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We welcome all suggestions for reprints. Please mail or e-mail your reprint suggestions directly to:

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REBUILDING IRAQ: FISCAL YEAR 2003 CONTRACT AWARD PROCEDURES AND MANAGEMENT CHALLENGES

General Accounting Office*

RESULTS IN BRIEF

Agencies generally complied with applicable laws and regulations governing competition when using sole-source or limited competition approaches to award new contracts for reconstruction. They did not always comply with competition requirements, however, in issuing task orders under existing contracts. For new contracts, the law generally requires the use of full and open competition, where all responsible prospective contractors are allowed to compete, but permits sole-source or limited competition awards in specified circumstances, such as when only one source is available or to meet urgent requirements. All of the 14 new contracts we examined were awarded without full and open competition. Each of these contracts, however, involved circumstances that the law recognizes as permitting other than full and open competition, and agencies generally justified the use of sole-source or limited competition awards in accordance with legal requirements. For example, the Army Corps of Engineers properly awarded a sole-source contract for rebuilding Iraq's oil infrastructure to the only contractor DOD had determined was in a position to provide the services within the required time frame given classified prewar planning requirements. The Army Corps of Engineers documented the rationale in a written justification and had the justification approved by the appropriate official. Similarly, USAID properly awarded seven contracts using

* Reprinted from the U. S. General Accounting Office. (2004, June). "Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges" (GAO-04-605). Washington, DC: Author. Several modifications are made, including endnotes and exclusion of its Administrator's transmittal memorandum.

limited competition procedures. In one instance, however, the Department of State justified and approved the use of limited competition by citing a unique authority that may not be a recognized exception to the competition requirements, even though a recognized exception to competition requirements was available.

Of the 11 task orders agencies issued under existing contracts, 2 were within the scope of the underlying contracts and 7, in whole or part, were not within scope; we have reservations about whether 2 others were within scope. Task orders are deemed by law to satisfy competition requirements if they are within the scope, period of performance, and maximum value of a properly awarded underlying contract. Although the maximum value and period of performance for a contract are almost always objectively ascertainable, decisions concerning the scope of a contract involve subjective analysis and judgment. Contracting officers must decide whether the work described in a task order fits within the work generally described in the contract. In several instances, contracting officers issued task orders for work that was not within the scope of the underlying contracts. For example, to obtain media development services and various subject matter experts, the Defense Contracting Command-Washington (DCC-W) placed two orders using a management improvement contract awarded under GSA's federal supply schedule program. But the two orders, both placed with the same company, did not involve management improvement activities. The out-of-scope work under these and other orders should have been awarded using competitive procedures or, because of the exigent circumstances involved, supported by a justification for other than full and open competition in accordance with legal requirements. To ensure that task orders issued to rebuild Iraq comply with applicable requirements, we are making several recommendations to the Secretary of the Army to review out-of-scope task orders to address outstanding issues and take appropriate actions, as necessary.

The agencies encountered various contract administration challenges during the early stages of the reconstruction effort, stemming in part from inadequate staffing, lack of clearly defined roles and responsibilities, changing requirements, and security constraints. While some of these issues have been addressed, staffing, security, and defining key terms and conditions of the contracts remain major concerns. For example, USAID officials have found it necessary to augment mission staff with personnel on temporary assignment from other USAID

missions, while the State Department is exploring options for reorganizing the bureau overseeing its contract to use resources more efficiently. In addition, the Army has nearly \$1.8 billion worth of reconstruction work that either has been completed or is well under way, but the agency and the contractors have yet to agree on key terms and conditions, including a projected cost. Until contract terms are defined, contract cost control incentives are likely to be less effective and risks to the government remain. To promote effective cost control, we are recommending that the Secretary of Army definitize outstanding contract actions as soon as possible. To improve the delivery of acquisition support in future operations, we are also recommending that the Secretary of Defense, in consultation with the Administrator, USAID, evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate staff and other resources can be made available in a timely manner.

For future reconstruction efforts in Iraq, the CPA has established a program management office to provide better coordination and management over activities to be conducted during the next year. To implement this approach, in March 2004, DOD, on behalf of the CPA, awarded 17 contracts for overall program support and construction management services in such areas as electricity and water. Other agencies, such as USAID, will continue to award and manage contracts within their areas of responsibilities.

BACKGROUND

During the latter part of 2002, as diplomatic efforts to convince the former Iraqi regime to comply with United Nations Security Council resolutions continued, discussions took place within the administration about the need to rebuild Iraq should combat operations become necessary. In October 2002, OMB established a senior interagency team to establish a baseline assessment of conditions in Iraq and to develop relief and reconstruction plans. According to an OMB official, the team developed plans for immediate relief operations and longer-term reconstruction in 10 sectors: health, education, water and sanitation, electricity, shelter, transportation, governance and the rule of law, agriculture and rural development, telecommunications, and economic and financial policy. Though high-level planning continued through the fall of 2002, most of the agencies involved in the planning were not requested to initiate procurement actions for the rebuilding efforts until

early in 2003. Once assigned the responsibilities, agency procurement personnel were instructed to be ready to award the initial contracts within a relatively short time period, often within weeks. During 2003, several agencies played a role in awarding or managing reconstruction contracts, most notably USAID and the Army Corps of Engineers. Various agencies awarded contracts on behalf of the CPA and its predecessor organization, the Office of Reconstruction and Humanitarian Assistance. Table 1 shows the principal areas of responsibility assigned to the CPA and other agencies.

As of September 30, 2003, the agencies had obligated nearly \$3.7 billion on 100 contracts or task orders for reconstruction efforts (see Table 2). These obligations came from various funding sources, including U.S. appropriated funds and Iraqi assets.¹ The Army Corps of Engineers and USAID together obligated about \$3.2 billion, or nearly 86 percent of this total. The majority of these funds were used to rebuild

TABLE 1
Organizations and Principal Areas of Responsibility for Rebuilding Iraq

Organization	Primary responsibilities
CPA	Acts as an interim government and oversees, directs, coordinates, and approves rebuilding efforts. The CPA Administrator reports to the President through the Secretary of Defense.
Department of the Army	DOD executive agent for the CPA. Provides administrative, logistics, and contracting support for the CPA and training for the New Iraqi Army.
Army Corps of Engineers	Iraqi oil and electrical infrastructures, CPA administrative support, and technical assistance on USAID capital construction contracts.
USAID	Nonoil-related capital construction, seaport and airport administration, local governance, economic development, education, and public health.
Department of State	Civilian law enforcement, judicial, and corrections support.
Department of Justice	Civilian law enforcement training and support.

Source: GAO's analysis of agency data.

Iraq's oil infrastructure and to fund other capital-improvement projects, such as repairing schools, hospitals, and bridges. This spending reflects a relatively small part of the total amount that may be required to rebuild Iraq, with estimates ranging from \$50 billion to \$100 billion (Congressional Budget Office, 2004). Appendix I lists the 100 reconstruction contracts and task orders we identified and the associated obligations as of September 30, 2003.²

TABLE 2
Contract Activity by Organization, as of September 30, 2003
(In \$ Millions)

Organization	Contracts awarded or task orders issued	Amount obligated	Percent of total obligations
CPA^a			
Army Field Support Command	1	\$204.1	6
Defense Contracting Command-Washington	24	127.9	3
Army Corps of Engineers	3	28.5	<1
Defense Information Systems Agency	4	27.4	<1
Defense Contract Management Agency	7	16.9	<1
Army Contracting Agency	1	11.0	<1
Washington Headquarters Services	34	1.8	<1
Department of the Army			
Army Corps of Engineers	8	1,694.6	46
Army Field Support Command	3	69.4	2
Army Contracting Agency	1	48.1	1
USAID			
USAID	11	1,335.8	36
Department of the Air Force ^b	1	91.5	2
Department of State	1	19.6	<1
Department of Justice	1	1.7	<1
Total	100	\$3,678.3	100

Note: Figures do not total to 100 percent.

a Reflects contracts awarded or task orders issued on behalf of the CPA by the listed agencies.

b Reflects an Air Force task order issued for logistical support on behalf of USAID.

