Audit Report

OFFICE OF THE INSPECTOR GENERAL

DOD CONTRACTS WITH THE DEPARTMENT OF EDUCATION, GOVERNMENT OF GUAM

Report No. 95-082 January 20, 1995

Department of Defense

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Acronyms

FAR	Federal Acquisition Regulation
DoE	Department of Education
NAVSUP	Naval Supply Systems Command

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL MANAGEMENT)

SUBJECT: Audit Report on DoD Contracts with the Department of Education, Government of Guam (Project No. 4RD-5063)

Introduction

We are providing this report for your information and use. The report discusses Navy contracts awarded to the Department of Education, Government of Guam (Guam DoE), to improve educational facilities and programs (kindergarten through grade 12) provided to the children of DoD personnel in Guam.

Audit Results

Overall, the Navy effectively awarded and administered the contracts in compliance with the Federal Acquisition Regulation (FAR). Guam DoE has taken proactive steps to resolve contract administration problems previously identified by the Inspector General, Department of the Interior, and is expending DoD funds on maintenance projects and educational programs that have significantly improved the overall quality of Guam public schools. Further, the Director, Section 6* Schools, has provided effective contract oversight.

Objective

The audit objective was to determine whether DoD officials followed Federal and DoD contract award and administration procedures for contracts awarded to Guam DoE.

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*Public Law 81-874, section 6, September 30, 1950 (as amended by U.S.C., title 20, section 241), "Education of Children Where Local Agencies Cannot Supply Facilities," provides that if no local educational agency is able to provide suitable free public education for children who reside on Federal property, arrangements will be made to provide free public education for such children.

Scope and Methodology

We reviewed preaward and postaward Guam DoE contract documentation, dated from January 1988 to September 1994, related to the award and administration of education contracts N61119-88-C-0024, N61119-90-C-0016, and N61119-93-C-0064. We interviewed officials from the Naval Supply Systems Command (NAVSUP) and the Section 6 Schools to evaluate the procedures used for the award, administration, and oversight of the contracts. We interviewed the Deputy Assistant Secretary of Defense (Personnel Support, Families, and Education) to determine the original intent of the contracts and whether future contract options would be exercised. In addition, we visited three Guam public schools and met with Guam DoE officials to assess the physical condition of the schools and the quality of education. Enclosure 1 lists the organizations visited or contacted during the audit. We did not use computer-processed data to develop audit conclusions.

Scope Limitations. We limited the scope of the audit to the contract award and contract administration files maintained by the NAVSUP and the Section 6 Schools. Although we reviewed reports prepared by Guam DoE for the contracting officer's representative, we did not audit the accuracy of those reports. In addition, we did not have access to or audit records maintained by Guam DoE.

This economy and efficiency audit was made from August through October 1994. The audit was made in accordance with auditing standards issued by the Comptroller General of the United States as implemented by the Inspector General, DoD.

Internal Controls

Due to the limited scope of the audit, we did not assess the implementation of the DoD Internal Management Control Program as defined in DoD Directive 5010.38, "Internal Management Control Program," April 14, 1987.

Prior Audits and Other Reviews

Inspectors from the Office of the Naval Inspector General visited Guam in April 1993. During the visit, the inspectors assessed the dissatisfaction with the Guam public schools expressed by Navy personnel and dependents. The inspectors cited problems in the physical condition of the schools and lack of certified teachers. Some members of the military community mentioned that they had little knowledge about how DoD contract funds were spent on school improvements. The inspectors concluded that cultural differences and misunderstandings played an important part in the dissatisfaction expressed about conditions in the Guam public schools. The Naval Inspector General recommended in a letter, dated June 24, 1993, the assignment of a contracting officer's representative in Guam and that the Director, Section 6 Schools, continue to provide technical assistance and remain actively involved in providing oversight for the contract. The Commander, NAVSUP,

nonconcurred with the recommendation to assign a contracting officer's representative. The Commander, NAVSUP, stated that because the contract with Guam DoE originated and is funded by the DoD through the Director, Section 6 Schools, the Director should remain the contracting officer's representative. The Commander, NAVSUP, emphasized that the Director makes regular visits to Guam DoE, briefs Navy and Air Force commanders on the status of the contract, and approves the expenditures of DoD contract funds. The Commander, NAVSUP, concurred with the recommendation to keep the Director, Section 6 Schools, involved in the contract.

