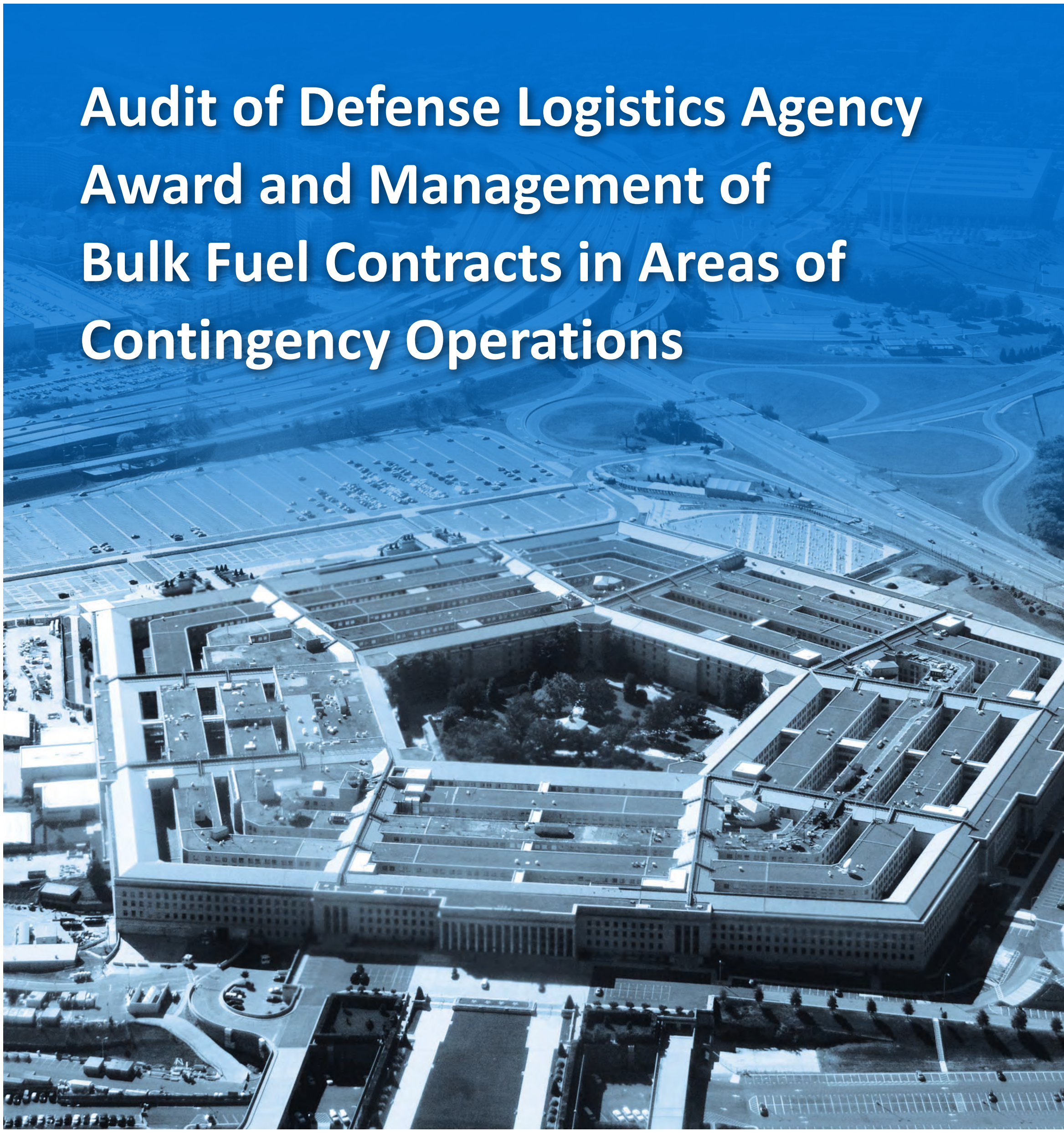
Report No. DODIG-2021-129

INSPECTOR GENERAL

U.S. Department of Defense

SEPTEMBER 23, 2021

Audit of Defense Logistics Agency Award and Management of Bulk Fuel Contracts in Areas of Contingency Operations



INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE

INSPECTOR GENERAL

INTEGRITY EFFICIENCY

DEPARTMENT OF DEFENSE

Results in Brief

Audit of Defense Logistics Agency Award and Management of Bulk Fuel Contracts in Areas of Contingency Operations

September 23, 2021

Objective

The objective of this audit was to determine whether Defense Logistics Agency (DLA) Energy personnel awarded bulk fuel contracts and met bulk fuel requirements, in areas of contingency operations, as required by Federal and DoD guidance. In addition, we determined whether the DLA had processes in place to ensure contractors met contractual obligations and followed anticorruption practices.

Background

This audit was conducted in response to House Report 116-442, requiring that the Office of Inspector General brief the House Armed Services Committee on fuels contracting in areas of contingency operations. The committee report required:

- a list of solicitations and awards greater than $250,000 for fuel in areas of contingency operations, issued since January 1, 2016;
- an assessment of whether the DLA successfully fulfilled the requirements; and
- an assessment of whether the DLA has an adequate system in place to ensure contractors are meeting obligations and abide by required anticorruption practices.

DLA Energy provides worldwide acquisition and management of commercial fuels delivered directly to military and Federal customers. This includes the procurement of aviation fuel at commercial airports; commercial ship fuel at seaports; and diesel, gasoline, and bio-based products at posts, camps, and stations.

Background (cont'd)

From January 1, 2016, through September 30, 2020, DLA Energy personnel issued 68 contracts and purchase orders, which resulted in 4,012 contract actions (orders) for bulk fuel in support of overseas contingency operations, with exercised obligations valued at $3.3 billion. We completed a statistical sample of the 4,012 orders and reviewed 180 orders, valued at $212.9 million.

Finding

DLA Energy contracting officials complied with Federal Acquisition Regulation and DoD guidance and generally met bulk fuel requirements, valued at $212.9 million, in Afghanistan, Bahrain, Iraq, Jordan, Kuwait, the Philippines, Turkey, Qatar, and the United Arab Emirates. DLA Energy officials ensured contractors fulfilled bulk fuel requirements for 164 of the 180 orders reviewed.

DLA Energy contracting officers terminated 26 of 180 orders within 11 of 68 contracts in the universe, which cost the DoD an additional $9.1 million for the new bulk fuel contracts due to price increases and other costs, in addition to the time needed to award the new contracts.[1] In addition, one termination resulted in a cost savings of $2.7 million due to a lower price per gallon on the replacement contract.

Due to the frequency and nature of terminations in Iraq, based on the results of the sample testing related to order terminations, we expanded our review to include an analysis of an additional 36 terminated Iraq contracts.[2] The 2 terminated contracts from the original sample and the 36 contract terminations from our expanded analysis cost the DoD an additional $7.1 million and $43.3 million, respectively, due to price increases based on the original

[1] Other costs included contractor purchased fuel that could not be resold at the price DLA Energy negotiated for originally or costs associated with storing the fuel before resale. We determined the additional cost based on the difference in the original contract value and the replacement contract value and any associated claims with the original contract.

[2] Since we identified issues with 10 of 15 Iraq contract actions in the original sample, we reviewed an additional 36 Iraq contracts.

Finding (cont'd)

and replacement contract values and other costs.[3] DLA Energy contracting officials faced challenges, which were outside of their control, when fulfilling fuel requirements in Iraq. First, contractors faced restrictions from the Iraqi government to include Prime Minister's National Operations Center approval and Oil Products Distribution Center allocations for exclusive purchasing of fuel. Second, the DoD encountered force protection risks. Although outside of the contracting officers' control, these challenges impacted bulk fuel deliveries. However, as a result of the contracting officers' actions, using one-time buys and the appropriate authorities necessary to deliver fuel on time, DoD customers received the fuel necessary to meet mission requirements.

Additionally, DLA Energy had an adequate system in place to ensure its fuel contractors met contractual obligations and abided by anticorruption practices.

Although DLA Energy contracting officers generally met bulk fuel requirements, contracting officers can use various source selection methods to obtain fuel in areas of contingency operations. The lowest price technically acceptable source selection process is appropriate when the expectation is the best value. However, in areas of contingency operations, the best value may require an evaluation of factors other than lowest price and technically acceptable.

DLA Energy contracting officials met bulk fuel requirements for 164 orders, and fuel was delivered on time at the lowest price to meet mission needs. For the remaining 16 orders, DLA Energy officials ultimately ensured DoD customers received the fuel needed to meet mission needs. However, to fulfill the bulk fuel requirement, DLA Energy officials needed to use one-time buys that resulted in late deliveries and at an additional cost to the DoD.

[3] DLA Energy officials stated no funds were disbursed for the terminated contracts for nonperformance.

Recommendation

We recommend that the Commander of Defense Logistics Agency-Energy direct contracting officers to consider a tradeoff source selection, and consider using past performance evaluation factors, in addition to other factors such as cost or price, for bulk fuel purchases in areas of overseas contingency operations.

Management Comments and Our Response

The Director, DLA Acquisition, responding for the Commander of DLA Energy, agreed with the recommendation and stated that the DLA Energy Commander will ensure contracting officers consider the circumstances of each acquisition, including whether the acquisition is in an area of contingency operations, when determining whether to use lowest price technically acceptable source selection procedures. DLA Energy officials issued a directive to the procurement workforce requiring the use of tradeoff utilization and past performance evaluation factors in areas of contingency operations on September 2, 2021. Therefore, the recommendation is closed.

Recommendation Table

Management	Recommendation Unresolved	Recommendation Resolved	Recommendation Closed
Commander, Defense Logistics Agency-Energy			1

Note: The following categories are used to describe agency management's comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – OIG verified that the agreed upon corrective actions were implemented.

INSPECTOR GENERAL

INTEGRITY EFFICIENCY

DEPARTMENT OF DEFENSE

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

September 23, 2021

MEMORANDUM FOR COMMANDER, DEFENSE LOGISTICS AGENCY-ENERGY

SUBJECT: Audit of the Defense Logistics Agency Award and Management of Bulk Fuel Contracts in Areas of Contingency Operations (Report No. DODIG-2021-129)

This final report provides the results of the DoD Office of Inspector General's audit. We previously provided copies of the draft report and requested written comments on the recommendation. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

The Director, Defense Logistics Agency Acquisition, responding for the Commander of the Defense Logistics Agency Energy addressed the recommendation presented in the report; therefore, we consider the recommendation closed.

