



# INSPECTOR GENERAL

*U.S. Department of Defense*

DECEMBER 3, 2015



## U.S. Army Corps of Engineers, New York District Monitoring of a Hurricane Sandy Contract Needs Improvement



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# Results in Brief

## *U.S. Army Corps of Engineers, New York District Monitoring of a Hurricane Sandy Contract Needs Improvement*

**December 3, 2015**

### **Objective**

Our objective was to determine whether U.S. Army Corps of Engineers (USACE) effectively monitored contractor performance to respond to Hurricane Sandy. Specifically, we determined whether contracting officer's representatives (CORs) from the USACE, New York District performed effective contractor oversight and surveillance.

USACE, New York District identified 13 ongoing Hurricane Sandy contracts related to construction, dredging, and restoration. We nonstatistically selected 3 of 13 contracts.

### **Finding**

CORs from the USACE, New York District effectively monitored contractor performance for two of the three Hurricane Sandy contracts reviewed. Specifically, the CORs for contracts W912DS-13-C-0045 and W912DS-14-C-0028 visited the project sites, prepared monthly reports based on daily reports from quality assurance and contractor personnel, attended and documented the preconstruction meetings with the contractors, and maintained required contract documentation.

However, the COR for contract W912DS-13-C-0043 did not effectively monitor contractor performance. Specifically, the COR only made minimal visits to the project site even though it was not visited by quality assurance officials on a regular basis. In addition, the COR's monthly reports were not timely or accurate. Further, the COR did not maintain required contract

### **Finding (cont'd)**

documentation in his COR file. This occurred because the COR relied almost solely on program officials to monitor quality controls and project progress and did not monitor or verify contractor performance. In addition, the procuring contracting officer did not review COR documentation or oversee the COR's efforts to monitor contractor performance, as required by the Federal Acquisition Regulation. As a result, the procuring contracting officer and COR put the Government at risk by not effectively ensuring that the contractor complied with the terms and conditions of the contract.

### **Recommendation**

We recommend that the Commander, USACE, New York District provide training for the COR for contract W912DS-13-C-0043 on oversight responsibilities to effectively monitor contractor performance.

### **Management Comments and Our Response**

The Commander, USACE, New York District, fully addressed all specifics of the recommendations, and no further comments are required. Please see the Recommendation Table on the next page.

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## ***Recommendation Table***

<b>Management</b>	<b>Recommendation Requiring Comment</b>	<b>No Additional Comments Required</b>
Commander, U.S. Army Corps of Engineers, New York District	None	1.



**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

December 3, 2015

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,  
TECHNOLOGY, AND LOGISTICS  
AUDITOR GENERAL, DEPARTMENT OF THE ARMY  
COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

SUBJECT: U.S. Army Corps of Engineers, New York District Monitoring of a Hurricane Sandy  
Contract Needs Improvement (Report No. DODIG-2016-028)

We are providing this report for information and use. The contracting officer's representatives from the U.S. Army Corps of Engineers, New York District effectively monitored contractor performance for two of the three Hurricane Sandy contracts reviewed. However, the contracting officer's representative for the remaining contract did not effectively monitor contractor performance. We conducted this audit in accordance with generally accepted government auditing standards.

We considered management comments on a draft of this report when preparing the final report. Comments from the Commander, U.S. Army Corps of Engineers, New York District, addressed all specifics of the recommendations and conformed to the requirements of DoD Instruction 7650.03; therefore, we do not require additional comments.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9187 (DSN 664-9187).

A handwritten signature in blue ink, appearing to read "M. Roark", is positioned above the name of the signatory.

Michael J. Roark  
Assistant Inspector General for  
Contract Management and Payments

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## Acronyms and Abbreviations

# Introduction

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## Objective

Our objective was to determine whether U.S. Army Corps of Engineers (USACE) effectively monitored contractor performance to respond to Hurricane Sandy. Specifically, we determined whether contracting officer's representatives (CORs) from the USACE, New York (NY) District performed effective contractor oversight and surveillance. See the Appendix for a discussion of our scope and methodology and prior coverage.

## Background

USACE builds and maintains America's infrastructure to strengthen the Nation's security and provides military facilities for service members to train, work, and live. USACE dredges America's waterways to support the movement of critical commodities and devises hurricane and storm damage reduction infrastructure.

The North Atlantic Division is one of nine USACE divisions. The Division's mission is to maintain and improve Federal navigation channels and support the American public with flood risk management and hurricane and storm damage reduction projects, which are executed through six district offices. The USACE, NY District is responsible for water resource development, navigation, and regulatory activities in northeastern New Jersey (NJ), eastern and south-central NY, including the NY Harbor and Long Island.

More than one-third of the USACE, NY District's 54 Hurricane Sandy projects involved dredging. Dredging navigation channels is necessary to maintain the NY and NJ harbors and its water-dependent facilities because fine-grained sediments settle and accumulate on the sea floor, which can interfere with safe navigation. Dredging is also needed to ensure the safe passage of watercraft because they transport the majority of goods imported into the country.

