Office of Inspector General
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Management Assistance Report: Improper Use of Overtime and Incentive Fees Under the Department of State Baghdad Life Support Services (BLiSS) Contract

MANAGEMENT ASSISTANCE REPORT

Summary of Review

In July 2013, the Department of State (Department) awarded a contract to Pacific Architects and Engineering Government Services, Inc. (PAE) to provide life and logistical support for the Department's activities. As of October 2015, the Baghdad Life Support Services (BLiSS) contract was valued at approximately $536 million, and consisted of 15 task orders. In the course of our audit, which is ongoing, OIG reviewed 4 of the 15 task orders awarded to PAE providing overtime pay and/or incentive fees to PAE employees and found that they were contrary to the Federal Acquisition Regulation (FAR). Specifically, the labor costs on the BLiSS contract were established as firm-fixed-price (FFP), and the FAR does not allow a contractor under an FFP contract to receive an adjustment based on a contractor's cost experience. The FAR also states that incentive fees should only be used when the Department receives a benefit. However, the Department's decision to award these task orders was not accompanied by a cost-benefit analysis, validated need, or written justification. As a result, paying PAE $184,400 for overtime was contrary to the original contract terms and the FAR. Similarly, it is unclear whether the Department received a benefit from paying incentive fees to PAE, and OIG therefore questions $2.8 million paid to PAE in incentive fees.

OIG is bringing this issue to the Department's attention via this Management Assistance Report not only because of concerns about the administration of the BLiSS contract, but also because OIG has learned that awarding such task orders on other FFP contracts in Iraq has become a common practice used by the Bureau of Administration, Office of Acquisitions Management, Office of Logistics Management (A/LM/AQM), which leaves the Government and the American taxpayer vulnerable to cost increases for the BLiSS and other similar contracts. Further, after issuing a draft of this report, OIG conducted additional reviews of the task orders and, based on our analysis, learned that three of the four task orders for overtime and incentive fees contain provisions that constitute a cost-plus-a-percentage-of-cost (CPPC) system of contracting, which is prohibited by Federal law. OIG will continue to examine the Department's use of these types of task orders as part of our ongoing audit of the BLiSS contract.

OIG made four recommendations to A/LM/AQM regarding the award of overtime and incentive fee task orders for the BLiSS and other similar contracts in Iraq. In its October 26, 2015, response (see Appendix A) to a draft of this report, A/LM/AQM did not concur with OIG's recommendations, stating that the task orders were awarded "in response to an emergent security situation that was not present or contemplated at the time of the original task order award" and that it would provide additional documentation for OIG's consideration. In a subsequent email from A/LM/AQM, OIG was informed that it would take 30 days to provide the requested documentation that supports the Department's decision to make the awards. As of the date of this report, OIG has not received any additional documentation that justifies the award of overtime and incentive fees even though Department guidance requires that this information be retained in the contract file and be readily available. OIG therefore considers all four recommendations unresolved and will continue to monitor the Department's use of these types of task orders through our audit compliance process and our ongoing audit of the BLiSS contract.

BACKGROUND

In December 2011, the Department assumed full responsibility from the Department of Defense (DoD) for leading U.S. operations in Iraq, to include providing life support services to U.S. Government personnel formerly provided under contracts administered by DoD.[1] Life support services include food, water, fuel, and other support services.

In July 2013, A/LM/AQM[2] awarded contract No. SAQMMA13D0120, an indefinite-delivery/indefinite-quantity (IDIQ) contract,[3] to PAE to provide life support services and logistics functions for U.S. Government personnel working at various sites in Iraq. These sites include the Baghdad Embassy Compound (Olympia and Embassy Heliport, also referred to as the International Zone), the Baghdad Diplomatic Support Center at the Baghdad International Airport, and the U.S. Consulate General in Basrah. The BLiSS contract has a maximum performance period of 5 years (base year plus 4 option years) and a not-to-exceed cost of $1.0 billion (inclusive of all direct costs, indirect costs, and profit/fees).

