



# *U.S. Army Audit Agency*

*Service • Ethics • Progress*



## **Contracts for the Guard Recruiting Assistance Program**

**National Guard Bureau  
Arlington, Virginia**

---

**Audit Report: A-2013-0128-MTH**

---

**1 August 2013**

**FOR OFFICIAL USE ONLY**





## Contracts for the Guard Recruiting Assistance Program

National Guard Bureau  
Arlington, Virginia



### Results

We performed this audit at the direction of the Secretary of the Army to verify that the National Guard Bureau (NGB) met the requirements of the Federal Acquisition Regulation (FAR) for the solicitation, award, and administration of contracts and task orders for the Guard Recruiting Assistance Program (G-RAP).

NGB didn't meet most requirements of the FAR for the three contracts it used to execute G-RAP. The bureau didn't sufficiently perform:

- Acquisition planning.
- Administration of contract actions.
- Oversight of the contractor's performance.

In addition, NGB should have solicited offers for a new contract for G-RAP in 2005, but instead inappropriately used an existing contract. As a result, NGB paid about \$9.3 million for fees that weren't included in or authorized by the contract. Then, in 2007, the NGB awarded a sole-source contract to continue the program because it didn't allow enough time to compete a new contract. The solicitation and evaluation of proposals for the new contract gave an unfair advantage to the incumbent, who was subsequently awarded the contract.

Further, contracting officer's representatives didn't perform sufficient oversight of the contracts and task orders and the contractor didn't notify contracting personnel when it identified potentially fraudulent activity by its subcontractors.

Mismanagement of the contracting process occurred primarily because:

- The Strength Maintenance division leadership put undue pressure on contracting personnel to implement G-RAP quickly.
- The Principal Assistant Responsible for Contracting didn't sufficiently perform the duties of his position, and the contracting organizational structure didn't promote proper contracting operations.
- The contracting division experienced a significant increase in workload and didn't increase staffing to accommodate the work.

As a result, NGB executed a high-risk program laden with program abuse and potentially fraudulent activity, and didn't make sure NGB received the best value for the services it paid the contractor to provide.

### Key Recommendations

We recommended the Assistant Secretary of the Army (Acquisition, Logistics and Technology):

- Assign head of contracting activity to a position subordinate to the Chief, NGB.
- Issue a policy memorandum to all Army contracting activities requiring the full text of the Contractor Code of Business Ethics and Conduct in all future contracts.

We recommended the Chief, NGB:

- Reorganize the NGB contracting function to achieve effective oversight of all contract actions.
- Develop policies and procedures to incorporate reviews and approvals by the NGB Contracting Quality Assurance branch throughout the contract life cycle.

NGB and the Office of the Assistant Secretary of the Army (Acquisitions, Logistics and Technology) agreed with the report's conclusions and recommendations. The Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) provided the official Army position.



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY AUDIT AGENCY**  
**OFFICE OF THE DEPUTY AUDITOR GENERAL**  
**MANPOWER, RESERVE AFFAIRS AND TRAINING AUDITS**  
**6000 6<sup>TH</sup> STREET, BUILDING 1464**  
**FORT BELVOIR, VA 22060-5609**

1 August 2013

Assistant Secretary of the Army (Acquisition, Logistics and Technology)  
Chief, National Guard Bureau

This is our report on contracts for the Guard Recruiting Assistance Program. The Secretary of the Army directed we perform the audit.

We conducted this audit in accordance with generally accepted government auditing standards.

This report has ten recommendations. We addressed Recommendations 1 and 2 to the Assistant Secretary of the Army (Acquisitions, Logistics and Technology) and Recommendations 3–10 to the Chief, National Guard Bureau.

The Army's official position on the conclusion, recommendations, and command comments is in Annex D. For additional information about this report, contact the Human Capital Division at 703-545-5865.

I appreciate the courtesies and cooperation extended to us during the audit.

FOR THE AUDITOR GENERAL:

A handwritten signature in cursive script, reading "Monique Y. Ferrell".

MONIQUE Y. FERRELL  
Deputy Auditor General  
Manpower, Reserve Affairs and Training  
Audits

**FOR OFFICIAL USE ONLY**



CONTENTS

	Page
<b>Introduction</b>	
What We Audited .....	2
Background .....	3
Noteworthy Actions .....	5
Other Matters.....	6
<b>Objective, Conclusion, Recommendations, and Comments</b>	
Guard Recruiting Assistance Program Contracts .....	8
<b>Annexes</b>	
A – General Audit Information.....	55
B – Abbreviations Used in This Report.....	58
C – G-RAP Timeline .....	59
D – Official Army Position and Verbatim Comments by Command .....	60





# INTRODUCTION

## WHAT WE AUDITED

---

At the direction of the Secretary of the Army, we audited the contracts that the National Guard Bureau (NGB) put in place to operate the Guard Recruiting Assistance Program (G-RAP). The Secretary directed the audit because, in our prior report titled Recruiting Assistance Program: Reserve Component (Report A-2012-0115-IEF, dated 4 June 2012), we determined that controls for the recruiting assistance programs weren't operating effectively, or recruiting personnel circumvented controls. We conducted a fraud risk assessment of all recruiting assistance payments made by electronic funds transfer for the Army National Guard (ARNG) and the U.S. Army Reserve and found that:

- 705 recruiters were affiliated with potentially fraudulent payments (the U.S. Army Criminal Investigation Command (CID) had already investigated 21 prior cases and confirmed fraud).
- 551 recruiters were affiliated with suspicious payments that warranted further investigation.
- 2,022 recruiting assistants (RAs) received payments potentially associated with program abuse.

In a memorandum dated 9 February 2012, the Secretary of the Army included directives to several Army organizations and assigned the Director of Army Staff to oversee, synchronize, and coordinate all actions required by the memorandum. In response, the director established an executive- and working-level task force that monitored progress and accomplishment of those actions. Our Agency provided a member to both task forces. In the initial executive-level task force meeting, the director conveyed that the Secretary asked the following questions:

- How did we get here?
- Who do we hold individually accountable?
- How do we prevent a similar situation from occurring again in the future?

We performed multiple audits to answer these questions and the results provided herein provide sufficient detail to help answer the Secretary's questions.

## BACKGROUND

---

### National Guard Recruiting Shortages

In FY 05, Congress directed an end-strength total for the ARNG of 350,000 Soldiers. During the same year, the ARNG experienced its lowest end-strength total since before FY 00, with only 329,893 Soldiers in July 2005. In order to meet its mission goals and increase end-strength levels, ARNG increased the total number of recruiting and retention noncommissioned officers from 2,400 in FY 02 to 5,100 in FY 07. It also increased bonuses for enlistment/reenlistment and awarded a contract in FY 06 to begin G-RAP – a program specifically designed to help increase the ARNG’s end strength.

An adaptation of civilian contract recruiting, G-RAP leveraged Soldiers, families, and Military Retirees to identify, mentor, and refer potential candidates for enlistment. Individuals eligible to participate in the program used the contractor’s online system to register as a recruiter assistant (RA). After completing training requirements, RAs became civilian subcontractors. RAs were eligible to receive a payment for referring citizens who later enlisted in the ARNG. RAs used the contractor’s online system to enter names of potential enlistees. Using Army personnel systems, the contractor verified the new Soldier’s enlistment and accession. The contractor made two electronic funds transfer payments to RAs – half after enlistment and half after accession.


The ARNG exceeded the 350,000 end-strength goal by 31 March 2007; however, it continued to use G-RAP. By the end of December 2008, G-RAP had processed more than 80,000 enlistments since its inception.

The Office of the Secretary of Defense directed ARNG to reduce its end strength to 358,200 in March 2009. This required ARNG to conduct a controlled end-strength reduction of more than 10,000 Soldiers in 6 months. End-strength figures remained above the Secretary of Defense-directed strength for 32 of the 34 final months that G-RAP operated.

### Contracts Relevant to G-RAP

NGB developed, implemented, and performed G-RAP from 2005 to 2012, using the following contracts:

- DAHA90-01-D-0003, awarded in January 2001 for NGB marketing services.

- 
- W9133L-05-D-0011, awarded in June 2005 for NGB marketing services.
  - W9133L-07-C-0025, awarded in June 2007 as a sole-source bridge contract for G-RAP.
  - W9133L-07-D-0007, awarded in June 2007 for G-RAP.

One convention common to three of the contracts (excluding the bridge contract) was the use of a core group of personnel to provide the services required in each contract. NGB used this core group concept on the two marketing services contracts in 2001 and 2005, and for the G-RAP contract awarded in 2007. For G-RAP, the core group performed the day-to-day administration and management of the program.

In January 2005, NGB issued task order 109 on the marketing services contract (contract number DAHA90-01-D-0003) that included a requirement to develop a lead generation program. Contractor personnel explained that in 2005 NGB approached the contractor to review its recruiting and retention business model and offer solutions to its recruiting problems; G-RAP was one of the solutions suggested to incentivize ARNG Soldiers to help with recruiting.

In June 2005, NGB awarded a new marketing services contract (contract number W9133L-05-D-0011); G-RAP started as a task order on this new contract. The Army Strength Maintenance (ASM) division submitted the purchase request for G-RAP to the NGB contracting office on 14 July 2005.

On 23 September 2005, NGB awarded task order 15 on the marketing services contract (W9133L-05-D-0011) to start G-RAP. Following is a list of additional noteworthy events that occurred throughout the program:

- 22 November 2005 – Director, ARNG issued an operation order to launch G-RAP.
- 3 December 2005 – G-RAP pilot program began in five States.
- 13 February 2006 – G-RAP expanded to all 54 NGB states and territories.
- 5 July 2006 – NGB awarded task order 39 to continue G-RAP.
- 1 March 2007 – NGB posted solicitation for new G-RAP contract.
- 16 June 2007 – NGB, awaiting the award of the G-RAP contract, awarded sole-source bridge contract to continue G-RAP.
- 28 June 2007 – NGB awarded the G-RAP contract (W9133L-07-D-0007).

- 
- 23 January 2012 – NGB suspended G-RAP.

We include a timeline graphic in Annex C that depicts significant dates for G-RAP and the three contracts discussed previously.

## NOTEWORTHY ACTIONS

---

After our Forensics Audit team conducted an initial review of G-RAP and identified potential widespread fraud within the program, NGB recognized that a systemic problem existed. Consequently, it initiated steps to address weaknesses identified related to contracting and oversight. In August 2012, NGB developed a plan—referred to as Project Muster—to align the NGB staff structure with the role of the Chief, NGB, as a member of the Joint Chiefs of Staff. Among several significant structural changes, the plan placed the contracting office under the J-4 (Logistics) and gave an oversight role to the J-8 (Force Structure, Resources, and Assessment Directorate).

At the same time, NGB also developed the Contracting Fix-It Plan. The plan specified short-term, mid-term, and long-term solutions to address the problems discussed in this report.

Project Muster and the contracting plan were briefed to the Chief, NGB on 1 August 2012 and he directed that the plan be immediately implemented and executed.

The fix-it plan identified the following key short-term changes:

- Combine the Principal Assistant Responsible for Contracting (PARC) and contracting offices.
- Increase staffing of the contracting office by 26 additional Army civilian positions.
- Appoint PARC/chief, contracting division as rater or intermediate rater of contracting officer's representatives (CORs).

The fix-it plan identified the following key mid-term objectives:

- PARC will establish and conduct training for CORs and program managers prior to appointment.
- PARC will issue policy/guidance to address the structure and execution of nationwide contracts with decentralized execution, standardization of contract documents and files, and best practices.



- 
- PARC will conduct procurement management review on 3-year cycle (vice current 5-year cycle).

And finally, the fix-it plan identified the following key long-term goals:

- Chief, contracting division conduct 100-percent inspection of CORs.
- Chief, contracting division and Internal Review conduct internal reviews of contract actions.

On 4 October 2012, NGB provided an update on the bureau's progress in implementing the fix-it plan. In addition, because of our audit results and recommendations, NGB modified the plan to address the specific control weaknesses we identified.

We confirmed that NGB completed the following actions:

- Appointed a new, acting PARC for NGB.
- Combined the Operational Contracting division with the office of the PARC.
- Received approval to hire 26 additional contracting personnel.
- Began developing an implementation plan to accomplish mid-term and long-term goals set forth in the contracting fix-it plan.

Although Project Muster and the Contracting Fix-It Plan didn't address all of the issues discussed in this report, they will certainly address some of them.

## **OTHER MATTERS**

---

During the course of the audit, we collaborated with several Army organizations to share information, provide results, and answer the questions posed by the Secretary of the Army.

### **Collaboration**

On 9 February 2012, the Secretary of the Army issued a memorandum directing numerous Army organizations to complete reviews of the recruiting assistance program contracts pertinent to their mission and responsibilities. We coordinated with multiple organizations during the course of the audit and the results of our audit will further assist them in performing those tasks directed by the Secretary.

[REDACTED]

The Office of the Deputy Assistant Secretary of the Army (Procurement) conducted a procurement management review of the contracts used to execute G-RAP. We held joint meetings with the procurement team and the NGB, and periodically met with the procurement team to make sure the results of our audit and its management review were consistent. In addition, we provided information to personnel from the Office of the Assistant Secretary of the Army (Financial Management and Comptroller) as they performed a review that identified potential violations of the Antideficiency Act. Finally, the results of our audit will help the Assistant Secretary of the Army (Manpower and Reserve Affairs) in making a determination of whether the contractor performed inherently governmental functions while executing the G-RAP contracts.

The coordination that took place during the audit allowed each organization to provide timely results simultaneously. In addition, team members collaborated to make sure each organization came to consistent conclusions and developed meaningful recommendations to make sure a similar situation doesn't occur in the future.

### **Additional Reviews of Contracts**

Following the Secretary of the Army's issuance of 9 February 2012, the Director of Army Staff asked us to perform a holistic review of all contracts between NGB and the contractor – 80 additional active contracts. Reviewing this large volume of contracts simultaneously would have delayed providing our results regarding contracts for G-RAP, as directed by the Secretary. Therefore, we developed a strategy to provide our results in the form of three deliverables. The first deliverable is this report, focusing on the contracts used during the duration of G-RAP. The second deliverable is a fraud risk assessment of 80 additional contracts. The fraud risk assessment will identify those contracts with the highest susceptibility to fraud, thus presenting the most risk to the government. The third and final deliverable is a comprehensive audit of the high-risk contracts we identify during the fraud risk assessment.



# GUARD RECRUITING ASSISTANCE PROGRAM CONTRACTS

## OBJECTIVE

---

To verify that the National Guard Bureau met requirements in the Federal Acquisition Regulation for solicitation, award, and administration of contracts related to the Guard Recruiting Assistance Program.

## CONCLUSION


---

NGB didn't meet most Federal Acquisition Regulation (FAR) requirements for the solicitation, award, and oversight of the three contracts used for G-RAP. Specifically, NGB didn't sufficiently:

- Perform acquisition planning, and solicit and award a new contract for G-RAP. Instead, it used an existing marketing contract to develop and execute the program. However, the requirements and services required to execute a recruiting program were outside the scope of the marketing services contract. We also determined that NGB improperly paid about \$9.3 million to the contractor for referral payment fees that weren't included in or authorized by the contracts.
- Review and approve some contract actions, define task order requirements, or use full and open competition to award contracts and task orders to the contractor for G-RAP.
- Manage and oversee the contractor's performance of G-RAP contracts and task orders.

NGB mismanaged the contracting process as it developed and executed the G-RAP contracts and task orders because there was:

- Pressure from the leadership of the ASM division to implement a program to rapidly increase ARNG end strength.
- An organizational structure that didn't provide sufficient oversight of the contracting function and didn't protect the Operational Contracting division from improper command pressure.

- 
- A significant increase in the contracting workload – in both the number of contract actions completed and the amount of dollars obligated – without a corresponding increase in staff.

As a result, NGB started G-RAP, a high-risk program, without sufficient oversight and management. Further, even after it was aware there were problems, the Guard continued to execute a program that was laden with program abuse and potentially fraudulent activity. NGB's handling of the G-RAP contracts and task orders put the government at unnecessary risk. For example, NGB:

- May have included inherently governmental functions in the contract when it relied on the contractor to determine whether an accession qualified an RA to receive a referral payment.
- Didn't receive the best value for the services that it paid the contractor to provide when it didn't conduct any price negotiations on the G-RAP contracts and task orders.
- Put itself at risk of being subject to protest by offerors that weren't afforded the benefit of full and open competition when it didn't meet all FAR requirements for the award of G-RAP contracts.

Finally, the leadership of the ASM division and the contractor didn't notify the contracting officers or CORs for the G-RAP contracts of program abuse, potential fraud, and confirmed fraud. In our prior report entitled, *Recruiting Assistance Programs: Reserve Components* (Report A-2012-0115-IEF, dated 4 June 2012), we identified that:

- 601 ARNG recruiters were affiliated with potentially fraudulent G-RAP payments that we categorized as "high risk" for fraud.
- 444 ARNG recruiters were affiliated with suspicious G-RAP payments that we categorized as "medium risk" for fraud.
- 2,015 G-RAP RAs received payments that potentially violated program rules; 611 of the RAs were affiliated with the payments discussed in the preceding bullets. We categorized these payments as "low risk" for fraud.

