

SIGAR

**Special Inspector General for
Afghanistan Reconstruction**

SIGAR 16-53 Financial Audit

Department of Defense's Translation
and Interpretation Management
Services: Audit of Costs Incurred by
Mission Essential Personnel, LLC

**In accordance with legal requirements, SIGAR has redacted certain information
deemed proprietary or otherwise sensitive from this report.**



**AUGUST
2016**

SIGAR

Special Inspector General for Afghanistan Reconstruction

WHAT THE AUDIT REVIEWED

On September 7, 2007, the Department of the Army's Intelligence and Security Command (INSCOM) awarded an indefinite delivery/indefinite quantity contract to Mission Essential Personnel, LLC (MEP). Under this contract, INSCOM issued delivery order 0093 on February 7, 2012, for \$296.8 million, and delivery order 0108 on June 29, 2012, for \$276.2 million, for a combined total value of \$573 million. The delivery orders funded translation and interpretation management services from February to November 2012. Specifically, the orders required MEP to recruit, screen, and deploy approximately 8,000 linguists in support of contingency operations in Afghanistan. After 11 modifications, the total value of the delivery orders decreased to \$572.7 million.

SIGAR's financial audit, performed by Crowe Horwath LLP (Crowe), reviewed \$492,134,739 in expenditures charged to the delivery orders from February 9, 2012, through November 20, 2012. The objectives of the audit were to (1) identify and report on significant deficiencies or material weaknesses in MEP's internal controls related to the delivery orders; (2) identify and report on instances of material noncompliance with the terms of the delivery orders and applicable laws and regulations, including any potential fraud or abuse; (3) determine and report on whether MEP has taken corrective action on prior findings and recommendations; and (4) express an opinion on the fair presentation of MEP's Special Purpose Financial Statement (SPFS). See Crowe's report for the precise audit objectives.

In contracting with an independent audit firm and drawing from the results of the audit, SIGAR is required by auditing standards to review the audit work performed. Accordingly, SIGAR oversaw the audit and reviewed its results. Our review disclosed no instances where Crowe did not comply, in all material respects, with U.S. generally accepted government auditing standards.

August 2016

Department of Defense's Translation and Interpretation Management Services: Audit of Costs Incurred by Mission Essential Personnel, LLC

SIGAR 16-53-FA

WHAT THE AUDIT FOUND

Crowe identified six material weaknesses and two significant deficiencies in MEP's internal controls, and nine instances of noncompliance with the terms of the delivery orders. Specifically, Crowe found that MEP did not obtain prior authorization from the INSCOM contracting officer before awarding 14 subcontracts, resulting in \$53,536,881 in unsupported costs. Additionally, MEP could not provide adequate supporting documentation to verify that the linguists hired cleared the security screening process. Crowe also noted that MEP overcharged the government \$177,378 as a result of currency conversion errors. Furthermore, MEP hired an unlicensed private security company that may have overcharged the government for security costs.

As a result of these internal control weaknesses and instances of noncompliance, Crowe identified \$58,952,358 in total questioned costs, consisting of \$312,696 in ineligible costs—costs prohibited by the delivery orders, applicable laws, or regulations—and \$58,639,662 in unsupported costs—costs not supported with adequate documentation or that did not have required prior approval.

Category	Ineligible	Unsupported	Total Questioned Costs
Labor	\$67,909	\$ [REDACTED]	\$ [REDACTED]
Subcontractors	\$244,787	\$ [REDACTED]	\$ [REDACTED]
Local National Linguists	\$0	\$ [REDACTED]	\$ [REDACTED]
Other Direct Costs	\$0	\$ [REDACTED]	\$ [REDACTED]
General & Administrative	\$0	\$ [REDACTED]	\$ [REDACTED]
Totals	\$312,696	\$58,639,662	\$58,952,358

Crowe evaluated five prior audit reports pertinent to MEP's financial performance under the delivery orders and identified two prior findings applicable to the scope of this audit. Crowe determined that MEP had not adequately addressed one of these findings, which discussed inadequacies in MEP's review of subcontractor billings. Crowe repeated this finding in its audit.

Crowe issued a disclaimer of opinion on MEP's SPFS because Crowe was unable to obtain sufficient and appropriate audit evidence to verify the data presented in the statement. Crowe noted that MEP could not provide supporting documentation for certain subcontractor costs.

WHAT SIGAR RECOMMENDS

Based on the results of the audit, SIGAR recommends that the responsible contracting officer at INSCOM:

1. Determine the allowability of and recover, as appropriate, \$58,952,358 in questioned costs identified in the report.
2. Advise MEP to address the report's eight internal control findings.
3. Advise MEP to address the report's nine noncompliance findings.



SIGAR

Office of the Special Inspector General
for Afghanistan Reconstruction

August 17, 2016

The Honorable Ashton B. Carter
Secretary of Defense

Major General Christopher S. Ballard
INSCOM Commanding General

We contracted with Crowe Horwath, LLP (Crowe) to audit the costs incurred by Mission Essential Personnel, LLC (MEP) under two delivery orders awarded by the U.S. Army Intelligence and Security Command (INSCOM) to fund translation and interpretation management services.¹ Crowe's audit covered \$492,134,739 in expenditures incurred from February 9, 2012, through November 20, 2012. Our contract with Crowe required that the audit be performed in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States.

Based on the results of audit, SIGAR recommends that the responsible contracting officer at INSCOM:

- 1. Determine the allowability of and recover, as appropriate, \$58,952,358 in total questioned costs identified in the report.**
- 2. Advise MEP to address the report's eight internal control findings.**
- 3. Advise MEP to address the report's nine noncompliance findings.**

The results of Crowe's audit are detailed in the attached report. We reviewed Crowe's report and related documentation. Our review, as differentiated from an audit in accordance with U.S. generally accepted government auditing standards, was not intended to enable us to express, and we do not express, an opinion on MEP's Special Purpose Financial Statement. We also express no opinion on the effectiveness of MEP's internal control or compliance with the delivery orders, laws, and regulations. Crowe is responsible for the attached auditor's report and the conclusions expressed in the report. However, our review disclosed no instances where Crowe did not comply, in all material respects, with generally accepted government auditing standards issued by the Comptroller General of the United States.

We will be following up with your agency to obtain information on the corrective actions taken in response to our recommendations.

John F. Sopko
Special Inspector General
for Afghanistan Reconstruction

(F-072)

¹ INSCOM awarded contract no. W911W4-07-D-0010 and associated delivery orders 0093 and 0108 to MEP to provide translation and interpretation management services. Under the orders, MEP was required to recruit, screen, and deploy approximately 8,000 linguists in support of contingency operations in Afghanistan.



Mission Essential Personnel, LLC

Special Purpose Financial Statement

Contract Number W911W4-07-D-0010, Delivery Orders 0093 and 0108

For the Period February 9, 2012, through November 20, 2012

(With Independent Auditor's Report Thereon)

Table of Contents

TRANSMITTAL LETTER.....	1
SUMMARY	2
INDEPENDENT AUDITOR'S REPORT ON THE SPECIAL PURPOSE FINANCIAL STATEMENT.....	7
NOTES TO THE SPECIAL PURPOSE FINANCIAL STATEMENT.....	11
NOTES TO THE QUESTIONED COSTS PRESENTED ON THE SPECIAL PURPOSE FINANCIAL STATEMENT.....	15
INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL.....	16
INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE.....	18
SECTION I: SCHEDULE OF FINDINGS AND QUESTIONED COSTS.....	20
SECTION 2: SUMMARY SCHEDULE OF PRIOR AUDIT, REVIEW, AND ASSESSMENT FINDINGS	37
APPENDIX A: VIEWS OF RESPONSIBLE OFFICIALS	38
APPENDIX B: AUDITOR'S REBUTTAL.....	39
APPENDIX C: LISTING OF SUBCONTRACTS WITHOUT EVIDENCE OF CONSENT AND ADVANCE NOTIFICATION.....	44
APPENDIX D: LETTER DRAFTED BY MISSION ESSENTIAL PRIOR TO ISSUANCE OF DRAFT REPORT	47



www.crowehorwath.com

© Copyright 2016 Crowe Horwath LLP

Crowe Horwath LLP is an independent member of Crowe Horwath International, a Swiss Verein. Each member firm of Crowe Horwath International is a separate and independent legal entity. Crowe Horwath LLP and its affiliates are not responsible or liable for any acts or omissions of Crowe Horwath International or any other member of Crowe Horwath International and specifically disclaim any and all responsibility or liability for acts or omissions of Crowe Horwath International or any other member of Crowe Horwath International. Crowe Horwath International does not render any professional services and does not have an ownership or partnership interest in Crowe Horwath LLP. Crowe Horwath International and its other member firms are not responsible or liable for any acts or omissions of Crowe Horwath LLP and specifically disclaim any and all responsibility or liability for acts or omissions of Crowe Horwath LLP.

**Crowe Horwath LLP**

Independent Member Crowe Horwath International

10 West Broad Street, Suite 1700

Columbus, Ohio 43215-3454

Tel 614.469.0001

Fax 614.365.2222

www.crowehorwath.com

Transmittal Letter

June 2, 2016

To the Board of Managers and Management of Mission Essential Personnel, LLC
6525 West Campus Oval, Suite 101
New Albany, Ohio 43054

To the Office of the Special Inspector General for Afghanistan Reconstruction
2530 Crystal Drive
Arlington, Virginia 22202

We appreciate the opportunity to provide to you our report regarding the procedures that we have completed during the course of our audit of Mission Essential Personnel, LLC's ("MEP") contract number W911W4-07-D-0010, delivery orders 0093 and 0108, with the United States Department of the Army's Intelligence & Security Command ("INSCOM") for the provision of linguist support services to the United States Central Command.

Within the pages that follow, we have provided a brief summary of the work performed. Following the summary, we have incorporated our report on the Special Purpose Financial Statement, report on internal control, and report on compliance. We do not express an opinion on the summary or any information preceding our reports.

When preparing our report, we considered comments, feedback, and interpretations of MEP, the Office of the Special Inspector General for Afghanistan Reconstruction, and INSCOM provided both in writing and orally throughout the audit planning and fieldwork phases. Management's final written responses to the audit findings as well as the auditor's rebuttal to management's responses have been incorporated into this report as appendices.

Thank you for providing us the opportunity to work with you and to conduct the financial audit of MEP's delivery orders.

Sincerely,

A handwritten signature in black ink, appearing to read "Bert Nuehring", written over a light blue horizontal line.

Bert Nuehring, CPA, Partner
Crowe Horwath LLP

www.crowehorwath.com

Summary

Background

The United States Department of the Army's Intelligence & Security Command ("INSCOM") awarded two delivery orders to Mission Essential Personnel, LLC ("MEP") under indefinite delivery indefinite quantity ("IDIQ") contract number W911W4-07-D-0010. Both delivery orders were issued to MEP to fund translation and interpretation management services in support of the United States Central Command ("CENTCOM"), attached forces, combined forces, joint elements, and other U.S. Government agencies and entities as required for operations in Afghanistan. Under this work, MEP was to recruit and screen approximately 8,000 linguists for various required languages and deploy these personnel in support of contingency operations.

Delivery Order 0093, dated February 7, 2012, included an initial total maximum cost of \$296,812,744 - inclusive of cost, base fee, and award fee – and a period of performance of February 9, 2012, through June 30, 2012. The delivery order was subsequently modified five times. The modifications did not alter the period of performance; however, the maximum cost was reduced to \$277,000,537.

Similarly, delivery order 0108, dated June 29, 2012, included an initial total maximum cost of \$276,256,809, also inclusive of cost, base fee, and award fee. The period of performance spanned July 1, 2012, through November 20, 2012. Delivery order 0108 was modified a total of six times, which resulted in a final total maximum cost of \$295,731,452.

Inclusive of both delivery orders, MEP reported total earned revenue, inclusive of reimbursement for allowable costs incurred and fixed fee earnings, of \$492,134,739.

Work Performed

Crowe Horwath LLP ("Crowe") was engaged by the Office of the Special Inspector General for Afghanistan Reconstruction ("SIGAR") to conduct a financial audit of MEP's Special Purpose Financial Statement presenting revenues earned and costs incurred under two delivery orders funding the provision of linguist support services in Afghanistan.

Objectives Defined by SIGAR

The following audit objectives were defined within the *Performance Work Statement for Financial Audits of Costs Incurred by Organizations Contracted by the U.S. Government for Reconstruction Activities in Afghanistan*:

Audit Objective 1 – Special Purpose Financial Statement

Express an opinion on whether the Special Purpose Financial Statement for the delivery orders presents fairly, in all material respects, revenues received, costs incurred, items directly procured by the U.S. Government, and balance for the period audited in conformity with the terms of the delivery orders and generally accepted accounting principles or other comprehensive basis of accounting.

Audit Objective 2 – Internal Controls

Evaluate and obtain a sufficient understanding of MEP's internal control related to the delivery orders; assess control risk; and identify and report on significant deficiencies including material internal control weaknesses.

Audit Objective 3 – Compliance

Perform tests to determine whether MEP complied, in all material respects, with the delivery orders' order requirements and applicable laws and regulations; and identify and report on instances of material noncompliance with terms of the award and applicable laws and regulations, including potential fraud or abuse that may have occurred.



Audit Objective 4 – Corrective Action on Prior Findings and Recommendations

Determine and report on whether MEP has taken adequate corrective action to address findings and recommendations from previous engagements that could have a material effect on the special purpose financial statement or other financial data significant to the audit objectives.

Scope

The scope of the audit included the period February 9, 2012, through November 20, 2012. The audit was limited to those matters and procedures pertinent to the contract delivery orders that may have a direct and material effect on the Special Purpose Financial Statement ("SPFS"). The audit also included an evaluation of the presentation, content, and underlying records of the SPFS. Further, the audit included reviewing the financial records that support the SPFS to determine if there were material misstatements and if the SPFS was presented in the format required by SIGAR. In addition, the following areas were determined to be direct and material and, as a result, were included within the audit program for detailed evaluation:

- Allowable Costs;
- Allowable Activities;
- Cash Management;
- Equipment and Property Management; and
- Procurement.

Methodology

To meet the aforementioned objectives, Crowe completed a series of tests and procedures to audit the SPFS, tested compliance and considered the auditee's internal controls over compliance and financial reporting, and determined if adequate corrective action was taken in response to prior audit, assessment, and findings and review comments, as applicable.

For purposes of meeting Audit Objective 1 pertaining to the SPFS, transactions were selected from the financial records underlying the SPFS and were tested to determine if the transactions were recorded in accordance with accounting principles generally accepted in the United States of America; were incurred within the period covered by the SPFS and in alignment with specified cutoff dates; were appropriately allocated to the award if the cost benefited multiple objectives; were adequately supported; and were appropriately authorized.

With regard to Audit Objective 2 regarding internal control, Crowe requested and the auditee provided copies of policies and procedures to provide Crowe with an understanding of the system of internal control established by MEP. Certain procedures did not exist in a formal, written format. In such instances, MEP communicated the applicable procedure verbally to Crowe or otherwise provided a written description of the procedure. The system of internal control is intended to provide reasonable assurance of achieving reliable financial and performance reporting and compliance with applicable laws and regulations. Crowe corroborated internal controls identified by the auditee and conducted testing of select key controls to understand if they were implemented as designed.

Audit Objective 3 requires that tests be performed to obtain an understanding of the auditee's compliance with requirements applicable to the contract delivery orders. Crowe identified – through review and evaluation of the contract delivery orders and the IDIQ contract executed by and between INSCOM and MEP¹, the Federal Acquisition Regulation ("FAR"), and the Defense Federal Acquisition Regulation Supplement ("DFARS") – the criteria against which to test the SPFS and supporting financial records and documentation. Using sampling techniques, Crowe selected expenditures, invoices submitted to the Government for payment, procurements, and property and equipment records for testing. Supporting documentation was provided by the auditee and subsequently evaluated to assess MEP's compliance. Testing of indirect costs was limited to determining whether indirect costs were calculated and charged to the U.S. Government in accordance with the rates and allocation bases that were included within the rate agreements issued by the Northern Ohio Branch Office, Eastern Region of the Defense Contract Audit Agency as provided to Crowe by MEP.

Regarding Audit Objective 4, Crowe inquired of both MEP and INSCOM to understand whether or not there were prior audits, reviews, or assessments that were pertinent to the audit scope. Crowe also conducted an independent search of publicly available information to identify audit and review reports. As a result of the aforementioned efforts, five prior reports were identified.

Due to the location and nature of the project work, certain audit procedures were performed on-site in Afghanistan, as deemed necessary.

Summary of Results

Upon completion of Crowe's procedures, Crowe identified nine findings because they met one or more of the following criteria: (1) material weaknesses in internal control, (2) significant deficiencies in internal controls; (3) noncompliance with rules, laws, regulations, or the terms and conditions of the delivery orders; and/or (4) questioned costs resulted from identified instances of noncompliance.

Crowe issued a disclaimer of opinion on the Special Purpose Financial Statement ("SPFS" or "Statement") due to (1) MEP's not having maintained supporting documentation to demonstrate whether linguists passed or failed the security screening process such that costs incurred for the applicable linguists may be identified as allowable or unallowable, (2) material questioned costs having been identified, and (3) transactions of significant amounts without evidence of authorization were identified as having been recorded on the Statement. These matters are associated with multiple line items presented on MEP's SPFS, and their total impact cannot be quantified in the absence of appropriate documentation.

Crowe also reported on both MEP's internal controls over compliance and financial reporting and on MEP's compliance with the applicable laws, rules, regulations, and the terms and conditions of the delivery orders. Six material weaknesses, two significant deficiencies, and nine instances of noncompliance were reported. Where internal control and compliance findings pertained to the same matter, they were consolidated within a single finding. A total of \$58,952,358 in costs was questioned. Questioned costs are presented in **TABLE A**, contained herein. The table presents costs questioned for each finding. Certain costs are questioned within multiple findings; therefore, a tally of unique questioned costs that excludes duplicated costs is also provided.

Crowe also requested copies of prior audits, reviews, and evaluations pertinent to MEP's financial performance under the delivery orders. Five prior engagement reports were provided to Crowe for evaluation. Based upon Crowe's review of the reports, two prior audit findings were noted that could be material to the SPFS or other financial data applicable to the audit objectives. Crowe reported that MEP did not take adequate corrective action with respect to one of the two prior findings. See Section 2 of the report for additional detail regarding Crowe's follow-up on prior findings.

¹ At the time of the IDIQ's execution, MEP was known as "Aegis Mission Essential Personnel, LLC."

This summary is intended to present an overview of the results of procedures completed for the purposes described herein and is not intended to be a representation of the audit's results in their entirety.

TABLE A: Summary of Findings and Questioned Costs

Finding Number	Matter	Questioned Costs	Cumulative Questioned Costs
2015-01	Certified Cost and Pricing Data	\$9,774,172	\$9,774,172
2015-02	Subcontractor Invoicing and Excess Linguist Labor Charges	\$135,318	\$9,909,490
2015-03	Consent to Subcontract and Advance Notification	\$53,536,881	\$53,536,881
2015-04	Foreign Currency Translations	\$177,378	\$53,604,790
2015-05	Linguist Security Review	\$2,342,490	\$55,445,958
2015-06	Related Party Transactions and Subcontract Periods of Performance	\$3,540,371	\$58,918,420
2015-07	Property Management	\$5,213	\$58,923,633
2015-08	Unauthorized Private Security Company	\$28,725	\$58,952,358
2015-09	Subcontractor Suspension and Debarment Certifications	\$28,725	\$58,952,358
Total Questioned Costs			\$58,952,358

Summary of Management Comments

MEP disagreed with each of the nine findings within the audit report. The disagreements presented within management's responses to the audit findings resulted primarily from:

- 1) MEP's having different interpretations regarding regulatory requirements incorporated within the contractual documents;
- 2) MEP's conclusion that related party transactions with MEP Canada were appropriately authorized and paid based on its interpretation of certain procurement policy language that appears to be in conflict with other internal policy requirements;
- 3) MEP's disagreeing with Crowe's conclusion that a 2007 email providing consent for MEP to subcontract with certain organizations under a delivery order with a 2007 period of performance was insufficient to support consent for the new 2012 subcontracts;
- 4) MEP's considering the responsibility for maintaining adequate documentation of linguist security screenings to be the responsibility of another party;

- 5) MEP's assumption that the Government's reference to MEP's subcontractors within an internal justification and approval process and acceptance of MEP's proposals containing proposed subcontract costs constitute implied consent to subcontract, implied approval for MEP to proceed with subcontracting regardless of MEP's not having obtained certified cost and pricing data required by Federal regulation, and satisfactory advance notification of the intent to subcontract; and
- 6) DCAA's having reviewed and approved certain invoices during the audit period.

References to Appendices

The auditor's reports are supplemented by three appendices: (1) **Appendix A**, which contains management's responses to the audit findings; (2) **Appendix B**, which contains the auditor's rebuttal; (3) **Appendix C**, which contains a listing of subcontracts for which consent to subcontract under the two delivery orders under audit was not obtained by MEP; and (4) **Appendix D**, which contains additional comments from MEP's external counsel drafted prior to issuance of the audit report or communication of the audit findings.

INDEPENDENT AUDITOR'S REPORT ON THE SPECIAL PURPOSE FINANCIAL STATEMENT

To the Board of Managers and Management of Mission Essential Personnel, LLC
6525 West Campus Oval, Suite 101
New Albany, Ohio 43054

To the Office of the Special Inspector General for Afghanistan Reconstruction
2530 Crystal Drive
Arlington, Virginia 22202

Report on the Special Purpose Financial Statement

We were engaged to audit the Special Purpose Financial Statement ("the Statement") of Mission Essential Personnel, LLC ("MEP"), and related notes to the Statement, for the period February 9, 2012, through November 20, 2012, pertaining to delivery orders 0093 and 0108 issued under Contract Number W911W4-07-D-0010.

Management's Responsibility for the Special Purpose Financial Statement

Management is responsible for the preparation and fair presentation of the Statement in accordance with the requirements specified by the Office of the Special Inspector General for Afghanistan Reconstruction ("SIGAR") in Appendix IV of Solicitation ID11140014014 ("the Contract"). Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a Statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the Special Purpose Financial Statement based on conducting the audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards* issued by the Comptroller General of the United States. Because of the matters described in the Basis for Disclaimer of Opinion paragraph, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

Management did not provide documentation to support the successful completion of the security review process of certain linguists and translators. In addition, MEP neither obtained nor produced documentation to support the accuracy of indirect costs charged by subcontractors and recorded on the Statement. Therefore, we were unable to confirm or verify the degree to which the linguist and subcontractor indirect costs reported on the Statement were recorded appropriately to the delivery orders. As a result of these matters, we were unable to determine the amount of any adjustments that might have been necessary with respect to the recorded direct labor, direct subcontractor, and general and administrative costs reported on the Statement. Lastly, as identified by MEP within the notes to the Statement, MEP may have included revenues earned and costs incurred after the November 20, 2012, end of the audit period established by SIGAR. Due to the lack of documentation available to identify and calculate the revenues and costs incurred after the end of the audit period, we could not determine the potential amount of the error.

(Continued)

In addition, during the course of the audit, we identified both \$3,569,096 in transactions that were not appropriately authorized and a material amount of questioned costs. These items would have resulted in a qualification of the opinion in the event that a scope limitation resulting in a disclaimer of opinion had not been identified.

Disclaimer of Opinion on the Special Purpose Financial Statement

Because of the significance of the matters described in the Basis for Disclaimer of Opinion paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on the Special Purpose Financial Statement.

