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DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)

PROCUREMENT MANAGEMENT REVIEW OF RECRUITING ASSISTANCE PROGRAMS

12/4/2012

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EXECUTIVE SUMMARY

Per the Secretary of the Army directive, dated 9 February 2012, the Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) conducted a Procurement Management Review (PMR) on behalf of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)) of the contracts and task orders associated with the administration of the Recruiting Assistance Programs (RAPs). These programs include the Army National Guard RAP (G-RAP), the U.S. Army Reserve RAP (AR-RAP), and the Active Army RAP (A-RAP).

The review began with an audit entrance conference presented by the U.S. Army Audit Agency (USAAA) to the National Guard Bureau (NGB) on 3 April 2012. The DASA(P) PMR Team participated in this entrance conference, and provided NGB with a preliminary PMR Program overview. Throughout the review, DASA(P) collaborated with USAAA and the Assistant Secretary of the Army (Financial Management & Comptroller) (ASA(FM&C)) to ensure findings of independent reports were in synch. The DASA(P) PMR concluded with the results briefed to the Director of the Army Staff on 30 July 2012.

REVIEW RESULTS

1. The PMR identified systemic weaknesses in the internal and external oversight for all contracting offices issuing RAP contract vehicles.

G-RAP key findings include:

- Organizational Conflict of Interest – NGB Army Strength Management Division (customer) requested Document and Packaging, Incorporated (DOCUPAK) (contractor) develop the G-RAP requirement
- No management controls in place at any level throughout NGB
- NGB Contracting Office (AQ) did not follow competitive award procedures
- No oversight of contractor performance by NGB Army Strength Maintenance Division or Contracting Office (AQ)
- Focus on accessions versus comprehensive contract oversight

AR-RAP / A-RAP key findings include:

- Use of the fundamentally flawed base contract (G-RAP)
- Focus on accessions versus comprehensive contract oversight
- Minimal oversight of contractor performance by:
 - AR-RAP: Army Reserve Recruiting Support Branch (customer) or Mission and Installation Contracting Command (MICC)-Fort Dix Operational Contracting Office
 - A-RAP: U.S. Army Recruiting Command, Plans and Programs Division (customer) or MICC-Fort Knox Operational Contracting Office

2. The PMR also identified a systemic weakness in the NGB organizational structure, as the current structure is not conducive to proper oversight and appropriate management controls.

- Principal Assistant Responsible for Contracting (PARC) and Contracting Office (AQ) report independent of one another to the NGB Comptroller/Director of Administration and Management
- Grade level of the PARC position not commensurate with the span of control and scope of the NGB mission
- PARC office lacks the oversight of the contracting workforce at the state-level, based on the inappropriate chain of command

CONCLUSION

The findings discovered during the PMR support the statement that, from requirements definition through contract invoicing, there was a general breakdown in sound business processes, and neither statutory, regulatory nor policy requirements were followed.

While this breakdown in oversight and accountability occurred at all levels throughout NGB within the procurement chain of command, ultimately the responsibility for the integrity of the contracting function rests with the Head of the Contracting Activity (HCA) and PARC. By virtue of the organizational structure created by NGB, the NGB Comptroller/Director of Administration and Management is likewise accountable since the PARC and Contracting Office (AQ) reported directly to the individual in this position, and not directly to the HCA as required by regulation.

Acquisition planning activities should integrate the efforts of all personnel responsible for significant aspects of the acquisition, to include the customer, contracting personnel, and legal counsel. Sound acquisition planning is important to establish a strong foundation for successful outcomes when acquiring services, as it helps clearly define requirements and estimate costs.

Requirements must be written so that the government's needs are clearly stated. To enable accurate contract completion and payments, requirement documents and contracts must define clear requirements that reflect supplies and services acquired. Each contract line item must describe the products or services to be delivered in a quantity and unit of measure that relates to actual deliveries or contract performance completion.

Additionally, the contracting office needs to be vigilant in acquiring goods and services through competitive means. This will require an appropriate level of acquisition strategy and planning for the complexity of what is being acquired. When surveying the market, both the customer and the contracting office must pay attention to any barriers to competition. Competition should be maximized to the fullest extent.

Contract administration is the responsibility of the contracting officer. Any contracting officer's representatives (CORs) performing contract surveillance must have the limits of their authority delineated in writing. The contracting officer is the only individual authorized to make changes to the contract, and must be actively involved in contract

surveillance through correspondence and meetings with the appointed COR. As the reliance on service contracts continues to grow, both the contracting communities and the requiring activities must improve contract administration and increase surveillance to ensure that customers are satisfied in terms of cost, quality, and timeliness.

PATH FORWARD

The PMR has sufficiently detailed the issues regarding the contract and task orders associated with the administration of the RAPs. However, the PMR findings indicate that G-RAP contract deficiencies may not be an isolated issue within NGB. Therefore, in order to identify systemic contracting issues throughout NGB, DASA(P) will conduct a full PMR in Fiscal Year 2013 (FY13) to gauge the extent of the issues. In addition, DASA(P) will work with NGB to develop an organizational construct, policies and procedures that will effect proper oversight and execution of the contracting function.

INTRODUCTION

The Army utilized three Recruiting Assistance Programs (RAPs) from late 2005 until February 2012, as a way to assist Components with recruiting efforts. Each program was managed separately:

- The Army National Guard RAP (G-RAP) – managed by the National Guard Bureau (NGB)
- The Army Reserve RAP (AR-RAP) – managed by the U.S. Army Reserve Command (USARC)
- The Active Army RAP (A-RAP) – managed by the U.S. Army Recruiting Command (USAREC)

RAPs were intended to leverage the benefits of peer-to-peer recruiting – using persons most familiar with the Guard and Reserve (often other Soldiers, civilians, military retirees and others) to serve as Recruiting Assistants (RAs). RAs worked to mentor a potential recruit and to answer his or her questions about service in the Army Guard, Reserve or Active components. RAPs provided a monetary incentive to RAs to make the effort to recruit their peers and then mentor the recruit to ensure the individual completed the initial stages of Army training. The face-to-face mentoring was one of the key requirements for the RAs to meet. An interested person could be qualified and registered as an RA by taking a brief online training course. After mentoring a potential recruit who then decided to enlist, the RA would refer the recruit to a military recruiter who would then work with the recruit to complete the enlistment paperwork. This program was designed to expand the recruiting force beyond the limited pool of recruiters, and was one of several tools and incentives used to reach the recruiting end strength at a time when the recruiting environment was extremely difficult.

Beginning in 2007, the U.S. Army Criminal Investigative Command (CID) began receiving isolated complaints of fraud concerning the RAPs operated by the Army National Guard and Army Reserve. After investigating several cases involving National Guard personnel and Army Reserve personnel, CID requested the U.S. Army Audit Agency (USAAA) conduct a forensic audit of the G-RAP and AR-RAP in June 2011. Upon receiving the preliminary audit findings, the Secretary of the Army directed USAAA to conduct a follow-on audit of the A-RAP.

The Secretary of the Army also issued memorandum “Review, Investigation and Corrective Action – Active Army and Army Reserve Component Recruiting Assistance Programs,” on 9 February 2012, tasking various Headquarters, Department of the Army (HQDA) organizations to perform additional reviews and audits. On behalf of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)), the Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) conducted a Procurement Management Review (PMR) of the contracts and task orders associated with the administration of the RAPs. These programs include the G-RAP, AR-RAP and the A-RAP.

Specifically, the PMR was directed to: (1) assess whether the award and administration of these contractual instruments complied with applicable law, regulation and policy, to include the manner in which claims presented to the contractor were adjudicated and paid; (2) assess the sufficiency of Contracting Officer and Contracting Officer's Representative (COR) training, experience and certification processes; (3) evaluate the efficacy and adequacy of the terms of the contract, to include management controls; (4) assess the sufficiency of contract oversight; and (5) refer any evidence of criminality, impropriety or misconduct to the Criminal Investigation Command (CID) or The Inspector General (TIG), as appropriate.

KEY DATES IN ODASA(P) REVIEW

- 3 April 2012 – USAAA Audit Entrance Conference held with NGB; DASA(P) PMR Team participated in this entrance conference, and provided NGB with a preliminary PMR Program overview
- 4 April 2012 – G-RAP review began at NGB Headquarters with DASA(P), USAAA and the Assistant Secretary of the Army (Financial Management & Comptroller)
- 29 May 2012 – AR-RAP review began at Mission and Installation Contracting Command (MICC), Fort Dix
- 4 June 2012 – A-RAP review began. While the MICC-Fort Knox awarded and administered the A-RAP, the contract review was conducted electronically
- 25 July 2012 – DASA(P) briefed the ASA(ALT) on the PMR findings
- 30 July 2012 – DASA(P) briefed the Director of the Army Staff and the RAP Task Force Executive Committee on the PMR findings

PROCUREMENT MANAGEMENT REVIEW SPECIFICS

NATIONAL GUARD BUREAU RAP

NGB, a joint activity of the Department of Defense (DoD), administers policies and oversees federal funding for the National Guards of the states, territories and District of Columbia (D.C.) that affect the federal mission of National Guard (NG), and acts as the official conduit between the states and the Departments of the Army and Air Force. The NGB performs the federal functions of the Army National Guard and the Air National Guard.

The NGB mission, to include the Army National Guard and the Air National Guard Directorates, was to provide policies, programs, procedures, and guidance to the states and territories to meet their end-strength objectives in accordance with the Strength Maintenance Philosophy. Specifically, this philosophy was to recruit quality soldiers, conduct attrition management designed to reduce first-term soldier losses and training pipeline losses, and ensure retention and extension of quality soldiers before the expiration of their terms of service.

The Strength Maintenance Philosophy builds a partnership for strength readiness between unit leaders and the recruiting and retention force. Working together, they can develop programs and incentives to meet each unit's strength objectives. This philosophy was illustrated in the three tenets of Army National Guard Strength Maintenance:

- Recruiting: Recruiting quality (non-prior and prior service) soldiers
- Retention: Retaining soldiers who reach their Expiration Terms of Service
- Attrition Management: Reducing losses while still under contractual military obligation

G-RAP CONTRACT REVIEW

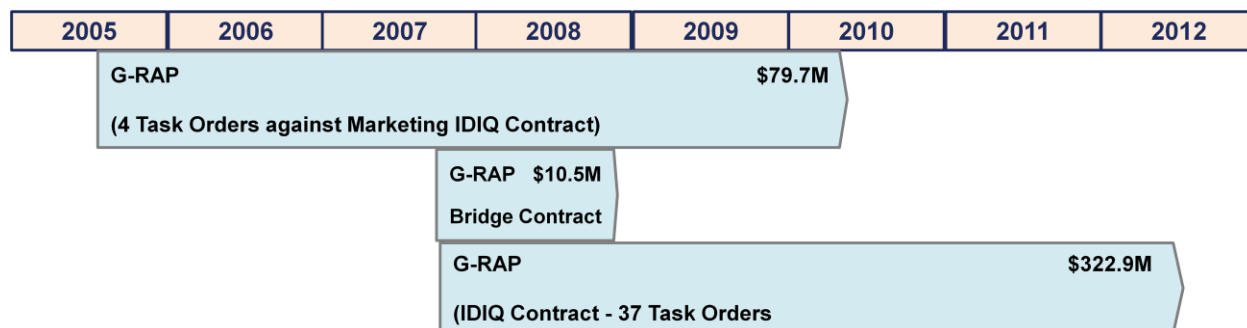
In September 2005, the Army NGB Contracting Office (AQ) placed an order (Task Order 15) against an already existing Marketing Contract with Document and Packaging, Incorporated (DOCUPAK) to develop and administer the RAP. The initial concept instructed DOCUPAK to hire, in a contract status, personnel who would create a "lead generator" program to increase the quality and quantity of recruitment lead generation efforts. This campaign originally called for the deployment of a pilot program to reduce risk and allow for fine tuning of the "lead generator" concept prior to nation-wide implementation. The pilot program was designed to start in fifteen selected states and last for twelve months, with an evaluation scheduled at the three-month point, for consideration of nation-wide deployment.

In December 2005, the NGB Contracting Office (AQ) modified the Task Order to rename the "lead generator" program to the G-RAP program. Two months later in February 2006, the NGB Contracting Office (AQ) once again modified the task order to

expand the G-RAP program to all 50 states and four territories, via a revised statement of work. Full expansion of the program, to include expansion to new advertising markets, was scheduled to commence no later than 1 March 2006.

In June 2007, the Army NGB Contracting Office (AQ) awarded a sole source bridge contract to DOCUPAK to continue funding this program. The sole purpose of this contract was to bridge the G-RAP program support from the initial pilot program task orders issued under the Marketing contract to the stand-alone Indefinite-Delivery Indefinite-Quantity (IDIQ) contract, specifically for the RAP. The IDIQ, also awarded to DOCUPAK in June 2007, intended to support the recruitment and retention of non-commissioned officers in their mission to maintain the National Guard's congressionally authorized end-strength.

The timeline below depicts the three G-RAP contract vehicles, periods of performance and total obligated dollar value.



As per the Secretary of the Army directive, the PMR Team reviewed the contracts and task orders associated with the award and administration of the G-RAP. This portion of the report will identify and discuss the significant G-RAP findings, as it relates to the Secretary of the Army-directed PMR objectives. This report does not intend to identify all instances of statutory, regulatory or policy infractions.

