Audit Report

OFFICE OF THE INSPECTOR GENERAL

CIVILIAN CONTRACTOR OVERSEAS SUPPORT DURING HOSTILITIES

Report Number 91-105

June 26, 1991

Department of Defense

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884

June 26, 1991

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (FORCE MANAGEMENT AND PERSONNEL)

SUBJECT: Audit Report on Civilian Contractor Overseas Support During Hostilities (Report No. 91-105)

This is our final report on Civilian Contractor Overseas Support During Hostilities. We made the audit at the request of the Inspector General, Department of the Army, from October 1989 through November 1990. The objectives of the audit were to determine the extent to which the Military Departments rely on contractors for emergency-essential services during overseas crises or hostile situations and to evaluate the extent to which these vital services should be provided by civilian contractors. We generally excluded civilian contractor support of overseas intelligence activities. The audit also followed up on Recommendations B.1. and B.2. in Inspector General, DoD, Audit Report No. 89-026, "Retention of Emergency-Essential Civilians Overseas During Hostilities," November 7, 1988. Because of a lack of policy and guidance at the OSD level on the continuation of emergency-essential contractor support during a crisis or hostile situation, we did not assess the adequacy and the effectiveness of applicable internal controls.

The audit showed that DoD relies on contractors to provide services related to defense systems vital to the DoD mobilization and wartime mission. The Assistant Secretary of Defense (Force Management and Personnel) issued DoD Instruction 3020.37, "Continuation of Essential DoD Contractor Services During Crises," November 6, 1990, to address that dependency. The Instruction should strengthen DoD's ability to ensure that emergency-essential services provided by contractors are continued during crises or hostile situations. However, the Instruction needs revision to provide additional assurances of continued performance. The results of the audit are summarized in the following paragraph, and the details, recommendations, and management comments are in Part II of this report.

DoD Components cannot ensure that emergency-essential services performed by contractors would continue during a crisis or hostile situation. This condition was previously reported in Audit Report No. 89-026, issued in November 1988. Generally, contingency plans did not exist to ensure continued performance of emergency-essential services if the contractor defaulted during a crisis or hostile situation. In addition, there was no central policy or oversight for the identification and management of emergency-essential services until the Instruction was issued

in November 1990. Further, contracts did not contain provisions to protect contractor employees performing emergency-essential services (page 5).

A draft of this report was provided to the Assistant Secretary of Defense (Force Management and Personnel) on March 6, 1991. The Assistant Secretary's response, dated May 20, 1991, is summarized in Part II of this report, and the complete text is provided in Appendix D. The Assistant Secretary concurred with the finding, but stated that the provisions of the newly published DoD policy must be given time to be implemented before additional policies and provisions are made. We believe that the recommendations are still warranted for the reasons discussed in Part II of this report. Therefore, we ask that the Assistant Secretary reconsider his position on the recommendations and provide comments on the final report including proposed corrective actions and estimated completion dates.

This report identifies no potential monetary benefits. However, implementation of our recommendations will improve the readiness and sustainability of the Armed Forces by providing additional assurances that the needed type, quality, and quantity of support to vital functions during an overseas conflict or crisis will be maintained. These benefits are identified in Appendix E.

DoD Directive 7650.3 requires that all audit recommendations be resolved promptly. Therefore, we request that the Assistant Secretary of Defense (Force Management and Personnel) provide comments on this final report within 60 days of the date of this memorandum.

The courtesies extended to the audit staff are appreciated. If you have any questions on this report, please contact Mr. Michael A. Joseph on 703-693-0138 (DSN 223-0138) or Mr. Richard A. Brown on 703-693-0318 (DSN 223-0318). A list of the audit team members is in Appendix G. Copies of the final report are being provided to the activities listed in Appendix H.

Robert J. Lieberman
Assistant Inspector General
for Auditing

cc:
Assistant Secretary of Defense (Production and Logistics)
Deputy Commander in Chief, U.S. European Command
Assistant Secretary of the Army (Financial Management)
Assistant Secretary of the Navy (Financial Management)
Assistant Secretary of the Air Force (Financial Management and Comptroller)
Director, Joint Staff

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CIVILIAN CONTRACTOR OVERSEAS SUPPORT DURING HOSTILITIES

PART I INTRODUCTION

Background

Historically, DoD civilian contractors have served in hostile areas in time of need. DoD has become increasingly reliant on contractor personnel to support military forces and systems. Several reports and studies issued in the past 10 years identified trends toward increasing dependence on contractor support. Contractor personnel are relied on for technical assistance; advice; instruction; and training of military personnel in the installation, operation, and maintenance of weapon systems and equipment. Contractors also function as the liaison between users and manufacturers. This support is indispensable in sustaining the readiness of front-line weapon systems.

Reliance on contractor support is primarily attributable to the increased technical complexity of weapons and other defense systems resulting from the Military Departments' force modernization efforts. Other reasons for the increased dependence on contractors include the inability to retain highly qualified military maintenance personnel, the perceived need to put into operation new systems before adequately trained military technicians are available, and efforts to reduce defense costs by contracting for additional services. If contractors leave their jobs during a crisis or hostile situation, the readiness of vital defense systems and the ability of the Armed Forces to perform their assigned missions would be jeopardized. Therefore, it is necessary to seek ways to assure that civilian contractor support will continue during periods of greatest need.

