INTERIM AUDIT REPORT ON INAPPROPRIATE USE OF PROPRIETARY DATA MARKINGS BY THE LOGISTICS CIVIL AUGMENTATION PROGRAM (LOGCAP) CONTRACTOR

SIGIR-06-035
OCTOBER 26, 2006

Report Documentation Page

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SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

October 26, 2006

MEMORANDUM FOR COMMANDING GENERAL, U.S. ARMY SUSTAINMENT COMMAND
COMMANDER, DEFENSE CONTRACT MANAGEMENT AGENCY-IRAQ
MANAGEMENT COUNSELOR, U.S. EMBASSY-IRAQ

SUBJECT: Interim Audit Report on Inappropriate Use of Proprietary Data Markings by the Logistics Civil Augmentation Program (LOGCAP) Contractor (SIGIR-06-035)

Due to data access and reporting issues and their impact on transparency of government operations the Special Inspector General for Iraq Reconstruction (SIGIR) is providing this interim audit report for your information and use. We are performing this review at the request of the Office of the Chief of Mission, U.S. Embassy-Iraq.

Objective

This review was announced on July 24, 2006, with the overall objective of determining whether the U.S. government is receiving the services paid for under Logistics Civil Augmentation Program (LOGCAP) Task Order 130 and whether the support provided is reasonable, efficient, and cost-effective. During our review we noted that the LOGCAP contractor, Kellogg Brown and Root Services, Inc. (KBR), continuously marked all information provided to the government as "Proprietary Data". In addition, the contractor initially refused to provide us with requested data in its native format (Excel spreadsheet or Access database), because KBR claimed the actual spreadsheets or databases contained specific proprietary information relating to how KBR conducts its business.

The purpose of this interim review was to provide an assessment of whether KBR is following applicable Federal Acquisition Regulation (FAR) direction on classifying proprietary data and is complying with contract provisions regarding information.

Background

On December 14, 2001, the Army awarded Contract DAAA09-02-D-0007 to KBR as an overarching worldwide support contract for the military's logistical requirements. Specific requirements under the LOGCAP contract are issued as task orders. On April 27, 2006, Task Order 130 was awarded as a cost-plus award-fee task order for the period April 8, 2006,

through April 7, 2007, to provide services necessary to support, operate, and maintain the Chief of Mission and Multi-National Force-Iraq staffs at the U.S. Embassy-Iraq. This Task Order was essentially a continuation of services previously obtained under Task Order 100, which was awarded on November 5, 2004. Task Order 100 was a continuation of services provided under Task Order 44, which was awarded on March 6, 2003, to provide support to the Coalition Provisional Authority (CPA) in support of Operation Iraqi Freedom.

Task Order 130 was awarded as a cost-plus award-fee task order. A cost-plus award-fee contract is defined in FAR Section 16.305 as a cost-reimbursement contract that provides for a fee consisting of (a) a base amount fixed at inception of the contract and (b) an award amount, based upon a judgmental evaluation by the government, sufficient to provide motivation for excellence in contract performance. Some of the factors used in determining the award fee for Task Order 130 are the contractor's cost, responsiveness, quality of service, and adherence to schedule.

Results

KBR routinely marks almost all of the information it provides to the government as KBR proprietary data, citing the FAR section 3.104 as the justification. This provision of the FAR, however, applies to the protection of bid or source selection information during the procurement process. The information KBR is marking as proprietary is data produced by KBR for the government related to its performance under a contract that has already been awarded. This practice is not consistent with FAR direction as to what constitutes proprietary data. The routine use of proprietary markings when the data marked is not internal contractor information, such as indirect costs, labor rates, or internal processes, is an abuse of FAR procedures, inhibits transparency of government activities and the use of taxpayer funds, and places unnecessary requirements on the government to both protect from public disclosure information received from KBR and to challenge inappropriate proprietary markings. The result is that information normally releasable to the public must be protected from public release just because the information gathered for the government by KBR, pursuant to KBR's contractual obligations, was marked as proprietary. In effect, KBR has turned FAR provisions designed to protect truly proprietary information and to enhance procurement competition by protecting proprietary data from unauthorized disclosure into a mechanism to prevent the government from releasing normally transparent information, thus potentially hindering competition and oversight.