Basis of Presentation

We draw attention to Note 1 to the Statement, which describes the basis of presentation. The Statement was prepared by MEP in accordance with the requirements specified by the Office of the Special Inspector General for Afghanistan Reconstruction in Appendix IV of the Contract and presents those expenditures as permitted under the terms of contract number W911W4-07-D-0010, delivery orders 0093 and 0108, which is a basis of accounting other than accounting principles generally accepted in the United States of America, to comply with the financial reporting provisions of the Contract referred to above.

Restriction on Use

This report is intended for the information of MEP, the United States Army Intelligence and Security Command, and the Office of the Special Inspector General for Afghanistan Reconstruction. Financial information in this report may be privileged. The restrictions of 18 U.S.C. 1905 should be considered before any information is released to the public.

Report on Other Legal and Regulatory Requirements

In accordance with *Government Auditing Standards*, we have also issued reports dated June 1, 2016, on our consideration of MEP's internal controls over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and other matters. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. Those reports are an integral part of an audit performed in accordance with *Government Auditing Standards* in considering MEP's internal control over financial reporting and compliance.



Crowe Horwath LLP

June 1, 2016
Columbus, Ohio

Mission Essential Personnel, LLC
Special Purpose Financial Statement
Contract Number W911W407-D-0010, Delivery Orders 0093 and 0108
February 09, 2012 through November 20, 2012

	<u>Budget</u>	<u>Ceiling</u>	<u>Funding</u>	<u>Actual</u>	<u>Questioned Costs</u>		<u>Notes</u>
					<u>Ineligible</u>	<u>Unsupported</u>	
Revenues							4
W911W4-07-D-0010-0093	\$ 296,812,744	\$ 277,000,537	\$ 277,000,537	\$ 261,139,765			
W911W4-07-D-0010-0108	295,731,452	295,731,452	210,272,963	230,994,974			1
Total Revenue	\$ 592,544,196	\$ 572,731,989	\$ 487,273,500	\$ 492,134,739			
Costs Incurred							5
Direct Labor CONUS Subtotal	\$ 987,132			\$ 716,694			
Direct Labor OCONUS Subtotal	250,048,626			216,958,333	\$ 67,909	\$ 4,743,713	E, F
Direct Subcontractor Subtotal	153,884,598			127,940,265	244,787	50,508,440	A, B, C, D, E
Direct LNL Subtotal	38,461,724			28,451,464		123,639	E
Direct ODC Subtotal	28,665,476			21,420,301		32,363	G, H, I
Total Direct Costs Incurred	\$ 472,047,556			\$ 395,487,057			
CONUS Fringe	\$ ██████████			\$ ██████████			
OCONUS Fringe	██████████			██████████			
PTOC Fringe	██████████			██████████			
CONUS Overhead	██████████			██████████			
OCONUS Overhead	██████████			██████████			
G&A	██████████			██████████		3,231,507	A, C, F, H, I
Rounding	3			(2,100)			
Total Indirect Costs Incurred	\$ 75,111,916			\$ 63,681,415			
Total Costs Incurred	\$ 547,159,472			\$ 459,168,472			

The accompanying notes to the Special Purpose Financial Statement are an integral part of this Statement.

Base Fee					
Award Fee					
Total Fee	\$		\$		9
Balance	\$	-	\$	-	6
			\$	312,696	\$
				58,639,662	

The accompanying notes to the Special Purpose Financial Statement are an integral part of this Statement.

Mission Essential Personnel, LLC
Notes to the Special Purpose Financial Statement
For the Period February 9, 2012, through November 20, 2012

Note 1. Basis of Presentation

The accompanying Special Purpose Financial Statement (the "Statement") includes costs incurred under Delivery Orders 0093 and 0108 issued under Contract No. W911W4-07-D-0010, Operation Enduring Freedom – Afghanistan, Management and Support of Translation and Interpretation Services, for the period February 9, 2012, through November 20, 2012. Because the Statement presents only a selected portion of the operations of Mission Essential, it is not intended to and does not present the financial position, changes in net assets, or cash flows of Mission Essential. The information in this Statement is presented in accordance with the requirements specified by the Office of the Special Inspector General for Afghanistan Reconstruction ("SIGAR") and is specific to the aforementioned Federal contract Delivery Orders 0093 and 0108. Therefore, some amounts presented in this Statement may differ from amounts presented in, or used in the preparation of, the basic financial statements of Mission Essential. Additionally, it should be noted that the Statement includes revenues and associated costs as recorded on Mission Essential's general ledger through the end of the accounting period (calendar month) of November, 2012. It is not feasible to restrict November 2012 revenues through only the November 20, 2012 date of the Statement since revenues for each contract/delivery order were recorded once per accounting period (calendar month).

For the purpose of the SPFS the following data columns have been presented to illustrate Revenue and Cost during the specific period requested:

DO 93:

- Total Actual – This column provides revenue and cost hitting the Mission Essential general ledger during the period requested.
- Budget – This column provides a breakdown of revenue and cost based on the initial cost proposal and awarded value of the task order.
- Ceiling – This column provides the total contract value in accordance with the submitted Estimate at Complete (EAC) and the subsequent fully executed modification (MOD5) as of September 30th 2012.
- Funding – This column provides the fully funded contract value in accordance with the submitted Estimate at Complete (EAC) and the subsequent fully executed modification (MOD5) as of September 30th 2012.

DO 108:

- Total Actual – This column provides revenue and cost hitting the Mission Essential general ledger during the period requested.
- Budget – This column provides a breakdown of revenue and cost based on the initial cost proposal and awarded value of the task order.
- Ceiling – This column provides the total contract value in accordance with the submitted Estimate at Complete (EAC) and the subsequent fully executed modification (MOD4) as of September 30th 2012.
- Funding – This column provides the incrementally funded value in accordance with the fully executed modification (MOD4) as of September 30th 2012. As annotated in MOD4, this funding was intended to support the task order through October 14th 2012, and MOD5 was fully executed on November 27th 2012 incrementally funding the effort at \$260,272,963.03.

(Continued)

Note 2. Basis of Accounting

Expenditures reported on the Statement are reported in accordance with generally accepted accounting principles ("GAAP") in the United States of America and, therefore, are reported on the accrual basis of accounting. Such expenditures are recognized following the cost principles contained in Title 48, Subpart 31.2 of the United States Code of Federal Regulations, wherein certain types of expenditures are not allowable or are limited as to reimbursement.

Note 3. Foreign Currency Conversion Method

For purposes of preparing the Statement, conversions from local currency to United States Dollars ("USD") were not required as all transactions were recorded in USD on Mission Essential's general ledger.

Note 4. Revenues

Revenues on the Statement represent the estimated amount of funds that Mission Essential is entitled to receive from the U.S. Army Intelligence and Security Command ("INSCOM") based on actual direct costs incurred, accrued or "estimated" direct cost, and the latest, DCAA-approved, provisional indirect rates in accordance with the terms and conditions of the contract applicable to Delivery Orders 0093 and 0108 during the period of performance.

Revenue is recognized when reimbursable costs are incurred, and is calculated by the CostPoint accounting system on a monthly basis. Any element of Award Fee applicable in the case of these Delivery Orders is estimated as a separate revenue accrual on a monthly basis.

Note 5. Costs Incurred by Cost Category

For Delivery Order 0093, the budgeted amounts reflect those amounts approved as of the award, dated February 7, 2012, which established the initial budgetary amounts for this order.

For Delivery Order 0108, the budgeted amounts reflect those amounts approved as of Modification No. 01, dated June 29, 2012, which established the final budgetary amounts for this order.

For both Delivery Order 0093 and Delivery Order 0108, Actual Costs Incurred contain a Rounding line item to account for the difference between how CostPoint applies decimal point rounding compared to how decimal point rounding is calculated and summarized in the Microsoft Excel worksheets on which the Statement is completed.

Note 6. Balance

The balance presented on the Statement represents the difference between revenues earned and costs incurred such that an amount greater than \$0 would reflect that revenues have been earned that exceed the costs incurred or charged to the contract and an amount less than \$0 would indicate that costs have been incurred, but are pending additional evaluation before a final determination of allowability and amount of revenue earned may be made.

Note 7. Reconciliation to Invoiced Amounts

Delivery Order 0093	Incurred as of SPFS end November 20, 2012*	Invoiced as of November 20, 2012*	Remaining as of November 20, 2012*
Direct Labor CONUS Subtotal	\$ 322,373.09	\$ 322,373.09	\$ -
Direct Labor OCONUS Subtotal	\$ 111,577,827.83	\$ 111,283,574.59	\$ 294,253.24
Direct Subcontractor Subtotal	\$ 69,511,692.50	\$ 66,380,957.57	\$ 3,130,734.93
Direct LNL Subtotal	\$ 17,425,749.50	\$ 17,392,439.57	\$ 33,309.93
Direct ODC Subtotal	\$ 11,750,519.74	\$ 11,755,535.64	\$ (5,015.90)
CONUS Fringe	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
OCONUS Fringe	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Overhead	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
G&A	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Base Fee	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Award Fee (Accrual)	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

* - References to the November 20, 2012 end of the Statement audit window are inclusive of all November 2012 GL activity for Delivery Order 0093.

Delivery Order 0108	Incurred as of SPFS end November 20, 2012*	Invoiced as of November 20, 2012*	Remaining as of November 20, 2012*
Direct Labor CONUS Subtotal	\$ 394,321.08	\$ 394,869.03	\$ (547.95)
Direct Labor OCONUS Subtotal	\$ 105,380,505.38	\$ 104,374,485.54	\$ 1,006,019.84
Direct Subcontractor Subtotal	\$ 58,428,572.24	\$ 34,436,334.88	\$ 23,992,237.36
Direct LNL Subtotal	\$ 11,025,713.54	\$ 10,821,531.98	\$ 204,181.56
Direct ODC Subtotal	\$ 9,669,781.18	\$ 9,075,917.39	\$ 593,863.79
CONUS Fringe	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
OCONUS Fringe	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Overhead	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
G&A	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Base Fee	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Award Fee (Accrual)	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

* - References to the November 20, 2012 end of the Statement audit window are inclusive of all November 2012 GL activity for Delivery Order 0108.

Note 8. Base Fee/Award Fee

This contract/delivery order is a cost plus award fee contract, with a base fee element. Base Fee on this contract was set at 1.5% of cost, Award Fee was set at a max of 6% based on performance.

Note 9. Currency

All amounts presented are shown in U.S. dollars.

(Continued)

Note 10. Program/Project Status

Work on both Delivery Order 0093 and Delivery Order 0108 is physically complete, but the orders have not been closed out pending finalization of direct and indirect cost rates.

Note 11. Subsequent Events

Management has performed an analysis of the activities and transactions subsequent to the February 9, 2012, through November 20, 2012, period covered by the Statement. Management has performed their analysis through June 1, 2016.

Notes to the Questioned Costs Presented on the Special Purpose Financial Statement²

Note A. Certified Cost and Pricing Data

Finding 2015-01 questioned \$9,774,172 in costs due to MEP's not having obtained and produced adequate supporting documentation for two subcontractors' indirect cost rates. In the absence of adequate support, the accuracy and reasonableness of the rates and amounts billed using the rates are in question.

Note B. Subcontractor Invoicing and Excess Linguist Labor Charges

Finding 2015-02 identified \$135,318 in questioned costs as a result of a subcontractors' utilizing fully loaded billing rates that were based upon annual salaries that exceeded those salaries approved by the Contracting Officer.

Note C. Consent to Subcontract and Advance Notification

Finding 2015-03 questioned \$53,536,881 due to MEP's not having obtained consent from the Contracting Officer to subcontract with various subcontractors under the two delivery orders under audit, specifically.

Note D. Foreign Currency Translation

Finding 2015-04 identified \$177,378 in questioned costs as a result of MEP's having incorrectly translated invoices denominated in Canadian Dollars and British Pounds to United States Dollars and, as a result, over-billing the Federal Government.

Note E. Linguist Security Review

Finding 2015-05 questions \$2,342,490 due to MEP's inability to produce adequate supporting documentation to demonstrate that 42 of 60 linguists tested successfully completed the full security review process as required by the delivery orders.

Note F. Related Party Transactions and Subcontract Periods of Performance

Finding 2015-06 questions \$3,540,371 in costs recorded to delivery order 0093 prior to execution of an agreement between MEP and MEP Canada due to inadequate supporting documentation having been provided to show both that MEP was obligated to pay MEP and that the costs were properly authorized.

Note G. Property Management

Finding 2015-07 identified \$5,213 in questioned costs due to MEP's inability to provide adequate supporting documentation demonstrating that certain equipment and property items were received.

Note H. Unauthorized Private Security Company

Finding 2015-08 questioned \$28,725 due to MEP's having utilized Rauf Aziz Construction Company to provide private security services and not having produced supporting documentation to show that (1) the Company was licensed by the Afghanistan Government to provide such services and (2) the transactions were appropriately authorized through issuance of a purchase order, subcontract, or notice to proceed in accordance with MEP's policy.

Note I. Subcontractor Suspension and Debarment Certifications

Finding 2015-09 identified \$28,725 in questioned costs due to MEP's not having obtained a certification regarding the suspended, debarred, or proposed debarment status of Rauf Aziz Construction Company prior to making an award to the Company and the Company's having been excluded effective in February 2013.

² Notes to the Questioned Costs are prepared by the auditor for purposes of this report. Management takes no responsibility for the notes to the questioned costs.

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL

To the Board of Managers and Management of Mission Essential Personnel, LLC
6525 West Campus Oval, Suite 101
New Albany, Ohio 43054

To the Office of the Special Inspector General for Afghanistan Reconstruction
2530 Crystal Drive
Arlington, Virginia 22202

We were engaged to audit, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Special Purpose Financial Statement ("the Statement") of Mission Essential Personnel, LLC ("MEP"), and related notes to the Statement, for the period February 9, 2012, through November 20, 2012, pertaining to delivery orders 0093 and 0108 issued under Contract Number W911W4-07-D-0010. We have issued our report thereon dated June 1, 2016, within which we disclaimed an opinion because of an inability to obtain sufficient, appropriate audit evidence necessary to determine whether linguists successfully completed the required security review processes and whether subcontractors' indirect costs charged to the delivery orders were accurate and adequately supported.

Internal Control over Financial Reporting

MEP's management is responsible for establishing and maintaining effective internal control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control policies and procedures. The objectives of internal control are to provide management with reasonable, but not absolute, assurance that the assets are safeguarded against loss from unauthorized use or disposition; transactions are executed in accordance with management's authorization and in accordance with the terms of the contract; and transactions are recorded properly to permit the preparation of the Statement in conformity with the basis of presentation described in Note 1 to the Statement. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In connection with our engagement to audit the Statement for the period February 9, 2012, through November 20, 2012, we considered MEP's internal controls to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the Statement, but not for the purpose of expressing an opinion on the effectiveness of MEP's internal control. Accordingly, we do not express an opinion on the effectiveness of MEP's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Schedule of Findings and Questioned Costs, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

(Continued)

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Statement will not be prevented, or detected and corrected, on a timely basis. We consider the deficiencies noted in Findings 2015-01, 2015-02, 2015-03, 2015-04, 2015-05, and 2015-06 in the accompanying Schedule of Findings and Questioned Costs to be material weaknesses.

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies noted in Findings 2015-07 and 2015-09 in the accompanying Schedule of Findings and Questioned Costs to be significant deficiencies.

We noted certain matters that we reported to MEP's management in a separate letter dated June 1, 2016.

Mission Essential Personnel, LLC's Response to the Findings

MEP's response to the findings was not subject to the auditing procedures applied in the audit of the special purpose financial statement and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control. Accordingly, this communication is not suitable for any other purpose.

Restriction on Use

This report is intended for the information of MEP, the United States Army Intelligence and Security Command, and the Office of the Special Inspector General for Afghanistan Reconstruction. Financial information in this report may be privileged. The restrictions of 18 U.S.C. 1905 should be considered before any information is released to the public.



Crowe Horwath LLP

June 1, 2016
Columbus, Ohio

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE

To the Board of Managers and Management of Mission Essential Personnel, LLC
6525 West Campus Oval, Suite 101
New Albany, Ohio 43054

To the Office of the Special Inspector General for Afghanistan Reconstruction
2530 Crystal Drive
Arlington, Virginia 22202

We were engaged to audit, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Special Purpose Financial Statement ("the Statement") of Mission Essential Personnel, LLC ("MEP"), and related notes to the Statement, for the period February 9, 2012, through November 20, 2012, pertaining to delivery orders 0093 and 0108 issued under Contract Number W911W4-07-D-0010. We have issued our report thereon dated June 1, 2016, within which we disclaimed an opinion because of an inability to obtain sufficient, appropriate audit evidence necessary to determine whether linguists successfully completed the required security review processes and whether subcontractors' indirect costs charged to the delivery orders were accurate and adequately supported.

Management's Responsibility for Compliance

Compliance with Federal rules, laws, regulations, and the terms and conditions applicable to the contract is the responsibility of the management of MEP.

Compliance and Other Matters

In connection with our engagement to audit the Special Purpose Financial Statement of Mission Essential Personnel, we performed tests of its compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in Findings 2015-01, 2015-02, 2015-03, 2015-04, 2015-05, 2015-06, 2015-07, 2015-08, and 2015-09 in the accompanying Schedule of Findings and Questioned Costs. Additionally, if the scope of our work had been sufficient to enable us to express an opinion on the Special Purpose Financial Statement, other instances of noncompliance or other matters may have been identified and reported herein.

Mission Essential Personnel, LLC's Response to the Findings

MEP's response to the findings was not subject to the auditing procedures applied in the audit of the special purpose financial statement and, accordingly, we express no opinion on it.

(Continued)

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of compliance and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's compliance. Accordingly, this communication is not suitable for any other purpose.

Restriction on Use

This report is intended for the information of MEP, the United States Army Intelligence and Security Command, and the Office of the Special Inspector General for Afghanistan Reconstruction. Financial information in this report may be privileged. The restrictions of 18 U.S.C. 1905 should be considered before any information is released to the public.

A handwritten signature in black ink that reads "Crowe Horwath LLP". The signature is written in a cursive, flowing style.

Crowe Horwath LLP

June 1, 2016
Columbus, Ohio

SECTION I: SCHEDULE OF FINDINGS AND QUESTIONED COSTS

Finding 2015-01: Certified Cost and Pricing Data

Material Weakness and Noncompliance

Condition: Of 14 subcontracts that were selected for testing, 13 were not covered by an exception to certified cost and pricing data requirements.³ During our analysis of the 13 subcontracts, we identified eight procurement actions that were valued at greater than \$700,000 and, therefore, required submission of both a Certificate of Current Cost and Pricing Data and certified cost and pricing data to MEP. MEP obtained the applicable Certificates; however, certified cost and pricing data was not provided to MEP as required by Federal regulation. MEP asserted that the subcontractors would not provide the data due as it contained proprietary information. Such an exception is not included within the relevant certified cost and pricing data provisions of the FAR. The value of the eight covered procurement actions was \$52,091,740.

At Crowe's request, SIGAR submitted a written request to MEP's subcontractors for the data. Each subcontractor replied and provided data with the exception of FedSys and New Century Consulting (NCC). During our analysis of the supporting data for each subcontractor, we did not identify any linguist costs that were considered to be unreasonable or otherwise inappropriately supported with the exception of the FedSys and NCC wrap rates.⁴ MEP indicated that MEP did not possess documentation sufficient to support the accuracy, completeness, reasonableness, or currency of the wrap rates utilized by FedSys and NCC in their cost and pricing evaluation. In the absence of adequate supporting documentation, the \$ [REDACTED] in subcontractor costs charged using wrap rates and the associated \$ [REDACTED] that MEP charged through application of its indirect cost rates to the subcontractor costs are in question (totaling \$9,774,172).

Criteria: FAR 52.215-12 requires that MEP obtain certified cost and pricing data from subcontractors whose subcontracts exceed the threshold that requires such data (i.e., \$700,000), unless an exception to the requirement for certified cost and pricing data applies. FAR 52.215-13 applies the same requirement to modifications of subcontracts that exceed \$700,000.

Section B.15, *Requirements for Cost And/Or Pricing Data*, of MEP's Procurement Manual provides instruction to internal staff regarding the requirement to obtain certified cost or pricing data. The MEP requirements are consistent with those presented in the FAR.

With respect to the allowability of costs, incurred, the commercial cost principles appearing in Title 48, Subpart 31.2 of the Code of Federal Regulations include the following requirements:

31.201-2 Determining allowability

- (a) A cost is allowable only when the cost complies with all of the following requirements:
- (1) Reasonableness.
 - (2) Allocability.
 - (3) Standards promulgated by the CAS Board, if applicable, otherwise, generally accepted accounting principles and practices appropriate to the circumstances.
 - (4) Terms of the contract.
 - (5) Any limitations set forth in this subpart.

³ MEP's subcontract population consisted of 22 subcontracts.

⁴ A wrap rate represents a multiplier that consists of overhead and general and administrative costs and that may be assessed against a direct cost to arrive at a billable value. For example, a wrap rate that includes fringe benefit, general and administrative, and indirect cost rates may be assessed against direct labor to quantify the total billable amount for labor provided by a contractor.

(b) A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in this subpart and agency supplements. The contracting officer may disallow all or part of a claimed cost that is inadequately supported.

31.201-3 Determining reasonableness

(a) A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business. Reasonableness of specific costs must be examined with particular care in connection with firms or their separate divisions that may not be subject to effective competitive restraints. No presumption of reasonableness shall be attached to the incurrence of costs by a contractor. If an initial review of the facts results in a challenge of a specific cost by the contracting officer or the contracting officer's representative, the burden of proof shall be upon the contractor to establish that such cost is reasonable.

Questioned costs: \$9,774,172, inclusive of \$[REDACTED] in FedSys and NCC direct costs and \$[REDACTED] in fringe benefit and general and administrative charges.

Effect: The likelihood that subcontractors will pass unreasonable costs through to the prime contractor and, ultimately, the US Government is increased.

Cause: MEP represented that its subcontractors refused to provide detailed cost and pricing data due to the proprietary nature of their indirect cost rates. MEP subsequently awarded the subcontracts without appropriate supporting documentation due to MEP's having assumed that the Defense Contract Audit Agency would conduct assist audits of the subcontractors' wrap rates.

Recommendation: We recommend that MEP either reimburse the Government \$9,774,172 or otherwise provide documentation supporting that the overhead costs incurred by FedSys and NCC and subsequently invoiced to the Government are accurate, reasonable, and calculated in accordance with Federal requirements appearing within the commercial cost principles at FAR 31.2 and negotiated indirect cost rate agreements held between NCC and the Federal Government and FedSys and the Federal Government, if and as applicable.

Finding 2015-02: Subcontractor Invoicing and Excess Linguist Labor Charges

Material Weakness and Noncompliance

Condition: During analysis of the data supporting CACI's price proposal, it was noted that the base linguist salaries utilized by CACI exceeded the rates approved by the Contracting Officer. CACI utilized the base annual salaries to develop its proposed fully loaded hourly rates, which supported the proposed pricing and, ultimately, the subcontract amount.

Utilizing CACI's rate calculation methodology, Crowe calculated the difference between the CACI fully loaded hourly rates and the hourly rates that would have existed when employing the approved salary limits as \$3.19 for category I linguists, \$5.91 for category II linguists, and \$8.09 for category III linguists. These differences represent the estimated overbilling per hour. Crowe analyzed all CACI invoices for delivery orders 93 and 108 to calculate the impact of this matter on both awards. Through review of the 20 invoices, Crowe calculated an estimated overbilling of \$135,318 for CACI, which is considered to be unreasonable. Crowe calculated an estimate because MEP did not have documentation available to identify the billing rates that CACI used to develop invoices submitted to MEP. MEP did not obtain such documentation when reviewing and approving the invoices for payment.