Hurricane Sandy occurred in October 2012, it flooded much of the NY and NJ coasts and caused more than \$50 billion in damage. On January 29, 2013, Congress appropriated approximately \$5.4 billion in disaster relief funds to USACE to address areas impacted by Hurricane Sandy.<sup>1</sup> The appropriations were for construction of USACE projects, flood control and coastal emergencies, and dredging and repairing damaged Federal navigation channels. Of the \$5.4 billion appropriated to USACE, North Atlantic Division received more than \$4 billion. USACE, NY District received approximately \$3.5 billion of the \$4 billion.

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<sup>1</sup> Public Law 113-2, Disaster Relief Appropriation Act of 2013.



Figure. Dredging Site at Staten Island, NY.  
Source: USACE, NY District

USACE, NY District identified 13 ongoing contracts valued at \$264.38 million.<sup>2</sup> These contracts are related to construction, dredging, and restoration projects. We reviewed 3 of the 13 contracts valued at \$81.45 million. The contracts were ongoing; valued at more than \$1 million; and located on or near Staten Island, NY. The Table below summarizes the three NY District Hurricane Sandy contracts we reviewed.

*Table. Summary of the Contracts Reviewed From the NY District for Hurricane Sandy*

Contract	Contractor	Date of Award	Percent Complete*	Contract Value
W912DS-13-C-0045	Great Lakes Dredge & Dock Co.	September 24, 2013	62	\$41.88 million
W912DS-13-C-0043	Great Lakes Dredge & Dock Co.	August 13, 2013	99	\$34.16 million
W912DS-14-C-0028	Weeks Marine, Inc.	September 25, 2014	11	\$5.41 million

\*As of November 19, 2014.

<sup>2</sup> This value includes the 13 ongoing contracts over \$1 million related to the performance of work supporting Hurricane Sandy projects at the USACE New York District, as reported by USACE personnel.

## Guidance

### ***Federal Acquisition Regulation***

The Federal Acquisition Regulation (FAR) lists procuring contracting officers' (PCOs) and CORs' responsibilities for monitoring contractor performance, the requirement to develop a Quality Assurance Surveillance Plan (QASP), and the necessity to maintain complete and accurate Government contract files. Specifically,

- FAR Subpart 1.602-2, "Responsibilities," states that PCOs are responsible for ensuring performance of all necessary actions for effective contracting and ensuring compliance with the terms of the contracts. The FAR also states that PCOs must designate and authorize CORs in writing; CORs must be qualified in training and experience; and be certified and maintain certification.
- FAR Subpart 37.604, "Quality Assurance Surveillance Plans," documents the Government requirement for a QASP.
- FAR Subpart 4.8, "Government Contract Files," states that contracting offices are to establish files that contain the records of all contractual actions such as Quality Assurance (QA) records that will provide a complete history of the transaction to support the basis for making informed decisions, actions taken, and to support reviews and investigations.

### ***DoD COR Handbook***

The DoD COR Handbook, March 22, 2012, (Handbook)<sup>3</sup> states CORs are required to monitor contractor performance and provide the PCO with documentation that identifies the contractor's compliance or noncompliance with the terms and conditions of the contract. The Handbook also states:

- the COR must monitor contractor performance through the review of monthly reports, onsite visits, and surveillance review;
- the COR may use the QASP as a guide to systematically and effectively monitor that the quality of services received are in compliance with the terms and conditions of the contract. Effective use of the QASP in conjunction with the contractor's quality control plan will allow the Government to evaluate the contractor's success in meeting the specified contract requirements;

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<sup>3</sup> The Handbook provides relevant and comprehensive guidance on performance of COR functions. Information in the handbook is extracted from other authoritative sources including the FAR, the Defense Federal Acquisition Regulation Supplement, and DoD directives, instructions, publications, and policies. The Defense Federal Acquisition Regulation Supplement Procedures, Guidance, and Information 201.602-2 refers to the Handbook for guidance on the duties of CORs.

- it is mandatory for the COR to maintain an individual COR file for each contract and document contractor performance; and
- the PCO should review the COR reports for completeness and the COR file on a yearly basis<sup>4</sup> and note any findings or recommended actions.

### ***USACE Acquisition Instruction***

USACE Acquisition Instruction, April 7, 2014, requires CORs to submit monthly status reports by the 15th of each month, and the COR's supervisors and PCOs will ensure the monthly reports are timely and complete. The Instruction further states the PCO is required to review and approve the COR's monthly reports, ensure the COR maintains contract documentation in his COR file, and conduct an annual review of the COR file.