We appreciate the cooperation and assistance received during the audit. If you have any questions or would like to meet to discuss the audit, please contact me at [redacted].

Theresa S. Hull
Assistant Inspector General for Audit
Acquisition, Contracting, and Sustainment

Contents

Introduction

Objective

The objective of this audit was to determine whether Defense Logistics Agency (DLA) Energy personnel awarded bulk fuel contracts and met bulk fuel requirements, in areas of contingency operations, as required by Federal and DoD guidance.[4] In addition, we determined whether the DLA had processes in place to ensure contractors met contractual obligations and followed anticorruption practices. See Appendix A for the audit scope and methodology and prior audit coverage related to the audit objective.

Background

This audit was conducted in response House Report 116-442 which required that the DoD Office of Inspector General brief the House Armed Services Committee (HASC) on fuels contracting in areas of contingency operations.

> The committee is interested in the Department of Defense's use of lowest price technically acceptable source selection criteria for fuel purchases. The committee recognizes that contingency operations present unique challenges and require specialized skills. Therefore, the committee directs the Department of Defense Inspector General to brief the House Committee on Armed Services by March 1, 2021 on the following:
>
> (1) A list of all solicitations and awards greater than $250,000 for fuel in all areas of contingency operations issued since January 1, 2016, including method of source selection, authorities used, and the estimated value of the awarded contracts;
>
> (2) An assessment of whether the awardees successfully fulfilled the requirements of such contract and corrective actions taken by the Defense Logistics Agency if the contracts were not successfully fulfilled; and
>
> (3) An assessment of whether the Defense Logistics Agency's has an adequate system in place to conduct due diligence to ensure its fuel contractors and subcontractors are meeting contractual obligations and abide by required anticorruption practices.

To meet the HASC requirement, we provided HASC staff a briefing on the scope and methodology of our audit on March 1, 2021, and committed to share our findings and recommendations once we completed the audit.

[4] Bulk petroleum requirements are the acquisition, transportation, and storage of fuel, greater than 208 liters. Providing forces the right fuel, at the right place, at the right time is a key logistics consideration.

Defense Logistics Agency

As the Nation's combat logistics support agency, the DLA manages the global supply chain – from raw materials to end user to disposition – for the Army, Marine Corps, Navy, Air Force, Space Force, Coast Guard, 11 combatant commands, other Federal agencies, and partner and allied nations. DLA Energy manages the supply chain for petroleum and lubrication products, alternative fuel/renewable energy, and aerospace energy; and provides fuel quality/technical support, fuel card programs, and installation energy services. DLA Energy supplies 100 percent of the military's fuel and supports 2,190 posts in 93 countries.

DLA Energy provides worldwide acquisition and management of commercial fuels delivered directly to military and Federal customers. This includes the procurement of aviation fuel at commercial airports; commercial ship fuel at seaports; and diesel, gasoline, and bio-based products at posts, camps, and stations worldwide. DLA Energy supports regular DoD fuel requirements and short-notice fuel delivery to the warfighter for worldwide contingency operations and humanitarian relief efforts, and provides the full range of contract administration activities and support.

DLA Energy Fuel Contracts

DLA Energy contracting officers award fuel contracts as indefinite delivery or purchase orders. Under an indefinite delivery contract for requirements, the DoD acquires supplies during a specific contract period, with deliveries scheduled by placing orders with the contractor. A purchase order is an offer by the DoD to buy supplies or services, with specified terms and conditions, using simplified acquisition procedures.[5] All orders are firm fixed price or fixed price with economic adjustment.[6] The fuel contracts generally included a contract-allowed variance of 10 percent between the total quantity ordered and total received or delivered. This variance is added to contracts because the amount of fuel that is delivered to a location may not be the exact quantity in the contract. The contracts also state the quality specifications the fuel must meet.

---

[5] Federal Acquisition Regulation (FAR) Subpart 2.101, "Definitions," states that simplified acquisition procedures are used for purchases of supplies or services under $1.5 million, outside the United States. FAR Subpart 13.002, "Purpose," states that the simplified acquisition procedures promote efficiency and economy in contracting and avoid unnecessary burden for agencies and contractors.

[6] FAR Subpart 16.202-1, "Description" of firm-fixed-price contracts states that a firm fixed price contract sets a price that is not subject to any adjustment on the basis of contractor's cost experience in performing the contract. This contract type places risk and responsibility for all costs and resulting profit or loss on the contractor. It provides maximum incentive for the contractor to control costs and imposes a minimum administrative burden on the contracting parties. FAR Subpart 16.203-1, "Description" of fixed-price contracts with economic price adjustment states that a fixed price with economic adjustment contract provides for upward and downward revision of the stated contract price as a result of specified contingencies. Economic price adjustments are based on established prices, actual costs of labor or material, or cost indexes of labor or material.

Contracting Policies and Procedures

There are two DLA policies related to the award and management of contracts. The Defense Logistics Acquisition Directive is the DLA policy related to acquisition planning, contracting methods and contract types, socioeconomic programs, general contracting requirements, special categories of contracting, contract management, and contract clauses and forms.[7] The DLA Energy Procurement Instruction supplements the Federal Acquisition Regulation (FAR), Defense FAR Supplement, Defense Logistics Acquisition Directive, and other DoD publications.[8] The DLA Energy Procurement Instruction establishes procedures and delegates authority governing the acquisition of supplies and services provided by the DLA Energy. The DLA Energy Procurement Instruction is published under the authority of FAR Subpart 1.301 and contains instructions necessary for contracting by DLA Energy.[9]

For commercial item contracts awarded using FAR Part 12 procedures, the FAR states there are two types of contract terminations – for convenience and for cause.[10] The Government reserves the right to terminate a contract, or any part, when it is in the Government's interest, for convenience. Although orders obligate the Government to accept the product, suppliers may cooperate when unexpected circumstances delay or prevent acceptance of scheduled deliveries. The DLA Energy regional office notifies the contracting officer when termination for convenience by the Government is the only alternative when unexpected circumstances arise.[11] After termination, the contractor should submit a final termination settlement proposal to the contracting officer. The contractor and the contracting officer negotiate an amount to be paid for the termination, which may include a reasonable allowance for profit on work done. The Government may also terminate a contract, or any part, for cause. Contracting officials may terminate a contract for cause in the event the contractor:

- defaults,
- fails to comply with any contract terms and conditions, or
- fails to provide the Government, upon request, with adequate assurances of future performance.

[7] Defense Logistics Acquisition Directive, Revision 5, June 25, 2020.
[8] DLA Energy Procurement Instruction, October 2015 and July 2020.
[9] FAR Subpart 1.301, "Policy."
[10] FAR Subpart 12.403, "Termination."
[11] DoD Manual 4140.25-V12,"DoD Management of Energy Commodities: Defense Fuel Support Point (DFSP) Inventory Ordering, Receipts, and Shipments," March 2, 2018, Incorporating Change 2, April 4, 2019.

After issuance of the notice of termination for cause, or a subsequent withdrawal or a conversion to a termination for convenience, the contracting officer shall provide the termination data to DLA Energy-Procurement Planning Branch within 1 day.[12]

Lowest Price Technically Acceptable Source Selection

The FAR states that the lowest price technically acceptable source selection process is appropriate when contracting officials expect best value will result from selection of the technically acceptable proposal with the lowest evaluated price.[13] Additionally, the evaluation factors and significant subfactors that establish the requirements of acceptability shall be set forth in the solicitation. Solicitations shall specify that contracting officials will award based on the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors.

The increased use of lowest price technically acceptable source selection began in FY 2010 when the DoD introduced the Better Buying Power initiative, to ensure affordability and increased productivity in defense spending and to deliver better value to the taxpayer and the DoD. This is achieved through increasing competition, eliminating unnecessary processes, and controlling costs. In November 2018, the Government Accountability Office reported that, in FY 2017, contracting officials competitively awarded an estimated 26 percent of the DoD's contracts and orders valued at, or above, $5 million using lowest price technically acceptable processes.[14]

The National Defense Authorization Act for FYs 2017 and 2018 introduced restrictions on the use of lowest price technically acceptable source selection for the DoD. Specifically, the FY 2017 National Defense Authorization Act stated, "it shall be the policy of the Department of Defense to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Department the benefits of cost and technical tradeoffs in the source selection process." The FY 2017 National Defense Authorization Act also required the revision of Defense Federal Acquisition Regulation Supplement to add specific criteria permitting the use of lowest price technically acceptable source selection and the required documentation. The FY 2018 National Defense Authorization Act further restricted the use of lowest price technically acceptable source selection,

---

[12] DLA Energy Procurement Instruction, October 2015.

[13] FAR Subpart 15.101-2, "Lowest Price Technically Acceptable Source Selection Process."

[14] Government Accountability Office Report No. GAO 19-54, "Defense Contracting: DoD Should Clarify for Using Lowest Price Technically Acceptable Process," November 2018.

while adding two additional source selection criteria to include contracts for procurement of goods that are predominantly expendable in nature, nontechnical, or have a short life expectancy or short shelf life.

DLA personnel stated that fuel contracts are generally awarded using lowest price technically acceptable source selection, as fuel is a commercial commodity and there is no benefit to exceeding the standard specifications. Once the specifications are met, DLA personnel award the fuel contracts to the lowest acceptable bidder, obtaining the best value for the DoD.

Overseas Contingency Operations

According to section 101(a)(13), title 10, United States Code, a contingency operation is a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force. Contingency operations also include deploying active duty members of the military during a war or a national emergency declared by the President or Congress. See Table 1 for the unclassified overseas contingency operations in Southwest Asia and the Philippines from FY 2016 to FY 2020.

Table 1. Overseas Contingency Operations

Operation	Countries	Years
Operation Freedom's Sentinel	Afghanistan	2015 – current
Operation Inherent Resolve	Iraq and Syria	2014 – current
Operation Pacific Eagle	The Philippines	2017 – 2019

Source: The DoD OIG.