The term "emergency-essential" service, as used in this report, is defined as a service provided under contract for sustaining vital defense systems and associated support activities considered of utmost importance to DoD's mobilization and wartime mission. The failure to immediately perform these emergency-essential services would seriously degrade the effectiveness of the defense systems or operations. Discontinuance of contractor services on a number of vital defense systems would disrupt DoD's capabilities during a protracted war effort. Such services, termed "war-stopper" services for the purposes of this report, should be performed exclusively by military personnel.

Objectives and Scope

Our objectives were to determine the extent to which the Military Departments rely on emergency-essential contractor support in the event of an overseas crisis or hostile situation and the extent to which these vital services should be provided by civilian contractors. Due to the lack of central oversight and the absence of data at the major command and subordinate levels, we were not able to quantify the number of emergency-essential contracts. We were also unable to calculate the percentage of vital services that should be provided by civilian contractors. However, we determined that a mix of military, civilian, and contractor employees should be used to maximize performance of emergency-essential services during crises and hostilities.

We followed up on Recommendations B.1. and B.2. of Inspector General, DoD, Audit Report No. 89-026, "Retention of Emergency-Essential Civilians Overseas During Hostilities," November 7, 1988. Those recommendations required the identification of war-stopper services that should be performed exclusively by military personnel and other services that may be contracted out only if a contingency plan exists to ensure continued performance when a contractor defaults.

To identify contracts covering emergency-essential services overseas, we judgmentally selected 11 contracting activities in Europe and CONUS. We reviewed 195 (101 foreign and 94 domestic) contracts involving contractors performing services overseas (see Appendix A). Of the 195 contracts reviewed, 98 were selected from an extract of 357 contracts in the Defense Contract Action Data System (DD Form 350) data base for FY 1989. There were no codes to identify emergency-essential services; therefore, we selected 46 codes (see Appendix B) that appeared to be for services in support of sensitive military equipment and systems and of the Armed Forces' capabilities during a protracted war effort. Of the 195 contracts reviewed, 67 covered emergency-essential services.

The 195 contracts we reviewed covered contractor personnel working overseas or those who would be transferred overseas in the event of hostilities. However, the audit did not include contractors who made trips overseas to introduce new equipment and systems, because requirements for their services generally are temporary. Generally, we excluded civilian contractor support of intelligence activities from the audit scope. We also reviewed 24 U.S. Army, Europe, purchase requests and commitments, or contracts for FY 1990 based on U.S. Army, Europe, Regulation 715-2, "USAREUR Acquisition Regulation with USAREUR Acquisition Instruction (UAI)," December 21, 1989.

To identify emergency-essential services, we depended on the existence of emergency or war clauses in contracts or on determinations made by using or requesting activities. We attempted to validate these determinations at the Component commands. We did not dispute the determination that contracts were for emergency-essential services.

This program results audit was made, at the request of the Inspector General, Department of the Army, from October 1989 through November 1990, and was conducted in accordance with auditing standards issued by the Comptroller General of the United States as implemented by the Inspector General, DoD. We did not verify internal controls because policy and guidance had not been established until DoD Instruction 3020.37, "Continuation of Essential Contractor Services During Crises," was issued on November 6, 1990, following our field work. We believe that controls should be a result of established policy. Accordingly, implementation of DoD Instruction 3020.37 and our recommendations will provide the basis for establishing proper internal controls. A list of the activities visited or contacted during the audit is in Appendix F.

Prior Audit Coverage

Audit Report No. 89-026, issued November 7, 1988, stated that there was no capability to ensure continued contractor support for emergency-essential services during mobilization or hostilities, no central oversight of contracts for emergency-essential services, no legal basis to compel contractors to perform, and no means to enforce contractual terms. The report recommended that all commands identify war-stopper services that should be performed exclusively by military personnel and those that could be contracted out if a contingency plan existed to ensure continued performance when a contractor defaults. DoD concurred with the finding and recommendations, and a draft Directive was issued for comment. However, official policy (DoD Instruction 3020.37) was not issued until November 6, 1990, after our audit work was completed. The Instruction satisfies the recommendation for contingency plans, but does not satisfy the recommendation to identify war-stopper services. Details are provided in Part II of this report. We did not identify any other coverage of our objectives during the past 5 years.

PART II - FINDING AND RECOMMENDATIONS

Emergency-Essential Contractor Services

FINDING

DoD Components cannot ensure that emergency-essential services performed by contractors would continue during crises or hostile situations. This condition was previously reported in Inspector General, DoD, Audit Report No. 89-026, "Retention of Emergency-Essential Civilians Overseas During Hostilities," November 7, 1988. DoD efforts to establish policy on emergency-essential services were not accomplished in a timely manner. In addition, the policy issued did not adequately address providing reasonable assurances of continued emergency-essential services during crises. As a result, essential contractor support may not be available at the time of greatest need. Such loss of contractor support on sensitive military equipment and systems would have a degrading effect on the Armed Forces' capabilities in a protracted war effort.

