well as periodic assessments of compliance with Federal export requirements is appropriate. DLA Disposition Services non-concurs with the rationale for that conclusion, particularly the assumptions regarding export control laws, regulations, and guidance.

The Arms Export Control Act (AECA) authorizes the President to exercise authority over the export of defense articles and services. 22 U.S.C. 2778 et seq. The AECA is implemented by the International Traffic in Arms Regulation (ITAR) 22 CFR Parts 120-130. The ITAR prohibits the export of defense articles or technical data without complying with the licensing procedures of the regulations. The ITAR, §120.6, defines a defense article as "any item or technical data designated in §121.1." As the draft report points out, shell casings and body armor plates would qualify as listed items. The definition of technical data under the ITAR at Part 120.10, is "[i]nformation, other than software as defined in §120.10(a)(4), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information from blueprints, drawings, photographs, plans, instructions or documentation." Technical data also includes classified information that relates to defense articles or services. The pertinent portion of the definition of export that applies in this case is found in the ITAR at §120.17(4) which provides that exports under the regulations include "[d]isclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the United States or abroad..."

The Department of Defense provides guidance on the export regulations in DoD Instruction 2040.02, "International Transfers of Technology, Articles and Services", July 10, 2008. The pertinent portion of that guidance follows:

- a. Any release or disclosure of controlled technology or technical data to any foreign person, whether it occurs in the United States or abroad, is deemed to be an export, requiring either an export license (for dual-use items) or an authorization for disclosure (for munitions list items). Foreign persons include foreign individuals, corporations, government agencies, or other foreign entities.

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- b. Controlled technology or technical data is considered to be released or disclosed when information is transferred to foreign persons by means of:
 - (1) A visual inspection;
 - (2) An oral exchange;
 - (3) An application of the technology or data; and/or
 - (4) The use of any other medium of communication, including but not limited to electronic, magnetic, internet, or laser technology.
- c. Controlled technology, as defined in part 772 of Reference (r), is information necessary for the development, production, or use of a controlled product. Specific technology controls are identified in each export-control classification of the Export Administration Regulations (EAR) and govern export-control requirements.
- d. Technical data, as defined in section 120.10 of Reference (s), is information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles; classified information relating to defense articles and defense services; information covered by an invention secrecy order; or software as defined in section 121.8(f) of Reference (s) directly related to a defense article.

The definition specifically excludes general scientific, mathematical or engineering principles as well as descriptive marketing information and information in the public domain.

The report concludes that third country nationals or other foreign nationals should be prevented from viewing or handling certain items, as this could be an export covered under the above laws. Throughout the section of "Finding E" DoD IG refers to "unauthorized" such as "unauthorized personnel" or "unauthorized persons" and "unauthorized access." DLA Disposition Services assumes this repeated reference to "unauthorized" refers to the legality of foreign nationals being near, in the presence of, or having access to certain defense articles or technical data and not a reference for whether their presence was permissible by the contractor or DLA Disposition Services. The position appears to be that there could be an automatic violation of export laws and existing guidance any time a foreign national can view or handle a "defense article" without regard to whether such viewing or handling actually does result in, or has the potential to result in, the transfer of technology or technical data.

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The analysis does not appear to acknowledge that for a violation to occur through viewing or handling an item under DoDI 2040.2, a "transfer" must occur. Viewing or handling an item is not per se a transfer of a defense article. Viewing or handling an item will be considered an export if by those actions the viewer obtains either "information necessary for the development, production, or use" of the item or "information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles." Simply viewing or handling the items referred to in the report would almost never qualify as an export. The items noted in the report include infrared sights, shell casings, live ammunition rounds, and body armor plates. As stated in prior responses regarding this review, DLA Disposition Services asserts that references in the law to an export occurring visually require the potential to transfer technical data of the type that would be disclosed by seeing blueprints, designs, witnessing a dismantled or dissected piece of technology, or being allowed to perform tests or analysis on an item. Not all opportunities to look or handle defense articles result in a deemed export.

The DOD IG Draft Report, Project No. D2010-D000JA-0054.000 (page 33) also states that handling a damaged body armor plate could be considered an export. DLA Disposition Services does not agree that seeing beneath the surface of a body armor plate allows for obtaining either "information necessary for the development, production, or use" of the item, or obtaining "information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles." Likewise, DLA Disposition Services does not agree that viewing or handling spent rounds, live rounds, sights, or infrared sights results in an export. Such viewing and handling is not a transfer as envisioned by the ITAR or the DoD Instruction - the technical data involved cannot be extrapolated from those items by simply viewing or handling them. If property receivers are handling the property in accord with contractual requirements, there should be no transfer of technology or technical data. Receivers should not have opportunity to obtain any data related to such things as the chemical composition of any material; x-ray or photograph an item or measure it with technical devices to obtain technical data related to its engineering or design, or even measure its precise weight or mass. For example, with the body armor plates, the fact that receivers touch and visually inspect an item reveals no more than its color, approximate size, shape, and approximate heft or weight. Not only does this information not meet the definition of technical data, it is publicly available information. Even inspection

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of items for "any flaw" should not result in the release of technical data about the item if the inspections do not provide for assessing the length, depth, pattern or related physical characteristics of the defects in the armor; involve knowledge of what caused the flaw, or provide for other forms of design or capabilities testing of the item. While technology or technical data may be transferred by visual inspection alone, the visual gathering of a general sense of what something looks like (particularly when that information is available in the public domain) does not result in the transfer of technical data when that general appearance information is not allowed to be recorded (i.e., photographed, x-rayed), measured, or tested in any way.