Source: GAO's analysis of data provided by DOD, the CPA, USAID, and the Departments of State and Justice.

In November 2003, Congress appropriated an additional \$18.4 billion for rebuilding activities.³ The CPA's projected uses for the funds reflect a continued emphasis on rebuilding Iraq's infrastructure and on providing improved security and law enforcement capabilities (see Table 3). In appropriating these funds, Congress required that the CPA Administrator or the head of a federal agency notify Congress no later than 7 calendar days before awarding a contract, with these funds, valued at \$5 million or more for reconstruction using other than full and open competition procedures.⁴

TABLE 3
Projected Uses of Fiscal Year 2004 Appropriations for Iraq
Reconstruction Efforts

Purpose	Amount (In \$ Billions)
Electric sector	5.6
Water resources and sanitation	4.3
Security and law enforcement	3.2
Oil infrastructure	1.7
Justice, public safety, and civil society	1.5
Health care	0.8
Transportation/telecommunications	0.5
Roads, bridges, and construction	0.4
Education, refugees, and human rights	0.3
Private-sector development	0.2
Total	18.4

Source: OMB.

Note: Figures may not total due to rounding.

U.S.-funded reconstruction efforts were undertaken through numerous contracts awarded by various U.S. agencies. CICA generally requires that federal contracts be awarded on the basis of full and open competition—that is, all responsible prospective contractors must be afforded the opportunity to compete.⁵ The process is intended to permit the government to rely on competitive market forces to obtain needed goods and services at fair and reasonable prices. Within this overall framework, agencies can use various procurement approaches to obtain goods and services. Each approach, as listed in Table 4, involves

TABLE 4
Principal Procurement Approaches Used to Rebuild Iraq

Procurement approach	Key requirements
Award new contract	Contract awards generally must comply with CICA’s requirement for full and open competition. When not providing for such competition, the contracting officer must, among other things, justify the reasons for using the alternative authorized procedure, and, if applicable, solicit offers from as many potential sources as is practicable under the circumstances and consider actions to facilitate competition for any subsequent acquisition of the supplies or services required. The contracting officer’s justification for the use of other than full and open competitive procedures must be approved at the required level within the agency, depending on the value of the contract and the competition exception cited.
Use existing indefinite-delivery/ indefinite-quantity contract	Indefinite-delivery/indefinite-quantity contracts establish the basic terms of the contracts in advance, enabling agency personnel to issue subsequent task or delivery orders for specific services or goods expeditiously. Orders must be within the contract’s scope, issued within the period of performance, and be within the contract’s maximum value. Out-of-scope work must either be competed or be justified by the contracting officer under the same rules that apply to noncompetitive awards of new contracts. If the basic contract is awarded to multiple firms, then each generally must be given a “fair opportunity to be considered” for each order. Special competition requirements apply to orders for services by or on behalf of DOD.
Use federal supply schedule contract	GSA’s federal supply schedule program offers a wide variety of commercial goods and services through the use of various schedule contracts. Because these contracts are deemed to be competitively awarded, contracting officers generally may place orders under these contracts without seeking further competition or further determining whether the listed prices are fair and reasonable. For service contracts that are valued at more than \$2,500 and require a statement of work, GSA established special ordering procedures that require agency personnel to solicit quotes from at least three contractors and evaluate the mix and price of the labor categories being offered, among other things. Special competition requirements apply to orders for services by or on behalf of DOD.

Source: GAO’s analysis.

different requirements with which agencies must comply. In some cases, agency officials may determine that a contractor working under an existing contract may be able to provide the required goods or services through issuance of a task order, thus obviating the need to award a new contract. Before awarding a task order under an existing contract, however, the agency must determine that the work to be added is within the scope of that contract (i.e., that the work fits within the statement of work, performance period, and maximum value of the existing contract). In making this determination, the contracting officer must decide whether the new work is encompassed by the existing contract's statement of work and the original competition for that contract.

SCOPE AND METHODOLOGY

We reviewed reconstruction contracts that had been funded, in whole or in part, with U.S. appropriated funds. We focused our review on new contracts, modifications, task orders under existing contracts, and contract actions using the General Services Administration's (GSA) federal supply schedule program as of September 30, 2003. We did not review contracts that were funded entirely with international or Iraqi national funds, such as funds seized after the 1991 Gulf War or funds that were discovered during Operation Iraqi Freedom in 2003. We also did not review contracts or task orders that were used only for support of military operations or grants and cooperative agreements awarded to international or nongovernmental organizations. We continue to evaluate various issues related to military operations and the progress in rebuilding Iraq under separate reviews.⁶

To determine the number of reconstruction contract actions, the types of contract actions, the procedures used to make the awards, and the funding sources, we requested information from each of the principal organizations responsible for rebuilding activities in Iraq: the CPA, the Office of the Secretary of Defense, the Department of the Army, the Army Corps of Engineers, USAID, and the Departments of State and Justice. To verify the information provided, we requested copies of each contract action issued as of September 30, 2003, and corrected the information provided as appropriate. Agency officials could not provide the contract files for a limited number of small-dollar contracts awarded during the early stages of the reconstruction effort. To determine the amount obligated for reconstruction, we primarily used the obligation data recorded in the contracts. We also reviewed the data maintained by

the agencies' budget offices and information reflected in the Office of Management and Budget's (OMB) quarterly status reports. To obtain information on contract activities since September 2003, we interviewed CPA and agency officials, attended industry day conferences, and reviewed solicitations and other relevant agency documents.

To determine whether agencies had complied with applicable laws and regulations governing competition when awarding contracts and issuing task orders, we reviewed the requirements of the Competition in Contracting Act (CICA) of 1984 and other relevant laws and regulations. We judgmentally selected 25 contract actions, consisting of 14 new contracts awarded using other than full and open competition and 11 task orders issued under existing contracts. These 25 contract actions represented about 97 percent of the total dollars obligated for reconstruction through September 30, 2003. New contracts accounted for nearly 80 percent of this spending.

**NEW CONTRACT AWARDS GENERALLY COMPLIED WITH
COMPETITION REQUIREMENTS, BUT TASK ORDERS WERE LESS
COMPLIANT**

Agencies generally complied with applicable laws and regulations governing competition when using sole-source or limited competition approaches to award the initial reconstruction contracts we reviewed. The exigent circumstances that existed immediately prior to, during, and following the war led agency officials to conclude that the use of full and open competitive procedures for new contracts would not be feasible. We found these decisions to be within the authority provided by law. We found several instances, however, in which agencies had issued task orders for work that was outside the scope of existing contracts. Such task orders do not satisfy legal requirements for competition. In these cases, the out-of-scope work should have been awarded using competitive procedures or supported with a Justification and Approval for other than full and open competition in accordance with legal requirements. Given the urgent need for reconstruction efforts, the authorities under the competition laws for using noncompetitive procedures provided agencies ample latitude to justify other than full and open competition to satisfy their needs.