DISCUSSION OF DETAILS

Emergency-Essential Contracts. Thirty-four percent of the 195 contracts reviewed were for services designated emergency-essential by the requiring activity. Few of the contracts for emergency-essential services had contingency plans to ensure continued performance in the event of contractor default.

No central office within DoD or the Military Departments had oversight responsibility for contracts involving emergency-essential services. No major command or subordinate command we visited could provide us with data concerning all contracts vital to combat or crisis operations. Therefore, we could not quantify the numbers of emergency-essential contracts and related contractor personnel. A Defense Science Board Task Force report, issued in 1982, stated that more than 5,000 contractor employees were providing emergency-essential services overseas for the Military Departments. Lacking central guidance, many commands had devised their own policies and procedures to identify and manage emergency-essential services during crises or hostile situations. Few contracts contained provisions, such as issuing noncombatant identification cards, to safeguard contractor employees performing emergency-essential services overseas during crises or hostilities.

Identification of Emergency-Essential Contracts. We determined that 67 (34 percent) of 195 contracts reviewed placed reliance on foreign and domestic civilian contractors to provide

emergency-essential services. Due to the lack of timely OSD policy and guidance, attempts by DoD Components to identify emergency-essential services have resulted in a wide range of services designated as emergency-essential. Examples of those services are presented below.

Naval Sea Systems Command issued an annual contract to identify problems, initiate corrective action, and train sailors on shipboard systems. Shipboard systems include weapons fire control, target acquisition, and numerous radars. These essential systems detect aircraft and ships and determine their identity (friend or foe) and specific location. The systems also direct weapon fire control radars and launch missiles. Each year before contracting for services, the Navy determines whether qualified Navy repair and maintenance personnel will be available to perform the services. If those personnel will not be available, a contract is awarded.

Warner-Robins Air Logistics Center, Air Force Logistics Command, awarded a contract for on-site, on-call maintenance and repair of the AN/GYQ-21(V) Data Processing System, its subsystems, and equipment. This system is used worldwide by the Military Departments and DoD agencies to process intelligence data during peacetime and wartime. The contractor provides full maintenance support for the system because DoD does not have trained military personnel. This system was essential to the success of Operation Just Cause in Panama.

U.S. Army Contracting Center, Europe, awarded a contract to a German firm to manage and operate the Mainz Army Depot Complex. The contract is for depot and general support-level maintenance, supply operations, staging, and base operations support at U.S. Government-owned-contractor-operated facilities in central Germany. The contract provides that the contractor will prepare a mobility strategy plan to enable the Mainz Army Depot Complex to transition from peacetime to wartime operations.

The Naval Regional Contracting Center, Naples, awarded a contract to furnish the management, labor, equipment, materials, and supplies necessary to operate a milk plant at Naval Station, Rota, Spain. The plant produces milk, fruit-flavored drinks, imitation ice cream, yogurt, sherbert, and other dairy products. This contractor-operated plant was designated as mission-essential because it was the only producer of dairy products in this geographic region that met U.S. standards and specifications.

Contingency Plans. For 61 of the 67 emergency-essential contracts, users did not have contingency plans to ensure uninterrupted services in the event of contractor default during crises or hostile situations. Shown below are examples of

contracts for emergency-essential services that did not have contingency plans to ensure continued performance of assigned missions.

Detachment 1, 7000 Contracting Squadron, Lindsey Air Station, awarded two contracts in support of the U.S. Air Forces in Europe (USAFE) Tactical Fusion Center-Information Processing System (the Processing System). One contract was for on-site remedial maintenance of computer hardware; the other was for the maintenance and enhancement of software. The Processing System automates air and missile orders of battle production responsibilities for USAFE and the Allied Air Forces, Central Europe. The contractor will be required to support the Processing System during a state of emergency or war.

Although the Processing System is a one-of-a-kind configuration of hardware and software, there were no contingency plans for hardware or software maintenance in the event of contractor default. The absence of contractor support for this system would degrade the ability of USAFE to perform its wartime mission to issue air and missile orders of battle against specific targets.

Detachments 1 and 2, 7000 Contracting Squadron, USAFE, each contracted for preventative and unscheduled repair services for Computerized Axial Tomography (CAT) scanners. CAT scanners provide medical personnel essential diagnostic data critical for the definitive care and treatment of patients. The Military Departments do not have personnel with these maintenance skills; therefore, contractor support is necessary.

We are not making recommendations concerning contingency plans because policy guidance has been issued addressing this issue.

Military Department and Command Level Programs. Programs to provide policy and procedures regarding the identification and management of services that are essential in overseas crises or hostile situations have been established at various commands. These programs were developed due to a recognized need to identify and manage emergency-essential services to support the Armed Forces. Although these programs provide for the accumulation, verification, and approval of data relating to services that should not be contracted out, or contracted out only if contingency plans are in place, the programs are not applicable to all requirements or systems and are not consistently used by all activities within each Military Department and Command. Although partially effective, the various programs have resulted in inconsistent and fragmented data. We are not addressing corrective actions to the Components in regard to their programs because related OSD policy guidance has been issued. Details on Component programs are in Appendix C.