Procedures for Fuel in Iraq

Fuel contracted for delivery in Iraq is a complex and time-consuming process because the Iraqi government does not allow imports of non-Iraqi fuel into Iraq. Contractors must procure fuel from the Iraqi government. After DLA Energy issues the order for the fuel, contractors source all fuel types through the Oil Products Distribution Center (OPDC) with monthly fuel allocations that the Iraqi Ministry of Oil must approve. The process starts with the U.S. Embassy Logistics Management Center receiving contractor requests by the 12th of each month for a delivery beginning at the start of the next month. The U.S. Embassy Logistics Management Center processes these allocation requests and submits the requests to the Prime Minister's National Operations Center (PMNOC) by the 15th of each month. The PMNOC processes requests and submits them to the OPDC, as the primary source of fuel throughout Iraq, for approval by the end each month. Contractors receive their approved OPDC allocations on the 5th day of the next month. The contractor can then submit their PMNOC request to move fuel. The PMNOC approval process normally takes 3 to 5 days. The U.S Embassy Logistics Management Center must receive the PMNOC memo, the tax clearance letter, driver's detail form for any drivers on the delivery, and driver and vehicle documents, to issue an approval letter.

The contractor must provide the U.S. Embassy Logistics Management Center a tax clearance letter from the Iraq Tax Office. Contractors submit tax clearance requests monthly for one-time buys or annually for long-term contracts based on their contract with DLA Energy. The Iraqi Ministry of Finance provides the tax clearance letter once they confirm contractors have paid all taxes. The Iraqi Ministry of Finance will then send the tax clearance letter to the PMNOC office. This process takes 1 to 4 weeks to complete.

With an approved PMNOC authorization letter, contractors are authorized to move a fixed amount of fuel, during a set period of performance (typically within 21 to 30 days), using only authorized routes, to an approved location, with additional PMNOC approval for any deviations. Each delivery contract requires separate PMNOC approval. The PMNOC approval process is required for fuel transport throughout all of Iraq, except for Kurdish controlled areas. In Kurdish controlled areas, prior approval for base access is required. The typical approval period ranges from 21 to 30 days. Policies for obtaining base access do not currently exist outside of Kurdish controlled areas. Once the Iraqi government approves the movement of fuel during the set period of performance, the PMNOC issues the approval letter. The Iraqi government considers the approved letter issued by PMNOC as the final approval.

Source Selection Methods and Contract Actions Selected for Review

From January 1, 2016, through September 30, 2020, DLA Energy personnel issued 68 contracts and purchase orders, which resulted in 4,012 contract actions (orders) for bulk fuel in support of overseas contingency operations, with exercised obligations valued at \$3.3 billion in Afghanistan, Bahrain, Iraq, Jordan, Kuwait, the Philippines, Turkey, Qatar, and the United Arab Emirates.[15] DLA Energy contracting officers awarded 44 contacts using lowest price technically acceptable, 22 contracts as sole source, and 2 contracts using the performance price

[15] A contract action or order is a purchase order or delivery order under a long term contract.

tradeoff method.[16] See Table 2 for a summary of source selection methods and total exercised obligations. See Appendix B for a list of all contracts included in the universe, contract value, source selection, and authorities used.

Table 2. Summary of Source Selection Methods

Source Selection Method	Number of Contracts	Value of Exercised Obligations
Lowest Price Technically Acceptable	44	$937,013,710
Sole Source	22	2,024,365,439
Performance Price Tradeoff	2	336,157,998
Total	**68**	**$3,297,537,147**

Source: The DoD OIG.

We completed a statistical sample of the 4,012 orders and reviewed 180 orders, valued at $212.9 million. See Table 3 for countries and number of orders reviewed. See Appendix A for details on how we selected our sample.

Table 3. Countries and Number of Orders Reviewed

Country	Orders Reviewed	Value of Orders
Afghanistan	25	$7,892,744
Bahrain	20	122,935,488
Iraq	15	4,293,322
Jordan	15	129,500
Kuwait	20	57,039,490
The Philippines	15	141,312
Qatar	15	3,073,672
Turkey	30	425,181
United Arab Emirates	25	16,972,642
Total	**180**	**$212,903,351**

Source: The DoD OIG.

[16] The tradeoff process is a source selection method that permits tradeoffs among cost or price and non-cost factors and allows the Government to accept other than the lowest-priced proposal. The perceived benefits of the higher-priced proposal must merit the additional cost, and the rationale for tradeoffs must be documented in the file in accordance with FAR Subpart 15.406.

Due to the results of the sample testing related to order terminations, we expanded our review to include an analysis of all terminated contracts in our universe of 68 contracts. This resulted in 11 total contracts within our universe reviewed for termination. In addition, due to the results of the sample testing, we expanded our sample to review an additional 36 terminated Iraq contracts.

Review of Internal Controls

DoD Instruction 5010.40 requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls.[17] We identified an internal control weakness within DLA Energy's source selection in areas of contingency operations. DLA Energy contracting officials generally did not evaluate the risk of requirements not being met due to the contractor's past performance when developing source selection factors and determining the source selection method. We will provide a copy of the final report to the senior official responsible for internal controls in the Defense Logistics Agency.

[17] DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013.

Finding

DLA Energy Contracting Officials Ensured Successful Fulfillment of Bulk Fuel Requirements, but Faced Challenges With Deliveries in Iraq

DLA Energy contracting officials complied with FAR and DoD guidance and generally met bulk fuel requirements, valued at $212.9 million, in Afghanistan, Bahrain, Iraq, Jordan, Kuwait, the Philippines, Turkey, Qatar, and the United Arab Emirates. Of 180 orders, DLA Energy contracting officials ensured contractors fulfilled bulk fuel requirements for 164 orders, and did not receive the required amount of bulk fuel, or in the time required, for 16 orders.

DLA Energy contracting officers terminated 26 of 180 orders within 11 of 68 contracts in the universe, which cost the DoD an additional $9.1 million for the new bulk fuel contracts due to price increases and other costs, in addition to the time needed to award new contracts.[18] In addition, one termination resulted in a cost savings of $2.7 million due to a lower price per gallon on the replacement contract.

Due to the frequency and nature of terminations in Iraq, based on the results of the sample testing related to order terminations, we expanded our review to include an analysis of an additional 36 terminated Iraq contracts.[19] These 36 contract terminations resulted in a price increase of $43.3 million to the DoD based on the original and replacement contract values.[20] DLA Energy contracting officials faced challenges, which were outside of their control, when fulfilling bulk fuel requirements in Iraq. First, contractors faced restrictions from the Iraqi government including PMNOC and the OPDC approval for exclusive purchasing of fuel. Second, the DoD encountered force protection risks. Although outside of the contracting officers' control, these challenges impacted bulk fuel deliveries. As a result of the contracting officers' actions, using one-time buys and the appropriate authorities necessary to deliver fuel, DoD customers received the necessary fuel to meet mission requirements.

---

[18] Other costs included contractor purchased fuel that could not be resold at the price DLA Energy negotiated for originally or costs associated with storing the fuel before resale. We determined the additional cost based on the difference in the original contract value and the replacement contract value and any associated claims with the original contract.

[19] Since we identified issues with 10 of 15 Iraq contract actions in the original sample, we reviewed an additional 36 Iraq contracts.

[20] DLA Energy officials stated no funds were disbursed for the terminated contracts for nonperformance.

Additionally, DLA Energy had an adequate system in place to ensure its fuel contractors met contractual obligations and abided by anticorruption practices. Although DLA Energy contracting officers generally met bulk fuel requirements, contracting officers can use various source selection methods to obtain fuel in areas of contingency operations. The lowest price technically acceptable source selection process is appropriate when the expectation is the best value. However, in areas of contingency operations, the best value may require an evaluation of factors other than lowest price and technically acceptable. We identified that DLA Energy contracting officers used the lowest price technically acceptable source selection process for 14 of the 20 bulk fuel contracts we reviewed in Afghanistan and Iraq.

DLA Energy contracting officials met bulk fuel requirements for 164 orders, and fuel was delivered on time at the lowest price to meet mission needs.

DLA Energy contracting officials met bulk fuel requirements for 164 orders, and fuel was delivered on time at the lowest price to meet mission needs. For the remaining 16 orders, DLA Energy officials ultimately ensured that DoD customers received the fuel needed to meet mission needs. However, to fulfill the requirement, DLA Energy officials needed to use one-time buys that resulted in deliveries later than the date in the original contract and at an additional cost to the DoD.

DLA Energy Officials Generally Ensured Contractors Fulfilled Bulk Fuel Requirements

DLA Energy officials ensured contractor fulfillment of bulk fuel requirements for 164 of 180 orders in our sample in Afghanistan, Bahrain, Iraq, Jordan, Kuwait, the Philippines, Turkey, Qatar, and the United Arab Emirates. Specifically, DLA Energy officials:

- received fuel in the amount needed by the DoD customer in 171 of 180 orders; however, contracting officials did not ensure the contractor fulfilled bulk fuel requirements for 9 orders. In addition, DoD customers reported fuel received on the receiving reports and DLA Energy officials invoiced and paid the contractors for all contract actions, when applicable; and
- received the fuel in the required timeframe needed by the DoD customer in 173 of 180 orders.

DoD Customers Generally Received the Required Amount of Fuel

DLA Energy contracting officials ensured DoD customers received the required amount of fuel for 171 of 180 orders. DLA Energy contracting officers awarded contracts that met DoD customers' requests for bulk fuel orders based on requirements for the type and quantity of fuel, and the required date and location of delivery. When the fuel arrived at the destination, a quality assurance representative or receiving agent inspected and approved the quality and quantity of the received fuel. For example, on October 23, 2019, DLA Energy ordered 12,978,000 gallons of fuel from a contractor in Bahrain.[21] The contractor delivered 12,977,538 gallons on November 20, 2019, under shipment DLA1120. The DLA quality assurance representative received and accepted the fuel. Since the received amount was within the allowable 10 percent variance of the ordered amount, no contract modifications were required and requirements were met.

However, we found nine orders in our sample for which DoD customers did not receive the required amount of fuel. For example, a DLA Energy contracting officer placed an order for fuel in Afghanistan.[22] The contractor was a new contractor and had not sourced and received the required fuel to start the contract. Subsequently, the order was canceled as the vendor was unable to deliver the required fuel. DLA Energy contracting officers terminated the contract for cause. DLA Energy contracting officers fulfilled the fuel requirements with new contracts at an additional cost to the Government of $746,715.[23] Additionally, for seven orders, the required amount of fuel was not received, which resulted in terminations. These terminations will be discussed in the "U.S. Forces Enhanced Force Protection and Consolidated Presence on Fewer Bases" section of the report.

DLA Energy Contracting Officials Properly Reported Fuel Quantity Received in WAWF

DLA Energy contracting officials properly reported fuel received on receiving reports in Wide Area Work Flow (WAWF), or similar documentation, for all 180 orders, when applicable.[24, 25] Once a DoD customer inspected and approved a fuel delivery,

DLA Energy contracting officials properly reported fuel received on receiving reports in Wide Area Work Flow (WAWF), or similar documentation, for all 180 orders.