In addition, it was noted that the MEP Subcontractor Invoice Certification sheet showing the steps taken to review each subcontractor invoice includes the following two steps: 1) certification by the subcontractor of the invoice was completed; and 2) indirect rates were validated either with the Contracts department or with a subsequent invoice that was already validated. Both steps were noted as having been satisfied; however, documentation necessary to complete the steps was unavailable or was noted by MEP during the audit as not having been provided by the subcontractors. In addition, evidence of certification of NCC's invoices (FM1203-DO93-1, FM1204-DO93, FM1206-DO93-1, FM1206-DO93-2, and FM1202-DO93) and FedSys's invoices (5, 9, 11, 15, 17, and 19) was not produced. Per discussion with MEP, certifications were provided via email, but could not be located.

Criteria: 48 CFR Subpart 31.201-1(d), *Determining allowability*, states:

(d) A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in this subpart and agency supplements. The contracting officer may disallow all or part of a claimed cost that is inadequately supported.

48 CFR Subpart 31.201-3(b)(3), *Determining reasonableness*, includes the following criterion for consideration in determining reasonableness:

(3) The contractor's responsibilities to the Government, other customers, the owners of the business, employees, and the public at large.

Questioned costs: \$135,318

Effect: In the absence of supporting documentation to support the amounts invoiced by CACI, MEP and the Government may have been overbilled by the subcontractor. In addition, should the Government determine that the pricing data was defective as a result of this matter, then MEP and/or CACI may be subject to a penalty, inclusive of interest on the over-payments. In addition, the likelihood of subcontractors overbilling the Government is increased in the absence of adequate support to demonstrate that the billing rates used to invoice are accurate.

Cause: CACI asserted that the cost and pricing data was proprietary, and MEP entered into a subcontract without incorporating an express requirement that CACI make the records and documentation required to support amounts invoiced available directly to MEP. Indirect cost information was considered by the subcontractors to be proprietary. NCC invoices were uncertified due to NCC's considering use of the submission email to represent certification by the company. MEP could not locate copies of the FedSys certifications.

(Continued)

Recommendation: We recommend that MEP either obtain the documentation necessary to show that CACI adjusted its billing to exclude any overage resulting from the difference between the annual salaries approved by the contracting officer and those rates used in rate calculation or reimburse the Government \$135,318. We further recommend that MEP issue written instruction to individuals tasked with invoice reviews that a) requires invoice reviewers to document the rationale and justification for approving any invoice that does not have all required documentation necessary to complete the full invoice review and obtain management approval of the exception; and b) deliver remedial training to invoice reviewers regarding proper completion of the invoice review form.

Finding 2015-03: Consent to Subcontract and Advance Notification

Material Weakness and Noncompliance

Condition: MEP did not obtain the Contracting Officer's consent to subcontract with any of the 14 subcontractors tested on delivery orders 93 and 108. In addition, MEP did not provide notification to the Contracting Officer in advance of entering into subcontracts with six organizations. **Appendix C** to this report identifies the 14 subcontracts in question.

Consent to Subcontract

In 8 of the 14 eight instances, MEP claimed that it relied upon historical approvals from prior delivery orders. Specifically, MEP relied upon an October 17, 2008, email from an INSCOM Contracting Officer stating, "Consent was given to subcontract and subsequent approvals are not required." The email was provided in response to an October 16, 2008, email in which MEP requests consent to subcontract with six subcontractors "under the new period of performance commencing on 24 September 2007 through 23 September 2009." MEP's request also states that "MEP [had] submitted these subcontractors' costs to your attention as these costs were incorporated into MEP proposals in the contemplation of the issuance of the W911W4-07-D-0010 Contract Delivery Orders for the new period of performance." Neither the period of performance noted nor the delivery orders applicable to the request are pertinent to the delivery orders currently under audit. Therefore, the consent to subcontract provided by the Contracting Officer prior to the issuance of the delivery orders currently under audit are not considered adequate and do not satisfy the applicable FAR requirement.

MEP also noted that the subcontractors were identified in the proposal submitted to INSCOM and, therefore, are considered to have been consented to by the Contracting Officer. However, the Contracting Officer did not identify the subcontractors within the delivery orders as being exempt from the consent requirement or the requirement otherwise not applying to any subcontractors as permitted and provided for in FAR 52.244-2(j). Accordingly, the consent requirement cannot be assumed to have been waived or a deviation from the contractual requirement granted based on a proposal submission.

Advance Notification

MEP considered certain subcontracts to be firm fixed price subcontracts (as noted on the subcontract documents provided) and, due to their total value, understood that advance notification and consent were not required as per FAR 44.201-2. The classification of the six subcontracts as fixed price subcontracts is, however, incorrect. The subcontracts provided for payment of allowable costs incurred, established an estimated total cost per award for purposes of identifying the funded/obligated portion, and also established a ceiling that the subcontractors could only exceed at their own risk without MEP's approval. In addition, amounts billed were a function of the time worked on each award and the associated fixed labor rates. Such an approach is consistent with a cost reimbursement contract as defined in the FAR and, specifically, with time-and-materials or labor hours contracts (when other direct costs or material costs are excluded). The subcontracts did not include a total fixed dollar amount that would be paid to each subcontractor irrespective of actual time and effort used to provide services.

MEP inappropriately relied upon the content of FAR 44.201-2 in determining whether or not to provide advance notification and ultimately to seek consent to subcontract. FAR 44.201-2 is not referenced within MEP's indefinite delivery indefinite quantity contract or the delivery orders and contains different requirements than those referenced in FAR 52.244-2, which is included within MEP's contract. FAR 44.201-2 requires advance notification prior to awarding cost-plus-fixed-fee subcontracts or fixed-price subcontracts that exceed certain thresholds. FAR 52.244-2, which was incorporated in delivery orders 0093 and 0108, requires that advance notification be provided to the Contracting Officer and consent to subcontract be obtained for all cost-reimbursement, time-and-materials, and labor-hour type subcontracts as well as for fixed price subcontracts exceeding five percent of the contract's estimated cost.

Lastly, MEP did not submit all required information to the Contracting Officer in advance of executing new subcontracts with the subcontractors. Specifically, MEP noted that the company did not obtain certified cost or pricing data from the subcontractors and, in six instances, did not notify the Contracting Officer in advance of executing subcontracts.

(Continued)

Criteria: Per Section B.2, *Advance Notification And/Or Consent*, of MEP's Procurement Manual, Procurement Representatives are required to provide advanced notification and to obtain consent from the Contracting Officer prior to issuing a subcontract or purchase order, including any change or modification which meets the threshold for such an action.

FAR 52.244-2, *Subcontracts*, MEP was required to "notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under [the provisions of FAR 52.244-2(b), 52.244-2(c), or 52.244(d)]." The notification is required to include the following information: A description of the supplies or services to be subcontracted; identification of the type of subcontract to be used; identification of the proposed subcontractor; the proposed subcontract price; the subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data; the subcontractor's Disclosure Statement or Certificate relating to CAS, if required by the contract; and a negotiation memorandum.

In addition, FAR 52.244-2 also required MEP to obtain the Contracting Officer's written consent to enter into a subcontract for any cost-reimbursement, time-and-materials, or labor-hour type subcontracts as well as for any fixed price subcontracts that exceed five percent of the total estimated cost of the contract.

DFARS 252.237-7006, *Subcontracting*, states: "The Contractor shall not subcontract any work under this contract without the Contracting Officer's written approval."

Questioned costs: \$53,536,881, inclusive of \$ [REDACTED] in direct costs and \$ [REDACTED] in general and administrative costs.

Reliance on old consents:	\$ [REDACTED]
Corresponding G&A charges:	[REDACTED]
Missing consent to subcontract/advance notification:	[REDACTED]
Corresponding G&A charges:	[REDACTED]
Total Questioned Costs:	<u>\$ 53,536,881</u>

Effect: MEP may have entered into subcontracts with companies to provide services at amounts and with contractual terms and conditions that were contrary to the Government's interests or expectations. In addition, the structure of the subcontracts may have been of a nature (i.e., cost reimbursement) that resulted in greater costs be incurred by the Government than intended or expected.

Cause: MEP operated under an assumption that consents to subcontract received under requests pertaining to previous delivery orders were sufficient to reflect consent to enter into new subcontracts issued under delivery orders 93 and 108. In addition, MEP misinterpreted the contractual and regulatory requirements for obtaining consent and providing advance notification to the Contracting Officer of intent to subcontract. MEP did not obtain certified cost and pricing data due to MEP's subcontractors having asserted that such data was proprietary. Lastly, MEP incorrectly assumed that the presence of a fixed billing rate per unit did not constitute a time and materials or labor hours contract.

Recommendation: We recommend that MEP either provide evidence of the INSCOM Contracting Officer at the time having consented to each subcontract, having obtained and authorized a deviation from the FAR requirement for consent to subcontract, or otherwise reimburse the Government for \$53,536,881.

Finding 2015-04: Foreign Currency Translation

Material Weakness and Noncompliance

Condition: MEP translated transactions denominated in Canadian Dollars and British Pounds using the exchange rate in effect on the date of payment as opposed to the date on which each cost was incurred or by utilizing an average rate. During our review of 27 transactions, all 27 were incorrectly translated thereby resulting in a net overcharge to the Government.

Pursuant to the commercial cost principles, MEP is required to comply with generally accepted accounting principles, which incorporates foreign currency translation requirements within Accounting Standards Codification (ASC) 830. Specifically, MEP is required to use the conversion rate that existed on the transaction date, which is defined as the date at which a transaction (a sale or purchase of merchandise or services) is recorded in accordance with GAAP. Alternatively, GAAP permits the use of average rates to provide for more efficient implementation. MEP did not utilize either approach.

Criteria: The commercial cost principles contained within 48 CFR Part 31 includes the following requirement:

31.201-2 Determining allowability

- (a) A cost is allowable only when the cost complies with all of the following requirements:
 - (1) Reasonableness.
 - (2) Allocability.
 - (3) Standards promulgated by the CAS Board, if applicable, otherwise, generally accepted accounting principles and practices appropriate to the circumstances.
 - (4) Terms of the contract.
 - (5) Any limitations set forth in this subpart.

The requirement goes on to state, "When contractor accounting practices are inconsistent with this subpart 31.2, costs resulting from such inconsistent practices in excess of the amount that would have resulted from using practices consistent with this subpart are unallowable."

ASC 830 states that, "At the date a foreign currency transaction is recognized, each asset, liability, revenue, expense, gain, or loss arising from the transaction shall be measured initially in the functional currency of the recording entity by use of the exchange rate in effect at that date."

The Codification defines "transaction date" as "The date at which a transaction (for example, a sale or purchase of merchandise or services) is recorded in accounting records in conformity with generally accepted accounting principles (GAAP). A long-term commitment may have more than one transaction date (for example, the due date of each progress payment under a construction contract is an anticipated transaction date)."

Questioned costs: \$177,378 in direct costs

Effect: MEP overcharged the Government as a result of the incorrect application of the accounting guidance.

Cause: MEP incorrectly identified the transaction date as the date of payment and had defined the date that a cost is incurred as the invoice date rather than the date that a good is received or a service is rendered as is appropriate under the accrual basis of accounting.

Recommendation: We recommend that MEP require its federal accounting staff to undergo training regarding the correct methodology for applying ASC 830, that MEP document a currency translation process for vendor/subcontractor expenditures, and reimburse the Government for the amount of questioned costs. We further recommend that MEP conduct an analysis of its invoices submitted to the Government for other contracts that may include potential over-billings as a result of the misapplication of GAAP.

Finding 2015-05: Linguist Security Review

Material Weakness and Noncompliance

Condition: Under the terms of delivery orders 0093 and 0108, MEP “shall only be reimbursed for those candidates that successfully complete the security interview or for failed candidates where the contractor has properly completed and documented the required contractor pre-screening of candidates.” Crowe tested a sample to 60 linguists from a population of 10,158 per the linguist listing provided by MEP to determine whether the individuals successfully completed the security review. Of the 60, 21 were US linguists and 39 were Local National Linguists (“LNL”). We obtained copies of both the Local National Linguist Adjudication Result and Counterintelligence Screening Result memoranda from the Theater Linguist Adjudicator and the Senior CI Specialist, respectively, indicating that 18 of the 60 individual(s) passed. Adequate supporting documentation (i.e., memoranda from the Government indicating that linguists passed or failed the screening process, memoranda with pass or fail results from the period of performance or no more than five years prior), or memoranda that provide both first and last names and index back to the population of linguists from which the sample was selected) was not provided for the remaining 42 individuals.

Of the 42 linguists, MEP provided copies of identification (“ID”) badges as support for 18 individuals. However, after analysis, ID badges were determined to be insufficient for purposes of documenting the successful completion of the security review. For one linguist, documentation showing that the individual successfully passed the screening process was dated after the period of performance. For two additional linguists, the memoranda provided did not include adequate information to validate that the individual referenced is the same individual identified within the sample.

The remaining 21 individuals had no evidence or support of successful security screening. MEP provided dates of counterintelligence screening; however, participating in or going through a screening process does not adequately support the outcome of the screening process.

We also did not identify any individuals within the sample for whom evidence of failing the screening process was provided such that pre-screening efforts alone would be sufficient to support the eligibility of costs incurred for reimbursement, in accordance with the terms of the contract.

Criteria: Delivery orders 0093 and 0108 include the following requirement with respect to the eligibility of costs associated with linguists for reimbursement:

2.1.2.5 Successful Review Process

Contractor shall only be reimbursed for those candidates that successfully complete the security interview or for failed candidates where the contractor has properly completed and documented the required contractor pre-screening of candidates. If the contractor cannot demonstrate due diligence for failed applicants, if the contractor does not properly completed and document the required contractor pre-screening, then the cost for candidates who do not successfully complete the entire security interview process will not be allowable or allocable under this contract.

The following FAR provisions present requirements for MEP to retain support for costs claimed on its vouchers:

31.201–2 Determining allowability

- (a) A cost is allowable only when the cost complies with all of the following requirements:
 - (1) Reasonableness.
 - (2) Allocability.
 - (3) Standards promulgated by the CAS Board, if applicable, otherwise, generally accepted accounting principles and practices appropriate to the circumstances.
 - (4) Terms of the contract.
 - (5) Any limitations set forth in this subpart.

The requirement goes on to state, "A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in this subpart and agency supplements. The contracting officer may disallow all or part of a claimed cost that is inadequately supported."

Questioned costs: \$2,342,490 calculated as follows:

Direct Costs Associated with MEP Linguists:	\$	██████████
Direct Costs Associated with MEP Subcontractors' Linguists ⁵ :		██████████
Associated MEP Indirect Costs at a G&A rate of ██████ percent:		██████████

Total Questioned Costs:	\$	<u>2,342,490</u>

Effect: MEP may have hired and deployed linguists that did not successfully complete the review process thus resulting in an increased security risk to U.S. troops and Afghan National Army personnel. In addition, the Federal Government may have been overbilled for services performed under delivery orders 0093 and 0108.

Cause: MEP operated under an assumption that the company was not required to obtain and retain documentation showing that the individuals for whom reimbursement was requested successfully completed the screening process as required by the terms of the delivery orders. MEP also indicated that the Federal Government and/or its contractor did not consistently provide documentation showing a final pass or fail result.

Recommendation: We recommend that MEP either provide evidence showing that each linguist in question successfully passed the full review process or otherwise reimburse the Federal Government for \$2,342,490. We further recommend that MEP establish a process that requires the Company's personnel to submit a request for documentation of successful completion of the screening process prior to invoicing the Government and that the request be maintained as a contract-related record to support decisions to request reimbursement without memoranda demonstrating successful completion of the full screening process.

⁵ MEP did not have access to the subcontractors' costs. The amount has been calculated by multiplying hours billed by the rates noted in the subcontractors' cost proposals.

Finding 2015-06: Related Party Transactions and Subcontract Periods of Performance

Material Weakness and Noncompliance

Condition: MEP utilized Mission Essential Personnel, ULC (or "MEP Canada") to provide linguist services under the contract. The Memorandum of Agreement between Affiliates was executed between MEP and MEP Canada on August 16, 2012. We identified \$ [REDACTED] in transactions for DO 0093 for subperiods ending prior to August 2012. In addition, \$ [REDACTED] in indirect costs were charged to the delivery order as a result of MEP's applying its indirect cost rates to the \$ [REDACTED] in MEP Canada charges.

We requested documentation from MEP that showed the MEP Canada agreement was ratified such that costs incurred prior to execution of the agreement are considered valid and reflect obligations of the company. We also requested that MEP identify the specific document(s) used to complete the two-way match process required by MEP's Accounts Payable Manual prior to payment. MEP did not produce evidence of ratification or otherwise specify which document was used to complete the matching process in order to support the legitimacy of the recorded expenses. In the absence of such support showing that MEP had an obligation to pay MEP Canada such that a legitimate cost existed based on the procedures consistently applied by MEP per its procedures, the costs incurred by MEP Canada prior to August 2012 are in question.

MEP did not have a procedure or policy in place pertaining to related party transactions or agreements with affiliates in 2012. Such procedures are expected to be documented as a means of mitigating additional risk to which MEP may be exposed and to ensure that the applicable transactions are appropriately disclosed in the financial statement.

In addition, during our analysis of subcontracts, we identified seven subcontracts of 15 tested which had periods of performance preceding the subcontracts' execution dates.

Subcontractor	Subcontract	Task Order	Period of Performance		Task Order Execution Date
			From	To	
Atlas Advisors	MEP-11-0007	TO 6	7/1/12	11/20/12	7/24/12
SOSi	AEGIS-07-0007	TO 11	2/9/12	6/30/12	3/2/12
New Century	MEP-11-0006	TO 5	7/1/12	11/20/12	9/4/12
FedSys	MEP-08-0001	TO 8	2/9/12	6/30/12	2/16/12
Veritiss	AEGIS-08-0001	TO 10	2/9/12	6/30/12	2/14/12
CACI	AEGIS-07-0005	TO 13	2/9/12	6/30/12	2/14/12
Valcom	MEP-11-0005	TO 3	2/9/12	6/30/12	2/14/12

(Continued)

Criteria: Section B.25 of MEP's Procurement Manual, *Unauthorized Commitments*, states:

Unauthorized Commitment of Funds

Suppliers who act on unauthorized commitments do so at their own risk; and will be entitled to payment only if the unauthorized commitment is ratified by an individual with authority to commit MEP funds.

Unauthorized commitments violate the MEP Code of Business Ethics and Conduct Guidebook and the MEP Procurement Policy and Procedure Manual.

Noted below are some instances when an unauthorized commitment might occur:

- A purchase is made on behalf of MEP by a person that does not have purchasing authority. This can include cash, personal credit card or verbal transactions.
- A purchase order or a subcontract is placed by the C&P Organization that exceeds their delegated authority.
- A MEP employee authorizes a contractor to start work, or the contractor starts work on their own accord before the contractual document is issued or awarded by a warranted MEP Procurement Representative.
- An invoice is received from a contractor, but no purchase order exists authorizing the items or work described in the invoice.

7. Procedure

Unauthorized Commitment of Funds

Suppliers who act on unauthorized commitments do so at their own risk; and will be entitled to payment only if the unauthorized commitment is ratified by an individual with authority to commit MEP funds.

For all unauthorized commitments exceeding \$25,000, the following approvals are required:

- Pillar Vice President,
- Procurement Representative
- Vice President, C&P
- Chief Financial Officer

MEP's *Accounts Payable Manual, Chapter 3, Invoices*, requires that Accounts Payable review invoices and match the quantity and price of the goods orders as appearing on the invoice against the purchase order and subcontract file.

The commercial entity cost principles located at FAR 31.2 include the following requirements:

31.201-1 Composition of total cost.

(a) The total cost, including standard costs properly adjusted for applicable variances, of a contract is the sum of the direct and indirect costs allocable to the contract, incurred or to be incurred, plus any allocable cost of money pursuant to 31.205-10, less any allocable credits. In ascertaining what constitutes a cost, any generally accepted method of determining or estimating costs that is equitable and is consistently applied may be used.

31.201-2 Determining Allowability

(d) A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in this subpart and agency supplements. The contracting officer may disallow all or part of a claimed cost that is inadequately supported.

Questioned costs: A total of \$3,540,371 represented by \$ [REDACTED] in direct costs and \$ [REDACTED] in associated indirect costs utilizing the [REDACTED] percent G&A rate.

Effect: Permitting work to be performed and/or paying for work performed prior to execution of a contractual agreement increases the risk that costs may be incurred that are considered unallowable or not allocable to the award due to the lack of contractual guidance regarding appropriate costs and required supporting documentation.

In addition, the risk of financial reporting errors is increased due as a formal obligation to pay may not exist in the absence of a written contractual or legal agreement between a buyer and seller at the time services are rendered thus requiring manual determinations to be made with respect to the period during which an expenditure should be recognized.

Cause: MEP considered backdating of the subcontracts to be appropriate in order to prevent delays in service. Because the August 2012 agreement was executed by an appropriate member of management and the period of performance was backdated, MEP considered the authorization to be appropriate. MEP did not provide an explanation for the lack of support pertaining to MEP Canada.

Recommendation: We recommend that MEP identify, locate, and produce supporting documentation showing that the work performed was appropriately authorized by purchase order or subcontract at the time the work was performed and that payments were made or otherwise reimburse the Government for \$3,540,371. We further recommend that MEP develop and adopt a policy pertaining to related party transactions that addresses agreement requirements, supporting documentation requirements, and authorized transaction approvers.

Finding 2015-07: Property Management

Significant Deficiency and Noncompliance

Condition: During testing of 60 property items, it was noted that MEP did not produce a signed copy of the receiving document as referenced within Property Management Procedures section 5 (f) (3), *Acquisition of Contractor-Acquired Property – Receiving*, for the sampled items. MEP provided alternative support for all but 14 items. Further, in the absence of the receiving documentation, Crowe was unable to fully assess the accuracy and completeness of the property records. Based on the documentation provided by MEP and discussions with MEP, it was noted that there were five instances in which the property description was incorrect; ten instances in which the payment method was inaccurate or omitted from the property records; and twenty-seven instances in which the unit price did not match support provided by MEP. Given the inaccuracies noted, the property records cannot be considered reliable or complete. MEP's Afghanistan Property Record dated November 21, 2012, includes \$844,502 of contractor acquired and government furnished property.

Criteria: FAR 52.245-1, *Government Property*, states:

(ii) *Receipt of Government Property.* The Contractor shall receive Government property and document the receipt, record the information necessary to meet the record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of this clause, identify as Government owned in a manner appropriate to the type of property (e.g., stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

(A) Property records shall enable a complete, current, auditable record of all transactions and shall, unless otherwise approved by the Property Administrator, contain the following:

- (1) The name, part number and description, National Stock Number (if needed for additional item identification tracking and/or disposition), and other data elements as necessary and required in accordance with the terms and conditions of the contract.
- (2) Quantity received (or fabricated), issued, and balance-on-hand.
- (3) Unit acquisition cost.
- (4) Unique-item identifier or equivalent (if available and necessary for individual item tracking).
- (5) Unit of measure.
- (6) Accountable contract number or equivalent code designation.
- (7) Location.
- (8) Disposition.
- (9) Posting reference and date of transaction.
- (10) Date placed in service (if required in accordance with the terms and conditions of the contract).

Section 5(f)(3), *Receiving*, of the Property Management SOP states: "Government-furnished or contractor acquired property will be checked by a responsible individual to ensure the quantity, quality, condition and description are as represented. A signed copy of this receiving document will be sent to the Purchasing Manager noting date of receipt and any discrepancies within fifteen (10) business days."

