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Report of Audit

Review of the Department of State Procurement Competitions to Support the Iraqi Police Training Program

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SUMMARY

In 2003, the Bureau for International Narcotics and Law Enforcement Affairs (INL) developed the program requirements for two procurement actions to support the Iraqi police training programs and made awards during 2003 and 2004. We assessed the procurement evaluation and award procedures associated with the two contracting actions totaling as of July 2004 about \$329 million. From our review, we determined that the Department of State (Department) contracting personnel followed applicable procurement regulations and procedures that promoted competition, and all offerors were treated fairly and equitably.

The review found that the initial¹ procurement action awarded to DynCorp International in April 2003 for about \$25 million inaccurately described the services that subsequently were required. The contract's value, as of Modification 0012, is about \$141 million. INL officials developed a statement of work based on technical and cost criteria to provide law enforcement personnel for service in Iraq. Instead, the contract provided facility support for Coalition Provisional Authority (CPA)-funded advisors in Iraq. In Jordan, the contract was used to construct Iraqi police training facilities and operate and maintain these facilities. The initial contracting action was to be temporary, pending a worldwide multiyear award for international police training and advisory services. This latter procurement action was designed to foster competition between three qualified contractors, although task orders could be sole sourced.

In April 2004, a portion of the initial contract dealing with support services to the Iraqi police training center in Jordan was extended for one year. However, the second multiyear procurement action (2004-08) was available, and the requirements could have been competed. On the other hand, in April 2004, the portion of the initial contract with DynCorp dealing with facility support for CPA-funded advisors in Iraq was removed and was awarded non-competitively as a sole source task order to DynCorp International, one of the three contractors selected in the multiyear award. The justification for this action at about \$189 million indicated that DynCorp would continue the efforts begun under the initial contract and work on new requirements to build training facilities in Baghdad.

¹ S-LMAQM-03-C-0028, awarded on Apr. 18, 2003.

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INL officials agreed that future task orders under the second multiyear contract would have more clearly defined requirements that would promote maximum competition. We plan to monitor competition for international police training and advisory services in future work. In response to a draft of this report, INL officials identified many of the obstacles they encountered in supporting Iraqi police training efforts.

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PURPOSE, SCOPE, AND METHODOLOGY

In support of our strategic goal of assessing whether the Department has the necessary management systems and controls to meet operational and federal requirements, we initiated a review of compliance with contract competition and award procedures associated with two procurement actions² to support the Iraqi police training program and civilian police advisors. INL initiated both competitions during 2003, with awards made during 2003 and 2004.

In conducting this review, we evaluated information in the contract files of the administrative contracting officer in the Bureau of Administration's Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM). We also contacted the contracting officer's representative (COR) in INL to discuss and clarify provisions in the solicitation documents, including statements of work (SOW). The guidelines and procedures A/LM/AQM used in the contract competitions for the two procurement actions that provided support to the Iraqi police training programs were the basis for our review.

We reviewed the solicitation, evaluation, and award phases of the two contract procurement actions, including the contractor proposals, selection criteria, and technical and cost analysis reviews. We also reviewed our prior related reports and Government Accountability Office (GAO) reports, the Federal Acquisition Regulation, Foreign Affairs Handbook, Foreign Affairs Manual, and Department of State Acquisition Regulation.

We conducted this review in accordance with government auditing standards and included such tests and other auditing procedures as were considered necessary under the circumstances. OIG's Office of Audits, Procurement, Property and Administrative Support Division performed this audit, conducting field work in the Washington, D.C., area during July and August 2004.

² The initial contract, S-LMAQM-03-C-0028, provides U.S. assistance for police, justice, and prisons in Iraq and the follow-on task order, S-LMAQM-04-C-0030, Task Order SAQMPD04F0338, supports Coalition Provisional Authority police training programs for the Iraq police service.

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In September 2004, we provided A/LM/AQM and INL a draft of this report for comment. The contracting officer provided oral comments and agreed with the draft. INL generally agreed with the draft and provided written comments detailing many of the obstacles faced in supporting Iraqi police training efforts. The full text of INL comments is attached as Appendix C.