FAR Contains Direction on What Constitutes Proprietary Data

The FAR, which is the compilation of government regulation involving the federal government's acquisition of goods and services, addresses the subject of proprietary data. Among many things, the FAR addresses what constitutes proprietary data and the process for the government to challenge what it believes to be inappropriate marking of data as proprietary. There are also definitions and descriptions of what constitutes proprietary data in defense acquisition publications.

Definition of Proprietary

The Defense Acquisition University defines the term "proprietary rights" in its Defense Acquisition Acronyms and Terms publication[1] as:

> "A broad contractor term used to describe data belonging to the contractor. These data could be intellectual property, financial data, etc. This is a generally a term used in the submission of a proposal to protect the contractor's sensitive information from disclosure and is not a category of rights applicable to Technical Data under all contracts."

The Army Logistics Management College also provides information regarding what constitutes proprietary data. In response to a question on the issue of protection of contractor data the college provided the following response:

> "Protection of contractor data is an extraordinarily sensitive issue in Federal Procurements. As such, FAR Subpart 3.1 implements federal statutes designed to protect contractor "bid or proposal information". Contractor bid or proposal information means "any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:
>
> (1) Cost or pricing data (as defined by 10 U.S.C. 2306a(h) with respect to procurements subject to that section, and section 304A(h) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(h)), with respect to procurements subject to that section).
>
> (2) Indirect costs and direct labor rates.
>
> (3) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.
>
> (4) Information marked by the contractor as "contractor bid or proposal information" in accordance with applicable law or regulation.
>
> (5) Information marked in accordance with 52.215-1(e).
>
> Government employees are strictly prohibited from disclosing such information by FAR 3.104-4."

[1] Glossary Defense Acquisition Acronyms and Terms, Twelfth Edition, July 2005, published by the Defense Acquisition University Press.

FAR Direction on Marking Data as Proprietary

The FAR provides for the protection of contractor bid or proposal information in section 3.104 (Procurement Integrity). The purpose of this section is to protect the overall integrity of the federal procurement process, to include appropriate protection for contractors' proprietary data. Within that **s**ection, paragraph 3.104-4 states that "no person or other entity may disclose contractor bid or proposal information or source selection information to any person other than a person authorized . . ." The purpose of this FAR paragraph is to protect bid or source selection information from falling into the hands of other bidders or proposers and thus compromising the procurement process. This is the FAR provision repeatedly cited by KBR to justify the proprietary data markings. However, the data marked proprietary by KBR is not related to contract proposals. Rather it is data produced by KBR for the government related to its performance under a contract that has already been awarded.

KBR's citing of FAR paragraph 3.104-4 in its proprietary markings places the burden of addressing what is truly proprietary on the government. Specifically, FAR 3.104-4(d) gives the government an option to address specific instances of inappropriate use of proprietary data markings by a contractor. FAR 3.104-4(d) states:

> (d) Except as provided in paragraph (d)(3) of this subsection, the contracting officer must notify the contractor in writing if the contracting officer believes that proprietary information, contractor bid or proposal information, or information marked in accordance with 52.215-1(e) has been inappropriately marked. The contractor that has affixed the marking must be given an opportunity to justify the marking.
>
> (1) If the contractor agrees that the marking is not justified, or does not respond within the time specified in the notice, the contracting officer may remove the marking and release the information.
>
> (2) If, after reviewing the contractor's justification, the contracting officer determines that the marking is not justified, the contracting officer must notify the contractor in writing before releasing the information.