Safeguards and Protection for Emergency-Essential Contractor Personnel. Only 1 of the 67 emergency-essential contracts we reviewed made provisions to protect contractor personnel against chemical and biological warfare. Protective clothing and equipment and training for its use should be furnished to contractors.

During Operation Just Cause in Panama, contractor technicians provided vital support for the AN/GYQ-21(V) Data Processing System. Officials of the Office of the Deputy Assistant Secretary of Defense (Intelligence), (DASD [I]); Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence); Office of the Deputy Chief of Staff for Intelligence, Department of the Army; and the U.S. Southern Command agreed that contractor default could have caused delay or cancellation of the Operation. A Southern Command official stated that if the contractor had failed to keep the Data Processing System operational, the back-up system would have been incapable of handling the general service and compartmented communications required to successfully execute Operation Just Cause.

The contractor provided service even though little was done to ensure the safety of the contractor's employees and families before and during the Operation. The contractor technicians were primarily concerned about the safety of their dependents. Five days into the Operation, a DASD(I) program manager asked the site commander to determine provisions and measures being taken to protect the dependents of contractor technicians. DASD(I) officials stated that the U.S. Army South could not provide requested housing because of Army regulations. DASD(I) officials believe DoD guidance should be developed to ensure that essential contractors supporting critical and vital systems are safeguarded and supported.

Noncombatant Identity Cards. Civilian contractors who provide emergency-essential services during hostilities are considered noncombatants, authorized to accompany U.S. military forces in regions of combat. The contractors are liable to capture and detention by the enemy as prisoners of war. Therefore, they are entitled to a Noncombatant Identity Card in accordance with the Geneva Conventions and DoD Instruction 1000.1, "Identity Cards Required by the Geneva Conventions," January 30, 1974. DoD Components had not established procedures to issue the Noncombatant Identity Cards.

Actions to Implement Previous Recommendations. In December 1988, the Office of the Assistant Secretary of Defense (Force Management and Personnel) (OASD [FM&P]) issued for comment draft DoD Directive 3025.XX, "Continuation of Essential DoD

Contractor Services Overseas During Crises." Publication was estimated for January 1989. The draft Directive was the implementing action on Recommendations B.1. and B.2. in Inspector General, DoD, Audit Report No. 89-026, November 7, 1988, and other DoD efforts ongoing since 1984. The draft Directive would have established policy and guidance to help ensure that essential DoD contractor services overseas would be continued during crisis situations. However, concerns raised by the DoD acquisition and legal communities and the Military Departments caused OASD (FM&P) to withdraw the draft Directive.

On November 6, 1990, OASD(FM&P) issued DoD Instruction 3020.37, "Continuation of Essential DoD Contractor Services During Crises," (originally issued for comment as draft DoD Instruction 1100.XX) to implement DoD policy and to prescribe procedures to provide reasonable assurance of the continuation of emergency-essential services. However, the Instruction omitted some key policies proposed in draft DoD Directive 3025.XX and draft DoD Instruction 1100.XX.

Draft Directive 3025.XX would have required overseas commands to institute procedures to provide emergency-essential contractors overseas the same priorities, rights, and privileges accorded to DoD civilians in accordance with DoD Directive 1404.10, "Emergency-Essential (E-E) DoD U.S. Citizen Civilian Employees Overseas." Although DoD Instruction 3020.37 requires contingency plans for the assumption or supplementation of emergency-essential services at the earliest opportunity during crises, it does not address the safeguarding of contractor personnel providing the emergency-essential services. The Instruction includes provisions to ensure that contractor personnel are issued Noncombatant Identity Cards. Unpublished DoD Instruction 1100.XX would have required an annual reporting system to identify the number of contracts with emergency-essential services and the number of contractor personnel by area of responsibility; however, DoD Instruction 3020.37 does not include this requirement. The need for a reporting system was reinforced during Operation Desert Shield, when the Office of the Assistant Secretary of Defense (Production and Logistics) requested that the Inspector General, DoD, evaluate the overall management of contractor maintenance support for Operation Desert Shield, because information concerning contractor personnel providing emergency-essential services was unavailable.

DoD Instruction 3020.37 establishes needed policy and increases the level of assurance that emergency-essential services provided by contractors will continue during times of need. However, the Instruction does not satisfy the intent of Recommendation B.1. in Audit Report No. 89-026 to identify essential war-stopper services that should be performed exclusively by military personnel. The intent of agreed-upon Recommendation B.1. was to

identify specific functions that should not be contracted out so that those functions would be done by military personnel. For example, U.S. European Command Directive 100-17, "Contracting Functions of the Defense Communications System in the European Theater," January 22, 1988, requires certain communications functions to be done exclusively by military personnel. Specifics on Directive 100-17 are discussed in Appendix C.

DoD Instruction 3020.37 requires DoD Components that employ contractors who perform emergency-essential services to develop and implement contingency plans to prevent the discontinuance of emergency-essential services in the event of contractor default. The Instruction also directs DoD Component heads to assess the effects of unanticipated or premature loss of emergency-essential services on the effectiveness of support to mobilizing and deployed forces and to adjust affected contingency or operation plans accordingly. Those provisions satisfy the intent of Recommendation B.2. from the previous audit report.