Inspector General, Department of the Interior, Report No. 93-I-706, "Selected Special Revenue Funds, Government of Guam," March 15, 1993, discusses the Department of the Interior review of selected Government of Guam special revenue funds. The report states that, in general, revenues were properly credited, assets were safeguarded, and expenditures were properly authorized and in accordance with applicable laws and regulations. However, the Government of Guam did not use DoD contract funds in a timely manner for the repair and maintenance of Guam public schools. As of March 31, 1992, about $13 million had not been committed to the repair and maintenance of schools. As a result, the Government of Guam did not make needed repairs to public schools, causing students and teachers to be exposed to health and safety hazards. The Inspector General, Department of the Interior, recommended that the administering agency of each special revenue fund develop and implement a planning and monitoring process for each special revenue fund under its control. The Government of Guam nonconcurred. The Inspector General also recommended developing and implementing a plan for the timely correction of structural deficiencies identified in school buildings. The Government of Guam concurred, stating that uncommitted repair and maintenance funds totaled $6.5 million, not $13 million.

Background

In January 1988, the Deputy Assistant Secretary of Defense (Family Support, Education, and Safety), now the Deputy Assistant Secretary of Defense (Personnel Support, Families, and Education), determined that the education provided by Guam DoE to DoD dependents residing on Federal property in Guam, was not suitable free public education according to the provisions of U.S.C., title 20, section 241. Public Law 81-874, section 6, September 30, 1950 (as amended by U.S.C., title 20, section 241), "Education of Children Where Local Agencies Cannot Supply Facilities," provides that if the Secretary of Education determines that no local educational agency is able to provide suitable free public education for children who reside on Federal property, the Secretary will make necessary arrangements to provide free public education for such children. When the education provided under U.S.C., title 20, section 241 is outside the continental United States, the local education agency will take necessary actions to ensure that the education provided is comparable to the free public education provided to children in the District of Columbia.

Public Law 97-35, "Omnibus Reconciliation Act of 1981," section 505(c), August 13, 1981 (and as referenced in a Note to U.S.C., title 20, section 241),

gives the Secretary of Defense the authority to enter into arrangements provided for under U.S.C., title 20, section 241. In addition, DoD Directive 1342.16, "Provision of Free Public Education for Eligible Dependent Children Pursuant to Section 6, Public Law 81-874, as Amended," October 16, 1987, provides that "when it is not suitable for children of U.S. military personnel and federally employed civilian personnel to attend a locally operated public school, the Secretary of Defense shall make arrangements for the free public education of such children." For school year 1993 through 1994, the 7,000 DoD dependents comprised about 27 percent of the 26,000 total student enrollment in Guam public schools. Of those 26,000 students, 2,700 (10.4 percent) reside on U.S. military installations.

The Deputy Assistant Secretary of Defense (Family Support, Education, and Safety) directed the NAVSUP to negotiate a contract with Guam DoE for educational services in February 1988. The NAVSUP has awarded three consecutive firm fixed-priced contracts since 1988 to Guam DoE for public education services for DoD dependents residing on U.S. military installations in Guam. The contracts included a cost reimbursable portion for authorized costs for the recruitment of teachers. The current contract (N61119-93-C-0064) has four option periods through FY 1998. From FY 1988 through FY 1994, $77.4 million will be paid to Guam DoE under the three contracts.