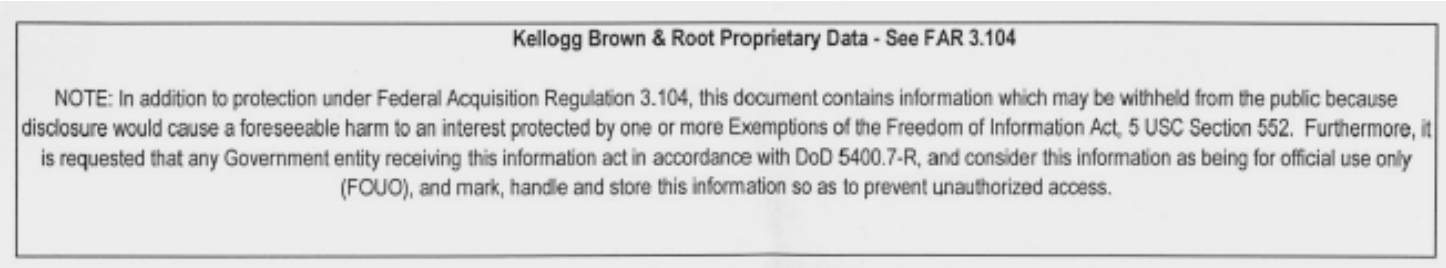
In the case of a negotiated procurement, *after* award the FAR provides in Section 15.503(b) that the contracting officer provide to each offeror whose offer was in the competitive range ". . . (iv) The items, quantities, and any stated unit prices of each award . . ." Later, the Section states: "(v) In no event shall an offeror's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information be disclosed to any other offeror."

In addition, Department of Defense contracts are also governed by the Defense Federal Acquisition Regulation Supplement (DFARS). DFARS Section 227.7103-13 supplies a method for challenging a contractor's assertion of proprietary rights to data and information. It states "(an) offeror's assertion(s) of restrictions on the Government's rights to use, modify, reproduce, release, or disclose technical data do not, by themselves, determine the extent of the Government's rights in the technical data. Under 10 U.S.C. 2321, the Government has the right to challenge asserted restrictions when there are reasonable grounds to question the validity of

the assertion and continued adherence to the assertion would make it impractical to later procure competitively the item to which the data pertain." Challenges are not to be asserted unless there are reasonable grounds to question the validity of an assertion. When a challenge is made and the contractor responds with an attempted justification, then the contracting officer must issue a final decision. Consequently, the final decision on whether specific information is proprietary is a decision for the government's contracting officer, not the contractor.

Misuse of Proprietary Data Statement

The contractor, KBR, is marking nearly all the information provided to the U.S. government as proprietary data that must be protected in accordance with FAR paragraph 3.104. KBR has marked as proprietary (1) data it is specifically required to maintain for the government, (2) reports on U.S. government forms (or similar electronic version of the form), and (3) data that contains no information describing KBR's cost, operational procedures, or data collection procedures. These data are routinely marked as proprietary with the following or a similar type statement:


Kellogg Brown & Root Proprietary Data - See FAR 3.104

NOTE: In addition to protection under Federal Acquisition Regulation 3.104, this document contains information which may be withheld from the public because disclosure would cause a foreseeable harm to an interest protected by one or more Exemptions of the Freedom of Information Act, 5 USC Section 552. Furthermore, it is requested that any Government entity receiving this information act in accordance with DoD 5400.7-R, and consider this information as being for official use only (FOUO), and mark, handle and store this information so as to prevent unauthorized access.

Examples of government reports that KBR that has marked as proprietary that we believe are incorrectly marked include the following:

- **Daily Dining Facility Headcount Report.** The contractor is required to maintain and report a daily dining facility headcount in accordance with paragraph 3.4.2 of the Task Order Statement of Work. This report shows the number of breakfast, lunch, and dinner meals served by the dining facility. KBR's report contains the following restrictive statement:

This document is releasable to U.S. Government Personnel Only – For Official Use Only. It is not releasable to the public. It is requested that any government entity receiving this information act in accordance with DoD 5400.7-R, and mark, handle and store this information so as to prevent unauthorized access. This document contains business and technical information and data, trade secrets, and know-how that are highly confidential and proprietary to Brown and Root Services. Any unauthorized publication or disclosure of such information to any person, or unauthorized use of such information without the express written consent of Brown & Root Services is strictly prohibited.