The Federal Acquisition Regulation (FAR) details a fundamental contracting principle, wherein "no contract shall be entered into unless the contracting officer ensures that all requirements of law, executive orders, regulations, and all other applicable procedures, including clearances and approvals, have been met" (FAR 1.602-1(b)). Therefore, a contracting officer should not proceed with the award of any contract action unless these specific standards are met. As the report will demonstrate, these preliminary requirements were not met on any G-RAP contract action and should not have been awarded by the NGB Contracting Office (AQ).

A major trend identified throughout the G-RAP contract review focused on the lack of sufficient documentation in the contract files. While some supporting documentation was provided upon request, it is imperative that these documents are included in the official contract file to constitute a complete history of the transaction (FAR 4.801(b)).

Specifically, the documentation should provide a complete background as a basis for informed decisions at each step in the acquisition process, support actions taken, provide information for reviews and investigations, and furnish essential facts in the event of litigation or congressional inquiries.

Objective 1: Assess whether the award and administration of the G-RAP contracts and task orders complied with applicable law, regulation and policy.

PMR Conclusion: Both NGB Contracting Office (AQ) and NGB Army Strength Maintenance (ASM) Division failed to comply with applicable law, regulation and policy during the G-RAP contract award and administration.

- *Minimal instances of documented acquisition planning*
- *No documented market research*
- *Lacked fundamental understanding of the Army Service Strategy Panel requirements*
- *No documented acquisition plan for the G-RAP IDIQ contract*
- *Neglected oversight responsibilities led to violation of inherently governmental prohibition*
- *Did not follow required Army Source Selection Manual procedures*
- *Created an environment for organizational conflicts of interest to exist*
- *Created an unfair competitive advantage*
- *No documented scope determination*
- *Did not follow publication requirements for non-competitive actions and congressional notifications*
- *No documented legal reviews for any G-RAP contract action*
- *No documented government surveillance plan*

In accordance with FAR 37.102(g), services are to be obtained in the most cost-effective manner, free of any potential conflicts of interest, without barriers to full and open competition. Sound acquisition planning, adherence to organizational conflicts of interest policies and utilization of Army competition advocates aid in the overarching compliance with this regulation.

Acquisition Planning:

- The PMR Team identified minimal instances of documented acquisition planning by the NGB ASM Division.

Sound acquisition planning is important to establish a strong foundation for successful outcomes when acquiring services, as it helps clearly define requirements and estimate costs. Acquisition planning activities should integrate the efforts of all personnel responsible for significant aspects of the acquisition. Generally, program and contracting officials share responsibility for the majority of acquisition planning activities.

Acquisition planning should begin as soon as the agency's need is identified, preferably well in advance of the fiscal year in which contract award or order placement is

necessary. In developing the plan, the planner forms a team consisting of all those who will be responsible for significant aspects of the acquisition, such as contracting, fiscal, legal, and technical personnel. The planner should review previous plans for similar acquisitions and discuss them with the key personnel involved in those acquisitions. At key dates specified in the plan or whenever significant changes occur, and no less often than annually, the planner shall review the plan and, if appropriate, revise it. The Defense FAR Supplement (DFARS) states that the program manager, or other official responsible for the program, has overall responsibility for acquisition planning (DFARS 207.103(g)). The PMR Team identified minimal instances of documented acquisition planning by the NGB ASM Division. Interviews indicated limited interaction between the NGB Contracting Office (AQ) and the NGB ASM during the acquisition planning phase for all G-RAP contract vehicles.

Market Research:

- The G-RAP contract files did not contain any documented instances of market research conducted by the NGB ASM Division or NGB Contracting Office (AQ).

Market research is the first step in acquisition planning and is essential to designing an acquisition strategy and identifying offeror evaluation criteria. It is the process of collecting and analyzing information about capabilities within the market that can satisfy an agency's needs. Market research will significantly influence the development of the performance work statement / statement of objectives, the selection of evaluation factors, contracting and source selection methods, and amount and type of requested proposal information.

Market research is the responsibility of the program manager or the requiring activity; however, requirements personnel and contracting officers must work together as a team to gather market data needed to make decisions. The G-RAP contract files did not contain any documented instances of market research conducted by the NGB ASM Division or the NGB Contracting Office (AQ). However, interviews indicated the NGB ASM Division identified two companies that previously received Army recruitment contracts, and an additional thirteen firms that performed similar types of marketing / lead generator functions. Interviews further indicated that no additional analysis of these firms or their capabilities was performed.

Acquisition Strategy:

- The NGB lacks a fundamental understanding of the Army Service Strategy Panel requirements.

The acquisition strategy is a comprehensive, integrated plan that identifies the acquisition approach, and describes the business, technical and support strategies that management will follow to manage program risks and meet program objectives. The acquisition strategy should define the relationship between the acquisition phases and work efforts, and key program events such as milestone decision points, reviews, contract awards, test activities, and operational deployment objectives. The acquisition

strategy also defines the approach to provide maximum practicable opportunities to small business.

The review and approval of the recommended strategy is coordinated through the Army Service Strategy Panel. The Panel provides functional principals the opportunity to review proposed acquisition strategies and proposed metrics for service acquisitions; and to reach consensus on strategies that are most advantageous to the Army. Panels shall be conducted as early as possible in the acquisition planning process to develop a systematic and disciplined approach to achieve an affordable, efficient and effective acquisition. At the conclusion of the Army Service Strategy Panel, the Panel coordinator will prepare the minutes and obtain approval of the acquisition strategy from the Approving Authority.

The NGB convened a National Guard Service Strategy Panel to discuss the G-RAP acquisition strategy. The NGB Contracting Office (AQ) prepared the Panel meeting minutes; however, the meeting minutes document also served as the G-RAP acquisition strategy. The Panel meeting minutes should provide a record of all key issues surrounding the acquisition strategy, the Panel member agreements and an amenable path forward. The final version of the acquisition strategy should incorporate the agreed-to path forward, and follow the standardized Army strategy model. Therefore, the National Guard Service Strategy Panel meeting minutes and G-RAP acquisition strategy should have been two separate documents.

The Army FAR Supplement (AFARS) 5137.590-6(a)(2) states the Head of the Contracting Activity (HCA) shall conduct Army Service Strategy Panels for service acquisitions with total planned values of \$250M or more, but less than \$500M. The HCA shall also establish requirements and procedures to govern this process.

Given the estimated G-RAP dollar value (\$550K minimum and \$472M maximum), the NGB HCA was required to conduct the Panel. However, the NGB HCA did not conduct the National Guard Service Strategy Panel for the G-RAP IDIQ contract, nor did the Panel document contain the NGB HCA's signature / approval. Instead, the NGB HCA delegated this function to the NGB Principal Assistant Responsible for Contracting (PARC), who subsequently signed the National Guard Service Strategy Panel document as the approval authority.

While not strictly prohibited by the AFARS, this delegation does not reflect the importance of leadership oversight and involvement in services acquisitions. AFARS 5137.590-1 further emphasizes the importance of service acquisition management. Specifically, the acquisition team will focus on the importance of developing and maintaining sound acquisition strategies to ensure services are properly planned, based upon clear, performance-based requirements and acquired by sound business practices. Priorities established by senior functional principles, such as the HCA, shall ensure accountability and maximize credibility in cost, schedule and performance.

Acquisition Plan:

- The NGB Contracting Office (AQ) did not have a written acquisition plan for the G-RAP IDIQ contract.

FAR 7.103 requires a written acquisition plan for contracts where the dollar value exceeds \$25M in any fiscal year. The acquisition plan is a formal, written document reflecting the specific actions necessary to execute the approach established in the approved acquisition strategy and guide contractual implementation. It addresses all technical, business, management, and other significant considerations that will control an acquisition.

The NGB Contracting Office (AQ) did not have a written acquisition plan for the G-RAP IDIQ contract (estimated G-RAP value for planning purposes was \$550K minimum and \$472M maximum). This plan would have required NGB PARC approval at the estimated G-RAP dollar value.

Inherently Governmental Determinations:

- The NGB personnel neglected their oversight responsibilities, which allowed DOCUPAK to make decisions about the G-RAP program that were inherently governmental.

Contractors, when properly used, provide a wide variety of useful services that play an important part in helping agencies to accomplish their missions. The Army uses service contracts to acquire special knowledge and skills not available in the Government, obtain cost effective services, or obtain temporary or intermittent services, among other reasons. FAR 7.503 provides a list of certain services and actions that are not considered to be inherently governmental functions, but may approach being in that category because of the nature of the function, the manner in which the contractor performs the contract, or the manner in which the government administers the contractor performance.

One of the functions listed in FAR 7.503 includes the contractor's assistance in the development of the statement of objectives. The statement of objectives provides basic, top-level objectives of an acquisition and is provided in the solicitation, in lieu of a statement of work. It provides the potential offeror the flexibility to develop cost-effective solutions and the opportunity to propose those innovative alternatives meeting the objectives requested by the government. Offerors use the statement of objectives as the basis for preparing their proposal.

The NGB ASM Division requested DOCUPAK develop the G-RAP requirement under Task Order 15 of the Marketing Contract. DOCUPAK continued to work with NGB to further refine the RAP requirement, and assist in the development of the statement of objectives. However, interviews with NGB personnel confirmed a lack of contractor surveillance by NGB ASM Division during this process and throughout the life of the contract. Government personnel neglected their oversight responsibilities, which allowed the contractor to make decisions about the G-RAP program that were inherently governmental.

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In addition, FAR 7.503(e) requires the requirements official to provide the contracting officer, concurrent with transmittal of the statement of work (or statement of objectives), a written determination that none of the functions to be performed are inherently governmental. This assessment should place emphasis on the degree to which conditions and facts restrict the discretionary authority, decision-making responsibility, or accountability of government officials using contractor services or work products. NGB ASM Division did not provide a written determination for any G-RAP contract vehicle. Interviews with various NGB employees confirmed this determination was not executed.

Source Selection:

- The NGB Contracting Office (AQ) did not follow the required Army Source Selection Manual procedures to compete the FY07 G-RAP requirement, to include:
 - Improper appointment of the Source Selection Authority;
 - Misalignment between the solicitation and related source selection documents;
 - Blurred roles of the Source Selection Evaluation Board members.

Source selection procedures are designed to (1) maximize competition; (2) minimize the complexity of the solicitation, evaluation, and selection process; (3) ensure the impartial and comprehensive evaluation of proposals; and (4) ensure selection of the source whose proposal is most advantageous and realistic, and whose performance is expected to best meet stated government requirements. To provide flexibility within this framework, the Army developed the Army Source Selection Manual (AFARS Appendix AA). The manual details source selection processes and techniques used in competitive, negotiated procurements, and shall be used by all Army contracting offices conducting source selections (AFARS 5115.303(b)). However, the NGB Contracting Office (AQ) did not follow the required Army Source Selection Manual procedures to compete the FY07G-RAP requirement.

The source selection should be a multi-disciplined team effort. The team should include representatives from appropriate functional areas such as contracting, technical, logistics, legal, program management, and user organizations. With assistance from the PARC, the Source Selection Authority will ensure the appointment of people with the requisite skills, expertise, and experience to ensure the success of the source selection process (AFARS Appendix AA). In accordance with AFARS 5115.303(a)(ii), the HCA or the PARC are responsible for the appointment of the Source Selection Authority. The Source Selection Authority is the government official in charge of selecting the source or sources whose proposal represents the best value to the government. Procurements with a dollar value in excess of \$50M will have the Source Selection Authority designated at a level above the contracting officer.

The NGB PARC should have appointed the FY07 G-RAP Source Selection Authority one level above the contracting officer. Conversely, the NGB Contracting Office (AQ) established the Source Selection Authority one level BELOW the contracting officer. In

addition, the NGB Contracting Office (AQ) did not execute a written Source Selection Authority appointment for PARC approval.

During the source selection, the Source Selection Authority is responsible for a number of items, to include the approval of the source selection plan. The source selection plan is a required and vital planning document that identifies the goals of the acquisition, and describes how to evaluate proposals and select winning offeror(s).

The NGB ASM Division and NGB Contracting Office (AQ) prepared a source selection plan for the G-RAP source selection; however, the document was not signed by the Source Selection Authority or Contracting Officer. As the Source Selection Authority is responsible for approving the plan, the contract file should have included a copy of the final source selection plan containing the Source Selection Authority's signature.

While the source selection plan contains many elements, the proposed evaluation factors and subfactors, their relative importance, and associated standards are of particular importance to potential offerors, as these factors are used by the government to determine the winning contractor. It is Army policy to establish the absolute minimum number of factors necessary for evaluation of proposals (AFARS 5115.304(b)(2)). Evaluation factors are the basis for assessing each offeror's ability to meet the Army's needs. They are the uniform baseline against which each offeror's proposal is compared to determine the proposal(s) which represent the best value to the Government. Factors must be limited to those which (a) are expected to surface real and measurable discriminators between offerors, and (b) have value enough to warrant the payment of a meaningful cost/price premium to obtain the measured discrimination.