The contractor reported several instances of program abuse and potential fraudulent activity to ASM leadership. However, the contracting officers weren't informed of the program abuse and potential fraud. Informing the contracting officers could have resulted in improved oversight of the program by NGB, and greatly reduced the payments made to RAs who were associated with potentially fraudulent activity.

[REDACTED]

Our detailed discussion of these conditions begins on page 10. Our recommendations to correct them begin on page 46.

## **DISCUSSION**

---

In this section, we discuss these five areas:

- Acquisition planning.
- Solicitation and award.
- Administration and oversight.
- Root causes.
- Program abuse and potential fraud.

### **Acquisition Planning**

NGB didn't properly perform acquisition planning prior to initiating G-RAP. Specifically, the contracting officer didn't use the most effective contract type; instead, NGB issued a task order outside the scope of the existing marketing services contract to commence G-RAP. In addition, NGB's ASM division didn't sufficiently define the parameters for the program until after the contracting officer awarded the task order to start G-RAP. The contracting officer also improperly changed the purpose and description of the contract line items on the first two G-RAP task orders. Finally, NGB didn't properly determine if functions performed under G-RAP were inherently governmental.

According to FAR subpart 7.102 (Acquisition Plans/Policy), the purpose of planning is to ensure that the government meets its needs in the most effective, economical, and timely manner. This is accomplished by determining the most appropriate type of contract to use, providing full and open competition, and determining whether functions are inherently governmental.

Instead of selecting a contract type appropriate to the circumstances of the acquisition and soliciting a new contract that would allow full and open competition to the maximum extent possible, ASM and contracting personnel used an existing marketing services contract to launch G-RAP. Consequently, the tasks on the G-RAP task order were outside the scope of the marketing services contract statement of work. The

[REDACTED]

statement of work for the marketing services contract primarily addressed providing materials for and management of marketing events, while the requirement for G-RAP was primarily accessions. In addition, NGB didn't properly define the program requirements before issuing the first task order. Instead, it collaborated with the contractor to amend program goals through several modifications over the course of a 6-month period.

As a result of insufficient acquisition planning, and by using the existing contract line item number (CLIN) structure of the marketing services contract, NGB didn't receive the best value and most competitive prices throughout the program, and improperly paid about \$9.3 million to the contractor for referral payment fees that weren't included or authorized by the contracts. Further, NGB entered into a contract that may have included inherently governmental functions.

## **Contract Type**

ASM and contracting personnel didn't consider and select the contract type most appropriate to the circumstances of the G-RAP. Using an indefinite delivery/ indefinite quantity contract wasn't the most effective means to execute G-RAP because it didn't allow NGB to negotiate accurate fees that reflected the contractor's indirect fees associated with G-RAP. Instead, contracting personnel should have used a cost-plus-fixed-fee contract.

A cost-plus-fixed-fee contract, according to FAR subpart 16.306 (Cost-Plus-Fixed-Fee Contracts), provides for payment of a negotiated fee to the contractor that is fixed at the inception of the contract and permits contracting for efforts that might otherwise present too great a risk to contractors. The FAR also includes additional management controls for the use of cost-plus-fixed-fee contracts that could have resulted in a better contract for NGB. For example, it requires approval of a written acquisition plan, signed by at least one level above the contracting officer, and assurance that sufficient government resources are available to award and manage a contract other than firm fixed-price. Using a cost-plus-fixed-fee contract would have also required a statutory cap of 10 percent of the contract's cost for the fee amount.

NGB awarded the G-RAP task orders on indefinite delivery/indefinite quantity firm fixed-price base contracts. However, this type of contract didn't allow NGB to negotiate accurate fees that reflected the contractor's indirect costs associated with G-RAP. Instead, NGB and the contractor applied a 16.5 percent fee, originally used as a material-handling fee for marketing materials purchased on the base contract, to each referral payment. As a result, NGB didn't ensure the government received the best negotiated price throughout G-RAP.

## Scope Determination

Requirements for G-RAP were outside the scope of the existing marketing services contract used to begin the program. It was clear that requirements for G-RAP were ARNG accessions, while the statement of work for the marketing services contract was specific to supplies and services for marketing the NGB locally and nationally.


The FAR required contracting officers to promote and provide for full and open competition through competitive procedures that are best suited to the circumstances of the contract action and consistent with the need to fill government requirements efficiently. However, FAR subpart 6.001 (Competition Requirements/ Applicability) permits contracting officers to award task orders on indefinite delivery/ indefinite quantity contracts without further competition if all responsible contractors are permitted to compete for the requirement contained in the order, and the justification of the original contract covers the requirements contained in the order.

The G-RAP task order didn't meet the criteria established in the exception. The services required for G-RAP were outside the scope of work defined in the marketing services contract. The statement of work for the marketing services contract included supplies and services for production, planning, preparation, and execution of marketing programs to support national and local marketing needs. The statement of work also provided examples of projects and services required. Those examples primarily addressed providing materials for and management of marketing events:

- Development, fabrication, maintenance, and geographic positioning of exhibits, presentations, and kiosks; point-of-purchase, static, and interactive displays of various sizes and related to a range of topics.
- Development and execution of public relations/promotional/tie-in/sponsorship programs (such as X-Games, NASCAR, motocross, rodeo, and movie-related events and tie-ins).
- Development, production, and distribution (to include ground, air, and overnight shipping) of recruiting and retention materials, promotional items, awards materials, video games, and recruiter presentation items.

G-RAP – in practice and further defined in the task order's initial and revised statements of work – required the contractor to provide recruiting services to ARNG. The statement of work for task order 15 included the concept of using hired RAs to increase the number of ARNG accessions. Three of the goals from the statement of work were to:

- Physically speak to prospects about considering joining the ARNG.

- 
- Schedule appointments with the local recruiting and retention noncommissioned officers when prospects expressed interest in joining the ARNG.
  - Maintain contact and act as a sponsor with all prospects who join the ARNG.

Based on the comparison of the descriptions in the statement of work for the marketing services base contract and task order 15 for G-RAP, the requirements of the G-RAP were clearly outside the scope of the marketing services contract. Therefore, it wasn't reasonable to expect that contractors specializing in recruiting services would have submitted a proposal for the marketing services contract when originally solicited.

## **Program Development and Existing CLIN Structure**

Because NGB didn't use a separate contract for G-RAP, it may not have received the best value for the funds it applied against the program. NGB began a program that continually evolved during the first 6 months, with little – if any – negotiation regarding price. In addition, the use of the existing CLIN structure further hindered the ability to track and control costs.


**Evolution of the Program.** Personnel from NGB's ASM division didn't sufficiently define the parameters of G-RAP before the contracting officer awarded task order 15 to start the program. Rather, ASM personnel continued to develop and refine the program in coordination with the contractor after it awarded the task order to start G-RAP.

G-RAP began in September 2005, when NGB awarded the first task order. Personnel in the ASM and contracting divisions explained that they used the 2005 marketing services contract to test new marketing ideas. When NGB and the contractor developed the concept for G-RAP, NGB decided to use the existing marketing services contract to further refine the program requirement. In addition, the statement of work prescribed a pilot program to reduce risk and fine tune the concept before nationwide implementation. The task order incorporated the contractor's proposal, which stated that updates to the program would be made at monthly in-progress reviews conducted between the contractor, contracting, and ASM personnel.

The original statement of work for task order 15 discussed the use of hired RAs to increase ARNG accessions. Subsequently, the contracting officer made five modifications. The first three modifications dealt with funding. The fourth modification, completed 20 December 2005, provided additional detail on G-RAP and requirements that the task order didn't previously address. The modification:

- Changed the name from Lead Generator to G-RAP.



- 
- Incorporated notes from a 16 December 2005 in-progress review that identified contract reporting requirements, established projections for budgetary items, and included development of plans for additional phases of the program and recommendations for program adjustments.
  - Incorporated the initial plan for phase 1 of the program.
  - Included 22 States in the pilot program and stated that the pilot wouldn't add more States until the completion of a 90-day test period.

On 13 February 2006, the contracting officer completed modification five. The modification incorporated a revised statement of work that described the actual operation of G-RAP, expanded the program to all 54 NGB states and territories—although the 90-day test period was not over—and added an additional requirement for the contractor to provide monthly updates of expended funds.

The number and significance of changes made by modifications clearly indicated that ASM and contracting personnel didn't properly plan the G-RAP, but instead allowed the contractor to dictate the direction of the program. Further, we found no evidence that any price negotiations occurred, indicating that NGB simply accepted the contractor's proposed costs.

**CLIN Descriptions.** NGB improperly changed the description and purpose of a CLIN in the base contract so it could fund referral payments to RAs on G-RAP task orders under the marketing services contract.

A CLIN is a number that identifies a separate supply or service to be provided under contract. Each CLIN should have a single unit price, separate identification, separate delivery schedule, and single accounting classification citation.

Defense FAR Supplement subpart 204.71 (Uniform Contract Line Item Numbering System) states that if the contracting officer decides to assign new identifications to existing contract or exhibit line items, the original line item may be used if the modification makes only minor changes in the specifications of some of the items ordered on the original line item. Also, the resulting changes in unit price can be averaged to provide a new single unit price for the total quantity. If the changes in the specifications make the item significantly distinguishable from the original item or the resulting changes in unit price cannot be averaged, create a new line item.

*Change to Description and Purpose of CLIN.* NGB changed the description and purpose of a contract line item from the base contract because it didn't have an appropriate CLIN it could use to fund the referral payments to RAs on task order 15. However, it is clear

[REDACTED]

that the changes made to the description of the CLIN and what the CLIN was funding, were significant.

NGB used CLIN 0003 from the base contract to order and fund referral payments to RAs on G-RAP task order 15. The base contract defined CLIN 0003 as a firm fixed-price item, titled "Material – Base Period," with the following description:

Material cost to perform the discrete elements of the performance work statement tasks, as further defined in individual task orders. This will be negotiated on a cost-reimbursable basis when required on individual task orders as a not-to-exceed amount based on supportable prices and a 16.5 percent mark-up for material handling fee.

Task order 15 defined CLIN 0003 as a firm fixed-price item, titled "Material – Lead Generator," with the following description:

Contractor shall provide all services per the attached statement of work and contractor revised proposal dated 9 September 2005 in support of the 2005 Lead Generation Program for the ARNG. Lead Generation payments shall be implemented as described in the contractor proposal and or modified through the COR and contracting officer. This test program allows maximum flexibility, however accountability of expended funds will be strictly monitored by the COR and contracting officer. This is cost reimbursable for fees and stipends.

The task order used the title "Material – Lead Generator," but the description above showed that NGB tasked the contractor to perform services and not provide materials, as the title suggested. When NGB awarded task order 39 on 5 July 2006 to continue G-RAP, the task order defined CLIN 0003 as a cost item, titled "RA Compensation" and used a third description:

Contractor shall provide compensation to RAs all per the attached performance work statement in support of the 2006 G-RAP for the ARNG. Recruiting efforts shall be open to both enlisted and officer populations for both RA and potential soldiers. Additionally, program expansion phases are to be factored in to include but not limited to: retirees, spouses/dependents, other reserve components, fraternal organizations, service organizations and active component/inter-service G-RAP recruiting. Contractor shall notify the Government when 75 percent of the funds are expended on this line item.

CLIN 0003 on task order 39 accurately described the purpose of the program and the CLIN as compensation to RAs for recruiting efforts, not marketing services.

[REDACTED]

*Effects of CLIN Change.* Given the significance of the differences between the CLIN description in the base contract as compared to the CLIN descriptions in task orders 15 and 39, NGB should have created a new CLIN to fund the RA referral payments. In addition, any change to an existing CLIN should have been made using a contract modification, as specified in Defense FAR Supplement subpart 204.71. Use of an existing CLIN that had no correlation to referral payments likely resulted in difficulty tracking costs spent against the program and difficulty controlling costs.

As a result, NGB was billed for and paid a fee for each referral payment the contractor made to the RAs under the 2005 marketing services contract, but the contract documents didn't define the fee.


The base contract for the marketing services contract included a 16.5 percent mark-up fee, described as a material-handling fee, in the description for CLIN 0003. The base contract restricted the fee to indirect charges allocated to materials and didn't include profit or additional fees. The CLIN description also stated that the fee percentage would be zero if not specified.

When NGB changed the descriptions for CLIN 0003 for task orders 15 and 39, the new descriptions didn't specify an additional fee. Also, the statements of work and the contractor's proposals for both task orders didn't specify a fee for the referral payments. The proposal for task orders 15 and 39 stated that it intended to use the funds for CLIN 0003 to reimburse incentive pay to RAs.

However, the contractor charged NGB a fee equal to 16.5 percent of the referral payment amount made to an RA. In interviews, NGB and contractor personnel stated that the fee was part of the contract. However, the contract documents for task orders 15 and 39 didn't include any reference to the fee.

In addition, the marketing services base contract limited the fee to the contractor's costs and excluded profit. We were unable to identify or quantify costs that the fee was intended to cover, or whether the fee included additional profit. Contractor personnel explained that the fee covered additional overhead costs the company incurred to operate G-RAP. However, the contractor charged the fee as a percentage of the referral payment amount, which was \$1,000 when a potential Soldier signed a contract and another \$1,000 when that same individual shipped to basic entry training.

Because contract documents didn't authorize payment of a fee associated with referral payments, NGB inappropriately made payments to the contractor totaling \$9,276,630 for referral payments made under task orders 15 and 39 on the marketing services contract.



## Inherently Governmental Functions

NGB didn't make sure that functions performed under the G-RAP were not inherently governmental.

FAR subpart 7.103 (Acquisition Plans/ Agency-Head Responsibilities) states that it's the responsibility of the agency head to ensure that no purchase request is initiated or contract entered into that would result in the performance of an inherently governmental function.

FAR subpart 7.503 (Inherently Governmental Functions/Policy) provides a list of functions considered inherently governmental. One example included in that section states that the disbursement of public funds is an inherently governmental function, unless authorized by statute. The statutes cited relate to private collection contractors or attorney collection services and don't apply to G-RAP.


As part of the comprehensive review of the G-RAP and contracts, the Secretary of the Army directed the Assistant Secretary of the Army (Manpower and Reserve Affairs) to determine whether the adjudication and payment, on behalf of the U.S. Government, of appropriated fund recruit referral bonuses was an inherently governmental function or closely related to an inherently governmental function. The Assistant Secretary of the Army (Manpower and Reserve Affairs) will use the results of this audit in making that determination.

We address the actions NGB should take to ensure it properly performs acquisition planning, to include selecting the appropriate contract types, evaluating contract scopes, and making determinations of inherently governmental functions, in Recommendation 4.

## Solicitation and Award

NGB didn't properly implement required contracting processes during the solicitation and award phases. For example, NGB didn't:

- Properly meet all of the requirements for its use of the sole-source bridge contract it awarded for G-RAP.
- Use full and open competition when awarding the 2007 G-RAP base contract.
- Obtain necessary approvals for most of the contracting actions we reviewed.

- 
- Clearly define task order requirements.

By not properly meeting requirements and following processes set forth in the FAR, NGB didn't maximize competition and may not have received the best value in the most effective and economical way. In addition, it put itself at risk of being subject to protest by offerors not afforded the benefit of full and open competition, resulting in a possible financial liability, as well as delays in filling critical recruiting requirements.

Finally, NGB didn't ensure that the proper reviews were performed prior to awarding G-RAP contracts and task orders.

### **Sole-Source Bridge Contract**

In June 2007, contracting personnel used a sole-source bridge contract to continue G-RAP when the award of the 2007 G-RAP contract was delayed. However, the sole-source contract wasn't justified because the FAR didn't allow insufficient planning as a justification for using a sole-source contract.

In its justification and approval for other than full and open competition, NGB cited FAR subpart 6.302 (Circumstances Permitting Other Than Full and Open Competition) as its authority: "Only one responsible source and no other supplies or services will satisfy agency requirements." NGB further cited FAR subpart 6.302: "...for DOD, NASA, and the Coast Guard, services may be deemed to be available only from the original source in the case of follow-on contracts for the continued provision of highly specialized services when it is likely that award to any other source would result in:

- Substantial duplication of cost to the Government that is not expected to be recovered through competition; or
- Unacceptable delays in fulfilling the agency's requirement."

However, in its justification for using other than full and open competition, NGB stated that the need for the bridge contract was due to unexpected administrative issues resulting from legal and PARC review of the 2007 G-RAP contract. The justification stated that if the government didn't sole source the interim requirement to the current contractor, who was the original source for the G-RAP services, then ARNG would have substantial duplication of costs that couldn't be recovered through competition. The justification further stated that there was no other contractor that could start up and provide continuous uninterrupted operations of G-RAP.