[21] The fuel was ordered on delivery order SPE602-20-F-F603, under contract SPE602-19-D-0451.

[22] The fuel was ordered on delivery order SPE605-18-F-LH97, under contract SPE605-18-D-9506.

[23] The fuel was ordered under contracts SPE605-18-D-9507, SPE605-19-P-9750, SPE605-19-P-9752, and SPE605-19-P-9759.

[24] Wide Area Workflow is a secure, web-based system for electronic contract invoicing, receipt, and acceptance.

[25] When a delivery was not made, there was no receiving report or invoice associated with that order.

delivery details such as the date of acceptance and quantity received were entered into WAWF under the specific delivery order number. A receiving report was generated by WAWF and was pre-populated with information from the existing delivery order in WAWF. The receiving report included the fuel unit price, as of the date the fuel was accepted by the customer, based on a market index price pulled from a commercial website that recalculates fuel prices on a moving average. The price information was available to both the contractor and DLA. The receiving report, or similar documentation, was reviewed against the contract for quantity of fuel received and the date received and approval by a DLA official, usually a quality assurance representative.[26] For example, a receiving report was created in WAWF for the 12,977,538 gallons of fuel.[27] The receiving report in WAWF identified the delivery date as November 20, 2019, and that the DLA quality assurance representative had inspected and received the fuel.

DLA Energy Contracting Officials Properly Paid Contractors for Fuel Received Using WAWF

DLA Energy contracting officials paid contractors amounts equal to the quantity of fuel received for all 180 orders, when applicable. Contractor invoices were generated in WAWF and were pre-populated with information from the existing delivery order in WAWF. Contractors have limited access to WAWF and are only able to initiate an invoice after fuel delivery. The contractor uploaded supporting documentation including the results of fuel quality testing. DLA payment officials reviewed and approved invoices before payment was made. For example, on November 27, 2019, invoice number P19888, for $23.3 million, was generated in WAWF.[28] The invoice specified that 12,977,538 gallons were delivered on November 20, 2019, and the contractor invoiced at $1.79 per gallon. The delivered quantity on the invoice matched the delivered quantity on the receiving report. The payment official accepted, processed, and paid the invoice as documented in WAWF.

DLA Energy contracting officials stated that WAWF does not allow invoices to process for quantities more or less than 10 percent of the delivery order quantity. If the variance exceeded 10 percent, a contract modification was created so the invoices could flow through WAWF. For example, on June 25, 2019, DLA energy ordered 2,000 gallons of fuel to be delivered in Qatar

---

[26] Some Turkey fuel orders did not have a corresponding receiving report in WAWF due to there not being an acceptor for that particular DoD Activity Address Code in the system. For these orders, we reviewed the Petroleum Daily Receipt Summary Sheet.

[27] The fuel was ordered under delivery order SPE602-20-F-F603 under shipment DLA 1120.

[28] The fuel was ordered under delivery order SPE602-20-F-F603 on the receiving report for DLA 1120.

on July 31, 2019.[29] On July 31, 2019, the contractor delivered 1,322 gallons and invoice number CSSPJUL1931 was generated in WAWF for the same quantity. The 10 percent quantity variance for the original order was 200 gallons but DoD needed 678 gallons less than originally ordered. Therefore, a DLA Energy contracting official issued a modification to the contract to reduce the quantity requirements to 1,332 gallons. The contractor was paid for the invoice in WAWF for the 1,332 gallons.

DoD Customers Generally Received the Required Fuel on Time

DLA Energy contracting officials ensured DoD customers received the required fuel within the required timeframe for 173 of 180 orders.[30] For example, on October 23, 2019, DLA Energy ordered fuel from a contractor in Bahrain to be delivered to Juffair, Bahrain, on November 20, 2019.[31] The contractor delivered fuel on November 20, 2019, the required delivery date.

Contractors did not deliver fuel within the period of performance for seven orders. Specifically, six fuel orders were delivered late and one order was received early. See Table 4 for the six orders received late.

Table 4. Orders Received Late

Number of Days	Orders
5 days late	1
7-10 days late	2
11-14 days late	2
1 month late	1
Total	**6**

Source: The DoD OIG.

The contractors delivered fuel between 5 days and 1 month late for six orders, and 5 days early for one order. For example, DLA Energy ordered fuel from a contractor in Turkey to be delivered to Incirlik Airbase, Turkey, on September 23, 2016.[32] The contractor delivered the correct amount of fuel on October 6, 2016, 13 days later than required; however, there was no documentation on why the delivery was late. If late deliveries resulted from poor performance, contracting officers could document this in the Contractor Performance Assessment Rating System or the contracting

[29] The fuel was ordered under delivery order SPE605-19-F-XA46, under contract SPE605-19-D-9552.

[30] The required timeframe is the period of performance for the contract. In consideration of performing in areas of overseas contingency operations, we used 3 days as a grace period when determining receipt of fuel.

[31] The fuel was ordered on delivery order SPE602-20-F-F603, under contract SPE602-19-D-0451.

[32] The fuel was ordered on delivery order 0012, under contract SPE600-16-D-9511.

officer could terminate the contract action. However, in areas of contingency operations, DLA Energy coordinated with contractors to fulfill the mission, even when late deliveries occurred.

A DLA Energy contracting officer stated that a fuel delivery arriving early was not an issue, unless a base did not have the capacity to store the fuel. In this case, the one instance of early delivery of fuel was not an issue.[33]

When DLA Energy contracting officials met requirements, fuel was within required quality standards and was delivered on time at the lowest price to meet mission needs. Additionally, DLA Energy officials ensured adequate oversight of contractor performance with adequate record keeping and documentation which helped ensure successful contract performance. This was evidenced by receiving reports documenting approval of fuel quantity and quality within required standards and invoices documenting approval of amount paid.

DLA Energy Contracting Officers Terminated Contracts and Orders For Reasons Outside DLA Energy's Control

DLA Energy contracting officers terminated 26 of 180 orders and 11 contracts within our universe, with a cost impact of $9.1 million, for reasons outside of DLA Energy contracting officials' control.[34] In addition, one termination resulted in a cost savings of $2.7 million due to a lower price per gallon on the replacement contract. See Table 5 for the number of terminations and cost impact in each country included in our sample. See Appendix C for a full list of terminated contract actions and the cost impact.

Table 5. Countries and Number of Terminations in Sample

Country	Contracts Terminated	Orders Terminated	Cost Savings	Cost Impact
Afghanistan	1	3	0	$746,715
Bahrain	2	2	$2,733,196	0
Iraq	2	10	0	7,096,049
Jordan	2	5	0	1,222,627
Qatar	0	1	0	0
Turkey	2	1	0	0
United Arab Emirates	2	4	0	0
Total	**11**	**26**	**$2,733,196**	**$9,065,391**

Source: The DoD OIG.

[33] The fuel was ordered on delivery order 0002, under contract SPE600-17-D-1005.

[34] The cost impact resulted from the additional costs DLA Energy officials paid to meet the initial fuel requirement by procuring from another vendor. This also included the one claim for termination submitted by a contractor.

Order Terminations

DLA Energy contracting officers terminated 26 orders. Of the 26 orders, DLA Energy contracting officers terminated 18 for administrative reasons, resulting in no additional costs to the DoD, and 8 for non-administrative reasons. The additional costs for the 8 non-administrative order terminations is included in the cost impact for the 11 terminated contracts, discussed in the next section.

Administrative Order Terminations

DLA Energy contracting officers terminated 18 of 26 orders for administrative reasons. Reasons for administrative terminations included applying an inappropriate funding code, closing of bases, or customers canceling fuel requests. For example, a DLA Energy contracting officer awarded an order using an incorrect funding code.[35] The contracting officer terminated the order and re-awarded the fuel order to the same vendor, at the same price per gallon. We did not identify any administrative terminations that resulted in additional cost to the DoD.

Non-Administrative Order Terminations

DLA Energy contracting officers terminated 8 of the 26 orders for non-administrative reasons.[36] Non-administrative reasons included the contractor losing base access and missed or delayed deliveries. For example, for a non-administrative termination in Afghanistan, the DLA Energy contracting officer sent a letter of concern to the contractor for missed or delayed deliveries while the contractor awaited the deliveries of fuel additives, or where fuel was not within the quantity specifications, or drivers were not vetted and ineligible to gain access to the installation.[37] When performance problems continued, the contracting officer issued a cure notice that outlined performance issues including missed deliveries and unresolved tax-exemption concerns with the Afghanistan Customs Department.[38] The contracting officer then issued a show cause notice stating that the contractor continued to miss required fuel deliveries, including not providing fuel deliveries for the majority of March 2019, resulting in DLA Energy officials

---

35 The fuel was ordered on delivery order SPE605-18-F-BP92, under contract SPE600-16-D-9509.

36 The cost impact for the eight terminated contract actions for non-administrative reasons is included in the cost impact of the $9,065,687 for the five terminated contracts as the terminated delivery orders are under those contracts.

37 The fuel was under contract SPE605-18-D-9506.

38 FAR Subpart 12.403(c) states that the contracting officer shall send a cure notice prior to terminating a contract for a reason other than late delivery. FAR Subpart 12.403(a) indicates that, even though FAR Part 49 provisions do not apply when terminating contracts for commercial items, a contracting officer may continue to use FAR Part 49 as guidance to the extent FAR Part 49 does not conflict with FAR Subpart 12.403 and FAR Subpart 52.212-4. FAR Subpart 49.607(a), “Cure notice,” states that if a contract is to be terminated for default before the delivery date, a "Cure Notice" is required by the Default clause and the period of "cure" must remain in the contract delivery schedule or any extension to it.

rapidly procuring fuel from other sources.[39] The DLA Energy contracting officer terminated this contract for cause. The termination cost the DoD an additional $746,715 due to the required rapid procurement of fuel from other sources.

