

RECORD VERSION

STATEMENT BY

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BEFORE THE

SUBCOMMITTEE ON CONTRACTING OVERSIGHT
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
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ON

MISMANAGEMENT OF CONTRACTS AT ARLINGTON NATIONAL CEMETERY
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Introduction

Chairman McCaskill, Senator Brown, and members of the Subcommittee on Contracting Oversight, thank you for the opportunity to appear before you today. I am pleased to provide an overview of the U.S. Army's ongoing review of contracts and contracting actions in support of Arlington National Cemetery (ANC). As requested, my testimony will address the Army's Procurement Management Review of the management and oversight of contracts awarded and administered on behalf of Arlington National Cemetery (ANC) including Information Technology (IT) contracts and actions taken thus far to address the findings noted by the Office of Army Inspector General in their Special Investigation of Arlington National Cemetery Final Report of June 9, 2010.

Let me state at the outset that the Army is fully committed to rapidly correcting the management and leadership deficiencies and organizational problems at ANC. As the proponent for the Procurement Management Review (PMR) Program, on behalf of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology and the Army's Senior Procurement Executive, Dr. Malcolm O'Neill, I am determined to oversee timely correction of deficiencies in Army contracting support to ANC, which will ensure that future contracting for ANC will be conducted in accordance with Federal, Defense, and Army acquisition regulations.

Background

On June 10, 2010, Secretary McHugh issued a directive to enhance the operations and oversight of the Army National Cemeteries Program. Contained within

that directive is direction for the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)) to review all contracts awarded or administered by the U.S. Army Corps of Engineers (USACE) and the Contracting Center of Excellence (CCE) during the past 5 years in support of the Army National Cemeteries which does not have a contracting officer. As a point of clarity, the CCE is now known as the National Capital Region Contracting Center (NCRCC) and is a subordinate unit of Army Contracting Command (ACC), which falls under US Army Material Command (AMC). But I will refer to it as CCE today for ease of identification. This review included an assessment of the roles of the Heads of Contracting Activities (USACE and CCE) and Principal Assistants Responsible for Contracting in executing and overseeing such contracts. The directive required that the results of this review be coordinated with the Executive Director [of the Army National Cemeteries Program].

Procurement Management Review (PMR) Establishment

Upon receipt of the aforementioned directive, I established a Procurement Management Review (PMR) team on June 17, 2010 to review the full range of contracting activities from requirement through close out, including accountability of records and finances. The review of ANC began onsite on June 23, 2010, and focused on Government Purchase Card records, Memorandums of Understanding (with various agencies, including USACE and CCE), Military Interdepartmental Purchase Orders, interviews with ANC staff involved in the procurement process, and any contractual documentation at ANC. The review of the USACE office in Washington, D.C., and the CCE began on June 28, 2010. This part of the review included contract documentation

from Fiscal Year 2005 to the present, as well as interviews with contracting officers and contract specialists, the applicable Heads of Contracting Activities, and the Principal Assistants Responsible for Contracting, who within the Army serve as the contracting activities' senior staff officials for the contracting function.

The review encompassed more than 500 contracts during this five-year period worth approximately \$46 million. Of this volume, 34 construction, IT support, and services contracts administered by the USACE represent roughly \$34 million. The remaining contracts, valued at about \$12 million, are under the administration of the CCE for supplies and services in the areas of information technology (IT), landscaping (grounds maintenance), facilities, construction, and miscellaneous items.

During the course of the review, we have worked closely with the Army Audit Agency, who will be reviewing ANC's financial data, and have also met with Army IG personnel to gather their insights.

I would like to share with you some of the recent workforce growth and oversight initiatives that have positioned Army on the path towards becoming a transformative enterprise capable of providing the highest quality level of contracting service and support. The Army is taking many steps to strengthen its acquisition workforce, which will also benefit agencies who use its acquisition services, including ANC.

Contracting Workforce Growth and Oversight

Gansler Commission

Over the last decade, Army contracting experienced a 22 percent reduction in workforce concurrent with an over 500 percent increase in contracted dollars and

actions. Dollars are up over 530% during last decade and actions are up over 650%. Currently the Army has over \$711Billion in open contracts (including over \$200 Billion awaiting closeout) and over 600 thousand contract actions. At the same time Headquarters, Department of the Army oversight staff was also cut by over fifty percent. The explosion in workload and cuts in staff and oversight led in part to some of the contracting failures highlighted by the Gansler Commission Report.