### **USACE Quality Assurance Plans**

USACE QA plans<sup>5</sup> for the three Hurricane Sandy contracts outlined program officials' contractor oversight responsibilities. The oversight responsibilities for program officials<sup>6</sup> were:

- overall responsibility for quality assurance of the project;
- prepare the QA plan and revise as needed;
- attend contractor inspections to ensure the contractor is following contractual requirements;
- attend the preconstruction meeting to discuss and review the contractors' quality control (QC) plan to ensure the plan is adequate;
- conduct weekly meetings to address any issues and maintain the meeting minutes;
- prepare QA reports daily;
- maintain a deficiency tracking system and follow up with all deficiencies until they are corrected;
- ensure that all work is in compliance with applicable regulatory requirements;
- prepare memorandums to discuss any delays in contractor progress; and
- review the contractors' QC daily reports for accuracy.

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<sup>4</sup> Revised in April of 2014, the Defense Federal Acquisition Regulation Supplement Procedures, Guidance, and Information 201.602-2 requires a contracting officer, as a minimum, to annually review the COR's files for accuracy and completeness.

<sup>5</sup> USACE contracting officials stated they refer to the QASP as the QA plan.

<sup>6</sup> Program officials include the government project engineer and government QA officials.

## COR Letters Defined COR Contractor Responsibilities to Monitor Contractors

The COR designation letters for the three contracts assigned duties and responsibilities to the CORs.<sup>7</sup> The COR designation letters gave the CORs authority to:

- verify the contractor performed the technical requirements of the contract;
- perform, or cause to be performed, inspections necessary and verify that the contractor corrected all deficiencies;
- monitor the contractor's performance;
- submit a monthly report on the performance of services rendered; and
- maintain adequate records to sufficiently describe the performance of COR duties.

Based on the designation letters, the COR, as the PCO's representative, was required to monitor contractor performance and ensure that the contractor complied with the terms of the contract. Program officials were generally responsible for project quality assurance, and the QA plan documented program officials' duties and general surveillance activities.

The CORs for contracts W912DS-14-C-0028 (referred to as contract 0028) and W912DS-13-C-0043 (referred to as contract 0043) stated that they used the support of program officials to monitor and document the contractor's performance. The project engineer was also the COR for contract W912DS-13-C-0045 (referred to as contract 0045) and oversaw his QA official's execution of the QA plan. Consequently, the CORs' assessment of the contractors' performance was based on QA officials' execution of the QA plan duties and activities.

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<sup>7</sup> According to the USACE Acquisition Instruction, the COR designation memorandum should detail a COR's duties, identifying the actions a COR is authorized to take under a particular contract. Additionally, the Instruction states the COR shall not take any action not specifically stated in the COR designation memorandum.

## Review of Internal Controls

DoD Instruction 5010.40, “Managers’ Internal Control Program Procedures,” May 30, 2013, 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. We identified internal control weaknesses. The COR for contract 0043 did not effectively monitor contractor performance. Specifically, the COR made minimal visits to the project site when it was not visited by QA officials on a regular basis. In addition, the COR’s monthly reports were not timely or accurate and were based mostly on information provided by the contractor and not by program officials. Further, the COR did not maintain required contract documentation in the COR file. We will provide a copy of the report to the senior official responsible for internal controls at USACE.

## Finding

### **Contracting Officer's Representative Should Strengthen Efforts to Monitor Contractor Performance**

CORs from the USACE, NY District effectively monitored contractor performance for two of the three Hurricane Sandy contracts reviewed. Specifically, the CORs for contracts 0045 and 0028 visited the project sites, prepared monthly reports based on daily reports from QA and contractor personnel, attended and documented the preconstruction meetings with the contractors, and maintained required contract documentation.

However, the COR for contract 0043 did not effectively monitor contractor performance. Specifically, the COR only made minimal visits to the project site even though it was not visited by QA officials on a regular basis. In addition, the COR's monthly reports were not timely or accurate. Further, the COR did not maintain required contract documentation in his COR file.

This occurred because the COR relied almost solely on program officials to monitor quality controls and project progress and did not monitor or verify contractor performance. In addition, the PCO did not review COR documentation or oversee the COR's efforts to monitor contractor performance, as required by FAR subpart 1.602-2.

As a result, the PCO and COR put the Government at risk by not effectively ensuring that the contractor complied with the terms and conditions of the contract.

## CORs Effectively Monitored Contractors' Performance for Contracts 0045 and 0028

The CORs for contracts 0045 and 0028 ensured QA officials monitored the project by visiting the project site and preparing monthly reports on contractor performance for the PCO.

CORs from the USACE NY District effectively monitored contractor performance for two of the three Hurricane Sandy contracts reviewed. Specifically, the CORs for contracts 0045 and 0028 ensured QA officials monitored the project by visiting the project site and preparing monthly reports on contractor performance for the PCO.<sup>8</sup> In addition, the CORs attended and documented the pre-construction meeting with the contractor; documented schedule and cost concerns, when applicable; and maintained required contract documentation. Further, both CORs monitored the contractor's performance based on program officials' responsibilities documented in the QA plan.