Using these evaluation factors and subfactors, the government solicits proposals from potential offerors through the issuance of a solicitation. The solicitation includes information necessary for the offerors to understand what the government is buying, what information the offeror must provide, and how the offeror's proposals will be evaluated. It is critical that there be alignment between the solicitation and related source selection documents. It is particularly important that there be consistency between the source selection plan and solicitation. FAR 15.304(d) requires the government's solicitation clearly state the factors and significant subfactors that will be considered in evaluating proposals and selecting a source, and state their relative importance. The contracting officer is responsible for ensuring the factors and subfactors are included, exactly as written in the source selection plan, into Section M (Evaluation Factors for Award) of the solicitation.

However, the NGB Contracting Office (AQ) did not clearly state the G-RAP source selection plan evaluation factors in the solicitation. Instead, the solicitation contained a summary statement for each subfactor, as opposed to the detailed subfactor criteria contained in the G-RAP source selection plan.

For example, the G-RAP Source Selection Plan cites the following criterion as basis for the evaluation of Management and Corporate Capabilities Factor, Program Management Subfactor 3.1:

- 3.1.1: The offeror proposes a Program Manager and his/her Deputy who are exclusively dedicated to execution of this contract;
- 3.1.2: The offeror demonstrates understanding and familiarity with military contracting;
- 3.1.3: The offeror is familiar with the goal and general rules associated with the execution of the G-RAP program;
- 3.1.4: The offeror presents a Quality Assurance approach that track issues to their resolution and alters procedures as required;
- 3.1.5: The offeror assumes full responsibility for managing and executing of the G-RAP program in accordance with established legal constraints;
- 3.1.6: The offeror's management staff dedicated to this contract have decision making and fund obligation authority;
- 3.1.7: The offeror describes existing policies and procedures that will be used in the operation of the contract, including the management of Subcontractors and the process of obtaining Government review and approval;
- 3.1.8: The offeror describes the process of ensuring all policies and procedures are followed by Contractor personnel;
- 3.1.9: The offeror describes an approach to risk containment and management.

However, Section M (Evaluation Factors for Award) of the G-RAP solicitation summarized the Management and Corporate Capabilities Factor, Program Management Subfactor 3.1 as follows:

- The Government will evaluate the offeror's ability to successfully manage execution of the G-RAP program and to minimize any disruption to ongoing recruitment activities due to internal and external factors.

The G-RAP Source Selection Plan further states that evaluators must assess each criterion listed in the Source Selection Plan. If the offeror's proposal fails to meet the criterion, the evaluated assessment is recorded as a weakness, or a flaw in the proposal. Therefore, without providing the detailed G-RAP Source Selection Plan criterion in the solicitation, potential offerors were unable to submit a proposal addressing all government requirements as outlined in the G-RAP Source Selection Plan.

The Army Source Selection Manual (AFARS Appendix AA) states the Source Selection Evaluation Board Chairperson is required to review all aspects of the proposals, and shall fully participate in all ratings and prepare the written position of the Source Selection Evaluation Board. The Board Chairperson is responsible for the conduct of a comprehensive and integrated evaluation of competitive proposals in an impartial and equitable manner, and the production of summary facts and findings required in the conduct of the source selection process.

The G-RAP Source Selection Plan further states the Source Selection Evaluation Board Chairperson will function as a working but non-voting member of the board. Voting members include the Source Selection Evaluation Board members, such as

factor/subfactor chairs and evaluators. The G-RAP Source Selection Plan also states the Price Evaluation Team will evaluate independent of the other teams (Technical and Past Performance), to ensure fair competition throughout the evaluation process.

During the G-RAP source selection process, the individual appointed as the G-RAP Source Selection Authority also acted as the Source Selection Evaluation Board Chairman, signing documents as the "Source Selection Authority/Source Selection Evaluation Board Chairman." This individual appointed as the Source Selection Authority also acted as the Price Evaluation Team Chair, signing price evaluation documents as the "Chair, Price Evaluation Team." In addition, the G-RAP Solicitation also listed this individual as the point of contact for all pre-proposal conference questions and registration, as well as the point of contact for receipt of all past performance questionnaires. This individual was tasked to perform multiple roles within the source selection process, which did not allow for separation of source selection duties, or provide an environment for this individual to present an impartial determination of best value as the Source Selection Authority.

Organizational Conflict of Interest:

- The NGB Contracting Office (AQ) created an environment for organizational conflicts of interest to exist, in both acquisition planning and source selection procedures.

An organizational conflict of interest may result when factors create an actual or potential conflict of interest on an instant contract, or when the nature of the work to be performed on the instant contract creates an actual or potential conflict of interest on a future acquisition. It is the responsibility of government contracting officials to avoid conflicts of interest, in order to prevent unfair competitive advantage or the existence of conflicting roles which might impair objectivity.

The government is increasingly relying upon contractors to perform services to meet mission requirements. When contractor assistance is necessary to prepare a statement of work/objectives, the contractor might often be in a position to favor its own products or capabilities. To overcome the possibility of bias, contractors are prohibited from supplying a system or services acquired. FAR 9.505-2 identifies three exceptions to this prohibition: the contractor is the sole source; the contractor participated in the development and design work (as found in research and development contracting); or more than one contractor was involved in preparing the statement of work/objectives.

As mentioned earlier in the report, NGB ASM Division requested DOCUPAK develop the G-RAP requirement under Task Order 15 of the Marketing Contract. DOCUPAK continued to work with NGB to further refine the RAP requirement, and assist in the development of the statement of objectives. As the exceptions listed at FAR 9.505-2(b) do not apply to DOCUPAK, the NGB Contracting Office (AQ) should have prohibited DOCUPAK from competing for future G-RAP contracts. Instead, the NGB Contracting Office (AQ) allowed DOCUPAK to compete for the FY07 G-RAP IDIQ contract, thereby creating an organizational conflict of interest.

The G-RAP Source Selection Plan discusses source selection safeguarding actions to prevent unauthorized disclosure of source selection information during the course of the source selection process. One of these actions addresses the requirement that all Source Selection Evaluation Board members (government and contractor) complete the non-disclosure and conflict of interest certifications before being authorized access to source selection sensitive information. The Source Selection Authority is responsible for ensuring conflicts of interest, or the appearance thereof, are avoided.

Further, the G-RAP Source Selection Plan states the contracting officer and source selection evaluation board chairperson are responsible for ensuring compliance with all non-disclosure methods required for the G-RAP acquisition. However, the G-RAP contract file did not contain signed non-disclosure agreements or conflict of interest certifications for any member of the source selection organization.

Contractor support may be utilized to support the source selection process; however, the use of these contractor support personnel must be a transparent process. Government business shall be conducted in a manner above reproach, with complete impartiality, and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in government-contractor relationships.

For example, contractor personnel are required to sign the non-disclosure agreement, as required by the government personnel participating in the source selection (Army Source Selection Manual (AFARS Appendix AA)). Contractor personnel are also required to submit documentation to the contracting officer indicating their personal stock holdings prior to receiving access to the source selection sensitive information. In the solicitation, contracting officers are required to list all contractor support personnel who will be supporting the source selection process. The contracting officer must receive the consent of the submitting offeror(s) to provide access to the contractor support personnel.

FAR 37.205 requires the contracting officer to execute a determination to utilize contractor support during a source selection. This determination is necessary to ensure support contractors abide by FAR 9.5 "Organizational and Consultant Conflicts of Interest", and prevent the release of an offeror's proprietary information during a source selection. NGB Contracting Office (AQ) used a support contractor for the price evaluation, but did not execute the determination. In addition, the NGB Contracting Office (AQ) did not identify the contractor support personnel in the G-RAP solicitation. Therefore, offerors were not aware of NGB's use of contractor support, and consequently were not provided an opportunity to consent to the contractors' access to the source selection sensitive information.

Competition:

- The NGB Contracting Office (AQ) created an environment for an unfair competitive advantage to exist, in both acquisition planning and source selection.

When multiple offerors compete for the government's business, the government can acquire higher quality goods and services at lower prices than it would acquire if it awarded contracts without competition. FAR 6.101 requires that contracting officers promote and provide for full and open competition in soliciting offers and awarding government contracts.

The Army Competition Advocacy Program is intended to promote and maximize efficient and effective competition for Army Procurements by using pressures of an open marketplace to obtain goods and services at fair and reasonable prices without reducing quality, readiness, or security. Special objectives of the Competition Advocacy Program are to ensure that all personnel in the acquisition process use competitive acquisition strategies to the maximum extent practical, and convert existing noncompetitive acquisitions to competitive, where appropriate. Contracts for goods and services should only be awarded on an "other than full and open competition" basis only after the procurement is fully justified and approved by the appropriate approving official. FAR 6.304 requires approval by the competition advocate for Justifications and Approvals (J&As) for other than full and open competition when the contract is valued over \$550K, but not in excess of \$11.5M.

The FY07 G-RAP bridge contract was awarded noncompetitively to DOCUPAK for \$10.5M. As such, the NGB Contracting Office (AQ) should have obtained competition advocate approval for the \$10.5M J&A supporting the sole source G-RAP bridge contract. The competition advocate would have ensured that competition was not precluded by the use of restrictive need statements, restrictive purchase descriptions, unnecessarily detailed or restrictive specifications, poor planning, or arbitrary actions. In addition, the competition advocate would have ensured market research was employed to identify potential sources, and challenge specific requirements that could result in unjustified noncompetitive acquisitions. This did not happen, as the NGB Contracting Office (AQ) did not obtain the competition advocate approval for the \$10.5M J&A supporting the sole source G-RAP bridge contract.

When the government procures a product or service, they must determine the appropriate North American Industry Classification System (NAICS) codes for the origin of the service (those who directly provide it) or the manufacture of the product. The NAICS code is a six-digit number classifying the contract work by its primary purpose, and is a valuable tool when conducting market research. Likewise, potential offerors can use the NAICS code as a search filter to find federal business opportunities. For this reason, it is imperative to select an accurate NAICS code to ensure a viable pool of potential offerors. The NGB Contracting Office (AQ) used NAICS code 611430 – Professional and Management Development Training in the FY07 G-RAP IDIQ. This NAICS code encompasses establishments primarily engaged in offering an array of short duration courses and seminars for management and professional development. Again, the NAICS code should accurately describe the contract's primary service or product in order to solicit potential offerors capable of fulfilling the government's requirement. Therefore, NGB may have received a larger pool of potential offerors had the NGB Contracting Office (AQ) used a NAICS code more closely related to the G-RAP requirements.

As discussed previously in the report, NGB ASM Division requested DOCUPAK develop the G-RAP requirement under Task Order 15 of the Marketing Contract. DOCUPAK continued to work with NGB to further refine the RAP requirement, and assist in the development of the statement of objectives. In accordance with FAR 9.505-2, the NGB Contracting Office (AQ) should have prohibited DOCUPAK from competing for future G-RAP contracts to overcome the possibility of bias. Instead, the NGB Contracting Office (AQ) allowed DOCUPAK to compete for the FY07 G-RAP IDIQ contract, thereby creating an unfair competitive advantage for DOCUPAK by allowing unequal access to government information (i.e. the statement of objectives).

An unfair competitive advantage would also exist where a contractor competing for award of any federal contract possesses source selection information that is relevant to the contract but is not available to all competitors, and such information would assist that contractor in obtaining the contract.

During the source selection process, the contracting officer is responsible for ensuring the evaluation factors and subfactors are included, exactly as written in the source selection plan, into Section M (Evaluation Factors for Award) of the solicitation. Conversely, the NGB Contracting Office (AQ) did not clearly state the G-RAP Source Selection Plan evaluation factors in the solicitation. Instead, the solicitation contained a summary statement for each subfactor, as opposed to the detailed subfactor criteria contained in the G-RAP Source Selection Plan. If the offeror's proposal fails to meet the criterion, the evaluated assessment is recorded as a weakness, or a flaw in the proposal. Therefore, without providing the detailed G-RAP Source Selection Plan criterion in the solicitation, potential offerors are unable to submit a proposal addressing all government requirements as outlined in the G-RAP Source Selection Plan. Subsequently, NGB Contracting Office (AQ) created an unfair competitive advantage for DOCUPAK by omitting the detailed evaluation criteria from the solicitation.

Scope Determination:

- The NGB Contracting Office (AQ) did not execute a scope determination, or document the determination to execute Task Order 15 in the contract file.

The Competition in Contracting Act of 1984 (CICA) requires "full and open competition" in government procurements as obtained through the use of competitive procedures. In determining whether a modification triggers the competition requirements in CICA, the contracting officer looks to whether there is a material difference between the modified contract and the contract that was originally awarded. Evidence of a material difference between the modification and the original contract is found by examining any changes in (1) the type of work; (2) performance period; (3) costs; (4) whether the original contract advised offerors of the potential for change; and (5) whether the modification would reasonably have been anticipated at the time of award.

Further, FAR 16.505 states that orders issued under IDIQ contracts shall be within the scope of the base contract. Since the G-RAP program started as the recruitment "lead generator" pilot program that was awarded under an already-existing NGB Marketing Contract, the contracting officer should have executed a scope determination. Upon

further examination, the PMR Team determined that the G-RAP Task Order 15 (awarded in 2005) exceeded the scope of the original Marketing Contract. However, the NGB Contracting Office (AQ) did not execute a scope determination, or document the determination to execute Task Order 15 in the contract file.