Contract Terminations

DLA Energy contracting officers terminated 11 contracts in the universe. Of the 11 contracts, DLA Energy contracting officers terminated 6 contracts for administrative reasons such as Commercial and Government entity code changes.[40] These administrative terminations resulted in no additional costs to the DoD. For example, a DLA Energy contracting officer awarded a contract to Commercial and Government entity code SHC52.[41] The contractor's code changed to 2RSLW during the period of performance, requiring DLA Energy to terminate and reissue the contract. The DLA Energy contracting officer issued a new contract to the same contractor with the updated code.[42]

DLA Energy contracting officers terminated five contracts for non-administrative reasons such as restricted base access or the inability of the contractor to deliver an acceptable quality of fuel. These terminations resulted in additional costs, including a claim and a one-time buy with a different contractor to fulfill the requirement at the new price, of $9.1 million for four contracts, and a cost savings of $2.7 million for one contract. For example, a DLA Energy contracting officer terminated a contract for convenience that DLA Energy officials awarded for delivery of aviation fuel to an air base in Jordan because the contractor was determined to be ineligible for base access during the period of performance of the contract.[43] Contracting officers re-solicited the aviation fuel contract. The termination for convenience resulted in $6,317 in additional costs to the DoD.

Although terminations in Afghanistan, Bahrain, and Jordan reflected the same types of terminations found in Iraq, significant terminations occurred in Iraq due to force protection concerns, government restrictions, and the volatility and security concerns of the country.

[39] FAR Subpart 12.403(a) indicates that, even though FAR Part 49 provisions do not apply when terminating contracts for commercial items, a contracting officer may continue to use FAR Part 49 as guidance to the extent FAR Part 49 does not conflict with FAR Subpart 12.403 and FAR Subpart 52.212-4. FAR Subpart 49.607(b), "Show cause notice," states that if the time remaining in the contract delivery schedule is not sufficient to permit a realistic "cure" period of 10 days or more, a "Show Cause Notice" should be sent immediately upon expiration of the delivery period.

[40] The Commercial and Government Entity Code, or CAGE Code, is a unique identifier assigned to contractors.

[41] Contract SPE600-17-D-9558 was awarded with commercial and government entity code SHC52.

[42] Contract SPE605-20-D-9506 was awarded with commercial and government entity code 2RSLW.

[43] DLA Energy ordered the fuel under contract SPE600-16-D-9506.

Expanded Review of Iraq Contract Terminations

Due to the results of the sample related to contract terminations, we expanded our review to include an analysis of an additional 36 terminated Iraq contracts. These 36 contract terminations resulted in a price increase of $43.3 million to the DoD based on the original and replacement contract values. DLA Energy contracting officials faced challenges, which were outside of their control, when fulfilling fuel requirements in Iraq. See Appendix C for a list of terminated contracts and the cost impact.

DLA Energy officials terminated contracts in Iraq for two main reasons. First, the Iraqi government required the PMNOC to approve delivery of fuel or required the OPDC to approve the exclusive purchasing of fuel. Therefore, DLA Energy officials terminated five contracts because the contractor did not have a PMNOC approval to deliver fuel or could not purchase fuel from OPDC. Second, the DoD encountered force protection risks. DLA Energy officials terminated two contracts because the contractor lost access to U.S. installations or combined joint task force installations. Although outside of the contracting officers' control, these challenges impacted bulk fuel deliveries. However, as a result of the contracting officers' actions, using one-time buys and the appropriate authorities necessary to deliver fuel on time, DoD customers received the necessary fuel to meet mission requirements.

Contractors Faced Restrictions from the Iraqi Government After Contract Award

Contractors must comply with Iraqi government law when moving, purchasing, and contracting for fuel in Iraq, and DLA Energy contracting officers were aware of the requirement. However, when awarding contracts, DLA contracting officials had no way of knowing whether contractors would obtain all of the necessary Iraqi approvals to fulfill contract requirements. Delivery of fuel in southern Iraq required a fuel allocation from the Iraq Ministry of Oil's OPDC and approval to transport fuel from the Iraq PMNOC. The OPDC required contractors to submit monthly requests for an allocation on the 12th of the month, prior to the delivery month. The OPDC required contractors to purchase aviation fuel exclusively from OPDC. Furthermore, contractors needed to submit all of their paperwork through both the U.S. Embassy Logistics Management Center and the Iraqi Tax Office. Both of these offices had delays processing required documentation during civil unrest and coronavirus disease-19 restrictions.

The inability to obtain the required Iraqi approvals resulted in five terminated contracts in Iraq. For example, a DLA Energy contracting officer awarded a contract with a performance period from December 11, 2019, through December 10, 2022, for the acquisition of gasoline, diesel, and aviation fuel for delivery to various locations in Iraq.[44] The contract required a fuel allocation from the OPDC and an approval to transport fuel from the PMNOC. The contractor experienced a long wait for approval to deliver fuel from the U.S. Embassy Logistics Management Center. Furthermore, the contractor experienced delays from the coronavirus disease-19-related closure of the Iraqi tax office, which provided the necessary clearance to make deliveries. Finally, there were attacks on the contractor's drivers following civil unrest. DLA contracting personnel issued 32 orders under the contract, with deliveries scheduled for February and March 2020. The contractor failed to make the deliveries; therefore, the delivery orders were terminated. This resulted in the DLA Energy contracting officer resoliciting the requirements and a total cost impact to the Government of $15,995,972.

In another example, a contracting officer terminated a purchase order awarded to the same contractor for similar reasons.[45] The original period of performance on the purchase order was June 10, 2019, through June 30, 2019. DLA Energy contracting officers extended the purchase order several times to give the contractor the opportunity to deliver the fuel. As of February 2020, the contractor was able to receive OPDC allocation but was continually unable to pick up their fuel at the refinery. The OPDC allocation expired at the end of February before the contractor was able to pick up the fuel. DLA Energy officials stated they were in constant contact with the Middle East office to know that the contractor never made deliveries under this purchase order.

U.S. Forces Enhanced Force Protection and Consolidated Their Presence on Fewer Bases

When U.S. forces consolidated their presence on fewer bases after January 2020, enhanced force protection also became a priority. This was the result of a U.S. military strike in Baghdad that killed Iranian Major General and Islamic Revolutionary Guards Corps-Qods Force commander Qasem Soleimani and Iraqi Popular Modernization Forces leader Jamal Ja'far al Ibrahimi (commonly referred to as Abu Mahdi al Muhandis).

The DoD has used the Joint Contingency Contracting System (JCCS), a Government system supporting contingency contracting, since 2006. The DoD uses JCCS to conduct background checks, which determines a contractor's suitability to contract with the Government and grants contractors base access. The JCCS is a real-time contract data repository and reporting tool for contingency contracts in Iraq and Afghanistan, available to all DoD contracting commands. DLA Energy

[44] The fuel was ordered under contract SPE605-20-D-9508.
[45] The fuel was ordered under contract SPE605-19-P-9740.

contracting officials validated contractor access to U.S. facilities at contract award and reviewed JCCS eligibility over the term of the contract. If the contractor became ineligible to access a base after the contractor had been awarded a contract, DLA Energy contracting officers had to terminate the contract and award a new contract. At any time during contract performance, Government officials could deny a contractor's access to U.S. facilities for force protection reasons. Additionally, in the Kurdish region of Iraq, the Kurdish government had the authority to restrict access to bases.

These force protection concerns resulted in two terminated contracts in Iraq. Specifically, on April 18, 2018, DLA Energy officials awarded a contract for the acquisition of diesel fuel, aviation fuel, and gasoline for delivery to Al Asad Air Base, Bashur, Taqaddum, Taji, Kirkuk, Al Qaim, and Q West, Iraq, to ensure continuous contract coverage at the requiring sites following contract terminations.[46] On April 13, 2018, and April 17, 2018, a DLA Energy contracting officer notified the previous contractor at the requiring sites that JCCS cited its subcontractor as a force protection risk to U.S. forces and awarded the new contractor a sole-source requirements-type contract using other than full and open competition due to unusual and compelling urgency.

In addition, site closures have also increased terminations. U.S. military officials have not officially reported the size of the U.S. force in Iraq since 2017, but have confirmed a reduction in the number of U.S. military personnel and changes in U.S. capabilities. As U.S. forces have consolidated their presence on fewer bases, some sites or locations have closed. The closures resulted in DLA Energy contracting officers notifying contractors after award that the delivery location in the contract had closed. DLA Energy contracting officers noted in the modifications that if the locations re-opened, DLA Energy officials would re-award the terminated awards to the same contractor at the same price, terms, and conditions. Site closures resulted in five terminated contracts in Iraq.

Iraq Contract Terminations Resulted in Additional Costs to the Government

Iraq contract terminations resulted in DLA Energy contracting officers awarding new contracts using simplified acquisition procedures and urgent and compelling need authority. The 2 terminated contracts from our original sample, and 36 terminated contracts from our expanded analysis, cost the DoD an additional $7.1 million and $43.3 million, respectively. In total, the 38 Iraq terminated

---

[46] The fuel was ordered under contract SPE605-18-D-9556.

contracts cost the DoD an additional $50.4 million for fuel price increases and other costs related to the solicitation of new contracts, in addition to the time needed to award the new contracts.[47]

Force protection vulnerabilities, and related terminations, caused DLA Energy contracting officials to replace contracts at a higher cost, deliver fuel behind schedule, and be liable for fuel purchases from contractors who posed inherent force protection risks. DLA Energy personnel prioritized force protection over fuel requirements. This resulted in DLA contracting officials terminating 38 contract actions for convenience. When DLA Energy terminates contracts for convenience, the Government is liable for termination costs under convenience terminations in accordance with the FAR.[48]

When DLA Energy contracting officers used one-time buys for fuel to meet customer requirements prior to awarding new long-term contracts, fuel costs increased by $50.4 million. Contracts terminated for convenience could also result in interruptions to DLA supply chain operations and may cause fuel shortages that could affect mission execution.

DLA Energy Policies and Procedures Comply with Federal Regulations and Ensure Proper Safeguards Are in Place to Help Deter Corruption

DLA Energy had an adequate system in place to ensure its fuel contractors met contractual obligations and abided by anticorruption practices. The FAR and Defense Federal Acquisition Regulation Supplement establish policies and procedures for acquisition by all executive agencies. The DLA Energy Procurement Instruction and DLA's Defense Logistics Acquisition Directive supplement the FAR and the Defense Federal Acquisition Regulation Supplement to establish procedures for the acquisition of supplies and services provided by DLA Energy. We did not identify any instances where DLA Energy contracting officers did not follow federal regulations or DLA policies.

DLA's policies dictated how contracting officials verify contractor qualifications. Contracting officers and quality assurance personnel, are responsible for completing performance assessments and inputting past performance information into the Contracting Performance Assessment Reporting System. Contracting

[47] Other costs included contractor-purchased fuel that could not be resold at the price DLA Energy negotiated for originally, or costs associated with storing the fuel before resale.