- **Fuel Report showing Fuel Issued by KBR to Foreign Embassies**. This report shows the date and number of liters of fuel issued to generators maintained by foreign embassies in Iraq. KBR's report contains the following statement:

> Kellogg Brown & Root Proprietary Data
> NOTE: In addition to protection under Federal Acquisition Regulation 3.104, this document contains information which may be withheld from the public because disclosure would cause a foreseeable harm to an interest protected by one or more Exemptions of the Freedom of Information Act, 5USC Section 552. Furthermore, it is requested that any government entity receiving this information act in accordance with DoD 5400.7-R, and consider this information as being f*or official use only (FOUO),* and mark, handle and store this information so as to prevent unauthorized access.

We believe that the use of proprietary data markings on reports and information submitted by KBR to the government is an abuse of the FAR and the procurement system. As noted in the examples cited in this report, KBR is not protecting its own data, but is in many instances inappropriately restricting the government's use of information that KBR is required to gather for the government as part of KBR's management of Task Order 130.

DCMA and the LOGCAP Program Office Concerns

We discussed KBR's practices for identifying proprietary data with the Defense Contract Management Agency (DCMA) office in Iraq, which has delegated Administrative Contracting Officer responsibility for Task Order 130, and with the LOGCAP Program Office in Rock Island, Illinois. Both shared our concerns about KBR's routine marking of most data as proprietary. DCMA agreed that proprietary data markings were not appropriate and specifically requested in an e-mail that KBR remove the proprietary data markings unless the data are truly KBR proprietary data. KBR's e-mail response back to DCMA is shown below:

Extract of KBR e-mail dated September 12, 2006, in response to DCMA

> … KBR corporate input regarding this issue is that KBR has encountered situations in the past where extremely competition sensitive data has found its way to the press and/or to the internet. As a result, this data is being properly protected. It includes the data that is submitted in accordance with Army Regulations which is prepared by KBR and includes statistical and/or financial data that impacts KBR operations. Please note that the statement below DOES allow For Official Use Only use of the data. That being said, a recipient of the data would be prohibited from posting the data on the internet for the public to see.
>
> In addition to protection under Federal Acquisition Regulation 3.104, this document contains information which may be withheld from the public because disclosure would cause a foreseeable harm to an interest protected by one or more Exemptions of the Freedom of Information Act, 5 USC Section 552. Furthermore, ***it is requested that any Government entity receiving this information act in accordance with DoD 5400.7-R, and consider this information as being for official use only (FOUO),*** and mark, handle and store this information so as to prevent unauthorized access.

The specific data in question in these e-mails was dining facility data maintained in accordance with Army Regulation 30-22 in Army established format.

DCMA also expressed its concerns that it may not be in a position to require KBR to change its policy on proprietary data markings, adding this issue needs to be addressed at the Procurement Contracting Officer's level. The Procurement Contracting Officer for the Army's LOGCAP contract is located at the U.S. Army Sustainment Command, which is a major subordinate command of the U.S. Army Materiel Command. The U.S. Army Sustainment Command is also located at Rock Island, Illinois.

The Army Sustainment Command Counsel for the LOGCAP program also expressed concern about KBR's use of proprietary markings. Counsel told us that he was aware of the situation and had been seeking ways to prevent improper marking of information as proprietary. In addition, the Command is in the process of transitioning from the present LOGCAP contract to a series of successor contracts. The Command's Counsel for LOGCAP matters expressed concern that KBR's practice of marking almost all data it provides the government as proprietary may inhibit the transition of work being performed under the current LOGCAP contract to the successor contracts.