Conclusion. Thirty-four percent of the contracts in our sample were for emergency-essential services. Reliance on civilian contractors is significant and could increase with the drawdown of U.S. forces. Although DoD Instruction 3020.37 gives needed central policy that promotes the continuation of emergency-essential services during crises and hostile situations, the Instruction needs revision to provide additional assurances.

RECOMMENDATIONS FOR CORRECTIVE ACTION

We recommend that the Assistant Secretary of Defense (Force Management and Personnel) revise DoD Instruction 3020.37 in order to provide additional assurances of the continuation of emergency-essential services during crises and hostile situations. The revisions should:

1. Require identification of war-stopper services that should be performed exclusively by military personnel.

2. Require an annual reporting system that identifies the number of contracts with emergency-essential services and the number of contractor personnel under contract to perform the services.

3. Require provisions to safeguard contractor personnel performing emergency-essential services during a crisis or hostile situation.

MANAGEMENT COMMENTS

The Assistant Secretary of Defense (Force Management and Personnel) concurred with the finding, but believes it would be more appropriate to allow time to implement the recently published DoD Directive 3020.37 and to do another audit of the area before additional policies and provisions are made. In response to Recommendation 1., management stated that the corrective action was not necessary because DoD Directive 1100.4, "Guidance for Manpower Programs," identifies those functions that must be performed by military personnel. Beyond this policy, it is up to the Commander to determine the best mix of resources for mission accomplishment. In response to Recommendation 2., management stated that the ability to carry out our mission is more important than the number of contracts. In addition, management said that corrective action for Recommendation 3. was not necessary because the Commander is charged by the Geneva Conventions with protecting the lives of all noncombatants.

AUDIT RESPONSE TO MANAGEMENT COMMENTS

The Assistant Secretary's comments are not considered fully responsive. Our draft report was written while draft Instruction 3020.37 was being finalized. We considered the Instruction while preparing our report. The recommendations address only those issues we believe were not adequately covered in the Instruction. Allowing time to implement the Instruction will not correct the cited deficiencies, since the deficient areas are not addressed in the Instruction. We do not believe that doing further audit work at a later date will shed new light on the issue.

Recommendation 1. DoD Directive 1100.4, cited by the Assistant Secretary in response to Recommendation 1., is 37 years old. The Directive does not establish standard criteria for identifying those functions that must be performed by military personnel. In addition, the Directive does not identify such functions. Without standard criteria, DoD Components will continue to identify a wide range of emergency-essential services as shown by the examples in this report. It should be noted that in response to Office of the Inspector General Report No. 89-026, "Retention of Emergency-Essential Civilians Overseas During Hostilities," November 7, 1988, the Assistant Secretary concurred with a similar recommendation. In addition, DoD Directive 1100.4 is not referenced in Instruction 3020.37.

Recommendation 2. We agree that the need to make sure DoD can carry out its mission is more important than the number of contracts with emergency-essential services. However, we believe the number of contracts and associated contractor personnel is valuable management information. This is evidenced by the request from the Assistant Secretary of Defense (Production and Logistics) that the Office of Inspector General, DoD, evaluate contractor maintenance support for Operation Desert Shield. Specifically, we were requested to provide data on the number of contractors and contractor personnel in theater. The recommended reporting system would provide a readily available source for such information. Additionally, the number of contractor personnel would be useful for administrative and logistical support planning for contingencies. The system could be tailored to provide information by area of responsibility (e.g., intelligence, command and control, communications, or weapons). The information would assist with long-range and execution planning.

Recommendation 3. The Assistant Secretary's response to Recommendation 3. will not afford contractor employees with similar priorities, rights, and privileges accorded to DoD emergency-essential civilians by DoD Directive 1404.10, including protective clothing and equipment and training for its use. Further, the Geneva Conventions do not afford this protection or safeguarding of contractor employees, but deal with the issuance of noncombatant identification cards and the capture and detention by the enemy as a prisoner of war. Only 1 of 67 emergency-essential contracts reviewed contained provisions to protect contractor personnel against chemical and biological warfare. The lack of provisions in contracts supports our contention that current policies do not provide adequate safeguards.

SCHEDULE OF CONTRACTS REVIEWED

Activity	Source: Selected DD 350[1]	Source: Activity Provided	Source: Random Sample	Total Reviewed	Identified "Emergency-Essential"[2]
Warner-Robins Air Logistics Center, GA	21	3	16	40	5
Detachment 1, 7000 Contracting Squadron, USAFE, FRG[3]	15	7	0	22	11
Detachment 2, 7000 Contracting Squadron, USAFE, FRG	7	0	0	7	1
Naval Sea Systems Command, Washington, DC	2	0	12	14	2
Naval Supply Center, Norfolk, VA	0	5	0	5	0
Naval Regional Contracting Center, Naples, Italy	4	2	0	6	4
Communications and Electronics Command, Fort Monmouth, NJ	9	28	9	46	23
U.S. Army Europe Contracting Center, Frankfurt, FRG	27	4	0	31	10
Regional Contracting Office, Seckenheim, FRG	9	0	0	9	3
Regional Contracting Office, Frankfurt, FRG	4	0	0	4	0
Army Materiel Command, Europe	0	9	0	9	6
U.S. Army Information System Selection Acquisition Agency, Alexandria, VA[4]	0	1	0	1	1
Military Traffic Management Command, TOPS[5] Project Management Office, Fort Belvoir, VA[4]	0	1	0	1	1
Total	98	60	37	195	67