Publication:

- The NGB Contracting Office (AQ) did not follow publication requirements for non-competitive actions and congressional notifications.

FAR 6.305 requires publication of the J&A within 14 days after contract award. The J&A should contain the rationale as to why an award cannot be obtained through Full and Open competition, the name of the contractor receiving the contract, the goods or services being obtained, and the amount of the purchase/contract. It also contains the names and signatures of those government employees who approved the non-competitive award. J&As have been considered public documents, but the FAR requires that the document actually be posted for a minimum of 30 days. This is intended to make the J&A process more transparent. The NGB Contracting Office (AQ) did not publicize the J&A supporting the sole source G-RAP bridge contract.

DFARS 205.303 requires a congressional notification when the face value of the contract is over \$5.5M. Prior to contract award, departments and agencies shall provide procurement information to members of Congress in whose State or district the contractor is located and the work is to be performed. This procurement data includes: contract description; total cumulative face value of the contract; competition information; contractor data; funding data; and any known congressional interest. The NGB Contracting Office (AQ) did not execute congressional notifications for either FY07 G-RAP contract vehicle.

Legal Reviews:

- The NGB Contracting Office (AQ) did not obtain a legal review for any G-RAP contract action.

AFARS 5101.602-2(c) states that legal counsel shall participate as a member of the contracting officer's team throughout the acquisition process, and shall advise whether a proposed action is legally sufficient with details and a recommended course of action to resolve any insufficiency. Contracting officers shall address and resolve counsel's objections at the lowest possible level. Unresolved objections shall be jointly evaluated within the acquisition and legal channels.

The NGB Contracting Office (AQ) did not obtain a legal review for any G-RAP contract action. NGB provided the PMR Team with several legal determinations documents, although these reviews focused solely on use of the G-RAP as a program versus a review of the individual G-RAP contract actions for legal sufficiency. For example, one legal review provided a determination on whether the G-RAP/Lead Generator contract was considered a "bounty". Another legal determination focused on whether it was legally permissible to employ under contract a traditional (part-time) Guardsman to act as a "lead generator".

Interviews with NGB personnel indicated NGB did not employ a contracts attorney during the 2005-2007 timeframe. A contracts attorney would have advised on the legal sufficiency of the contract terms and conditions. NGB has since hired a contracts attorney, but interviews indicate the legal office remains understaffed due to the heavy workload.

Contract Surveillance:

- The NGB ASM Division did not provide, and the NGB Contracting Office (AQ) did not incorporate a government QASP into any G-RAP contract vehicle; therefore NGB did not have a plan for surveillance.

Contract surveillance is vital to ensure contractors provide quality services and supplies in a timely manner, to mitigate contractor performance problems, and to ensure the government receives the best value for the Warfighter. Contract quality performance is the responsibility of both the contractor and the government. The contractor is responsible for carrying out its obligations under the contract in terms of quality, timeliness and cost. The government is responsible for ensuring services and supplies acquired conform to the quality and performance requirements of the contract.

In the 25 October 2005 ASA(ALT) memorandum, "Contract Surveillance for Service Contracts," contracting personnel were instructed to prepare a Quality Assurance Surveillance Plan (QASP) for service contracts and define in detail all work requiring surveillance and the method of that surveillance. FAR 46.4 states the plan must include the method and frequency of surveillance to monitor contract costs when contract complexity warrants. The QASP should also be tied to performance standards or metrics that measure contractor performance to ensure that DoD receives the best value when contracting for services. ASA(ALT) followed up with another memorandum in February 2007, "Contract Administration and Surveillance for Service Contracts," which further required that for all services greater than \$2,500, the contracting officer shall ensure that a government QASP is prepared and implemented in the services contracts. The level of surveillance described in the plan should be commensurate with the dollar value, risk, complexity and criticality of the acquisition.

During the development of the QASP, FAR 37.604 states the government may either prepare the QASP or require the offerors to submit a proposed quality assurance plan for the government's consideration in development of the government's plan. The PMR revealed that DOCUPAK proposed a quality assurance plan for the government's consideration; however, neither the NGB ASM Division, nor the NGB Contracting Office (AQ) considered or incorporated DOCUPAK's plan into any government QASP. In addition, the NGB ASM Division did not provide, and the NGB Contracting Office (AQ) did not incorporate, a government QASP into any G-RAP contract vehicle. Therefore, NGB did not have a plan for surveillance.

Another aspect of contract surveillance includes the government's documentation of contractor performance. FAR 42.1502 directs all Federal Agencies to collect past performance information on services contracts greater than \$1M. The Contractor Performance Assessment Report assesses a contractor's performance and provides a

record, both positive and negative, on a given contractor during a specific period of time. Each assessment is based on objective facts and supported by program and contract management data, such as cost performance reports, customer comments, quality reviews, technical interchange meetings, functional performance evaluations and earned contract incentives. Neither the NGB ASM Division nor the NGB Contracting Office (AQ) assessed contractor past performance information for any G-RAP vehicle.

Objective 2: Assess the sufficiency of Contracting Officer and Contracting Officer's Representative training, experience and certification processes.

PMR Conclusion: The NGB PARC office and the NGB ASM Division could not provide the NGB workforce data; therefore the PMR Team could not assess the sufficiency of the NGB Contracting Officer and the NGB COR training, experience and certification. [Assessment includes only the NGB Contracting Officers and NGB CORs who worked on any G-RAP contract vehicle.]

- *Could not demonstrate ability to manage workforce databases*
- *Could not demonstrate ability to manage contracting officer warrants*
- *No documented biennial reviews of contracting officer warrants*
- *Could not demonstrate ability to manage COR training certificates*

Contracting Workforce Data:

- The NGB PARC office could not demonstrate a working knowledge of the existing workforce databases, or provide current contracting workforce data; therefore, the PMR Team could not assess the sufficiency of contracting officer training, experience, and certification.

Subsequently, the PMR Team independently performed a cursory review of some NGB workforce data, to include the Acquisition Career Record Briefs (ACRBs). The ACRB is the official record of education, training and acquisition assignment history for civilian members of the Army Acquisition, Logistics and Technology (AT&L) Workforce. It is used to apply for training, warrant applications, workforce/career development and analysis, and succession planning. The PMR Team identified many errors on the NGB ACRBs, to include incorrect job series listed, missing certification levels required for the current position, and current position titles.

For example, the NGB PARC Office and NGB Contracting Division (AQ) reported some workforce members were on track to obtain the continuous learning points (CLP) goal; however, a review of the ACRB did not support the previously reported progress. The DoD policy on continuous learning for the AT&L Workforce requires each workforce member earn 40 continuous learning points (CLPs) every year as a goal, and 80 CLPs being mandatory within two years. This policy ensures workforce members participate in continuous learning activities throughout their careers to improve their professional knowledge and performance.

The data collected by the PMR Team indicates systemic issues with workforce training and certification processes. Since a review of all NGB contracting workforce was outside the scope of the Secretary of the Army directive, the Office of the DASA(P) will conduct a complete Workforce Capabilities and Trends review during the planned FY13 NGB PMR.

Contracting Officer Warrants:

- The NGB PARC office did not actively manage contracting officer warrants, nor possess the ability to do so.

FAR 1.603 requires agency heads to establish and maintain a procurement career management program and a system for the selection, appointment, and termination of contracting officers. Although an automated Warrant System was in place at the NGB PARC office, the system and warrant information was corrupt; therefore, over 600 warrants were unavailable for review or validation. The NGB PARC office did not have a back-up system in place to readily retrieve the warrant information; however, a handwritten log was provided upon request. In addition, the NGB PARC office did not possess a log for warrant terminations. As a result, the PMR Team could not determine if the 600 NGB warrants were current and valid.

FAR 1.603 also requires appointing officials to maintain files containing copies of all appointments that have not been terminated. The PMR team was able to review some warrant files, although many of these files contained incomplete warrant application packages (unsigned or missing certification documents).

Contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, for ensuring compliance with the terms of the contract, and for safeguarding the interest of the government in its contractual relationships. Given this level of responsibility, the appointing official shall consider the complexity and dollar value of the acquisitions to be assigned and the candidate's experience, training, education, business acumen, judgment, character, and reputation when selecting contracting officers. The PMR team found no documentation to support an appointing official analysis of the warrant request to determine complexity/dollar value of warrant. In addition, the PMR identified inconsistencies in the warrant appointment letters, to include: missing dollar value or warrant type; responsibilities of warrant holder; and regulations associated with warranting contracting officers.

The PMR Team did not find any documentation to support whether the NGB PARC office conducted a biennial review of contracting officer warrants. The Deputy Secretary of Defense memorandum entitled, "Reinforcing the Evaluation Requirements of Contracting Officers under DoDI 5000.66" (27 August 2008), established requirements for the evaluation of contracting officers on a biennial basis. The NGB PARC office compliance with this memorandum would have provided an opportunity to ensure contracting officer data was current, accurate and complete.

COR Assessment:

- The NGB ASM Division did not provide the COR training certificates to the NGB Contracting Office (AQ), nor were the certificates contained in the contract files; therefore, the PMR Team could not assess the sufficiency of COR training and experience.

DFARS 201.602-2(2) states that a COR must be qualified by training and experience commensurate with the responsibilities to be delegated in accordance with department/agency guidelines. A COR is nominated by the requiring activity and then formally appointed to the contract by the contracting officer. The requiring activity prepares a COR nomination letter, which lists all COR training qualifications, technical qualifications, and previous contract administration experience. The contracting officer would review this nomination letter and upon concurrence, issue a COR appointment letter. Both the COR and the contractor are required to acknowledge receipt of the COR appointment letter by signing in the designated block and returning the duplicate copy to the contracting officer for retention in the contract file. The original shall be retained by the COR. However, the PMR Team did not find any documentation in the contract file to indicate the NGB ASM Division provided a COR nomination letter and COR training certificates to the NGB Contracting Office (AQ).

Objective 3: Evaluate the efficacy and adequacy of the terms of the contract, to include management controls.

PMR Conclusion: No G-RAP contract vehicle contained effective or adequate terms, to include management controls.

- *Minimal documented contractor performance reporting requirements*
- *Did not establish separate contract line items*
- *No documented government surveillance plan*

Management controls within each contracting organization are an element of day-to-day operations. FAR 37.102(f) requires agencies to establish effective management practices in accordance with Office of Federal Procurement Policy (OFPP) Policy Letter 93-1, Management Oversight of Service Contracting, to prevent fraud, waste, and abuse in service contracting. In addition, AFARS established the Management Control Evaluation Checklist (Appendix BB) to assist managers at all levels in evaluating compliance with key management controls and to identify and correct weaknesses.

Performance Standards:

- The NGB ASM Division did not provide, and NGB Contracting Office (AQ) did not incorporate, contractor performance reporting requirements for almost all G-RAP contract vehicles.

FAR 37.603(a) requires the government establish performance standards that are measurable and structured to permit an assessment of the contractor's performance. These standards may be objective (e.g. response time) or subjective (e.g. customer

satisfaction), but must reflect the level of service required by the government to meet mission objectives. Standards must enable assessment of contractor performance to determine whether contract results and objects are being met.

NGB ASM Division did not provide, and NGB Contracting Office (AQ) did not incorporate, contractor performance reporting requirements for almost all G-RAP contract vehicles. Task order 15 included a list of minimal performance metrics, such as recruitment database management and monthly financial reporting requirements. Likewise, the FY07 G-RAP IDIQ contract contained several financial reporting requirements. However, the G-RAP contract files did not contain any documentation to support DOCUPAK's compliance with any performance standard or requirement. At a minimum, had the NGB Contracting Office (AQ) enforced the financial reporting requirements, the information could have provided insight into DOCUPAK's invoicing process and may have mitigated some level of risk.

Contract Line Items:

- The NGB Contracting Office (AQ) did not establish separate contract line items for the services being acquired for any G-RAP contract vehicle.

DFARS 204.7103-1 states that contracts shall identify the items or services to be acquired as separate contract line items. Requirement documents and contracts must define clear requirements that reflect supplies and services acquired by the Army. Each contract line item must describe the products or services to be delivered in a quantity and unit of measure that relates to actual deliverables or contract performance.

Several G-RAP contract lines items did not clearly describe the service in terms of actual contract performance. Instead, the contract line item provided general terms which allowed DOCUPAK to invoice for a wide range of costs with little oversight or accountability. For example, the FY07 G-RAP IDIQ contract contains the following contract line item for Accession Funds:

- This Contract Line Item Number shall account for the payments to the recruiting assistant, the contractor cost of any kind associated with payments to the RA, and any premium payment adjustment premiums.

G-RAP Task Orders were bulk-funded using a 'lump sum' line item approach. Line items that do not clearly identify what we are buying create an integrity issue, and impact our ability to achieve a clean audit. All deliverable line items should clearly define the quantity and unit of measure of the product or service to be delivered. Contract pricing arrangements should ensure prices are proportional to work performed and that actual deliveries can be traced to the prices. This enables accurate contract completion and payments.

Quality Assurance:

- The NGB ASM Division did not provide, and the NGB Contracting Office (AQ) did not incorporate, a government QASP into any G-RAP contract vehicle.

