

This is the accessible text file for GAO report number GAO-05-201 entitled 'Interagency Contracting: Problems with DOD's and Interior's Orders to Support Military Operations' which was released on April 29, 2005.

What GAO Found:

DOD, faced with an urgent need for interrogation and other services in support of military operations in Iraq, turned to the Department of the Interior for contracting assistance. Numerous breakdowns occurred in the issuance and administration of the orders for these services.

Contractor Played a Role in the Procurement Process Normally Performed by Government Personnel:

In procuring the interrogation and other services in Iraq, Interior and Army officials abdicated their contracting responsibilities to a large degree. In this void, the contractor played a significant role in developing, issuing, and administering the orders, including:

- * Developing requirements.
- * Identifying the contractor's BPA with Interior as the contract vehicle to provide the services.
- * Drafting statements of work.
- * Suggesting that Army officials use the company's rough order of magnitude price as the government cost estimate.
- * Acting as a conduit for information from the Army in Iraq to the Interior contracting office.
- * Providing the Interior contracting office with a draft justification and approval to award additional work to the company on a sole source basis.
- * Sending invoices directly for payment; and:
 - * Requesting that construction work be performed under the BPA, which would have also been out of scope from the GSA Schedule contract, although subsequent discussions between CACI and Interior contracting officials resulted in the work being awarded separately on a sole source basis due to urgency.

By acting in this manner, the contractor effectively replaced government decision-makers in several aspects of the procurement process. For example, a contractor employee proposed the initial requirements package for human intelligence, which included interrogators, and provided information to the Army personnel regarding skill sets needed for positions. Contractor employees also identified the company's BPA with Interior as the contract vehicle to provide the services. Contractor officials acknowledge they helped to draft statements of work, with contractor employees in Iraq sending the statements of work to company headquarters in the United States for

suggestions. In fact, one of the statements of work we found in official contract files was on the contractor's letterhead. We also found that contractor employees wrote a draft justification and approval for Interior to award additional work noncompetitively to the company. Such a level of participation by the contractor creates a conflict of interest and undermines the integrity of the competitive contracting process.

Contractor officials explained that they marketed their services directly to Army intelligence and logistics officials in Iraq because of relationships they had developed over time. According to contractor officials, Army officials told them to work directly with the Interior contracting office because the DOD contingency contracting office in Iraq was focused on obtaining other necessary services. They also told us that, because military communication channels were not adequate, they communicated directly with the Interior contracting office. Interior contracting officials went along with this arrangement, citing problems in reaching Army officials in Iraq. The contract files contain emails between the contractor and Interior contracting officials on matters such as funding requests, statements of work, and COR assignments. Further, a COR responsible for the logistics orders told us that contractor officials informed him that Interior had merged two task orders: he was unaware that this had occurred. According to contractor officials because Army and Interior officials allowed contractor personnel to act as the go-between, the contractor sent its invoices directly to Interior for payment after the COR signed them, as opposed to the normal practice of having government personnel perform this task.

Contractor's Performance Was Not Adequately Monitored:

One of the contracting officer's key responsibilities is ensuring that the government monitors the contractor's performance. The contracting officer may assign this responsibility to a contracting officer's representative (COR). At Interior, the contracting officer is required to verify that the COR has the appropriate training and to issue a designation letter to the COR outlining the duties to be performed. These duties can include:

- * verifying that the contractor performs the technical requirements of the contract in accordance with the contract terms, conditions, and specifications;

- * monitoring the contractor's performance, notifying the contractor of deficiencies observed during surveillance, and directing appropriate action to effect correction; and:

- * reporting to the contracting officer in a monthly report the performance of services rendered under the contract.

We found that Interior's contracting officials never verified that the Army personnel serving as CORs had the appropriate training and, with one exception, sent the COR designation letter either months after the fact or not at all. Interior officials, including the contracting officer who placed the orders for DOD, had no explanation for why contractor surveillance policies were not followed. Moreover, the

contracting officer had little to no communication with the CORs in Iraq and did not follow up to obtain monthly reports from them on the contractor's performance.

Proper surveillance of the contractor's performance under the orders was especially critical because the work was done on a time and materials basis, where services are billed based on direct labor hours at specified fixed hourly rates (which includes wages, overhead, general and administrative expenses, and profit). According to the FAR, time and materials contracts require appropriate government oversight because there is no incentive for the contractor to control costs or be efficient. [Footnote 20] This requirement was recently reiterated in a September 2004 memo from DOD's Director, Defense Procurement and Acquisition Policy, which states that, because labor hour and time and materials contracts usually require significant surveillance to ensure the government receives good value, CORs should be appointed to verify the appropriateness of labor categories and the reasonableness of the number of hours worked.

In Iraq, the Army CORs responsible for the orders for interrogation and other services performed limited surveillance of the contractor's performance. Contractor employees were stationed in various locations around Iraq, with no COR or assigned representative on site to monitor their work. One contractor interrogator who had been located at the Abu Ghraib prison told us that, although he interacted with military personnel at the prison, he had no interaction with the COR. Further, although the COR in Baghdad stated that he relied on other military personnel on site to report back to him, a recent Army investigative report showed that the military personnel on site were not given guidance on how to oversee the contractors. In fact, one of the military interrogators at Abu Ghraib prison indicated that the primary point of contact for the contractors was the contractor's on-site manager, with no mention of the COR. The Army investigative report pointed to this lack of contractor surveillance at the Abu Ghraib prison as a contributing factor to the environment in which the prisoner abuse occurred. The report noted that it is very difficult, if not impossible, to effectively administer a contract when the COR is not on site and that the Army needs to improve its oversight of contractors' performance to ensure that the Army's interests are protected.