While we have not conducted recent audit work related to the other Task Orders, we believe that the problem of KBR's inappropriate use of protective data markings may not be limited to Task Order 130, but could be a systemic problem occurring throughout the Army's LOGCAP contract.

KBR's Initial Refusal to Provide Data in its Native Electronic Format

KBR also attempted to impede our ability to analyze data it develops for the government in carrying its assigned work under Task Order 130. In response to our request for information as part of the on-going audit of Task Order 130, KBR initially provided the requested information to us in a format that is not easily utilized or analyzed for reporting purposes.

In one instance, we requested that KBR provide us a copy of the electronic Excel Spreadsheet (the format in which KBR retains its native data), showing daily fuel issues that KBR made to foreign embassies. Instead of providing the data in the native Excel spreadsheet format, KBR provided the data to SIGIR in a 50 page Acrobat PDF file that contained over 1,500 individual line item entries. Because the data was provided in an Acrobat PDF file in image format that can not be converted to Excel, SIGIR would have to reenter the data into a Spreadsheet, a time consuming process, to perform any meaningful analysis of the data.

In another instance, we requested a copy of the Access database used by KBR to record and track retail vehicle fuel issues. KBR initially refused the request for the copy of the database, replying instead that we should advise KBR what end product datum the auditors are seeking and KBR will support the request by pulling the information. KBR personnel involved with the retail fuel operation were advised prior to the request that SIGIR wanted the database itself to perform a series of comprehensive data analyses on, to include data matching with other similar KBR databases.

Upon being informed by us on September 19, 2006, of KBR's refusal to provide us data in native format and access to data bases containing data complied for the government, the contracting

officer immediately directed KBR to provide the data. On September 19, 2006, in response to the contracting officer's direction KBR provided the report on foreign embassy fuel issues in Excel format, but did not provide the access database. KBR's response for not providing us the access database is shown below.

KBR Response to Contracting Officer's Direction to Provide Database to SIGIR

> Contract DAAA09-02-D-0007 and its Task Orders are structured around performance outcomes. The Contract specifically allows KBR the latitude to determine how to meet those objectives. Instead of prescriptive methods, the Contract allows KBR to deliver the required services by following its own best practices. Since the primary focus is on the end result, KBR is authorized by the Contract to adjust its processes, as it deems appropriate, through the life of the contract provided that delivered services (outcomes) remain in accordance with the Contract. This arrangement maximizes opportunities for competitive alternatives and greater innovation through the use of KBR's own best practices and processes in lieu of government-directed solutions. Contractual deliverables are specifically defined in the Contract and Task Orders; however, there is no contractual requirement to submit the databases that constitute KBR's competitive edge in performing the required services. The actual databases created by KBR provide specific proprietary information relating to how KBR conducts its business. KBR always stands ready to extract data from those databases for review by the SIGIR Auditors pending specific identification of the requested data.

The Procurement Contracting Officer did not accept the KBR response as an acceptable reason for denying us the data. On September 20, 2006, he directed KBR to immediately release the information to SIGIR. KBR complied and released the information to SIGIR on September 22, 2006.

The Access Databases that KBR utilizes are maintained by KBR as part of its management and operation of Task Order 130. SIGIR access to the data in its native database format, as well as access to the data by other U.S. government agencies involved with the LOGCAP program, is necessary for the efficient and effective analysis of the information. With respect to SIGIR's access, it is also required as part of SIGIR's statutory mission to perform audits in accordance with generally accepted government auditing standards. One of the government auditing standards required (as stated in the Comptroller General of the United States Government Auditing Standards (2003 Revision) Chapter 7, Field Work Standards for Performance Audits) is that: *Sufficient, competent, and relevant evidence is to be obtained to provide a reasonable basis for the auditors' findings and conclusions.* In this regard the standards state that while auditors can use data gathered by officials of the audited entity as part of their evidence, auditors should determine the validity and reliability of the data and may do so by direct tests of the data. To comply with this standard, SIGIR requires access to the database itself, not just to reports produced by the auditable entity (in case the contractor, KBR, which is gathering, maintaining and reporting the information for the government).