FAR subpart 6.301 (Policy) doesn't permit contracting without full and open competition due to a lack of sufficient planning by the requiring activity. NGB only

[REDACTED]

allowed itself 3 months to solicit, evaluate, and award a contract worth an estimated \$450 million.

The solicitation for the G-RAP contract was open from 1 March 2007 to 30 March 2007 and NGB planned to complete the evaluation and award phases in the 61 days of April and May 2007. Best business practices would indicate that these dates were unreasonable. By comparison, NGB and the contractor developed G-RAP over the course of about 8 months. Collaboration on the program began around July 2005 and NGB continued to modify the contract until February 2006. In addition, the brief period given for offerors to plan, develop, and submit a proposal for the program may have significantly limited competition.

FAR subpart 7.104 (General Procedures) states that acquisition planning should begin as soon as the agency need is identified. Therefore, at the very latest, NGB should have begun planning for the new G-RAP contract in July 2006, when it made the final modification to task order 39 that set the period of performance as August 2006 to August 2007. However, we found no evidence that NGB initiated a new contract for G-RAP until it issued the solicitation in March 2007.

A longer planning period would have likely eliminated the need for the sole-source bridge contract altogether. In addition, proper planning may have allowed more contractors to bid on the solicitation, increasing competition.

We discuss the actions NGB should take to ensure it properly performs acquisition planning and supports justifications for using other than full and open competition in Recommendations 4 and 5.

## **G-RAP Contract**

The NGB contracting division's solicitation and award of the 2007 G-RAP contract created an unfair competitive advantage for the incumbent contractor. The contract solicitation included source selection criteria that related to past performance of G-RAP and required interested contractors to submit a proposal within 30 days. In addition, the proposal evaluations considered criteria not included in the solicitation.

**Solicitation.** The solicitation for the 2007 G-RAP contract gave a competitive advantage to the incumbent. The statement of objectives (SOO), which should have described the overall objectives required for the program, improperly included source selection criteria that related directly to the contractor's past performance of G-RAP.

[REDACTED]

According to FAR 2.101 (Definitions), a SOO refers to a government-prepared document incorporated into the solicitation that states the overall performance objectives. A SOO is used in solicitations when the government intends to provide maximum flexibility to each offeror to propose an innovative approach. Additionally, FAR subpart 11.101 (Order of Precedence for Requirements Documents) refers to the SOO as a performance-oriented document.

The contracting officer explained that NGB used a SOO in the solicitation for the new G-RAP contract to improve competition. In theory, the use of a SOO should have helped to mitigate any advantage arising from the contractor's coordination with NGB in developing G-RAP. However, the contracting division wrote the SOO in terms of characteristics the offeror should possess instead of goals it should be able to achieve when operating G-RAP.

The SOO contract objectives and responsibilities focused on performance history and source selection objectives. Examples of the solicitation's SOO that implied source selection criteria related to past performance were:

- "Select a contractor with demonstrated successful past performance in managing large recruitment programs in geographically and culturally varying environments."
- "Select a contractor with a comprehensive understanding of the ARNG and G-RAP philosophies, procedures, programs, and their interrelations to achieve recruitment goals."

NGB's own review of the solicitation noted the SOO as a problem. Specifically, the comments from a member of the PARC office stated that the SOO in the request for proposal inappropriately contained the phrase "select a contractor with." The opinion further clarified that when this phrase is used in the SOO, the SOO is not fulfilling its true purpose, which is simply to state the objectives of the mission. In addition to the key objectives, the SOO should have had a draft of the performance requirements summary, and encouraged comments and suggestions. However, using the phrase "select a contractor with" implies that the objective will include criteria for source selection.

Use of these objectives likely narrowed the competition significantly, which contradicted the purpose of using a SOO to begin with.

We address the actions NGB should take to ensure contracting officers properly prepare contract solicitations in Recommendations 4 and 5.

**Evaluation of Proposals.** NGB didn't sufficiently comply with FAR requirements for source selection. It evaluated proposals against criteria not provided in the solicitation, didn't hold meaningful discussions with all offerors in the competitive range, and included only personnel from its ASM division on the source selection board.

**Evaluation Criteria.** The source-selection evaluation board didn't properly evaluate contractor proposals for the G-RAP. It evaluated proposals against criteria that weren't disclosed in the solicitation, creating an unfair advantage for the incumbent contractor.

FAR subpart 15.204 (Contract Format) requires section M of the solicitation to identify all significant factors and subfactors – and their relative importance – that would be considered in awarding the contract. The FAR also requires the source selection authority to ensure that proposals are evaluated based solely on the factors and subfactors contained in the solicitation.

Our review of proposal evaluation documents showed that the source-selection evaluation board performed its evaluation of proposals using factors/subfactors not included in the solicitation. The factors and subfactors included in the source-selection evaluation plan didn't match those in the solicitation. The following table shows an example of the disparity between the information provided in each document:

Recruiting Assistant Sustainment Subfactors			
Solicitation		Source-Selection Evaluation Plan	
Subfactor 2.2	The government will evaluate the offeror's ability to maintain communications with the RAs, resolve issues and problems, as well as process RA compensation in timely manner. The government will evaluate the offeror's proposed methods and innovations including, but not limited to, RA motivation, communications, continuing training, and compensation (including incentives).	Subfactor 1.2.1	The offeror presents automated system that allows RAs to track progress of their potential Soldiers, provides historical activity and payment information, as well as allows the RAs to update information.
		Subfactor 1.2.2	The offeror provides appropriate means of RA support, including live operator support when appropriate.
		Subfactor 1.2.3	The offeror presents an approach that allows the contractor to quickly disseminate information about program changes, incentives, etc.
		Subfactor 1.2.4	The offeror provides means of tracking RA-reported issues and requests to their resolution.
		Subfactor 1.2.5	The offeror provides approach to creation of training materials, both initial and ongoing.
		Subfactor 1.2.6	The offeror provides appropriate and cost-effective means of scheduling, and delivering RA training, including classroom and online approaches.



[REDACTED]

The subfactors in the source selection plan had more detail than what was included in the solicitation, and the technical evaluation team used the more detailed subfactors to review the proposals. In the previous example, the evaluators rated a competitor negatively for not discussing the use of live operator support, a detail not provided in the solicitation.

In another example, the evaluators rated the competitor negatively for subfactor 2.2.3, Communications with the Government. The evaluations stated that the competitor's proposal didn't:

- Discuss tracking the task order period of performance, claim resolution, escalation, or adjustments.
- Provide cost control techniques to be used during contract execution.

However, the information in the solicitation for that subfactor stated:

The Government will evaluate the offeror's ability to communicate program-related information and changes with the Government. This includes but is not limited to performance analysis, reporting, and coordination of efforts between the offeror, Government, and other vendors involved in recruitment and retention programs.

The incumbent contractor was familiar with the program and NGB's requirements for these subfactors and articulated its ability to meet the requirements in its proposal. However, the competitor's proposal addressed the subfactors based solely on the requirements presented in the solicitation.

Therefore, the competitor wasn't evaluated fairly because NGB didn't provide the level of detail needed to prepare a sufficient competitive proposal.

***Discussions with Contractors in the Competitive Range.*** The source-selection evaluation board didn't hold meaningful discussions with the other offeror who was determined to be within the competitive range for G-RAP.

FAR subpart 15.209 (Solicitation Provisions and Contract Clauses) allows the award of a contract without discussion so long as the solicitation clearly states the government's intent to award without discussion. The contracting office met this requirement; however, Army Federal Acquisition Regulation Supplement (AFARS) Appendix AA (Army Source Selection Manual) states that award without discussion is most likely to result in best value when requirements are clear, commodities are known or stable, and

[REDACTED]

the marketplace is extremely competitive. As indicated in a previous section, the solicitation and program requirements didn't meet these conditions.

FAR subpart 15.102 (Oral Presentations) states that oral presentations may substitute for, or augment, written information. They can be used as a substitute for portions of a proposal, and can be effective in streamlining the source selection process. When oral presentations are required, the solicitation shall provide offerors with sufficient information to prepare. The FAR also states the solicitation should provide the evaluation factors that will be used when oral presentations are required.

The executive summary presentation section of the solicitation instructed offerors to "emphasize the startup and program operations activities and schedule, as well as the reporting capabilities schedule." It also provided the location, date, time, and presentation time limit. Finally, it indicated the presentation would become part of the official source selection record.

The solicitation further stated that the government would give the offeror three written questions to answer at the start of the question and answer session. However, the communication was intended only to obtain a meaningful understanding of the offeror's capabilities.

The solicitation didn't specify evaluation factors regarding the oral presentation.


Despite this, the evaluation board negatively rated several aspects of the competitor's oral presentation during the evaluation process. For example, the evaluation board rated the competitor negatively for not managing time well during the oral presentation and "jumping around" during the presentation to address various issues.

***Composition of Source-Selection Evaluation Board.*** The source-selection evaluation board wasn't composed of a group of diverse personnel who could provide a thorough and unbiased evaluation of contract proposals.

FAR subpart 15.303 (Responsibilities) states that the source selection authority shall assemble an evaluation team that includes appropriate contracting, legal, logistics, and technical personnel to ensure a comprehensive evaluation.

However, the board was composed of the following five personnel from NGB's ASM division (the requiring activity for G-RAP):

- One individual who'd served as COR on the G-RAP task orders under the 2005 marketing services contract.

- 
- One individual who'd served as COR on the G-RAP bridge contract.
  - The executive officer for the ASM division chief.
  - Two individuals who were staff in the ASM division.

Personnel from the ASM division had previously worked with the incumbent contractor. As a result, it's likely that the incumbent had an unfair advantage over the competing contractor. Through interviews with both contracting and ASM personnel, it was clear that the ASM division chief and deputy division chief had a close working relationship with incumbent contractor leadership. Therefore, ASM leadership could have improperly influenced the decision of the board to award the contract to the incumbent contractor, with whom they'd already had an existing working relationship.

By not ensuring full and open competition, NGB may not have received the best value in the most effective and economical way. In addition, it put itself at risk of financial liability that could have resulted from a successful protest by the competing contractor.

We address the actions NGB should take to perform evaluations of proposals and award contracts in accordance with acquisition regulations in Recommendations 4 and 5.

## **Review and Approval of Contract Actions**

Contracting personnel didn't obtain sufficient review and approvals before processing contracting actions.

For each contract action, various reviews are required, depending on the circumstances of the action. We evaluated the adequacy of the following required reviews:

- Peer.
- Legal.
- Service contract.

We assessed 18 contracting actions that required at least one of the above reviews. We determined contracting personnel properly reviewed three (about 17 percent) of the actions. However, NGB personnel didn't perform at least one of the required reviews and approvals for the remaining contract actions. Further, contracting files for six of the contracting actions contained no evidence of performance of any of the required reviews.

[REDACTED]

**Peer Reviews.** Although the PARC properly reviewed two contracting actions, he didn't review – or improperly approved – eight G-RAP contracting actions. In addition, the head of contracting activity (HCA) didn't approve the 2007 G-RAP contract prior to award.

According to AFARS subpart 5101.170 (Peer Reviews), all solicitations and contracts with an estimated value greater than \$50 million should be approved through a solicitation review board and contract review board. For contracts with an estimated value greater than \$50 million but less than \$250 million, the PARC is the designated chairperson, without the authority to redelegate. For contracts with an estimated value of \$250 million but less than \$1 billion, the HCA is the designated chairperson, without the authority to redelegate.

We identified 10 contract actions that required review and approval by the PARC; one of those also required approval by the HCA. We found evidence of proper PARC reviews in the contracting files for two contract actions. However, the PARC didn't properly review and approve the remaining eight contract actions. In addition, the HCA didn't review the contract that required his approval. Specifically, the PARC:

- Performed no level of review for two task orders.
- Reviewed two task orders following their award.
- Improperly approved three contract actions that shouldn't have been awarded.
- Delegated his responsibility to review the G-RAP contract, which also wasn't properly approved before issuance.

We identified two task orders that had no evidence of PARC review. Both task orders were on the 2007 G-RAP contract. Task order 1 had a value of \$500,000 and task order 15 had a value of about \$2.8 million.

The PARC approved two task orders following their award. Again, both task orders were on the 2007 G-RAP contract. Task order 23 had a value of about \$11.7 million and task order 24 had a value of about \$22.0 million, and they were awarded on 11 and 12 February 2009, respectively. However, the PARC didn't sign off on the review of the task orders until 23 and 28 June 2009, respectively.

The PARC also improperly approved three contract actions. The first two were task orders 15 and 39 under the marketing services contract. As previously discussed, we determined task order 15 was outside the scope of the marketing services contract.

[REDACTED]

Logically, we came to the same determination regarding task order 39. However, the PARC signed off on both task orders without comment.

The PARC also approved the award of the sole-source bridge contract. However, as discussed in a previous section, the use of the sole-source contract wasn't appropriate. Despite this, the PARC approved the contract with the following comment: "I have reviewed the following sole-source acquisition and recommend the following action." The document then indicated the PARC's approval.

Lastly, the PARC delegated his responsibility to review and approve the G-RAP contract – with an estimated value of more than \$472 million. Contract files did contain a document titled "Policy Comments" that seemed to address some of the same concerns that we identified regarding full and open competition. However, it didn't appear that the PARC actually made the comments. Instead, it appeared that one of his staff made the comments. Further, the document wasn't signed or dated and it wasn't clear that the contracting division satisfactorily addressed all comments prior to the issuance of the contract.

This contract also required HCA approval because the estimated value of the base contract was above \$250 million. However, we found no evidence that the HCA performed the required review.

**Legal Reviews.** NGB contracting personnel didn't properly obtain required legal reviews for 12 of the 18 contract actions that we reviewed. In addition, we couldn't determine when the legal review of the 2007 G-RAP contract occurred because the legal comments were unsigned or undated.

While AFARS didn't specify the extent of legal participation in the contracting process, it did state that legal counsel should:

- Participate as a member of the contracting officer's team throughout the acquisition process.
- Review proposed contracting actions in accordance with locally established procedures, and as otherwise required by law, regulation, or policy. While it's not practical to specify in the AFARS an inclusive list of actions requiring legal review at each contracting activity, the expectation is that counsel shall routinely review a full range of acquisition-related actions that have potential legal significance. PARCs and chief counsels should develop specific legal review protocols that are consistent with this provision.

- Advise whether a proposed action is legally sufficient with details and a recommended course of action to resolve any insufficiency.

NGB's implementing policy of the AFARS requirement for legal participation – stated in the National Guard FAR Supplement – required a legal review and approval of all contracts that would exceed \$100,000. In addition, the supplement stated the chief of the contracting division was responsible for ensuring accomplishment of legal reviews.

We reviewed 18 contracting actions (contract awards, task order awards, and contract and task order modifications) that met the criteria. We determined that only five contract actions had the proper legal approval (three task orders and two task order modifications).

The contracting division chief didn't ensure a legal review was performed on the remaining 13 contract actions. The following table shows the details of our analysis:

Legal Review of G-RAP Contract Actions	
Status of Legal Review	Number of Contract Actions
No evidence of legal review	8
Legal review occurred after action completed	4
Legal review wasn't signed or dated	1
Total	13

There was no evidence of legal review for eight contract actions (six contract modifications to task orders and two task orders). The purpose for all six modifications was to add funding to the task orders. The amount of funding added by the modifications ranged from \$1.4 million to \$34 million. In total, NGB added almost \$51.7 million dollars to task orders we reviewed, without obtaining a legal approval.

In four other cases, the contracting officer completed the contract action before receiving the approval from legal. Two of these actions were the same task orders for \$11.7 million and \$22 million that the PARC reviewed after the fact as discussed in the previous section. The legal reviews and approvals for each of the task orders were dated 7 July 2009 (for task order 23, awarded 11 February 2009) and 30 June 2009 (for task order 24, awarded 12 February 2009). On another task order, the legal review and approval was dated 20 March 2010 and the contracting officer had awarded it on 9 March 2010.

The fourth contract was the sole-source bridge contract that was awarded one day before the date of the legal review and approval. The contracting officer and the contractor signed the contract on 15 June 2007, with an effective date of 16 June 2007.

[REDACTED]

However, the legal approval was conditional and subject to recommended changes to the contracting officer's justification and approval for other than full and open competition. The legal approval document in the contract files included handwritten comments that indicated the changes were made to the justification. The justification included in the contract files reflected those changes, but was undated.

The contract files for the 2007 G-RAP contract contained an unsigned and undated document titled, "Legal Comments and Answers for G-RAP." Although there were numerous legal comments and responses about how they'd been addressed, there was no indication that the responses were accepted by counsel.

In total, the NGB contracting office didn't obtain legal review and approval before awarding or modifying contracts and task orders with an estimated value of more than \$90.5 million.

**Service Contracts.** NGB contracting personnel didn't obtain approval to acquire services for the two base contracts and eight task orders we reviewed. AR 70-13 (Management and Oversight of Service Acquisitions) states that unless otherwise approved, all acquisitions of services should:

- Be obtained and used in a manner that ensures that the government retains inherently governmental decisionmaking authority.
- Be acquired in the most cost-effective manner, without barriers to full and open competition and free of potential conflicts of interest.
- Use a best-value source selection approach, when appropriate, to emphasize quality in each service acquisition, and consider past performance when evaluating each offeror.