As discussed under Objective 1, the QASP lays the foundation for performance oversight on the contract. Development of a plan is important since it provides a structured method for the COR to evaluate the services and products furnished by the contractor. Although DOCUPAK proposed a quality assurance plan for the government's consideration, neither NGB ASM Division, nor the NGB Contracting Office (AQ) considered or incorporated DOCUPAK's plan into any G-RAP contract vehicle. In addition, NGB ASM Division did not provide, and NGB Contracting Office (AQ) did not incorporate, a QASP into any G-RAP contract vehicle.

Since a government-established QASP did not exist, the PMR Team could not identify any management controls exercised by the NGB ASM Division or the NGB Contracting Office (AQ).

Objective 4: Assess the sufficiency of contract oversight.

PMR Conclusion: Neither the NGB ASM Division nor the NGB Contracting Office (AQ) provided contract oversight for any G-RAP vehicle.

- No documented government surveillance plan
- No documented nomination and appointment of CORs
- No documented contractor performance reports

Quality Assurance:

- The NGB ASM Division did not provide, and the NGB Contracting Office (AQ) did not incorporate, a government QASP into any G-RAP contract vehicle.

As previously discussed under Objectives 1 and 3, the development of a QASP is essential for contract oversight. The plan can be simple or complex but must specify the performance outputs of the statement of work, and describe the methodology to conduct the inspections. This saves time and resources by allowing the COR to focus on the major outputs of the contract. The QASP provides a systematic structured method for the COR to evaluate services and products furnished by the contractor. The QASP should focus on the quality of the product delivered by the contractor and not on the steps taken or procedures used to provide that product. It includes appropriate use of pre-planned inspections, validation of complaints and random unscheduled inspections.

Although DOCUPAK proposed a quality assurance plan for the government's consideration, neither NGB ASM Division, nor the NGB Contracting Office (AQ) considered or incorporated DOCUPAK's plan into any G-RAP contract vehicle. In addition, NGB ASM Division did not provide, and NGB Contracting Office (AQ) did not incorporate, a QASP into any G-RAP contract vehicle did not incorporate.

Since a government-established QSAP did not exist, the PMR Team could not identify any contract oversight exercised by the NGB ASM Division or the NGB Contracting Office (AQ).

COR Appointment:

- The NGB ASM Division did not nominate, and the NGB Contracting Office (AQ) did not appoint, CORs for any G-RAP contract vehicle.

FAR 37.102(h) states that Agencies shall ensure that sufficiently trained and experienced officials are available within the agency to manage and oversee the contract administration function. Further, the ASA(ALT) memorandum (9 February 2007) established a \$2,500 threshold for the appointment of CORs.

The responsibilities of the COR may vary but will always include pre-award as well as post-award duties. The contracting officer specifies the COR's responsibilities in the letter of COR appointment or designation. The COR's actions or inactions can subject the government to disputes or claims and, in some cases, can result in the COR being personally liable for his or her actions. Therefore, the COR should observe carefully the scope and limitations of the delegated authorities and should contact the contracting officer about any doubts as to the correct course of action to be taken.

The COR's post-award responsibilities typically begin with understanding the contract and end with inspecting, and either accepting or rejecting deliverables. Monitoring the contract also includes such activities as evaluating and maintaining data and handling unsatisfactory performance. Again, the responsibilities are specified in the letter of COR appointment.

However, the NGB ASM Division did not nominate CORs for any G-RAP contract vehicle. Although some COR names appeared in various task orders, NGB ASM Division did not provide a COR Nomination letter and accompanying COR training certificates; therefore, an official COR nomination did not occur. As a result, the NGB Contracting Office (AQ) did not appoint CORs for any G-RAP contract vehicle.

Contractor Performance Documentation:

- The G-RAP contract files did not contain any documented reports of contractor performance completed by the NGB ASM Division CORs.

Under FAR 1.604, the COR is responsible for keeping documentation of all the actions taken in the performance of COR duties. This requirement should include copies of inspections, correspondence with the contractor and contracting officer, and reports on contractor performance. The COR shall maintain good records, not only to support subsequent CORs, but also to document contractor performance under the contract.

Past performance information is relevant information regarding a contractor's actions under previously awarded contracts. It includes, for example, the contractor's record of conforming to contract requirements and to standards of good workmanship; the contractor's record of forecasting and controlling costs; the contractor's adherence to contract schedules, including the administrative aspects of performance; the contractor's history of reasonable and cooperative behavior and commitment to customer satisfaction; the contractor's reporting into databases; the contractor's record

of integrity and business ethics, and generally, the contractor's business-like concern for the interest of the customer.

In addition, the contracting office should hold periodic status or progress meetings with the contracting officer, the COR, the contractor, and other personnel as necessary (at least quarterly) to discuss problems, progress of the contract and contractor performance. In addition, the contracting officer should review the COR desk files, as this becomes part of the official contract file and must be maintained in accordance with the contracting officer's instructions.

However, the G-RAP contract files did not contain any records to support the NGB ASM Division CORs documented contractor performance, nor did the files indicate the NGB Contracting Office (AQ) had reviewed any COR desk files.

Objective 5: *Refer any evidence of criminality, impropriety or misconduct to the CID or the TIG.*

PMR Conclusion: *The PMR Team did not uncover any conduct in this area that was not previously identified by USAAA.*

UNITED STATES ARMY RESERVE RAP

In support of the U.S. Army Reserve recruiting efforts, the MICC-Fort Dix Operational Contracting Office awarded and administered the AR-RAP from FY08 through FY12. AR-RAP was managed by the U.S. Army Reserve Command, and consisted of five Task Orders awarded against the FY07 G-RAP IDIQ contract. However, a flood in the contracting office destroyed two Task Order's contract files. The PMR Team was therefore only able to review the contract files and associated supporting documentation of the remaining three Task Orders. In addition, the Army Reserve mission transferred from MICC-Fort Dix to MICC-Fort Bragg in FY11; the last AR-RAP Task Order awarded by MICC-Fort Dix transferred to MICC-Fort Bragg for administration.

AR-RAP CONTRACT REVIEW

Due to the limited sample size of AR-RAP contract actions, the findings presented may not necessarily reflect the culture or daily contracting operations of the MICC-Fort Dix Operational Contracting Office staff. As a result, the PMR Team did not identify any systemic trends within the contracting office.

Objective 1: Assess whether the award and administration of the AR-RAP contracts and task orders complied with applicable law, regulation and policy.

PMR Conclusion: Neither the Army Reserve Recruiting Support Branch (customer) nor the MICC-Fort Dix Operational Contracting Office consistently complied with applicable law, regulation and policy during the AR-RAP contract award and administration.

- *Minimal instances of documented legal reviews*
- *Minimal instances of documented inherently governmental determinations*
- *Consistently documented negotiated agreements*
- *No documented instances of contractor surveillance or performance reports*

As previously discussed in this report, the G-RAP contracts failed to meet Army contracting standards; therefore, the AR-RAP inherited the fundamental flaws of the G-RAP contract. The PMR Team identified several instances in which the MICC-Fort Dix Operational Contracting Office attempted to rectify some of those issues, in areas such as contract pricing, negotiated labor hours and reduction in redundant labor hours. However, the PMR Team did not observe a consistent application of the corrective processes across all AR-RAP Task Orders.

Legal Review:

- Some MICC-Fort Dix Operational Contracting Office files did not contain legal review of the AR-RAP Task Orders.

AFARS 5101.602-2(c) states that legal counsel shall participate as a member of the contracting officer's team throughout the acquisition process, and shall advise whether

a proposed action is legally sufficient with details and a recommended course of action to resolve any insufficiency. Contracting officers shall address and resolve counsel's objections at the lowest possible level. Unresolved objections shall be jointly evaluated within the acquisition and legal channels.

Some MICC-Fort Dix Operational Contracting Office files did not contain legal review of the AR-RAP Task Orders, or did not always contain contracting officer documentation to reconcile legal review comments. Some files did contain emails between legal and the Army Reserve Recruiting Support Branch; however, these discussions focused on the AR-RAP as a program, and meeting the accession goals.

Inherently Governmental Determinations:

- The Army Reserve Recruiting Support Branch did not consistently provide a written inherently governmental determination for some AR-RAP Task Orders.

As previously discussed in the G-RAP contract overview, FAR 7.503(e) requires a written determination for all services contracts, that none of the functions to be performed are inherently governmental. This assessment should place emphasis on the degree to which conditions and facts restrict the discretionary authority, decision-making responsibility, or accountability of government officials using contractor services or work products.

AFARS 5107.503 further states that requiring officials must provide the contracting officer with a copy of the "Request for Services Contract Approval" form, signed by an appropriate General Officer or Accountable member of the Senior Executive Service. Contracting officers shall not complete or sign the service contract approval form and shall not initiate any contract for service, or exercise an option, without an approved certification. The approval and completed worksheets shall be included in the official contract file.

The Army Reserve Recruiting Support Branch did not consistently provide a written determination for some AR-RAP Task Orders. One Task Order contract file contained the services contract approval form, but it was not signed by the approval authority.

Negotiations:

- The AR-RAP contract files contained negotiation memorandums, signed by the contracting officer.

These memorandums documented the review and analysis of DOCUPAK's proposed costs by the MICC-Fort Dix Operational Contracting Office. For example, one contract file contained documentation, wherein the contracting officer challenged DOCUPAK's proposal and negotiated a cost savings of \$750K.

Contract Surveillance:

- The Army Reserve Recruiting Support Branch did not conduct surveillance, even though the MICC-Fort Dix Operational Contracting Office incorporated a QASP into some AR-RAP Task Orders.

In a 25 October 2005 ASA(ALT) memorandum, "Contract Surveillance for Service Contracts," contracting personnel were instructed to prepare a QASP for service contracts and define in detail all work requiring surveillance and the method of that surveillance. FAR 46.4 states that the plan must also include the method and frequency of surveillance to monitor contract costs when contract complexity warrants. The QASP should also be tied to performance standards or metrics that measure contractor performance to ensure that DoD receives the best value when contracting for services. ASA(ALT) followed up with another memorandum in February 2007, "Contract Administration and Surveillance for Service Contracts," which further required that for all services greater than \$2,500, the contracting officer shall ensure that a government QASP is prepared and implemented in the services contracts. The level of surveillance described in the plan should be commensurate with the dollar value, risk, complexity and criticality of the acquisition.

The Army Reserve Recruiting Support Branch did not conduct surveillance, even though the MICC-Fort Dix Operational Contracting Office incorporated a QASP into some AR-RAP Task Orders.

FAR 42.1502 directs all Federal Agencies to collect past performance information on services contracts greater than \$1M. The contractor performance assessment report assesses a contractor's performance and provides a record, both positive and negative, on a given contractor during a specific period of time. Each assessment is based on objective facts and supported by program and contract management data, such as cost performance reports, customer comments, quality reviews, technical interchange meetings, functional performance evaluations and earned contract incentives. Neither the Army Reserve Recruiting Support Branch nor the MICC-Fort Dix Operational Contracting Office assessed contractor past performance information for most AR-RAP Task Orders.

Objective 2: Assess the sufficiency of Contracting Officer and Contracting Officer's Representative training, experience and certification processes.

PMR Conclusion: AR-RAP Contracting Officer training, experience and certification were sufficient. The Army Reserve Recruiting Support Branch did not provide the COR training certificates; therefore, the PMR Team could not assess the sufficiency of COR training and experience. [Assessment includes only the MICC-Fort Dix Contracting Officers and Army Reserve Recruiting Support Branch CORs who worked on any AR-RAP Task Order.]

- *Demonstrated ability to manage Contracting Officer workforce data*
- *Could not demonstrate ability to manage COR training certificates*

Contracting Officer Assessment:

The MICC-Fort Dix Operational Contracting Office provided contracting officer data that demonstrated:

- AR-RAP Contracting Officers possess DAWIA certifications commensurate with their position;
- AR-RAP Contracting Officers averaged 20 years of contracting experience;
- AR-RAP Contracting Officers met or exceeded the biennial DoD policy on continuous education requirements (40 CLPs earned every year as a goal, and the mandatory requirement to earn 80 CLPs within two years).

COR Assessment:

- The Army Reserve Recruiting Support Branch did not provide the COR training certificates to the MICC-Fort Dix Operational Contracting Office, nor were the certificates contained in the contract files; therefore, the PMR Team could not assess the sufficiency of COR training and experience.

DFARS 201.602-2(2) states that a COR must be qualified by training and experience commensurate with the responsibilities to be delegated in accordance with department/agency guidelines. A COR is nominated by the requiring activity and then formally appointed to the contract by the contracting officer. The requiring activity prepares a COR nomination letter, which lists all COR training qualifications, technical qualifications, and previous contract administration experience. The contracting officer would review this nomination letter and upon concurrence, issue a COR appointment letter. Both the COR and the contractor are required to acknowledge receipt of the COR appointment letter by signing in the designated block and returning the duplicate copy to the contracting officer for retention in the contract file. The original shall be retained by the COR.

Review of MICC-Fort Dix Operational Contracting Office files indicated that one contracting officer appointed a COR; however, the COR did not acknowledge the appointment letter or provide the required training certificates.

Objective 3: Evaluate the efficacy and adequacy of the terms of the contract, to include management controls.

PMR Conclusion: AR-RAP Task Orders did not consistently contain effective or adequate contract terms, to include management controls.