Agencies Properly Justified Use of Other Than Full and Open Competition in Awarding New Contracts

The agencies responsible for rebuilding Iraq generally complied with applicable requirements governing competition when awarding new contracts. While CICA requires that federal contracts be awarded on the basis of full and open competition, the law and implementing regulations recognize that there may be circumstances under which full and open competition would be impracticable, such as when contracts need to be awarded quickly to respond to unforeseen and urgent needs or when there is only one source for the required product or service.⁷ In such cases, agencies are given authority by law to award contracts under limited competition or on a sole-source basis, provided that the proposed actions are appropriately justified and approved.⁸

We reviewed 14 new contracts that were awarded using other than full and open competition: a total of 5 sole-source contracts awarded by the Army Corps of Engineers, the Army Field Support Command, and USAID and 9 limited competition contracts awarded by the Department of State, the Army Contracting Agency, and USAID (see Table 5). Because of the limited time available to plan and commence reconstruction efforts, agency officials concluded that the use of full and open competitive procedures in awarding new contracts would not be feasible. For 13 of these new contracts, agency officials adequately justified their decisions and complied with the statutory and regulatory competition requirements. In the remaining case, the Department of State justified and approved the use of limited competition under a unique authority that, in our opinion, may not be a recognized exception to the competition requirements.⁹ State took steps to obtain competition, however, by inviting offers from four firms. State could have justified and approved its limited competition under recognized exceptions to the competition requirements.

Agencies Did Not Always Satisfy Competition Requirements When Issuing Task Orders under Existing Contracts

We found a lesser degree of compliance when agencies issued task orders under existing contracts. When issuing a task order under an existing contract, the competition law does not require competition beyond that obtained for the initial contract award [10 U.S.C. § 2304c(a)(2) and 41 U.S.C. § 253j(a)(2) (2000)],¹⁰ provided the task order does not

TABLE 5
Agency Compliance with Requirements for Awarding New
Contracts Using Other Than Full and Open Competition
(In \$ Millions)

Contract(s) objectives	Agency action	Our assessment	Obliga- tions as of Sept. 2003
Army Corps of Engineers			
Repair and maintain operations of Iraq's oil infrastructure	Awarded sole-source contract citing authorized CICA exception for only one responsible source available. According to DOD, there was only one source with the capability to perform emergency repairs to the oil infrastructure given (1) the classified nature of the planning efforts, (2) the contractor's role in those efforts, and (3) the imminent commencement of hostilities. DOD recognized as early as November 2002 that the contractor, given its role in preparing a contingency support plan, would be in the best position to execute the plan for emergency repair and continuing the operations of Iraq's oil infra-structure. The contracting officer's written justification outlined the rationale for the decision and other factors, and it was approved by the Army's senior procurement executive.	Justification and Approval complied with applicable legal standards. ^a	\$1,390.1
Interim transitional civil administration headquarters	Awarded sole-source contract citing CICA's unusual and compelling urgency exception.	Justification and Approval complied with applicable legal standards.	\$19.7
USAID			
Capital construction, transition support, local governance, economic development, education, public health, personnel support, and airport and seaport administration	Awarded seven contracts under limited competition and two sole-source contracts citing the foreign aid program impairment exception to the competition requirements provided for under the Federal Property and Administrative Services Act. ^b The waiver, signed on January 16, 2003, instructed procurement officials to seek offers from as many sources as was practicable. Excluding the two sole-source awards, USAID solicited between 2 and 10 potential offerors for each contract.	Justifications and Approvals complied with applicable legal standards. ^c	\$1,326.3

TABLE 5 (Continued)

Contract(s) objectives	Agency action	Our assessment	Obligations as of Sept. 2003
Army Contracting Agency			
Training program for New Iraqi Army	Awarded contract under limited competition citing CICA's unusual and compelling urgency exception. In this case, the CPA identified a requirement for a program on May 31, 2003, with the objective of having a program in place by July 1. The Army received five proposals, and following an evaluation, awarded a contract on June 25.	Justification and Approval complied with applicable legal standards.	\$48.1
Army Field Support Command			
Prepositioning fire-fighting equipment	Awarded sole-source letter contract (numbered as a task order under the Army's existing Logistics Civil Augmentation Program (LOGCAP) contract) citing CICA's exception for only one responsible source available.	Justification and Approval complied with applicable legal standards. ^a	\$37.5
Department of State			
Law enforcement, judicial, and corrections support	Agency limited competition by citing a provision of the Foreign Assistance Act of 1961 that authorizes the President to furnish foreign assistance on such terms and conditions as he may determine for international narcotics control or for other anticrime purposes "notwithstanding any other provision of law."	Authority used by State may not be a recognized exception to competition requirements, although circumstances would have supported State's use of a recognized exception to the requirements.	\$19.6

- a. Because the Army cited national security considerations in deciding not to publicize its requirements, it was required under the Army FAR Supplement to cite national security as the basis for using other than full and open competition and request offers from as many potential sources as practicable under the circumstances. However, since the Army reasonably determined in both cases that there was only one available, responsible source, there was no substantive effect from the choice of authorized competition exception.
- b. The Federal Property and Administrative Services Act permitted waiver of competitive contracting procedures that would impair foreign aid programs. This authority, previously codified at 40 U.S.C. § 474 (2000), was recently recodified and enacted into positive law, 40 U.S.C. § 113(e), by Pub. L. No. 107-217, § 1, 116 Stat. 1062, 1066 (2002).

- c. The USAID Inspector General also evaluated USAID's procurement processes. While the Inspector General found that USAID had generally complied with applicable federal regulations, the Inspector General identified a number of issues, including inadequate needs assessments, absence of a clear methodology for and documentation of market research decisions in identifying prospective contractors, need to obtain general counsel's advice on certain procurement matters, and lack of notification and timely debriefings of unsuccessful offerors. USAID agreed to address the issues raised by the Inspector General.

Source: GAO's analysis of agency data.

increase the scope of the work, period of performance, or maximum value of the contract under which the order is issued [10 U.S.C. § 2304a(e) and 41 U.S.C. § 253h(e) (2000)]. The scope, period, or maximum value may be increased only by modification of the contract [10 U.S.C. § 2304a(e) and 41 U.S.C. § 253h(e)] and competitive procedures are required to be used for any such increase unless an authorized exception applies.¹¹ Determining whether work is within the scope of an existing task order contract is primarily an issue of contract interpretation and judgment by the contracting officer (in contrast to the contract's maximum value and performance period, which are explicitly stated in the contract). Other than the basic requirement that task orders be within scope, there are no statutory or regulatory criteria or procedures that guide a contracting officer in making this determination. Instead, guiding principles for scope of contract determinations are established in case law, such as bid protest decisions of the Comptroller General.¹² These decisions establish that the key factor is whether there is a material difference between the new work and the contract that was originally awarded—in other words, whether new work is something potential offerors reasonably could have anticipated in the competition for the underlying contract.¹³ Of the 11 task orders we reviewed, 2 were within the scope of the underlying contract and 7 were, in whole or part, not within scope; we have reservations concerning whether 2 others were within scope (see Table 6).