To accomplish this, AR 70-13 directs the requiring activity to document all service contracts on a services contract approval form and approved in advance of contract award. This applies to all new requirements, exercise of options on existing contracts, and placement of delivery orders and task orders on existing contracts. The approval form includes a series of worksheets that aids the approving official in determining if the requirement includes inherently governmental functions, or unauthorized personnel services.

However, we found no evidence that contracting personnel obtained approval before awarding the 10 contract actions.

[REDACTED]

Had NGB personnel used the previous process, it may have avoided many conditions discussed throughout this report. In addition, by not using the established approval process for service contracts, the Assistant Secretary of the Army (Manpower and Reserve Affairs) didn't have visibility of the program, despite having oversight responsibility for recruiting for the Army.

We address the actions NGB should take to make sure contract actions are sufficiently reviewed and approved by the appropriate officials in Recommendations 4 and 5.

## **Task Order Requirements**

The ASM division didn't define G-RAP task order requirements based on needed accessions. The program managers that developed the task order requirements should have used ARNG accession targets and corresponding periods of performance as the basis for determining how many accessions to request on task orders. Instead, the contractor's historical performance and the availability of funding dictated the number of accessions requested on G-RAP task orders.

The FAR includes certain guidelines for defining requirements. Specifically, FAR subpart 11.002 (Policy) directs acquisition officials to state requirements in terms of the functions to be performed or the performance required, to the maximum extent possible. In addition, FAR subpart 37.601 (Performance-Based Acquisition/General) requires performance-based contracts to include measurable performance standards and a method for assessing that performance.

NGB didn't define the number of accessions required on task orders, based on an analysis of accessions needed. Instead, the program managers used the contractor's historical performance for the program. Program managers told us that they reviewed the number of accessions the contractor had provided on previous task orders and corresponding time periods. In some cases, the program managers used data available at NGB.

As a result, NGB was unable to accurately track its success using the program in context of overall recruiting goals, and poorly managed the periods of performance of task orders across the three contracts used for G-RAP.

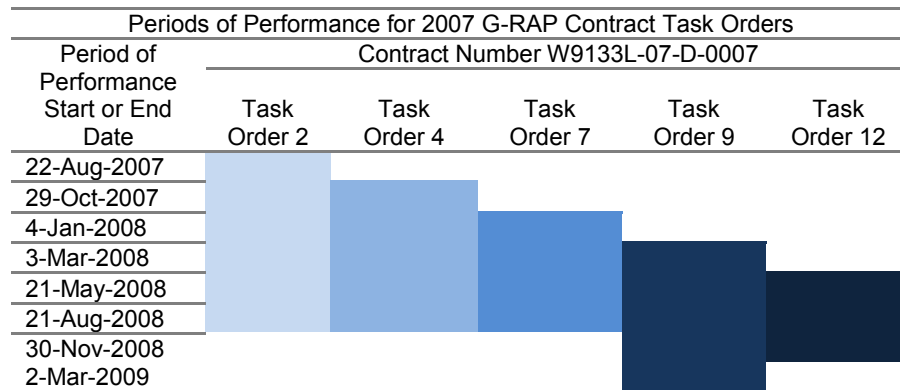
The following table shows the overlapping periods of performance for the task orders on the marketing services contract and the bridge contract.



Periods of Performance for 2005 Marketing Contract Task Orders and 2007 Sole-Source Bridge Contract					
Period of Performance Start or End Date	Contract Number W9133L-05-D-0011			Contract Number W9133L-07-C-0025	
	Task Order 15	Task Order 39	Task Order 39 Option 1	Bridge Contract	Bridge Contract Option 1
23-Sep-2005					
5-Jul-2006					
16-Aug-2006					
29-Sep-2006					
16-Jun-2007					
4-Jul-2007					
15-Jul-2007					
16-Jul-2007					
9-Aug-2007					
15-Aug-2007					

The table clearly shows that portions of the period of performance for task orders 15, 39, and option 1 of task order 39 occurred simultaneously. In addition, both periods of performance for the sole-source bridge contract occurred during the same time as option 1 of task order 39.

This trend continued during the execution of task orders awarded on the 2007 G-RAP contract. The following table shows the time periods and task orders with periods of performance that overlapped.



As the table indicates, for a period of nearly 3 months—21 May through 21 August—all five of the previous task orders occurred concurrently.

This wasn't the most efficient way to manage G-RAP. Further, the use of so many task orders likely inundated CORs with excessive information that may have been difficult to consolidate for comparison to the aggregate requirement for new accessions. Basing task order requirements on actual need within a 1-year period would have eliminated the inefficiencies that resulted from overlapping periods of performance. In addition, it would have provided a baseline that CORs could use to measure the contractor's performance.

We address the actions NGB should take to ensure requiring activities and contracting officers sufficiently define requirements for contracts and task orders in Recommendations 4 and 5.

## Administration and Oversight

NGB didn't properly manage and oversee the G-RAP contracts. ASM and contracting division personnel didn't implement a quality assurance surveillance plan (QASP) for any of the contracts. In addition, CORs didn't perform oversight of the contractor's performance of the program or verify the accuracy and validity of G-RAP invoices.

### Quality Assurance Surveillance Plans

NGB didn't develop or use a QASP for oversight of the G-RAP contracts. There was no QASP for the G-RAP task orders on the 2005 marketing services contract and no QASP for the 2007 sole-source bridge contract. In addition, the 2007 G-RAP contract

[REDACTED]

solicitation required, and the contractor provided, a QASP but NGB didn't accept or implement it.

Quality assurance is a critical aspect of contract oversight. FAR subpart 46 (Quality Assurance) requires the government to conduct quality assurance before acceptance. Subpart 46.4 (Government Contract Quality Assurance) states that QASPs should be prepared in conjunction with the preparation of the statement of work and should specify the work requiring surveillance and the method of surveillance. In addition, the FAR states that government inspection should be performed by or under the direction or supervision of government personnel. FAR subpart 37.604 (Quality Assurance Surveillance Plans) permits contractors to prepare a QASP for consideration in development of the government's plan.

A sufficient surveillance plan provides the foundation for a comprehensive and systematic monitoring of contract performance and a standard against which actual surveillance efforts can be measured.

ASM personnel knew from the onset that there was a risk of abuse or fraud related to G-RAP. The operations order issued by the Director, ARNG on 18 November 2005 discussed potential areas of risk within the program, going as far as describing potential schemes. One example from the order was:

- Recruiter provides the RA with a potential Soldier's information.
- RA claims credit for the accession under G-RAP.
- Recruiter and RA split the payment.

The operations order also discussed methods to mitigate the risks identified. They included:

- Using the contractor's G-RAP Web portal to start the accounting process.
- Making payments to RAs after the Army's personnel systems reported the new accession.
- Ensuring Active Guard Reserve Soldiers, military technician Soldiers, and individuals on active duty for special work weren't eligible to receive a payment under G-RAP.
- Ensuring that members or family members of the full-time recruiting and retention force weren't eligible to receive payment under G-RAP.

[REDACTED]

However, NGB didn't use this information to establish a quality assurance program to make sure that the measures discussed in the operations order were in place and operating. The G-RAP contract files contained no evidence that NGB developed or used a QASP. There was a copy of the contractor's QASP from the 2007 G-RAP contract in files we reviewed; however, NGB didn't formally accept it, implement it, or use it. In addition, NGB didn't use its own resources to develop or implement a QASP. Several CORs that we interviewed stated that they were former recruiters and could have provided valuable input on potential fraud and abuse risks.

## Oversight

NGB CORs didn't perform sufficient oversight of the G-RAP contracts and task orders. Because NGB didn't put a QASP in place, there was no documented contract surveillance procedures or methods defined that the CORs could follow.

FAR subpart 42.1103 (Production Surveillance and Reporting/Policy) requires surveillance of contractor performance. While the requirement holds the contractor responsible for timely contract performance, it requires NGB to maintain surveillance of contractor performance as necessary to protect the government's interests. The FAR requires the NGB contracting office to determine the extent of surveillance needed based on the criticality (degree of importance to the government) of the service, as assigned by the contracting officer.

The fundamental goals of oversight and surveillance are to ensure that the government obtains quality services, on-time services, and services at the level and prices specified in the contract.

We reviewed contract files for the base contracts and task orders related to G-RAP but found no evidence that the CORs performed any oversight. We also interviewed six CORs about their oversight of the contractor's performance. Each COR stated that he or she hadn't overseen RA performance or the contractor's management of the program. CORs stated their involvement was limited to reviewing and paying contractor invoices and monitoring the rate that the contractor used the task order funds for referral payments.

CORs also said they didn't know how to perform contractor surveillance methods, such as monitoring contractor performance and inspections. Training they attended centered around law and ethical requirements, instead of techniques to properly conduct surveillance of the contractor.

[REDACTED]

One COR stated that her primary job was managing the program; performing COR responsibilities was an additional duty. We verified that performance objectives of CORs didn't reflect required responsibilities while serving in the COR capacity.

Most CORs we interviewed thought the task of oversight was the responsibility of the contractor. In the 2007 G-RAP contract, NGB required the contractor to perform oversight as part of the contract's performance work statement. Contractor personnel explained some of the oversight methods they used to complete those tasks. For example, contractor account coordinators verified that an RA established a relationship with a potential Soldier before authorizing a referral payment. Contractor personnel also told us that they used information in an automated system to identify program abuse and potential fraud. For example, they performed tests to determine if multiple individuals used the same bank account number.

The contractor identified some instances of program abuse and fraud and took action to remove those individuals from the program. However, the contractor didn't have access to the information it needed to identify the extent of potentially fraudulent activity within G-RAP.

Had NGB performed sufficient oversight of G-RAP from the onset and become aware of the control weaknesses as the program progressed, the program may have continued successfully.

We address actions that NGB should take to perform proper oversight of contracts in Recommendation 4. We address the actions that NGB should take to monitor the accomplishment of training requirements of individuals involved in the contracting process in Recommendation 5. And we address the actions NGB should take to incorporate COR responsibilities into performance objectives in Recommendation 6.

## **Invoicing**

Generally, CORs didn't verify the accuracy and validity of accessions included on the invoices they approved for payment. In addition, they didn't verify that fees included in the invoices were specified in the contract.

**Process to Review and Approve Invoices.** The CORs reviewed invoices, and in some cases did limited verification to ensure accessions resulted from G-RAP. However, NGB generally relied on the contractor to ensure that the RA claiming credit for a new accession met the requirements specified in the program.

[REDACTED]

FAR subpart 46.5 (Acceptance) requires the contracting officer to verify that the services provided by the contractor – accession of new Soldiers to ARNG – conforms to the requirements of the program specified in the contract. In the case of G-RAP, an RA qualified for a referral payment for an accession if the RA:

- Identified an individual for accession into ARNG.
- Entered personal information for the potential Soldier into the contractor's system.
- Participated as a mentor to the potential Soldier (as evidenced by notes and additional information entered into the contractor's system).

In addition, the potential Soldier must:

- Sign a contract to become a member of the ARNG.
- Ship to basic combat training (enlisted), or complete the requirements to become an officer in the ARNG (officer).

There was no established, documented process for verifying that ARNG received an accession for which it was billed. In addition, there was no process to determine whether a particular accession was the result of G-RAP.

Contracting officers delegated the responsibility to review and approve invoices to the CORs. The CORs on the G-RAP task orders received invoices through the Wide Area Workflow system. However, in most cases the CORs didn't verify the validity of the accessions included on their invoices. Instead, they simply approved invoices for payment upon receipt.

Invoices in Wide Area Workflow didn't include itemized accession detail (such as RA name, new Soldier name, and the event that qualified the RA for a referral payment). Instead, the invoice represented a lump-sum charge that consisted of payments the contractor made to RAs during a specific period.

Initially, NGB didn't require the contractor to provide detailed information regarding specific accessions. Therefore, CORs had no way to verify that Soldier accessions resulted from G-RAP. However, in late 2006 or early 2007, NGB required detailed reports when the contractor submitted an invoice. But, even when NGB required these reports, CORs didn't use the information consistently to verify accessions.

Methods for verifying the accuracy of invoices ranged from doing nothing at all to comparing the detailed report accompanying invoices with information in the Army Recruiting Information Support System and Standard Installation/Division Personnel

[REDACTED]

System. For example, a COR for a G-RAP officer task order explained that he relied on a report of new officer accessions from the Officer Strength Maintenance branch to verify that the invoice was correct. He compared the number of referral payments included on the contractor's invoice to the number of new Soldier accessions that the Officer Strength Maintenance branch reported. There was no name-by-name comparison and if the numbers matched, then he approved the invoice.

This lack of verification may have resulted in NGB paying for accessions it didn't receive.

We address actions that NGB should take to perform proper review and approval of invoices in Recommendation 4. We address actions that NGB should take for contracting officers to perform oversight of COR's reviewing and approving invoices in Recommendation 7.

## **Root Causes**

The potential fraud risks reported in our previous report, Reserve Component Recruiting Assistance Programs (Report A-2012-0015-IEF), and the conditions identified within this report occurred because:

- ASM leadership used undue influence to direct the contracting office to implement and continue G-RAP, using methods that didn't comply with acquisition policy.
- The PARC, on behalf of the HCA, didn't properly perform the responsibilities of his position.
- The organizational structure of NGB's contracting function wasn't optimal to promote proper oversight of the contracting function.
- The NGB contracting division experienced a significant increase in workload between FY 02 and FY 11 – in both dollars obligated and contract actions completed – without a corresponding increase in staff.
- Performance objectives used to evaluate contracting personnel didn't reflect the required duties of their positions.

## **Command Influence**

The primary cause of the breakdowns that we identified throughout this report can be attributable to ASM leadership using undue command influence to direct the

[REDACTED]

contracting office to implement and continue G-RAP, using methods that didn't comply with acquisition policy.

The ASM division's leadership, in coordination with the contractor, initiated G-RAP. Several NGB personnel assigned to the contracting office from the onset described considerable pressure from the ASM division chief and deputy division chief to implement the program. This pressure stemmed from the urgent need to quickly increase NGB end strength, as directed by Congress. Further, the PARC didn't intervene to protect contracting personnel from undue influence from ASM leadership.

Personnel we interviewed described their reservations with the program from the start. For example, the chief of the contracting division at the time G-RAP began stated that he wasn't comfortable with the program; however, he explained that the ASM division contacted the contracting office daily, and the mission of the contracting division was to support the customer.

Another contracting officer advised ASM leadership in February 2006 to solicit a new contract for G-RAP instead of continuing the program on the 2005 marketing services contract. However, the office awarded additional task orders using the contract and didn't solicit a separate contract for G-RAP until March 2007, when the G-RAP task orders used up a significant portion of the 2005 marketing services contract total obligations ceiling.

As the program continued, the pressure from ASM leadership continued. The contracting specialist for the sole-source bridge contract and the new G-RAP contract described a similar environment in 2007. For example, she stated that the contracting office issued the sole-source contract because "the generals didn't want work to stop," while the contracting office awarded the new G-RAP contract. In addition, the contracting office was "forced" to allow the contractor to bid on the solicitation for the 2007 G-RAP contract. When she expressed concern about meeting acquisition requirements, she said the response from ASM leadership was, "I don't care, get it done."

In summary, the consensus among the personnel we interviewed was that NGB's leadership personally supported and promoted G-RAP and the contracting division needed to do whatever was necessary to ensure that it continued.

The statements that we heard during interviews regarding undue influence were substantiated by information gathered during two AR 15-6 (Procedures for Investigating Officers and Boards of Officers) investigations completed by NGB in June 2011. Although the investigations weren't specific to G-RAP or the contractor, results indicated a far-reaching systemic problem that provides context to the statements given in our interviews and an understanding of the environment within ASM and the



[REDACTED]

contracting division during the span of G-RAP. Specifically, the 15-6 investigations substantiated that:

- A member of ASM leadership fostered a negative, unhealthy work environment.
- A member of the ASM leadership improperly contacted contractors who contributed to the amendment of the statement of work on contracts, without the proper authority, staffing, and procedures through acquisition offices.
- A member of ASM leadership abused his authority by directing or supporting his subordinate staff members to develop or coordinate erroneous contract documents for the purpose of steering or influencing the bidding process.

Any of these substantiated problems standing alone would have negatively affected the work environment within ASM and the contracting divisions. However, the combination of all these factors clearly explains how and why contracting personnel and CORs felt pressure to implement questionable contracting actions.

## **PARC Responsibilities and Contracting Organizational Structure**

The PARC, on behalf of the HCA, didn't properly perform the responsibilities of his position, further complicating the situation. Specifically, our audit results showed that the PARC was remiss in his duties to:

- Make sure contract actions complied with law and acquisition regulations.
- Provide oversight and promote the use of standardized contracting policies and procedures.
- Make sure contracting personnel and CORs were properly trained.

