

Testimony

of

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before the

Commission on Wartime Contracting

August 12, 2009

Chairman Thibault, Chairman Shays, and members of the Commission, thank you for the opportunity to appear before you today; I am pleased to be here. As requested, I will describe the audit effort performed by the Defense Contract Audit Agency (DCAA) on the Global Linguistic Services Contract with emphasis on the costs and functions of the subcontractors and the business relationship with DynCorp International.

### **Background**

DCAA is a distinct agency of the Department of Defense (DoD) that reports to the Under Secretary of Defense (Comptroller). The DCAA mission is to perform all necessary contract audits for DoD components responsible for the negotiation, administration, and settlement of contracts and subcontracts. DCAA also provides contract audit services to about 35 civilian government organizations.

### **DynCorp Global Linguist Solutions**

The contract that is the subject of the hearing today was awarded in December 2007 as a cost plus award fee contract to a joint venture formed by DynCorp International (51 percent) and McNeil Technologies Inc. (49 percent), called DynCorp Global Linguist Solutions (hereafter referred to as GLS) located in Fort Worth, Texas. At the time of award, GLS reported to the DynCorp subsidiary, Government Services. In April 2008, DynCorp International reorganized and GLS was realigned under a newly formed business segment, International Security Services. In April 2009, DynCorp International reorganized yet again and GLS became its own segment reporting directly to the DynCorp International corporate office. DynCorp International has offices in Falls Church, Virginia

and Fort Worth, Texas. Although the corporate address is Falls Church, GLS uses DynCorp International's business systems which are all operated out of its Fort Worth office.

### **History of the Linguist Contract In-Theatre**

Linguist services in-theatre were initially procured under various task orders of an IDIQ cost-type contract awarded in 1999 with an initial value of \$10 million to a company named BTG. Several years later, BTG was acquired by Titan Corporation and various task orders were added under the contract increasing the value to over \$600 million as of September 2004 when the initial contract ended. As the number of linguists required in-theatre increased significantly, INSCOM issued an IDIQ cost plus fixed fee letter contract to Titan Technical and Operational Support Group in September 2004 with a six-month period of performance while a long-term contract was being definitized. The letter contract was subsequently extended for close to four years (until June 2008 with a value close to \$1 billion) for various issues including multiple bid protests.

In the Spring of 2004, INSCOM issued a Request for Proposal and in May 2004, REM Holdings filed a bid protest stating that the Request for Proposal failed to set aside a portion for small businesses. In July 2005, L-3 Communications acquired Titan Corporation including the linguist contract with Titan Technical and Operational Support Group. Through a series of proposals, the new contract was awarded to DynCorp GLS in December 2006. L-3 issued a bid protest and INSCOM issued a Request for Proposal in August 2007 awarding the contract yet again to GLS in December 2007. L-3 submitted another bid protest. In March 2008, L-3 withdrew its bid protest in an agreement with DynCorp GLS.

As part of the agreement, GLS awarded L-3 a subcontract for about \$1 billion of the \$4.64 billion contract value. Section A-22 of the subcontract stipulates L-3 “shall...inform...in writing within 24 hours ... that Subcontractor withdraws any and all protests.”

Of the current contract value of \$4.64 billion, just over \$1 billion has been funded as of June 2009. The contract provides for 9,317 Arab linguists under six task orders for Iraq, Kuwait, Qatar, KSA, UAE, Yemen, and Bahrain. Linguists for Afghanistan are provided under a separate prime contract awarded to Aegis Mission Essential Personnel, a contractor in Ohio.

### **Subcontract Effort**

Of the \$4.64 billion, GLS has awarded \$2.9 billion or 64% to 18 subcontractors. As of the date of this testimony, the primary function of 12 of the 18 subcontractors totaling \$2.8 billion is payment of payroll for GLS linguists. For example, the subcontractor Shee Atika, an Alaskan Native Corporation, pays the linguists, with exception of the local nationals in-theatre, based on payroll information provided by GLS. For the local nationals, Shee Atika provides a check to GLS who pays the local nationals in-theatre with cash. These 12 subcontractors do not hire, manage, or interact with the linguists other than to pay the amount stipulated by GLS. Of the 12 subcontractors, 9 are small businesses for a total value of \$1.6 billion. The remaining 6 subcontractors for \$136 million perform various functions such as recruiting, medical care, and logistical support. The schedule in Appendix 1 provides the total subcontract costs by subcontractor for the total contract.