Section 7, *Responsibilities of Property Managers*, of the Property Management SOP states: "All Property Managers are responsible for the care, maintenance, record and control of material in their custody or under their purview."

Questioned costs: \$5,213

Effect: The lack of adequate record keeping for government furnished property increases the likelihood that property may be lost, improperly used, erroneously valued, or not maintained. In addition, in the absence of adequate receiving and disposition support, the risk that the Government will be billed for items that were not received is increased.

Cause: The property management oversight process, as designed, was ineffective as it did not result in detection of the referenced errors.

(Continued)

Recommendation: Management should review its record keeping process and establish a process to periodically review the contents of GFP records and to ensure that receiving supporting documentation is adequate and retained. Further, we recommend that MEP proceed with its current plans to automate the property management system. Lastly, we recommend that MEP either locate additional support to show that the items in question were received or otherwise reimburse the Government for the associated \$5,213.

Finding 2015-08: Unauthorized Private Security Company

Noncompliance

Condition: Rauf Aziz Construction Company ("RACC") provided \$[REDACTED] in security (i.e., armed security guards) and vehicle rental services to MEP under delivery order 0108, which included work from July through November 2012. In addition to RACC's direct service costs, MEP charged \$[REDACTED] in indirect costs through application of its indirect cost rates to the RACC direct cost amount. Afghanistan Presidential Decree 62, issued in 2010, required the disbanding of private security companies and established the Afghanistan Ministry of Interior ("MoI") as the agency responsible for implementation. The MoI established March 2012 as the month by which full transition from private security companies was required to be completed unless a license was granted permitting additional time for transition. MEP was unable to provide a copy of the agreement with RACC and also did not provide evidence of RACC's having been licensed to provide private security services in Afghanistan after March 2012. Through review of the Afghan Government's business license systems, it was noted that RACC was not identified as being licensed to provide security services.

Further, during review of RACC's quotes and those provided by other vendors (Farhad Afghanzai Transportation Limited and Royal Swift Logistic Services), it was noted that RACC had the highest total price. A cost-price analysis or other such documentation to specify why the vendor was selected was not provided. Therefore, the reasonableness of the cost and the eligibility of the activity to be funded by Federal monies are in question.

Criteria: Article 5 of Afghanistan Presidential Decree #62 states:

"The internal and external private security companies that are not registered in MoI and established arbitrary, should be abort as illegal security companies and their supplies and military equipments to be confiscated in accordance to the law. [sic]"

Section 2.2, *Deployment*, within the Performance Work Statement appended to DO 108 states:

All personnel, including subcontractors, shall comply with all (i) Battlefield Services, Department of Defense, regulations, directives, instructions, policies, and procedures, in particular AR 715-9 and FM 3-100.21, (ii) US Host Country, local and international laws and regulations and (iii) treaties and international agreements (e.g. Status of Forces Agreements, Host Nation Support Agreements, and Defense Technical Agreements), that are applicable to the contractor in the area of operations.

The commercial cost principles located within FAR 31.2 include the following requirements:

31.201-2 Determining allowability

(a) A cost is allowable only when the cost complies with all of the following requirements:

- (1) Reasonableness.
- (2) Allocability.
- (3) Standards promulgated by the CAS Board, if applicable, otherwise, generally accepted accounting principles and practices appropriate to the circumstances.
- (4) Terms of the contract.
- (5) Any limitations set forth in this subpart.

31.201-3 Determining reasonableness

(a) A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business. Reasonableness of specific costs must be examined with particular care in connection with firms or their separate divisions that may not be subject to effective competitive restraints. No presumption of reasonableness shall be attached to the incurrence of costs by a contractor. If an initial review of the facts results in a challenge of a specific cost by the contracting officer or the contracting officer's representative, the burden of proof shall be upon the contractor to establish that such cost is reasonable.

Questioned costs: \$[REDACTED] in direct charges and \$[REDACTED] in indirect costs totaling \$28,725

Effect: MEP may have utilized an unauthorized security company to provide armed guards and may have overcharged the Government for the applicable costs.

(Continued)

Cause: MEP relied upon a March 2011 letter from a colonel recommending the President of RACC for a chief of mission program in support of the company's decision to engage RACC. MEP indicated that a purchase order was not issued for RACC such that one cannot be produced.

Recommendation: We recommend that MEP either locate evidence of RACC's registration from the Ministry of the Interior to serve in a security capacity and locate a copy of the documentation authorizing MEP to incur costs for RACC's services under the delivery order in accordance with the requirements of the procurement policy or otherwise reimburse the Government for \$28,725.

Finding 2015-09: Subcontractor Suspension and Debarment Certifications

Significant Deficiency and Noncompliance

Condition: During the testing of 21 procurements, 18 purchase orders and/or subcontracts were required to have certifications from the subcontractors regarding their suspended or debarred statuses at the time of award as per FAR 52.209-6. As noted in MEP's memoranda provided for audit, MEP did not obtain the required certifications for any of the 18 subcontractors. MEP utilizes an annual representations and certifications process; however, the process is not designed in a manner that would ensure compliance with the provisions of the FAR. Specifically, the process, as designed, would result in MEP's being made aware of an exclusion after the fact which would prevent the required advance notification to the Contracting Officer.

Of the 18 subcontractors, one organization (Rauf Aziz Construction Company) was noted as having been excluded as of February 2013. Historical information is unavailable to demonstrate whether or not the organization was excluded or proposed for exclusion at the time MEP entered into an agreement with the entity. A copy of MEP's agreement with Rauf Aziz Construction Company was unavailable and MEP did not provide support to show that a search of the Excluded Parties List System (EPLS) or the System for Award Management was performed prior to entering into an agreement.

Lastly, of the 21 procurements selected for testing, MEP did not provide evidence of an EPLS search having been performed prior to making an award to six subcontractors.

Criteria: Per FAR 52.209-6, *Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment*, "The Contractor shall require each proposed subcontractor whose subcontract will exceed \$30,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government." The Contractor is then required to "notify the Contracting Officer, in writing, before entering into a subcontract with a party" regarding the organization's name, reasoning for the exclusion or proposed debarment, and the compelling reason to do business with the company.

Section D.2, *Debarment, Suspension and Ineligibility of Suppliers*, of MEP's internal procedures states:

It is a MEP policy that prior to the execution of a procurement equal to or in excess of the thresholds cited in Section 6 of this Procedure, the MEP C&P Organization shall verify that the supplier is not currently listed in the most current update to the Internet at <https://www.epls.gov/> on the U.S. Government's "Excluded Parties List System (EPLS)" Web site home page.

Questioned costs: \$[REDACTED] in direct costs and \$[REDACTED] in indirect costs totaling \$28,725

Effect: MEP may have entered into or provided Federal funding to an organization that was proposed for exclusion. In addition, the likelihood that MEP will unknowingly enter into an agreement with an excluded party is enhanced.

Cause: MEP misinterpreted the regulatory requirement pertaining to certifications by subcontractors.

Recommendation: We recommend that MEP either obtain documentation indicating that Rauf Aziz Construction Company was not excluded or proposed for exclusion at the time of award or reimburse the Government for the \$27,150 that was submitted for reimbursement. We further recommend that MEP issue a written instruction to procurement and contracting staff advising them of the FAR 52.209-6 requirement.

SECTION 2: SUMMARY SCHEDULE OF PRIOR AUDIT, REVIEW, AND ASSESSMENT FINDINGS

Crowe reviewed one report issued by the Inspector General for the United States Department of Defense, three reports issued by the Defense Contract Audit Agency ("DCAA"), and MEP's financial statement audit report for the year ended December 31, 2012. Per review of the reports, we identified two items that required follow-up as they may have been direct and material to the SPFS. A summary of the results of follow-up procedures is included, below.

Audit Report No. 1701-2012E11010001 issued by DCAA dated June 19, 2013

Nature of the Audit Finding: DCAA reported an audit finding stating that MEP (1) does not adequately review subcontractor billings to determine that current direct and indirect rates are used; (2) does not adequately review subcontractor billings to determine that submitted labor hours are correct; (3) does not adequately review subcontractor billings to determine that Other Direct Costs (ODCs) are supported; and (4) does not adequately review subcontractor billings to determine whether subcontractor invoices exceed ceiling and funded amounts per the subcontract.

Status: Crowe selected a sample of transactions for testing, inclusive of subcontractor invoices. During our analysis of subcontractor invoices, we noted that inadequate supporting documentation existed to determine that current, accurate direct and indirect rates were used and that invoice amounts were correct. In addition, we noted that the subcontractor invoice checklist referenced by management included notations pertaining to indirect cost rates having been verified or otherwise validated; however, MEP did not provide support for the conclusion noted on the checklists. Therefore, the corrective action taken by MEP does not appear to be adequate. See Finding 2015-02 of our report for additional information pertaining to the subcontractor invoice matters noted.

Audit Report No. 1701-2012E13500001 issued by DCAA dated August 2, 2012

Nature of the Audit Finding: DCAA reported seven deficiencies within its audit report based on floor checks, which included: 1) a lack of current timesheets; 2) timesheets having been completed in advance; 3) employee time charges not being supported by work authorizations; 4) employee signatures not aligning with time keeping practices; 5) supervisory reviews not having been documented in accordance with time keeping practices; 6) timesheets not having been completed in accordance with policies; and 7) timesheets not reconciling to labor distributions.

Status: To assess the adequacy of corrective action taken with respect to this matter, Crowe conducted testing of labor charges, inclusive of analyzing timesheets and corresponding labor cost distributions. During our procedures, we did not identify any errors.

APPENDIX A: VIEWS OF RESPONSIBLE OFFICIALS

May 25, 2016

Crowe Horwath LLP
10 W. Broad Street, Suite 1700
Columbus, OH 43215

Ladies and Gentlemen,

Introduction

On March 16, 2015, the Office of the Special Inspector General for Afghanistan Reconstruction (“SIGAR”) notified Mission Essential Personnel, LLC (“Mission Essential”) that SIGAR would be conducting a “financial audit of costs incurred under U.S. Department of Defense (DOD), contract no. W911W407-D-0010, Task Orders 93 and 108, awarded to Mission Essential Personnel, LLC for the period February 9, 2012 through November 20, 2012.” Contract No. W911W407-D-0010 is herein referred to as the “Contract,” and the relevant delivery orders are referred to as “DO93” and “DO108,” respectively.

On August 15, 2015, the audit firm of Crowe Horwath, LLP (“Crowe”) notified Mission Essential that it would be conducting the aforementioned audit on behalf of SIGAR. An entrance conference was held by Crowe at Mission Essential’s offices in New Albany, Ohio on August 26, 2015, with representatives of SIGAR and the United States Army Intelligence and Security Command (“INSCOM”) joining the meeting via conference call.

Crowe conducted fieldwork for the audit over the course of the next several months. Crowe held an exit conference at Mission Essential's offices in New Albany on February 17, 2016. Representatives of SIGAR and INSCOM attended the exit conference, either in person or via conference call.

On May 2, 2016, Crowe delivered a copy of its draft audit report to Mission Essential for review and requested Mission Essential submit its management response by May 20, 2016. The submission date was subsequently revised to May 25, 2016. This letter is Mission Essential's management response.

Crowe identified nine findings in its draft audit report. Mission Essential does not concur with any of the findings made by Crowe, and this response provides Mission Essential's position as to each finding in order of Finding Number. As part of Mission Essential's response, we have attached a detailed letter from Arnold & Porter LLP (the "A&P Letter"), which outlines the legal and factual reasons as to why several of Crowe's findings lack merit. This comprehensive, third-party analysis, as well as all accompanying and previously provided exhibits, are incorporated herein.

Response to Draft Findings

Crowe Finding 2015-01

Crowe, in Finding 2015-01, questions \$9,774,172 of cost incurred by two subcontractors performing on the Contract: FedSys, Inc. ("FedSys") and New Century Consulting, Ltd ("NCC"). The basis for the questioned costs, according to Crowe, is that Mission Essential failed to obtain certified cost and pricing data for those two subcontractors in performance of DO93 and DO108. Mission Essential does not concur with this questioned cost.

Crowe's position, at bottom, ignores the commercial reality of Mission Essential's business: a contractor's indirect rates are proprietary information, which both Mission Essential and its subcontractors (as well as competitors) zealously guard. This undeniable fact is the very reason for section 215.404-3(a) of the DFARS Procedures, Guidance, and Information ("PGI"). That section provides that a contracting officer should consider audit "assistance to prime contractors when they are being denied access to lower-tier subcontractor records." Indeed, field assistance for prime contractors is completely appropriate when, among other things, "[t]here is a business relationship

between the contractor and the subcontractor not conducive to independence and objectivity,” or “the contractor has been denied access to the subcontractor’s records.” *Both* of those instances apply here. FedSys and NCC, though subcontractors to Mission Essential, are, by their nature, also industry competitors. The relationship, in the parlance of the PGI, is not one “conducive to independence and objectivity.” Moreover, both subcontractors denied Mission Essential access to the very information sought here. There is nothing inappropriate about relying upon assist audits in this situation.

But Crowe’s mistake does not stop with its omission of the PGI. Crowe asserts in its report that “[Mission Essential] indicated that [it] did not possess documentation sufficient to support the accuracy, completeness, reasonableness, or currency of the wrap rates utilized by FedSys and NCC in their cost and pricing evaluation.” This statement is factually false. Mission Essential does, in fact, possess documentation supporting the accuracy, completeness, reasonableness, and currency of the questioned wrap rates. The following facts show that Crowe’s position is baseless.

First, MEP performed a comparative analysis of all subcontractors’ wrap rates. This analysis demonstrated, beyond dispute, that both FedSys and NCC’s wrap rates were reasonable and in line with the average wrap rates *of all 18 subcontractors on the contract*. Though the questioned rates are proprietary, Crowe, through SIGAR, requested that each of the questioned subcontractors provide pricing information directly to Crowe as a part of this audit. All subcontractors, save NCC and FedSys, responded to the audit. Having reviewed the subcontractors’ proprietary data, Crowe now concedes, *with respect to all subcontractors reviewed*, that it “did not identify any linguist costs that were considered to be unreasonable or otherwise inappropriately supported” This was the same conclusion Mission Essential arrived at upon completion of the price analysis on all the subcontractors at the time of award—including FedSys and NCC. It would appear, in other words, that the only reason Crowe questions these costs is because neither FedSys nor NCC chose to disclose proprietary information to Crowe. In the face of the PGI and established industry practice, a third-party’s failure to voluntarily disclose proprietary information is a slender reed upon which to base questioned costs of more than \$9M.

Second, the Defense Contract Audit Agency (“DCAA”) reviewed and approved all invoices submitted under DO93, and all but three on DO108 following DCAA’s decision to switch to a sampling method of invoice review. Moreover, in addition to DCAA, INSCOM reviewed and approved all invoices submitted by Mission Essential for reimbursement during the period under audit. Mission Essential’s invoices contained all required supporting documentation provided by Mission Essential’s subcontractors, including both FedSys and NCC.

Third, both FedSys and NCC were specifically identified by INSCOM’s February 2012 Justification and Approval for other than full and open competition (the “J&A”) as

being Mission Essential subcontractors. The signatures on the J&A memo included the Head of Contracting Authority and numerous other agency officials. The details of the J&A, and its legal implications, are more thoroughly set forth at pages 17-18 of the A&P Letter.

Fourth, both FedSys and NCC, as well as the proposed costs for each, were identified by Mission Essential as subcontractors in the proposals that Mission Essential submitted to INSCOM for DOs 0093 and 0108. INSCOM accepted both proposals.

Crowe contends that, as an effect of this finding, there is an increased likelihood that “subcontractors will pass unreasonable costs through to the prime contractor.” Crowe’s failure to acknowledge the PGI, not to mention the other facts provided in this response, renders this effect nothing more than illusory. Since all subcontractors’ direct and indirect costs are subject to DCAA audit, and as each subcontractor reaches final indirect rate agreements with the government (just as Mission Essential does), there is no risk.

Crowe Finding 2015-02

Crowe questions \$135,318 of cost incurred by one subcontractor, CACI International, Inc. (“CACI”), on the grounds that Crowe believes that CACI may have “overbilled” Mission Essential and the government in performance of DO 93 and DO108. According to its draft audit report, Crowe “calculated the difference” by using estimates of a derivation of linguist salaries and INSCOM’s “approved salary limits.” Mission Essential does not concur with this questioned cost. The hourly rates billed by CACI were, in fact, current, accurate, complete, and reasonable. Mission Essential supports this by several specific facts.

First, the DCAA reviewed and approved all Mission Essential invoices submitted under DO93, and all but three on DO108 following DCAA’s decision to switch to a sampling method of invoice review. Second, in addition to DCAA, INSCOM reviewed and approved all invoices submitted by Mission Essential for reimbursement during the period under audit. Mission Essential’s invoices contained all required supporting documentation provided by MEP’s subcontractors, including CACI. Third, Crowe provides no support for how it estimated the difference between “the hourly rates that would have existed when employing the approved salary limits” and the billing rates used by CACI. It is unclear if, during its calculation, Crowe factored in essential elements of CACI’s allowable and reimbursable costs, such as INSCOM-approved merit increases in salary, Defense Base Act insurance and Other Direct Costs (“ODCs”), and the effect of

site-specific burdens on CACI's hourly billing rates. Fourth, as validated by CACI themselves, all linguist labor categories were priced and invoiced at the base salary levels agreed upon by INSCOM, plus applicable INSCOM-approved merit increases. Fifth, Mission Essential received approval and authorization to reimburse CACI for its costs as invoiced to Mission Essential by Mission Essential's cognizant Administrative Contracting Officer ("ACO") from the Defense Contract Management Agency ("DCMA") who stated in an email dated October 17, 2012 in reference to CACI's invoices, "I've looked at the following invoices and other related documents and I find no reason why they should not be paid. They appear to be billing iaw their Govt approved billing rates and this subcontractor has an approved accounting system."

Crowe contends that, as an effect of this finding, it is possible that "the Government may have been overbilled by the subcontractor." That is simply inaccurate and entirely unsupportable. Since all subcontractors' direct and indirect costs are subject to DCAA review and subsequent audit, and as each subcontractor reaches final indirect rate agreements with the government (just as MEP does), there is no risk.

Crowe Finding 2015-03

Crowe, via Finding 2015-03, questions \$53,536,881 of cost incurred by Mission Essential's subcontractors. According to Crowe, Mission Essential failed to obtain the requisite consent to subcontract from the government, and, further, Mission Essential did not give advance notification to the government regarding its subcontracting relationships. Mission Essential does not concur with this questioned cost, and the finding is, at best, specious. Crowe's finding inexplicably ignores a basic legal premise of government contracting: *A contracting officer has authority to administer a contract on behalf of the government.* See generally A&P Letter at 13-17. As part of administering the Contract, INSCOM's contracting officer, following a Mission Essential request for consent to subcontract, responded with approval and succinctly stated that "subsequent approvals *are not required.*" It is hard to understand how else to interpret the contracting officer's direction, and the decision, of course, was entirely within his discretion as the responsible contracting authority. Nonetheless, and illustrating its understanding of the requirement, Mission Essential proceeded to submit a request to subcontract *for each and every new subcontractor that it brought onto the Contract* for later delivery orders.

Crowe claims that the quoted email is not "pertinent to the delivery orders currently under audit." That is a mistaken conclusion and reflects only Crowe's

preference for how *it* would have administered the Contract. Yet whether Crowe agrees with how the contracting officer administered this Contract is quite beside the point. *See* A&P Letter at 15 (“Regardless of whether Crowe Horwath believes Contracting Officer Isgrigg’s decision reflects the best approach, the Contracting Officer acted within his actual authority to administer the OEF-A Contract . . .”). The uncontroverted facts show that the email represents a reasonable and unrevoked exercise of the contracting officer’s discretion. Nothing more.

Were the specific direction of the contracting authority not enough, INSCOM, just eight days before the start of DO93, issued the J&A. In that J&A, INSCOM identified – *by name and personnel level* – 10 of the 14 subcontractors that Crowe has questioned. Those subcontractors were identified not just as team members, *but as part of the reason why Mission Essential must be allowed to continue the work on the soon-to-be-awarded DO93*. Nine officials at INSCOM, including the contracting officer, the Head of Contracting, and the Assistant Secretary of the Army and Senior Procurement Executive, signed the J&A recognizing Mission Essential’s use of these particular subcontractors. The idea that Mission Essential’s use of these subcontractors was potentially “contrary to the Government’s interests or expectations,” as Crowe asserts, lacks credibility. *See also* A&P Letter at 17 (the signatories “leav[e] no doubt that the Contracting Officer and other authorities at INSCOM knew that – and consented to the fact that – Mission Essential subcontracted under the OEF-A Contract.”).

Additionally, Mission Essential’s proposals for both DO93 and DO108 identified the required subcontractors, with 13 of the 14 including data regarding subcontractor name, cost, and type. Mission Essential also has memos to its subcontractor files for five of the entities indicating that, because of the contract type and value, compliance with FAR 52.244-2 (describing consent to subcontract) was not required. *See also* A&P Letter at 19-21.

Crowe’s position, it appears, is that FAR 52.216-18, Ordering, required consent for each individual delivery order. The contracting officer, of course, did *not* view the Contract this way. His reasonable directive to Mission Essential to not submit future consents for the *same work* by the *same subcontractor* in the *same location* wholly undercuts Crowe’s position.

The A&P Letter, moreover, offers exacting details as to why Crowe’s finding is both legally and factually unsupportable:

INSCOM more than once approved of Mission Essential's subcontracting practices and did not require specific prior written consents with each subcontractor for each DO. The Contracting Officer provided Mission Essential with a blanket consent for all future subcontracts under each DO in the 2008 email. This email also directed Mission Essential to cease

submitting individual requests for consent to subcontract. Subsequent to the 2008 Contracting Officer email and prior to the periods of performance for DOs 0093 and 0108, INSCOM discussed in numerous J&As Mission Essential's continued subcontracting under the OEF-A Contract, and elected to continue funding Mission Essential's efforts by increasing the Contract's funding ceiling. Then, INSCOM accepted Mission Essential proposals for DO 0093 and DO 0108, both of which explicitly listed the names, estimated costs, and fees of Mission Essential's subcontractors. By accepting those proposals, the Agency provided consent once again for Mission Essential to subcontract. Finally, Mission Essential obtained written consent prior to working with subcontractors when contractually required, including those that Crowe Horwath indicated it may question.

As Mission Essential performed DOs 0093 and 0108, it submitted invoices to INSCOM. Those invoices included Mission Essential's actual subcontracting costs. DCAA reviewed and approved all of Mission Essential's invoices for DO 0093. Even though DCAA switched to a sampling method while reviewing the invoices for DO 0108, DCAA still reviewed all but three of the DO 0108 invoices. DCAA approved every one of the invoices it reviewed. In light of these DCAA approvals, INSCOM paid Mission Essential's invoices, including the disclosed subcontracting costs.

No dispute exists as to whether the Government received the services it ordered under DO 0093 and DO 0108. This is not a case of waste, fraud, or abuse. Mission Essential had ample approval from INSCOM to subcontract during performance of DO 0093 and DO 0108, and INSCOM consented to Mission Essential's subcontracts both prior to, during, and after performance of these DOs.

A&P Letter at 23-24. All of this shows that Crowe's finding is unsupportable and misguided.