In addition, he didn't protect personnel in the contracting division from the undue command influence discussed in the previous section.

However, we also recognized that the organizational structure of NGB's contracting function wasn't optimal to support the PARC's responsibility for providing sufficient oversight of the contracting function.

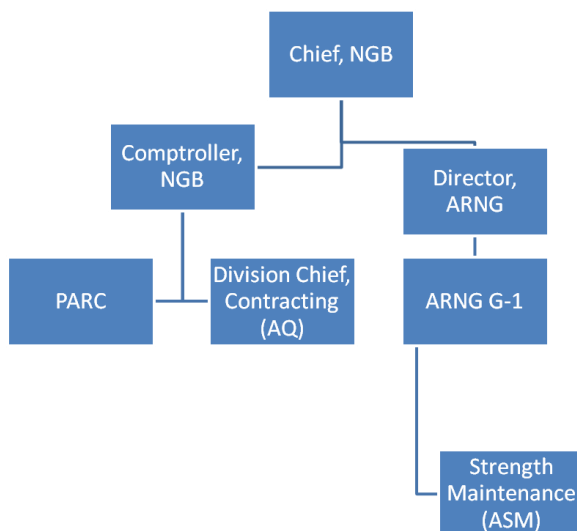
Within NGB, there were two positions that had authority to contract for supplies and services. The Chief, National Guard Bureau, was designated as the HCA. The HCA had the overall responsibility for managing the contracting activity. The PARC received the authority to contract by delegation from the HCA. The AFARS defines the PARC as the individual assigned to a position the HCA has established at the

contracting activity level to accomplish contracting functions that the HCA is not required to perform directly.

AFARS subpart 5101.6 (Career Development, Contracting Authority and Responsibilities) states that the PARC should be the senior staff official of the contracting function and shall head an organizational element reporting directly to the HCA. In addition, it states that the office of the contracting officer must be organizationally situated to minimize any potential for undue influence and protect contracting officers from intra-organizational pressure to perform improper acts.

The organization of the contracting function at NGB didn't adhere to these requirements. The PARC didn't report directly to the HCA and the contracting office didn't report to the PARC. Instead, the PARC reported to the NGB comptroller and the contracting office was a parallel organization to the PARC that also reported to the comptroller.

The following organizational chart shows the contracting structure, as well as its relation to the requiring activity (ASM):



Because the office of the PARC was a parallel organization to the contracting division, the PARC didn't have authority over the contracting division and didn't attempt to exert any authority over the contracting function. In a previous section, we discussed that the PARC generally didn't perform sufficient reviews of contracting actions. He also didn't protect contracting personnel from intra-organizational pressure from ASM leadership.

[REDACTED]

In addition, within all the contracting files we reviewed, we didn't see any evidence that the HCA performed any oversight of the contract function. Specifically, the 2007 G-RAP contract required the HCA's approval because of its estimated value. However, we found no evidence that he was involved in the review and approval of the contract.

As a result, there were no senior contracting personnel in the office that provided oversight and direction to the contracting division. This indicates that the position of the HCA was designated at a level too high to be effective. Not considering the designation of the HCA, the Chief, NGB is already responsible for numerous critical duties related to the entire NGB. Therefore, we believe the position of HCA should be assigned to a position below the chief to ensure that the proper emphasis is placed on the importance of the contracting function.

To provide protection from intra-organizational pressure, as required by the AFARS, the contracting division should be aligned under the PARC. In addition, the Contracting Quality Assurance branch should be aligned under the PARC. And finally, the PARC should report directly to the HCA.

We address the actions needed to properly align NGB's contracting function in Recommendations 1 and 3. We address the need for additional oversight for the contracting functions in Recommendations 8 and 9.

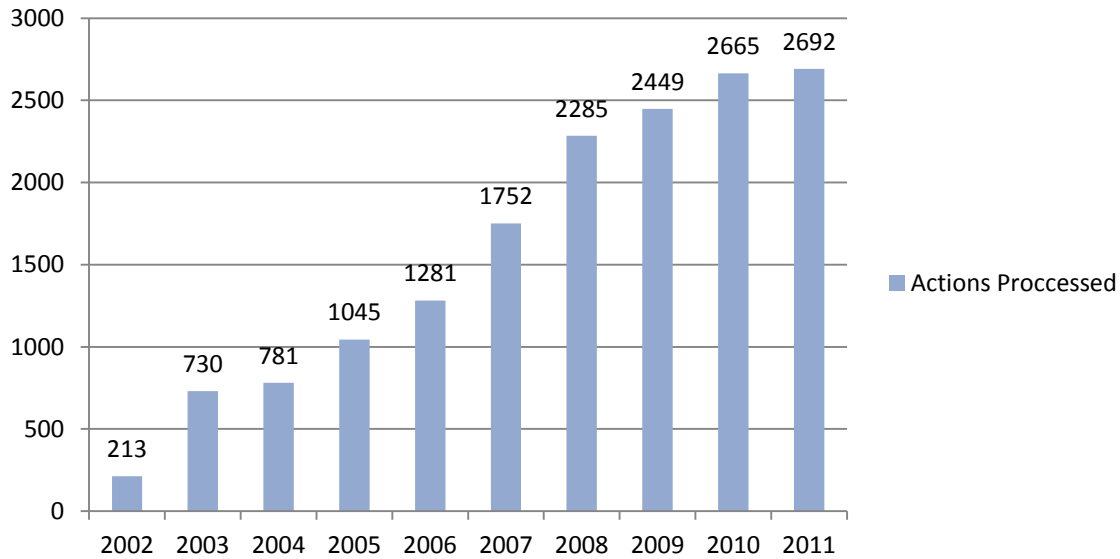
## **Contracting Workload**

The sheer volume of contracting actions processed by the contracting division was another root cause of the conditions we identified in this report.

The NGB contracting division experienced a significant increase in workload between FY 02 and FY 11—in both dollars obligated and contract actions completed—without a corresponding increase in staff.

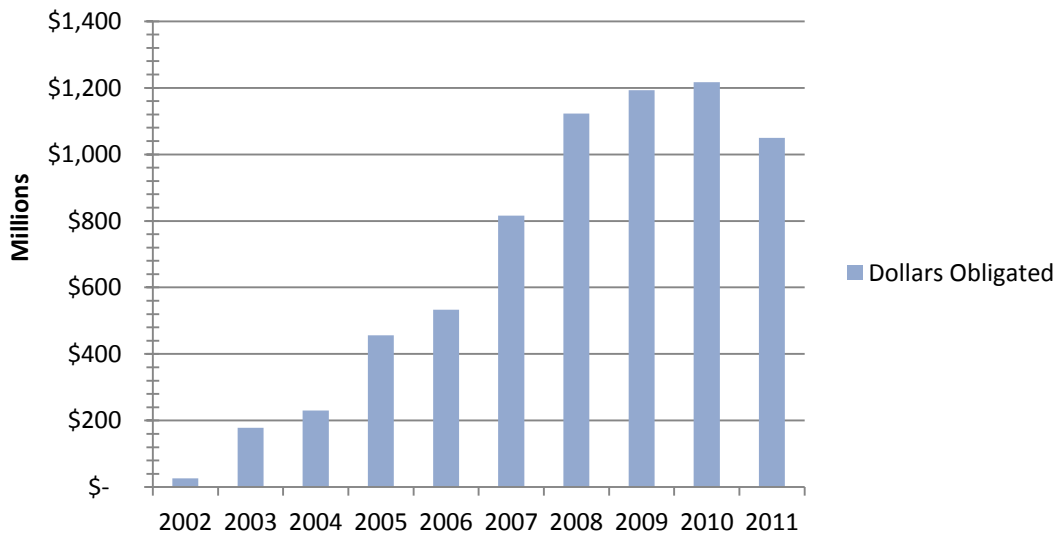
The number of contract actions the division completed increased by over 1,100 percent between FY 02 and FY 11. In FY 02, the contracting office completed 213 contract actions. When G-RAP started in FY 05, the number of actions had increased to 1,045, and in FY 11, the contracting office completed 2,692 contract actions. The following graph depicts the trend over the 10-year period.

## NGB Contracting Workload



The amount of dollars the division obligated on contracts increased by an even greater amount – a 3,800 percent increase in the same period. In FY 02, the division obligated \$26.7 million. The amount obligated in FY 05 was \$456.6 million, and by FY 11, the division obligated over \$1 billion. The graph below shows the increase in dollars obligated over the period.

## NGB Contracting Workload



[REDACTED]

During the same time, the increase in staffing within the contracting division was only minimal and didn't sufficiently correspond to the increase in workload. The number of personnel permanently assigned to the contracting division increased only 28 percent from FY 00 to FY 11 – from 28 personnel to 36 personnel. In addition, staffing within the PARC and the Judge Advocate's offices increased only minimally. The PARC had oversight of the NGB contracting division, as well as the contracting offices in the 54 NGB states and territories; and the Judge Advocate's office performed legal reviews for the NGB contracting division. In FY 00, the PARC and Judge Advocates' offices had 17 permanent staff assigned and the staffing of those offices increased to only 25 personnel by FY 11.

In interviews with the acting chief of the contracting division, he explained that he had worked in the contracting division since 1998, with a break between 2005 and 2008. He said that, in that time, he had witnessed the division deteriorating. On several occasions, he acknowledged that the performance of contract administration suffered due to the volume of work.

There was no evidence in the contract files to indicate that CORs performed sufficient contract administration. As we discussed in a previous section, none of the contract files contained a QASP or evidence of oversight. In addition, the contracting officers didn't obtain required approvals for 15 contract actions.

The NGB leadership recognized these staffing shortfalls as a significant barrier to properly performing contracting functions and following acquisition policy. To that end, it started to take action in August 2012 to implement a plan to increase the number of staff for the PARC and contracting division, and improve management controls and oversight for contracting. Those actions should help improve the execution of the NGB's contracting function.

## **Performance Objectives for Contracting Personnel**

The objectives NGB used to evaluate the performance of contracting personnel didn't reflect required duties.

The performance objectives for contracting personnel didn't specify the contracting duties to be performed or incorporate contracting guidance, such as the FAR, Defense FAR Supplement, or AFARS, as a standard to achieve. We reviewed the performance objectives used for contracting personnel and found that only one objective referred to completing contracting actions in accordance with a standard – awarding program requirements within the procurement average lead time. In addition, none of the

[REDACTED]

objectives referred to the contracting duties that the personnel should perform or a measurable standard for performing the duties.

We also reviewed the job descriptions for contracting personnel in NGB's Operational Contracting division that were included in the NGB Concept Plan. The job descriptions included detailed explanations of the contracting duties that each position required. In addition, the job descriptions for the supervisory positions included references to performing the duties in accordance with applicable laws, regulations, and policies.

Therefore, NGB should develop new performance objectives for contracting personnel that are measurable, using criteria specified in the FAR, Defense FAR Supplement, and AFARS.

We address the action NGB should take to update the performance objectives of contracting personnel in Recommendation 10.

## **Program Abuse and Potential Fraud**

The lack of oversight of the G-RAP contracts and task orders resulted in NGB executing a program that was laden with program abuse and potential fraudulent activity.

### **Previous Findings**

In a previous report, we assessed G-RAP payments made by electronic funds transfer for the ARNG through July 2011. There was a total of 134,842 enlistments and 4,598 officer accessions. Payments related to those categories were \$301.5 million and \$11.7 million respectively.

We identified three categories of potential fraud – high, medium, and low. Specifically, we identified:

- 601 ARNG recruiters were affiliated with potentially fraudulent G-RAP payments that we categorized as “high risk” for fraud.
- 444 ARNG recruiters were affiliated with suspicious G-RAP payments that we categorized as “medium risk” for fraud.
- 2,015 G-RAP RAs received payments that potentially violated program rules; 611 of the RAs were affiliated with the payments discussed in the preceding bullets. We categorized these payments as “low risk” for fraud.

[REDACTED]

Based on the high- and medium-risk results, we prepared fact sheets and provided them to the CID for further investigation. Each fact sheet identified a recruiter and described his or her affiliation with one or multiple RAs.

Based on the low-risk results, we prepared fact sheets and provided them to the relevant states for further investigation, using the 15-6 investigative process. The CID and 15-6 investigations are ongoing.

### **Notification of Potentially Fraudulent Activity**

The contractor identified and removed RAs for program abuse, but there was no established process for notifying the NGB contracting division when an RA was removed from the program – even if the reason for his or her removal was suspicion of fraud, further exacerbating this unprecedented level of program abuse and potential fraudulent activity.

According to FAR subpart 52.203-13 (Contractor Code of Business Ethics and Conduct), the contractor shall disclose, in writing, to the agency Office of the Inspector General, and with a copy to the contracting officer, that the contractor has credible evidence that a principal, employee, agent, or subcontractor of the contractor has committed a violation of Federal criminal law involving fraud or a conflict of interest.

However, our review of contract files and interviews with contracting personnel showed no evidence that this notification occurred. In addition, the contract didn't contain a clause requiring the contractor to report potentially fraudulent transactions or individuals.

Instead, the contractor established a process early in the program to report cases of suspected criminality to CID. Contractor personnel stated that they met with CID personnel following an audit of recruiting incentive programs performed by the DOD Inspector General. According to the contractor, CID requested that it contact CID directly with suspicions of fraud and not to discuss the instances with NGB, so as to not affect criminal investigations.

As of 5 June 2012, the contractor had removed 521 RAs from the program. The reasons for their removal ranged from a change in the RA's status that resulted in them no longer being eligible to participate in the program to "fraudulent use of the program," as categorized by contractor personnel. Our review of the 521 RAs terminated with cause showed that the contractor categorized the termination of 284 RAs due to potential fraud. In some cases, the contractor stated that it became aware of suspicious activity and removed the RA from the program before disbursing a referral payment.

[REDACTED]

In other cases, the RA received a referral payment based on potentially fraudulent activity, before removal from the program.

The contractor's president said that he didn't notify NGB when an RA was removed because the RAs were subcontractors and, as such, the contractor had the authority to remove individuals as he deemed appropriate. He also said that he informed ASM leadership of its coordination with CID when G-RAP expanded from the test pilot to the full program in February 2006. According to the contractor, ASM leadership wanted to be notified of criminal activity only when recruiters were involved, but it was the contractor's responsibility to "police" the RAs. However, this informal arrangement didn't meet the intent of the FAR requirement to notify the contracting officer of cases of suspected fraud.

Through interviews with five former and current contracting personnel, including the present division chief, we confirmed that they had no knowledge that program abuse or potentially fraudulent activity was occurring. Further, CORs that we interviewed had no direct knowledge that RAs were removed for suspicion of fraud.

The contractor did notify ASM leadership of select cases that it referred to CID. In interviews, personnel from both organizations stated that the contractor notified the leadership of NGB's ASM division when information about suspected fraud in G-RAP would become public knowledge; for example, when a case had been adjudicated and would result in a news release.

When we spoke to a prior ASM division chief, he stated that the contractor had notified him that it had provided information to CID. In addition, we obtained an information paper prepared by ASM leadership dated 28 October 2009, with information on 13 CID cases that resulted from G-RAP. However, according to contracting personnel and CORs we interviewed, ASM leadership didn't provide that information to them.

The culmination of poor oversight in the contracting office, poor oversight on the part of CORs, and a lack of communication by ASM leadership led to a situation where fraud was possibly occurring within G-RAP and the contracting office had no knowledge of it.

In Recommendation 2, we address the need for the Assistant Secretary of the Army (Acquisition, Logistics and Technology) to issue a policy memorandum requiring all Army contracting activities to include the clause in FAR subpart 52.203-13 in future contracts.





## RECOMMENDATIONS AND COMMENTS

---

This section has specific recommendations and a summary of command comments for each recommendation. The official Army position and verbatim command comments are in Annex D.

### **For the Assistant Secretary of the Army (Acquisition, Logistics and Technology)**

#### **Recommendation 1**

Assign the head of contracting activity for the National Guard Bureau (NGB) to a position subordinate to the Chief, NGB.

#### **Command Comments and Official Army Position**

The Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) OASA (ALT) agreed and stated that the Army Senior Procurement Executive designated the Vice Chief, NGB as the head of the contracting activity, effective 28 November 2012.

#### **Recommendation 2**

Issue a policy memorandum to all Army contracting activities requiring the inclusion of the clause in Federal Acquisition Regulation (FAR) subpart 52.203-13 (Contractor Code of Business Ethics and Conduct) in full and not included by reference, for all future contracts. Specifically, each contract should include the wording in FAR 52.203-13(b)(3), which states:

- The contractor shall timely disclose, in writing, to the agency Office of the Inspector General, with a copy to the contracting officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract there under, the contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed:
  - A violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C.; or
  - A violation of the civil False Claims Act (31 U.S.C. 3729-3733).



## **Command Comments and Official Army Position**

OASA(ALT) agreed and stated that the Deputy Assistant Secretary of the Army (Procurement) will issue a policy alert to all Army contracting activities requiring the inclusion of the clause in Federal Acquisition Regulation (FAR) 52.203-13 (Contractor Code of Business Ethics and Conduct) in full and not included by reference, for all future contracts. The target completion date is October 2013.