[48] FAR Subpart 52.212-4(l), "Termination for Convenience."

officials use the Contractor Performance Assessment Reporting System to create and measure the quality and timely reporting of performance information in accordance with the FAR.[49]

For example, before awarding contracts, the contracting officer reviews the performance and integrity information available in the Federal Awardee Performance and Integrity Information System. The Federal Awardee Performance and Integrity Information System is a database within the Contracting Performance Assessment Reporting System that includes information about vendor disbarment and terminated contracts for cause. Concurrently, when DLA contracting officials terminate contracts for cause, they also report the contractor to the Federal Awardee Performance and Integrity Information System. In addition, DLA contracting officials are required to report any instances of fraud to DLA's Office of General Counsel. This helps DLA contracting officials select responsible contractors and deter corruption.

Fuel Obtained in Areas of Contingency Operations

DLA Energy contracting officers can use various source selection methods to obtain fuel in areas of contingency operations. The lowest price technically acceptable source selection process is appropriate when the expectation is that best value will result from selection of the technically acceptable proposal with the lowest evaluated price, and when the risk of unsuccessful contract performance is minimal.[50] However, in areas of contingency operations, the best value may require an evaluation of factors other than lowest price and technically acceptable. Contractors in areas of contingency operations face known security concerns, force protection issues, and may face restrictions from host nation governments. When a contractor has a proven past performance record of effective security in transporting fuel, accessing bases, maintaining JCCS eligibility, and securing government approvals, there is a greater likelihood that bulk fuel requirements will be delivered to meet the mission. Therefore, the best value for the DoD may be a tradeoff source selection, using past performance combined with cost and price to evaluate contractors in areas of contingency operations.

In October 2020, in Afghanistan, DLA Energy contracting officials awarded a contract for fuel deliveries using price and past performance tradeoff procedures.[51] According to a DLA contracting officer, there have been no issues with the contractor meeting requirements. Therefore, we recommend that the Commander of DLA Energy direct contracting officers to consider a tradeoff source

49 FAR Subpart 42.1501(b), "Contractor Performance Information."

50 FAR Subpart 15.101-2, "Lowest Price Technically Acceptable Source Selection Process."

51 A DLA Energy contracting officer awarded contract SPE605-21-D-9501.

selection, and consider using past performance evaluation factors, in addition to other factors such as cost or price, for bulk fuel purchases in areas of overseas contingency operations.

Conclusion

DLA Energy contracting officials generally awarded and ensured fulfillment of bulk fuel quantity and period of performance requirements in Afghanistan, Bahrain, Jordan, Kuwait, the Philippines, Turkey, Qatar, Iraq, and the United Arab Emirates in accordance with Federal regulations and DLA Energy policies. When DLA Energy contracting officials met requirements for 164 orders, fuel was delivered on time at the lowest price to meet mission needs. For the remaining 16 orders, DLA Energy officials ultimately ensured that DoD customers received the fuel needed.

Although requirements were generally met, for reasons outside of DLA control, contracting officers terminated 38 Iraq contracts, which cost the DoD an additional $50.4 million for fuel price increases and other costs.

Although requirements were generally met, for reasons outside of DLA control, contracting officers terminated 38 Iraq contracts, which cost the DoD an additional $50.4 million for fuel price increases and other costs, in addition to the time needed to award the new contracts. DLA Energy contracting officers used lowest price technically acceptable source selection for most of the contract actions we reviewed as part of our sample. Lowest price technically acceptable source selection is only appropriate when the risk of unsuccessful contract performance is minimal, such as bulk fuel purchases in the United States. Contractors in areas of contingency operations faced known security concerns, force protection issues, and restrictions from host nation governments. Therefore, the best value for the DoD may be a tradeoff source selection, using past performance combined with cost and price to evaluate contractors in areas of contingency operations to ensure bulk fuel requirements are fulfilled to meet the mission.

Management Comments on the Finding and Our Response

The Director, DLA Acquisition, responding for the Commander of DLA Energy, provided the following comments on the finding. For the full text of the Director's comments, see the Management Comments section of the report.

DLA Energy Comments

The Director, DLA Acquisition, responding for the Commander of DLA Energy, stated that the $43.3 million is not an additional cost to what was paid on the terminated orders. Rather, he stated this number represents a price increase from the anticipated cost of the terminated order, which then became the true cost when the previous vendor could not perform. The Director also stated that DLA did not disburse funds to the terminated vendors due to nonperformance.

Our Response

We revised the report to address the price increase. We also added footnote 20 to address the Director's comments.

Recommendation, Management Comments, and Our Response

Recommendation 1

We recommend that the Commander of Defense Logistics Agency-Energy direct the contracting officers to consider a tradeoff source selection, and consider using past performance evaluation factors, in addition to other factors such as cost or price, for bulk fuel purchases in areas of overseas contingency operations.

DLA Energy Comments on Recommendation 1

The Director, DLA Acquisition, responding for the Commander of DLA Energy, agreed with the recommendation and stated that the DLA Energy Commander will ensure contracting officers consider the circumstances of each acquisition, including whether the acquisition is in an area of contingency operations, when determining whether to use lowest price technically acceptable source selection procedures or a different source selection process. The Director also stated that the Commander of DLA Energy will disseminate a DLA directive to the procurement workforce regarding the requirement to the use of tradeoff utilization and past performance evaluation factors in areas of contingency operations. DLA Energy officials completed this action on September 2, 2021.

Our Response

Comments from the Director, DLA Acquisition, addressed all specifics of the recommendation and DLA Energy officials issued the DLA directive; therefore, the recommendation is closed.

Appendix A

Scope and Methodology

We conducted this performance audit from September 2020 through August 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Review of Documentation and Interviews

To answer our audit objective and determine the source selection method and current value of all contracts valued over $250,000 in areas of Contingency Operations in Southwest Asia and the Philippines, we reviewed contract documentation including price negotiation memorandums and contracting officer correspondence.

To determine if fuel order requirements were met, for each sample item, we obtained the delivery order and modifications from the Electronic Data Access system. We then compared the contracted requirements (quantity of fuel and delivery date) to the receiving report in the Wide Area Work Flow (WAWF) system. To ensure the contractors were paid the correct amount, we compared the invoice in the WAWF system to the receiving report. We reviewed contract files for additional supporting documentation and discussed any discrepancies with DLA Energy personnel.

We reviewed DLA policies and procedures to determine if they comply with Federal regulations and if there are adequate safeguards are in place to deter corruption. To answer our audit objective, we reviewed and analyzed the following criteria.

- Section 101(a)(13), title 10, United States Code
- FAR 1, Federal Acquisition Regulations System
- FAR 2.101, “Definitions”
- FAR 6.302-1, “Only one responsible source and no other supplies or services will satisfy agency requirements”
- FAR 6.302-2(a)(2), “Unusual and compelling urgency”
- FAR 7.105, “Contents of Written Acquisition Plans”
- FAR 12.403, “Termination”
- FAR 13.002, “Purpose”

- FAR 15.101-2, “Lowest Price Technically Acceptable Source Selection Process”
- FAR 15.406-3, “Documenting the Negotiation”
- FAR 16.202, “Firm-fixed-price contracts”
- FAR 16.203, “Fixed-price contracts with economic price adjustment”
- FAR 42.1501(b), “Contractor Performance Information”
- FAR 49.607(a), “Cure notice”
- FAR 49.607(b) “Show cause notice”
- FAR 52.203-7, “Anti-Kickback Procedures”
- FAR 52.212-4, “Contract Terms and Conditions-Commercial Items”
- Defense Federal Acquisition Regulation Supplement [DFARS] Subpart 215.101-2-70, “Limitations and Prohibitions” pertaining to lowest price technically acceptable source selection process.
- DoD Manual 4140.25-V12, DoD Management of Energy Commodities, dated March 2, 2018, Incorporating Change 2, April 4, 2019
- Defense Logistics Acquisition Directive, Revision 5, dated June 25, 2020
- DLA Energy Procurement Instruction, dated July 2020

We met with House Armed Service Committee staff to discuss the audit requirement and obtained additional written clarification. We interviewed DLA Energy officials to understand the bulk fuel process.

DLA Energy Fuel Contract Universe

DLA Energy personnel stated that they do not track fuel contracts by contingency operation. Therefore, we used the beta.SAM.gov system to obtain our universe of 4,012 bulk fuel orders on contracts issued between January 1, 2016, and September 30, 2020, with cumulative value in excess of $250,000. We pulled orders under Product Service Codes 9130 (Liquid Propellants and Fuels, Petroleum Base) and 9140 (Fuel Oils) with a Principal Place of Performance in Afghanistan, Bahrain, Iraq, Jordan, Kuwait, Oman, the Philippines, Qatar, Saudi Arabia, Turkey and the United Arab Emirates. We then determined the cumulative value for each contract to isolate the contracts with values over $250,000 and removed contracts that were not for bulk fuel. This resulted in the 4,012 bulk fuel contract actions, with exercised obligations valued at $3.3 billion, in Afghanistan, Bahrain, Iraq, Jordan, Kuwait, the Philippines, Qatar, Turkey and the United Arab Emirates.

Based on the results of the sample, we also used the beta.SAM.gov system to expand our universe and obtain additional contracts terminated in Iraq. We pulled all terminated DLA Energy contracts under product service codes 9130 (Liquid Propellants and Fuels, Petroleum Base) and 9140 (Fuel Oils). We then reviewed each of the 398 contracts and identified 49 terminated contracts in Iraq.

We used beta.SAM.gov to determine the value of the contracts. We used the standard reports function to pull contract detail reports for each of the 68 contracts in the universe. We then filtered the contract data in each of the reports by date signed for an end date of September 30, 2020. We added all values, as of September 30, 2020, at the bottoms of the column for base and all options value (total contract value). The total contract value is the total potential value of the award, including the value of all unexercised line items and options. This resulted in a combined value of $6.9 billion for the 68 contracts in our universe. We used the original terminated Iraq contracts and modifications to calculate a combined value of $865 million for the 36 terminated Iraq contracts.

See the "Audit of the Military Departments' Aviation Into-Plane Reimbursement (AIR) Card Purchases of Aviation Fuel and Non-Fuel Services," Report No. DODIG-2021-096, for information on the program that allows the Military Departments, Defense agencies, and other Federal Departments to procure aviation fuel, fuel related supplies, and approved ground services worldwide at both DLA Energy contract fuel contractor locations and non-contracted commercial fuel merchants.