As of October 2015, the Department had issued 15 task orders under the BLiSS contract with a total estimated value of $536 million. Under the BLiSS contract, labor costs are FFP and the IDIQ contract states, "for firm fixed price task orders, the Government will not pay additional for overtime."[4] However, A/LM/AQM subsequently issued four task orders[5]—14F2036, 14F3785, 15F0988, and 15F3018[6]—to provide PAE funds to pay its employees for the hours worked beyond their regular schedules[7] and for a 25 percent incentive fee to retain employees assigned to the Embassy Compound and Diplomatic Support Center in Baghdad. The first overtime and incentive fee task order was awarded at a time when security concerns in the region escalated, resulting in the temporary drawdown of non-mission-essential contractor personnel from Baghdad to Basrah, and the payment of overtime and incentive fees to those who remained in

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[1] Previous DoD support services contracts included the U.S. Army Materiel Command's Logistics Civil Augmentation Program, Defense Logistics Agency's Food Operations and Management contract, and Army Sustainment Command's Green Equipment Maintenance contract.

[2] A/LM/AQM awarded the contract using Bureau of Near Eastern Affairs funds. Personnel from the Bureau of Near Eastern Affairs administer and oversee the contract and associated task orders.

[3] An IDIQ contract is awarded when the Government cannot predetermine the precise quantities of supplies or services required. These contracts should be used when a recurring need is anticipated as an IDIQ sets the contract scope, terms, and conditions, and acts as an umbrella contract. Task orders are issued under the IDIQ contract to order supplies and services and can be either FFP or cost-reimbursable.

[4] FAR 16.202, *Firm-Fixed Price Contracts,* states that an FFP contract "provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. This contract type places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss. It provides maximum incentive for the contractor to control costs and perform effectively."

[5] Task order contract means a contract for services that does not procure or specify a firm quantity of services and that provides for the issuance of orders for the performance of tasks during the period of the contract.

[6] Task order 15F3018 does not provide overtime to PAE employees but does include a 25 percent incentive fee.

[7] Regularly scheduled hours for Third Country Nationals total 72 hours per week (6 days per week with 12-hour shifts).

Baghdad.[8] Only task order 15F3018, which was awarded on September 15, 2015, is being executed while task orders 14F2036, 14F3785, and 15F0988 have expired. OIG reviewed the four task orders relating to overtime and incentive fees, valued at approximately $5.6 million, as shown in Table 1.

Table 1: Funds Obligated and Paid on Overtime and Incentive Fee Task Orders

Task Order No.	Service Description	Obligated Amount[a]	Amount Paid to PAE[b]	Amount Available for Deobligation[c]
14F2036[d]	Overtime and Incentive Pay	$495,739	$333,759	$161,980
14F3785[d]	Overtime and Incentive Pay	$1,709,619	$1,540,637	$168,982
15F0988[d]	Overtime and Incentive Pay	$2,483,105	$1,094,528	$1,388,577
15F3018	Incentive Pay	$922,912	$0[e]	$922,912
Total		**$5,611,375**	**$2,968,924**	**$2,642,451**

[a] The obligated amount is the amount PAE is allowed to invoice on a task order.
[b] The Department paid PAE invoices totaling $184,400 for overtime and $2,784,524 for incentive fees.
[c] According to the U.S. Government Accountability Office (GAO), "A Glossary of Terms Used in the Federal Budget Process," September 2005 (GAO-05-734SP), deobligations are downward adjustments of previously incurred obligations. Deobligated funds may be reobligated within the period of availability of the appropriation. For example, annual appropriated funds may be reobligated in the fiscal year in which the funds were appropriated, while multiyear or no-year appropriated funds may be reobligated in the same or subsequent fiscal years.
[d] Task orders 14F2036, 14F3785, and 15F0988 expired on September 21, 2014, March 22, 2015, and September 14, 2015, respectively.
[e] As of October 9, 2015, no payments had been made against this task order.
Source: Generated by OIG from data provided by the Department.