## **For the Chief, National Guard Bureau**

### **Recommendation 3**

Reorganize the National Guard Bureau (NGB) contracting function to achieve effective oversight of all contract actions. The reorganization should include the following:


- Align the Principal Assistant Responsible for Contracting (PARC) under the head of contracting activity (HCA) when the Assistant Secretary of the Army (Acquisition, Logistics and Technology) reassigns those responsibilities, as we recommended in Recommendation 1.
- Align the Operational Contracting division under the PARC.
- Align the Contracting Quality Assurance branch under the PARC.

### **Command Comments**

NGB concurred with the recommendation and stated it's working closely with the Deputy Assistant Secretary of the Army (Procurement) to transition the PARC as a direct report to the HCA, in accordance with the Army FAR Supplement. In addition, NGB stated that it took action to realign the Operational Contracting division under the PARC on 1 October 2012. NGB also said the PARC expanded the Policy Implementation and Oversight branch to include the Contracting Quality Assurance branch, effective 1 January 2013.

### **Official Army Position**

OASA(ALT) concurred with NGB's completed and planned actions to implement the recommendation.



## **Recommendation 4**


Develop the policies and procedures required to incorporate reviews and approvals by National Guard Bureau's (NGB's) Contracting Quality Assurance branch for actions throughout the contract life cycle. The procedures should include completion of separate checklists for each phase of the contracting process: acquisition planning, preaward, award, administration, payment, and oversight. The checklists should verify the contract files include documentation and approvals required by the Federal Acquisition Regulation (FAR), Defense FAR Supplement, Army FAR Supplement, and NGB acquisition policies. The checklist should also include references to the previously mentioned contracting guidance to serve as a reference for those involved in performing contracting actions.

The policy should require the Contracting Quality Assurance branch to submit completed checklists to the Principal Assistant Responsible for Contracting (PARC)—as a means of necessary oversight—after review and approval by different levels of contracting leadership based on contract amount, as required by the FAR:

- Head of contracting activity approval for all contracting actions with an estimated value of more than \$250 million, but less than \$1 billion.
- PARC approval for all contracting actions with an estimated value of more than \$50 million but less than \$250 million.
- Chief, Operational Contracting division for all contracting actions with an estimated value below \$50 million.

At a minimum, the checklists should serve as decision gates to proceed to additional contract actions and should require a review of the contract files for sufficient evidence that the following actions were performed:

- Acquisition planning – Decision gate to proceed to preaward phase.
  - Acquisition planning documentation, to include contract type determination, contract requirements, development of the statement of work, and plans for oversight of contractor performance.
  - Market research.
  - Independent government cost estimate.
  - Service contract approval/inherently governmental function determination.
- Preaward – Decision gate to proceed to award phase.

- 
- Solicitations.
  - Appointment of contracting officer's representative (COR).
  - Scope determinations of contracts, contract modifications, and task orders.
  - Sole-source contract justification and approval.
  - Legal review and approval.
  - Award – Decision gate to proceed to award of contract.
    - Source-selection evaluation plan matches criteria included in solicitation.
    - Source-selection evaluation board includes diversified membership.
    - Source selection authority resides at the appropriate level per requirements set forth in the Army FAR Supplement Appendix AA, Army Source Selection Manual.
  - Oversight – Decision gate to make a contract modification, award new task orders, or exercise a contract option.
    - Development, acceptance, and implementation of quality assurance surveillance plans.
    - Surveillance schedules.
    - Procedures for reviewing and approving contractor invoices.
    - Evidence of oversight by COR.

### **Command Comments**

NGB agreed and said that it began using modified peer review checklists to conduct quality reviews in the areas of acquisition planning, preaward, award, administration, payment, and oversight. NGB further stated that the PARC directed use of these checklists on 31 January 2013 by issuing a policy implementation memorandum to all contracting activities within the NGB. The memorandum requires the checklists to be completed and reviewed by appropriate contracting leadership, serving as decision gates, before authorizing the contracting officer to proceed with the next contracting phase.



## **Official Army Position**

OASA (ALT) concurred with NGB's completed and planned actions to implement the recommendation.

## **Recommendation 5**

Develop a process to monitor the accomplishment of training for all individuals involved in the contracting process and make sure individuals complete only those duties they're trained to perform.

## **Command Comments**

NGB agreed and said it's currently developing a process to monitor the accomplishment of training for all individuals in the contracting process. The process will include mandatory reviews of individual development plans. NGB will identify job-specific training needs and respond to those needs through Defense Acquisition University or in-house training. In addition, supervisors will be held accountable for monitoring training progress of their staff through the use of performance objectives within the appraisal process. NGB's target implementation date for this process is 31 July 2013.

## **Official Army Position**

OASA (ALT) concurred with comments to NGB's completed and planned actions to implement the recommendation. OASA (ALT) stated that NGB should ensure that the Contracting 101 training includes, at a minimum, the following: (1) source selection process from requirements development, solicitation preparation, proposal evaluation, contract award preparation, and the acquisition team members' roles and responsibilities; and (2) contract action review and approval thresholds.

## **Recommendation 6**

Incorporate responsibilities for participating in the acquisition process and serving as a contracting officer's representative (COR) into the performance evaluation process for personnel in requiring activities that perform those duties. Specifically:

- Revise the job objectives for positions in requiring activities that will participate in the acquisition process and serve as a COR. The objectives should include measurable standards for the performance of those duties.

- 
- Require personnel from the Operational Contracting division to participate in the evaluation process and provide feedback on the performance of the acquisition and COR objectives.

### **Command Comments**

NGB concurred and said that the Quality Assurance branch will maintain a consolidated list of CORs performing oversight functions, and validate that their job objectives include measurable standards for the performance of COR duties. In addition, all performance appraisals for CORs will include, at a minimum, a letter of input from the chief of contracting. NGB plans to implement this process by 1 July 2013.

### **Official Army Position**

OASA (ALT) concurred with comments to NGB's completed and planned actions to implement the recommendation. OASA (ALT) stated that NGB will ensure responsibilities for participating in the acquisition process are appropriately incorporated into the performance evaluation process for personnel in requiring activities that perform those duties. In addition, the official Army position indicated that NGB told the Office of the Deputy Assistant Secretary of the Army (Procurement) that planned processes are contingent upon the migration of the oversight activities to an automated tool, as well as the establishment of a COR cell, and these actions would not be implemented until July 2014.

### **Recommendation 7**

Establish a written policy that requires the contracting officer to review and approve 5 percent of contractor invoices on service contracts annually. The policy should require the contracting officer's representative (COR) to review all invoices, document the validation of approved invoice amounts, and maintain documentation in the COR files for review by the contracting officer per the Defense Federal Acquisition Regulation Supplement (Procedures, Guidance and Instruction 201.602). For invoices approved by the contracting officer under this policy, the COR should submit the documentation to the contracting officer.

### **Command Comments**

NGB agreed and said that the PARC will issue a policy implementation memorandum requiring the contracting officer to review and approve, at a minimum, 5 percent of contractor invoices on service contracts annually. NGB also stated that it will include

[REDACTED]

this requirement in the contracting officers' performance objectives and it will track for compliance. The target implementation date was 30 March 2013.

### **Official Army Position**

OASA (ALT) concurred with NGB's completed and planned actions to implement the recommendation. The OASA (ALT) response states that NGB reports that its office of the PARC issued Policy Implementation Memorandum 2013-04 to address the 5 percent invoice review/policy on 21 June 2013.

### **Recommendation 8**

Direct the National Guard Bureau (NGB) Internal Review office to complete annual audits of high-risk contracts awarded by the Operational Contracting division. The Internal Review office should develop a methodology for selecting contracts for review that considers the number of contract modifications, task orders, and the amount of funds obligated on the contract in order to focus on those that present the highest risk to the government. The Internal Review office should report the results of these audits to the Principal Assistant Responsible for Contracting (PARC) and should consider the results when preparing NGB's statement of annual assurance.

### **Command Comments**

NGB concurred and said that the Internal Review office will conduct annual audits of high-risk service contracts and report the findings to the PARC and head of contracting activity. NGB also said it would consider this information when preparing its statement of annual assurance. Planned audits will be included in NGB Internal Review's annual plan, which will be completed in FY 13.

### **Official Army Position**

OASA (ALT) agreed with NGB's completed and planned actions to address this recommendation. The OASA (ALT) response includes a statement that as of 24 June 2013, NGB had included audits of contracts in the NGB Internal Review's annual plan.

### **Recommendation 9**

Direct the Principal Assistant Responsible for Contracting (PARC) to complete procurement management reviews of the National Guard Bureau's (NGB's) Operational Contracting division annually, rather than every 2 years as required by the Army Federal Acquisition Regulation Supplement (AFARS) Appendix CC, Army

[REDACTED]

Procurement Management Review Program. Issue a written policy directing this action and require the PARC to submit the results of the review, and planned corrective measures to the Deputy Assistant Secretary of the Army (Procurement). Continue this annual requirement until the Deputy Assistant Secretary of the Army (Procurement) authorizes approval to return to the frequency of performing procurement management reviews every 2 years, per the AFARS.

### **Command Comments**

NGB concurred but stated that it can't implement the recommendation because it would take away from the resources available to correct noted weaknesses. It stated it would continue to comply with AFARS, Appendix CC. In addition, it stated that it would implement recommendations from this report, as well as external procurement management reviews. Further, as a mitigating corrective measure, it stated that it would timely address any findings and recommendations that are identified by NGB Internal Review's annual audits of high-risk service contracts. NGB expects that initial audits will be completed and corrective action taken within FY 13.

### **Agency Evaluation of Command Comments**

The Deputy Assistant Secretary of the Army (Procurement) performed a procurement management review of the G-RAP contracts at the same time we performed our audit. In addition, it performed a subsequent comprehensive review of NGB's entire contracting function. NGB also agreed with our recommendation to direct its Internal Review office to conduct annual audits of high-risk service contracts. Given these facts and NGB's commitment to implementing recommendations resulting from all reviews in a timely manner, we believe these combined actions will meet the intent of our recommendation to perform annual procurement management reviews.

### **Official Army position**

OASA (ALT) concurred with comment to NGB's completed and planned actions to implement the recommendations. OASA (ALT) stated that while NGB concurred with the recommendation, the planned action indicated nonconcurrency due to lack of resources necessary to conduct annual performance management reviews while focusing on implementing corrective actions. Therefore, OASA (ALT) stated that its Office of the Deputy Assistant Secretary of the Army (Procurement) will take on the responsibility of executing annual performance management reviews of the Operational Contracting division until NGB gains sufficient resources.





## **Recommendation 10**

Direct the Principal Assistant Responsible for Contracting (PARC) to develop new performance objectives for each of the positions in the office of the PARC and the Operational Contracting division. The new objectives should include specific contracting duties – as described in the position descriptions – that each position requires, and measurable standards for performing the duties in accordance with guidance included in the Federal Acquisition Regulation (FAR), Defense FAR Supplement, and Army FAR Supplement.

### **Command Comments**

NGB concurred and stated that the PARC has completed reviews of the performance objectives for procurement analysts and employees within the PARC Policy branch. It's currently reviewing the performance objectives of the remaining PARC branches and will review objectives for new contract specialists and other positions as needed, to ensure standardization. NGB planned to complete these actions by 30 March 2013.

### **Official Army Position**

OASA (ALT) agreed with NGB's completed and planned actions to implement the recommendation. The OASA (ALT) response shows that NGB also stated that performance objectives for the PARC Policy branch have been completed and the remaining PARC branches are currently under review. In addition, new objectives for contract specialist and other positions will be reviewed as needed to assure standardization where applicable.

## A – GENERAL AUDIT INFORMATION

### SCOPE AND METHODOLOGY

---

We conducted the audit under project A-2012-MTH-0346.000.

We performed audit work at the contracting division, NGB. In addition, we performed a site visit at the contractor's facility. We audited three contracts relevant to G-RAP). Our audit included the solicitation, award, and oversight phases of the contract process.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our finding and conclusion based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusion based on our audit objective.

We assessed the reliability of the computer-processed data and found that, in general, the data was sufficiently reliable to support our results and conclusion. We didn't review the controls for the system that provided data. The results of our data reliability assessment follow:

- We assessed the reliability of supporting documentation for invoices submitted for G-RAP and determined that the data was sufficiently reliable to support our conclusion that NGB paid fees not authorized in G-RAP task orders.
- We assessed the reliability of payment data obtained from the Operational Data Store and determined that the data was sufficiently reliable to confirm that NGB paid invoices that contained unauthorized fees.
- We assessed the reliability of contract data from the Army Contracting Business Intelligence System and determined it was sufficiently reliable to support our results on the number of contract actions completed and the amount of dollars obligated on contracts by NGB's Operational Contracting division.

To verify that the NGB met requirements in the FAR for solicitation, award, and administration of G-RAP contracts, we:

- Researched Federal acquisition policies, as well as DOD, Army, and NGB acquisition policies and procedures.

- Interviewed key management and functional personnel from NGB contracting division, NGB legal division, the PARC, and ASM division to determine if relevant policies were properly followed during each phase of the acquisition process.
- Reviewed contract documents and files for three contracts spanning the course of the program to determine if contract and task orders were solicited and awarded fairly and in accordance with acquisition guidance.
- Interviewed key management and functional personnel from NGB contracting division and the PARC to determine if training requirements for contracting personnel were sufficient, and if the workforce in the organizations was sufficient to handle the workload.
- Interviewed contractor employees to determine how G-RAP originated. In addition, we determined the extent of collaboration between the contractor and NGB in developing the program.
- Identified and reviewed AR 15-6 investigation reports to assess the office/command climate within the contracting and ASM divisions. We also reviewed the allegations related to improper relationships with contractors.
- Assessed the contracting division's workload from FYs 02 to 11.
- Analyzed invoices for referral payments to quantify the payments that NGB made in relation to the G-RAP fee.

## RESPONSIBILITIES

---

The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the overall responsibility for DA acquisition, technology, and logistics matters. The Assistant Secretary serves as the Army Acquisition Executive; the Senior Procurement Executive; and has the principal responsibility for all DA matters and policy related to acquisition, logistics, technology, and procurement. It's also responsible for overseeing DA's procurement and contracting functions, including the exercise of the authority as agency head for contracting, procurement, and acquisition matters pursuant to laws and regulations, the delegation of contracting authority, and the designation of contracting activities.

The Assistant Secretary of the Army (Manpower and Reserve Affairs) serves as the principal advisor to the Secretary of the Army for manpower, human capital management, training, leader development, readiness, and reserve affairs. The Assistant Secretary is also responsible for supervising and providing direction for Army manpower management, force structure, workforce mix, manpower allocation and requirements determination. Further, the Assistant

Secretary has responsibility for the fulfillment of statutory and regulatory requirements for Army manpower, including approval of acquisition system manpower estimates, action on inherently governmental challenges and appeals, and oversight of major headquarters activities manpower accounting. In addition, it's responsible for supervising and integrating Army policies and programs pertaining to recruitment, marketing, and brand management, including ensuring the alignment of related strategic communication.

The mission of the National Guard Bureau is to:

- Participate with Army and Air Force staffs in the formulation, development, and coordination of all programs, policies, concepts, and plans pertaining to or affecting the National Guard, the Army National Guard, and the Air National Guard.
- Develop and administer such detailed operating programs required for the operation of the Army National Guard and the Air National Guard, based on approved programs, policies, and guidance from DA and the Air Force.
- Participate with and assist several States in the organization, maintenance, and operation of their National Guard units to provide trained and equipped units capable of immediate expansion to war strength. NGB must also be available for service in time of war or emergency to augment the Active Army and Air Force.