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BACKGROUND

In March 2003, INL officials identified an immediate and urgent requirement for a procurement action that would identify and deploy 26 advisors to assist in Iraq with the on-the-ground assessment and planning activities for police, justice, and prisons.³ The contractor would also be required to identify 150 individuals to go to Iraq on a 90-day deployment. The original plan was for INL to issue a sole-source modification to an existing DynCorp contract. After discussions with A/LM/AQM and Office of the Legal Adviser, INL officials agreed to pursue a limited competition procurement. The requirement in the SOW was for up to 1,000 experienced U.S. police, justice, and corrections personnel. The request for proposal (RFP) stated that the contractor should presume for pricing purposes the deployment of 500 people and the need for training, transportation to Iraq, field support, medical support, housing, logistical support, vehicles, communication capabilities, supplies, and some construction or renovation services.

The contracting officer and INL held a presolicitation meeting with four firms on April 2, 2003. INL issued the RFP on April 3, 2003, and received the proposals on April 10, 2003; conducted technical and cost evaluations on April 14-15, 2003; and awarded the contract on April 18, 2003. The award was a cost-plus-fixed-fee contract. As of July 2004, the contract had a ceiling of \$145 million, and its value through modification 0012 was \$141,274,981. (For further information on the contract, see Appendix A.)

The former CPA and the Jordanian government worked together to help restore security in Iraq through a program of training candidates for the Iraqi civilian police force. CPA and the Jordanian government reached an agreement in October 2003, with an overall objective of training 32,000 police force candidates in basic police skills by early 2006. Through the agreement, the Jordanian government would take possession of the CPA-funded Jordan International Police Training Center (JIPTC) after the Iraqi training program ended.

INL's procurement plan for FY 2003 indicated that once the ceiling had been met for the initial contract, INL would shift the requirements to an Indefinite

³ FAR 15.503 (b) and 15.506.

Delivery-Indefinite Quantity contract (IDIQ) for worldwide international police programs that was also in the solicitation stage. Procurement action on the IDIQ began in August 2003 with a solicitation announcement that covered all Department worldwide international police programs. INL selected three contractors in February and March 2004: (1) DynCorp International, (2) Civilian Police International (CPI), and (3) The Joint Venture of PAE Government Services & HomeLand Security Corporation (PAE-HSC). (For further information on these contracts, see Appendix B.)

FINDINGS

Department contracting personnel followed applicable procurement regulations and procedures that promoted competition for both procurement actions reviewed, and all offerors were treated fairly and equitably. However, the SOW for the initial procurement action did not accurately describe the services that subsequently were required. INL officials developed an SOW based on technical and cost criteria to provide law enforcement personnel for service in Iraq. Instead, the contract, awarded to DynCorp International, provides facility support for CPA advisors in Iraq. In Jordan, the contract was used to construct Iraqi police training facilities and operate and maintain these facilities. In April 2004, the initial contract portion dealing with support services to the JIPTC was extended for one year although the IDIQ procurement action was available, and the requirements could have been competed.⁴ On the other hand, in April 2004, the portion of the initial contract dealing with facility support for CPA advisors in Iraq was broken out and awarded non-competitively as a sole source task order to DynCorp international, one of the three IDIQ contractors.

Establishing and Promoting Competition

Given the urgency for awarding the initial contract, INL and contracting officials took appropriate steps to identify potential offerors. Although only two contractors made offers, the limited contract competition helped the Department to establish competitive ranges to evaluate proposals for technical expertise and price of the services INL thought it would need. We found that documentation by the technical panel evaluating the proposals was complete and accurate.

GAO issued its report Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges (GAO-04-605, June 1, 2004), and also reviewed the initial Department contract as well as 24 other contracts from other federal agencies. In its report, GAO noted that agencies generally complied with applicable laws and regulations governing competition when using limited competition approaches in awarding new contracts for reconstruction efforts concerning Iraq.

⁴According to INL, individual task orders under the contract were for short-term tasks, generally 3 to 4 months or less.

The Findings and Determination document, dated April 3, 2003, for the initial contract's SOW noted, that INL is "On a separate track to encourage competition in the marketplace, the existing contract with DynCorp is in the process of being recompeted in a solicitation that complies with the requirements for full and open competition." By April 2004, all three IDIQ contractors had their contracts in place and could compete for the follow-on contract logistical support requirements, which were more clearly stated than those proposed in the original SOW. On April 15, 2004, the contracting officer exercised option year one and extended the initial contract for another year per an INL request.⁵ We found that INL extended the portion of the initial contract that dealt with providing services to JIPTC, but the portion that provided support in Baghdad was awarded as a sole source task order to DynCorp under the IDIQ contract on June 24, 2004, for about \$189 million. The justification for this action indicated that DynCorp would continue the efforts begun under the initial contract and work on new requirements to build training facilities in Baghdad.