### ***CORs Visited Project Site and Prepared Reports on Contractor Performance***

The COR for contract 0045 prepared monthly reports on contractor performance for the PCO, as required by the COR designation letter and the USACE Acquisition Instruction. The COR was also the project engineer and stated he visited the work site once or twice every week to monitor contractor performance. The COR received daily QA reports from the QA official and daily QC reports from the contractor. The reports documented the amount and the type of materials dredged and the location to where the dredged materials were taken. The COR then reviewed, approved, and consolidated the two daily reports from the QA official and the contractor to prepare monthly reports for the administrative contracting officer and PCO.

The COR for contract 0028 prepared her first monthly COR report on the contractor's performance for the PCO, as required. The COR stated she ensured a QA official was at the work site daily. Specifically, the COR stated she shared office space with the QA official assigned to the contract and had daily discussions with the QA official about his site visits and observations on the contractor's performance.

<sup>8</sup> USACE NY District officials awarded contract 0028 on September 25, 2014, and the contract performance period began October 14, 2014. At the time of the audit site visit in November 2014, the contractor was 34 days into the contract 90-day performance period. Therefore, our review of contract 0028 covered only the first 34 days of the contract and the COR's oversight of the contractor's performance for those 34 days.

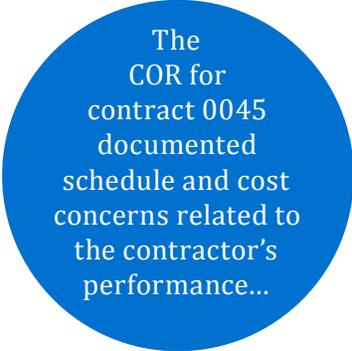
The COR for contract 0028 also visited the project site on one occasion during the first month of contractor performance. In addition, the COR received daily QA reports from the QA official and daily QC reports from the contractor that documented the contractor's daily activities. For this 34-day performance period, the contractor prepared 34 QC daily reports, and the QA official prepared 29 daily reports. The COR reviewed and consolidated the two daily reports from the QA official and the contractor to prepare her monthly report to the PCO.

### ***CORs Attended and Documented Preconstruction Meetings With Contractor***

The CORs for contracts 0045 and 0028 attended and documented preconstruction meetings with the contractor, as required by the Handbook. Program officials hosted the preconstruction meetings with the contractors to ensure the contractors fully understood contract requirements and expectations before beginning work. The project engineer for each contract approved the preconstruction agenda and meeting minutes, and the COR documented the agenda and meeting minutes in the COR file.

### ***COR for Contract 0045 Documented Schedule and Cost Concerns***

The COR for contract 0045 documented schedule and cost concerns related to the contractor's performance, as required by the Handbook. Specifically, the COR coordinated with the administrative contracting officer on actions necessary to restore the contract schedule and then prepared a memorandum<sup>9</sup> to the contractor which expressed concern that the contractor did not meet its performance completion date of September 7, 2014. The COR stated in the memorandum that the Government would grant the contractor a 60-day extension but would assess liquidated damages of \$3,276 per day starting September 8, 2014, in accordance with FAR clause 52.211-12.<sup>10</sup>



The COR for contract 0045 documented schedule and cost concerns related to the contractor's performance...

<sup>9</sup> The administrative contracting officer signed all of the correspondence the COR prepared.

<sup>10</sup> FAR Part 52, "Solicitation Provisions and Contract Clauses," subpart 52.211-12, "Liquidated Damages – Construction."

### ***CORs Properly Documented Contractor Surveillance***

The COR for contracts 0045 and 0028 maintained required documents in their COR file. The COR designation letters stated that, at a minimum, COR files must contain:

- the COR designation letter;
- the QASP;
- all correspondence initiated by authorized representatives concerning performance of the contract;
- a record of inspections performed and the results;
- memorandums for record or minutes of any pre-performance conferences;
- memorandums for record of minutes of any meetings and discussions with the contractor; and
- records relating to the contractor's quality control system and plan and the results of the quality control effort.

The COR for contract 0045 maintained documentation in his COR file, including more than 300 QA and QC daily reports, travel and placement logs detailing contractor surveillance, and correspondence with the contractor documenting schedule slippage and assessment of liquidated damages.

The COR file for contract 0028 maintained most of the required documents in the COR file. These documents included the COR designation letter, the monthly COR report for October 2014, the QA plan, the preconstruction meeting minutes, QA and QC reports, and the COR's review and approval of the contractor's October 2014 invoice. However, the COR did not have the contractor's onsite inspections or the contractor's QC plan in her file. The COR stated that there were no meetings or discussions with the contractor during the first 34 days of performance that required a memorandum for the record. Therefore, we did not make a recommendation because documentation shortfalls for contract 0028 were not systemic.