The seven instances in which agencies issued task orders for work that was, in whole or in part, outside the scope of an existing contract are described on the following pages. In each of these cases, the out-of-scope work should have been awarded using competitive procedures or supported with a Justification and Approval for other than full and open

TABLE 6

Agency Compliance with Requirements for Issuing Task Orders on Existing Contracts (In \$ Millions)

Task order objectives	Our assessment	Obligations as of Sept. 2003
Defense Information Systems Agency		
Provide internal communications and management support to the CPA	No issues identified. Task order is within the scope of the contract.	\$22.0
USAID		
Provide monitoring and evaluation services for USAID activities in Iraq	No issues identified. Task order is within the scope of the contract.	\$5.5
DCC-W		
Establish an Iraqi media capability, including print, television, and radio	Work is outside the scope of the existing contract to provide management consulting services to assist in improving federal agency operations.	\$82.4
Recruit and provide logistical support for subject matter experts to assist the Iraqi Reconstruction and Development Council	Work is outside the scope of the existing contract to provide management consulting services to assist in improving federal agency operations.	\$24.8
Air Force Contract Augmentation Program		
Provide logistical support and equipment to support USAID mission in Baghdad and at other sites in Iraq	Work is, in part, outside the scope of the contract, which is primarily to provide commanders an ability to augment or relieve base operating support functions for sustaining deployed operating forces. The Air Force is issuing new guidance to ensure orders supporting USAID are within the scope of the contract.	\$91.5
Army Field Support Command		
Contingency support planning for restoring the Iraqi oil infrastructure	Work was outside the scope of the existing LOGCAP contract, which provides for planning in support of requirements designated to be met via LOGCAP support. At the time the order was issued, DOD recognized that restoration of the oil infrastructure was beyond the scope of the LOGCAP contract. In our opinion, planning for such efforts was, correspondingly, also outside the scope. DOD nevertheless determined the planning was within scope.	\$1.9

TABLE 6 (Continued)

Task order objectives	Our assessment	Obligations as of Sept. 2003
Three task orders issued to repair and restore the Iraqi electrical infrastructure	Work is outside the scope of the three existing contracts because it causes the maximum value (\$100 million) of each underlying contract to be exceeded. The Army Corps of Engineers used limited competition in awarding the three underlying contracts. Also, the subsequent task orders were not competed among the three contractors as required; rather, the work was assigned to each contractor based on its existing capabilities within geographic location, among other factors. We found that the contracting officer had not prepared a justification for these non-competitive task orders. After we raised this issue with agency officials, the contracting officer prepared the required documentation in April 2004. Although CICA and the FAR permit after-the-fact Justification and Approval of noncompetitive awards based on unusual and compelling urgency, neither the justification for limiting competition in the award of the three underlying contracts, nor the justification for increasing their maximum value, has been approved by the Army—almost a year after award and more than 6 months after the justification was submitted by the Army Corps of Engineers.	\$280.0
Army Field Support Command		
CPA logistical support	Work may be outside of the scope of the existing LOGCAP contract, which provides for civilian contractor augmentation of combat service support and combat support for Army and other entities in wartime and other specified operations.	\$204.1
New Iraqi Army training logistical support	Work may be outside of the scope of the existing LOGCAP contract, which provides for civilian contractor augmentation of combat service support and combat support for Army and other entities in wartime and other specified operations.	\$30.0

Source: GAO's analysis of agency data.

competition in accordance with legal requirements. Given the urgent need for reconstruction efforts, the authorities under the competition laws for using noncompetitive procedures provided agencies ample latitude to justify other than full and open competition to satisfy their needs.

- DCC-W¹⁴ improperly used a GSA schedule contract to issue two task orders with a combined value of over \$107 million for work that was outside the scope of the schedule contract. Under GSA's federal supply schedule program, GSA negotiates contracts with multiple firms for various commercial goods and services and makes those contracts available for other agencies to use.

In March 2003, DCC-W placed two orders with Science Applications International Corporation (SAIC) under SAIC's schedule contract. One order involved development of a news media capability—including radio and television programming and broadcasting—in Iraq. The other required SAIC to recruit people identified by DOD as subject matter experts, enter into subcontracts with them, and provide them with travel and logistical support within the United States and Iraq. The schedule contract, however, was for management, organizational and business improvement services for federal agencies. In our view, the statements of work for both task orders were outside the scope of the schedule contract, which typically would encompass work such as consultation, facilitation, and survey services. The period of performance for the media services task order has expired, and the task order for subject matter experts was extended through April 30, 2004.¹⁵

- Over \$91 million was obligated under an Air Force Contract Augmentation Program contract for delivery of commodities to USAID for reconstruction activities and logistical support for USAID's mission in Iraq. The contract is intended primarily to provide base-level logistical and operational support for Air Force deployments. Under an interagency agreement,¹⁶ the Air Force used the contract to provide USAID a variety of support tasks related to storage, inventory control and management, and other logistical and operational support. Some of these funds, however, had been obligated for services such as building materials for Iraqi schools and planning for fixing electrical power generation for Baghdad water treatment plants. Because these types of services—though related to USAID's foreign assistance mission—are not related to support for a

deployment, they appear to be outside the scope of the contract. When we brought this issue to the attention of Air Force officials, they agreed that some of the work was outside the scope of the contract, and they are issuing guidance to ensure that logistical support for USAID does not go beyond the scope of the contract.

- The Army Field Support Command issued a \$1.9 million task order for contingency planning for the Iraqi oil infrastructure mission under its LOGCAP contract with Kellogg Brown & Root. The task order was not within the scope of that contract.¹⁷ This task order, issued in November 2002, required the contractor to develop a plan to repair and restore Iraq's oil infrastructure should Iraqi forces damage or destroy it. Because the contractor was knowledgeable about the U.S. Central Command's planning for conducting military operations, DOD officials determined the contractor was uniquely positioned to develop the contingency support plan. DOD determined that planning for the missions was within the scope of the LOGCAP contract, but it also determined that the actual execution of the Iraq oil mission, including prepositioning of fire-fighting equipment and teams, was beyond its scope.

We agree with the DOD conclusion that repairing and continuing the operations of the Iraqi oil infrastructure are not within the scope of the contract. But unlike DOD, we conclude that preparation of the contingency support plan for this mission was beyond the scope of the contract. We read the LOGCAP statement of work as contemplating planning efforts for missions designated for possible contractor execution under the contract. Consequently, the Army Field Support Command should have prepared a written justification to authorize the work without competition. The resulting contingency plan was used as justification for subsequently awarding a sole-source contract to Kellogg Brown & Root for restoring the oil infrastructure, for which nearly \$1.4 billion was obligated during fiscal year 2003. As noted in table 5, we found that the award of this contract generally complied with applicable legal standards.

- In March 2003, the Army Corps of Engineers conducted a limited competition resulting in multiple-award contracts with three firms—Washington International, Inc., Fluor Intercontinental, Inc., and Perini Corporation—for construction-related activities in the Central Command's area of responsibility. These contracts had a maximum

value of \$100 million each. In the latter part of August 2003, as efforts to restore electricity throughout Iraq lagged and amid concerns that the electrical shortages presented social unrest and security threats to the CPA and the military forces, the Central Command tasked the Army Corps of Engineers with taking steps to rebuild the electrical infrastructure as quickly as possible. In response, the Army Corps of Engineers issued task orders under each of these contracts causing them to exceed their maximum value.¹⁸ Consequently, the orders are outside the scope of the underlying contracts.

The Army Corps of Engineers prepared a justification for award of the underlying contracts in August 2003 and a subsequent justification in September 2003 to increase the maximum value of each contract from \$100 million to \$500 million. Neither justification had been approved as of March 31, 2004.¹⁹

Finally, we note that section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. No. 107-107) requires that an order for services in excess of \$100,000 issued under a multiple-award contract by or on behalf of a DOD agency be made on a competitive basis, unless a contracting officer justifies an exception in writing. The Army Corps of Engineers did not compete these task orders among the three multiple-award contractors. Rather, the agency and the contractors collectively decided to allocate the electrical infrastructure work based on geographical sectors and the capabilities of the contractors in the theater. We found that the contracting officer had not prepared a justification for these noncompetitive task orders. After we raised this issue with agency officials, the contracting officer prepared the required documentation in April 2004.

As described in Table 6, we also have reservations about whether work ordered under two other Army task orders was within the scope of an underlying contract for combat support. These task orders were issued by the Army Field Support Command for the CPA's logistical support and for a base camp used in training the New Iraqi Army. In these, as in the other cases, the competition laws provided agencies ample latitude to justify using other than full and open competition to satisfy their needs.