- *Inconsistently establish clearly defined contract line items*

Contract Line Items:

- The MICC-Fort Dix Operational Contracting Office did not consistently establish clearly defined contract line items.

As previously discussed, several G-RAP contract lines items did not clearly describe the service in terms of actual contract performance. Instead, the contract line item provided general terms which allowed DOCUPAK to invoice for a wide range of costs with little oversight or accountability. G-RAP Task Orders were bulk-funded using a 'lump sum' line item approach.

Line items that do not clearly identify what we are buying create an integrity issue, and impact our ability to achieve a clean audit. All deliverable line items should clearly define the quantity and unit of measure of the product or service to be delivered. Contract pricing arrangements should ensure prices are proportional to work performed and that actual deliveries can be traced to the prices. This enables accurate contract completion and payments.

The MICC-Fort Dix Operational Contracting Office attempted to identify clear contract line items, but still used a 'lump sum' line item approach. However, the office successfully ensured the accessions line items were delineated for the number, units and dollars per accession.

Objective 4: Assess the sufficiency of contract oversight.

PMR Conclusion: *Neither the Army Reserve Recruiting Support Branch nor the MICC-Fort Dix Operational Contracting Office consistently provided contract oversight for any AR-RAP Task Order.*

- *No documented government surveillance*
- *No documented contractor performance reports*

Quality Assurance:

- The Army Reserve Recruiting Support Branch did not conduct surveillance, even though the MICC-Fort Dix Operational Contracting Office incorporated a QASP into some AR-RAP Task Orders.

As previously discussed under Objective 1, the development of a QASP is essential for contract oversight. The plan can be simple or complex but must specify the performance outputs of the statement of work, and describe the methodology to conduct the inspections. This saves time and resources by allowing the COR to focus on the major outputs of the contract. The QASP provides a systematic structured method for the COR to evaluate services and products furnished by the contractor. The QASP should focus on the quality of the product delivered by the contractor and not on the steps taken or procedures used to provide that product. It includes appropriate use of pre-planned inspections, validation of complaints and random unscheduled inspections.

The Army Reserve Recruiting Support Branch did not consistently nominate, and the MICC-Fort Dix Operational Contracting Office did not consistently appoint, CORs on the AR-RAP Task Orders. One contract file included a COR appointment letter; however, the COR did not acknowledge the appointment letter or provide training certificates. In addition, the Army Reserve Recruiting Support Branch did not conduct surveillance, even though the MICC-Fort Dix Operational Contracting Office incorporated a QASP into some AR-RAP Task Orders.

Contractor Performance Documentation:

- The AR-RAP contract files did not contain any documented reports of contractor performance completed by the Army Reserve Recruiting Support Branch CORs.

As previously discussed in the G-RAP overview, past performance information is relevant information regarding a contractor's actions under previously awarded contracts.

Under FAR 1.604, the COR is responsible for keeping documentation of all the actions taken in the performance of COR duties, and should include copies of inspections, correspondence with the contractor and contracting officer, and reports on contractor performance. The COR shall maintain good records, not only to support subsequent CORs, but also to document contractor performance under the contract.

The contracting office should hold periodic status or progress meetings with the contracting officer, the COR, the contractor, and other personnel as necessary (at least quarterly) to discuss problems, progress of the contract, and contractor performance. In addition, the contracting officer should review the COR desk files, as this becomes part of the official contract file and must be maintained in accordance with the contracting officer's instructions.

However, the PMR Team did not find any evidence in the contract file to support the Army Reserve Recruiting Support Branch CORs documented contractor performance, nor did the files indicate the MICC-Fort Dix Operational Contracting Office had reviewed any COR desk files.

Objective 5: *Refer any evidence of criminality, impropriety or misconduct to the CID or the TIG.*

PMR Conclusion: *The PMR Team did not uncover any conduct in this area that was not previously identified by USAAA.*

ACTIVE ARMY RAP

In support of the Active Army recruiting efforts, the MICC-Fort Knox Contracting Office awarded and administered the A-RAP from FY08 through FY09. A-RAP was managed by the U.S. Army Recruiting Command (USAREC), and consisted of one Task Order awarded against the FY07 G-RAP IDIQ contract. This program was terminated in 2009 as a result of meeting recruiting mission needs.

A-RAP CONTRACT REVIEW

Due to the limited sample size of A-RAP contract actions, the findings presented may not necessarily reflect the culture or daily contracting operations of the MICC-Fort Knox Contracting Office staff. As a result, the PMR Team did not identify any systemic trends within the contracting office.

Objective 1: Assess whether the award and administration of the A-RAP contracts and task orders complied with applicable law, regulation and policy.

PMR Conclusion: Both the USAREC, Plans and Programs Division, and the MICC-Fort Knox Contracting Office failed to consistently comply with applicable law, regulation and policy during the A-RAP Task Order award and administration.

- *No documented price negotiation memorandum*
- *Minimal instances of documented legal reviews*
- *No documented government surveillance plan*

As previously discussed in this report, the G-RAP contracts failed to meet Army contracting standards; therefore, the A-RAP inherited the fundamental flaws of the G-RAP contract. The PMR Team identified several instances in which the MICC-Fort Knox Contracting Office attempted to rectify some of those issues, in areas such as contract pricing and proposed labor hours.

Negotiations:

- The MICC-Fort Knox Contracting Office conducted negotiations, but did not document the negotiated agreement in a price negotiation memorandum.

FAR 15.406-3 states that the contracting officer shall document in the contract file the principle elements of the negotiated agreement.

The PMR Team reviewed various emails and other documentation that highlighted the methodology and application of the MICC-Fort Knox Contracting Office's price negotiation techniques, resulting in a reduction in price and level of service required. However, the MICC-Fort Knox Contracting Office did not document the negotiation in a price negotiation memorandum.

Legal Review:

- The MICC-Fort Knox Contracting Office did not consistently obtain legal reviews of the A-RAP Task Order and subsequent modifications.

AFARS 5101.602-2(c) states that legal counsel shall participate as a member of the contracting officer's team throughout the acquisition process, and shall advise whether a proposed action is legally sufficient with details and a recommended course of action to resolve any insufficiency. Contracting officers shall address and resolve counsel's objections at the lowest possible level. Unresolved objections shall be jointly evaluated within the acquisition and legal channels.

The USAREC Plans and Programs Division obtained a legal opinion regarding the Active Army's use of the A-RAP; however, the review was provided from a program perspective, and the contract file did not contain documentation to reconcile the legal comments. The MICC-Fort Knox Contracting Office provided the PMR Team a revised performance work statement that reflected some legal recommendations, but neither the performance work statement nor the Task Order reflected all recommended changes.

The MICC-Fort Knox Contracting Office did not obtain a legal review of the A-RAP Task Order. However, the files indicate a legal review was conducted for each subsequent Task Order modification.

Contract Surveillance:

- The USAREC, Plans and Programs Division did not provide, and MICC-Fort Knox Contracting Office did not incorporate, a government QASP into the A-RAP Task Order.

In a 25 October 2005 ASA(ALT) memorandum, "Contract Surveillance for Service Contracts," contracting personnel were instructed to prepare a QASP for service contracts and define in detail all work requiring surveillance and the method of that surveillance. FAR 46.4 states that the plan must also include the method and frequency of surveillance to monitor contract costs when contract complexity warrants. The QASP should also be tied to performance standards or metrics that measure contractor performance to ensure that DoD receives the best value when contracting for services. ASA(ALT) followed up with another memorandum in February 2007, "Contract Administration and Surveillance for Service Contracts," which further required that for all services greater than \$2,500, the contracting officer shall ensure that a government QASP is prepared and implemented in the services contracts. The level of surveillance described in the plan should be commensurate with the dollar value, risk, complexity and criticality of the acquisition.

USAREC, Plans and Programs Division did not provide, and MICC-Fort Knox Contracting Office did not incorporate, a QASP into the A-RAP Task Order. In addition, the USAREC, Plans and Programs Division did not nominate, and the MICC-Fort Knox Contracting Office did not appoint a COR for the A-RAP Task Order.

Objective 2: *Assess the sufficiency of Contracting Officer and Contracting Officer's Representative training, experience and certification processes.*

PMR Conclusion: *A-RAP Contracting Officers training, experience and certification was sufficient. The USAREC, Plans and Programs Division did not provide the COR training certificates; therefore the PMR Team could not assess the sufficiency of the USAREC, Plans and Programs Division CORs training, experience or certification. [Assessment includes only the MICC-Fort Knox Contracting Officers and USAREC, Plans and Programs Division CORs who worked on the A-RAP Task Order.]*

- *Demonstrated ability to manage Contracting Officer workforce data*
- *Could not demonstrate ability to manage COR training certificates*

Contracting Officer Assessment:

The MICC-Fort Knox Contracting Office provided contracting officer data that demonstrated:

- A-RAP Contracting Officers possess DAWIA certifications commensurate with their position;
- A-RAP Contracting Officers averaged 23 years of contracting experience;
- A-RAP Contracting Officers met or exceeded the biennial DoD policy on continuous education requirements (40 CLPs earned every year as a goal, and the mandatory requirement to earn 80 CLPs within two years).

COR Assessment:

- The USAREC, Plans and Programs Division did not provide the COR training certificates to the MICC-Fort Knox Contracting Office, nor were the certificates contained in the contract file; therefore, the PMR Team could not assess the sufficiency of COR training and experience.

DFARS 201.602-2(2) states that a COR must be qualified by training and experience commensurate with the responsibilities to be delegated in accordance with department/agency guidelines. A COR is nominated by the requiring activity and then formally appointed to the contract by the contracting officer. The requiring activity prepares a COR nomination letter, which lists all COR training qualifications, technical qualifications, and previous contract administration experience. Yet the USAREC, Plans and Programs Division did not nominate, and the MICC-Fort Knox Contracting Office did not appoint a COR for the A-RAP Task Order.

Objective 3: *Evaluate the efficacy and adequacy of the terms of the contract, to include management controls.*

PMR Conclusion: *The A-RAP Task Order did not consistently contain effective or adequate contract terms, to include management controls.*

- *No documented government surveillance plan*
- *Implemented line item funding*

Contract Surveillance:

- The USAREC, Plans and Programs Division did not provide, and the MICC-Fort Knox Contracting Office did not incorporate, a government QASP into the A-RAP Task Order.

As discussed under Objective 1, the QASP lays the foundation for performance oversight on the contract. Development of a plan is important since it provides a structured method for the COR to evaluate the services and products furnished by the contractor. The USAREC, Plans and Programs Division did not provide, and the MICC-Fort Knox Contracting Office did not incorporate, a QASP into the A-RAP Task Order.

Since a government-established QASP did not exist, the PMR Team could not identify any management controls exercised by the USAREC, Plans and Programs Division or the MICC-Fort Knox Contracting Office.

Contract Line Items:

- The MICC-Fort Knox Contracting Office successfully implemented line item funding, and negotiated a reduction in labor hours and categories.

As previously discussed, several G-RAP contract lines items did not clearly describe the service in terms of actual contract performance. Instead, the contract line item provided general terms which allowed DOCUPAK to invoice for a wide range of costs with little oversight or accountability. G-RAP Task Orders were bulk-funded using a 'lump sum' line item approach.

Line items that do not clearly identify what we are buying create an integrity issue, and impact our ability to achieve a clean audit. All deliverable line items should clearly define the quantity and unit of measure of the product or service to be delivered. Contract pricing arrangements should ensure prices are proportional to work performed and that actual deliveries can be traced to the prices. This enables accurate contract completion and payments.

The MICC-Fort Knox Contracting Office successfully implemented line item funding, and negotiated a reduction in labor hours and categories.

Objective 4: *Assess the sufficiency of contract oversight.*

PMR Conclusion: *Neither the USAREC, Plans and Programs Division, nor the MICC-Fort Knox Contracting Office provided contract oversight for the A-RAP Task Order.*

- *No documented government surveillance*
- *No documented nomination and appointment of CORs*
- *No documented contractor performance reports*

Quality Assurance:

- The USAREC, Plans and Programs Division did not provide, and the MICC-Fort Knox Contracting Office did not incorporate, a QASP into the A-RAP Task Order.

As previously discussed under Objectives 1 and 3, the development of a QASP is essential for contract oversight. The plan can be simple or complex but must specify the performance outputs of the statement of work, and describe the methodology to conduct the inspections. This saves time and resources by allowing the COR to focus on the major outputs of the contract. The QASP provides a systematic structured method for the COR to evaluate services and products furnished by the contractor. The QASP should focus on the quality of the product delivered by the contractor and not on the steps taken or procedures used to provide that product. It includes appropriate use of pre-planned inspections, validation of complaints and random unscheduled inspections.

The USAREC, Plans and Programs Division did not provide, and the MICC-Fort Knox Contracting Office did not incorporate, a QASP into the A-RAP Task Order.

Since a government-established QASP did not exist, the PMR Team could not identify any contract oversight exercised by the USAREC, Plans and Programs Division or the MICC-Fort Knox Contracting Office.

COR Appointment:

- The USAREC, Plans and Programs Division did not nominate, and the MICC-Fort Knox Contracting Office did not appoint a COR for the A-RAP Task Order.