1/ Defense Contract Action Data System.
2/ The designation emergency-essential was based on the existence of an emergency war clause in the contract or on a determination made by the using or requesting activity.
3/ USAFE, FRG - United States Air Forces in Europe, Federal Republic of Germany.
4/ Contracts referred for review from Office of the Assistant Inspector General for Auditing Project No. OFE-0024, "Use of Micro-Computers."
5/ TOPS - Transportation Operational Personal Property Standard System.

SERVICE CODES REVIEWED

Service Code[1]	General Description
JO**[2]	Maintenance, Repair, and Rebuild
10	- Weapon Systems
12	- Fire Control Equipment
13	- Ammunition and Explosives
14	- Guided Missiles
15	- Aircraft and Airframe Structural Components
16	- Aircraft Components and Accessories
20	- Ship and Marine Equipment
22	- Railway Equipment
23	- Ground Effect and Motor Vehicles, Trailers, and Cycles
25	- Vehicular Equipment Components
28	- Engines, Turbines, and Components
29	- Engine Accessories
39	- Materials Handling Equipment
41	- Refrigeration, Air Conditioning, and Air Conditioning Equipment
42	- Fire Fighting, Rescue, and Safety Equipment
44	- Furnace, Steam Plant, and Drying Equipment; and Nuclear Reactors
45	- Plumbing, Heating, and Sanitation Equipment
46	- Water Purification and Sewage Treatment Equipment
49	- Maintenance and Repair Shop Equipment
56	- Construction and Building Material
58	- Communication, Detection, and Coherent Radiation Equipment
59	- Electrical and Electronic Equipment Components
61	- Electric Wire and Power Distribution Equipment
63	- Alarm, Signal, and Security Detection Systems
65	- Medical, Dental, and Veterinary Equipment, and Supplies
70	- General Purpose Automatic Data Processing Equipment
KO**[2]	Modification of Equipment
15	- Aircraft and Airframe Structural Components
16	- Aircraft Components and Accessories
28	- Engines, Turbines, and Components

[1] - Service Code selected from the Defense Contract Action Data System

[2] - ** Use two digit code shown below.

SERVICE CODES REVIEWED (Continued)

Service Code[1/]	General Description
LO**[2/]	Technical Representative Service
14	- Guided Missiles
15	- Aircraft and Airframe Structural Components
16	- Aircraft Components and Accessories
22	- Railway Equipment
28	- Engines, Turbines, and Components
58	- Communication, Detection, and Coherent Radiation Equipment
M***[3/]	Operation of Government-Owned Facilities
	- Airfield, Communications, and Missile Facilities
123	-- Radar and Navigational Facilities
124	-- Airport Runways
125	-- Airport Terminals
127	-- Electronic and Communication Facilities
	- Industrial Buildings
152	--Maintenance Buildings
	- Utilities
242	-- Heating and Cooling Plants
249	-- Other Utilities
R4**[2/]	Professional Services
14	- Systems Engineering Services
21	- Technical Assistance
25	- Engineering Technical Services
26	- Communications Services

3/ *** Use three-digit code shown below.

MILITARY DEPARTMENT AND COMMAND LEVEL PROGRAMS

U.S. European Command. U.S. European Command (USEUCOM) issued Directive 100-17, January 22, 1988, "Contracting Functions of the Defense Communications System in the European Theater," which established policy and procedures for contracting the operation and maintenance of certain joint-use communications facilities and systems in the European theater. The Directive addresses the necessity to restrict contracting of functions within the Defense Communications System that serve a wartime mission, thus, ensuring minimum risk of interrupted performance during crises, contingencies, or war.

The Directive identifies specific functions (war-stopper) that would not be contracted and mandated that those functions be operated and maintained by military personnel. In addition, the Directive identified other essential functions that may be contracted out provided contingency plans have been developed for operation by military personnel and have been approved by USEUCOM before contract negotiations.

U.S. Army Europe. U.S. Army Europe (USAREUR) Regulation 715-2, "USAREUR Acquisition Regulation with USAREUR Acquisition Instruction (UAI)," December 21, 1989, provides procedures and guidance for the acquisition of supplies and services by USAREUR activities and contracting offices. The Regulation includes changes made by USAREUR Contracting Letters No. 90-1 through No. 90-3.

The Regulation requires that the following two tests be met in order to qualify as "Wartime Essential": the requirement is so critical that the unit or activity could not perform its wartime mission, and the requirement could not be met by any Active or Reserve unit or activity scheduled to provide support in wartime. However, the Regulation does not identify the criteria for approval or the activity responsible for approval or oversight of the program and does not adequately define "wartime essential."