Statement of Work Issue

The original intent in the SOW for the initial contract was to provide law enforcement advisors to Iraq, but this effort never came to fruition. From a procedural standpoint, the two bidders received exceptional scores from the technical evaluation panel, with DynCorp awarded the contract based on a lower cost proposal. However, both contractors wrote their proposals and the Department's source selection board based its selection on the contractor's labor costs and ability to provide law enforcement personnel to Iraq. Specifically, the SOW required the contractors to identify 1,000 experienced U.S. police, justice, and corrections personnel. This requirement turned out not to be needed. The RFP asked the contractors to propose a price for 20 advisors in 25 different labor categories, for a total of 500 advisors and support costs.

DynCorp submitted a bid based on a requirement that was subsequently changed. The new requirement, which DynCorp fulfilled, provided for logistical support to CPA advisors in Iraq and support efforts related to construction, refurbishment, and operation of the JIPTC. Therefore, we cannot ascertain if the contractor selected would have been the technically superior or most cost-effective contractor to provide logistical support and construction services. Also, we have no evidence whether other offerors would have come forward if the SOW had more accurately identified the requirements during the solicitation phase. An INL

⁵ Modification 0012 extended contract S-LMAQM-03-C-0028 to Apr. 17, 2005.

official explained that when the contract was announced, it fully expected the contractor to provide law enforcement personnel for Iraq.

Importance of Clear Statements of Work

Prior OIG reports have highlighted the importance of providing clear and concise requirements in the SOW so contractors can respond with a reasonable offer. The SOW is the primary document that outlines the required supplies or services. The project or program office is in the best position to develop the SOW, which acts as a “word picture” of the needed items or services. The SOW becomes part of the contract; therefore, it legally binds the contractor and the government. The SOW must describe each requirement precisely to allow a contractor to understand what the project or program office requires and respond with an offer that is reasonable from both a cost or price and technical standpoint.

Future Competition Issues

The purpose of the selection and the award of the three IDIQ contracts, as described in Appendix B, was to “to encourage competition” and still allow the COR the ability to develop requirements and to award task orders in an expeditious manner. As previously stated, INL’s Findings and Determination document indicated that the initial contract was an interim award, as INL was recompeting an existing contract that would provide for the same requirements under a full and open competition. The extension of the initial contract undermined the purpose of the Findings and Determination document, which made available three technically qualified contractors for a price competition.

We are concerned that INL transferred some of the requirements of the initial contract noncompetitively to DynCorp under the new IDIQ contract.⁶ INL officials for the continued support in Baghdad justified the transferred requirements; however, this task order added new requirements to refurbish the Adnan Palace in Baghdad as a new amendment to the existing scope of work. The task order award was for about \$189 million, substantially higher cumulatively than the other IDIQ awards, which were competitively awarded.

INL program officials told us that under the current circumstances, they believed that the noncompetitive Iraqi award to DynCorp was the best path to pursue and that to change the contractor in midstream would not be in the best interests of the Department. The Adnan Palace refurbishment and camp development were closely associated with the Baghdad Hotel that DynCorp used

⁶Task order SAQMPD04F0338 under contract S-LMAQM-04-C-0030.

[(b)(2)-----]. The camp at the Adnan Palace will replace the Baghdad Hotel, and therefore, INL decided to keep the same contractor. A senior INL official said that when the program issues and requirements are settled, INL plans to conduct an open competition for future Iraqi support activities.

APPENDIX A

Summary of Initial Procurement Action and Contract Award to DynCorp International

The initial contract had two different scopes of work.⁷ One was to support CPA-funded law enforcement personnel in Iraq, and its value through modification #0012 dated April 15, 2004, was \$105,266,407. The contractor provides for refurbishing and maintaining the Baghdad Hotel as part of the logistical support to the advisors and also provides 37 vehicles and other equipment, such as computers. Modification 0006, dated February 6, 2004, expanded the scope to include 109 prison advisors in Iraq. This modification added the need for 20 vehicles, drivers, armed escort personnel and some equipment for the advisors. Modification 0007, dated February 9, 2004, expanded the scope to include the civilian international police personnel. This amendment added \$45 million to the contract and covered the period from January 2004 to March 31, 2004. The contract had an additional scope of work that included creating a DynCorp Baghdad office.