RESULTS

Inappropriate Use of Overtime and Incentive Fees on a Firm-Fixed-Price Contract

In issuing the four task orders for overtime and/or incentive pay, A/LM/AQM acted contrary to the FAR. Specifically, the labor costs on the BLiSS IDIQ contract were considered FFP, which placed upon PAE maximum risk and full responsibility for all costs and resulting profit or loss. FAR 16.202-1 states that an FFP contract provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract, and further states that incentive fees should only be used when the Department receives a benefit as documented by a cost-benefit analysis.

However, A/LM/AQM awarded these task orders without validating the need for overtime and incentive fees, conducting a cost-benefit analysis, or producing a written justification of the merits of making such awards. Further, the BLiSS contract was awarded as an IDIQ contract with FFP contract line items and the FAR prohibits adjustments on labor costs for such a contract, yet the Department

[8] The security concerns noted by PAE included advances of the Islamic State of Iraq and the Levant (ISIL) toward Baghdad.

paid $184,400 to PAE in overtime pay contrary to the terms of the FFP contract and the FAR. Similarly, since the Department did not provide a justification for the incentive fee task orders, it is unclear whether the Department received a benefit from paying incentive fees to PAE, and OIG therefore questions the $2.8 million paid to PAE in incentive fees. OIG has also learned that the practice of awarding overtime and incentive fee task orders against IDIQ contracts with FFP labor contract line items in Iraq has become a common practice by A/LM/AQM. Similar to the BLiSS contract, officials from A/LM/AQM and the Bureau of Near Eastern Affairs stated that overtime and incentive fee task orders were awarded against FFP labor contract line items for the Operations and Maintenance Support Services and Union III contracts in Iraq. Use of this business model not only leaves the Government and the American taxpayer vulnerable to cost increases for the BLiSS contract, but also for other contracts awarded in support of operations in Iraq that followed the same structure and assumed the same risk.

Overtime

The BLiSS IDIQ contract did not allow for overtime on labor costs because these costs were FFP. In PAE's proposal, which was incorporated as part of the contract award, labor costs were also identified as FFP. In addition, pursuant to FAR 16.202, an FFP contract provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. Moreover, FAR 22.103-4 states that overtime should not be approved "when the contractor is already obligated, without the right to additional compensation, to meet the delivery date," which is the case with BLiSS FFP contract line items. Despite these restrictions, A/LM/AQM officials awarded three task orders to PAE that obligated approximately $344,000 for overtime costs,[9] stating that they were awarded because "it was the right thing to do" to ensure that contractors were fully compensated for all hours worked. A/LM/AQM officials did not provide any documented rationale or other supporting evidence for why these task orders were awarded. OIG does not disagree with the fact that contractor personnel should be paid for overtime worked; however, under an FFP contract, those costs are to be assumed by the contractor.

When bidding for the BLiSS IDIQ contract, PAE was aware of the costs associated with performing the contract in Iraq, to include costs of potential overtime. In fact, PAE submitted its proposal based on the requirements defined in the Department's Statement of Objectives, which, among other things, required PAE to plan for instances of reduced operations during lockdowns resulting from external political and security problems.[10] Despite PAE's acknowledgement of the requirements in the Statement of Objectives, PAE requested additional funds for labor costs beyond those originally included in the contract as FFP.[11]

By paying the overtime task orders, the Department allowed PAE to maintain its profit margins instead of requiring PAE to cover its additional labor costs. Under the terms of the contract, PAE was

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[9] Of the $344,438 obligated by A/LM/AQM, PAE invoiced (and the Department paid) $184,400 for overtime; however, PAE could still invoice up to $344,438 because that was the amount A/LM/AQM obligated for overtime.