We reviewed 24 purchase requests and commitments and contracts at 3 contracting activities for services listed as "wartime essential" resulting from the use of the above program. The review showed that 12 were for one-time repairs, 2 were for rental of equipment or lease of services in support of training exercises, 2 were for General Services Administration schedule maintenance of Government-owned equipment, and 8 appeared to be essential under the criteria established by Regulation 715-2.

This wide range in services declared "wartime essential" indicates that the criteria were not well-defined nor consistently used by all activities for identifying "wartime essential" requirements. Examples of the wide range of services included in this program are a one-time repair (during peacetime) of the swivel base and plug of a milling machine and the continued maintenance of a weather satellite receiver system that provides pictures of weather affecting operations within the USEUCOM area of responsibility. The pictures are used by various activities of Headquarters, USEUCOM, including the offices of the Deputy Commander in Chief; Director, Operations Directorate; and Battle Staff; and Crisis Action Teams in support of peacetime operations, exercises, and actual crises.

U.S. Army Materiel Command, Europe. The U.S. Army Materiel Command, Europe (AMC-Europe), issued Standing Operating Procedure (SOP) 14, "Local Procurement of Supplies and Services," May 9, 1989. The SOP sets forth policies, procedures, and responsibilities within AMC-Europe for local procurement of supplies and services and applies to contracts awarded in the European theater.

The SOP also provides a definition of mission-essential requirements extracted from Army Regulation 708-1, September 30, 1986. The SOP states:

> Essentiality is the degree of military worth of an item of supply or of a service, or how its failure or lack of a replacement or alternative is not immediately available, would affect the ability of the weapon system, end item, or organization to perform its intended functions or missions.

This guidance addresses only AMC-Europe requirements and contracting and does not adequately define wartime essential. Our review of the program showed that three of nine requirements identified to AMC-Europe by the AMC Major Subordinate Commands - CONUS and the U.S. Army, Europe, Contracting Center were not for wartime essential services. For example, a contract was awarded for sample data collection as it relates to availability, dependability, maintainability, and sustainability for the Product Improved Vulcan Air Defense System. The contract was identified as being wartime essential and contained a clause requiring continued performance during war or any state of emergency.

ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-4000

FORCE MANAGEMENT
AND PERSONNEL

MAY 20 1991

MEMORANDUM FOR DIRECTOR, READINESS & OPERATIONAL SUPPORT DIR.
OFFICE OF THE INSPECTOR GENERAL

SUBJECT: Draft Audit Report on Civilian Contractor Overseas Support During Hostilities (Project No. 0RA-0019)

Thank you for the opportunity to comment on the subject draft report. My specific responses follow:

- Finding: "DoD Components cannot assure that emergency-essential services performed by contractors would continue during crises or hostile situations." I agree with this overall Finding, but believe that the provisions of newly-published DoD policy must be given time to be implemented before additional policies and provisions are instituted. DoDI 3020.37 was published November 6, 1990 but is not yet implemented by the Services and Agencies because of Desert Shield/Desert Storm. It provides that Heads of DoD Components shall "Ensure that all contractor services are reviewed annually. . .to determine which services will be essential during crises situations" and that they "Conduct an annual assessment of the unanticipated and/or premature loss of essential contractor services on the effectiveness of support to mobilizing and deployed forces." The Procedures say that "For situations where a reasonable assurance of continuation of essential services by a contractor cannot be attained, the cognizant DoD Component Activity Commander shall" either obtain alternative personnel to perform the services, or prepare a plan for obtaining the services from other sources, or accept the risk. Thus, while DoD cannot "assure" performance, it is DoD policy to conduct a review of each contract and perform an annual assessment of the effect of possible loss of such services. Then the Commander has three options as covered above.

- Recommendation: Revise DoDI 3020.27 to require "Identification of war-stopper services that should be performed exclusively by military". This is not necessary because DoDD 1100.4, "Guidance for Manpower Programs", identifies those functions which must be military. Other than this policy, it is up to the Commander to decide what is the best mix of his resources to carry out his mission.

- Recommendation: Revise DoDI 3020.27 to require "An annual reporting system that identifies the number of contracts with emergency-essential services and the number of contractors to perform the services." The current DoDI 3020.27 requires that Heads of DoD Components "Conduct an annual assessment of the. . .loss of essential contractor services..." and "Include the results of these assessments into relevant portions of the affected contingency and/or operations plans. . ." In addition, the Chairman, Joint Chiefs of Staff shall "Establish procedures for the preparation and review of contingency plans. . ." which ". . .shall include the review and assessment of alternatives to continue contractor services identified as critical..." The number of contracts is not the important factor; the need is to make sure we are able to carry out our mission.

- Recommendation: Revise DoDI 3020.37 to include "Provisions to safeguard contractor personnel performing emergency-essential services during a crisis or hostile situation." The commander is charged by the Geneva Conventions with protecting the lives of all noncombatants. It is not necessary to revise the directive to reflect this.

In summary, DoDI 3020.37 has just been published. The Services and Agencies must be given time to implement it. After that, it would be appropriate to do a new audit of its effectiveness and recommend changes in the portions of it which may not then be working.