Use of Computer-Processed Data

We used computer-processed data to perform this audit. Specifically, we used the Federal Procurement Data System – Next Generation (FPDS - NG) and beta.SAM.gov to run reports and identify contracts to include in our scope of audit, and the Electronic Data Access System and WAWF through the Procurement Integrated Enterprise Environment to obtain contract documents. The FPDS – NG contains contracting data across Government agencies. Agencies use FPDS – NG to create recurring and special reports to the President, Congress, Government Accountability Office, Federal executive agencies and the general public. Therefore, the audit team determined that the data from FPDS - NG was sufficient for the purpose of selecting our audit universe. The audit team determined that the Electronic Data Access System and WAWF contract documents were sufficiently reliable because the Electronic Data Access System and WAWF have internal controls to assure only approved legal documents are posted. As a result, we determined that the computer-processed data is sufficient and reliable to support our findings and conclusions.

Use of Technical Assistance

The DoD OIG Quantitative Methods Division provided assistance in determining the sample. The audit universe consists of 4,012 delivery orders and purchase orders. The Quantitative Methods Division used a stratified sampling design for this project. The Quantitative Methods Division chose to use stratified random sampling of contracts in order to get a better representation of various countries. We used a 90 percent confidence interval and 7.5 percent precision to determine the sample size. We stratified the universe into the nine strata and randomly selected the sample without replacement from each stratum. We did not project the results of our 180 sample items to the universe of 4,012 orders. The challenges DLA Energy officials faced related to JCCS site access were isolated to Iraq and did not represent the universe. Therefore, we are only reporting on the 180 sample items reviewed. The stratum sizes and the corresponding sample sizes are given in Table 6.

Table 6. Stratum Sizes and Sample Sizes Per Country

Stratum	Stratum Size	Sample Size
Afghanistan	1,438	25
Bahrain	168	20
Iraq	77	15
Jordan	122	15
Kuwait	306	20
The Philippines	75	15
Qatar	243	15
Turkey	766	30
United Arab Emirates	817	25
Total	**4,012**	**180**

Source: The DoD OIG.

The Quantitative Methods Division also provided assistance in determining the nonstatistical sample of additional terminated Iraq contracts. We identified 49 terminated contracts in Iraq. We used a 90 percent confidence interval and 7.5 percent precision to determine a sample size of 36. See Table 7 for the expanded sample of Iraq terminations.

Table 7. Expanded Sample Terminations

Country	Termination for Convenience	Termination for Cause	Purchase Order Terminations in Sample	Contract Terminations in Sample
Iraq	36	0	31	5
Total	**36**	**0**	**31**	**5**

Source: The DoD OIG.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) issued one report in 2018 related to the overall use of lowest price technically acceptable contracts. Unrestricted GAO reports can be accessed at https://www.gao.gov. The DoD OIG issued one report related to the bulk fuel purchasing process in areas of overseas contingency operations. Unrestricted DoD OIG reports can be assessed at http://www.dodig.mil/reports.html/.

GAO

Report No. GAO-19-54, "DOD Should Clarify Criteria for Using Lowest Price Technically Acceptable Process," issued November 2018

> The GAO concluded that contracting officials competitively awarded an estimated 26 percent of the DoD's contracts and orders valued at, or above, $5 million, in FY 2017 using lowest price technically acceptable processes. Section 813 of the National Defense Authorization Act for FY 2017, as amended, mandated that the DoD revise its regulations to require that eight criteria be considered when using the lowest price technically acceptable process. As of September 2018, the DoD had not yet done so. Accordingly, a DoD acquisition policy official stated that contracting officers are not yet required to consider these criteria. Nevertheless, the GAO found that contracting officials generally considered five of the eight criteria.

DoD OIG

Report No. DODIG-2017-116, "Defense Logistics Agency Fuel Contract for Al Udeid Air Base, Qatar," issued September 5, 2017

The DoD OIG found that the Air Force and DLA Energy officials effectively managed the Al Udeid Air Base fuel requirements process. Specifically, the officials followed DoD and Air Force guidance to properly develop fuel requirements and maintained realistic fuel consumption data to continue developing future fuel requirements. However, DLA Energy officials did not provide effective oversight of the contract payment process. DLA Energy quality assurance representatives improperly certified three invoices because the quality assurance representatives did not verify that fuel quantities listed on the DD Forms 250 matched the invoiced fuel quantities.

Appendix B

DLA Bulk Fuel Contracts

DLA Energy officials awarded 68 bulk fuel contracts, over $250,000, from January 1, 2016, through September 30, 2020.

Contract	Award Date	Contract Value	Source Selection	Authorities Used
SPE60016D0491	June 21, 2016	$316,091,601.21	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60016D0513	September 30, 2016	$760,754,942.06	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60016D1258	May 31, 2016	$2,072,603.23	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60016D9506	February 1, 2016	$866,727.78	Lowest Price Technically Acceptable	No Authority Needed
SPE60016D9509	March 31, 2016	$427,228,658.99	Past performance, Technical Capability, and Price	No Authority Needed
SPE60016D9511	March 28, 2016	$1,371,705.54	Lowest Price Technically Acceptable	No Authority Needed
SPE60016D9513	June 3, 2016	$117,146,824.72	Past performance, Technical Capability, and Price	No Authority Needed
SPE60016D9516	August 25, 2016	$48,265,344.67	Lowest Price Technically Acceptable	No Authority Needed
SPE60016D9517	July 13, 2016	$5,494,546.98	Lowest Price Technically Acceptable	No Authority Needed
SPE60016D9521	September 30, 2016	$45,929,338.72	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60016M9539	July 22, 2016	$995,149.80	Lowest Price Technically Acceptable	No Authority Needed
SPE60017D0468	November 18, 2016	$56,950,687.93	Lowest Price Technically Acceptable	No Authority Needed

DLA Bulk Fuel Contracts (cont'd)

Contract	Award Date	Contract Value	Source Selection	Authorities Used
SPE60017D0503	June 16, 2017	$391,867,373.06	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60017D1005	January 1, 2017	$1,504,664.12	Lowest Price Technically Acceptable	No Authority Needed
SPE60017D9508	May 1, 2017	$96,788,500.35	Lowest Price Technically Acceptable	No Authority Needed
SPE60017D9510	May 10, 2017	$8,465,510.77	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2.
SPE60017D9555	July 7, 2016	$8,377,930.23	Lowest Price Technically Acceptable	No Authority Needed
SPE60017D9558	July 31, 2017	$13,693,282.79	Lowest Price Technically Acceptable	No Authority Needed
SPE60218D0450	November 1, 2017	$324,160,591.06	Lowest Price Technically Acceptable	No Authority Needed
SPE60218D0459	November 1, 2017	$1,210,005,635.73	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60218D0487	June 22, 2018	$376,151,845.99	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60219D0451	October 9, 2018	$619,359,318.08	Lowest Price Technically Acceptable	No Authority Needed
SPE60219D0487	June 20, 2019	$299,792,699.97	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60220D0453	October 31, 2019	$639,106,943.79	Lowest Price Technically Acceptable	No Authority Needed
SPE60220D0489	June 26, 2020	$153,925,981.98	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60518D1257	January 22, 2018	$522,432.10	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D1259	January 22, 2018	$4,598,352.66	Lowest Price Technically Acceptable	No Authority Needed

DLA Bulk Fuel Contracts (cont'd)

Contract	Award Date	Contract Value	Source Selection	Authorities Used
SPE60518D9407	July 1, 2018	$18,282,725.17	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9414	August 29, 2018	$5,022,268.57	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9501	December 15, 2017	$1,733,414.59	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9506	May 31, 2018	$140,506,464.97	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9507	April 20, 2018	$79,793,382.48	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9510	July 5, 2018	$114,302,989.61	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9511	July 23, 2018	$72,369,755.56	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9551	October 3, 2017	$3,579,857.72	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9554	March 29, 2018	$50,500,922.67	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9555	April 5, 2018	$11,030,636.07	Lowest Price Technically Acceptable	No Authority Needed
SPE60518D9556	April 18, 2018	$36,647,797.95	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9518	March 16, 2018	$443,620.58	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9520	March 21, 2018	$707,589.32	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9536	May 3, 2018	$375,967.92	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9538	May 4, 2018	$886,512.80	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2

DLA Bulk Fuel Contracts (cont'd)

Contract	Award Date	Contract Value	Source Selection	Authorities Used
SPE60518P9539	May 4, 2018	$886,512.80	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9549	May 29, 2018	$275,063.12	Lowest Price Technically Acceptable	No Authority Needed
SPE60518P9598	March 12, 2018	$1,150,090.43	Lowest Price Technically Acceptable	No Authority Needed
SPE60518P9614	March 16, 2018	$905,304.49	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9615	March 19, 2018	$1,134,282.00	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9616	March 19, 2018	$803,570.74	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9624	March 28, 2018	$1,128,758.00	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9627	March 29, 2018	$768,085.96	Sole Source	Unusual And Compelling Urgency - FAR 6.302-2
SPE60518P9866	March 16, 2018	$401,927.09	Lowest Price Technically Acceptable	No Authority Needed
SPE60519D9418	May 16, 2019	$13,096,205.78	Lowest Price Technically Acceptable	No Authority Needed
SPE60519D9503	January 1, 2019	$3,904,667.58	Lowest Price Technically Acceptable	No Authority Needed
SPE60519D9504	January 1, 2019	$2,278,209.64	Lowest Price Technically Acceptable	No Authority Needed
SPE60519D9507	May 16, 2019	$1,737,530.16	Lowest Price Technically Acceptable	No Authority Needed
SPE60519D9552	November 14, 2018	$107,256,811.64	Sole Source	Only One Responsible Source - FAR 6.302-1
SPE60519P8931	June 10, 2019	$389,993.97	Lowest Price Technically Acceptable	No Authority Needed

DLA Bulk Fuel Contracts (cont'd)

Contract	Award Date	Contract Value	Source Selection	Authorities Used
SPE60519P9704	March 1, 2019	$602,625.00	Lowest Price Technically Acceptable	No Authority Needed
SPE60519P9708	March 4, 2019	$290,831.65	Lowest Price Technically Acceptable	No Authority Needed
SPE60519P9710	March 5, 2019	$558,000.00	Lowest Price Technically Acceptable	No Authority Needed
SPE60519P9714	March 7, 2019	$636,029.06	Lowest Price Technically Acceptable	No Authority Needed
SPE60519P9717	March 14, 2019	$762,227.90	Lowest Price Technically Acceptable	No Authority Needed
SPE60519P9731	April 20, 2019	$682,125.00	Lowest Price Technically Acceptable	No Authority Needed
SPE60519P9732	April 20, 2019	$500,500.00	Lowest Price Technically Acceptable	No Authority Needed
SPE60520D9505	July 23, 2018	$66,397,311.92	Lowest Price Technically Acceptable	No Authority Needed
SPE60520D9506	July 31, 2017	$6,248,875.86	Lowest Price Technically Acceptable	No Authority Needed
SPE60520D9511	September 6, 2019	$2,553,934.60	Lowest Price Technically Acceptable	No Authority Needed
SPE60520D9517	April 3, 2020	$205,068,926.66	Lowest Price Technically Acceptable	No Authority Needed

Source: The DoD OIG.