[10] Statement of Objectives, SAQMMA12R0130-A003, exhibit A.1, attachment 1, page 5, paragraph 5.

[11] On June 16, 2014, PAE submitted a letter entitled "Security Crisis in Iraq: BLiSS and OMSS Contingency Planning" to the contracting officer requesting additional funds.

paid a flat labor rate regardless of the number of staff it employed or the hours required to complete the work. PAE was required to meet contract requirements, but it was up to PAE to determine the number of employees and the hours needed to perform the tasks. According to contract oversight officials, PAE was understaffed prior to the drawdown of its personnel from Baghdad to Basrah. By staffing below the proposed level, PAE was able to achieve greater profits because it had controlled labor costs while still meeting contract requirements. However, when the security concerns escalated and the drawdown of non-essential personnel was executed, PAE experienced higher labor costs because it had to pay overtime to those who remained and worked additional hours. Instead of PAE assuming the risks and the actual costs associated with the overtime paid to its contractors, the Department assumed these risks and costs via the overtime task orders. As a result, PAE maintained its profit margins because the Government absorbed the costs that the FFP contract line items were designed to avoid. The overtime costs were PAE's expense to bear under FFP contract line items, but, as of October 2015, the Department paid $184,400 to cover PAE's overtime costs.

Incentive Fees

FAR 16.401, *Incentive Contracts*, states that incentive fees should only be used when FFP contracts are not appropriate and the required supplies or services can be acquired at lower costs and, in certain instances, with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance. Further, the FAR states that the objective of an incentive [fee] contract is to motivate contractor efforts and discourage inefficiency and waste. FAR 16.401(d) requires the completion of a determination and finding for all incentive contracts justifying that the use of this type of contract is in the best interest of the Government. OIG requested but did not receive documentation justifying the award of incentive fees[12] to PAE valued at approximately $5.3 million.[13] Without such a justification to assess the decision, it is unclear whether the Department received the added benefit of PAE contractors working more efficiently, or if PAE simply received additional funds to perform the same functions it would have in accordance with the FFP contract line item for labor costs.

PAE submitted a request to the A/LM/AQM contracting officer for incentive fees on June 16, 2014, in response to an escalating security situation and concerns that its personnel would vacate their positions. According to PAE officials, they "received notification from multiple employees requesting additional compensation to remain in Baghdad," noting that the additional compensation would increase employee retention and mission accomplishment. Similar to the rationale for awarding the overtime task orders, A/LM/AQM officials stated that they awarded the incentive fee task orders because "it was the right thing to do" and they did not want PAE to lose contractor staff. This was the case, even though A/LM/AQM did not have to pay additional compensation because the labor costs under the contract were FFP.

[12] American contractors and Third Country Nationals assigned to Baghdad received a 25 percent monthly incentive fee for remaining employed on the contract.

[13] Of the $5,266,937 A/LM/AQM obligated, the Department paid $2,784,524 to PAE as of October 2015.

However, as previously stated, in awarding the incentive fee task orders, A/LM/AQM acted contrary to and inconsistent with FAR requirements. Specifically, FAR 16.403, *Fixed-Price Incentive Contracts*, states that fixed price incentive contracts are appropriate when an FFP contract is not suitable; the nature of the supplies or services being acquired and other circumstances of the acquisition are such that the contractor's assumption of a degree of cost responsibility will provide positive profit incentives for effective cost control and performance; and when the performance requirements provide a reasonable opportunity for incentives to have a meaningful impact on a contractor's management of the work. Department officials stated that it had not received any observable improvement in services as a result of the incentive fee arrangement. Moreover, a PAE official stated that the attrition rate remained relatively unchanged and averaged 3 percent, which is the standard attrition rate for high-threat environments. It is therefore unclear if the Department received a benefit from paying incentive fees to PAE. Based on the evidence available, OIG is questioning the $2.8 million paid to PAE in incentive fees.