The second scope of work was to support JIPTC at MUWAQQAR and JAWA, Jordan. The MUWAQQAR facility was under construction by the Jordanian government. The contractor was tasked to modify the MUWAQQAR to support a training facility and also to construct, operate, and maintain the residential-training facility for a total of up to 3,000 trainees. The campus was planned to include a headquarters, a medical unit, security buildings, separate living space for male and female trainees and for the instructors, warehouse area, laundry services, a kitchen, 17 classrooms, physical fitness workout areas, recreation facilities, firing ranges, driving track, outdoor physical and workout areas, and a secure area for weapons and ammunition storage. The scope of work included outfitting all of these facilities in order to perform the training functions. Temporary training facilities were constructed in 17 days in October 2003 to accommodate the first class of 500 trainees. The plan was to have more than 20 separate JIPTC facilities constructed by July 2004 (about nine months from start to finish).

⁷ S-LMAQM-03-C-0028, awarded Apr. 18, 2003.

The JAWA facility was to house up to 350 U.S. and international trainers and support personnel who would provide the training at the MUWAQQAR facility. The JAWA facility needed to be refitted to provide adequate accommodations, including showers and bathrooms for both male and female personnel. The facility needed to have phone system, wiring for a computer network, Internet access, onsite communication system, and a security center.

APPENDIX B

Summary of IDIQ Contracts

On July 25, 2003, A/LM/AQM published the presolicitation notice for the recompetes of the worldwide contract to provide civilian police to international police task force missions.⁸ In part, the solicitation was in response to our report recommending that future procurement actions in support of International Police Task Force activities should be based on full and open competition.⁹ Further, the report recommended that under this new contract, INL review proposed requirements that significantly alter or change the contract's scope of work, such as new mission locations, for possible competition. The current IDIQ contract promotes competition among the three contractors, but allows sole-source awards. INL awarded contracts to the three offerors in early 2004. The contracts could potentially have a ceiling of at least \$1.5 billion each, over a five-year period. Each contractor has received at least one task order as follows.

DynCorp International

The contract awarded to DynCorp International required the contractor to maintain a cadre database of law enforcement personnel, eligible for overseas assignments, for one year (April 13, 2004, to April 12, 2005).¹⁰ The contractor also received three other task orders. The first task order, totaling \$37,825,071 and dated April 9, 2004, required the contractor to provide services in support of the central poppy eradication force in Afghanistan. The second task order, totaling \$27,499,512 and dated June 22, 2004, required the contractor to provide the Afghanistan Ministry of Interior with advisors and supplies for one year to assist in the capacity-building of the law enforcement organizations. The third task order, totaling \$188,734,226, dated June 26, 2004, and issued as sole-source procurement, required the contractor to continue the support for the Baghdad portion of the initial contract discussed in appendix A, and it covers the period from April 17, to July 16, 2004. The task order added a requirement to refurbish the Adnan Palace and build a 1,000-person camp on the grounds.

⁸ The solicitation, S-LMAQM-03-R-0109, was published on Aug. 11, 2003.

⁹ Review of the U.S. Support of the International Police Task Force in Bosnia (AUD/PPA-02-20, Mar. 2002).

¹⁰ S-LMAQM-04-C-0030, dated Feb. 18, 2004.

Civilian Police International

The contract awarded to CPI required the contractor to develop a personnel system of a cadre of law enforcement personnel eligible for overseas assignments. The database was for 2,000 law enforcement personnel and the contractor was to maintain the cadre database for one year (April 16, 2004, to April 15, 2005) and allow for a 60-day transition period (April 16, 2004, to June 15, 2004).¹¹ The contractor also received a task order for \$486,155 to provide law enforcement advisors in Haiti from May 10, 2004, to November 11, 2004.

Joint Venture Partnership Agreement PAE Government Services and HomeLand Security Corporation

The contract awarded to PAE-HSC required the contractor to maintain a cadre database for one year (April 16, 2004, to April 15, 2005) and also the 60-day transition period (April 16, 2004 to June 15, 2004).¹²

¹¹ S-LMAQM-04-C-0032 dated Mar. 25, 2004.