Crowe asserts that, because of this purported finding, "MEP may have entered into subcontracts with companies to provide services at amounts and with contractual terms and conditions that were contrary to the Government's interests or expectations. In addition, the structure of the subcontracts may have been of a nature (i.e., cost reimbursement) that resulted in greater costs be [sic] incurred by the Government than intended or expected." This effect is entirely imaginary. It is hard to see how Mission Essential's subcontractor relationships could somehow be contrary to the Government's "interests or expectations" when: (1) the Contracting Officer instructed Mission Essential not to submit future consents for already-approved subcontractors; (2) INSCOM relied

upon those very subcontractor relationships in executing the J&A; and (3) Mission Essential provided detailed proposals for both audited delivery orders identifying particular subcontractors and costs. As clearly and unequivocally described above, there was no risk to the government based on Mission Essential's subcontracting practices.

Crowe Finding 2015-04

Crowe questions \$177,378 of cost incurred by Mission Essential related to foreign currency conversion. Mission Essential does not concur with this questioned cost. In performing DO93 and DO108, Mission Essential used several foreign vendors and, accordingly, was required to convert foreign currency into U.S. dollars before invoicing INSCOM. Mission Essential, contrary to Crowe's finding, used a GAAP-compliant method for foreign currency conversion.

Crowe contends that Mission Essential's currency conversion process violated the principles of GAAP. Not so. A bedrock principle of GAAP is materiality: an accounting principle can be ignored when the net impact "has such a small impact on the financial statements that a reader of the financial statements would not be misled." A&P Letter at 25 n.6. The questioned cost here are, by any conceivable calculation, immaterial to the total costs incurred for DO93 and DO108. Crowe, however, maintains that it has a "zero-materiality" threshold for SIGAR audits. While this may be true, it is utterly irrelevant: *A "zero-materiality" standard is itself not GAAP-compliant.* One cannot, on the one hand, claim to follow GAAP, while on the other hand ignore one of GAAP's central tenets. If a transaction is not material (as here), GAAP simply does not apply and there is no basis to question the costs.

Crowe's position, moreover, could very easily lead to an impermissible result. Specifically, if Mission Essential were to follow Crowe's guidance – that is, calculate an average conversion rate for a given month based on a month's worth of daily rates – then Mission Essential could potentially bill INSCOM *more* than what it actually paid to a foreign vendor in a given month. A&P Letter at 27 (describing in detail how Crowe's methodology could lead to Mission Essential overbilling INSCOM). Mission Essential's approach – which is to use the conversion rate on the date it pays a foreign invoice – avoids any such result and is consistent with GAAP in this circumstance.

Even applying Crowe's conversion rate method, the foreign currency exchange rate costs incurred by MEP would likely constitute reimbursable direct costs. A&P Letter at 28-29. In the end, the result for INSCOM would have been the same. Simply put: *INSCOM would likely have paid the same amounts to Mission Essential regardless of the conversion methodology used.*

As noted above regarding other subcontractors, the DCAA reviewed and approved all invoices submitted under DO93, and all but three on DO108 following DCAA's decision to switch to a sampling method of invoice review. In addition to DCAA, INSCOM reviewed and approved all invoices submitted by Mission Essential for reimbursement during the period under audit. Mission Essential's invoices contained all required supporting documentation provided by Mission Essential's subcontractors, including those subject to foreign currency conversion.

Crowe purports that, as an effect of this finding, "MEP overcharged the Government as a result of the incorrect application of the accounting guidance." As demonstrated, this effect does not exist. This erroneous conclusion is directly contradicted by Mission Essential's correct and appropriate application of GAAP, CAS, and the FAR.

Crowe Finding 2015-05

In this finding, Crowe questions \$2,342,490 of cost incurred by Mission Essential related to linguist security review. Mission Essential does not concur with this questioned cost. As background, these questioned costs relate to two different types of linguists: local national linguists ("LNLs") and U.S.-hire linguists. Each will be addressed in turn.

With respect to LNL security screening, the A&P Letter sets forth Mission Essential's position in detail. A&P Letter at 29. In summary, however, the government delegated LNL screening to a third party, KBR, Inc. ("KBR"). KBR performed the work pursuant to a different government contract, one to which Mission Essential was *not* a party. Accordingly, Mission Essential was not privy to the data compiled by KBR. Rather, Mission Essential retained the services of LNLs once they passed KBR's screening process and received access badges. For Mission Essential, the existence of the LNL's badge was proof that the individual had passed the requisite screening. Crowe's finding ignores the basis by which LNLs obtained the badges. As the A&P Letter states:

"Government designated personnel" screened Mission Essential's LNLs. INSCOM designated the personnel to screen Mission Essential's LNLs by entering into a contract separate from the OEF-A Contract; INSCOM contracted with KBR to screen all CAT I LNLs. Mission Essential understands that KBR entered the screening information into the BATs system and then destroyed all supporting documentation. Mission Essential further understands that INSCOM oversaw KBR during this process, and paid KBR for screening the LNLs.

Mission Essential never had responsibility for maintaining screening documentation. Moreover, KBR never provided Mission Essential with copies of the documentation it created. It is therefore proper and unsurprising that Mission Essential does not have the screening documentation for the LNLs.

A&P Letter at 29. There is, accordingly, no basis to conclude that LNLs did not undergo proper screening based upon a purported lack of Mission Essential documentation.

As related to U.S.-hire linguists, the finding is equally baseless for two simple reasons. First, during the audit, Mission Essential verified that *all* U.S.-hire linguists sampled by Crowe were appropriately CI-screened. This verification was provided by INSCOM Contracting Officer Representative, Cory Damm. Second, Mission Essential demonstrated to a member of the Crowe audit team that *all* U.S.-hire linguists sampled by Crowe who required a security clearance (*i.e.*, CAT II and CAT III linguists) were shown to have the applicable and appropriate security clearance in the government security clearance database, the Joint Personnel Adjudication System (“JPAS”). Given this proof and confirmation, Crowe’s assertion that Mission Essential did “not adequately support the outcome of the screening process” shows either unfamiliarity with the security clearance process or a refusal to consider the plain facts of the audit.

Crowe contends that, because of this finding, “MEP may have hired and deployed linguists that did not successfully complete the review process thus resulting in an increased security risk to U.S. troops and Afghan National Army personnel.” This is simply wrong. Mission Essential clearly and fully demonstrated, through the Government’s own JPAS system (and beyond any dispute), *that each and every one* of its U.S.-hire linguists possessed the requisite security clearance. Moreover, INSCOM *separately validated* that each U.S.-hire linguist received the required CI screening. Further, each LNL went through the applicable CI screening provided by “Government designated personnel” (*i.e.*, KBR) as demonstrated by either a record of the screening completion or issuance of a government-issued badge. Any allegation that a Mission Essential linguist “did not successfully complete the review process” lacks support, and Crowe’s statement that Mission Essential’s practice “increased security risk to U.S. troops and Afghan National Army personnel,” aside from being demonstrably false, borders on defamatory.

Crowe Finding 2015-06

Crowe questions \$3,540,371 of cost incurred pertaining to Mission Essential Personnel, ULC (“Mission Essential Canada”) related to performance on DO93 and DO108. Mission Essential does not concur with this questioned cost.

Mission Essential disagrees with the premise of this finding, which presumes that Mission Essential’s subcontract with its Canadian subsidiary (as well as the other subcontracts and agreements identified by Crowe in the finding) meets the definition of “Unauthorized Commitment of Funds” consistent with the Mission Essential Procurement Policy and Procedure Manual (“Procurement Manual”). That is a mistaken conclusion, and the transactions at issue do not constitute an unauthorized commitment of funds.

Section B.25.6 of the Mission Essential Procurement Manual defines “Unauthorized Commitment of Funds” as follows:

Unauthorized Commitment of Funds – An “Unauthorized Commitment” means “an agreement or purchase that is not binding solely because the MEP employee who made it lacked the authority to enter into that agreement on behalf of MEP.” MEP does not recognize the concept of apparent authority in the execution of its procurement activities. The only individuals who can bind MEP are authorized Procurement Representatives and purchase cardholders acting within the limits of their delegated authority. (Emphasis added.)

Mission Essential’s policy statement on the matter, which precedes this definition in the Procurement Manual, provides as follows:

It is a MEP policy that MEP employees outside of the C&P Organization are prohibited from making commitments on behalf of MEP to a supplier. Only C&P personnel are granted authority to make contractual commitments on behalf of MEP. Furthermore, it is a MEP policy that an individual that makes an unauthorized commitment must submit documentation to justify the reason for the unauthorized commitment. (Emphasis added.)

When read as a whole, Mission Essential’s Procurement Manual clearly defines when the provisions of the Procurement Manual for an Unauthorized Commitment of Funds apply. Here, for each questioned subcontractor, *the commitment of funds was made by an authorized member of the Mission Essential’s Contracts and Procurement (“C&P”) organization.* Crowe does not contend to the contrary. Therefore, the definition of Unauthorized Commitment of Funds does not apply in any of these situations, and, in

turn, there is no legal need for Mission Essential to ratify the transactions. The engagement of these subcontractors complies with Mission Essential's Procurement Manual.

Additionally, because Mission Essential was contractually obligated to provide continuity of services to the military units on the ground in Afghanistan, Mission Essential's C&P organization verbally authorized certain subcontractors to proceed on task orders in support of DO93 and DO108 while the formal business documents were being finalized and executed. Again, this process in no way violated the Procurement Manual or the business ethics policy.

Finally, as with many of Crowe's other findings, the DCAA reviewed and approved all invoices submitted under DO93, and all but three on DO108 following DCAA's decision to switch to a sampling method of invoice review. INSCOM also reviewed and approved all invoices submitted for both delivery orders. Mission Essential's invoices contained all required supporting documentation provided by Mission Essential's subcontractors, including those questioned here.

Crowe contends that, as an effect of this finding, it is possible that Mission Essential could "[p]ermit[] work to be performed and/or pay[] for work performed prior to execution of a contractual agreement [and] increase[] the risk that costs may be incurred that are considered unallowable or not allocable to the award due to the lack of contractual guidance regarding appropriate costs and required supporting documentation." The effect, as shown herein, is improper because Crowe's premise for the finding is simply incorrect.

Crowe Finding 2015-07

Crowe questions \$5,213 of cost incurred by Mission Essential related to property management. Mission Essential does not concur with this questioned cost for several reasons. First, Mission Essential cannot determine the basis for the questioned amount of \$5,213 as Crowe did not provide the detail to support that figure. Second, from analysis of Crowe's finding, only one item on Crowe's list of exceptions was actually billed as direct cost to INSCOM on DO93 and DO108. Third, this one item, described as an "EZ - Bridge Point to Point Wireless Bridge System for Bagram" is clearly documented to have been shipped to Bagram and received by Mission Essential.

Crowe purports that, as an effect of this finding, “the risk that the Government will be billed for items that were not received is increased.” Yet Mission Essential has documentation showing that the item was shipped to Bagram and received by Mission Essential. This erroneous conclusion is unsupported since there is no evidence that the one item in question on the subject delivery orders was not received.

Crowe Findings 2015-08 and 2015-09

Crowe questions \$ [REDACTED] of cost incurred by a Mission Essential vendor, Rauf Aziz Construction Company (“RACC”), asserting that Mission Essential’s use of RACC violated Afghan Presidential Directive 62 (“PD-62”). Crowe also questioned the same cost incurred by RACC on the basis that “[h]istorical information is unavailable to demonstrate whether or not the organization was excluded or proposed for exclusion at the time MEP entered into an agreement with the entity.” Mission Essential does not concur with this questioned cost.

Crowe’s finding, as it pertains to the PD-62, is incorrect. Mission Essential engaged RACC to provide transportation and security services to Mission Essential’s transition team as it traveled from Kandahar Air Field (KAF) to various Forward Operating Bases (FOBs) in October 2012 to prepare for the transition from the OEF-A contract to the newly awarded DLITE contract. The use of RACC to provide this service was appropriate and reasonable, and RACC was the *only* vendor who could provide the highest level of security and transportation assurance to all FOB locations.

Because of this situational reality, government contracting officers were also using RACC to provide the exact same transportation and security services during this same time period to travel to the same FOBs. Although the Afghan Public Protection Force (“APPF”) was scheduled to have transitioned to it the security services contemplated, parties could not rely upon the APPF to provide transportation and/or security services at that time. This is clearly documented by the Department of Defense’s Report to Congress entitled, “Progress Toward Security and Stability in Afghanistan,” dated July 2013. The report states the following about the transition of security services to the APPF in accordance with PD-62:

The process of transitioning security responsibility to the APPF was not completed by March 20, 2013, as the APPF was still building the capabilities necessary to meet transition requirements. In light of this delay, ISAF and MoI agreed to implement a bridging strategy for ISAF fixed sites, mobile security and development projects. The bridging strategy, which extends to December 31, 2014, is a conditions-based GIRoA program that would allow for continuity with no gaps in security.

The MoI and ISAF will conduct assessments of the capability and capacity of the APPF and the effectiveness of the bridging strategy every six months until it is no longer necessary. (Emphasis added.)

Crowe purports that, as an effect of this finding, “MEP may have utilized an unauthorized security company to provide armed guards and may have overcharged the Government for the applicable costs.” The costs incurred by Mission Essential’s use of RACC were reasonable and consistent with actual, on-the-ground conditions to provide appropriate transportation and security services. There is no evidence – none whatsoever – that Mission Essential overcharged the Government for these services.

Crowe’s additional finding, (2015-09), that RACC may have been excluded or proposed for exclusion, is unsupported based on the information in the U.S. Government’s System for Award Management (“SAM”). Although SAM identifies RACC as being “Ineligible” for procurement activities, the effective date of this exclusion is February 8, 2013. Mission Essential’s engagement of RACC occurred in October 2012. Additionally, the exclusion in SAM states that “[a]gencies shall not solicit offers from, award contracts to renew, place new orders with, or otherwise extend the duration of current contracts, or consent to subcontracts in excess of \$30,000 (other than commercially available off-the-shelf items (COTS)), with these contractors unless the agency head (or designee) determines in writing there is a compelling reason to do so.” (Emphasis added.) Mission Essential’s engagement of RACC was for \$27,150, under the threshold established in the exclusion.

Crowe asserts that “MEP may have entered into or provided Federal funding to an organization that was proposed for exclusion. In addition, the likelihood that MEP will unknowingly enter into an agreement with an excluded party is enhanced.” This erroneous conclusion is directly contradicted by the entity’s record in SAM and the applicable dollar threshold identified above.

Summary

Mission Essential, for the factual reasons stated above, and as supported by the A&P Letter, does not concur with any of the Crowe findings. Mission Essential highly

values its role as a contractor to the Department of Defense and provider of best-in-class services in support of the U.S. warfighter in Afghanistan, and around the world.

Very Respectfully,

A handwritten signature in black ink, appearing to read 'J. Lossing', with a stylized flourish at the end.

John E. Lossing
Sr. Director of Compliance

APPENDIX B: AUDITOR'S REBUTTAL

Crowe Horwath LLP ("Crowe" or "we" or "us") has reviewed the letter dated May 25, 2016, containing Mission Essential Personnel, LLC's ("Mission Essential" or "the auditee") responses to the draft audit report. In consideration of those views, Crowe has included the following rebuttal to certain matters presented by the auditee. The responses below are intended to clarify factual errors, misinterpretation of regulation, and provide context, where appropriate, to assist users of the report in their evaluation of the audit report. Following completion of our review of management's comments, no changes to the draft report were considered necessary.

Finding 2015-01

We have reviewed management's response to the audit finding and first note that Mission Essential has not disagreed with any of the facts underlying the audit finding. Rather, management asserted that the costs identified in the finding should not be questioned due to 1) the proprietary nature of certified cost and pricing data required to support proposed rates and costs; 2) Mission Essential's having concluded that the wrap rates for its subcontractors were reasonable in comparison to one-another; 3) the Defense Contract Audit Agency's ("DCAA") having reviewed and approved invoices submitted on delivery orders 0093 and 0108; 4) INSCOM's having made reference to FedSys and New Century Consulting ("NCC") within a 2012 justification and approval ("J&A") process that authorized INSCOM to exercise non-competitive procedures in its selection of Mission Essential; and 5) INSCOM's having accepted Mission Essential's proposals containing proposed costs for FedSys and NCC.

Upon review of the items identified by management, we note that none provide a valid exception based in applicable regulation for the noncompliance referenced in the finding. The Federal regulations applicable to certified cost and pricing data do not provide an exception for proprietary data, and the Federal cost principles governing the reimbursement of costs under Mission Essential's two cost reimbursement contracts also do not waive the prime contractor's responsibility to support the costs incurred and reimbursed under the contract. In the absence of adequate documentation to support the calculated wrap rates for FedSys and NCC, the rates themselves are in question and are not fit for comparison without substantiation.

In addition, although DCAA may have reviewed some of Mission Essential's reimbursement requests, the occurrence of such prior reviews does not inherently mean that all errors and issues of noncompliance were detected by DCAA or that the scope of DCAA's reviews was such that the identified instances of noncompliance would have been detected. The Federal Government also has the authority to conduct financial audits, as appropriate, regardless of whether or not DCAA has previously reviewed an invoice(s). Therefore, the DCAA approval is irrelevant to the finding.

Next, INSCOM's execution of the J&A process is an internal, Federal Government process required to select Mission Essential using other than full competition. INSCOM is not the subject of this audit, and the documentation provided by Mission Essential does not specify that INSCOM has approved and/or taken responsibility for the accuracy and allowability of the FedSys or NCC wrap rates and corresponding costs. Therefore, the J&A process is also irrelevant to the finding.

Lastly, as a component of accepting Mission Essential's proposals, the Government did not provide written approval as to the allowability, reasonableness, or adequacy of support pertaining to NCC and FedSys's wrap rates. Similarly, evidence of the Government having approved Mission Essential's noncompliance with the certified cost or pricing data requirements in the Federal Acquisition Regulation ("FAR") was not provided.

Based on the aforementioned matters, the finding has not been modified.

Finding 2015-02

We have reviewed management's comments and note that no additional documentation has been provided to support the questioned costs. Mission Essential asserts that the "hourly rates billed by CACI were, in fact, current, accurate, complete, and reasonable." However, Mission Essential was unable to provide documentation during fieldwork to support or show the specific rates invoiced; the documentation has still not been provided within management's responses. Further, as a result of management's lacking adequate supporting documentation to support the actual rates invoiced, an estimate is necessary to quantify Mission Essential's noncompliance identified during the audit. Whereas management has not provided adequate documentation to demonstrate compliance with the rate limits approved by the Contracting Officer and DCAA's approval of invoices does not waive SIGAR's ability, opportunity, or obligation to question inadequately supported costs in accordance with the applicable Federal regulations, the finding has not been modified.

Finding 2015-03

We have reviewed management's comments and note that no additional documentation has been provided to alter the facts and circumstances that resulted in the initial finding. Therefore, the finding has not been modified and the questioned costs continue to be recommended for repayment to the Government.

We further note that management has not disagreed with the facts underlying the finding, but rather takes exception with Crowe's application of the regulation and Crowe's considering Mission Essential's extrapolation of an approval email pertinent to a 24 September 2007 through 23 September 2009 period of performance to be inadequate for the 2012 periods of performance.

Upon review of Mission Essential's comments, the finding remains unmodified based on the following:

- FAR 52.244-2 required that Mission Essential obtain consent to subcontract for those subcontracts identified within the finding. Mission Essential asserts that the email providing consent to subcontract under delivery orders for the "new period of performance commencing on 24 September 2007 through 23 September 2009" represented a blanket consent to subcontract with certain entities in question. Such an extrapolation does not appear to be adequately supported. Pursuant to FAR 52.244-2, "Consent to subcontract means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract." "Subcontract" is defined, within FAR 52.244-2 as "any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders." Whereas Mission Essential entered into new orders with each subcontractor and written consent was not provided for the particular subcontracts, as defined in the FAR, in question, Mission Essential did not comply with the regulatory requirements.
- Mission Essential further indicated that, due to INSCOM's having referenced the proposed subcontractors within the J&A process and Mission Essential's having identified subcontractors within its proposals, the requirements for consent and advance notification were met. However, INSCOM's execution of the J&A process is an internal, Federal Government process required to select Mission Essential using other than full competition. INSCOM is not the subject of this audit, and the documentation provided by Mission Essential does not specify that INSCOM has consented to the specific subcontracts that Mission Essential intended to issue. Further, as Mission Essential concedes within its response to finding 2015-01, certified cost or pricing data was not obtained from the subcontractors. Therefore, the specific requirements included within FAR 52.244-2 for advance notification could not have been met by Mission Essential.

- Mission Essential stated that “Crowe’s position, it appears, is that FAR 52.216-18, Ordering, required consent for each individual delivery order. The contracting officer, of course, did *not* view the Contract this way. His reasonable directive to Mission Essential to not submit future consents for the *same work* by the *same subcontractor* in the *same location* wholly undercuts Crowe’s position.” Whereas the Contracting Officer’s email sent in response to the request pertaining to the “new period of performance commencing on 24 September 2007 through 23 September 2009” did not include the language referenced by Mission Essential and did not modify the terms and conditions of the base contract which flowed down the requirements of FAR 52.244-2, Mission Essential’s assertion appears to be an unreasonable extrapolation of the approval granted for the 2007 delivery order(s) and does not alter the facts that result in the finding.
- Mission Essential stated that, “Crowe’s finding inexplicably ignores a basic legal premise of government contracting: *A contracting officer has authority to administer a contract on behalf of the government.*” Crowe has not and will not offer a legal opinion or response; however, in general, this matter is not in question. The contracting officer’s authority to administer the contract has not been challenged by the audit. Rather, Mission Essential’s compliance with the FAR provisions that the Contracting Officer included within the contract has been questioned. The Contracting Officer may provide consent as part of his or her administration of the contract. In this scenario, however, consent was provided for particular subcontracts pertaining to a delivery order(s) with a 2007 period of performance. Mission Essential did not request consent to enter into subcontracts under the 2012 delivery orders. As such, consent was not granted. Accordingly, Mission Essential’s noncompliance resulted in the finding, not the Contracting Officer’s execution of his administration function.
- In addition, although DCAA may have an administrative role in the invoice review process, the Federal Government, including SIGAR, is not precluded from auditing documentation supporting invoices reviewed by DCAA and questioning costs, as appropriate. Therefore, the DCAA approval is irrelevant to the finding.

Finding 2015-04

We have reviewed management’s response to the finding. Due to factual errors contained within the response and misinterpretations of accounting and auditing standards, the finding has not been modified and the questioned costs continue to be recommended for repayment to the Government.

We note the following specific matters:

- Mission Essential indicated that SIGAR’s use of a “zero-materiality” threshold for its audits is not GAAP compliant. The aforementioned statement, without context, is potentially misleading. First, the zero-materiality concept for SIGAR’s audits pertains to questioned costs – not to the financial statement as a whole. In addition, the Special Purpose Financial Statement utilizes a special purpose framework, and is not the same as the “financial statements” issued by Mission Essential for the entity overall. SIGAR, as the entity functioning as the regulator in this circumstance and the primary user of the Special Purpose Financial Statement, may define a materiality threshold for reporting purposes. This is both within its authority and is consistent with the auditing standards pertaining to audits of special purpose financial statements. Accordingly, the zero dollar threshold for materiality with respect to questioned costs is both permissible and appropriate.
- Mission Essential also indicated that “an accounting principle can be ignored when the net impact “has such a small impact on the financial statements that a reader of the financial statements would not be misled.” Mission Essential’s assertion that an accounting principle can be ignored appears to be a quote that is cross-referenced to Arnold & Palmer’s citation number 6 (“Steven Bragg, CPA, a prolific accounting author”). One may note, when reviewing the source of Mission Essential’s guidance and position, that the author omits qualitative considerations for materiality. Materiality is a fundamental principle of audit and accounting and incorporates both qualitative and quantitative elements. Matters that may cause a matter to be material include the nature and frequency of errors, whether it may influence or be of significance to a decision maker (in this instance, a user of the Special Purpose Financial Statement), and potential effect of the error in terms of misstatement. This listing is not all-inclusive.