Christopher Jehn

SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT

Recommendation Reference	Description of Benefit	Type of Benefit
1. through 3.	Program Results. Provide additional assurances that support and maintenance of vital services designated as emergency-essential to the Military Departments' wartime missions will be continued during a crisis or hostile situation. In addition, the readiness and sustainability of the Armed Forces will be enhanced.	Nonmonetary

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Office of the Secretary of Defense

Assistant Secretary of Defense (Command, Control, Communications and Intelligence), Washington, DC
Assistant Secretary of Defense (Force Management and Personnel), Washington, DC
Director, Joint Staff, Washington, DC

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Headquarters, U.S. Pacific Command, Camp H.M. Smith, HI
  Headquarters, U.S. Forces, Japan, Yokota Air Base, Japan
  Headquarters, U.S. Forces, Korea, Seoul, Republic of Korea
Headquarters, U.S. Southern Command, Quarry Heights, Republic of Panama

Department of the Army

Assistant Secretary of the Army (Research, Development and Acquisition), Washington, DC
Department of the Army, Office of the Deputy Chief of Staff for Intelligence, Washington, DC
U.S. Army Intelligence and Security Command, Fort Belvoir, VA
Headquarters, U.S. Army, Europe, Heidelberg, FRG
  U.S. Army Contracting Command, Europe, Heidelberg, FRG
    U.S. Army Contracting Center Europe, Frankfurt, FRG
    Regional Contracting Office Frankfurt, Frankfurt, FRG
    Regional Contracting Office Seckenheim, Seckenheim, FRG
  5th Signal Command, Worms, FRG
Headquarters, U.S. Army Materiel Command, Alexandria, VA
  Headquarters, U.S. Army Communications-Electronics Command, Fort Monmouth, NJ
    Program Executive Office for Intelligence and Electronic Warfare, Vint Hill Farms Station, Warrenton, VA
  Headquarters, Army Materiel Command-Europe, Seckenheim, FRG
  Headquarters, Army Materiel Command-Far East, Seoul, Republic of Korea
Headquarters, Eighth U.S. Army, Seoul, Republic of Korea
  1st Signal Brigade, Seoul, Republic of Korea
Headquarters, U.S. Army South, Fort Clayton, Republic of Panama
Headquarters, U.S. Army Western Command, Fort Shafter, HI
Landstuhl Army Regional Medical Center, U.S. Army, 7th Medical Command, Landstuhl, FRG

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Atlantic Division, Naval Facilities Engineering Command, Norfolk, VA
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Naval Regional Contracting Center, Naval Supply Systems Command, Naples, Italy
Headquarters, Fleet Marine Force Pacific, Camp H.M. Smith, HI

Department of the Air Force

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Deputy Chief of Staff for Logistics and Engineering, Washington, DC
U.S. Air Forces in Europe, (USAFE) Ramstein Air Base, FRG
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Detachment 2, 7000 Contracting Squadron, USAFE, Rhine Ordnance Barracks, Kaiserslautern, FRG
U.S. Air Force Regional Medical Center, Wiesbaden, FRG
Headquarters, U.S. Pacific Air Forces, Hickam Air Force Base, HI
Headquarters, 5th Air Force, Yokota Air Base, Japan
Headquarters, 7th Air Force, Osan Air Base, Republic of Korea
Headquarters, 13th Air Force, Clark Air Base, Republic of the Philippines
Warner-Robins Air Logistics Center, Air Force Logistics Command, Robins Air Force Base, GA
Headquarters, Air Force Contract Maintenance Center, Air Force Logistics Command, Wright-Patterson Air Force Base, OH
Detachment 16, Air Force Contract Maintenance Center, Lindsey Air Station, Wiesbaden, FRG
322d Airlift Division, Military Airlift Command, Ramstein Air Base, FRG
10th Military Airlift Squadron, Military Airlift Command, Zweibrucken Air Base, FRG

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Department of the Air Force (Cont'd)

Headquarters, European Communications Division, Air Force Communication Command, Kapaun Air Station, Kaiserslautern, FRG
2062d Communications Squadron, Air Force Communication Command, Neubruecke Hospital Compound, Birkenfeld, FRG

Defense Agencies

Headquarters, Defense Communications Agency, Washington, DC
- Headquarters, Defense Communications Agency, Europe, Vaihingen, FRG
- Headquarters, Defense Communications Agency, Pacific, Wheeler Air Force Base, HI

Headquarters, Defense Logistics Agency, Cameron Station, Alexandria, VA
- Headquarters, Defense Logistics Agency, Europe, Vaihingen, FRG
  - Headquarters, Defense Fuels Region Europe, Vaihingen, FRG
  - Headquarters, Defense Subsistence Region Europe, Zweibrucken, FRG
- Headquarters, Defense Logistics Agency, Pacific, Camp H.M. Smith, HI
  - Headquarters, Defense Fuels Region Pacific, Camp H.M. Smith, HI
  - Headquarters, Defense Reutilization and Marketing Region Pacific, Camp H.M. Smith, HI

Headquarters, Defense Mapping Agency, Fairfax, VA
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Congressional Committees:

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