The purpose of the contracts is to improve the quality of education in Guam public schools. The original contract and successor contracts have focused on raising teachers' qualifications, repairing and maintaining facilities, improving curriculum and quality of instruction, increasing teachers' proficiency in English, and recruiting fully certified teachers from the United States.

Discussion

We reviewed four specific issues related to the Navy's award, administration, and oversight of the education contracts. Each issue is discussed below.

Issue 1. Did NAVSUP act properly in waiving the FAR provision that requires the contractor (Guam DoE) to submit certified cost or pricing data in determining the cost per student under the contract?

Audit Results. NAVSUP acted properly in waiving the FAR provision. The contracting officer had the authority under the FAR to waive the requirement for Guam DoE to submit certified cost or pricing data. During contract negotiations, the pricing of contracts N61119-88-C-0024 and N61119-90-C-0016 was determined by multiplying the number of DoD dependents residing on military installations by the cost per student. The cost per student was determined by dividing the Guam DoE budget by the total number of children enrolled in the public school system. Because a Guam DoE regulation established the cost per student, which was the cost incurred for each student throughout the U.S. territory, the contracting officer waived the requirement to submit certified cost or pricing data, citing

FAR part 15.804-3(a)(3). That FAR provision states that the requirement for submission of certified cost or pricing data may be waived when the price is set by law or regulation.

During contract negotiations, the cost per student was calculated for contract N61119-93-C-0064 using actual costs for Guam DoE instead of the Guam DoE budget. Because the cost per student was based on actual costs (which are public information) with no element of profit involved, the Assistant Deputy Commander, Contracting Management Directorate, NAVSUP, waived the requirement for submitting certified cost or pricing data, citing FAR part 15.804-3(i). That FAR provision states that an agency head or designee may, in exceptional cases, waive the requirement for submission of certified cost or pricing data.

Issue 2. Had the Defense Contract Audit Agency audited the cost reimbursable portion of the contracts concerning the recruitment, hiring, and relocation of teachers?

Audit Results. Although the contracting officer did not obtain a Defense Contract Audit Agency audit of recruitment costs, the contracting officer's representative and the contracting officer reviewed invoices and verified charges incurred for the recruitment of teachers before paying Guam DoE. In addition, NAVSUP pays reimbursable costs for the relocation of recruited teachers in accordance with the Joint Travel Regulation, unless the costs conflict with Guam regulations. Guam regulations override the Joint Travel Regulation and are more conservative regarding allowable relocation expenses. Guam DoE's efforts to recruit teachers outside Guam have been successful. For 1988 through 1994, Guam DoE hired 777 certified teachers from outside Guam.

Issue 3. Was NAVSUP's enforcement of contractual terms adequate, specifically concerning whether Guam DoE is maintaining the schools in a safe and usable condition?

Audit Results. Our visit to three Guam public schools showed that the schools were well maintained by Guam DoE. The contract terms concerning repair and maintenance of schools require Guam DoE to use its best efforts to maintain the schools in a safe and usable condition. In addition, the contracts required, in an attachment to the statement of work, that Guam DoE obligate DoD contract funds toward reducing the total cost of repair and maintenance projects listed in the School Repair Assessment Summary. The amount to be obligated was different under each of the contracts with at least $2.3 million to be obligated for FY 1988, not more than $4 million per year for FY 1989 through FY 1993, and not more than $6 million per year for FY 1994 through FY 1998. However, the deliverable specified by each contract is public education services for DoD dependents residing on U.S. military installations in Guam, not the repair and maintenance of schools. Because public education services were provided, Guam DoE has complied with the contract.

During FY 1988 through FY 1991, Guam DoE did not use funds in a timely manner for repair and maintenance primarily because of a shortage of maintenance personnel and vehicles and because vendors often canceled

requisitions. Guam DoE has since made a concerted effort to use DoD contract funds more expeditiously. Guam DoE reports on repair and maintenance projects, funded under contracts N61119-88-C-0024 and N61119-90-C-0016 for FY 1988 through FY 1993, showed that Guam DoE completed projects totaling $16.2 million from FY 1989 through FY 1994. Further, repair and maintenance projects totaling an estimated $6.9 million are due for completion in FY 1995 and FY 1996. The contracting officer's representative reviewed and approved all repair and maintenance projects planned by Guam DoE.