EFFECTIVE CONTRACT ADMINISTRATION REMAINS A KEY CHALLENGE AS CONTRACTING ACTIVITY INCREASES

The need to award contracts and begin reconstruction efforts quickly—the factors that led agencies to use other than full and open competition—also contributed to initial contract administration challenges. Faced with uncertainty as to the full extent of the rebuilding effort, agencies often authorized contractors to begin work before key terms and conditions, including the statement of work to be performed and the projected cost for that work, were fully defined. Until agreement is reached, contract incentives to control costs are likely to be less effective. Staffing constraints and security concerns posed further challenges. Agencies have made progress in addressing these issues, but there remains a backlog of contracts for which final agreement has not yet been reached. The CPA has created a new office to better manage and coordinate reconstruction efforts to be conducted over the next year.

Reaching Agreement on Key Contract Terms and Conditions

To meet urgent operational needs, as is the case in Iraq's reconstruction, agencies are permitted to authorize contractors to begin work before contracts or task orders have been definitized—that is, before key terms and conditions, including price, have been defined and agreed upon. While this approach allows agencies to initiate needed work quickly, it also can result in potentially significant additional costs and risks being imposed on the government. Agencies generally are required to definitize contractual actions within 180 days.²⁰

For many of the contracts we reviewed, agencies authorized the contractors to begin work before terms were fully defined, and later reached final agreement on the scope and price of the work. There remain six DOD contracts or tasks orders, however, that had yet to be definitized as of March 2004, two involved work that had been completed more than a year earlier (see Table 7). In total, nearly \$1.8 billion had been obligated on these contracts or task orders as of September 30, 2003. These contracts or task orders had been awarded or issued by either the Army Corps of Engineers or the Army Field Support Command, and they include efforts to restore Iraq's oil and electrical infrastructures and to provide logistical support to the CPA.

Agency officials attribute much of the delay in reaching agreement to continued growth in reconstruction efforts, which in turn have

TABLE 7
Undefinitized Contract Actions as of March 2004
(In \$ Millions)

Agency March	Purpose of contract/ task order	Work status as of 31, 2004	Amount obligated as of Sept. 30, 2003
Army Corps of Engineers	Restore Iraq's oil infrastructure ^a	Ongoing	\$1,390.0
Army Field Support Command	Provide support to the CPA	Ongoing	204.1
Army Corps of Engineers	Restore Iraq's electrical infrastructure	Ongoing	111.0
Army Field Support Command	Prepositioning of fire-fighting equipment	Completed March 2003	37.5
Army Field Support Ongoing	Logistical support for personnel training for the New Iraqi Army	Command	30.0
Army Field Support Command	Contingency plan for repairing and maintaining Iraq's oil infrastructure	Completed February 2003	1.9
Total			\$1,774.5

a The Army Corps of Engineers awarded a single, sole-source indefinite-delivery/indefinite-quantity contract in March 2003. Under this contract, the Army Corps of Engineers had issued a total of 10 task orders as of March 30, 2004.

Source: GAO's analysis of agency data.

required numerous revisions to contract statements of work. The continued growth in requirements has resulted in an increase in both contractor costs and administrative workload on both contractor and agency procurement personnel. For example, the Army Corps of Engineers' contract to restore Iraq's oil infrastructure had individual task orders placed in March and May 2003 that were supposed to be definitized within 180 days.²¹ Similarly, the Army Field Support Command has four task orders that have to be definitized. For example, the Army Field Support Command's task order to support the CPA was originally issued in March 2003, at an estimated cost of \$858,503. As of

September 30, the Army had obligated \$204.1 million, and the statement of work had been modified a total of nine times. With each change, the contractor had to revise its cost and technical proposals, which also increased the workload for agency procurement personnel. The Army Field Support Command's revised schedule now calls for definitizing the task orders between June and October 2004.

Some of the delays reflect concerns over the adequacy of the contractors' proposals. For example, on the task order awarded to restore Iraq's electrical infrastructure, DCAA found a significant amount of proposed costs for which the contractor had not provided adequate support. Consequently, DCAA believed that the proposal was inadequate for the purposes of negotiating a fair and reasonable price. As of March 2004, negotiations between the contractor and the Army Corps of Engineers were still ongoing. To reduce risks, the Army Corps of Engineers has proposed paying the contractor only 85 percent of incurred costs until the contractor has adequately fulfilled its contract closeout responsibilities and acceptable business systems were in place.

The lack of timely contract definitization potentially can have a significant impact on total contract costs and related risks. Specifically, the major reconstruction efforts have used cost-reimbursement type contracts under which the government has agreed, subject to cost ceilings, to reimburse the contractor for all reasonable and allowable costs incurred in performing the work. In two of the largest contract actions—the contract to repair and maintain Iraq's oil infrastructure and the task order to support the CPA operations—the agencies have included an award fee provision under which the contractor can earn additional profit for meeting set targets in specified areas, such as cost control. As long as work continues to be performed under an undefinitized contract, however, the award fee incentive is likely to be less effective as a cost control tool since there is less work remaining to be accomplished and therefore less costs to be controlled by the contractor.²² Given the high cost involved, particularly for the Iraq oil mission (over \$2.5 billion), any reduction in cost control incentives potentially involves a significant contract cost risk.

Providing Adequate Staff to Oversee Contracts

The lack of adequate staffing presented challenges to several agencies involved in reconstruction efforts and, at times, resulted in inadequate oversight of the contractors' activities. While agencies have

taken actions, some of these early contract administration issues have yet to be fully resolved.

When the CPA's predecessor organization—Office of Reconstruction and Humanitarian Assistance—was established in mid-January 2003, it lacked an in-house contracting capability. It was not until February 27, 2003, that the Defense Contract Management Agency (DCMA) was asked to provide contracting support, including providing acquisition planning assistance and awarding and administering contracts. DOD officials noted that this tasking was unusual for DCMA, as it is typically responsible for administering, rather than awarding, contracts.

According to DOD officials, they found that the Office of Reconstruction and Humanitarian Assistance did not have an official responsible for authorizing contract actions and supervising contracting officers and others performing procurement-related duties. Further, DOD had authorized positions for only two contracting officers, who had yet to arrive. In addition, DCMA officials reported that the lack of an organizational structure led to contractors providing draft statements of work and cost estimates to the contracting officers so that contracts could be awarded more quickly. Normally, it is the government's responsibility to provide statements of work and develop independent cost estimates.

We found that there were not always sufficient in-country personnel to administer the contracts or task orders when they were initially awarded or issued. For example, for the federal supply schedule order issued in March 2003 by DCC-W to establish an Iraqi media capability, contractor personnel purchased property that was not part of the task order, including purchases that may not have been necessary or appropriate. According to DOD officials, contractor personnel purchased about \$7 million in equipment and services not authorized under the contract, including a H-2 Hummer and a pickup truck, and then chartered a flight to have them delivered to Iraq. According to DCMA officials, these actions were primarily due to inadequate government property management to control or monitor the contractor's purchases. DCMA officials decided in May 2003 that it was in the best interests of the government to modify the approved equipment list, and include the materials purchased by the contractor.

The lack of in-country procurement staff proved problematic in another task order issued by the DCC-W to help recruit and support

subject matter experts to assist the CPA and Iraqi ministries.²³ According to DCC-W and DCMA officials, there was initially neither contractor staff nor government officials to monitor the subject matter experts once they arrived in Iraq. DCMA officials indicated that some experts failed to report to duty or perform their responsibilities as expected or were no longer performing work under the task order.