The audit clause in Section I – 16 of the basic LOGCAP contract, which incorporates FAR section 52.215-2 into the contract by reference, requires KBR to make records required for audit purposes available to SIGIR. Applicable parts of FAR 52.215-2 which require this are:

- 52.215-2(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

- 52.215-2(b) Examination of costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

- 52.215-2(e) Reports. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating—

  (1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

  (2) The data reported.

- 52.215-2 (f) Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract.

- 52.215-2 (g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and—

  (1) That are cost-reimbursement, incentive, time-and materials, labor-hour, or price-redeterminable type or any combination of these;

  (2) For which cost or pricing data are required; or

  (3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

Example of Improved Contract Provisions for Marking Data as Proprietary and Providing Electronic Reports

The Army has another contract with KBR similar in nature to LOGCAP for support services in U.S. Army Europe's (USAREUR) area of operation, the USAREUR Support Contract. To prevent future abuse of the protective data statements and facilitate the government's ability to effectively analyze and utilize information obtained from the contractor; this contract when it

was being drafted proposed directions on marking proprietary information and providing electronic data. Specifically the proposal stated the following in paragraphs 1.2.10.5 and 1.2.11 of Section C-1, General Requirements and Information, Performance Work Statement version 6.0:

- **Marking Proprietary Information**

  All records, files, reports, and data deemed proprietary by the Contractor shall be clearly marked in accordance with applicable laws, regulations, and clauses in this contract. The Contractor is required to identify specific portions of the records, files, reports, and data that it considers to be proprietary, by circling, underscoring, highlighting, or other appropriate identifier, as required by, or in addition to, applicable laws, regulations, or clauses in this contract. The Government intends to challenge, in accordance with applicable regulatory procedures, any marking which it believes fails to conform to these requirements.

- **Electronic Reports**
  Electronic reports, which include data and data summaries, shall be submitted in Microsoft Excel or Microsoft Access. Electronic reports, which are primarily composed of text shall be submitted in Microsoft Word.

Management Actions

Both the Defense Contract Management Agency-Iraq and the Procurement Contracting Office at the U.S. Army Sustainment Command took timely and responsive actions within their respective authorities to address the concerns raised in this interim report. The Procurement Contracting Officer took immediate action by directing KBR to provide the information requested by SIGIR in the native format maintained by KBR. On September 22, 2006, KBR complied with the Procurement Contracting Officer's directions and provided the requested information to SIGIR.

Conclusion

The use of proprietary data markings on reports and information submitted by KBR to the government is an abuse of the FAR and the procurement system. As noted in the examples cited in this report, KBR is not protecting its own data, but is in many instances inappropriately restricting the government's use of information that KBR is required to gather for the government as part of KBR's management of Task Order 130.

KBR's practice of routinely marking almost all of the information it provides to the government as KBR proprietary data, even when the data marked does not relate to internal contractor information such as indirect costs, labor rates, or internal processes—and so does not appear to be proprietary—is not consistent with the direction in the FAR as to what constitutes proprietary data and is a misuse of the FAR. The result is that information normally releasable to the public must be protected from public release just because the information gathered for the government by KBR, pursuant to KBR's contractual obligations, was marked as proprietary. This inhibits transparency of government activities and the use of taxpayer funds and places unnecessary requirements on the government to both protect from public disclosure information received

from KBR and to challenge inappropriate proprietary markings. It may also impede the government's effort to transition the work currently being performed under the LOGCAP contract to successor contracts. Both the LOGCAP Program Office and DCMA in its LOGCAP oversight role are seeking to prevent misuse of proprietary markings by KBR.

Recommendations

To limit the use of inappropriate marking of information as proprietary under the LOGCAP contract and to ensure that data are provided in native format, we recommend that the Commanding General, U.S. Army Sustainment Command, direct the LOGCAP Program Director to take these actions:

1. In all future LOGCAP task orders and modifications to existing task orders, include language restricting the use of proprietary markings.