(Continued)

- When evaluating MEP's voluntary noncompliance with the provisions of Accounting Standards Codification 830, we considered the 100 percent error rate, potential for the error to have resulted in improper payments since international work began under the base contract, noted that work under the contract is continuing, and the net impact being an overbilling to the Government results in incontrovertible support for Crowe's conclusion to report the error and question the associated costs.
- Mission Essential has indicated that the amount overbilled would ultimately be reimbursable by the Government due to its ability to pass on the loss resulting from changes in currency valuation to INSCOM. This assumption is incorrect. Pursuant to 48 CFR Subpart 31.201-2(c), *Determining allowability*, "When contractor accounting practices are inconsistent with this subpart 31.2, costs resulting from such inconsistent practices in excess of the amount that would have resulted from using practices consistent with this subpart are unallowable." Due to the subpart's requiring the recording of transactions in accordance with GAAP, to seek reimbursement for costs incurred due to Mission Essential's noncompliance would result in further improper billings.
- In addition, although DCAA may have an administrative role in the invoice review process, the Federal Government, including SIGAR, is not precluded from auditing documentation supporting invoices reviewed by DCAA and questioning costs, as appropriate. Therefore, the DCAA approval is irrelevant to the finding.

Finding 2015-05

We have reviewed management's response to the finding. Mission Essential has not provided additional documentation to demonstrate that the linguists in question passed the full security screening process. The individuals in question include U.S. hires, subcontractors' U.S. hires, and local national linguists. In addition, the documentation viewed by Crowe within Mission Essential's system showing individuals who were denoted as having completed certain screening procedures did not consist of auditable support. Crowe also collaborated with INSCOM to understand if the necessary documentation to support satisfaction of the contractual requirements were contained in a separate system. The INSCOM review also did not alleviate the concerns resulting in the finding. The absence of documentation to show that the referenced linguists successfully completed the full review process results in the risk as noted by Crowe (i.e., Mission Essential may have hired and deployed linguists that did not successfully complete the review process"). As a result of these matters and the contractual requirement that the contractor retain supporting documentation for its incurred costs and to demonstrate compliance, the finding has not been modified.

Finding 2015-06

We have reviewed Mission Essential's response to the finding and have concluded that the finding should remain as-written within the draft report and the questioned costs continue to be recommended for repayment to the Government. Mission Essential's response omitted elements of its procedures that:

1. Require Accounts Payable to match invoiced goods or services against the purchase order and subcontract file prior to payment; and
2. Identify a series of example unauthorized commitments, inclusive of the following: "An invoice is received from a contractor, but no purchase order exists authorizing the items or work described in the invoice."

The absence of an agreement existing between Mission Essential and MEP Canada at the time Mission Essential paid MEP Canada and sought reimbursement from the Government is a departure from Mission Essential's established procedures. The departure also results in an obligation to pay not existing at the time Mission Essential sought reimbursement. Further, Mission Essential did not produce evidence of the agreement with MEP Canada having been ratified by the required members of Mission Essential's management pursuant to the auditee's procurement procedures. These matters, both separately and collectively, result in noncompliance with the provisions of the commercial entity cost principles and, therefore, fully supports the questioned costs noted in the finding.

We understand, based on Mission Essential's responses, that certain elements of its internal procurement policies may be in conflict with one-another or otherwise result in confusion regarding what is and is not an unauthorized commitment. The lack of clarity, however, does not relieve Mission Essential of its responsibility to abide by its accounts payable procedures and to appropriately support and document its actions (e.g., evidence of ratification of awards).

In addition, although DCAA may have an administrative role in the invoice review process, the Federal Government, including SIGAR, is not precluded from auditing documentation supporting invoices reviewed by DCAA and questioning costs, as appropriate. Therefore, the DCAA approval is irrelevant to the finding.

Finding 2015-07

We have reviewed management's response to the finding and noted that management's assertions are in error. Accordingly, the finding has not been modified and the questioned costs continue to be recommended for repayment to the Government.

First, Crowe provided detailed lists to Mission Essential through February 2016 that itemize the property items incorporated within the finding, inclusive of their acquisition costs. Revisions were made to the preliminary list of exceptions as a result of the various email exchanges with Mission Essential. Second, Mission Essential is responsible for the property used on the delivery orders. Failure to fully account for those items and to maintain adequate supporting documentation and property records supports the presence of the finding and the questioning of associated costs.

Findings 2015-08 and 2015-09

Management's responses did not include documentation to demonstrate that Mission Essential complied with the requirements that resulted in the audit findings or to otherwise alleviate the auditee's noncompliance. Therefore, the findings have remained as written in the draft report and the questioned costs continue to be recommended for repayment to the Government. We offer this rebuttal to clarify an interpretive error by Mission Essential. Specifically, the provisions of FAR 52.209-6, which serves as one of the bases for finding 2015-09, includes those entities that are "proposed for debarment" and whose subcontracts "will exceed \$30,000." As noted within the finding, Mission Essential:

- 1) did not retain documentation to show whether or not Rauf Aziz Construction Company ("RACC") was suspended, debarred, or proposed for debarment at the time Mission Essential utilized the company;
- 2) did not retain or otherwise produce a copy of a subcontract to demonstrate the value of the subcontract itself.

Due to the language included within the regulation, the actual costs incurred of \$[REDACTED] and the actual debarment occurring shortly after the end of the period of performance do not alleviate Mission Essential from responsibility under the regulation; Mission Essential did not and has not produced either a copy of the subcontract or evidence that RACC was not proposed for debarment, which might support its position in the response. The lack of documentation results in the finding's remaining unchanged.

**APPENDIX C: LISTING OF SUBCONTRACTS WITHOUT EVIDENCE OF CONSENT AND ADVANCE
NOTIFICATION**

Subcontractor	Subcontract ID	Delivery Order	Direct Costs Charged to the USG per MEP Ledger	Rationale for not Obtaining the Consent
Atlas Advisors	TO 3	93	\$784,357	Did not seek consent due to reliance on FAR 44.201's not requiring advance notification.
Atlas Advisors	TO 6	108	\$1,014,114	Did not seek consent due to reliance on FAR 44.201's not requiring advance notification.
Aveshka	TO 3	93	\$143,002	Did not seek consent due to reliance on FAR 44.201's not requiring advance notification.
CACI	TO 13	93	\$881,918	Relied upon a 10/17/2008 email approval from the Contracting Officer at the time and applied the approval to the new 2012 task orders.
Delta Vector	TO 1	68/93	\$107,051	Did not seek consent due to reliance on FAR 44.201's not requiring advance notification.
FedSys	TO 8	93	\$16,323,650	Relied upon a 10/28/2008 letter approval from the Contracting Officer at the time and applied the approval to the new 2012 task orders.
Inceptre	TO 6	108	\$1,278,801	Did not seek consent due to reliance on FAR 44.201's not requiring advance notification.
Lexicon	TO 3	93	\$274,561	Relied upon a 10/18/2008 email approval from the Contracting Officer at the time and applied the approval to the new 2012 task orders.

New Century	TO 5	108	\$5,113,939	Did not seek consent due to reliance on FAR 44.201's not requiring advance notification.
SOSi	TO 11	93	\$7,568,013	Relied upon a 11/29/2007 approval from the Contracting Officer at the time and applied the approval to the new 2012 task orders.
Tatitlek	TO 4	108	\$83,111	Relied upon a 10/29/2009 approval from the Contracting Officer at the time and applied the approval to the new 2012 task orders.
Valcom	TO 3	93	\$2,596,930	Relied upon a 12/22/2010 email approval from the Contracting Officer at the time and applied the approval to the new 2012 task orders.
Veritiss	TO 10	93	\$8,906,150	Relied upon a 10/17/2008 email approval from the Contracting Officer at the time and applied the approval to the new 2012 task orders.
Progressive Network Solutions	Master Subcontract Agreement	93 and 108	\$2,755,790 (93) plus \$2,770,580 (108) = \$5,526,370	Relied upon a 10/29/2009 email approval from the Contracting Officer at the time and applied the approval to the new 2012 task orders.
TOTAL DIRECT COSTS CHARGED				\$50,601,967

APPENDIX D: LETTER DRAFTED BY MISSION ESSENTIAL PRIOR TO ISSUANCE OF DRAFT REPORT

The following pages contain a letter drafted by MEP's external counsel dated February 2, 2016. The letter was drafted prior to our communicating the preliminary or final audit findings to MEP. Therefore, the information and financial amounts included within the letter are based on the preliminary assumptions of the drafter and may be inconsistent with the financial amounts and conditions noted within the audit report.

However, MEP made reference to the letter within its management response and included the attorney's letter as an appendix to the management response. See **Appendix A** for management's response.

Craig A. Holman
Craig.Holman@aporter.com

+1 202.942.5722
+1 202.942.5999 Fax

601 Massachusetts Ave., NW
Washington, DC 20001-3743

February 2, 2016

BY ELECTRONIC DELIVERY

Robert W. Lazard
Crowe Horwath LLP
3815 River Crossing Parkway
Suite 300
Indianapolis, Indiana 46240-0977

Bert Nuehring
Eric J. Russell
Crowe Horwath LLP
10 W. Broad Street, Suite 1700
Columbus, Ohio 43215

Re: SIGAR Audit of Mission Essential Personnel, LLC
Under Contract No. W911W4-07-D-0010

Dear Messrs. Lazard, Nuehring, and Russell:

Arnold & Porter LLP ("Arnold & Porter") represents Mission Essential Personnel, LLC ("Mission Essential") in certain matters related to Contract No. W911W4-07-D-0010 (the "OEF-A Contract" or the "Contract") between Mission Essential and the U.S. Army Intelligence and Security Command ("INSCOM" or the "Agency"). The Contract covered mission-critical linguist services in support of Operation Enduring Freedom-Afghanistan ("OEF-A"). Mission Essential has requested that we respond to certain potential Crowe Horwath LLP ("Crowe Horwath") findings relating to the financial audit of Mission Essential's Delivery Orders ("DOs" or "Task Orders") 0093 and 0108, awarded under the OEF-A Contract.

Crowe Horwath is reviewing DOs 0093 and 0108 on behalf of the Office of the Special Inspector General for Afghanistan Reconstruction ("SIGAR"). As related to this letter, we understand that Crowe Horwath is preliminarily questioning costs relating to three particular issues. First, we understand that Crowe Horwath is questioning certain subcontractor costs based on a purported lack of INSCOM consent to enter into the subcontracts. Second, we understand that Crowe Horwath is questioning costs related to Mission Essential's method for converting foreign currency. And third, we understand that Crowe Horwath has asked questions regarding the adequacy of Mission Essential's records relating to the screening of certain local national linguists ("LNLs"). In each instance, Mission Essential believes that Mission Essential has acted in accordance with the OEF-A Contract, the FAR, the DFARS and GAAP, as applicable,

Crowe Horwath LLP
February 2, 2016
Page 2

and that Crowe Horwath's preliminary assessments are flawed. Mission Essential, accordingly, asks the Crowe Horwath consider this response to the preliminary assessment.

I. INTRODUCTION

Subcontracting. Mission Essential successfully performed the OEF-A DOs under close scrutiny from multiple authorities within the United States Government, including INSCOM's Contracting Officer for the OEF-A Contract and the Contracting Officer's support personnel. Mission Essential performed its work with full consent from INSCOM, including consent to enter the subcontracts necessary to perform the mission-critical functions. INSCOM's clear consent to these subcontracts appears in numerous places. First, in 2008, after monitoring Mission Essential's performance on the OEF-A Contract for nearly a full year, and more than three years before the effective dates of DOs 0093 and 0108, the OEF-A Contracting Officer issued a blanket approval for Mission Essential to continue subcontracting as necessary to provide the linguist services. The specific consent satisfied the need for any future consent to subcontract. Indeed, INSCOM *specifically directed* Mission Essential to stop seeking consent to enter into specific subcontracts.

Second, Mission Essential provided INSCOM with notice of, and INSCOM further approved the use of, the involved subcontractors through the DO proposal and approval process. In its proposals for DOs 0093 and 0108, Mission Essential specifically identified its anticipated subcontractors and their estimated costs and fee. INSCOM reviewed, negotiated, and accepted the proposals. Still further, as Mission Essential performed the DOs, Mission Essential submitted invoices to INSCOM which detailed each subcontractor's role and costs. DCAA reviewed and approved many of the invoices. INSCOM then paid those invoices, further demonstrating that INSCOM knew of, and consented to, each of the subcontracts.

Third, on four separate occasions during the OEF-A Contract INSCOM analyzed Mission Essential's performance under the OEF-A Contract and, in light of the increased demands for linguist services in Afghanistan, elected to modify the Contract to increase the funding ceiling for Mission Essential to continue providing the same services under the Contract.

Crowe Horwath LLP
February 2, 2016
Page 3

In the written justification documents supporting three of those contract modifications, INSCOM discussed Mission Essential's use of subcontractors to provide the necessary linguist services.

Fourth, regardless of the foregoing, Mission Essential obtained the necessary consent for each subcontractor Crowe Horwath suggests it may question. For each of the ten subcontractors at issue, either the Contract did not require consent based on the size and type of the subcontract, or Mission Essential obtained prior written consent from the Contracting Officer.

Foreign Currency Conversions. Mission Essential converted its foreign currency transactions in accordance with Generally Accepted Accounting Principles ("GAAP") for DOs 0093 and 0108. The Crowe Horwath proposed method would result in Mission Essential charging INSCOM amounts different than Mission Essential's actual costs incurred. Moreover, Crowe Horwath's method, which ignores the GAAP materiality principle and the need to charge actual amounts incurred, does not comply with GAAP. In any event, the purported negative spread resulting from the Crowe Horwath method likely would constitute a reasonable, allocable, and allowable direct cost of DOs 0093 and 0108.

Screening Documentation for LNLs. Finally, Mission Essential maintains adequate records relating to the screening of LNLs. INSCOM drafted the OEF-A Contract to retain for INSCOM (and other INSCOM contractors) the responsibility for LNL screening. INSCOM awarded a separate contract to a different contractor to perform the screenings. The separate INSCOM contractor maintained the records related to the screening process under INSCOM's direction. Mission Essential understands that the separate INSCOM contractor destroyed the screening documents purportedly pursuant to INSCOM direction, and that the U.S. military maintains control of the remaining records in the Biometric Automated Toolset System ("BATS"), to which Mission Essential does not have access.

II. LIMITED FACTUAL BACKGROUND

Crowe Horwath cannot meaningfully review Mission Essential's performance of the OEF-A contract, including its subcontracting practices, without understanding the critical role Mission Essential played as the OEF-A contractor, and the evolving conditions under which INSCOM issued task orders for linguist services. The factual background provided in this

Crowe Horwath LLP
February 2, 2016
Page 4

section reveals that Mission Essential performed under constant scrutiny and approval from INSCOM, and that INSCOM knew of and approved Mission Essential's subcontracts.

A. Award Of The OEF-A Contract

In 2005, INSCOM began planning to award a contract for linguists and interpretation services in support of OEF-A. In addition to seeking actual linguists and translators, INSCOM anticipated a procurement that would include the recruitment, testing, training, transport, lodging, feeding, and payment of these individuals at facilities located throughout Afghanistan and other locations.

Pursuant to this decision, in mid-2006, INSCOM issued Solicitation No. W911W4-05-R-0006 (the "OEF-A Solicitation") for OEF-A related linguist services. INSCOM issued this Solicitation as a small business set-aside procurement based on INSCOM's expectation that U.S. involvement in Afghanistan would be limited and secondary to U.S. involvement in Iraq.

The OEF-A Solicitation sought:

program management services necessary to rapidly and securely recruit and deploy foreign language interpretation and translation services in support of United States Army, its Unified Commands (USEUCOM, USCENTCOM, USSOUTHCOM, USNORTHCOM, USPACOM), attached forces, combined forces, and joint elements who are executing the military mission known as Operation Enduring Freedom-Afghanistan (OEF-A) and other U.S. Government agencies who are supporting the OEF-A mission.

(See Ex. A (OEF-A Contract) at 9.) The Solicitation further provided that: "Since these operations [which require linguist services] do not have predefined or predictable work locations, hours, or duration, the contractor shall provide interpretation and translation services as required by the supported forces up to 24 hours per day, 7 days per week for all operations." (*Id.* at 3.) The Solicitation contemplated linguists for translation and interpretation services covering at least 37 different languages. (*Id.* at 10-11.) INSCOM stated in the Solicitation that the contractor must "provide program management services necessary to rapidly and securely recruit

Crowe Horwath LLP
February 2, 2016
Page 5

and deploy foreign language interpretation services"¹ (*Id.* at 9.) The OEF-A Solicitation contemplated the award of an indefinite delivery, indefinite quantity ("IDIQ") cost-reimbursement contract with a five-year period of performance ending in 2012. (*Id.* at 3-4, 7.)

After evaluating the submitted proposals, including Mission Essential's detailed proposal, INSCOM awarded the OEF-A Contract to Mission Essential in September 2007. (*Id.* at 1.) The Contract initially contemplated roughly \$703 million in orders with Mission Essential. (*Id.* at 5, 7.) In addition, at the time of award, INSCOM estimated that it would need approximately 3000 linguists to support the military's operations in Afghanistan. (*See* Ex. B (March 2011 J&A) at 2.) However, INSCOM drafted the OEF-A Contract to allow for some variability. The Contract explains that "Since these operations do not have predefined or predictable work locations, hours, or duration, the contractor shall provide interpretation and translation services as required by the supported forces up to 24 hours per day, 7 days per week for all operations." (Ex. A (OEF-A Contract) at 3.)

B. Importance And Complexity Of The Linguist Services Program

The linguist services provided under the OEF-A Contract have been critical to the U.S. military mission in Afghanistan. As discussed in detail below, the military's demand for such services grew at an unanticipated rate, which placed additional demands for agility on INSCOM and Mission Essential. INSCOM and Mission Essential had to perform the OEF-A Contract with speed and flexibility, and without interruption or delay.

In support of a modification to the Contract to increase funding for Mission Essential's linguist services (discussed in detail below), the Contracting Officer detailed Mission Essential's work on this complex mission:

In two and a half years, MEP [Mission Essential] has established a sophisticated, dedicated infrastructure in Afghanistan, Qatar, and CONUS [the Contiguous United States] to support its personnel with billeting, security, and messing support; morale and welfare facilities; transportation; medical and administrative support; communication and information technology. At present, MEP maintains

¹ Unless otherwise specified, all emphasis has been added.

Crowe Horwath LLP
February 2, 2016
Page 6

25 buildings/facilities, 45 vehicles, an extensive IT/Satellite Communications enterprise, 108 support personnel in Afghanistan and Qatar, and over 1,500 lines of property worth an estimated \$1.8M, exclusively to support the execution of the linguist contract. In addition, MEP has established effective procedures to retain, educate, develop, certify, and integrate its linguists into ongoing military operations through registration, badging, and notification to commanders. In order to hire the required human capital, MEP maintains and supports recruiters and screeners in Afghanistan and in five Afghan ethnic enclaves located in New York, Virginia, California and Ohio who recruit, screen, test and deploy qualified linguists. To date, MEP has been able to deliver approximately 1700 Category I, II, and III linguists from CONUS and an additional 4,100 Category I local national linguists from Afghanistan.

(Ex. C (May 2010 J&A) at 6.)

The Agency J&A stressed the criticality of the linguist services to OEF-A, and the need for immediate, uninterrupted service. Indeed, in response to a protest of the Agency's decision to increase the funding ceiling for the Contract, INSCOM explained that the requirement to place the linguists and translators on the ground in Afghanistan "immediately" was "enormous in scope" and did not allow for lapses in coverage. (See Ex. D (Army MOL in B-299315.7, B-299315.8, June 21, 2010) at 3 (internal citations omitted).) It continued:

Any disruption associate with ramp-up time to allow vendors to recruit personnel, verify or secure security clearances, and transport personnel and equipment into the theater ***is unacceptable***. Instead, ***the requirement is to support ongoing military operations in Afghanistan right now, without any delay*** and without degrading the continuity of services in support of the U.S. efforts in the theater.

(*Id.*) The Agency called the need for a high level and quality of linguist support services without interruption "[o]f greatest importance." (*Id.* at 5 (quoting May 2010 J&A).) Moreover, it explained that "any loss of these services could place the mission, military and national security at risk," so continuity of operations was "essential." (*Id.* (quoting May 2010 J&A).)

The following year, INSCOM provided further information about the demands under the OEF-A Contract to justify raising the contract ceiling again. It explained:

Then and now, the services provided under MEP's contract are ***critical and essential to the U.S. military mission in Afghanistan***. The linguists provide U.S. forces with the ability to communicate with the local populace, gather information

Crowe Horwath LLP
February 2, 2016
Page 7

for force protection, and interact with foreign military units. The ability to effectively communicate with the local population through the use of qualified linguists and translators is **essential to the entire U.S. counterinsurgency strategy**, which depends on gaining the support of the local Afghan populace.

Due to the criticality of the linguist services to U.S. operations in Afghanistan, INSCOM concluded that it was **absolutely essential to maintain the linguist services without interruption**. INSCOM was also advised by the Chief of Intelligence for the International Security Assistance Force in Afghanistan that the method chosen to obtain the services **should avoid any additional strain on military resources** given the significant build-up of U.S. troops in Afghanistan in connection with the "surge," which represented one of the largest movements of troops and material since World War II.

Providing linguist services in Afghanistan presented (and still presents today) **many difficult and unique challenges** which made establishing, managing, and sustaining linguist support survives particularly difficult. In contrast to Iraq, Afghanistan's population is widely dispersed, and can be located in remote and isolated regions; there are literacy problems within the population; dozens of languages and dialects are spoken and there are few locals capable of acting as linguists. These issues are compounded by the fact that the national infrastructure and central government remain limited, and the economy is rudimentary.

(Ex. B (March 2011 J&A) at 4.) INSCOM further explained that it sought to improve through the Contract its ". . . quick reaction (unplanned) interpretation and translation support services . . . The agency's challenge, which has been a very complex understanding, has been to develop an acquisition strategy and solicitation that is sufficiently comprehensive and **flexible in order to successfully meet these changing threats and increasing requirements**." (*Id.* at 6.)

Given the complex, urgent, and growing demands for linguist services in Afghanistan to support the military's mission, INSCOM prioritized speed, flexibility, and quality. As such, INSCOM directed Mission Essential to fill the Army's linguist requirements without delay or disruption.

C. Increased Demands For Linguist Services And Increased Contracting With Mission Essential.

In the years subsequent to INSCOM's award of the OEF-A Contract to Mission Essential, the military's need for linguist services in Afghanistan exceeded INSCOM's original estimates.² By early 2010, Mission Essential was providing approximately 6,826 linguists at up to 200 locations in Afghanistan under the OEF-A Contract. (See Ex. B (March 2011 J&A) at 2.) In other words, INSCOM required more than double the number of linguists that the Army had anticipated needing.

Given the dramatic and rapid increase in the demand for linguist services to support OEF-A, INSCOM sought to award an additional contract for linguist services. INSCOM anticipated that it would award this new contract through a full and open competition, allowing it to contract with multiple contractors of all sizes.