Staffing concerns affected other agencies as well. For example, USAID recognized early that its resources were insufficient to administer and oversee the contracts it expected to award. Consequently, USAID arranged for the Army Corps of Engineers to provide oversight on its \$1.0 billion infrastructure contract, arranged to have DCAA audit contractors, and made plans to augment its mission in Iraq. As of January 2004, however, a senior USAID procurement official stated that its Iraq mission remained understaffed to provide adequate contract oversight in Iraq.²⁴ USAID stated it has four full-time procurement staff that will be assigned to work in Iraq for 3 years. According to the senior official, this long-term commitment is essential to establishing the institutional knowledge needed to monitor and administer the contracts effectively. However, USAID indicated that given the workload, providing an appropriate degree of oversight would require at least seven additional personnel. Consequently, USAID found it necessary to augment the mission staff with personnel on temporary assignment from other USAID missions, who will serve between 1 and 3 months.

Similarly, State Department officials noted that the Bureau of International Narcotics and Law Enforcement Affairs—the bureau responsible for monitoring State’s law enforcement support contract—is understaffed. For example, the department official responsible for contract oversight had multiple, time-consuming roles. This official currently serves as both the program manager and the contracting officer’s representative for the law enforcement support contract. As such, the official approves the contractor’s monthly vouchers along with carrying out other detailed procurement tasks. The same official also had responsibilities for the department’s efforts to recompute a \$1.3 billion effort to provide worldwide law enforcement support and for law enforcement support efforts in Liberia and Haiti. To address the workload issue, the bureau has assigned two additional staff to assist in overseeing contract activities in Iraq and is exploring options for reorganizing the bureau to use resources more efficiently.

Providing adequate oversight on reconstruction efforts is challenging given the uncertain security environment and harsh working conditions. During site visits to Iraq in October 2003, we observed the considerable degree to which these factors were affecting reconstruction efforts. For example, travel outside secure compounds occurred only in convoys of armored vehicles with armed security forces. Flak jackets and helmets were required to be worn or, at a minimum, carried. Communications were generally difficult and unreliable. In addition, the living and working environment afforded individuals little privacy or time to rest. We observed that personnel generally worked 12 to 15 hour days and often shared cramped living and working quarters. In Al Hillah, for example, five USAID personnel shared two small offices with their security team.

Revised Approach Planned for Fiscal Year 2004 Reconstruction Efforts

To better coordinate and manage the \$18.4 billion in reconstruction funding provided for fiscal year 2004, the CPA established a program management office that is responsible for infrastructure-related programs. The office, which includes representatives from USAID and the Army Corps of Engineers, is responsible for coordinating the efforts of the CPA, the Iraqi ministries, and other coalition partners.

The office's acquisition strategy reflects a plan to award:

- 1 program management support contract to support the program management office and to oversee reconstruction efforts of specific sectors—electricity, oil, public works and water, security and justice, transportation and communications, and buildings and health;
- 6 program management contracts to coordinate reconstruction efforts specific to each sector; and
- 15 to 20 design-build contracts to execute specific tasks.

In March 2004, various DOD components, on behalf of the CPA, awarded 17 contracts—the program management support contract, the 6 sector specific program management and the 10 design-build contracts. These contracts were awarded pursuant to a DOD decision to limit competition to firms from the United States, Iraq, coalition partners, and force contributing nations.²⁵

In addition to these contracts, other agencies will continue to award and manage contracts for areas within their assigned area of responsibility. For example, in January 2004, USAID competitively awarded a \$1.8 billion contract to enable further reconstruction efforts, while the Army Corps of Engineers competitively awarded two contracts with a combined value of \$2.0 billion to further repair and rehabilitate Iraq's oil infrastructure. USAID announced its intent to solicit bids on at least seven new contracts. One of these contracts is intended to provide USAID with an enhanced capability to carry out data collection, performance monitoring, and evaluation of USAID's ongoing work in Iraq.

CONCLUSIONS

The United States, along with its coalition partners and various international organizations and donors, has undertaken an enormously complex, costly, and challenging effort to rebuild Iraq. At the early stages of these efforts, agency procurement officials were confronted with little advance warning on which to plan and execute competitive procurement actions, an urgent need to begin reconstruction efforts quickly, and uncertainty as to the magnitude of work required. Their actions, in large part, reflected proper use of the flexibilities provided under procurement laws and regulations to award new contracts using other than full and open competitive procedures.

With respect to several task orders issued under existing contracts, however, some agency officials overstepped the latitude provided by competition laws by ordering work outside the scope of the underlying contracts. This work should have been separately competed, or justified and approved at the required official level for performance by the existing contractor. Given the war in Iraq, the urgent need for reconstruction efforts, and the latitude allowed by the competition law, these task orders reasonably could have been supported by justifications for other than full and open competition. In some cases, such as the task order for the Iraqi media capability, the work has been completed so there is no practical remedy available. In several other cases, however, the opportunity exists to bring task orders into compliance with requirements, as well as to ensure that future task orders are issued properly.

Providing effective contract administration and oversight remains challenging, in part due to the continued expansion of reconstruction efforts, the staffing constraints, and the need to operate in an unsecure and threatening environment. Indeed, the magnitude of work that remains undefinitized is symptomatic of changing requirements and the lack of sufficient agency and contractor resources. Nevertheless, timely definitization of outstanding contracts and task orders is needed to promote effective cost control. More broadly, these challenges suggest the need to assess the lessons learned from the contract award and administration processes in Iraq to identify ways to improve similar activities in the future.

It is too early to gauge whether the CPA approach to improving its ability to monitor and coordinate reconstruction efforts through the use of a new program management office and the planned award of various types of construction and management support contracts will be effective. However, recent congressional action requiring the CPA Administrator and heads of federal agencies to report on contracts awarded using other than full and open competition will provide more transparency and accountability in the award of new Iraq reconstruction contracts.

RECOMMENDATIONS FOR EXECUTIVE ACTION

To ensure that task orders issued to rebuild Iraq comply with applicable requirements, and to maximize incentives for the contractors to ensure effective cost control, we recommend that the Secretary of the Army take the following four actions:

- Review the out-of-scope task orders for Iraqi media and subject matter experts issued by the Defense Contracting Command-Washington and take any necessary remedial actions.
- Ensure that any future task orders under the LOGCAP contract for Iraq reconstruction activities are within the scope of that contract.
- Address and resolve all outstanding issues in connection with the pending Justifications and Approvals for the contracts and related task orders used by the Army Corps of Engineers to restore Iraq's electricity infrastructure.
- Direct the Commanding General, Army Field Support Command, and the Commanding General and Chief of Engineers, U.S. Army

Corps of Engineers, to definitize outstanding contracts and task orders as soon as possible.

To improve the delivery of acquisition support in future operations, we recommend that the Secretary of Defense, in consultation with the Administrator, U.S. Agency for International Development, evaluate the lessons learned in Iraq and develop a strategy for assuring that adequate acquisition staff and other resources can be made available in a timely manner.

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NOTES

1. The Emergency Wartime Supplemental Appropriations Act, 2003 (Pub. L. No. 108-11, Apr. 16, 2003) established several funds that could be used to support rebuilding efforts. Agencies also used other appropriation accounts to support certain rebuilding efforts.
2. Appendix II may understate the total number of reconstruction contracts and task orders, as agency officials were unable to provide information on a limited number of small-dollar contracts awarded during the early stages of the reconstruction effort.
3. Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004. (Pub. L. No. 108-106, Nov. 6, 2003.) Congress appropriated \$18.649 billion for Iraq relief and reconstruction; however, of this amount, \$210 million was set aside for assistance to Jordan, Liberia, and Sudan. Additionally, the Consolidated Appropriations Act, 2004 (Pub. L. No. 108-199, Jan. 23, 2004) allows another \$100 million of that amount to be used for assistance to Turkey and \$30 million for the Middle East Partnership Initiative.
4. Included within the information to be provided is the justification for using other than full and open competitive procedures, a brief

description of the contract's scope, the amount of the contract, a discussion of how the contracting agency identified and solicited offers from contractors, and a list of the contractors solicited.