CONCLUSION

Working in a high-threat environment such as Iraq requires Government personnel and contractors alike to assume a great risk to their personal security. PAE, in bidding for the BLiSS IDIQ contract, knew of the risks, and should have priced the risks into its proposal.[14] In awarding the four task orders allowing PAE to recover funds for overtime and incentive pay—which the Department paid almost $3.0 million out of approximately $5.6 million obligated[15] as of October 2015—the Department not only acted contrary to and inconsistent with the FAR, but also contrary to the purpose of an FFP contract line item. Specifically, awarding these task orders resulted in the risk of cost increases (in this case, the cost of labor) being assumed by the Department, rather than PAE. OIG is bringing this issue to the Department's attention not only because of concerns about the administration of the BLiSS contract, but also because OIG has learned that the practice of awarding such task orders under other contracts in Iraq with FFP labor contract line items has become a common practice. Use of this business model not only leaves the Government and the American taxpayer vulnerable to cost increases for the BLiSS contract, but also for other contracts awarded in support of operations in Iraq that followed the same structure and assumed the same risk.

In response to a draft of this report (see Appendix A), A/LM/AQM stated that the overtime and incentive fee task orders were awarded in response to an "emergent security situation that was not present or contemplated" when the original task order was awarded. A/LM/AQM further stated that the security situation resulted in a several-months-long temporary drawdown of personnel from U.S. Mission Iraq, and awarding these task orders facilitated the Department's sustainment of life support services at the Mission. However, the requirements defined in the

[14] PAE's proposal is included in the IDIQ contract as the Statement of Work.

[15] As of October 2015, the Department paid invoices totaling $2,968,924; however, PAE could still invoice a total of $5,611,375 because that is the amount A/LM/AQM obligated for overtime and incentive fee task orders.

Department's Statement of Objectives requested that potential bidders, such as PAE, provide a plan to operate in lockdown environments. Specifically, it stated, "The offeror should provide a plan for continued operations at a reduced level during times of security lockdowns due to external political and security problems…. While still an uncommon occurrence, the Contractor must plan for such instances and be able to provide reduced operations within the Cafeterias and Snack Bars." In response, PAE stated, "In the event of unforeseen lockdowns, closures or civil unrest, PAE can continue providing normal service with modifications…." PAE specifically planned to have key staff residing within all the sites and the ability to use third country nationals who, in the event of a lockdown, would continue to have access to the dining facilities. PAE further stated that it's "policy of cross-training staff on critical skills enables them to meet any potential skills gaps." Therefore, OIG concludes that PAE understood that maintaining operations during unforeseen lockdowns, closures, or civil unrest was required and provided a plan for such occurrences thereby negating the need for the Department to award overtime and incentive fee task orders.

Subsequent to issuing a draft of this report to A/LM/AQM for comment, OIG obtained task order SAQMMA15F3018, which replaced expired task order SAQMMA15F0988. As such, please note that OIG revised Recommendation 1 by replacing the expired task order with the remaining active task order that we conclude should be terminated. Similarly, OIG revised Recommendation 2 by adding the active task order to the list of task orders that we conclude funds should be deobligated against and all unspent funds returned to the Department.

Recommendation 1: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, terminate task order SAQMMA15F3018 awarded to Pacific Architects and Engineering Government Services, Inc., for incentive pay.

A/LM/AQM Response: A/LM/AQM did not concur with this recommendation to terminate the task order for overtime and incentive pay, stating that it would provide additional documentation for consideration by the audit team as part of its initial compliance update upon publication of the final report. In addition, A/LM/AQM stated that the contracting officer did not believe a termination action was necessary.