The practical implications of the draft report's assessment of what qualifies as an export are far-reaching. U.S. overseas military installations and contractors employ thousands of third country nationals. In addition, the U.S. military relies on contractor labor for a sizable range of products and services; these contract laborers are mostly foreign and have access to the majority of the installations they work on. Many of these individuals view and handle export controlled property on a regular basis. Third country nationals are an integral part of the U.S. military's transportation and logistics processes worldwide. As part of these processes, third country nationals will view and handle millions of export controlled items. Third country nationals also participate in the repair and refit of U.S. military equipment overseas, which brings them into constant contact with similar items and services. Finally, in an active combat zone, spent U.S. ammunition cartridges and used/damaged equipment of the same type as that cited in the draft report will be abandoned by military personnel on operations. The draft report's findings would consider all of the activities cited above to be potential export violations.

Viewing or handling such items does not qualify as an export, because the true protected information is in the items' design, makeup, or internal processes, as illustrated in the ITAR and as explained, per the discussion above, under DoDI 2040.2. If the draft report's concept of what constitutes an export is implemented worldwide as written, U.S. military operations overseas, particularly those in Iraq, Afghanistan, and Kuwait, would be significantly and negatively affected, and the amount of troops and U.S. citizens necessary to sustain those overseas operations would increase dramatically.

DLA Disposition Services concurs in the draft report's findings where third country nationals were having unsupervised access to export controlled items that

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could easily be concealed and removed from U.S. Government premises. The theft of an export controlled item clearly results in the "release" or "transfer" of technology from which technical data can be derived. Steps need to be taken to ensure such thefts/transfers of defense articles do not occur. Specifically, having unsupervised access to export controlled items that are small enough to be easily concealed could result in an export if they are taken away from Camp Arifjan. DLA Disposition Services concurs with the draft report that better accountability procedures need to be implemented coupled with better supervision to prevent theft of those export controlled items.

DLA Disposition Services concurs with the draft report's recommendation that DFARS clause 252.204-7008 needs to be implemented in current and future solicitations of this nature. DLA Disposition Services also concurs with the intent of Recommendation 2, as additional oversight, training and security, as well as periodic assessments of compliance with Federal export requirements is appropriate to ensure that export controlled items or information do not exit the yard or post. DLA Disposition Services non-concurs, as noted above, with the rationale for that Recommendation, particularly the assumptions regarding export control laws, regulations, and guidance, as the viewing and handling of export controlled property or information in a supervised environment will not result in the export of defense articles or technical data under existing regulations and guidance.

Recommendation:

F.1. We recommend the Director, Defense Logistics Services Agency Disposition Services, require the Chief, at Camp Arifjan, as appropriate, implement procedures at the DRMO and in future contracts to verify that the receiving officials are challenging and changing questionable condition codes and challenging inaccurate unit prices with the generating activity.

Response: Concur with the intent of the recommendation. DoD 4160.21-M Chapter 3, paragraph D.4.b.(2) (February 14, 1995) provides that Disposition Services personnel may change and assign the appropriate Supply Condition Code (SCC) for non-technical items such as general hardware, clothing, tools and furniture. When appropriate, the Disposition Services personnel will re-assign SCC and acquisition costs for suspect property. It is not feasible for Disposition Services employees at this site to have the technical expertise and testing capability to adequately assess the serviceability of technical property, or to easily challenge the acquisition value of all items received. When the generating activity point of

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contact is not available to the DRMO to challenge the condition code initially assigned to the property, the DRMO will continue to coordinate with locally available DOD resources to maximize reutilization of property needed by DOD. Government on-site personnel will continue to challenge questionable condition codes and acquisition values as they are discovered as appropriate.

Recommendation:

F.2. We recommend the Director, Defense Logistics Services Agency Disposition Services, in coordination with U.S. Army Central, implement procedures that reinforce the Headquarters, Department of the Army guidance, titled "Classification and Turn-in of Items to DRMS," October 16, 2009.

Response: Concur with the intent of the recommendation. DLA Disposition Services personnel will continue to train our customers in Iraq and Kuwait on proper turn-in procedures. For example, to the maximum extent practicable, we utilize expeditionary Disposal Remediation Teams (EDRTs) to assist Army personnel at forward operating bases in Iraq; and, some of this Army property is shipped directly to Camp Arifjan, Kuwait. The role of the EDRT is to educate and assist units on property turn-in requirements. They are an invaluable asset that helps to reduce the number of improper equipment turn-ins for disposal.

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