### **COR Did Not Effectively Monitor Contractor Performance for Contract 0043**

The COR for contract 0043 did not effectively monitor the contractor's performance. Specifically, the COR only made minimal visits to the project site even though it was not visited by QA officials on a regular basis.<sup>11</sup> Also, the COR prepared monthly reports that were not accurate or timely and the reports were

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<sup>11</sup> Although CORs are not required to visit the project site daily, the COR stated that he relied on the QA officials for daily monitoring.

based mostly on information provided by the contractor and not by program officials or COR monitoring efforts. In addition, the COR did not maintain required documentation related to the contractor's performance and progress in the COR file. This occurred because the COR relied almost solely on program officials to monitor quality controls and project progress and did not monitor or verify contractor performance. Further, the COR did not maintain required contract documentation in his COR file.

### ***COR Made Minimal Visits to the Project Site and Did Not Adequately Ensure QA officials Submitted Daily Reports***

The COR made minimal visits to the project site in the absence of the QA official who the COR stated he relied on to monitor the contractor's performance. Also, the COR did not ensure QA officials performed site visits and did not ensure QA officials provided daily QA reports. The COR designation letter required the COR to monitor contractor performance. The Handbook states the COR must perform site visits and the QA plan required QA officials to prepare daily reports.

The COR stated that he visited the project site twice during the contractor's 283-day performance period. The COR also stated he relied on QA official's visits and daily reports to monitor the contractor's performance. We did not find any requirements for QA officials to be onsite daily and no evidence showing that QA officials were onsite daily. Additionally, although the COR stated he relied on QA officials daily reports to monitor the contractor's performance, the COR did not receive the reports daily. The QA official stated he prepared a daily report when he visited the site. During the contractor's 283-day performance period, the QA official only prepared nine daily reports.

The Handbook does not specifically state how often the COR should visit a project site. The Defense Federal Acquisition Regulation Supplement Procedures, Guidance, and Information 201.602-2 states the surveillance activities performed by a COR should be tailored to the dollar value and complexity of the specific contract for which they are designated. We question whether the COR performed sufficient surveillance when he visited the site only two times and received only nine QA official daily reports during a contract performance period of 283 days.

### ***COR Monthly Reports Were Not Accurate or Timely***

The COR's monthly reports did not accurately reflect the contractor's performance and progress. The Handbook requires the COR to monitor contractor performance, and the COR designation letter requires the COR to submit monthly reports to the PCO that document contractor performance and progress during execution of the contract.

The COR did not accurately document his monthly reports to show that the contractor was behind schedule. Specifically, the COR stated he communicated with the project engineer on the current status of the project and used the project engineer's input to draft three letters that addressed schedule concerns and requested the contractor to provide a new schedule to complete the contract. The PCO signed all three letters, dated October 23, 2013; November 22, 2013; and July 15, 2014. However, the COR stated in each of his monthly reports that the contractor was on schedule. The COR did not document any of these schedule concerns in any of his monthly reports. Although the PCO and COR sent letters to the contractor, this does not relieve the COR from accurately documenting his monthly reports.

The COR did not timely prepare the required monthly reports. The COR's designation letter requires the COR to submit to the PCO a monthly report on performance of services rendered, and the USACE Acquisition Instruction requires CORs to submit monthly status reports by the 15th of each month. The COR prepared and signed 15 monthly reports for the period from August 2013 through October 2014. All 15 reports were prepared and signed in November 2014, which was 2 weeks after we announced the audit on October 22, 2014. The COR stated he did not think it was necessary to prepare the reports on a monthly basis because program officials and the contractor prepared their daily reports.

### ***COR Monthly Reports Based Mostly on Information From Contractor***

The COR's monthly reports were mostly based on information provided by the contractor and not by program officials or COR monitoring efforts.

The COR's monthly reports were mostly based on information provided by the contractor and not by program officials or COR monitoring efforts. The COR stated that he relied on the daily reports from the program officials and the contractor to prepare his monthly reports to the PCO. However, QA official only prepared 9 out of 283 possible reports,<sup>12</sup> and the project engineers' reports often relied on information provided by the contractor. Specifically,

- reports from the program officials consisted of a daily report prepared by the project engineer<sup>13</sup> and a daily report prepared by the QA official;

<sup>12</sup> A QA official prepared the first daily report 93 days after the contractor's performance period began.

<sup>13</sup> The project engineer was not required to prepare daily reports.

- the project engineer’s daily report was based on the daily QA report and the daily QC report from the contractor (the project engineer prepared 83 of a possible 283 daily reports);<sup>14</sup>
- the QA official only prepared daily reports when he visited the project site even though the QA plan requires a daily report; and
- the contractor prepared a daily QC report for each of the 283 days of the contract performance period, but the COR had only 141 of the daily QC reports.

