

DOD Responds to Commission on Wartime Contracting's Concerns

Written by Administrator

Thursday, 28 January 2010 00:00

Readers of this site are likely familiar with the issues raised by the independent Commission on Wartime Contracting in Iraq and Afghanistan (CWC). Over and over, CWC has expressed its concerns with how DOD exercises oversight on the contractors supporting the warfighters in Southwest Asia. For example, in

[this article](#)

, we told you that the CWC had issued its interim report, entitled, "'At What Cost? Contingency Contracting in Iraq and Afghanistan.'"

In

[this article](#)

, we told you about testimony before the Commission, in which then-DCAA Director April Stephenson blamed "faulty accounting, cost-estimating, purchasing and other business systems" for "millions of dollars" of contractor overbillings to the Department of Defense (DOD). We told you about a Federal Times article that quoted Director

Stephenson's

testimony: "When a contractor's business system and related internal controls are inadequate, the data generated by the contractor's system is unreliable, which in turn, results in the risk of

noncompliances

with government laws and regulations, mischarging, fraudulent acts and contract overpayments."

Later on, we reported the fascinating war between bureaucracies that was playing out before us all. While the attacks took place in many forums, some of the nastiest took place at the CWC. For instance, based on some of the CWC testimony and comments, we

[asked](#)

if DCAA and DCMA would be merging in order to end their “dysfunctional” contractor oversight.

Nearly four months after the CWC told DOD to go back and rethink its approach to contractor oversight, the Pentagon submitted its official response to the CWC’s “eight issues of immediate concern.” The report, issued to the Under Secretary of Defense (Acquisition, Technology & Logistics) by the “Task Force on Wartime Contracting” (TFWC) on December 17, 2009, was made public on January 26, 2010. As we mentioned, the TFWC report, which can be found [here](#), addressed eight issues –

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1. Risk associated with drawdown of troops in Iraq
2. Shortage of contract management personnel in theater and training
3. Acceleration of transition to the new LOGCAP IV contract
4. Adequacy of contractor business systems
5. Greater accountability in the use of subcontractors
6. Proper transition of lessons learned from Iraq to Afghanistan
7. Establishment of a contracting command in Afghanistan
8. Proper training and equipping of security contractors.

The TFWC was chaired by Mr. Shay Assad, Director, Defense Procurement and Acquisition Policy (DPAP), and had the following objectives: mapping CWC observations to the eight issues of immediate concern, identifying current DOD initiatives, and tracking whether DOD's initiatives would address the CWC areas of concern.

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The report, which can be found [here](#) , concluded that every CWC concern was being addressed by a current DOD initiative. Almost all of DOD's initiatives had been started prior to CWC expressing its concerns. The report's conclusions were summarized as follows—

The Task Force [TFWC] reported that it believes the DoD initiatives are the right solution set and therefore does not recommend pursuing alternatives. The progress on these initiatives is largely moving forward as planned, but some key initiatives, primarily in the area of resourcing contingency contracting officer's representatives and subject matter experts, are experiencing major challenges. The Task Force is focusing on improving progress in these areas and will continue to work with senior leaders to remove the barriers.

Savvy readers will recognize the diplomatic tone of the summary, which might

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also be translated (by a less bureaucratic translator) as telling the CWC that the DOD recognized the issues before they were brought to its attention, has initiated effective counter-measures, and has things well in hand. So thank you very much, CWC, but no thanks.

We want to examine, in some detail, how the report addresses two CWC concerns: (1) adequacy of contractor business systems, and (2) greater accountability in the use of subcontractors. Our examination will focus on whether the details in the report support the conclusions as summarized by DPAP.

Adequacy of Contractor Business Systems

The report maps five CWC observations to this issue. Two observations relate

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to DCMA and three to DCAA. The report notes that subcommittee 11 of the Department's Panel on Contracting Integrity "will focus on establishing consistent processes and procedures to address contractor business system deficiencies." However, the subcommittee's "comprehensive review and analysis of the Department's audits and evaluations of contractor business systems will take time." Moreover, both DCMA and DCAA have inadequate resources to address oversight requirements.

The "good news" is that DCAA has already issued "more than 100 cost suspensions totaling more than \$500 million" in its testing of contingency operations support contractors in Southwest Asia. In addition, DCAA has issued audit guidance that has "clarified what constitutes a significant deficiency and eliminated the 'inadequate in part' opinion in an attempt to reduce the apparent confusion regarding the expectation of the contractor and CO regarding the reported deficiencies."

Of the five observations, two are rated as Yellow (experiencing challenges) and two are rated Green (on track). The fifth observation (

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ack of resources within DCAA is a significant factor contributing to
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audit coverage

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) does not seem to have been addressed in any detail within this section of the report, even though it is one of the CWC observations that is mapped to this issue.

Our assessment: This area was evaluated with some measure of optimism. Lack of DCAA resources was not addressed (though it was noted that DCAA has given in-theater audits its highest priority). Importantly, the report was misleading because the DCAA audit guidance it asserts “clarified” and “attempt[ed] to reduce ... confusion” did nothing of the sort—and was actually criticized by nearly all stakeholders for increasing confusion and reducing the value of DCAA’s audit reports in this area. We do not believe the details support the overall conclusion(s) in this area.

Greater Accountability in the Use of Subcontractors

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There was only a single CWC concern mapped to this issue. In the words of the report—

Contractors are incentivized to control costs, because costs are reviewed twice a month by the government. Cost analyses, regression analyses, and spend plan analyses identify trends and potential cost savings or unanticipated increases that will result in budget variances. DCMA works aggressively with contractors to address such variances. Cost control is included in the award-fee criteria.

In addition, as the report notes—

In addition, DCMA monitors the use of subcontracts by verifying the requirement in theater, after which the ACO in the DCMA corporate office reviews and

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provides a formal consent to subcontract. LOGCAP IV is in the process of instituting cost variance analysis reporting.

This area was rated Yellow (experience challenges) because it is a relatively new area of emphasis. In the words of the report—

The Department is monitoring LOGCAP and taking steps to protect the government and the soldier. However, the increased focus on subcontractors is relatively new—driven by a March 2009 OSD Peer Review of the LOGCAP IV contracts. The TFWC is rating this yellow until a complete award-fee cycle demonstrates the effectiveness of this approach.

Our assessment: The initiatives discussed in the report are good, insofar as they go. We would be more impressed if innovative approaches were mentioned,

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such as mapping the supply chains of the various tiers of subcontractors and developing more real-time cost and schedule statusing. The report notes that 70 percent of the work is performed by subcontractors; and this seems to us to be a proper area of emphasis. Although there appears to be a good use of statistical and EVM tools, we would have hoped for more in this area.

Based on our analysis of two of the eight areas of CWC concern, we are not overly impressed with the TFWC report. If it serves to get the CWC off DOD's back, perhaps that's good enough. But despite our cynicism, many of these areas are real problems that affect the oversight of LOGCAP and other DOD contractors; they need to be addressed. DPAP, the Business Integrity Panel, and the various subcommittees should be encouraged to tackle these tough problems with more than bureaucratic platitudes.