## DISTRIBUTION

---

We are sending copies of this report to the:

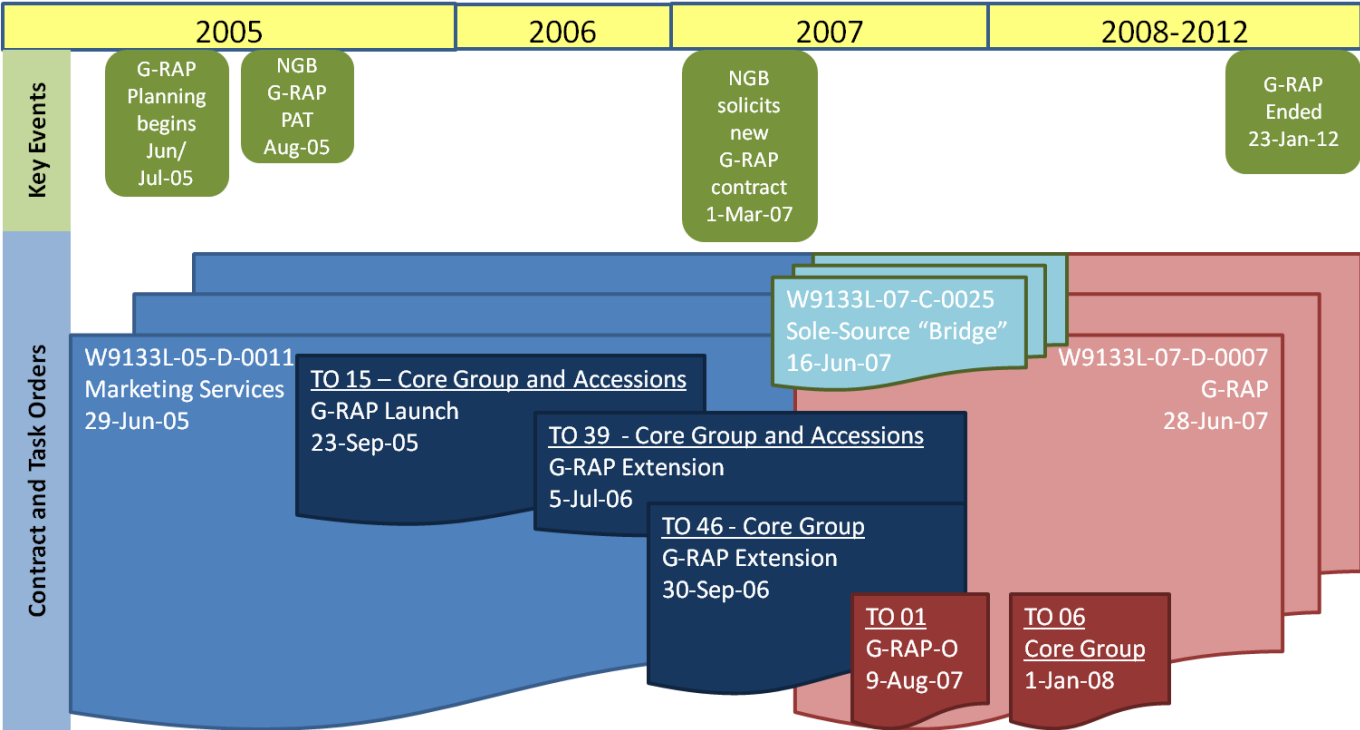
Secretary of the Army  
 Assistant Secretary of the Army (Acquisition, Logistics and Technology)  
 Assistant Secretary of the Army (Financial Management and Comptroller)  
 Assistant Secretary of the Army (Manpower and Reserve Affairs)  
 General Counsel  
 The Inspector General  
 Director of the Army Staff  
 Deputy Chief of Staff, G-1  
 Chief, Army Reserve  
 Chief, National Guard Bureau  
 The Judge Advocate General  
 Director, Army National Guard  
 Commanding General, U.S. Army Criminal Investigation Command

We will also make copies available to others upon request.

## B – ABBREVIATIONS USED IN THIS REPORT

AFARS	Army Federal Acquisition Regulation Supplement
ARNG	Army National Guard
ASM	Army Strength Maintenance
CID	U.S. Army Criminal Investigation Command
CLIN	Contract Line Item Number
COR	Contracting Officer's Representative
FAR	Federal Acquisition Regulation
G-RAP	Guard Recruiting Assistance Program
HCA	Head of Contracting Activity
NGB	National Guard Bureau
OASA (ALT)	Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology)
PARC	Principal Assistant Responsible for Contracting
QASP	Quality Assurance Surveillance Plan
RA	Recruiting Assistant
SOO	Statement of Objectives

C – G-RAP TIMELINE



\* Not included in the above graphic is TO 109 on contract DAHA90-01-D-0003, issued in January 2005, which included a requirement to develop a lead generation program, in effect conceptualizing what eventually became G-RAP.

## D – OFFICIAL ARMY POSITION AND VERBATIM COMMENTS BY COMMAND



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY  
ACQUISITION LOGISTICS AND TECHNOLOGY  
103 ARMY PENTAGON  
WASHINGTON, DC 20310-0103

JUN 28 2013

SAAL-PR

MEMORANDUM FOR US ARMY AUDIT AGENCY, OFFICE OF THE DEPUTY  
AUDITOR GENERAL, MANPOWER, RESERVE AFFAIRS AND TRAINING AUDITS,  
6000 SIXTH STREET, BUILDING 1464, FORT BELVOIR, VIRGINIA 22060-5609

SUBJECT: Official Army Response to US Army Audit Agency (USAAA) Draft Report A-  
2013-0XXX-MTH, Project number A-2012-MTH-0346.000.

1. I am responding on behalf of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)) concerning the USAAA Draft Report A-2013-0XXX-MTH, project number A-2012-MTH-0346.000 concerning National Guard Bureau (NGB) Guard Recruiting Assistance Program (G-RAP).
2. The draft USAAA report cited ten recommendations. Two of the 10 recommendations were directed to Deputy Assistant Secretary of the Army (Procurement) (DASA(P)). DASA(P) concurs with the two DASA(P) recommendations.
3. USAAA directed the remaining eight recommendations to the NGB. NGB provided DASA(P) disposition of the eight recommendations. DASA(P) concurs with the NGB disposition of five of the eight recommendations and concurs with comment to three of the eight.
4. The enclosure to this memorandum provides the USAAA recommendations from the draft report, the corresponding DASA(P) and NGB responses as well as the Official Army position.
5. The point of contact for this memorandum is Mr. Robert Grasso (703) 617-0362, or e-mail: robert.p.grasso.civ@mail.mil.

Encl

JOSEPH L. BASS  
Brigadier General, USA  
Acting Deputy Assistant Secretary  
of the Army (Procurement)

**U.S. Army Audit Agency Draft Report (12 March 2013)  
Audit Report: A-2013-0XXX-MTH**

**Contracts for the Guard Recruiting Assistance Program**

**National Guard Bureau**

**Arlington, Virginia**

**Recommendation 1 (For the Assistant Secretary of the Army (Acquisition, Logistics and Technology))**

Assign the Head of the Contracting Activity for the National Guard Bureau (NGB) to a position subordinate to the Chief, NGB.

**Concur:** The Army Senior Procurement Executive designated Lieutenant General Joseph L. Lengyel, Vice Chief, as the Head of the Contracting Activity for the NGB (effective 28 November 2012).

---

**Recommendation 2 (For the Assistant Secretary of the Army (Acquisition, Logistics and Technology))**

Issue a policy memorandum to all Army contracting activities requiring the inclusion of the clause in Federal Acquisition Regulation (FAR) subpart 52.203-13 (Contractor Code of Business Ethics and Conduct) in full and not included by reference, for all future contracts. Specifically, each contract should include the wording in FAR 52.203-13(b)(3), which states:

- The contractor shall timely disclose, in writing, to the agency Office of the Inspector General, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed –
  - A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or
  - A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

**Concur:** The Office of the Deputy Assistant Secretary of the Army (Procurement), on behalf of the Assistant Secretary of the Army (Acquisition, Logistics and Technology), will issue a Policy Alert to all Army contracting activities requiring the inclusion of the clause in FAR 52.203-13 (Contractor Code of Business Ethics and Conduct) in full and not included by reference, for all future contracts. Anticipated completion: Oct 2013



**U.S. Army Audit Agency Draft Report (12 March 2013)  
Audit Report: A-2013-0XXX-MTH**

**Recommendation 3 (For the Chief, National Guard Bureau)**

Reorganize the National Guard Bureau (NGB) contracting function to achieve effective oversight of all contract actions. The reorganization should include the following:

- Align the Principal Assistant Responsible for Contracting (PARC) under the Head of the Contracting Activity (HCA) when the Assistant Secretary of the Army (Acquisition, Logistics and Technology) reassigns those responsibilities, as we recommend in Recommendation 1.
- Align the Operational Contracting Division under the PARC.
- Align the Contracting Quality Assurance branch under the PARC.

**NGB Actions Taken or Planned: Concur.** The NGB is working closely with the DASA(P) staff to smoothly transition the PARC as a direct report to the HCA in order to be in compliance with AFARs 5101.601(4)(ii)(B). The NGB Operational Contracting Division was realigned under the PARC office by direction of the Chief, NGB on 1 October 2012. The PARC office expanded the duties of the Policy Implementation and Oversight Branch to include the Contracting Quality Assurance branch to conduct quality reviews, implement policy memos and guidance and PMRs of operational staff, which was effective 1 January 2013.

**NGB 7 June 2013 Supplemental Response to DASA(P):** The Quality Assurance is conducted using a tiered approach. First, the NGB Operational Contracting Division was required to establish a small Quality Control Branch to establish internal controls, develop training, and provide day-to-day oversight of the operational office. Second, Quality Assurance is also performed at the PARC level within the Policy Branch. The PARC established, implemented, and strictly enforced multiple policies to increase the amount of PARC oversight on all operational contracts to include: Solicitation Review Boards, Contract Review Boards, J&A reviews, solicitation reviews (outside the formal peer review requirement) and has reinvigorated the PMR program.

**Army Position: Concur.**

---

**Recommendation 4 (For the Chief, National Guard Bureau)**

Develop the policies and procedures required to incorporate reviews and approvals by the National Guard Bureau's (NGB) Contracting Quality Assurance Branch for actions throughout the contract life cycle. The procedures should include completion of separate checklists for each phase of the contracting process: acquisition planning, preaward, award, administration, payment, and oversight. The checklists should verify the contract files include documentation and approvals required by the Federal Acquisition Regulation (FAR), Defense FAR Supplement, Army FAR Supplement, and NGB acquisition policies. The checklist should also include references to the previously

**U.S. Army Audit Agency Draft Report (12 March 2013)**  
**Audit Report: A-2013-0XXX-MTH**

mentioned contracting guidance to serve as a reference for those involved in performing contracting actions.

The policy should require the Contracting Quality Assurance Branch to submit completed checklists to the Principal Assistant Responsible for Contracting (PARC) – as a means of necessary oversight – after review and approval by different levels of contracting leadership based on contract amount, as required by the FAR:

- Head of Contracting Activity approval for all contracting actions with an estimated value of more than \$250 million, but less than \$1 billion.
- PARC approval for all contracting actions with an estimated value of more than \$50 million but less than \$250 million.
- Chief, Operational Contracting Division for all contracting actions with an estimated value below \$50 million.

At a minimum, the checklists should serve as decision gates to proceed to additional contract actions and should require a review of the contract files for sufficient evidence that the following actions were performed:

- Acquisition planning – Decision gate to proceed to preaward phase.
  - Acquisition planning documentation, to include contract type determination, contract requirements, development of the statement of work, and plans for oversight of contractor performance.
  - Market research.
  - Independent government cost estimate.
  - Service contract approval/inherently governmental function determination.
- Preaward – Decision gate to proceed to award phase.
  - Solicitations.
  - Appointment of contracting officer's representative (COR).
  - Scope determination of contracts, contract modifications, and task orders.
  - Sole-source contract justification and approval.
  - Legal review and approval.
- Award – Decision gate to proceed to award of contract.
  - Source selection evaluation plan matches criteria included in solicitation.
  - Source selection evaluation board includes diversified membership.

**U.S. Army Audit Agency Draft Report (12 March 2013)  
Audit Report: A-2013-0XXX-MTH**

- Source selection authority resides at the appropriate level per requirements set forth in the Army FAR Supplement Appendix AA, Army Source Selection Manual.
- Oversight – Decision gate to make a contract modification, award new task orders, or exercise a contract option.
  - Development, acceptance, and implementation of quality assurance surveillance plans.
  - Surveillance schedules.
  - Procedures for reviewing and approving contractor invoices.
  - Evidence of oversight by COR.

**NGB Actions Taken or Planned: Concur.** In order to comply with this recommendation, the NGB PARC will utilize modified Peer Review checklists to conduct quality reviews in the area of: acquisition planning, pre-award, award, administration, payment, and oversight. The PARC initiated the use of these checklists as of 31 January 2013 through the issuance and mandate of a Policy Implementation Memorandum (PIM) to all contracting activities within the NGB. The PIM requires these checklists be completed and reviewed by appropriate contracting leadership in order to serve as “Decision Gates” before authorizing the contracting officer to proceed with the next contracting phase (acquisition planning, pre-award, award, administration, payment, and oversight). PARC conducted PMRs will review offices for compliance.

**Army Position: Concur.**

---

**Recommendation 5 (For the Chief, National Guard Bureau)**

Develop a process to monitor the accomplishment of training for all individuals involved in the contracting process and make sure individuals complete only those duties they are trained to perform.

**NGB Actions Taken or Planned: Concur.** NGB is developing a process to monitor the accomplishment of training for all individuals in the contracting process and will be completed by 1 July 2013. This process includes mandatory periodic reviews of Individual Development Plans (quarterly reviews for junior contract specialists and semi-annual reviews for contract specialists that are DAU Level II certified and higher). Supervisors will be held accountable for monitoring the training progress of their staff through the use of mandatory performance objectives within their appraisal process. NGB will identify job-specific training needs within the organization and respond to those needs through existing DAU contract training or supplemental in-house training (this training will be outside the normal certification requirements).

**NGB 7 June 2013 Supplemental Response to DASA(P):** The NGB has undertaken multiple programs to address this training recommendation as shown below:

**U.S. Army Audit Agency Draft Report (12 March 2013)  
Audit Report: A-2013-0XXX-MTH**

- COR Training. In addition to the DAU requirements, NGB has instituted a mandatory 8-hour in-house COR Training course to address specific oversight issues related to NGB. No one may be appointed as a COR until this class is completed and a certificate is issued. All COR Training records are maintained at AQ.
- Resource Management Training. The ARNG G-8 conducts a mandatory 1-week training session for all resource managers at the ARNG. As part of this program, NGB OPARC conducts a 3-hour training session on contracting for project management. All records are kept at the Resources Division under the ARNG Office of Chief of Staff.
- The NGB OPARC is currently in the process of preparing an all-states memorandum for the HCA that addresses Unauthorized Commitments in the National Guard. This memorandum establishes a zero-tolerance policy on unauthorized commitments and establishes a mandatory training requirement for all National Guard full-time employees. The OPARC is currently working to develop a tracking/accountability mechanism to meet this requirement.
- CON101. The NGB OPARC is in the process of instituting a "CON101" training that will first be provided to senior leadership with an expectation that it will be rolled out to the customer base no later than 30 Sep 14.

**NGB Update 24 June 2013:** A process has been established to monitor the accomplishments of training for all individuals in the contracting process. This process is managed in two pieces. The first piece is the training is tracked through CAPPMS. Specifically, all DAU courses and records are recorded in CAPPMS and are monitored semi-annually. The second piece is the specific in-house contracting training. An in-house contract training program has been established and training has been conducted weekly for the past 3 months. These courses include training on Justification and Approvals, price reasonableness, exercise of options, etc. The in-house training plan has been prepared and training is being conducted, but the plan is still undergoing some revisions and is awaiting final approval. Final approval is expected NLT 31 July 2013. Currently, this training is tracked using paper records. However we do require all individuals to record this training in CAPPMS, so we can apply this training to their continuous learning point (CLP) objectives. We believe this meets the 1 July suspense for this recommendation.

**Army Position: Concur with comments.** Ensure that the CON101 training includes at a minimum, the following: (1) source selection process from requirements development, solicitation preparation, proposal evaluation, contract award preparation, and the acquisition team members' roles and responsibilities; and (2) contract action review and approval thresholds.

---

**Recommendation 6 (For the Chief, National Guard Bureau)**

**U.S. Army Audit Agency Draft Report (12 March 2013)  
Audit Report: A-2013-0XXX-MTH**

Incorporate responsibilities for participating in the acquisition process and serving as a contracting officer's representative (COR) into the performance evaluation process for personnel in requiring activities that perform those duties. Specifically:

- Revise the job objectives for positions in requiring activities that will participate in the acquisition process and serve as a COR. The objectives should include measurable standards for the performance of those duties.
- Require personnel from the Operational Contracting Division to participate in the evaluation process and provide feedback on the performance of the acquisition and COR objectives.

**NGB Actions Taken or Planned: Concur.** The AQ Quality Assurance Branch will be responsible for maintaining a consolidated list of all trained CORs performing oversight on Operational Contracting Contracts and validate that the CORs' job objectives include measurable standards for the performance of COR duties. Additionally, all performance appraisals for CORs will include, at a minimum, a letter of input from the Chief of Contracting. The process will be in place by 1 July 2013.

**NGB 7 June 2013 Supplemental Response to DASA(P):** Multiple efforts have been initiated to address this recommendation.

- To begin with, the NGB is in the process of establishing new teams, comprised and supervised by full-time CORs. Since their COR responsibilities will be their primary job function, their personnel appraisals will reflect these oversight responsibilities. These full-time COR Cells will be used to perform oversight on high-risk/high dollar contract actions.
- All COR nominations must be made using the VCE-COR automated system. This system requires the COR's supervisor to certify that the "details of the appointee's performance of COR designated functions will be included as part of his/her annual performance assessment." A COR cannot be appointed without the supervisor making this certification.
- Contracts that are not considered "high-risk/high dollar" will not be managed by the full-time COR Cells. However, those CORs will still be required to perform all COR functions using the Army's VCE-COR automated oversight management tool. All oversight documents and actions will be uploaded into VCE-COR and will be monitored and approved by the contracting officer. Finally, annual inspections will be conducted on these COR files.