### ***COR Did Not Maintain Required Documentation***

The COR did not always maintain required documentation related to the contractor’s performance and progress in the COR file. Specifically, the COR did not maintain documentation related to contract monitoring activities performed by the COR and program officials. The Handbook states the COR must document everything related to the contract, contractor performance, and other related matters, including conversations and meetings with the contractor.

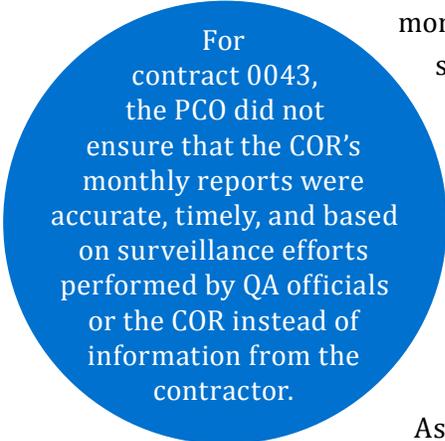
The COR maintained some documentation including:

- his signed COR designation letter;
- minutes of the preconstruction meeting with the contractor;
- QA plan;
- 9 daily reports prepared by a QA official;
- contractor’s QC plan;
- 141 of the 283 daily reports prepared by the contractor; and
- correspondence from the PCO documenting schedule concerns.

However, the COR did not have and could not provide key documents related to contractor surveillance, such as 142 of the 283 daily reports prepared by the contractor. In addition, the COR file did not contain project-related documentation prepared by safety officials. The COR stated he did not realize the significance of keeping required documentation in his COR file.

<sup>14</sup> The COR stated the project engineer also used reports created from the Automated Disposal Surveillance System, an electronic monitoring system that was installed on dredge transportation equipment to measure and track the volume of dredge material; and reports from the Dredge Material Inspector, who monitored and documented the placement of dredged material during transit and disposal. These two reports did not document the government’s daily monitoring of the contractor’s performance.

## ***PCO Did Not Effectively Oversee COR Surveillance Efforts for Contract 0043***



For contract 0043, the PCO did not ensure that the COR's monthly reports were accurate, timely, and based on surveillance efforts performed by QA officials or the COR instead of information from the contractor.

For contract 0043, the PCO did not ensure that the COR's monthly reports were accurate, timely, and based on surveillance efforts performed by QA officials or the COR instead of information from the contractor. In addition, the PCO did not verify that the COR maintained all required documentation in the COR file. U.S. Army Regulation 70-13<sup>15</sup> states that the PCO will monitor the COR's performance during the contract to ensure that the COR's responsibilities and duties are performed.

As the official required to ensure compliance with the terms of the contract, the PCO must oversee the COR's efforts to monitor contractor performance and review COR documentation. The USACE Acquisition Instruction requires the PCO to review and approve the COR's monthly reports, verify that the reports are submitted in a timely manner and complete, and ensure the COR maintains contract documentation in the COR file.

The PCO stated that program office officials were responsible for dictating when and how often the COR should visit the project site. The PCO also stated it was his understanding that the QA officials conducted site visits daily for this contract. The PCO was not aware that the QA official only visited the contract site 9 times during the 283-day contract performance period and that the COR only visited the contract site twice. Further, the PCO stated he was not aware that the COR's monthly reports were primarily based on information from the contractor and not by program officials or COR monitoring efforts. He stated he believed that program officials and the contractor provided the COR with daily reports and the COR used these reports to prepare the monthly COR report.

The PCO reviewed and approved all 15 of the COR's monthly reports at the end of the contract's performance period. The PCO stated that he was aware that the COR prepared his 15 required monthly reports near project completion. However, he was not aware that the COR file was not complete and did not have all required documentation needed to support the COR's surveillance. In addition, he did not review the COR documentation in the COR file for completeness but relied on personnel in the Business Oversight Branch.

<sup>15</sup> U.S. Army Regulation 70-13, "Management and Oversight of Services Acquisitions," July 30, 2010.

The PCO stated that personnel in the Business Oversight Branch randomly selected files to review on an annual basis. The Commander, U.S. Army Corps of Engineers, NY District, in his comments to the draft report stated, “the Contracts Division does not have the resources to review the COR files for every procurement in the District. The Business Oversight Branch of the Contracts Division randomly reviews COR files for compliance. The [Business Oversight Branch] shares their report with the PCO. Unfortunately, the file for contract 0043 was not reviewed by the [Business Oversight Branch].”

If the PCO performed effective oversight of the COR’s performance, the PCO would have known that the COR was not effectively monitoring the contractor’s performance. We are not making a specific recommendation because the contract is completed, and the PCO who awarded and provided oversight for contract 0043 is no longer employed at the USACE, NY District.