5. CICA, as enacted in 10 U.S.C. § 2304(a)(1) (2000) (applicable to DOD) and codified at 41 U.S.C. § 253(a)(1) (2000) (applicable to other executive agencies discussed in this report); 41 U.S.C. § 403(6) (2000) (definition of "full and open competition"). CICA's competition requirements are implemented in the Federal Acquisition Regulation (FAR), 48 C.F.R. part 6 (2003) and agency supplements.
6. For example, we testified on efforts to identify and recover assets of the former regime and return them to the Iraqi people. See GAO (2004). *Recovering Iraq's Assets: Preliminary Observations on U.S. Efforts and Challenges*, GAO-04-579T (Washington, D.C.: Mar. 18, 2004).
7. These exceptions are listed in 10 U.S.C. § 2304(c) and 41 U.S.C. § 253(c). Agencies may have other authority available that permits them to justify using other than full and open competition in appropriate circumstances. For example, table 5 describes the authority USAID used to conduct its limited competitions.
8. 10 U.S.C. § 2304(f) and 41 U.S.C. § 253(f) establish the required approval levels and the required contents of the justification. Lack of advance planning is prohibited as a basis for using other than competitive procedures.
9. State relied on section 481(a) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2291(a)(4) (2000), which reads: "Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances, or for other anticrime purposes."
10. If more than one contractor was awarded a contract, however, then all the contractors are required to be provided a fair opportunity to be considered for the task order. 10 U.S.C. § 2304c(b) and 41 U.S.C. § 253j(b).
11. This requirement for competition for out-of-scope modifications is explicitly stated for task order contracts for advisory and assistance

services. 10 U.S.C. § 2304b(f) and 41 U.S.C. § 253i(f) (2000). For other types of task and delivery order contracts, the requirement for competition for out-of-scope modifications is based on case law such as bid protest decisions of the Comptroller General of the United States. *See, for example, Makro Janitorial Svcs., Inc.*, B-282690, Aug. 18, 1999, 99-2 CPD ¶ 39 at 2; *Anteon Corp.*, B-293523, B-293523.2, Mar. 29, 2004, 2004 CPD ¶ ___ at 4-5.

12. Although we used such bid protest decisions in establishing the criteria for our review of the task orders issued for Iraq's reconstruction, our review is not related in any way to the statutory bid protest function of the Comptroller General under CICA.
13. *Floro & Assocs.*, B-285451.3; B-285451.4, Oct. 25, 2000, 2000 CPD ¶ 172 at 4; *Anteon Corp.*, *supra*, at 5.
14. DCC-W, a division within the office of the Administrative Assistant to the Secretary of the Army, provides administrative support, including contracting support, to DOD components located in the National Capital Region.
15. In March 2004, the DOD Inspector General reported that a review of 24 contract actions awarded by DCC-W on behalf of the CPA (including the two task orders we reviewed) revealed that DCC-W circumvented contracting rules—including improperly using schedule contracts and improperly contracting for personal services. The Inspector General attributed this condition to the need to quickly award contracts and to DOD's failure to plan for the acquisition support the CPA needed to perform its mission. DCC-W officials reported that they have and will continue to provide additional guidance and training on the use of the schedules program to its personnel. *See Office of the Inspector General (2004)*.
16. The interagency agreement is based on authorization contained in the Foreign Assistance Act. Section 491(b) of the Foreign Assistance Act authorizes the President, "notwithstanding any other provision of this or any other Act," to furnish foreign assistance "on such terms and conditions as he may determine, for international disaster relief and rehabilitation," while section 632(b) of the Act authorizes, for carrying out foreign assistance functions, the utilization of the services (including defense services) and facilities of, or procurement of commodities and defense articles from, any U.S. agency.

17. The LOGCAP contract, which was competitively awarded in 2001, requires the contractor to provide planning and a broad range of logistics services to the Army and other entities in wartime and other operations. The Army has used LOGCAP to support both military operations and reconstruction efforts in Iraq. We are reviewing DOD's use of the LOGCAP contract to support military operations under a separate review that will be completed later this year.
18. As of September 30, 2003, two of the three multiple-award contracts had exceeded their maximum value. In October 2003, the third contract also exceeded its maximum value.
19. Under 10 U.S.C. § 2304(f)(2), a Justification and Approval for unusual and compelling urgency can be made after award. It has been a year since these contracts were awarded using limited competition and more than 6 months since the Corps requested approval from the Army's senior procurement executive for its limited competitive awards. The Army FAR Supplement requires the submission of such a post-award justification for approval within 30 working days of award.
20. DOD may waive this requirement if the head of a DOD agency determines that the waiver is necessary for a contract to support a contingency operation or a humanitarian or peacekeeping operation. 10 U.S.C. § 2326(b)(4) (2000). No such waivers have been issued for the contracts we reviewed. The DOD requirements for undefinitized contract actions are in the Defense FAR Supplement at subpart 217.74. General requirements for all agencies are listed in FAR ¶16.603.
21. This contract also includes a requirement to import fuel and other petroleum products into Iraq by the contractor, Kellogg Brown & Root. This task, which accounts for nearly 40 percent of the amount obligated on the contract as of September 2003, is the subject of ongoing reviews by the DOD Inspector General and DCAA. Because of these ongoing investigations, we did not evaluate the Army Corps of Engineers' oversight of this task order as part of this review.
22. Other cost control mechanisms, such as the use of on-site government oversight personnel and auditors, as well as contractor cost accounting systems, could mitigate some of the cost risks to the government where definitization has been delayed. In addition, 10 U.S.C. § 2326(e) requires DOD to ensure that the profit allowed on

an undefinitized contract for which the final price is negotiated after a substantial portion of the work is completed reflects the possible reduced cost risk to the contractor.

23. The DOD Inspector General's March 2004 report found that, overall, government personnel did not provide adequate surveillance on 13 of the 24 contracts or task orders awarded or issued on behalf of the CPA by DCC-W.
24. We have previously reported that USAID's lack of personnel support has affected the agency's abilities to deliver reconstruction assistance. See Major Management Challenges and Program Risks: U.S. Agency for International Development. GAO-03-111 (Washington, D.C.: Jan. 1, 2003) and Foreign Assistance: Disaster Recovery Program Addressed Intended Purposes, but USAID Needs Greater Flexibility to Improve Its Response Capability, GAO-02-787 (Washington, D.C.: July 24, 2002).
25. On December 5, 2003, the Deputy Secretary of Defense approved a determination and findings under the public interest exception to the competition requirements that eligibility for 26 contracts to be awarded by DOD on behalf of the CPA would be limited to firms from the United States, Iraq, coalition partners, and force contributing nations. The Secretary of Defense is authorized to use this exception only on a non-delegable basis [10 U.S.C. 2304(c)(7), (d)(2); FAR 6.302-7(c)(1)]. Further, the Secretary's determination and finding to use the exception cannot be made on a class basis [FAR 6.302-7(c)(4)].