Issue 4. Were audit findings and recommendations from prior Inspector General, Department of the Interior, audit reports resolved?

Audit Results. Audit findings and recommendations from prior Inspector General, Department of the Interior, audit reports have been adequately resolved. The Inspector General, Department of the Interior, contracted with the public accounting firm of Deloitte and Touche to perform the 1989 and 1990 annual single audit of the Government of Guam required by Office of Management and Budget Circular No. A-128, "Audits of State and Local Governments." The prior audit reports cited problems with Guam DoE procurement procedures. However, the contract awarded to Guam DoE for public education services for DoD dependents residing on U.S. military installations in Guam is not a grant or contract for Federal financial assistance. As a result, the contract is not covered by the authority of Office of Management and Budget Circular No. A-128. Although Deloitte and Touche should not have included the education contracts in the annual single audits, Guam DoE has made improvements in its procurement procedures in response to those audits. Guam DoE has corrected problems identified in the annual contractor purchasing system reviews and has established a purchasing system that stresses competition and uses sealed-bid procedures for contracts of more than $5,000. In addition, Guam DoE has segregated DoD contract funds from other Guam DoE funds.

The Inspector General, Department of the Interior, audit of selected Government of Guam special revenue funds showed that Guam DoE did not commit in a timely manner DoD contract funds for repair and maintenance of the public schools. As discussed under Issue 3, Guam DoE has more efficiently expended DoD contract funds specified for repair and maintenance projects. As a result, numerous projects have been completed or are in process.

Summary

The NAVSUP's award and administration of the education contracts complied with the FAR, and the cost per student under the contract was reasonable. Additionally, prior problems regarding the condition of school facilities and the quality of education have been or are being resolved. The NAVSUP contracts with Guam DoE have and are fulfilling their intent to improve the overall quality of education available to DoD dependents in Guam. The contracts have provided useful leverage that has aided in raising the quality of public education and facilities in Guam to levels comparable to U.S. standards.

Management Comments

We provided a draft of this report to management on December 9, 1994. Because the report contains no findings or recommendations, no comments were required and none were received. Therefore, we are publishing this report in final form.

We appreciate the courtesies shown to the audit staff. If you have questions on this audit, please contact Mr. Eric B. Edwards, Audit Project Manager, at (703) 604-9515 (DSN 664-9515) or Ms. Beth A. Kilborn, Senior Auditor, at (703) 604-9533 (DSN 664-9533). Enclosure 2 lists the distribution of this report. Audit team members are listed inside the back cover.

Robert J. Lieberman
Assistant Inspector General
for Auditing

Enclosures

Organizations Visited or Contacted

Office of the Secretary of Defense

Office of the Deputy Assistant Secretary of Defense (Personnel Support, Families, and Education), Washington, DC
DoD Education Activity, Arlington, VA
Section 6 Schools, Arlington, VA

Department of the Navy

Headquarters, Naval Supply Systems Command, Arlington, VA

Non-Government Organizations

Department of Education, Government of Guam, Agana, Guam
Simon A. Sanchez High School, Yigo, Guam
F.B. Leon Guerrero Middle School, Yigo, Guam
Upi Elementary School, Yigo, Guam

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House Subcommittee on National Security, Committee on Appropriations
House Committee on Government Reform and Oversight
House Subcommittee on National Security, International Affairs, and Criminal Justice, Committee on Government Reform and Oversight
House Committee on National Security

Audit Team Members

This report was prepared by the Readiness and Operational Support Directorate, Office of the Assistant Inspector General for Auditing, Department of Defense.

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