OIG Reply: OIG revised Recommendation 1 by replacing the expired task order (SAQMMA15F0988) with the only active task order (SAQMMA15F3018). Based on A/LM/AQM's response, OIG considers this recommendation unresolved because A/LM/AQM has not provided documentation justifying the award of overtime and incentive fees although OIG has requested it repeatedly. OIG also notes that on September 22, 2014, the contracting officer wrote a memorandum to the contract file to document the determination that the need for incentive fees no longer existed. However, it is unclear why this determination was not acted upon by terminating the task orders for incentive fees. In addition, OIG notes that task orders SAQMMA14F2036, SAQMMA14F3785, and SAQMMA15F0988 for overtime and incentive fees contain provisions that constitute a CPPC system of contracting. This type of contract binds the Government to pay costs, undetermined at the time the contract is made and to be incurred in the future, plus a commission based on a percentage of these future costs. This CPPC system of contracting violates Federal law[16] and FAR 16.102(c).[17] The U.S. Supreme Court upheld the law prohibiting the use of a CPPC system of contracting, specifically stating in its decision that "The evil of such contracts is that the profit of the other party to the contract increases in proportion to that other party's costs expended in the performance."[18] For the BLiSS task orders in question, the incentive fees were applied at a predetermined percentage rate to the actual performance costs of overtime. Since PAE's entitlement to the payment of overtime costs was uncertain at the time of contracting, PAE's entitlement increased commensurately with the increased performance costs. The awarding of incentive fees on overtime based on a CPPC system encouraged wasteful spending by PAE rather than financial responsibility and placed the Government at significant risk of increased and uncontrollable costs. OIG therefore maintains that it is inappropriate for A/LM/AQM to award task orders using a CPPC system in addition to making overtime and incentive fee payments on an FFP contract without justifying its actions.

This recommendation can be resolved when A/LM/AQM agrees to terminate task order SAQMMA15F3018 and subsequently closed when OIG reviews and accepts documentation that supports the contracting officer's termination.

Recommendation 2: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, deobligate all remaining unspent funds awarded against task orders SAQMMA14F2036, SAQMMA14F3785, SAQMMA15F0988, and SAQMMA15F3018, and inform Pacific Architects and Engineering Government Services, Inc., that expenses can no longer be incurred against these task orders.

A/LM/AQM Response: A/LM/AQM did not concur with this recommendation to deobligate all remaining unspent funds awarded against task orders SAQMMA14F2036, SAQMMA14F3785, and SAQMMA15F0988. A/LM/AQM stated that it would provide additional documentation for consideration by the audit team as part of its initial compliance update upon publication of the final report. In addition, A/LM/AQM stated that no additional direction would be provided to the contractor in response to our recommendation.

OIG Reply: OIG revised Recommendation 2 to include task order number SAQMMA15F3018 because this task order was obtained and reviewed subsequent to issuing a draft of this report to A/LM/AQM. Based on A/LM/AQM's response to a draft of this report, OIG considers this recommendation unresolved because A/LM/AQM has not provided documentation that justifies why A/LM/AQM is not deobligating unspent funds.

[16] Section 3905(a) of 41 U.S.C. states, "Cost-Plus-A-Percentage-Of-Cost Contracts Disallowed. The cost-plus-a-percentage-of-cost system of contracting shall not be used."

[17] FAR 16.102(c) states, "a cost-plus-a-percentage-of-cost contract shall not be used."

[18] *Muschany et al. v. United States*, 324 U.S. 49, 61-62; 65 S. Ct. 442, 449; 89 L. Ed. 744, 753-754 (1945).

This recommendation can be resolved when A/LM/AQM agrees to deobligate unspent funds associated with task orders SAQMMA14F2036, SAQMMA14F3785, SAQMMA15F0988, and SAQMMA15F3018, and inform PAE that expenses can no longer be incurred against these task orders. It can be closed when OIG receives and accepts documentation demonstrating that such actions have been taken.

Recommendation 3: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, inform contracting officers and other contract management personnel that award and administer contracts in countries with high risk security environments to discontinue the practice of awarding overtime and incentive fees for firm-fixed-price labor contract line items unless such awards include a documented analysis of the validated need, cost-benefit, and merits in accordance with the Federal Acquisition Regulation.