As it prepared to compete and award a new contract, INSCOM properly elected to handle the significant and rapid increased demand for linguist services by increasing the funding ceiling of its contract with Mission Essential. The Agency did so pursuant to two authorities:

- 1) 10 U.S.C. 2304(c)(1) as implemented by FAR 6.302-1(a)(2)(iii)(B), for services available only from the original sources in the case of a follow-on contract for the continued provision of highly specialized services when it is likely that award to any other source would result in unacceptable delay in fulfilling the agency's requirements; and

² The significantly increased demand arose in large part due to two occurrences in 2009. First, in August 2009, a review of the U.S. Afghanistan strategy directed by the President increased the estimated requirement for linguists to 5,000 each year (versus the original plan for 3,000 in total over the course of five years) in anticipation of greater U.S. involvement in Afghanistan. (See March 2011 J&A at 2.) Second, the "surge" decision in December 2009 provided for sending an additional 30,000 U.S. forces to Afghanistan by the end of Summer 2010. (See *id.*) This surge decision drove the need for linguists to higher levels since, as INSCOM recognized, linguists were "an integral component of the expanding U.S. combat operations in Afghanistan." (*Id.*)

- 2) 10 U.S.C. 2304(c)(2) as implemented by FAR 6.302-2, for services where the agency's need is of such an unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals.

See FAR 6.302-1(a)(2)(iii)(B); FAR 6.302-2(a)(2). (*See also* Ex. C (May 2010 J&A) at 4; Ex. E (June 2010 J&A) at 3; Ex. B (March 2011 J&A) at 2; Ex. F (February 2012 J&A) at 4.)

To increase the funding ceiling for the OEF-A Contract, INSCOM underwent a detailed formal analysis and approval process. INSCOM reviewed Mission Essential's capabilities, the linguist services market, and the military's demands. The Contracting Officer then discussed his findings in various Justifications and Approvals ("J&As")³ supporting modifications to the OEF-A Contract's ceiling. The Agency next received written approval from multiple authorities within the Agency. Only then did the Contracting Officer issue new DOs under the OEF-A Contract to allocate additional funding for additional linguist services from Mission Essential.

1. The March 2009 Funding Increase

First, on March 12, 2009, INSCOM modified the OEF-A Contract to increase its contracting ceiling with Mission Essential by \$78.5 million to cover an additional six weeks of performance by Mission Essential (based on known requirements). (*See* Ex. G (Modification P00004); Ex. B (March 2011 J&A) at 3.) This contract modification raised the funding ceiling to \$781.5 million. INSCOM supported this modification with a determination that only the Mission Essential team could provide the required linguist services in Afghanistan without interruption or adverse impact to the mission. (*See* Ex. B (March 2011 J&A) at 3.)

INSCOM determined that Mission Essential was the only contractor in place with the requisite linguist and logistics support network to ensure no interruption of linguist services to

³ A J&A is a document required to justify and obtain appropriate level approvals to contract without providing for full and open competition as required by the Federal Acquisition Regulation ("FAR"). (*See* Defense Acquisition University ACQuipedia, available at <https://dap.dau.mil/acquipedia/Pages/ArticleDetails.aspx?aid=70a60a2f-c14b-4513-b32f-49afa3434999>.)

Crowe Horwath LLP
February 2, 2016
Page 10

the Warfighter during the Surge, while best satisfying the operational and tactical factors. (Ex. E (June 2010 J&A) at 4.) INSCOM's June 2010 J&A also discusses the importance of the linguist services provided under the Mission Essential Contract, calling them "critical," "vital to the successful accomplishment of military operations in that [Afghanistan] theater," and necessary to avoid "immediate adverse consequences for U.S. Forces and our Allies." (*Id.* at 3, 4.) This J&A received multiple high-level approvals within INSCOM. The Contracting Officer, the Deputy Program Manager, the assigned Legal Counsel, the Director of Contracting, the Special Competition Advocate, the Principal Assistant Responsible for Contracting, and the Head of the Contracting Activity all approved the increased funding for Mission Essential. (*Id.* at 1-2, 7.)

2. The May 2010 Funding Increase

INSCOM again elected to increase the funding ceiling for the OEF-A Contract with Mission Essential on May 7, 2010. (See Ex. H (Modification P00005).) This modification increased the amount INSCOM could pay Mission Essential for linguist services by \$679 million, raising the ceiling to \$1,460.5 million. (*Id.*)

The J&A supporting this modification explains INSCOM's determination -- based on market research, its review of Mission Essential's performance and capabilities, *and an analysis of Mission Essential's subcontractors* -- that only Mission Essential could provide the required linguist services. (See Ex. C (May 2010 J&A) at 6-7.) INSCOM also explained the importance of the linguist services, and the need to avoid interruptions. (*Id.* at 4-5.) In addition, the Agency discussed Mission Essential's operations under the Contract:

In order to hire the required human capital, MEP maintains and supports recruiters and screeners in Afghanistan and in five Afghan ethnic enclaves located in New York, Virginia, California and Ohio who recruit, screen, test and deploy qualified linguists. To date, MEP has been able to deliver approximately 1700 Category I, II, and III linguists from CONUS and an additional 4,100 Category I local national linguists from Afghanistan. Today, MEP is capable of supporting current and emerging requirements with organic and dedicated assets as the mission dictates.

(*Id.* at 6.)

The Contracting Officer, the Deputy Program Manager, the assigned Legal Counsel, the Director of Contracting, the Special Competition Advocate, the Principal Assistant Responsible for Contracting, and the Head of the Contracting Activity all reviewed and signed off on this J&A. (*Id.* at 11.)

3. The March 2011 Funding Increase

In March 2011, INSCOM again raised the funding ceiling for the OEF-A Contract to meet the mission's urgent and critical needs. (*See* Ex. B (March 2011 J&A) at 1.) This modification increased the contracting ceiling by \$525 million, raising the ceiling to \$1,985.5 million. Again, INSCOM made clear in the J&A supporting the modification that it considered other options, but found that, based on its market research, only Mission Essential had sufficient resources in Afghanistan, and that Missions Essential could seamlessly perform the work without presenting a risk to the U.S. mission. (*Id.* at 4, 9-11) This market research included a discussion of Mission Essential's subcontractors. (*Id.* at 10.)

4. The February 2012 Funding Increase

As discussed above, INSCOM sought to award a follow-on contract for OEF-A linguist services through a full and open competition due to the large demand for such services. However, due to the delay caused by several bid protests and the need to ensure uninterrupted service for OEF-A, INSCOM decided to modify the OEF-A Contract to increase the funding ceiling for contracting with Mission Essential. (*See* Ex. F (J&A February 2012) at 3, 5, 7.) On February 6, 2012, INSCOM modified the OEF-A Contract to increase the ceiling by \$330 million, raising the ceiling to \$2,315.5 million. (*See id.* at 3.) By that time, the Contract included the linguist services of approximately 8,014 contractor personnel. (*See id.* at 3-4.)

Like the earlier J&As, the J&A supporting this contract modification also includes market research, analyzes Mission Essential's method of performance and capabilities, and concludes that only Mission Essential -- with the aid of its subcontractors -- had sufficient resources and assets in place within Afghanistan to seamlessly support operations. (*See id.* at 5-6, 7-9.) The Contracting Officer, the Deputy Program Manager, the assigned Legal Counsel, the Director of Contracting, the Special Competition Advocate, the Principal Assistant Responsible

Crowe Horwath LLP
February 2, 2016
Page 12

for Contracting, and the Head of the Contracting Activity all signed off on the J&A to raise the ceiling for INSCOM to contract with Mission Essential. (*Id.* at 1-2.)

III. ANALYSIS OF QUESTIONED ITEMS

A. Mission Essential Had The Necessary Consent For Its Subcontracts.

Crowe Horwath questions whether Mission Essential had consent to enter into certain subcontracts under DO 0093 and DO 0108. Even assuming *arguendo* the unsupported predicate that a prime contractor typically must make repetitive requests, for the same subcontractors, to perform the same work, under the same subcontract merely because an agency adds funds to continue the same work during a subsequent performance period by a new delivery order, Mission Essential had a standing prior written approval to subcontract from Contracting Officer Isgrigg issued in September 2008, prior to the periods of performance for DOs 0093 and 0108. The Contracting Officer also specifically directed Mission Essential not to seek subsequent written consent. Moreover, in addition to having this broad consent from the Contracting Officer to subcontract, Mission Essential had prior consent for each of the subcontractors it utilized during performance of DOs 0093 and 0108. Mission Essential obtained consent for the DOs by providing the Contracting Officer with a detailed listing of the subcontractors Mission Essential planned to use on that DO, including each subcontractor's estimated costs and fee. INSCOM, in each instance, approved the proposed OEF-A team. INSCOM then paid the invoices that Mission Essential submitted for the DOs, which included the subcontractors' actual costs and fee. Moreover, it is evident that Mission Essential had consent to subcontract based on INSCOM's subsequent actions. For instance, the Contracting Officer and other authorities within INSCOM issued numerous J&As after 2008 acknowledging and encouraging Mission Essential's continued subcontracting to meet the increased demands for linguist services. Crowe Horwath's preliminary conclusions regarding Mission Essential's consent to subcontract lack legal and factual justification and, unless revised, could cause Mission Essential significant reputational harm.

Crowe Horwath LLP
February 2, 2016
Page 13

1. The Contracting Officer Provided Mission Essential With Written Consent To Subcontract Prior To The Performance Periods Of DOs 0093 And 0108, And Directed Mission Essential Not To Seek Subsequent Consent.

Mission Essential received the consent to subcontract prior to entering into DO 0093 and DO 0108: A 2008 email from INSCOM Contracting Officer Dr. Isgrigg provided Mission Essential with consent to subcontract under the prime IDIQ OEF-A Contract and directed Mission Essential to not seek subsequent consent.

Section I of the OEF-A Contract incorporates two subcontracting clauses: (1) FAR 52.244-2 (Aug. 1998), "Subcontracts," and (2) DFARS 252.237-7006 (Jun. 1997), "Subcontracting." (See Ex. A (OEF-A Contract) at 31-32, 29.) The FAR clause provides contracting officers with considerable discretion in determining when and how consent to subcontract is required.⁴ See FAR 52.244-2(e) (Aug. 1998). The DFARS subcontracting clause states: "The Contactor shall not subcontract any work under this contract without the Contracting Officer's written approval." DFARS 252.237-7006 (Jun. 1997).

After first entering into the OEF-A Contract, Mission Essential sought and obtained written consent from the Contracting Officer to work with subcontractors under the Contract in accordance with the Contract's FAR and DFARS clauses. After working with Mission Essential for nearly a full year on the OEF-A Contract and providing prior written approvals for each of Mission Essential's subcontractors, the Contracting Officer responded to yet another Mission Essential request to subcontract during an upcoming period of performance. This time, however, the Contracting Officer issued a general consent and blanket approval for all future subcontracts under the OEF-A Contract.

⁴ The Federal Acquisition Regulation ("FAR") provides government-wide acquisition procedures, which constitute the minimum standards applicable to acquisitions by all executive agencies. See FAR 1.101. Many agencies, including DoD, have statutory authority to issue supplemental regulations needed for the agency "to satisfy the specific and unique needs of the agency." 41 U.S.C. § 1303(a)(2)(B); see also FAR 1.301(a)(1). Given DoD's unique acquisition needs, it issued the Defense Federal Acquisition Regulation Supplement ("DFARS").

Crowe Horwath LLP
February 2, 2016
Page 14

On October 16, 2008, Joseph Kola (then Mission Essential's Subcontract Coordinator) sent a letter to Contracting Officer Dr. John Isgrigg seeking consent to subcontract with six named subcontractors under the prime IDIQ OEF-A Contract for the new period of performance. (See Ex. I (MEP Consent Request Oct. 16, 2008).) On October 17, 2008, Contracting Officer Isgrigg replied: "**Consent was given to subcontract and subsequent approvals are not required.**" (See Ex. J (Isgrigg Blanket Consent Oct. 17, 2008).) The dialog resulting from these messages was as follows:

Mission

Essential: Dr. Isgrigg,

Please find attached our formal request to subcontract with the identified subcontractors under contract W911W4-07-D-0010 for the new period of performance.

Attached

Request: Dear Dr. John Isgrigg,

Mission Essential Personnel, LLC (MEP) requests your consent to subcontract to Acclaim Technical Services, Inc., CACI Premier Technology, Inc., L-3 Services, Inc., SOS International, Ltd., Torres Advanced Enterprise Solutions, and Veritiss, LLC, under the new period of performance commencing on 24 September 2007 through 23 September 2009.

MEP has submitted these subcontractors' costs to your attention as these costs were incorporated into MEP proposals in the contemplation of the issuance of the W911W4-07-D-0010 Contract Delivery Orders for the new period of performance.

CO Isgrigg: Mr. Kola,

Consent was given to subcontract and subsequent approvals are not required.

...

Additionally, I have been contacted by SAIC numerous times stating they have Pashtu and Dari linguists to offer. Is there any movement on that front?

(See Ex. I, J, *supra*.) Contracting Officer Isgrigg's written response provided more than just the written consent needed to contract with the specific subcontractors identified in Mission

Crowe Horwath LLP
February 2, 2016
Page 15

Essential's October 16, 2008 request. It also constituted direction by the Contracting Officer that Mission Essential had his consent and approval for all future subcontracting under the Contract, including DOs 0093 and DO 0108 -- *i.e.*, "subsequent approvals are not required."

Given this direction as to future written consents, it would be improper for Crowe Horwath or SIGAR to now question Mission Essential for not obtaining written consent prior to subcontracting. The U.S. Government is bound by the conduct of its authorized agents acting within the scope of their authority. As the duly authorized INSCOM Contracting Officer responsible for administering the IDIQ OEF-A Contract, Contracting Officer Isgrigg was "responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interest of the United States in its contractual relationships," to whom the FAR directs "wide latitude to exercise business judgment" should be afforded. FAR 1.602-2; *Winter v. Cath-dr/Balti Joint Venture*, 497 F.3d 1339, 1344 (Fed. Cir. 2007) ("[C]ontracting officers have the authority to, among other things, administer the contract . . . "). Regardless of whether Crowe Horwath believes Contracting Officer Isgrigg's decision reflects the best approach, the Contracting Officer acted within his actual authority to administer the OEF-A Contract in directing Mission Essential to not seek subsequent consent to subcontract. Contracting Officer Isgrigg's direction binds the United States.⁵

⁵ See *GASA, Inc. v. U.S.*, 79 Fed. Cl. 325, 348-49 (2007) (binding the agency to, and finding that the contractor reasonably relied on, a contracting officer's statements about when and how the agency would issue a Notice to Proceed (NTP); explaining that "because the decision of when to issue the NTP is a matter of contract administration, plaintiff was entitled to rely on the contracting officer's representation"); see also *Winter v. Cath-dr/Balti Joint Venture*, 497 F.3d 1339, 1344 (Fed. Cir. 2007) ("With respect to contracts for supplies and services, the federal government has given the authority to enter into and modify contracts to only a limited class of government employees: contracting officers."); *Cooke v. United States*, 91 U.S. (1 Otto) 389, 398 (1875) ("Generally, in respect to all the commercial business of the government, if an officer specially charged with the performance of any duty, and authorized to represent the government in that behalf, neglects that duty, and loss ensues, the government must bear the consequences of his neglect."); John Cibinic, Jr., Ralph C. Nash & James F. Nagle, *Administration of Government*

Footnote continued on next page

Crowe Horwath LLP
February 2, 2016
Page 16

This direction by Contracting Officer Isgrigg reflects sound business judgment when considered in the context of the OEF-A Contract and its associated DOs. Because the Agency essentially designed the relevant DOs to continue acquiring the same services through a different period of performance, the Contracting Officer decided not to independently review and issue written approvals for each DO. As explained previously, INSCOM initially estimated that it would spend only \$703 million in orders for approximately 3,000 linguists to support the military's operation in Afghanistan. However, by early 2010, INSCOM demanded the services of more than 6,800 linguists. And by February 2012, the demands for linguist services had further increased. To meet the increased demands for linguist services, INSCOM raised the Contract's funding ceiling to make additional funds available for contracting with Mission Essential. The Agency then used those additional funds to acquire the same services from Mission Essential by issuing new DOs to Mission Essential. INSCOM needed Mission Essential to provide linguists, in a warzone, often with minimal delay.

The Contracting Officer's October 17, 2008 blanket consent email are not the only indications that Dr. Isgrigg consented to Mission Essential's subcontracting under the OEF-A Contract; the parties' subsequent course of conduct evidences that INSCOM expected no subsequent, independent requests for consent. INSCOM continued funding Mission Essential's performance under the Contract, including Mission Essential's use of subcontractors to fulfill the substantial demands for linguist services required under the OEF-A Contract. The Agency also accepted Mission Essential's proposals for DOs, which proposals identified Mission Essential's anticipated subcontractors and their estimated costs and fees. Still further, the Agency paid invoices under the DOs, which invoices showed Mission Essential's actual subcontracting costs, as discussed below. The Contracting Officer for the OEF-A Contract and other INSCOM

Footnote continued from previous page

Contracts 60-61 (4th ed. 2006) ("The actions of a government employee acting within the scope of his or her employment are the actions of the government itself, and, as with any contracting party, once the government has taken the final step toward committing a contract act, it is bound by it.").

Crowe Horwath LLP
February 2, 2016
Page 17

personnel involved in managing OEF-A Contract performance had knowledge of the subcontractors working on the OEF-A Contract DOs over a course of years.

2. INSCOM Issued J&As Acknowledging And Encouraging Mission Essential's Subcontracting Practices Prior To DOs 0093 and 0108.

INSCOM's decision to increase OEF-A Contract funding and continue to have Mission Essential provide linguist services in Afghanistan confirms that INSCOM approved of Mission Essential's continued subcontracting and did not require or desire any additional subcontracting approval after the Contracting Officer's 2008 blanket consent. The J&As supporting increased OEF-A Contract funding evidence that INSCOM knew of, and approved of, Mission Essential's continued use of subcontractors to meet the demands. For instance, while discussing its market research in the J&A to increase the Contract ceiling in May 2010, the Contracting Officer (who prepared the J&A) explained: "There are no other contractors currently operating in Afghanistan with sufficient capacity to assume this mission. However, ***a number of U.S. based companies provide services to Afghanistan under the Mission Essential contract as subcontractors.***" (Ex. C (May 2010 J&A) at 8.) The Contracting Officer then explained that these included: Acclaim Technical Services ("ATS"), CACI, FedSys, Progressive Network Solutions ("PNet"), SOS International ("SOSI"), and Torres Advanced Enterprise Solutions ("AES"). (*Id.*) The Contracting Officer, as well as the Deputy Program Manager, the assigned Legal Counsel, the Director of Contracting, the Special Competition Advocate, the Principal Assistant Responsible for Contracting, and the Head of the Contracting Activity, signed off on this J&A, leaving no doubt that the Contracting Officer and other authorities at INSCOM knew that—and consented to the fact that—Mission Essential subcontracted under the OEF-A Contract.

The Contracting Officer provided a similar discussion when INSCOM issued additional J&As again supporting increased funding for the Contract in March 2011 and February 2012. In the March 2011 J&A, the Contracting Officer once again stated that "a number of U.S. based companies provide services to Afghanistan under the MEP contract as subcontractors," and listed Mission Essential subcontractors. (Ex. B (March 2011 J&A) at 10.) And in the February 2012 J&A -- which the Contracting Officer issued shortly ***before*** the period of performance began for

Crowe Horwath LLP
February 2, 2016
Page 18

DO 0093 -- the Contracting Officer acknowledged that linguist services available in Afghanistan were limited, and that many U.S. based subcontractors were "currently providing services under the MEP contract." (Ex. F (Feb. 2012 J&A) at 8.) He then acknowledged Mission Essential's subcontractors:

1. ATS,
2. Atlas Advisors,
3. CACI Technologies, Inc.,
4. FedSys, Inc.,
5. Global Dimensions,
6. Inceptre, Corp.,
7. Intelitrac,
8. Lexicon Consulting, Inc.,
9. New Century,
10. PNet,
11. SOSI,
12. Tatitlek Training Services, Inc.,
13. Torres AES, and
14. Veritiss, LLC

(*Id.* at 8.) The Contracting Officer, as well as the Deputy Program Manager, the assigned Legal Counsel, the Director of Contracting, the Special Competition Advocate, the Principal Assistant Responsible for Contracting, and the Head of the Contracting Activity, all signed off on this J&A supporting the decision to provide additional funding for Mission Essential.

INSCOM's decisions to repeatedly increase its orders for linguist services from Mission Essential and its subcontractors demonstrate that Mission Essential had the necessary consent to work with its subcontractors.

3. INSCOM Consented To Mission Essential's Subcontracts For DOs 0093 And 0108 By Accepting Mission Essential's Proposals For The DOs.

In addition to INSCOM's broad awareness and approval of Mission Essential's subcontracting, INSCOM consented to the subcontracts that Crowe Horwath questions. Mission Essential's proposals for DO 0093 and DO 0108 notified the Agency that Mission Essential intended to enter cost-reimbursement subcontracts with particular subcontractors to perform the DOs, and INSCOM negotiated and accepted Mission Essential's proposals. By accepting these proposals, the Agency provided further approval for Mission Essential's subcontracts under DO 0093 and DO 0108.

For instance, Mission Essential submitted a price proposal (Ex. K) and a cover letter (Ex. L) for DO 0093 on January 17, 2012, prior to the beginning of the DO's period of performance. This proposal identified Mission Essential's intent to subcontract with 20 different subcontractors under DO 0093. The price proposal included five worksheets. One of worksheets was labeled "Subcontractors," and the others labelled "Summary," "Travel & ODC," "FTE Projection," and "Merit Increase." The "Subcontractors" worksheet showed that Mission Essential planned to subcontract with 20 different subcontractors, for a total estimated cost of approximately \$79.2 million, including fee:

Summary of Costs			
Company	Cost (no fee)	Fee	Cost (with fee)
Torres			\$ 9,476,282.29
ATS			\$ 11,417,741.32
CACI			\$ 1,121,699.07
SOSi			\$ 10,934,323.23
Veritiss			\$ 10,726,148.20
FedSys			\$ 18,079,190.98
PNET			\$ 3,423,823.99
Tatitlek			\$ 318,851.08
Lexicon			\$ 595,761.84
New Century			\$ 3,634,107.12
Valcom			\$ 2,510,904.80
Cyberspace			\$ 94,049.06
Inceptre			\$ 1,232,736.40

Intelitrac				\$931,309.67
Atlas Advisors (Linguists)				\$523,001.33
Atlas Advisors (Staff)				\$ 1,270,856.21
Global Dimensions				\$ 1,764,864.49
Aveshka				\$ 80,425.93
Vantom				\$ 119,378.85
Retention				\$ 967,983.75
Total				\$ 79,223,439.63

(Ex. K.) The "Summary" worksheet also showed that Mission Essential planned to rely on subcontractors to perform DO 0093, and that Mission Essential's work with subcontractors would be material:

Fringe Benefits - QCONUS		
Fringe Benefits - CONUS		
Fringe Benefits - CONUS PTDC		
Total DL and Fringe		
Overhead - QCONUS		
Overhead - CONUS		
Total DL, Fringe, & OH		
G&A		
Total Costs, excluding ODCs		
Subcontractors (minus fee)		
G&A on Subcontractors		
ODCs		
G&A on ODCs		
Total Costs		
Base Fee (labor & subKs)		
Base Fee (ODCs)		
Base Fee (Subcontractors)		
Total Cost Plus Base Fee		
Award Fee (labor & subKs)		
Award Fee (ODCs)		
Total Costs, Base, and Award Fee		
TOTAL COSTS and FEE		290,812,744.84

(Id.) The cover letter to Mission Essential's DO 0093 proposal repeatedly mentioned Mission Essential's subcontracts. For example, it stated:

- "A LIC with '(subK)' is an FTE placeholder indicating a linguist on or projected to be on the contract, but whose costs are provided for on the Subcontractors tab." (regarding the Summary tab).
- "Provides for both the time and costs (MEP employee salaries, not subKs) in order to reach TE requirements." (regarding the FTE Projection tab).