## Conclusion

CORs from the USACE, NY District effectively monitored two of the three contracts for Hurricane Sandy. However, for contract 0043, the COR did not conduct the surveillance necessary to monitor and document the contractor’s performance. The COR relied on the project engineer and QA officials to perform QA; however, these individuals did not perform sufficient surveillance of the contractor for contract 0043. In addition, the PCO did not effectively oversee the COR’s efforts to monitor contractor performance. As a result, the PCO and COR put the Government at risk by not effectively ensuring that the contractor complied with the terms and conditions of the contract.

## Recommendation, Management Comments, and Our Response

### ***Recommendation 1***

**We recommend that the Commander, U.S. Army Corps of Engineers, New York District provide training for the contracting officer’s representative for contract W912DS-13-C-0043 on oversight responsibilities to effectively monitor contractor performance, including determining how often to visit the project site, the contracting officer’s representative’s monitoring of the quality assurance official’s submission of daily reports, and the contracting officer’s representative preparing monthly reports that are accurate, timely, and based on Government surveillance and monitoring efforts.**

*U.S. Army Corps of Engineers Comments*

The Commander, U.S. Army Corps of Engineers, New York District, agreed, stating the recommended retraining for the COR for contract 0043 has begun by the employee successfully completing an online training course on July 31, 2015, and the COR is scheduled to attend a contracting officer's representative course in early December 2015. The Commander also stated the COR will not have any additional COR responsibilities until the appropriate training is completed.

*Our Response*

The Commander, U.S. Army Corps of Engineers, New York District, fully addressed the specifics of the recommendations, and no further comments are required.

## Appendix

### Scope and Methodology

We conducted this performance audit from October 2014 through October 2015 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 finding and conclusion based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objectives.

### *Review of Documentation and Interviews*

On October 30, 2014, HQ USACE provided a list of 29 Hurricane Sandy contracts valued at more than \$1 million for projects in USACE, NY District. Of the 29 contracts, valued at \$484.48 million,<sup>16</sup> 13 were valued at \$264.38 million<sup>17</sup> and were ongoing. We selected contract W912DS-13-C-0045 from the 13 ongoing contracts because it was the second highest dollar value contract and was not near the end of its performance period which was 48-percent complete at the time we selected the contract. The contract was for a project located near Staten Island, NY. Consequently, we also selected two additional dredging contracts for projects also located on or near Staten Island. The two additional contracts were W912DS-13-C-0043 and W912DS-14-C-0028.

To review the monitoring efforts by the COR's from the USACE, NY District, we obtained and reviewed pertinent contract file documentation to include:

- COR designation letters;
- QA plans;
- daily QA reports and contractor QC reports;
- COR monthly reports to the PCO;
- contractors' QC plan;
- accident prevention plans;
- preconstruction meeting minutes; and
- environmental plans.

<sup>16</sup> This value included 29 contracts related to the performance of work to support Hurricane Sandy projects at the New York District, as reported by USACE personnel.

<sup>17</sup> This value included 13 ongoing contracts over \$1 million related to the performance of work supporting Hurricane Sandy projects at the New York District, as reported by USACE personnel.

We obtained and reviewed:

- Public Law 113-2, Disaster Relief Appropriation Act of 2013;
- FAR Subpart 1.602-2, “Responsibilities;”
- FAR Subpart 4.8, “Government Contract Files;”
- FAR Subpart 37.604, “Quality Assurance Surveillance Plans;”
- FAR Subpart 46.4, “Government Contract Quality Assurance;”
- “Department of Defense COR Handbook,” March 22, 2012;
- Defense Federal Acquisition Regulation Supplement Procedures, Guidance, and Information 201.602, “Contracting Officers;”
- U.S. Army Regulation, 70-13, “Management and Oversight of Service Acquisitions,” July 30, 2010;
- USACE Regulation No. 1180-1-6, “Contracts-Construction Quality Management,” September 30, 1995; and
- “USACE Acquisition Instruction,” April 7, 2014.

We visited USACE, NY District and interviewed PCOs, an administrative contracting officer, and CORs to discuss their processes to monitor contractor performance. We also interviewed project engineers and QA officials to discuss their processes to monitor contractors’ quality controls.

## Use of Computer-Processed Data

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

## Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) issued one report discussing oversight of Hurricane Sandy projects. Unrestricted GAO reports can be accessed at <http://www.gao.gov>.