FAR 37.102(h) states that Agencies shall ensure that sufficiently trained and experienced officials are available within the agency to manage and oversee the contract administration function. Further, the ASA(ALT) memorandum (9 February 2007) established a \$2,500 threshold for the appointment of CORs.

The responsibilities of the COR may vary but will always include pre-award as well as post-award duties. The contracting officer specifies the COR's responsibilities in the letter of COR appointment. The COR's actions or inactions can subject the government to disputes or claims and, in some cases, can result in the COR being personally liable for his or her actions. Therefore, the COR should observe carefully the scope and limitations of the delegated authorities and should contact the contracting officer about any doubts as to the correct course of action to be taken.

However, the USAREC, Plans and Programs Division did not nominate, and the MICC-Fort Knox Contracting Office did not appoint a COR for the A-RAP Task Order.

Contractor Performance Documentation:

- The A-RAP contract file did not contain any documented reports of contractor performance completed by the USAREC, Plans and Programs Division.

Under FAR 1.604, the COR is responsible for keeping documentation of all the actions taken in the performance of COR duties, and should include copies of inspections,

correspondence with the contractor and contracting officer, and reports on contractor performance. The COR shall maintain good records, not only to support subsequent CORs, but also to document contractor performance under the contract.

The contracting office should hold periodic status or progress meetings with the contracting officer, the COR, the contractor, and other personnel as necessary (at least quarterly) to discuss problems, progress of the contract, and contractor performance. In addition, the contracting officer should review the COR desk files, as this becomes part of the official contract file and must be maintained in accordance with the contracting officer's instructions.

However, the A-RAP contract file did not contain any documented reports of contractor performance completed by the USAREC, Plans and Programs Division, nor did the files indicate the MICC-Fort Knox Contracting Office had reviewed any COR desk files.

Objective 5: *Refer any evidence of criminality, impropriety or misconduct to the CID or the TIG.*

PMR Conclusion: *The PMR Team did not uncover any conduct in this area that was not previously identified by USAAA.*

NGB SYSTEMIC WEAKNESSES

During the G-RAP PMR, the PMR Team identified several systemic weaknesses within the NGB, to include the organizational structure and oversight of the contract function.

ORGANIZATIONAL STRUCTURE

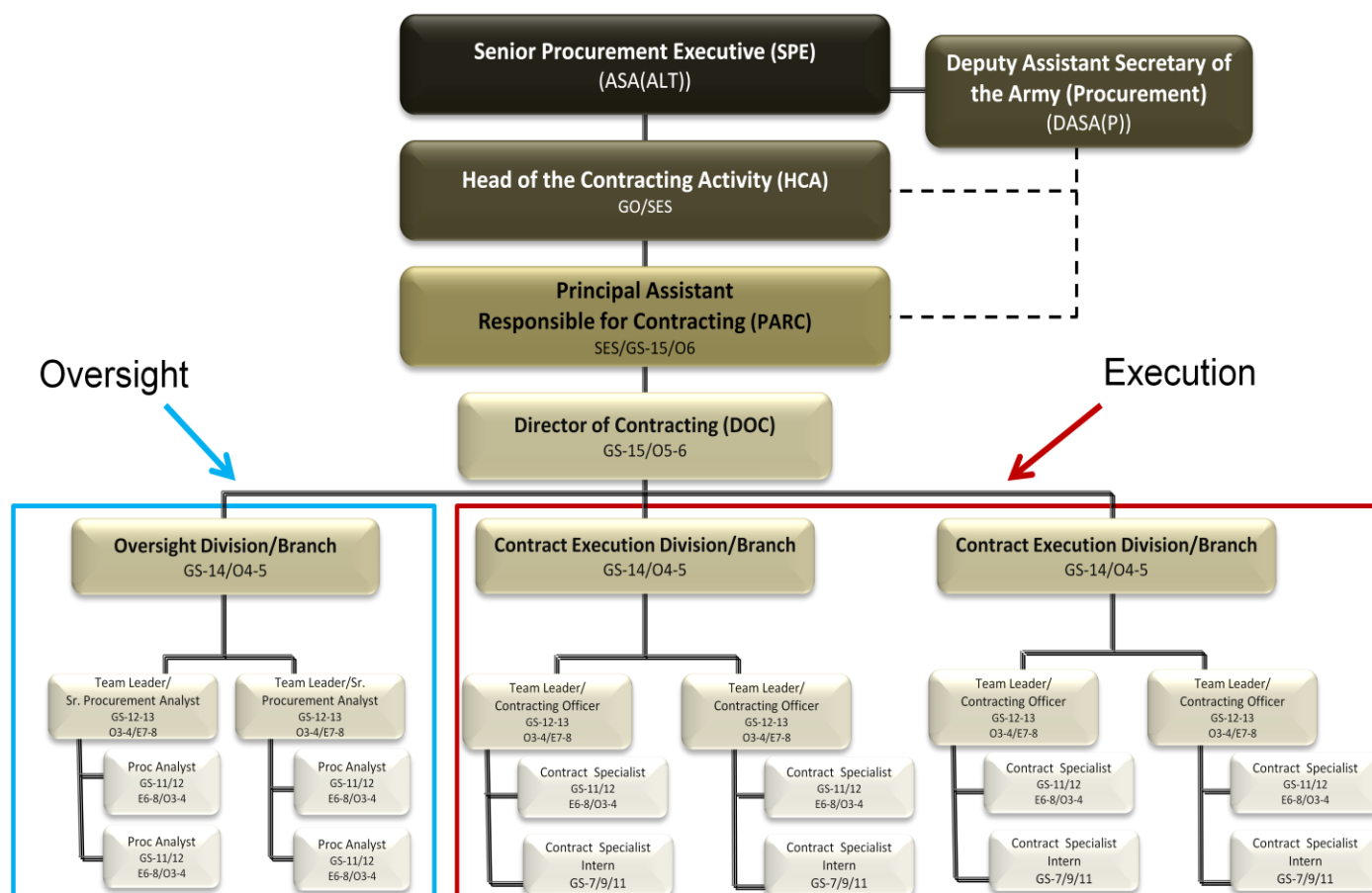
The Senior Procurement Executive is responsible for management direction of the Department's acquisition system, including: policy development; establishment of acquisition goals; evaluation and monitoring of organizations; strategic sourcing, governance of federal-wide and agency procurement systems; career management; and continuous improvement of the acquisition environment.

The Department of the Army's Senior Procurement Executive (who is also the ASA(ALT)) designates the HCA, who has overall responsibility for managing the contracting activity. While federal statutes and the FAR/DFARS/AFARS are the principal references for the HCA role, the written appointment letter highlights some of the more important responsibilities associated with the role of HCA. Some examples from the NGB HCA designation (5 December 2008) include:

- Appoint a PARC, who acts as the senior staff official for the contracting function within the contracting activity;
- Provide the PARC direct access to the HCA – the HCA is the only official to whom the PARC should report;
- Ensure the PARC is assigned, or has direct access to, the personnel and other essential resources necessary to perform all the functions assigned or delegated by the HCA;
- Place each contracting office appropriately in your organizational structure and ensure that each office is adequately structured and staffed to effectively carry out the contracting mission within the organization.

The PARC oversees the operational activities necessary to achieve the organization's contracting mission, goals and objectives. The grade level of the PARC position must be commensurate with the span of control and scope of the mission to ensure the contracting function receives the necessary level of importance. For an organization like the NGB, which has worldwide responsibilities and is the Army's third largest contracting organization, a Senior Executive Service (SES) level PARC position is appropriate.

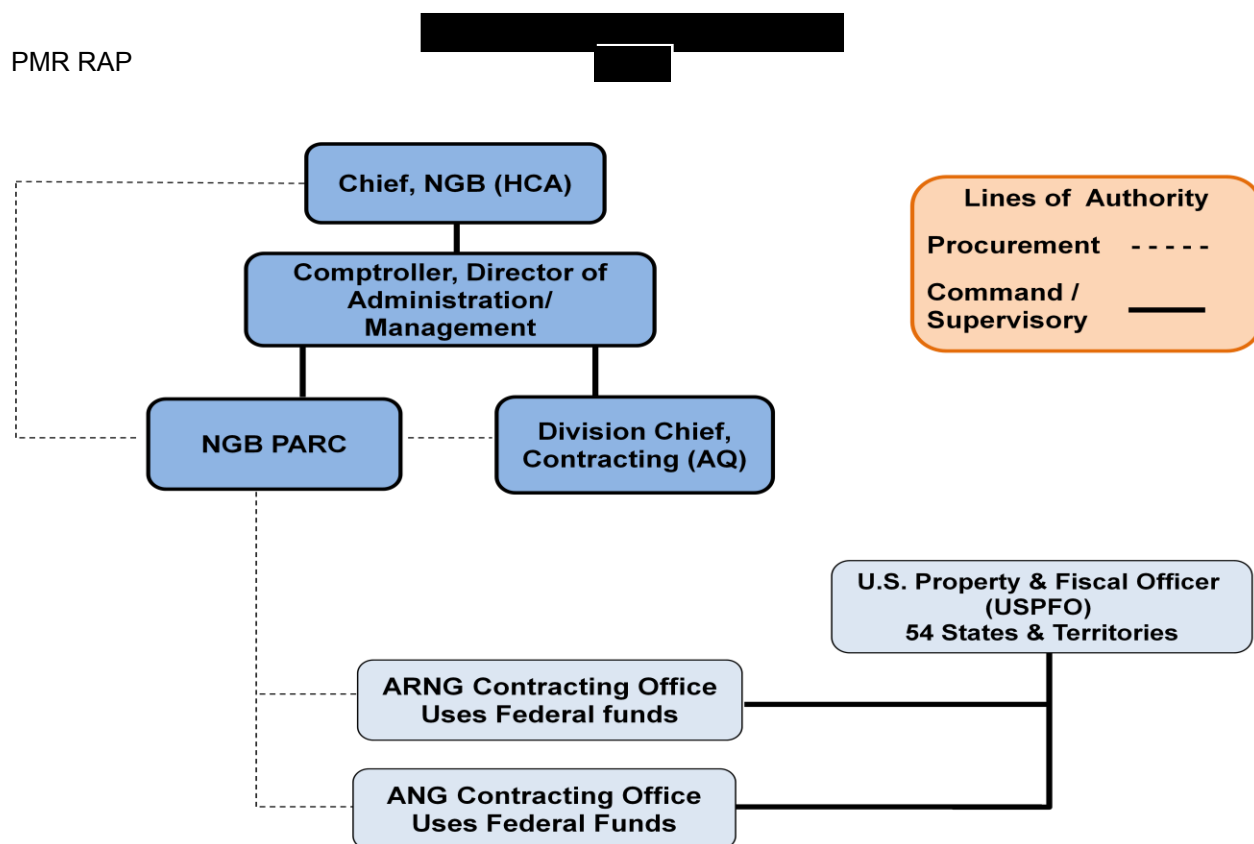
The following diagram illustrates a typical Army contracting organizational structure.



NGB Organizational Structure:

The current NGB organizational structure is not conducive to proper oversight of the contract function and appropriate management controls. The NGB PARC does not report directly to the HCA, nor does the NGB Contracting Office (AQ) report directly to the PARC. Instead, the NGB PARC and NGB Contracting Office (AQ) report independently of one another to the NGB Comptroller/Director of Administration and Management (C/DAM). This represents a breakdown in the procurement authority chain of command, as the HCA should have direct oversight of both the PARC office and the Contracting Office (AQ).

The diagram below further illustrates the current NGB structure, as well as the current flow of procurement authority and command/supervisory authority.



Under the current structure, the NGB Contracting Office (AQ) reports to the NGB C/DAM which presents an Organizational Conflict of Interest issue. In accordance with AFARS 5101.602-1, the office of the contracting officer must be organizationally situated to minimize any potential for undue influence and protect contract officers from intra-organizational pressure to perform improper acts. Interviews with NGB personnel confirmed the NGB C/DAM position provides strategic level oversight for the budgeting process, and acts as a special assistant to the Chief, NGB. Pressure to execute budgeted dollars may negatively impact and/or influence the contracting officer. Therefore, the NGB Contracting Office (AQ) should be aligned as a subordinate reporting activity to the NGB PARC. This restructuring would properly align the procurement authority and provide direct responsibility for oversight.

The NGB PARC office also lacks oversight of the contracting workforce at the state-level, based on this inappropriate chain of command. The NG Contracting Offices across the 50 States and four Territories report to the United States Property and Fiscal Officer (USPFO) in those states and territories, which also presents an Organizational Conflict of Interest issue. The NGB PARC issued the contracting officer warrants and is charged with oversight of the state-level contracting process (as it relates to the award of federal funds). This responsibility encompasses oversight of over six hundred contracting officer warrants issued throughout the NGB and NG state-level offices. Therefore, the NG Contracting Offices should be aligned as a subordinate reporting activity to the NGB PARC. Again, this restructuring would properly align the procurement authority and provide direct responsibility for oversight.

OVERSIGHT OF THE CONTRACT FUNCTION

The PARC office is not adequately staffed to perform the necessary oversight of the contracting function. Typical functions of the PARC office include implementing policy and conducting reviews of procurement actions that at a minimum, require approval by the PARC or some higher entity (such as the HCA or DASA(P)). The PARC office should provide oversight of the contracting function through periodic reviews of contract files. As previously discussed in this report, the PARC office was not actively participating in acquisition planning or executing any management controls to identify and correct weaknesses found within the contracting operations.