Crowe Horwath LLP
February 2, 2016
Page 21

- "Provides for the projection of subK FTEs." (regarding the Subcontractor tab).
- "Calculates costs to support the longevity retention incentive as described above." (regarding the Subcontractor tab).
- "Includes fixed-price estimates as indicated." (regarding the Subcontractor tab).

(Ex. L.) The Contracting Officer accepted Mission Essential's DO 0093 proposal. The Agency's decision to enter into DO 0093 with Mission Essential based on the proposal that discussed Mission Essential's plans for subcontracting constitutes approval of such subcontracting.

INSCOM provided similar approval to subcontract for DO 0108. Mission Essential submitted a proposal for DO 0108 on June 29, 2012, in response to a verbal request from INSCOM. DO 0108 extended DO 0093 to cover July 1 until November 20, 2012 -- 143 days. Like DO 0093, Mission Essential submitted a price proposal (Ex. M) and cover letter (Ex. N) for DO 0108. Again, Mission Essential provided the names, estimated costs, and estimated fees of its proposed subcontractors in its cost proposal, which included the same subcontractors as Mission Essential proposed and INSCOM accepted for DO 0093. (Ex. M.) Mission Essential also provided a similar discussion relating to subcontracting in the cover letter to the DO 0108 proposal. (Ex. N.) As it did with DO 0093, INSCOM accepted Mission Essential's proposal. Accordingly, just as it did with the DO 0093 proposal, INSCOM accepted Mission Essential's plan to subcontract with these subcontractors by accepting Mission Essential's proposal.

4. Mission Essential Obtained The Necessary Prior Approval To Subcontract With Each Of The Subcontractors Crowe Horwath Indicates It Intends To Question.

Crowe Horwath has indicated that it intends to question whether Mission Essential had consent to subcontract for DOs 0093 and 0108 with ten specific subcontractors: Delta Vector, FedSys, CACI, Gracor, Lexicon, New Century Consulting, SOSi, Tatilek, Valcom, and Veritiss. For each of these subcontractors, Mission Essential either obtained, or was not contractually required to obtain, prior written approval to subcontract under DO 0093 and DO 0108.

Mission Essential did not have to obtain separate, prior written approval to subcontract with New Century, Delta Vector, or Gracor under the two DOs under audit. FAR 42.244-2, as incorporated in full text in the prime OEF-A Contract, only requires Mission Essential to obtain consent for a fixed price subcontract if that subcontract exceeds "the **greater of** the simplified acquisition threshold or 5 percent of the total estimated cost of the contract." (Ex. A (OEF-A Contract) at 32; FAR 42.244-2(d)(2)(i).) Mission Essential's subcontracts with Delta Vector, Gracor, and New Century did not trigger this requirement for DOs 0093 and 0108 because they did not exceed 5% of the total estimated cost of the Contract, which is greater than the simplified acquisition threshold:

- New Century: Mission Essential's proposals for DO 0093 and DO 0108 indicate that Mission Essential anticipated subcontracting with New Century for only \$3,634,107.12 and \$3,636,227.92, respectively, including the fees for each DO. (See Ex. K (DO 0093 Price Proposal); Ex. M (DO 0108 Price Proposal).) Those price proposals reveal that Mission Essential estimated that its total cost would be \$296,812,744.04 and \$295,731,451.97 for each of the Dos, respectively. (See *id.*) Thus, Mission Essential anticipated subcontracting with New Century for less than 5% of the total estimated cost of each DO (1.22% of DO 0093 and 1.23% of DO 0108), and less than 5% of the overall IDIQ OEF-A Contract.
- Delta Vector: Mission Essential reviewed its subcontract with Delta Vector and determined in February 2011 that the cost of the subcontract would not exceed 5% of the total estimated cost of the OEF-A Contract. (See Ex. O (Mission Essential Memorandum Regarding Delta Vector, Feb. 11, 2011).)
- Gracor: Mission Essential reviewed its firm fixed price subcontract with Gracor and determined that it was less than 5% of the total estimated cost of the prime OEF-A Contract. (See Ex. P (Internal Mission Essential Memorandum "Advanced Notification and Consent: Gracor Language Services, Inc."))

For the other subcontracts that Crowe Horwath questions, Mission Essential obtained the OEF-A Contracting Officer's written consent to subcontract.

- SOSi: In an email dated November 29, 2007, Contracting Officer Isgrigg provided to Mission Essential consent to subcontract with SOSi, among other subcontractors. (See Ex. Q (Isgrigg Consent Nov. 2007).) Contracting Officer Isgrigg also provided consent to subcontract with SOSi on October 17, 2008 (see Ex. J (Isgrigg Blanket Consent Oct. 17,

Crowe Horwath LLP
February 2, 2016
Page 23

2008)) in response to a request from Mission Essential emailed on October 16 (*see* Ex. I (MEP Consent Request Oct. 16 2008).)

- CACI and Veritiss: In an email dated October 17, 2008, Contracting Officer Isgrigg provided written consent to subcontract with CACI and Veritiss, among others, in response to a request Mission Essential emailed on October 16, 2008. (*See* Ex. J (Isgrigg Blanket Consent Oct. 17, 2008); Ex. I (MEP Consent Request Oct. 16 2008).)
- FedSys: On October 28, 2008, Contracting Officer Isgrigg provided consent for Mission Essential to subcontract with FedSys. (*See* Ex. R (Isgrigg Consent Oct. 28, 2002).)
- Tatitlek: Contracting Officer Frank Villamizar provided consent for Mission Essential to subcontract with Tatitlek on October 29, 2009, in response to October 23, 2009 request from Mission Essential. (*See* Ex. S (Villamizar Consent Oct. 2009).)
- Lexicon: On June 10, 2010, Contracting Officer Isgrigg provided written consent for Mission Essential to subcontract with Lexicon. (*See* Ex. T (Isgrigg Consent June 2010).)
- Valcom: Mission Essential requested consent to contract with Valcom on August 4, 2010. (*See* Ex. U (Villamizar Consent Dec. 2010).) Contracting Officer Villamizar provided consent on December 22, 2010. (*See id.*)

5. Subcontracting Conclusion

As discussed above, INSCOM more than once approved of Mission Essential's subcontracts and did not require specific prior written consents with each subcontractor for each DO. The Contracting Officer provided Mission Essential with a blanket consent for all future subcontracts under each DO in the 2008 email. This email also directed Mission Essential to cease submitting individual requests for consent to subcontract. Subsequent to the 2008 Contracting Officer email and prior to the periods of performance for DOs 0093 and 0108, INSCOM discussed in numerous J&As Mission Essential's continued subcontracting under the OEF-A Contract, and elected to continue funding Mission Essential's efforts by increasing the Contract's funding ceiling. INSCOM also accepted Mission Essential proposals for DO 0093 and DO 0108, both of which listed the names, estimated costs, and fees of Mission Essential's subcontractors. By accepting those proposals, the Agency provided consent once again for Mission Essential to subcontract. Finally, Mission Essential obtained written consent prior to

Crowe Horwath LLP
February 2, 2016
Page 24

working with subcontractors when contractually required, including those that Crowe Horwath indicated it may question.

As Mission Essential performed DOs 0093 and 0108, it submitted invoices to INSCOM. Those invoices included Mission Essential's actual subcontracting costs. DCAA reviewed and approved Mission Essential's invoices for DO 0093. Even though DCAA switched to a sampling method while reviewing the invoices for DO 0108, DCAA still reviewed and approved many of the DO 0108 invoices.

No dispute exists as to whether the Government received the services it ordered under DO 0093 and DO 0108. Mission Essential had ample approval from INSCOM to subcontract during performance of DO 0093 and DO 0108, and INSCOM consented to Mission Essential's subcontracts both prior to, during, and after performance of these DOs.

B. Mission Essential's Foreign Currency Conversion Practices Comply With GAAP And The FAR.

Mission Essential obtained services from foreign entities while performing DOs 0093 and 0108: MEP ULC (Mission Essential's wholly-owned Canadian subsidiary), New Century (a United Kingdom subcontractor), Delta Vector (a Kuwaiti subcontractor), and Valcom (a Canadian subcontractor) ("foreign entities"). As a result of engaging with these foreign entities, Mission Essential received invoices in foreign currencies, and needed to perform foreign currency conversions before invoicing the U.S. Government in U.S. Dollars. Crowe Horwath has questioned Mission Essential's currency conversions, specifically asking whether Mission Essential used a proper method to convert the foreign currency invoices to U.S. Dollars. Mission Essential believes that it properly performed the foreign currency transactions.

1. Mission Essential Used A Proper Method To Convert Foreign Currency Invoices To U.S. Dollars.

Crowe Horwath apparently questions whether Mission Essential's method for converting the foreign currency invoices for DOs 0093 and 0108 to U.S. Dollars complies with GAAP. The Crowe Horwath alternate calculations differ from Mission Essential's calculations by approximately \$180,000. Mission Essential, however, used a GAAP compliant method.

Crowe Horwath LLP
February 2, 2016
Page 25

To convert its DO 0093 and DO 0108 foreign currency invoices to U.S. Dollars, Mission Essential applied the conversion rate applicable on the date Mission Essential paid each invoice. Crowe Horwath suggests that, instead, Mission Essential should have calculated and applied an average conversion rate for the month in which the subcontractor provided the services. Crowe Horwath suggests that Mission Essential should have calculated this average by adding together the conversion rate for every day covered by each invoice, and dividing by the number of days covered by that invoice, regardless of the amount of services that Mission Essential received on each day or what time of day Mission Essential received those services. According to Crowe Horwath's interpretation of GAAP, Crowe Horwath's own currency conversion method would not comply with GAAP. Furthermore, Crowe Horwath's proposed method could result in Mission Essential invoicing INSCOM for more than the actual incurred costs, an impermissible result.

Materiality is a fundamental principle of GAAP. Pursuant to the materiality principle, a person need not follow an accounting practice if the net impact of not following that practice would have such a small impact on the accuracy of the resulting financial statements that a reader of those financial statements would not be misled.⁶ One of the primary reasons for the GAAP materiality principle is to avoid overly burdensome and costly accounting practices that do not merit the additional accuracy they would provide.

Here, Mission Essential's foreign currency conversion costs are immaterial to the overall DOs. As Crowe Horwath points out, the difference caused by applying Mission Essential's conversion method versus the Crowe Horwath method approximates \$180,000 for both DO 0093

⁶ Steven Bragg, CPA, a prolific accounting author, explains:

The materiality principle states that an accounting standard can be ignored if the net impact of doing so has such a small impact on the financial statements that a reader of the financial statements would not be misled.

Under generally accepted accounting principles (GAAP), you do not have to implement the provisions of an accounting standard if an item is immaterial.

See Steven Bragg, Accounting Tools, "The Materiality Principle, *available at* <http://www.accountingtools.com/materiality-principle>.

Crowe Horwath LLP
February 2, 2016
Page 26

and DO 0108 combined. This is only a fraction of a single percentage point of the total costs INSCOM properly paid Mission Essential for the two Dos.⁷ This amount is immaterial and, accordingly, the conversion costs are exempt from strict GAAP compliance.

Further, Crowe Horwath's proposed method does not meet its own assertion of GAAP requirements. Just as Mission Essential's method utilizes the materiality principle, so too does Crowe Horwath's proposed method. The Financial Accounting Standards Board ("FASB") states: "[a]t the date a foreign currency transaction is recognized, each asset, liability, revenue, expense, gain, or loss arising from the transaction shall be measured initially in the functional currency of the recording entity by use of the exchange rate at that date." See FASB Accounting Standards Codification ("ASC") Section 830-20-30-1. Thus, FASB provides that, if a company uses the accrual accounting method, it must recognize and record its expenses when it incurs those expenses. Crowe Horwath does not propose that Mission Essential follow this process. Instead, Crowe Horwath would require Mission Essential to convert its monthly invoices from the foreign entities using an *average* of the exchange rates for the month of each invoice. ASC 830 provides that "at the date a foreign currency transaction is recognized, each asset, liability, revenue, expense, gain, or loss arising from the transaction shall be measured initially in the functional currency of the recording entity by use of the exchange rate at that date." Thus, even Crowe Horwath suggests using a different method than outlined by ASC 830 because, despite its claims, Crowe Horwath understands that the foreign currency conversion costs are not material and, accordingly, GAAP permits Mission Essential to apply a less burdensome method.

2. Crowe Horwath's Proposed Method Could Lead To An Impermissible Result.

Under the Crowe Horwath method, the invoice amounts as determined using calculated average exchange rates for the months in which the foreign entities invoiced Mission Essential frequently would not equal the amounts actually paid by Mission Essential to the foreign entities.

⁷ Crowe Horwath has not challenged the foreign costs Mission Essential incurred by contracting with any of its foreign subcontractors or its foreign subsidiary to perform the DOs at issue.

Crowe Horwath LLP
February 2, 2016
Page 27

Thus, in some months, using the Crowe Horwath methodology, Mission Essential would calculate a cost in U.S. Dollars based on the average conversion rate (which cost Mission Essential would submit to the U.S. Government for reimbursement) that would exceed what Mission Essential actually paid the foreign entity submitting the invoice (which Mission Essential would incur based on the conversion rate on the day it paid the foreign entity).

Using a hypothetical example, suppose New Century submitted an invoice to Mission Essential for the period of October 1 through October 31, 2012, for 1 million British Pounds. The average conversion rate for that period of time might have been 1 British Pound to 1.65 U.S. Dollars. According to Crowe Horwath's proposed method for converting currency, Mission Essential therefore should have invoiced INSCOM for \$1.65 million in U.S. Dollars for the expenses it incurred for New Century's services in October 2012. However, Mission Essential may have received and paid that invoice on November 9, 2012, and the conversion rate on November 9, 2012 may have been 1 British Pound to 1.60 U.S. Dollars. As a result, Mission Essential only would have paid New Century the equivalent of \$1.6 million U.S. Dollars, despite charging the U.S. Government \$1.65 million in U.S. Dollars for the same services.

Mission Essential's method for converting foreign currency avoids this result. By using the exchange rate current on the date Mission Essential pays the foreign invoice, Mission Essential ensures that the amount that Mission Essential pays the foreign entity in foreign currency equals the amount that Mission Essential invoices INSCOM in U.S. Dollars as the direct costs of working with the foreign entity. As shown in the hypothetical above, if Mission Essential followed Crowe Horwath's proposed method Mission Essential might charge the U.S. Government more than the actual cost of the foreign currency transaction to Mission Essential.

3. If Crowe Horwath's Exchange Rate Application Controlled, the Foreign Currency Exchange Rate Costs Incurred by Mission Essential Would Constitute Reimbursable Direct Costs. .

FAR 2.101 and the Cost Accounting Standards ("CAS") define direct costs as follows:

any cost which is identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. ***Costs identified specifically with a contract are direct costs of***

Crowe Horwath LLP
February 2, 2016
Page 28

that contract. All costs identified specifically with other final cost objectives of the contractor are direct costs of those cost objectives.

CAS 402-30(a)(3). Further, Statement of Financial Accounting Standard No. 52 explains that gains and losses resulting from foreign currency transactions are allowable parts of net income under GAAP:

Foreign currency transactions may produce receivables or payables that are fixed in terms of the amount of foreign currency that will be received or paid. A change in exchange rates between the functional currency and the currency in which a transaction is denominated increases or decreases the expected amount of functional currency cash flows upon settlement of the transaction. That increase or decrease in expected functional currency cash flows is a foreign currency transaction gain or loss that generally shall be included in determining net income for the period in which the exchange rate changes. Likewise, a transaction gain or loss (measured from the transaction date or the most recent intervening balance sheet date, whichever is later) realized upon settlement of a foreign currency transaction generally shall be included in determining net income for the period in which the transaction is settled. The exceptions to this requirement for inclusion in net income of transaction gains and losses are set forth in paragraphs 20 and 21⁸ and pertain to certain intercompany transactions and to transactions that are designated as, and effective as, economic hedges of net investments and foreign currency commitments.

Statement of Financial Accounting Standards No. 52, Foreign Currency Translation, Dec. 1981, at 8-9, ¶ 15.

Foreign currency conversion costs incurred by Mission Essential are direct costs. They specifically relate to the expenses incurred by Mission Essential for obtaining services from foreign entities to perform the linguist services requirements for DO 0093 and DO 0108 under the OEF-A Contract. If not for the OEF-A Contract (and more specifically, if not for DOs 0093 and 0108), Mission Essential would not have incurred these costs.

⁸ Neither of these exceptions apply to the facts at hand. Paragraph 20 addresses foreign currency transactions that are designated as, and are effective as, economic hedges of a net investment in a foreign entity, or intercompany foreign currency transactions that are of a long-term-investment nature. Paragraph 21 addresses gains or losses on a forward contract or other foreign currency transaction that is intended to hedge an identifiable foreign currency commitment. See Statement of Financial Accounting Standards No. 52, Foreign Currency Translation, Dec. 1981, at 10.

Crowe Horwath LLP
February 2, 2016
Page 29

To the extent that Crowe Horwath is correct as to the application of the average conversion rate for the month services were delivered, rather than the application of the exchange rate on the date Mission Essential paid the invoice, any exchange rate loss suffered by Mission Essential likely would constitute a reasonable, allocable, and allowable direct cost, pursuant to FAR 31.201-1(a).⁹

C. Mission Essential Has All Necessary LNL Screening Documentation.

Crowe Horwath suggests that Mission Essential did not retain sufficient documentation regarding the LNL screenings performed on the OEF-A Contract. Crowe Horwath has suggested that it may question approximately \$227,000 relating to documentation for LNL screenings. Crowe Horwath's attempt to obtain the LNL screening documents from Mission Essential is misguided. The OEF-A Contract makes clear that INSCOM (and its other contractors) had responsibility for screening the LNLs. INSCOM entered into a separate contract to obtain screening services for the LNLs. As a result, Crowe Horwath properly would find the screening documentation with that contractor, not Mission Essential.

Section 2.1 of the OEF-A Contract's Statement of Work ("SOW") includes the Contract's requirements relating to recruitment. (Ex. A (OEF-A Contract) at 10-14.) Section 2.1.2.2, which addresses contractor pre-screening for linguist skills, includes separate requirements for the OEF-A Contract contractor for the three different categories of linguists: Category ("CAT") I, CAT II, and CAT III. (*Id.* at 11-12.) The LNLs that Mission Essential used to perform the OEF-

⁹ A cost is allowable if it is: (1) reasonable, (2) allocable, (3) compliant with the CAS if applicable, or otherwise GAAP and practices appropriate to the circumstances, (4) compliant with the terms of the contract, and (5) compliant with any other relevant limitations. FAR 31.201-2(a). "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business." FAR 31.201-3(a). "A cost is allocable if it is assignable or chargeable to one or more cost objectives on the basis of relative benefits received or other equitable relationship," and is allocable to the relevant Government contract if (1) the contractor incurs the cost "specifically for the contract," (2) the cost "[b]enefits both the contract and other work, and can be distributed to them in reasonable proportion to the benefits received, or (3) the cost "[i]s necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown." FAR 31.201-4.

Crowe Horwath LLP
February 2, 2016
Page 30

A Contract, including to perform DOs 0093 and 0108, were CAT I linguists. (See, e.g., Ex. C (May 2010 J&A) at 6 ("To date, MEP has been able to deliver approximately 1700 Category I, II, and III linguists from CONUS and an additional 4,100 **Category I local national linguists** from Afghanistan.").) The section of the SOW that addresses screening for CAT I linguists provides in full:

CAT I linguists shall have native proficiency in the SCRL (level 4 to 5) as defined by the Interagency Language Roundtable (ILR), and a working proficiency (ILR level 2+) in English. CAT I linguists may be locally hired or from a region outside of the Area of Operations (AO) (especially for SCRL languages not indigenous to the AO) and will not require a security clearance. However, ***all CAT I linguists will be screened by Government designated personnel in accordance with the Department of the Army Policy on Counterintelligence and Security Support to Contract Linguist Acquisition and Deployment dated April 1998. The Government will review each linguist's background and determine if the linguist shall be allowed to work in that capacity.***

(Ex. A (OEF-A Contract) at 12.)

Accordingly, "Government designated personnel" screened Mission Essential's LNLs. INSCOM designated the personnel to screen Mission Essential's LNLs by entering into a contract separate from the OEF-A Contract; INSCOM contracted with KBR to screen all CAT I LNLs. Mission Essential understands that KBR entered the screening information into the BATs system and then destroyed all supporting documentation. Mission Essential further understands that INSCOM oversaw KBR during this process, and paid KBR for screening the LNLs.

Mission Essential did not have responsibility for maintaining this screening documentation. Moreover, KBR never provided Mission Essential with copies of the documentation it created. It is therefore proper and unsurprising that Mission Essential does not have the screening documentation for the LNLs.¹⁰

¹⁰ Mission Essential did keep copies of the badges issued to its LNLs. An LNL cannot receive a badge until he or she completes the screening process and the screening contractor enters that individual's information into the BATS system. Mission Essential provided copies of these documents to Crowe Horwath.

Crowe Horwath LLP
February 2, 2016
Page 31

IV. CONCLUSION

Mission Essential respectfully requests that Crowe Horwath consider both this response to the preliminary assessments and the attached documents prior to issuing any audit reports. Mission Essential received all necessary subcontractor consents and approvals, employed an appropriate method for foreign currency conversion, and retained the necessary screening documentation in its possession. Given the potential harm to Mission Essential from errant conclusions to the contrary, Mission Essential requests that Crowe Horwath participate in such follow up discussions as are appropriate.

Sincerely,
ARNOLD & PORTER LLP

A handwritten signature in black ink, appearing to read "Craig A. Holman", written over a light blue horizontal line.

Craig A. Holman

cc: Kent Kiffner

SIGAR's Mission

The mission of the Special Inspector General for Afghanistan Reconstruction (SIGAR) is to enhance oversight of programs for the reconstruction of Afghanistan by conducting independent and objective audits, inspections, and investigations on the use of taxpayer dollars and related funds. SIGAR works to provide accurate and balanced information, evaluations, analysis, and recommendations to help the U.S. Congress, U.S. agencies, and other decision-makers to make informed oversight, policy, and funding decisions to:

- improve effectiveness of the overall reconstruction strategy and its component programs;
- improve management and accountability over funds administered by U.S. and Afghan agencies and their contractors;
- improve contracting and contract management processes;
- prevent fraud, waste, and abuse; and
- advance U.S. interests in reconstructing Afghanistan.

Obtaining Copies of SIGAR Reports and Testimonies

To obtain copies of SIGAR documents at no cost, go to SIGAR's Web site (www.sigar.mil). SIGAR posts all publically released reports, testimonies, and correspondence on its Web site.

To Report Fraud, Waste, and Abuse in Afghanistan Reconstruction Programs

To help prevent fraud, waste, and abuse by reporting allegations of fraud, waste, abuse, mismanagement, and reprisal, contact SIGAR's hotline:

- Web: www.sigar.mil/fraud
- Email: sigar.pentagon.inv.mbx.hotline@mail.mil
- Phone Afghanistan: +93 (0) 700-10-7300
- Phone DSN Afghanistan: 318-237-3912 ext. 7303
- Phone International: +1-866-329-8893
- Phone DSN International: 312-664-0378
- U.S. fax: +1-703-601-4065

Public Affairs

Public Affairs Officer

- Phone: 703-545-5974
- Email: sigar.pentagon.ccr.mbx.public-affairs@mail.mil
- Mail: SIGAR Public Affairs
2530 Crystal Drive
Arlington, VA 22202