### **GAO**

Report No. GAO-14-58, “Hurricane Sandy Relief—Improved Guidance on Designing Internal Control Plans Could Enhance Oversight of Disaster Funding,” November 2013

# Management Comments

## U.S. Army Corps of Engineers



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
WASHINGTON, D.C. 20314-1000

CEIR

13 November 2015

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, 4800  
MARK CENTER DRIVE, ALEXANDRIA, VIRGINIA 22350-1500

SUBJECT: DoD IG Draft Report: New York District Monitoring of a Hurricane Sandy  
Contracts Needs Improvement (D2015-D000CI-0056.000)

1. Reference DoD IG Draft Report, same subject as above.
2. Attached is the USACE reply to the subject draft report. HQ USACE agrees with DoD IG findings.
3. If you have additional questions, please contact [REDACTED] at [REDACTED] or via email at [REDACTED]

FOR THE COMMANDER:

PACK.SANDRA Digitally signed by  
[REDACTED]

Encl

SANDRA L. PACK  
[REDACTED]

## U.S. Army Corps of Engineers (cont'd)



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT  
JACOB K. JAVITS FEDERAL BUILDING  
26 FEDERAL PLAZA  
NEW YORK NY 10278-0090

CENAN- DE

09 November 2015

Project: D2015-D000CI-0056.000  
Audit Location: USACE New York District  
Objective Title: U.S. Army Corps of Engineers, New York District Monitoring of a Hurricane Sandy Contract Needs Improvement

Objective: To determine whether U.S. Army Corps of Engineers (USACE) effectively monitored contractor performance to respond to Hurricane Sandy. Specifically, we determined whether contracting officer's representatives (COR's) from the USACE, New York District performed effective contractor oversight and surveillance.

Conclusion: CORs from the USACE, NY District effectively monitored two of the three contracts for Hurricane Sandy. However, for contract 0043, the COR did not conduct the surveillance necessary to monitor and document the contractor's performance. The COR relied on the project engineer and QA officials to perform QA; however, these individuals did not perform sufficient surveillance of the contractor for contract 0043. In addition, the PCO did not effectively oversee the COR's efforts to monitor contractor performance. As a result, the PCO and COR put the Government at risk by not effectively ensuring that the contractor complied with the terms and conditions of the contract.

Additional Comments: The PCO relies on the technical expertise of the COR as to whether or not the reports are accurate. From reviewing the monthly reports, the PCO cannot tell if the information is based on surveillance reports from the QA, site visits of the COR or from contractor reports. The PCO does not visit the site and does not have firsthand knowledge to dispute the accuracy of the monthly reports. The PCO does not tell the COR how often he or she must conduct project site visits.

The COR communicates contract issues with the PCO, they work together to resolve problems, and in addition, projects are briefed at the monthly Project Review Boards (PRBs). During PRBs, which is chaired by the Commander of the District, Project Managers discuss significant project concerns. The Chief of the Contracts Division attends these meetings and informs PCOs of project difficulties. In most cases, the PCOs are already aware of contract issues.

The Contracts Division does not have the resources to review the COR files for every procurement in the District. The Business Oversight Branch (BOB) of the Contracts Division randomly reviews COR files for compliance. The BOB shares their report with the PCO. Unfortunately, the file for contract 0043 was not reviewed by the BOB.

## U.S. Army Corps of Engineers (cont'd)

CENAN-DE

SUBJECT: DoDIG Draft Report Project No. D2015-D000CI-0058.000

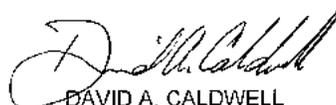
Recommendation(s):

Recommendation. We recommend that the Commander, U.S. Army Corps of Engineers, New York District provide training for the contracting officer's representative for contract W912DS-13-C-0043 on oversight responsibilities to effectively monitor contractor performance, including determining how often to visit the project site, the contracting officer's representative's monitoring of the quality assurance official's submission of daily reports, and the contracting officer's representative preparing monthly reports that are accurate, timely, and based on Government surveillance and monitoring efforts.

Action Taken with IG Recommendation:

1. Concur. We do not object to the report's single recommendation to retrain one of the three Contracting Officer's Representatives audited.

- a. The COR recommended for retraining in the report's single recommendation has already begun the retraining effort to effectively monitor contractors' performance.
- b. During this retaining period the employee will not have COR responsibilities for any new contracts until the retraining effort has been successfully completed.
- c. The employee will only complete his COR duties for the administrative closeout of his last two dredging contracts which had been already been physically completed.
- d. The employee has already successfully completed required on-line training course, "Defense Acquisition University CLC106 Contracting Officer's Representative with a Mission Focus" on 31 July 2015.
- e. The employee is currently scheduled and booked for the Army Logistics University Contracting Officer's Representative Course next month, 1 thru 4 December 2015, at Fort Lee, Virginia.



DAVID A. CALDWELL  
COL, EN  
Commanding

## Acronyms and Abbreviations

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<b>COR</b>	Contracting Officer's Representative
<b>FAR</b>	Federal Acquisition Regulation
<b>NJ</b>	New Jersey
<b>NY</b>	New York
<b>PCO</b>	Procuring Contracting Officer
<b>QA</b>	Quality Assurance
<b>QASP</b>	Quality Assurance Surveillance Plan
<b>QC</b>	Quality Control
<b>USACE</b>	U.S. Army Corps of Engineers



# **Whistleblower Protection**

## **U.S. DEPARTMENT OF DEFENSE**

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