Appendix C

Terminated Fuel Orders

DLA Energy terminated 26 orders and 47 contracts in Southwest Asia and the Philippines, resulting in a total cost impact of $50 million to the Government.

Contract/Purchase Order Number	Delivery Order Number	Delivery Location	Full or Partial Termination	Cost Impact to the Government
Original Sample				
SPE60016D9509	146	Afghanistan	Full	0
SPE60016D9509	SPE60518FBP92	Afghanistan	Full	0
SPE60518D9506	SPE60518FLH97	Afghanistan	Full	0
SPE60219D0451	SPE60219FE396	Bahrain	Full	0
SPE60518D9501	SPE60519FRN29	Bahrain	Full	0
SPE60518D9554	SPE60518FHH61	Iraq	Full	*
SPE60518D9554	SPE60518FGN06	Iraq	Full	*
SPE60518D9554	SPE60518FGK98	Iraq	Full	*
SPE60518D9554	SPE60518FGK97	Iraq	Full	*
SPE60518D9554	SPE60518FGK77	Iraq	Full	*
SPE60518D9554	SPE60518FGK75	Iraq	Full	*
SPE60518D9554	SPE60518FFX48	Iraq	Full	*
SPE60520D9517	SPE60520FET3Y	Iraq	Full	0
SPE60520D9517	SPE60520FDW1A	Iraq	Full	0
SPE60520D9517	SPE60520FDW1C	Iraq	Full	0
SPE60518D9407	SPE60518FKD95	Jordan	Full	0
SPE60518D9407	SPE60518FNQ30	Jordan	Full	0
SPE60518D9407	SPE60519FPH23	Jordan	Full	0
SPE60518D9407	SPE60519FPH24	Jordan	Full	0
SPE60518D9407	SPE60519FPH25	Jordan	Full	0
SPE60519D9552	SPE60519FYC64	Qatar	Full	0
SPE60016D9517	0043	Turkey	Full	0
SPE60218D0459	SPE60220FF961	UAE	Full	0
SPE60017D9558	0002	UAE	Full	0
SPE60518D9511	SPE60519FNK77	UAE	Full	0
SPE60016D1258	0018	UAE	Full	0
SPE60518D9506		Afghanistan	Partial	$746,715

Terminated Fuel Orders (cont'd)

Contract/Purchase Order Number	Delivery Order Number	Delivery Location	Full or Partial Termination	Cost Impact to the Government
SPE60218D0450		Bahrain	Partial	0
SPE60518D9554		Iraq	Full	$7,096,049
SPE60520D9517		Iraq	Partial	0
SPE60016D9506		Jordan	Full	$6,317
SPE60518D9407		Jordan	Full	$1,216,310
SPE60016D9511		Turkey	Full	0
SPE60016D9517		Turkey	Full	0
SPE60017D9558		UAE	Full	0
SPE60518D9511		UAE	Full	0
Contracts with Cost Impact				**$9,065,391**
SPE60518D9555		Bahrain	Full	($2,733,196)
Contract with Cost Savings				**($2,733,196)**
Original Sample Total				**$6,332,195**
Expanded Iraq Sample				
SPE60017D9557		Iraq	Full	0
SPE60017P9509		Iraq	Full	0
SPE60017P9510		Iraq	Full	0
SPE60017P9618		Iraq	Full	0
SPE60518P9572		Iraq	Full	$14,739
SPE60518P9573		Iraq	Full	0
SPE60518P9585		Iraq	Full	0
SPE60519P9657		Iraq	Full	0
SPE60519P9740		Iraq	Full	0
SPE60520D9507		Iraq	Full	$27,321,134
SPE60520D9508		Iraq	Full	$15,995,972
SPE60520D9518		Iraq	Partial	0
SPE60520D9519		Iraq	Partial	0
SPE60520P9667		Iraq	Full	0
SPE60520P9670		Iraq	Full	0
SPE60520P9686		Iraq	Full	0
SPE60520P9688		Iraq	Full	0
SPE60520P9694		Iraq	Full	0

Terminated Fuel Orders (cont'd)

Contract/Purchase Order Number	Delivery Order Number	Delivery Location	Full or Partial Termination	Cost Impact to the Government
SPE60520P9723		Iraq	Full	0
SPE60520P9733		Iraq	Full	0
SPE60520P9734		Iraq	Full	0
SPE60520P9741		Iraq	Full	0
SPE60520P9744		Iraq	Full	0
SPE60520P9745		Iraq	Full	0
SPE60520P9746		Iraq	Full	0
SPE60520P9749		Iraq	Full	0
SPE60520P9754		Iraq	Full	0
SPE60520P9758		Iraq	Full	0
SPE60520P9770		Iraq	Full	0
SPE60520P9779		Iraq	Full	0
SPE60520P9781		Iraq	Full	0
SPE60520P9783		Iraq	Full	0
SPE60520P9785		Iraq	Full	0
SPE60520P9786		Iraq	Full	0
SPE60520P9795		Iraq	Full	0
SPE61119P0900		Iraq	Full	0
Expanded Iraq Sample Total				**$43,331,845**
Grand Total				**$49,664,040**

* Contract SPE605-18-D-9554 was terminated, to include the identified delivery orders. Therefore, the cost impact was calculated at the contract level as shown in this table.

Source: The DoD OIG.

Management Comments

Defense Logistics Agency Energy

DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD
FORT BELVOIR, VIRGINIA 22060-6221

August 26, 2021

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL (ACQUISITION, CONTRACTING AND SUSTAINMENT)

SUBJECT: Response to Office of Inspector General Draft Report "Audit of Defense Logistics Agency Award and Management of Bulk Fuel Contracts in Areas of Contingency Operations" (Project No. D2020-D000AU-0187.000)

DLA appreciates the opportunity to review and comment on the entirety of the report. We concur with OIG's audit findings and recommendation as presented with the report's recommendation for DLA Energy. A copy of our specific response to OIG's finding and recommendation is attached.

The point of contact for this audit is Mr. Andrew Hagenow, DLA Office of the Inspector General, [redacted].

[redacted] Digitally signed by [redacted]
Date: 2021.08.26 10:46:36 -04'00'

MATTHEW R. BEEBE
Director, DLA Acquisition

Attachment:
Response to the report findings and recommendation

Defense Logistics Agency-Energy (cont'd)

DOD OIG DRAFT REPORT DATED AUGUST 11, 2021
"AUDIT OF THE DEFENSE LOGISTICS AGENCY AWARD AND MANAGEMENT OF BULK FUEL CONTRACTS IN AREAS OF CONTINGENCY OPERATIONS"
(PROJECT NO. D2020-D000AU-0187.000)

DEFENSE LOGISTICS AGENCY'S RESPONSE TO THE DOD OIG FINDINGS AND RECOMMENDATION

FINDING: Due to the frequency and nature of terminations in Iraq, based on the results of the sample testing related to order terminations; we expanded our review to include an analysis of an additional 36 terminated Iraq contracts. [16] These 36 contract terminations resulted in additional cost of $43.3 million to the DoD. DLA Energy contracting officials faced challenges, which were outside of their control, when fulfilling bulk fuel requirements in Iraq.

DLA RESPONSE: As discussed in the Exit Conference, the $43.3 million is not an additional cost to what was paid on the terminated orders. This number represents a price increase from the anticipated cost of the terminated order. This became the true cost since the previous vendor could not perform. No funds were disbursed to the terminated vendors due to nonperformance.

RECOMMENDATION 1: We recommend that the Commander of Defense Logistics Agency Energy direct the contracting officers to consider a tradeoff source selection, and consider using Past performance evaluation factors, in addition to other factors such as cost or price, for bulk fuel purchases in areas of overseas contingency operations.

DLA RESPONSE: Concur. The DLA Energy Commander will ensure Contracting Officers consider the circumstances of each acquisition, including whether the acquisition is in an area of contingency operations, in determining whether the use of the lowest price technically acceptable source selection procedures is justified pursuant to DFARS 215.101-2-70 or whether a benefit to the Government would be realized by using a different source selection process. The DLA Energy Commander, through the Head of the Contracting Activity and the Chief of the Contracting Office, will promulgate a DLA Energy directive regarding the requirement to use Tradeoff utilization and past performance evaluation factors in areas of overseas contingency operations and disseminate that directive through a Procurement Flash (an formal e-mail to the procurement workforce continuing policy guidance). The estimated completion date is September 3, 2021.

[16] Since we identified issues with 10 of 15 Iraq contract actions in the original sample, we reviewed an additional 36 Iraq contracts.

Acronyms and Abbreviations

DLA	Defense Logistics Agency
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Data System - Next Generation
HASC	House Armed Services Committee
JCCS	Joint Contingency Contracting System
OPDC	Oil Products Distribution Center
PMNOC	Prime Minister’s National Operations Center
WAWF	Wide Area Work Flow

Whistleblower Protection

U.S. Department of Defense

Whistleblower Protection safeguards DoD employees against retaliation for protected disclosures that expose possible fraud, waste, and abuse in Government programs. For more information, please visit the Whistleblower webpage at http://www.dodig.mil/Components/Administrative-Investigations/Whistleblower-Reprisal-Investigations/Whisteblower-Reprisal/ or contact the Whistleblower Protection Coordinator at Whistleblowerprotectioncoordinator@dodig.mil

For more information about DoD OIG reports or activities, please contact us:

Congressional Liaison
703.604.8324

Media Contact
public.affairs@dodig.mil; 703.604.8324

DoD OIG Mailing Lists
www.dodig.mil/Mailing-Lists/

Twitter
www.twitter.com/DoD_IG

DoD Hotline
www.dodig.mil/hotline

DEPARTMENT OF DEFENSE | OFFICE OF INSPECTOR GENERAL

4800 Mark Center Drive
Alexandria, Virginia 22350-1500
www.dodig.mil
DoD Hotline 1.800.424.9098