**NGB Update 24 June 2013:** To begin with, NGB has established a definitive list of all personnel who have completed COR training. Second, NGB is able to generate a list of all trained CORs assigned to Operational Contracting Division contract through the use of the VCE-COR tool. However these records are still incomplete due to the fact that we are continuing to migrate all oversight activities to the VCE-COR tool. In other words, we have established processes to meet this requirement before 1 July, however

**U.S. Army Audit Agency Draft Report (12 March 2013)**  
**Audit Report: A-2013-0XXX-MTH**

not all records are in VCE yet. Finally, we have initiated the process to include COR job objective in individual performance appraisals, but this initiative is not complete. Specifically, representatives from the NGB PARC met with the Chief of Staff of the ARNG in May 2013 to begin the establishment of full-time COR cells. Part of this effort includes the restructuring of COR job objectives into the performance appraisals for each COR. When this COR cell is established, this task will be fully implemented. However, since this task is tied to the larger task of establishing the full-time COR Cells, we do not expect this to be completed until July 2014.

**Army Position: Concur with comment.** NGB will ensure responsibilities for participating in the acquisition process are appropriately incorporated into the performance evaluation process for personnel in requiring activities that perform those duties.

---

**Recommendation 7 (For the Chief, National Guard Bureau)**

Establish a written policy that requires the contracting officer to review and approve 5 percent of contractor invoices on service contracts annually. The policy should require the contracting officer's representative (COR) to review all invoices, document the validation of approved invoice amounts, and maintain documentation in the COR files for review by the contracting officer per the Defense Federal Acquisition Regulation Supplement (Procedures, Guidance and Instruction 201.602). For invoices approved by the contracting officer under this policy, the COR should submit the documentation to the contracting officer.

**NGB Actions Taken or Planned: Concur.** The PARC will issue a PIM to all NGB contracting activities no later than 30 March 2013 requiring that the contracting officer reviews and approves, at a minimum, 5 percent of contractor invoices on service contracts annually. Additionally, this requirement will be placed in the Contracting Officer's objectives and tracked to show compliance.

**NGB Update 24 June 2013:** The NGB Office of the PARC issued PIM 2013-04 to address the 5% invoice review/policy on 21 June 2013. We believe this meets the intent of AAA's recommendation.

**Army Position: Concur.**

---

**Recommendation 8 (For the Chief, National Guard Bureau)**

Direct the National Guard Bureau (NGB) Internal Review office to complete annual audits of high-risk contracts awarded by the Operational Contracting Division. The Internal Review office should develop a methodology for selecting contracts for review that considers the number of contract modifications, task orders, and the amount of funds obligated on the contract in order to focus on those that present the highest risk to the government. The Internal Review office should report the results of these audits to

**U.S. Army Audit Agency Draft Report (12 March 2013)**  
**Audit Report: A-2013-0XXX-MTH**

the Principal Assistant Responsible for Contracting and should consider the results when preparing NGB's statement of annual assurance.

**NGB Actions Taken or Planned: Concur.** NGB Internal Review (IR) will conduct annual audits of high-risk contracts awarded by the Operational Contracting Division and report the findings to the PARC and HCA. This information will be considered when preparing the NGB's statement of annual assurance. Planned audits will be included in NGB-IR's annual plan to be completed within Fiscal Year 2013.

**NGB Update 24 June 2013:** NGB-IR did integrate planned audits of NGB-AQ contracts into their annual plan. Additionally, we understand that DASA(P) is planning to conduct a PMR on NGB OPARC and AQ in FY14. We believe this meets the intent of AAA's recommendation.

**Army Position: Concur.**

---

**Recommendation 9 (For the Chief, National Guard Bureau)**

Direct the Principal Assistant Responsible for Contracting (PARC) to complete Procurement Management Reviews of the National Guard Bureau's Operational Contracting Division annually, rather than every two years as required by the Army Federal Acquisition Regulation Supplement (AFARS) Appendix CC, Army Procurement Management Review Program. Issue a written policy directing this action and require the PARC to submit the results of the review, and planned corrective measures to the Deputy Assistant Secretary of the Army (Procurement). Continue this annual requirement until the Deputy Assistant Secretary of the Army (Procurement) authorizes approval to return to the frequency of performing Procurement Management Reviews every 2 years, per the AFARS.

**NGB Actions Taken or Planned:** Concur, but the National Guard Bureau is unable to implement at this time because the PARC has determined that an annual PMR would be a drain on resources to correct noted deficiencies. NGB PARC will continue to comply with AFARS, Appendix CC until further guidance is received. The NGB Operational Contracting Division is in a state of change and is enacting many corrective measures. We will focus on implementing the recommendations from this report and current ongoing external PMR's. In addition, and as a mitigating corrective measure, we will timely address any findings and recommendations that are identified by the National Guard Bureau Internal Review's annual audits of high risk contracts awarded by the Operational Contracting division. We expect these initial audits to be complete and any corrective actions taken within Fiscal Year 2013.

**NGB 7 June 2013 Supplemental Response to DASA(P):** NGB's original plan is to utilize Internal Review (IR) to review primarily high-risk contracts annually. OPARC will supplement these IRs reviews with the newly added formal peer reviews (SRB/CRBs), J&A reviews, and solicitation reviews.

**U.S. Army Audit Agency Draft Report (12 March 2013)**  
**Audit Report: A-2013-0XXX-MTH**

**NGB Update 24 June 2013:** Internal Review has incorporated multiple contract engagements their annual plan. To date, they have completed one audit dealing with cost pricing of a contract and have plans to conduct another engagement on Youth Challenge Contracts during Calendar Year 2013.

They expect the second engagement to be completed during Calendar Year 2013 with recommendations for corrective actions.

**Army Position: Concur with Comment.** While NGB concurred, their planned action indicated non-concurrence due to lack of resources necessary to conduct an annual PMR while focusing on implementing corrective actions. Therefore, DASA(P) will take on the responsibility of executing annual PMRs of the Operational Contracting Division until NGB gains sufficient resources.

---

**Recommendation 10 (For the Chief, National Guard Bureau)**

Direct the Principal Assistant Responsible for Contracting (PARC) to develop new performance objectives for each of the positions in the Office of the PARC and the Operational Contracting division. The new objectives should include specific contracting duties – as described in the position descriptions – that each position requires, and measurable standards for performing the duties in accordance with guidance included in the Federal Acquisition Regulation (FAR), Defense FAR Supplement, and Army FAR Supplement.

**NGB Actions Taken or Planned: Concur.** The PARC review of Procurement Analyst positions the intent of finalizing those performance objectives was completed by 5 December 2012. Performance objectives for the PARC Policy Branch have been completed and the remaining PARC branches are currently under review. New objectives for contract specialist and other positions will be reviewed as needed to assure standardization where applicable. All actions will be completed by 30 March 2013.

**NGB Update 24 June 2013:** This action was completed. The Office of the PARC has updated objectives for all PARC personnel and AQ has updated the objectives for all GS 14 and 15s. Additional positions will continue to be reviewed and updated as necessary.

**Army Position: Concur.**





NATIONAL GUARD BUREAU  
1636 DEFENSE PENTAGON  
WASHINGTON DC 20301-1636

28 FEB 2013

MEMORANDUM FOR DEPUTY AUDITOR GENERAL FOR MANPOWER,  
RESERVE AFFAIRS, AND TRAINING AUDITS

Subject: Command Response to U.S. Army Audit Agency Draft Report on the  
Audit of Contracts for the Guard Recruiting Assistance Program  
(Project A-2012-MTH-0346.000)

1. I have reviewed the draft report and concur with the recommendations.  
Attached is the command response to the recommendations directed to me.  
The National Guard Bureau appreciates this opportunity to improve processes.
2. Point of contact is Mr. Lou Cabrera; NG-J8; 571-256-7290.

FRANK J. GRASS  
General, USA  
Chief, National Guard Bureau

Attachment:  
As stated

**Attachment 1****NGB Command Response****Project:** A-2012-MTH-0346.000**Audit Title:** Contracts for the Guard Recruiting Assistance Program**Recommendation(s):**

**Recommendations 1 & 2:** Recommendations were directed to the Assistant Secretary of the Army (Acquisition, Logistics and Technology); therefore, National Guard Bureau was not required to provide a response.

**Recommendation 3:** Reorganize the National Guard Bureau contracting function to achieve effective oversight of all contract actions. The reorganization should include the following:

- Align the Principal Assistant Responsible for Contracting (PARC) under the Head of Contracting Activity when the Assistant Secretary of the Army (Acquisition, Logistics and Technology) reassigns those responsibilities, as we recommended in Recommendation 1.
- Align the Operational Contracting division under the PARC.
- Align the Contracting Quality Assurance branch under the PARC.

**Action taken or planned:** Concur. The NGB is working closely with the DASA(P) staff to smoothly transition the PARC as a direct report to the HCA in order to be in compliance with AFARs 5101.601(4)(ii)(B). The NGB Operational Contracting Division was realigned under the PARC office by direction of the Chief, NGB on 1 October 2012. The PARC office expanded the duties of the Policy Implementation and Oversight Branch to include the Contracting Quality Assurance branch to conduct quality reviews, implement policy memos and guidance and PMRs of operational staff, which was effective 1 January 2013.

**Recommendation 4:** Develop the policies and procedures required to incorporate reviews and approvals by National Guard Bureau's (NGB) Contracting Quality Assurance branch for actions throughout the contract life cycle. The procedures should include completion of separate checklists for each phase of the contracting process: acquisition planning, pre-award, award, administration, payment, and oversight.

The policy should require the Contracting Quality Assurance branch to submit completed checklists to the Principal Assistant Responsible for Contracting (PARC) – as a means of necessary oversight – after review and approval by different levels of contracting leadership based on contract amount

At a minimum, the checklists should serve as decision gates to proceed to additional contract actions and should require a review of the contract files for sufficient evidence

that the following actions were performed: acquisition planning, pre-award, award, administration, payment, and oversight.

**Action taken or planned:** Concur. In order to comply with this recommendation, the NGB PARC will utilize modified PEER Review checklists to conduct quality reviews in the area of: acquisition planning, pre-award, award, administration, payment, and oversight. The PARC initiated the use of these checklists as of 31 January 2013 through the issuance and mandate of a Policy Implementation Memorandum (PIM) to all contracting activities within the NGB. The PIM requires these checklists be completed and reviewed by appropriate contracting leadership in order to serve as "Decision Gates" before authorizing the contracting officer to proceed with the next contracting phase (acquisition planning, pre-award, award, administration, payment, and oversight). PARC conducted PMRs will review offices for compliance.

**Recommendation 5:** Develop a process to monitor the accomplishment of training for all individuals involved in the contracting process and make sure individuals complete only those duties they are trained to perform.

**Action taken or planned:** Concur. NGB is developing a process to monitor the accomplishment of training for all individuals in the contracting process and will be completed by 1 July 2013. This process includes mandatory periodic reviews of Individual Development Plans (quarterly reviews for junior contract specialists and semi-annual reviews for contract specialists that are DAU Level II certified and higher). Supervisors will be held accountable for monitoring the training progress of their staff through the use of mandatory performance objectives within their appraisal process. NGB will identify job-specific training needs within the organization and respond to those needs through existing DAU contract training or supplemental in-house training (this training will be outside the normal certification requirements).

**Recommendation 6:** Incorporate responsibilities for participating in the acquisition process and serving as a contracting officer's representative (COR) into the performance evaluation process for personnel in requiring activities that perform those duties. Specifically:

- Revise the job objectives for positions in requiring activities that will participate in the acquisition process and serve as a COR. The objectives should include measurable standards for the performance of those duties.
- Require personnel from the Operational Contracting division to participate in the evaluation process and provide feedback on the performance of the acquisition and COR objectives.

**Action taken or planned:** Concur. The AQ Quality Assurance Branch will be responsible for maintaining a consolidated list of all trained CORs performing oversight on Operational Contracting Contracts and validate that the CORs' job objectives include measurable standards for the performance of COR duties. Additionally, all performance appraisals for CORs will include, at a minimum, a letter of input from the Chief of Contracting; The process will be in place by 1 July 2013.

**Recommendation 7:** Establish a written policy that requires the contracting officer to review and approve 5 percent of contractor invoices on service contracts annually. The policy should require the contracting officer's representative (COR) to review all invoices, document the validation of approved invoice amounts, and maintain documentation in the COR files for review by the contracting officer per the Defense Federal Acquisition Regulation Supplement (Procedures, Guidance and Instruction 201.602). For invoices approved by the contracting officer under this policy, the COR should submit the documentation to the contracting officer.

**Action taken or planned:** Concur. The PARC will issue a PIM to all NGB contracting activities no later than 30 March 2013 requiring that the contracting officer reviews and approves, at a minimum, 5 percent of contractor invoices on service contracts annually. Additionally, this requirement will be placed in the Contracting Officer's objectives and tracked to show compliance.

**Recommendation 8:** Direct the National Guard Bureau (NGB) Internal Review office to complete annual audits of high-risk contracts awarded by the Operational Contracting division. Internal Review office should develop a methodology for selecting contracts for review that considers the number of contract modifications, task orders, and the amount of funds obligated on the contract in order to focus on those that present the highest risk to the government. The Internal Review office should report the results of these audits to the Principal Assistant Responsible for Contracting and should consider the results when preparing NGB's statement of annual assurance.

**Action taken or planned:** Concur. NGB Internal Review (IR) will conduct annual audits of high-risk contracts awarded by the Operational Contracting division and report the findings to the PARC and HCA. This information will be considered when preparing the NGB's statement of annual assurance. Planned audits will be included in NGB-IR's annual plan to be completed within Fiscal Year 2013.

**Recommendation 9:** Direct the Principal Assistant Responsible for Contracting (PARC) to complete Procurement Management Reviews of the National Guard Bureau's Operational Contracting division annually, rather than every two years as required by the Army Federal Acquisition Regulation Supplement (AFARS) Appendix CC, Army Procurement Management Review Program. Issue a written policy directing this action and require the PARC to submit the results of the review, and planned corrective measures to the Deputy Assistant Secretary for Army (Procurement). Continue this annual requirement until the Deputy Assistant Secretary for Army

(Procurement) authorizes approval to return to the frequency of performing Procurement Management Reviews every 2 years, per the AFARS.

**Action taken or planned:** Concur, but the National Guard Bureau is unable to implement at this time because the PARC has determined that an annual PMR would be a drain on resources to correct noted deficiencies. NGB PARC will continue to comply with AFARS, Appendix CC until further guidance is received. The NGB Operational Contracting division is in a state of change and is enacting many corrective measures. We will focus on implementing the recommendations from this report and current ongoing external PMR's. In addition, and as a mitigating corrective measure, we will timely address any findings and recommendations that are identified by the National Guard Bureau Internal Review's annual audits of high risk contracts awarded by the Operational Contracting division. We expect these initial audits to be complete and any corrective actions taken within Fiscal Year 2013.

**Recommendation 10:** Direct the Principal Assistant Responsible for Contracting (PARC) to develop new performance objectives for each of the positions in the Office of the PARC and the Operational Contracting division. The new objectives should include specific contracting duties – as described in the position descriptions – that each position requires, and measurable standards for performing the duties in accordance with guidance included in the Federal Acquisition Regulation (FAR), Defense FAR Supplement, and Army FAR Supplement.

**Action taken or planned:** Concur. The PARC review of Procurement Analyst positions with the intent of finalizing those performance objectives was completed by 5 December 2012. Performance objectives for the PARC Policy Branch have been completed and the remaining PARC branches are currently under review. New objectives for contract specialist and other positions will be reviewed as needed to assure standardization where applicable. All actions will be completed by 30 March 2013.



## **Our Mission**

We serve the Army's evolving needs by helping senior leaders assess and mitigate risk, and by providing solutions through independent auditing services for the benefit of the American Soldier.

## **To Suggest or Request Audits**

To suggest or request audits, contact the Strategic Audit Planning Office of the Principal Deputy Auditor General at 703-545-5882 or e-mail [usarmy.pentagon.hqda-aaa.mbx.audit-requests1@mail.mil](mailto:usarmy.pentagon.hqda-aaa.mbx.audit-requests1@mail.mil).

## **Additional Copies**

We distribute each report in accordance with the requirements of Government Auditing Standards, GAO-12-331G, December 2011.

To obtain additional copies of this report or other U.S. Army Audit Agency reports, visit our Web site at <https://www.aaa.army.mil>. The site is available only to military domains and the U.S. Government Accountability Office. Other activities may request copies of Agency reports by contacting our Audit Coordination and Followup Office at 703-614-9439 or sending an e-mail to [usarmy.pentagon.hqda-aaa.mbx.aaa-acfo@mail.mil](mailto:usarmy.pentagon.hqda-aaa.mbx.aaa-acfo@mail.mil).

**FOR OFFICIAL USE ONLY**