The Secretary of the Army chartered the Gansler Commission in 2007 to evaluate Army procurement, identify mission failures, and recommend actions to implement long term improvements. The Commission recommended the Army increase its military and civilian contracting staff, restructure Army contracting, and provide increased oversight to facilitate contracting and contract management in expeditionary and CONUS operations and to provide training and tools for overall improvement of Army contracting activities. Congress authorized five new contracting general officer positions within the Office of the Deputy Assistant Secretary of the Army (Procurement), the Corps of Engineers, and the Army Contracting Command with its subordinate Expeditionary Contracting Command, and Mission and Installation Contracting Command. In addition the Army approved concept plans to grow the Army Contracting workforce by over 1600 civilian positions and 600 active duty military. The Army has implemented 20 of 22 recommendations the Gansler Commission made to the Army. Most are fully implemented; however workforce expansion will require years to fully implement.

Secretary of Defense “Grow the Acquisition Workforce” Initiative

In addition to the Gansler Commission’s recommendations, in April 2009, the Secretary of Defense gave direction to grow and in-source the acquisition workforce. By Fiscal Year 2015 the Army contracting civilian workforce is slated to grow by more than 1,650 new hire contracting positions and 151 in-sourced contracting positions.

The growth brought about by the Gansler Commission recommendations and the Secretary of Defense’s initiative will provide critically needed additional personnel to more effectively award and administer contracts, and also provide Army activities with sufficient staff to re-establish self-oversight functions that were lost due to staffing cuts.

Army Contracting Workforce Oversight

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) is supportive of my development and submittal of a Concept Plan to Army leadership to increase the size of the Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) civilian and military staff in order to provide sufficient personnel for more effective oversight over the Army Contracting workforce. This concept plan will be facilitated by funding the Army is programming in support of the Secretary of Defense’s grow the workforce initiative.

Growth of the Army Contracting Workforce and re-establishment of the Army’s oversight is on the way; however it takes between five to eight years to grow a trained and experienced contracting officer. In the meantime, the Army and its contracting workforce are fully committed to maintaining the highest standards of public stewardship while supporting the requirements of our customers.

Army Inspector General's Special Inspection Findings and PMR Results

The U.S. Army Inspector General's Special Inspection of ANC listed a number of deficiencies in contracting procedures at ANC and made recommendations based upon those deficiencies. The PMR substantiated a number of findings in the areas that were highlighted in the Final Report of the "U.S. Army Inspector General Agency Special Inspection of Arlington National Cemetery," dated 9 June 2010:

DEFICIENCY 5.1: Procurements, to include information technology, for ANC are not in compliance with applicable Federal, Defense and Army acquisition regulations.

PMR results are consistent with the cited deficiency with the following findings: Lack of documentation, incorrect procedures, construction contracting and closeout procedures not followed, and risk management not addressed

DEFICIENCY 5.2: The acquisition of information technology (IT) to automate ANCs antiquated paper recordkeeping systems and modernize cemetery IT operations did not comply with Office of Management and Budget (OMB) Circulars, Federal and Defense Acquisition Regulations.

PMR results are consistent with the cited deficiency with the following findings: No acquisition strategy for IT systems, deliverables not clearly defined, insufficient documentation, and lack of Government oversight

DEFICIENCY 5.3: Contracts supporting ANC lacked proper oversight and officials were inadequately trained and improperly applied various Federal, Defense and

Army Acquisition Regulation rules, many of which contributed to ANC's IT acquisition problems.

PMR results are consistent with cited deficiency with the following findings: Inadequate oversight of contractor performance by the COs and the CORs, lack of training and appointment/designation of CORs, lack of property accountability at ANC, and the USACE Contracting Office at the District of Columbia Integrated Programs Office (DC-IPO) functions in an administrative capacity only without following proper contracting procedures.

Additionally, the PMR results of the review of ANC as it pertains to the acquisition function identified the following: no evidence of internal policy or Standard Operating Procedures (SOPs), lack of communication between CCE/USACE Contracting Offices and ANC, Outdated/unsigned Memorandums of Agreement (MoAs) and Memorandums of Understanding (MoUs), and lack of property control procedures.

In our review of the Government Purchase Card Program – the review identified the following: Lack of management controls and oversight at ANC and CCE, and no evidence of ANC internal policies or guidance for program.

Based on the Army IG report, the PMR placed special review emphasis on IT contracts, particularly those associated with the Total Cemetery Management System (TCMS). IT contract requirements for ANC were awarded by several Army buying activities. Since 2005, CCE and USACE have been the primary contract support providers. Contracts awarded to support ANC are categorized in this report as being for operations support in the areas of Network Services to include Help desk, Telephones and Switch, Security Cameras, and Audio Visual Support, or to support the

TCMS. Service contracts were awarded to maintain daily operations, telecommunication switches/peripherals and preventative maintenance on the cable infrastructure.