¹² S-LMAQM-04 C-0033 dated Mar. 25, 2004

APPENDIX C

**Bureau of International Narcotics and Law Enforcement Affairs
Response to OIG Discussion Draft Review of
DoS Procurement Competition Supporting Iraqi Police Training Program**

We appreciate the opportunity to comment on OIG's discussion draft, "Review of DoS Procurement Competition Supporting Iraqi Police Training Program." The report provides a useful summary of procurement and competition-related issues that potentially impact INL's civilian police program in Iraq and Jordan. The bureau is keenly interested in anything that affects this program, and in continuing to improve its management and planning efforts in these areas.

INL in general agrees with the draft report, but has a few concerns. First is that Departmental, Congressional, Administration, and DoD's goals to quickly, and legally, train as many Iraqi police as soon as possible are not mentioned in the report, but should be. The publicly stated goal of these entities was to rotate US forces and personnel out of Iraq as quickly as possible. It was, and is, a driving bureau influence.

Second, the draft's finding that the DASM contract's original SOW "did not sufficiently describe the services subsequently required" does not reflect the fluidity and changing needs of the situation in the Middle East at that time. It must be noted that INL's role, as a service provider in this area, is to react to quickly evolving requirements in terms of what, how many, and where goods and/or services are required. The bureau does not establish those requirements, merely services them. CPA and later DoD establish the requirements. An example noted in the draft is correct: we originally expected a need for 500 advisors plus support costs, but the first requirement received by the bureau was for only 20.

The 'Statement of Work Issue' section of the draft appears to imply the bureau is somehow responsible for the change in requirements we experienced, and the corresponding difference between the original contract SOW and the actual requirements when they arrived after-the-fact.

Urgency is another example. The Oct 13, 2003 agreement between CPA (Coalition Provisional Authority) and Government of Jordan agreement essentially gave INL three weeks to construct a facility capable of handling incoming 500

Iraqi police students, from ground up. Constructing secure training, feeding, and accommodation facilities for 500 students in such as short period is almost impossible under the best of circumstances.

Since the CIVPOL contract was finalized in March and became available in April 2004, in October 2003 the only feasible competed procurement vehicle available to the Department and the bureau was the DASM contract with DynCorp. We remain unaware of any more appropriate competed vehicle available to the USG at that time. As dictated by common sense and compelling urgency, the bureau used this vehicle and began work as soon as possible.*

The draft report also says the bureau extended related work in Jordan for an additional year under the DASM contract in April 04. This did not occur. Individual task orders for individual shorter-term task-based activities were awarded under DASM, generally 3-4 months or less. Further, these tasks mostly involved work that occurred in parallel, such as constructing a dining facility, infrastructure buildout requirements related to the training facility, and O&M during that period.

The draft report also mentions a sole source award to DynCorp to continue efforts begun under the initial contract. Given the large mobilization effort (and cost) required by any vendor to mobilize, ship, stage, and establish a local/international infrastructure of suppliers, labor, accommodations, goods, and services in a given country — particularly in an extremely hostile non first-world environment — some believe it is not an effective use of taxpayer dollars to recompute follow-on work in the same country without an urgent and compelling reason beyond competition for competition's sake. INL notes that the cost to shut down one vendor, retool, and begin again with a new vendor can easily be more than any potential savings achieved by recompeting the contract and dealing with a new vendor. A second consideration is the impact of the lost learning curve on productivity and effectiveness when a vendor is replaced.

Most importantly, the bureau wishes to note that the operational impact of switching vendors and enduring a replacement vendor's struggle to (re) establish a duplicative local support infrastructure in Iraq and/or Jordan, for example, can be devastating to the Department's and the USG's operational police training schedule and goals. INL believes introducing such variables - unless they are absolutely necessary and approved by the highest levels of the USG — could quite easily jeopardize USG policy interests in post conflict Iraq.

* INL did meet the three week goal.

Again, the primary USG goals in this area are to train as many Iraqi nationals as possible, as quickly as possible. INL takes pains to adhere to all regulatory and procedural requirements, but believes the Department must balance anything that could impact these USG policy and Departmental goals against the potential advantages those actions might provide.

We thank the OIG for their draft report, and the ability to provide comments. The bureau fully supports OIG and will evaluate our practices in accordance with the draft report.

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ABBREVIATIONS

A/LM/AQM	Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management
COR	contracting officer's representative
CPA	Coalition Provisional Authority
CPI	Civilian Police International
GAO	Government Accountability Office
IDIQ	Indefinite Delivery-Indefinite Quantity
INL	Bureau of International Narcotics and Law Enforcement Affairs
JIPTC	Jordan International Police Training Center
SOW	statements of work