Interviews with NGB personnel confirmed the lack of current, internal implementation guidance distributed by the NGB PARC office to the NGB Contracting Office (AQ) or USPFO contracting offices. This guidance would serve as another mechanism for oversight within the contracting function and would allow for a standardized method of contracting.

In addition, the PMR Team could not identify any methods established by the NGB PARC office for sharing information (policies, procedures, etc.) across the National Guard – to include the 54 States and Territories. These methods could include a web-based capability, such as SharePoint.

National Guard FAR Supplement (NGFARS):

The NGB PARC office created the NGFARS; however, AFARS 5101.304 strictly forbids any supplementation of the FAR, beyond the AFARS. The AFARS implements and supplements the FAR, the DFARS and the DFARS Procedures, Guidance and Information (PGI) to establish uniform policies for Army acquisition.

HCAs may issue acquisition instructions as necessary, but must ensure that all contracting activity acquisition instructions are in compliance with the FAR, DFARS, DFARS PGI and AFARS. In addition, the HCA must ensure these instructions do not restrict the exercise of good business judgment or stifle innovation. Acquisition instructions establish organization-specific procedures that provide internal guidance, including assignments of authority and responsibilities, work-flow procedures, and internal reporting requirements. These procedures are necessary to ensure certain practices are consistent throughout the organization.

While the NGFARS calls itself acquisition instructions, this issue falls beyond the semantics of a document title. The PMR Team identified several instances of actions delegated to review levels beyond the intended scope.

As previously discussed, AFARS 5137.590-6(a)(2) states that Army Service Strategy Panels shall be conducted for service acquisitions as follows:

- Army Service Strategy Panels conducted by the HCA – total planned value of \$250M or more, but less than \$500M; must establish requirements / procedures to govern the process;

Conversely, the NGFARS states that Army Service Strategy Panels shall be conducted for service acquisitions as follows:

- National Guard Service Strategy Panels conducted by the NGB HCA or designee PARC – total planned value of \$100M or more, and less than \$500M; the Panel chairperson has the authority to waive the National Guard Service Strategy Panel requirement (chairperson designated as HCA, PARC or designee);

While not strictly prohibited by the AFARS, delegation below prescribed levels is inconsistent with policies and procedures at other Army PARC offices. [Note: The DASA(P) acknowledges the AFARS prescription requires modification to clarify this authority is non-delegable.]

The NGFARS delegation does not reflect the importance of leadership oversight and involvement in services acquisitions, which further illustrates that NGB Leadership does not value the importance of the contracting function. In addition, the NGFARS does not establish criteria to waive the National Guard Service Strategy Panel requirement, nor does it establish requirements / procedures to govern the Panel process at the HCA approval level, as dictated by the AFARS. The acquisition team should focus on the importance of developing and maintaining sound acquisition strategies to ensure services are properly planned, based upon clear, performance-based requirements and acquired by sound business practices. Priorities established by senior functional principles, such as the HCA, shall ensure accountability and maximize credibility in cost, schedule and performance (AFARS 5137.590-1).

Another example surrounds the designation of the Source Selection Authority in the source selection process. AFARS 5115.000 states that all Army personnel shall use the Army Source Selection Manual when conducting competitive source selections. The Army Source Selection Manual states:

- Solicitations with a dollar value in excess of \$50M will have the Source Selection Authority designated at a level above the contracting officer.

Whereas the NGFARS prescribes the following scope as a blanket policy for all source selections:

- It is the policy of the NGB PARC that the source selection authority for any source selection conducted in accordance with authority of FAR, DFARS, and AFARS Part 15, should be a warranted contracting officer.

This policy limits the pool of potential Source Selection Authority candidates to only those individuals with a warrant, which may not be in the best interest of the government. This statement could be misconstrued by contracting officers that the Army Source Selection Manual's \$50M threshold does not apply to NGB source selections. Sound business judgment indicates the designation level of the Source Selection Authority should be tiered in accordance with the level of complexity of the source selection.

The NGFARS source selection instruction later clarifies this Source Selection Authority designation policy by referencing the Army Source Selection Manual:

- In accordance with Army Source Selection Manual (February 2007) page 5, Key Components of the Source Selection Organization, a contracting officer with a warrant sufficient for size of action (up to ceiling of \$50M) will be the Source Selection Authority. The PARC will designate the Source Selection Authority for source selection actions greater than \$50M.

Although the NGFARS finally provides the current Army threshold for Source Selection Authority designation, this entry contradicts the initial general policy (citing the Source Selection Authority as a warranted contracting officer). Again, the discrepancy between the entries may confuse contracting officers and lead to inaccurate application of Army source selection procedures.

Interviews with NGB personnel further confirmed the NGFARS contains a very complex sequence of dollar thresholds and governing review authority, leading to confusion among the NGB Contracting Office (AQ). For example, the NGFARS 1.103 states:

- Department of Air Force contracting regulations do not apply to Air National Guard contracts or contracting offices. Air National Guard contracting offices may voluntarily follow or use as guidance Department of Air Force contracting regulations.

In accordance with Army Regulation 130-5, "Organization and Functions of National Guard Bureau," Chapter 2-3 states the NGB is governed by Army regulations and Air Force instruction. These regulations are based on Army policies fully coordinated with HQDA, approved by the Chief of Staff, U.S. Army, and issued by order of the Secretary of the Army. Thus, procurement authority (and subsequent contracting officer warrants) for the NGB, USPFOs and the various units flows through Army channels. As a result, all Army-warranted contracting officers should follow HQDA-approved contracting processes and procedures.

Command-level PMR:

Another valuable oversight tool includes the PMR program. In accordance with AFARS Appendix CC-304, the HCA (and/or PARC on behalf of the HCA) shall execute the Army PMR program under the direction of the DASA(P) to ensure fulfillment of HCA responsibilities for a responsive and cost-effective contracting system, and review contracting compliance with FAR/DFARS/AFARS, Command Supplements, and DA Policy. PMRs measure effectiveness and compliance with procurement laws, regulations, policies and best practices at the contract execution level. On an annual basis, the PARC office shall provide to DASA(P) copies of all PMR reports and associated analyses of subordinate contracting offices. The NGB PARC office could not produce, and the Office of the DASA(P) did not receive, copies of any NGB PMR report or associated analyses of subordinate contracting offices. Interviews with NGB personnel indicate the reduction of PMRs completed in FY12 is due to limited funding

and staffing shortfalls. In FY13, NGB intends to conduct approximately 20 PMRs in various states; however, this schedule is contingent upon an increase in funds and personnel.

PROCUREMENT MANAGEMENT REVIEW CONCLUSION

The findings discovered during the PMR support the statement that, from requirements definition through contract invoicing, there was a general breakdown in sound business processes, and neither statutory, regulatory nor policy requirements were followed.

While this breakdown in oversight and accountability occurred at all levels throughout NGB within the procurement chain of command, ultimately the responsibility for the integrity of the contracting function rests with the HCA and PARC. By virtue of the organizational structure created by NGB, the NGB Comptroller/Director of Administration and Management is likewise accountable since the PARC and Contracting Office (AQ) reported directly to the individual in this position, and not directly to the HCA as required by regulation.

Acquisition planning activities should integrate the efforts of all personnel responsible for significant aspects of the acquisition, to include the customer, contracting personnel, and legal counsel. Sound acquisition planning is important to establish a strong foundation for successful outcomes when acquiring services, as it helps clearly define requirements and estimate costs.

Requirements must be written so that the government's needs are clearly stated. To enable accurate contract completion and payments, requirement documents and contracts must define clear requirements that reflect supplies and services acquired. Each contract line item must describe the products or services to be delivered in a quantity and unit of measure that relates to actual deliveries or contract performance completion.

Additionally, the contracting office needs to be vigilant in acquiring goods and services through competitive means. This will require an appropriate level of acquisition strategy and planning for the complexity of what is being acquired. When surveying the market, both the customer and the contracting office must pay attention to any barriers to competition. Competition should be maximized to the fullest extent.

Contract administration is the responsibility of the contracting officer. Any CORs performing contract surveillance must have the limits of their authority delineated in writing. The contracting officer is the only individual authorized to make changes to the contract, and must be actively involved in contract surveillance through correspondence and meetings with the designated COR. As the reliance on service contracts continues to grow, both the contracting communities and the requiring activities must improve contract administration and increase surveillance to ensure that customers are satisfied in terms of cost, quality, and timeliness.

RECOMMENDATIONS

During the USAAA audit of the Reserve Components RAPs, the NGB suspended the G-RAP program on 23 January 2012. Since G-RAP is no longer an active contract, the ASA(ALT) recommendations will not address contract-specific corrective actions. Instead, the recommendations serve to further identify the systemic organizational weaknesses and establish opportunities for continuous improvement.

Recommendation 1:

Direct the ASA(ALT) to establish an Integrated Project Team (IPT), led by the Office of the DASA(P)'s HCA/PARC Operations Director. Membership should include: ASA(Manpower & Reserve Affairs) and NGB Senior Leadership.

IPT serves to develop an organizational construct that will affect proper oversight and execution of the contracting function, and include at a minimum the following:

- 1) Proper placement of the HCA designation within the NGB organizational structure;
- 2) Establish SES-level PARC position based on commensurate responsibilities (currently GS-15/equivalent);
- 3) Direct reporting of PARC to HCA;
- 4) Direct reporting of NGB Contracting Office (AQ) and USPFOs to PARC;
- 5) Manpower review of staffing levels for all NGB and state-level offices;
- 6) Other areas as determined by the IPT.

Recommended changes shall be approved by the ASA(ALT) / DASA(P) prior to implementation.

If the NGB Senior Leadership cannot achieve an appropriate structure to effect proper oversight and execution of the contract function, the ASA(ALT) will pursue alternate means to execute contracts for NGB requirements, up to and including removal of HCA authority. Similar to the contracting support provided to the Installation Management Command by the Mission and Installation Contracting Command, the Army has the capability to execute NGB requirements in the absence of HCA authority.

Recommendation 2:

Direct the NGB PARC office to abolish the NGFARS and develop NGB-specific acquisition instructions and standard operating procedures for contracting operations.

These documents should provide internal guidance, including assignments of authority and responsibilities, work-flow procedures, and internal reporting requirements. These procedures are necessary to ensure certain practices are consistent throughout the organization.

Any such guidance shall be evaluated and approved by the Office of the DASA(P) prior to implementation.

Recommendation 3:

Direct the DASA(P) to conduct a follow-on formal PMR in 1st Quarter FY13.

PMR findings indicate that G-RAP contract deficiencies may be systemic throughout NGB and state-level contracting offices. The recommended follow-on NGB PMR will analyze effectiveness / compliance with procurement laws, regulations, policies, and best practices at the contract execution level. Current improvements in contracting policies and procedures will be addressed.

DASA(P) will require NGB to submit a corrective action plan in response to the PMR findings. This plan will address the PMR findings and recommendations, and provide a schedule for the implementation of proposed recommendations.

[Note: ODASA(P) conducted the recommended follow-on NGB PMR 27 November – 7 December 2012.]

Recommendation 4:

Direct the NGB to take all actions necessary to address the findings and systemic weaknesses identified in this report, and provide the DASA(P) with a corrective action plan. This plan will provide a schedule for the implementation of proposed corrective actions.

APPENDIX – ACRONYMS AND ABBREVIATIONS

Acquisition Career Record Brief	ACRB
Active Army RAP	A-RAP
Army Acquisition, Logistics and Technology	AT&L
Army FAR Supplement	AFARS
Army National Guard RAP	G-RAP
Army Strength Maintenance	ASM
Assistant Secretary of the Army (Acquisition, Logistics and Technology)	ASA(ALT)
Competition in Contracting Act of 1984	CICA
Comptroller/Director of Administration and Management	C/DAM
Continuous Learning Point	CLP
Contracting Officer's Representative	COR
Criminal Investigation Command	CID
Defense Acquisition Workforce Improvement Act	DAWIA
Defense FAR Supplement	DFARS
Department of Defense	DoD
Deputy Assistant Secretary of the Army (Procurement)	DASA(P)
District of Columbia	D.C.
Document and Packaging, Incorporated	DOCUPAK
Federal Acquisition Regulation	FAR
Fiscal Year	FY
Head of the Contracting Activity	HCA
Headquarters Department of the Army	HQDA

Indefinite-Delivery Indefinite-Quantity	IDIQ
Integrated Project Team	IPT
Justifications and Approval	J&A
Mission and Installation Contracting Command	MICC
National Guard	NG
National Guard Bureau	NGB
National Guard FAR Supplement	NGFARS
North American Industry Classification System	NAICS
Office of Federal Procurement Policy	OFPP
Principal Assistant Responsible for Contracting	PARC
Procedures, Guidance and Information	PGI
Procurement Management Review	PMR
Quality Assurance Surveillance Plan	QASP
Recruiting Assistants	RA
Recruiting Assistance Program	RAP
Senior Executive Service	SES
The Inspector General	TIG
U.S. Army Audit Agency	USAAA
U.S. Army Recruiting Command	USAREC
U.S. Army Reserve RAP	AR-RAP
United States Property and Fiscal Officer	USPFO