A/LM/AQM Response: A/LM/AQM did not concur with this recommendation, stating that its Quality Assurance Plan provides the necessary guidance to contracting officers and specialists to ensure that actions taken conform to Department policy and the FAR.

OIG Reply: OIG considers this recommendation unresolved and continues to assert that the practice of awarding overtime and incentive fees against FFP labor contract line items is improper. In addition, A/LM/AQM's Quality Assurance Plan does not provide the necessary guidance to contracting officers and specialists to ensure that actions taken conform to Department policy and the FAR. For example, the Quality Assurance Plan requires a legal review and approval from the Office of the Legal Advisor, Office of Buildings and Acquisitions only if the individual contract awards or modifications exceed $1 million. The initial task order awards for SAQMMA14F2036, SAQMMA14F3785, and SAQMMA15F0988 did not reach the $1 million threshold and therefore no legal reviews were conducted. However, modification 2 of task order SAQMMA15F0988 surpassed the threshold at $1.6 million; yet there is no evidence the contracting officer obtained a legal review as required by the Quality Assurance Plan. Therefore, OIG concludes that A/LM/AQM's Quality Assurance Plan is ineffective to prevent improper contracting practices.

This recommendation can be resolved when A/LM/AQM agrees to inform contracting officers and other contract management personnel that the practice of awarding overtime and incentive fees for FFP labor contract line items must be discontinued unless the contracting officer can justify the award with a documented analysis of the validated need, cost-benefit, and merits of such an award in accordance with the FAR. It can be closed when OIG receives and accepts documentation demonstrating that such actions have been taken.

Recommendation 4: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, review contracts performed in Iraq and other countries with high-risk security environments and, if the awards cannot be justified with a documented analysis of the validated need, cost-benefit, and merits of such an award in accordance with the Federal Acquisition Regulation, consider terminating task orders, deobligating all remaining unspent funds, and informing contractors that expenses cannot be incurred against these task orders.

A/LM/AQM Response: A/LM/AQM did not concur with this recommendation, stating that it would provide additional documentation for consideration by the audit team as part of its initial compliance update upon publication of the final report. In addition, A/LM/AQM stated that no communications to the acquisition team and program office were contemplated to be distributed.

OIG Reply: OIG considers this recommendation unresolved because A/LM/AQM has neither taken steps towards implementation nor has it provided documentation justifying the award of overtime and incentive fees even though OIG has requested it repeatedly.

This recommendation can be resolved when A/LM/AQM agrees to review contracts performed in Iraq and other countries with high-risk security environments and, if the awards cannot be justified with a documented analysis of the validated need, cost-benefit, and merits of such an award in accordance with the FAR, consideration should be given to terminating task orders, deobligating all remaining unspent funds, and informing contractors that expenses cannot be incurred against these task orders. It can be closed when OIG receives and accepts documentation demonstrating actions that have been taken.

RECOMMENDATIONS

Recommendation 1: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, terminate task order SAQMMA15F3018 awarded to Pacific Architects and Engineering Government Services, Inc., for incentive pay.

Recommendation 2: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, deobligate all remaining unspent funds awarded against task orders SAQMMA14F2036, SAQMMA14F3785, SAQMMA15F0988, and SAQMMA15F3018, and inform Pacific Architects and Engineering Government Services, Inc., that expenses can no longer be incurred against these task orders.

Recommendation 3: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, inform contracting officers and other contract management personnel that award and administer contracts in countries with high risk security environments to discontinue the practice of awarding overtime and incentive fees for firm-fixed-price labor contract line items unless such awards include a documented analysis of the validated need, cost-benefit, and merits in accordance with the Federal Acquisition Regulation.