2. Exercise appropriate contracting officer authority, either directly or through delegated authority to DCMA, to advise KBR in accordance with the requirements of FAR 3.104-4(d) whenever contractor submissions appear to inappropriately contain proprietary markings.

3. Include specific statements within the Performance Work Statements for the new LOGCAP contract that address both the issue of proprietary data markings and receipt of contract reports and data submissions in native formats.

4. Establish as a performance metric KBR's use of proprietary markings and responsiveness to requests for information as a factor in the determination of award fee ratings.

5. Exercise appropriate contracting officer authority, either directly or through delegated authority to DCMA, to require KBR to provide information to the government—including SIGIR and any other U.S. government audit activity—in the native electronic format (Excel or Access) in which KBR maintains the information. This will facilitate the government's analysis of the information.

Management Comments and Audit Response

Because of the continuing impact of the misuse of proprietary markings and the pressing need to address this practice, we obtained formal oral comments from the Army Sustainment Command, rather than written comments, to expedite the issuance of this report. We discussed our findings with command officials from the LOGCAP Program Office on October 10, 2006, who agreed with the content of the report and stated that it was very timely. The Army Sustainment Command agreed with the intent of our recommendations, stating that alternative action would be taken to address them. Specifically, these officials said that they will (1) prepare a modification to the existing LOGCAP base contract to provide guidance to KBR on marking of proprietary data, and (2) include guidance on marking proprietary data in the successor LOGCAP contracts. We believe that these actions are responsive to and fully meet the intent of recommendations number 1 and 2. We will follow up and comment in our final report on the alternative actions to meet the intent of the remaining recommendations.

Scope and Methodology

This review was announced on July 24, 2006 (Project No. 6029) with the with the overall objective to determine whether the U.S. government is receiving the services paid for under LOGCAP Task Order 130 and whether the support provided is reasonable, efficient, and cost-effective.

We are conducting this review at KBR sites located in Baghdad, Iraq and at the Procurement Contracting Officer's office located at the Army Sustainment Command, Rock Island, Illinois. As part of this review we interviewed government personnel involved with the administration or oversight of Task Order 130 to include:

- The Commander, Administrative Contracting Officer and other personnel with the Defense Contract Management Agency-Iraq
- Auditors assigned to the Defense Contract Audit Agency in Iraq
- The Department of State Contracting Officers Representative and other Department of State personnel at the U.S. Embassy in Iraq
- Functional support personnel with the Joint Area Support Group-Central in Iraq
- Personnel with the LOGCAP Logistic Support Office in Iraq
- The Procurement Contracting Officer and other personnel, including legal counsel, with the Army Sustainment Command, Rock Island, Illinois

We also interviewed KBR managers and operational personnel. We toured KBR operational sites in Iraq; observed ongoing KBR operations; observed the methods used by KBR to capture, maintain and report data; and examined reports that KBR provided to the government. We also reviewed the FAR and information maintained by the defense acquisition community to identify requirements regarding the marking of information as proprietary data and the government's authority to challenge such markings.

We performed this review in accordance with generally accepted government auditing standards.

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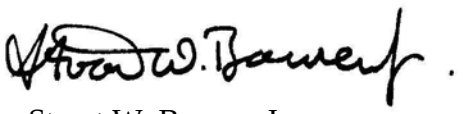
This interim report is provided for management's use and appropriate action. No formal response to this interim report is required, but we will follow up on the status of corrective actions to our recommendations as we continue with our audit.

We appreciate the courtesies extended to the staff. For additional information on this interim report, please contact Mr. Joseph T. McDermott (703-604-0982/joseph.mcdermott@sigir.mil) or Mr. Steve Sternlieb (703-428-0240/steven.sternlieb@sigir.mil).



Stuart W. Bowen, Jr.
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