The Deputy Superintendent of ANC submitted the requirements for IT operations and development of the TCMS system to the Contracting Officers at both CCE and USACE. The contract files did not contain market research to justify the position that sole source, non-competitive contracts be given to a select handful of vendors for developing the TCMS. Deputy Superintendent ANC recommended to the Contracting Officer that contracts be awarded under the Section 8(a) program. However, the files did not contain any documentation supporting the rationale. The files did not contain evidence that acquisition strategies or planning documents were prepared for the TCMS design, development or operational implementation. Although many contracts were awarded with the intent of formulating a TCMS, there was no documented acquisition strategy to support a way ahead. Additionally, most contracts reviewed did not clearly define deliverables traceable to the work performed. No performance standards were identified in any of the service contracts reviewed nor was there any performance based outcomes identified.

PMR CONCLUSION: The findings discovered during the PMR of ANC, CCE and USACE support the statement that, from requirements definition through contract closeout, there was a general breakdown in sound business processes, and statutory, regulatory and policy requirements were not followed. Contract administration is the responsibility of the contracting officer. Any field technicians or Contracting Officers Representatives (CORs) performing contract surveillance need to have the limits of their

authority delineated in writing. Any ANC employees performing as CORs need to be trained and designated by the contracting officer for existing and future service contracts. The contracting officer is the only individual authorized to make changes to the contract, and must be actively involved in contract surveillance through correspondence and face-to-face meetings with the designated COR. In a number of instances it appears that CORs were performing inherently Contracting Officer functions which are not authorized. For example, in some cases the COR issued requests for information, negotiated and executed change orders, and made contract award determinations. Most contracts files reviewed did not identify a COR and/or contain a COR appointment or designation letter.

The Department of the Army Inspector General report indicated that many of the ANC service contracts did not include appointment of a COR as required by Army policy. The current Army policy requires that a COR be appointed to all service contracts over \$2500 to ensure proper oversight. The COR must be nominated by the activity requiring the service contract. Before being appointed as a COR, the contracting officer must verify that the individual has the proper COR training and certification. An appointment letter specifying the COR duties is signed by the contracting officer and the contracting officer has the responsibility of ensuring the COR complies with those duties to include the submission of monthly reports. Given the volume of service contract actions across the Army, the Army is finding that in some cases, contracting officers are not complying with Army policy. As a result, this has been a special topic area of procurement management reviews at the Army level and at the local level. Additional training is being provided to contracting officers regarding

COR appointments and the Army is in the process of fielding a COR tracking tool that will allow us to verify that all service contracts are complying with Army policy. This new tracking tool was fielded to the former CCE in June 2010. Future PMRs of the former CCE will verify that the tool is being implemented and that CORs are being appointed as required by Army policy.

CORRECTIVE ACTIONS IN PROGRESS

Leadership of Army Contracting Command (CCE is now part of Army Contracting Command's National Capital Region Contracting Center (NCRCC)) and USACE have already put corrective action plans in place with distinct milestones to address the Army IG findings. The Executive Director of Army National Cemeteries Program has also been provided corrective action recommendations to implement among her staff as well as recommendations regarding establishment of memorandums of agreement with ACC and USACE to improve support. In fact, I met with the Executive Director of Army National Cemeteries Programs, and the senior contracting professionals for each of the organizations providing contracting support to ANC, the Executive Director of ACC and the Director of National Contracting Organization for USACE, earlier this week at ANC to ensure corrective actions have begun and are on track. My office will continue to work closely with ANC, ACC, and USACE to ensure corrective actions address root causes and are fully implemented in a timely manner.

PATH FORWARD

The PMR team will perform a follow-up review in FY11 at ANC, CCE (now known as NCRCC) and USACE and report the progress of the corrective actions to the ED ANC and the Senior Procurement Executive for the Army. Further, the USACE-Baltimore contracting office and NCRCC (including ANC contract actions) will be included in the FY12 PMR cycle and all subsequent yearly cycles until corrective actions are ingrained in the culture.

We are grateful for the insightful investigation and analysis conducted by the Army Inspector General, and the opportunity to appear before you today and discuss action taken since the IG's report to improve our contracting mission. As we deliberate the PMR findings, it is our intention to include what we found to inform future PMRs across the Army Contracting Enterprise.

Conclusion

The U.S. Army is committed to excellence in all contracting activities. I echo the words of Secretary McHugh, "the Army is fully committed to rapidly correcting the management and leadership deficiencies and organizational problems at ANC. It is not only our responsibility, but our solemn duty. We will not rest until the cemetery is led, managed and operated in a manner commensurate with the service and sacrifice of our fallen warriors."

Thank you.