Recommendation 4: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, review contracts performed in Iraq and other countries with high-risk security environments and, if the awards cannot be justified with a documented analysis of the validated need, cost-benefit, and merits of such an award in accordance with the Federal Acquisition Regulation, consider terminating task orders, deobligating all remaining unspent funds, and informing contractors that expenses cannot be incurred against these task orders.

APPENDIX A: BUREAU OF ADMINISTRATION, OFFICE OF LOGISTICS MANAGEMENT RESPONSE

United States Department of State

Washington, D.C. 20520

UNCLASSIFIED

October 26, 2015

MEMORANDUM

TO: OIG/AUD – Norman P. Brown

FROM: A/LM – David Rodriguez, Acting

SUBJECT: Draft Report on *Management Assistance Report: Improper Use of Overtime and Incentive Fees Under the Department of State's Baghdad Life Support Services (BLiSS) Contract*

Thank you for the opportunity to provide comments on the subject draft Management Assistance Report. The points of contact for this response are [Redacted] (b) (6) [Redacted] (b) (6) who may be reached at 703-875-[Redacted] (b) (6) and [Redacted] (b) (6) who may be reached at 703-875-[Redacted] (b) (6).

As a general comment, the Office of Acquisitions Management (AQM) would like to emphasize the award of the overtime and incentive fee task orders was in response to an emergent security situation that was not present or contemplated at the time of the original task order award. The devolution of the security situation further resulted in a several month long temporary drawdown of personnel from U.S. Mission Iraq. The action taken by AQM facilitated the Department's sustainment of life support operations at the Mission, and in turn enabled the Department to continue to accomplish its mission in Iraq.

Recommendation 1: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, terminate task order SAQMMA15F0988 awarded to Pacific Architects and Engineering Government Services, Inc., for overtime and incentive pay.

Management Response (10/26/2015): AQM does not concur with the OIG recommendation. AQM will assemble and provide additional documentation for consideration by the audit team as part of its initial compliance update upon publication of the final MAR. The Contracting Officer does not be a termination action to be necessary action at this time.

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Recommendation 2: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, deobligate all remaining unspent funds awarded against task orders SAQMMA14F2036, SAQMMA14F3785, and SAQMMA15F0988, and inform Pacific Architects and Engineering Government Services, Inc., that expenses can no longer be incurred against these task orders.

Management Response (10/26/2015): AQM does not concur with the OIG recommendation. AQM will assemble and provide additional documentation for consideration by the audit team as part of its initial compliance update upon publication of the final MAR. No additional direction based on this recommendation will be provided to the contractor at this time.

Recommendation 3: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, inform contracting officers and other contract management personnel that award and administer contracts in countries with high-risk security environments that the practice of awarding overtime and incentive fees for firm-fixed-price labor contract line items must be discontinued unless the contracting officer can justify the award with a documented analysis of the validated need, cost-benefit, and merits of such an award in accordance with the Federal Acquisition Regulation.

Management Response (10/26/2015): AQM does not concur with the OIG recommendation. The AQM Quality Assurance Plan provides the necessary guidance to Contracting Officers and Specialists to ensure actions taken conform to Department policy and the FAR.

Recommendation 4: OIG recommends that the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management, review contracts performed in Iraq and other countries with high-risk security environments and, if the awards cannot be justified with a documented analysis of the validated need, cost-benefit, and merits of such an award in accordance with the Federal Acquisition Regulation, consider terminating task orders, deobligating all remaining unspent funds, and informing contractors that expenses cannot be incurred against these task orders.

Management Response (10/26/2015): AQM does not concur with the OIG recommendation. AQM will assemble and provide additional documentation for consideration by the audit team as part of its initial compliance update upon

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publication of the final MAR. No communications to the acquisition team and program office as recommended are contemplated to be distributed at this time.

Approved by:	A/LM – David Rodriguez, Acting	
Drafter:	A/LM – [redacted] 703-875-[redacted]	
Cleared:	A FO: [redacted]	(10/23/2015)
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	A/EX:	info

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