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APPENDIX I
Iraq Reconstruction Contracts/Task Orders and Obligations
As of September 30, 2003

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
Science Applications International Corporation (SAIC)	Subject matter experts for the Iraqi Reconstruction and Development Council	GSA supply schedule	\$24,811,853
S&K Technologies, Inc.	Administrative support	New contract	8,259,385
MZM, Inc.	Interpreter/linguists support services	GSA supply schedule	3,640,896
Military Professional Resources Inc.	Linguists	GSA supply schedule	1,901,962
Chugach McKinley Inc.	Professional skills and competencies support requirements program	New contract	1,210,846
Dataline, Inc.	Secure mobile communication and information collaboration capability	GSA supply schedule	1,028,852
Red River Computer Company	Computer equipment and accessories	GSA supply schedule	972,593
Military Professional Resources Inc.	Technical support to the Iraqi Army Reconstruction Support Program	GSA supply schedule	706,833

APPENDIX I (Continued)

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
Dell Marketing, L.P.	Computer hardware and software	GSA supply schedule	513,679
SAIC	Subject matter expert for Energy Group	GSA supply schedule	477,284
RONCO Consulting Corporation	Disarmament, Demobilization and Reintegration Program	Purchase order	419,793
Force 3	Computer equipment and accessories	GSA supply schedule	274,652
UNISYS Corporation	Infrastructure study—country plan development	GSA supply schedule	255,000
SAIC	Subject matter experts for Democratization and Governance	GSA supply schedule	235,231
SAIC	Subject matter expert for military ministry coordinator	GSA supply schedule	201,011
Native American Industrial Distributors	Protocol officer and materials	Purchase order	195,017
International Global Systems, Inc.	Computer hardware and software	GSA supply schedule	157,383
SAIC	Subject matter expert for the civil administration advisor	GSA supply schedule	87,461
Giesecke & Devrient America, Inc.	Lease of currency authentication systems	Purchase order	66,200
SAIC	Subject matter expert for United Nations liaison and coordination	GSA supply schedule	64,028
SAIC	Senior executive assistant to Oil Advisory Board	GSA supply schedule	55,174
Intelligent Enterprise Solutions	Computer hardware and Software	GSA supply schedule	19,835
JSI Inc.	Desktop administration tool	Purchase order	3,376
Total, Defense Contracting Command-Washington			\$127,908,901
Total, Department of the Army			\$2,183,590,433

APPENDIX I (Continued)

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
Department of the Air Force			
Readiness Mgt. Support LC	Iraq logistical support	Task order	\$91,500,000
Total, Department of the Air Force			\$91,500,000
Other Defense agencies and components			
Defense Contract Management Agency			
Global Risk Strategies, Ltd.	Personal and Facility Security Program	New contract	\$7,112,813
Global Risk Strategies, Ltd.	Personal and Facility Security Program	New contract	3,537,449
Global Risk Strategies, Ltd.	Personal and Facility Security Program	New contract	2,413,205
Global Risk Strategies, Ltd.	Security mobilization and start up	New contract	1,633,032
Motorola, Inc.	Mobile digital radios, equipment and accessories	GSA supply schedule	1,281,701
Meteoric Tactical Solutions, (PTY) Ltd.	Security advisors and planners	New contract	599,383
Blackwater Lodge and Training Center, Inc.	Private security details	New contract	300,000
Total, Defense Contract Management Agency			\$16,877,583
Defense Information Systems Agency			
SAIC	CPA integrated communication and Information technology support systems	Task order	\$22,081,803
SETA Corporation	CPA internal communications and management support	Task order	3,165,765
Artel	Telecommunications and LAN support for Iraqi Forum building	New contract	1,254,902

APPENDIX I (Continued)

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
AOS, Inc.	Satellite phone channel	Delivery order	866,988
Total, Defense Information Systems Agency			\$27,369,458
Washington Headquarters Services			
Cellhire USA	Airtime for satellite telephones	GSA supply schedule	\$960,000
Cellhire USA	20 satellite telephones and accessories	GSA supply schedule	260,480
Cellhire USA	15 satellite telephones and airtime	GSA supply schedule	85,545
Cellhire USA	80 satellite phones	GSA supply schedule	71,920
LandSea Systems, Inc.	6 portable telephone systems and accessories	GSA supply schedule	47,750
Comfort Inn	Hotel lodging/meals	Purchase order	47,324
Cellhire USA	4 satellite telephones, accessories, and airtime	GSA supply schedule	46,040
Cartridge Discounters	1 copier and supplies	GSA supply schedule	40,492
Cellhire	USA 17 satellite telephones and airtime	GSA supply schedule	35,683
Outfitter Satellite, Inc.	13 satellite telephones and airtime	Purchase order	33,203
Bald Industries	285 holsters, 250 compasses, and 6 rolling duffel bags	GSA supply schedule	21,884
The GPS Store, Inc.	90 Global Positioning Systems	GSA supply schedule	19,761
Atlas Case, Inc.	25 cases	GSA supply schedule	17,243
CDW Government, Inc.	8 digital projectors	GSA supply schedule	16,224
Export Depot	165 voltage converters	Purchase order	14,473
Bald Industries	200 mosquito netting	GSA supply schedule	13,850

APPENDIX I (Continued)

Contracting agency/ Contractor	Purpose	Procurement method	Amount obligated
Bea Mauer, Inc.	40 footlockers	GSA supply schedule	9,920
SPARCO	20 digital cameras	GSA supply schedule	9,215
CDW Government, Inc.	75 2-way radios and accessories	GSA supply schedule	7,965
CDW Government, Inc.	188 UPS power supply units	GSA supply schedule	7,332
The Electric Generator Store	3 generators	Purchase order	6,974
Export Depot	112 transformers	Purchase order	6,709
Cellhire USA	Satellite telephone and accessories	GSA supply schedule	6,315
Capital Shredder Corporation	3 shredders and accessories	GSA supply schedule	6,286
Capital Shredder Corporation	3 shredders	GSA supply schedule	5,517
Total Business	8 digital camcorders	GSA supply schedule	4,696
Hardware Associates	14 2-way radios and accessories	GSA supply schedule	4,304
Staples National Advantage	5 copiers with supplies	GSA supply schedule	4,194
EHI Company	6 flat screen TVs	GSA supply schedule	3,956
CDW Government, Inc.	30 handheld 2-way radios	GSA supply schedule	3,653
The Complement, Inc.	28 steel trunks	Purchase order	3,358
MEI Research Corporation	15 cases	Purchase order	3,276
WECSYS	20 folding tables and 30 chairs	GSA supply schedule	3,040
Smith Office Machines Corporation	3 copiers with supplies	Purchase order	2,961
Total, Washington Headquarters Services			\$1,831,543
Total, other Defense agencies and components			\$46,078,584
Total, Department of Defense			\$2,321,169,017

APPENDIX I (Continued)

Contracting agency/Contract or	Purpose	Procurement method	Amount obligated
U.S. Agency for International Development			
Bechtel National Inc.	Capital construction	New contract	\$1,029,833,259
Research Triangle Institute	Local governance	New contract	104,611,000
BearingPoint, Inc.	Economic recovery, reform, and sustained growth	New contract	39,000,000
Creative Associates International Inc.	Education	New contract	37,853,000
Development Alternatives, Inc.	Transition initiative	New contract	35,523,857
International Resources Group	Personnel support	New contract	26,621,153
Abt Associates Inc.	Public health	New contract	20,995,000
Stevedoring Services of America, Inc.	Seaport administration	New contract	14,318,985
SkyLink Air and Logistic Support USA) Inc.	Airport administration	New contract	17,500,000
Management Systems International	Monitoring and evaluation	Task order	5,500,000
Development Alternatives, Inc.	Marshland initiative	Task order	4,000,000
Department of State			
DynCorp International, LLC	Law enforcement, judicial, and corrections support	New contract	\$19,640,359
Total, Department of State			\$19,640,359
Department of Justice			
SAIC	Police training and support	Task order	\$1,700,000
Total, Department of Justice			\$1,700,000
Grand Total			\$3,678,265,630

Source: GAO's analysis of data provided by DOD, the CPA, USAID, and the Departments of State and Justice.