Of the \$4.64 billion contract, \$816 million has been billed to the Government as of June 30, 2009 for GLS and all 18 subcontractors. Of the \$816 million, \$81.8 million represent “add-on” costs of the

subcontractors. We have categorized “add-on” costs to be indirect costs (fringe, overhead, and G&A) and profit/fee. Appendix 2 contains the schedule of “add-on” costs by subcontractor. Of the \$81.8 million, \$81 million represents the “add-on” costs of the subcontractors performing only the payroll function (\$30.6 million for small businesses). The \$81.8 million is increased to \$101 million when applying the GLS G&A and fee percentages. The “add-on” costs for the total contract value of \$4.64 billion were not available. However, applying the percentage of the add-on costs billed to date of \$101 million to the total contract billings to date of \$816 million, one could conclude that 12 percent of the \$4.64 billion contract or \$556 million could represent the “add-on” costs for subcontracting the payroll effort on this contract.

### **Audit Results**

GLS uses the same business systems as DynCorp International for all of its functions, e.g. accounting, billing, purchasing, and estimating. As discussed in the August 11, 2009 hearing on contractor business systems, we have determined that three business systems are inadequate - Labor Accounting System, Compensation System and Billing System. In addition, the General IT Controls system was determined to be “Inadequate in Part” (we no longer provide the opinion of inadequate in part). Since the results of the systems audits were discussed in detail during the hearing on August 11<sup>th</sup>, the audit results on DynCorp’s systems are not repeated in this document.

We recently identified two conditions related to the GLS Purchasing System which were reported in a Flash Report dated June 4, 2009. A flash report does not contain an audit opinion, but rather provides conditions that we believe if left uncorrected, could result in an increased risk of overcharges to the Government.

For the first condition, through audits of interim vouchers we discovered that GLS's purchasing system does not have internal controls and guidelines to identify and notify the Government upon award of auditable subcontracts (i.e., cost reimbursable subcontracts that require an audit of final actual costs in order to establish final allowable costs for the subcontract). As a result of this condition, the purchasing system cannot be relied on to identify and disclose to the Government all types of auditable subcontracts so that the Government can ensure actual indirect costs are audited before the prime contract is closed and final payment is made by the Government.

For the second condition, through audits of interim vouchers we discovered that detailed cost or price analysis were not part of the subcontract files. The cost or price analysis files provided by GLS did not contain sufficient justifications or a specific assertion that prices negotiated with its subcontractors were determined to be fair and reasonable. As required by the Federal Acquisition Regulations, the contractor must perform adequate subcontract cost or price analyses. By properly and completely documenting the rationale for selecting the subcontractors and determining the subcontract price is fair and reasonable, GLS ensures proper subcontract types are selected and that procurement of materials/services is at the most economical cost. However, the basis for GLS' determination of the prices on its major subcontracts was limited.

For example, for L-3, no price analysis was performed when arriving at the price for the L-3 subcontract. As GLS felt it needed to quickly execute the subcontract in order for L-3 to withdraw its protest, it was agreed by the parties that L-3 would offer "comparable" rates and benefits. L-3 represents \$1 billion of the \$4.64 billion total award or 22.5 percent.

For Shee Atika, the Alaskan Native small business, GLS stated that in order to meet the requirements of the solicitation, the decision was made to select small business linguist subcontractors in as many small business categories as possible. According to GLS, a “best value” criterion was used. However, based on a review of GLS’ procurement files, it appears the “best value” criterion consisted of a comparison of Shee Atika’s pricing to pricing provided by one other subcontractor, resulting in a determination that Shee Atika’s price was within an acceptable cost range.

Building on the purchasing system issues, we recently discovered that not all of GLS’s subcontractors are billing at the indirect cost rates provided for in the subcontract agreement with GLS. For example, we determined some of the subcontractors were billing actual indirect cost rates when the subcontract rates were capped at a significantly lower rate. As a result, we notified GLS on July 31, 2009, that we would not process any interim vouchers until it corrected the subcontract billings and provided a credit or refund to the Government. We do not have an estimate of the overbilling amount. GLS initially agreed with the error and is currently examining subcontract billings to determine if a refund is due to the Government. It is the responsibility of GLS to review the interim billings from its subcontractors to ensure the billings comply with contract terms and conditions.

### **Closing**

In closing, I want to underscore that DCAA has worked closely with all acquisition organizations to promote an integrated, well-managed contract audit process in-theatre. DCAA has been and will continue to be vigilant about contract audit oversight and protecting the taxpayers’ interests.

## Appendix 1

### Subcontracts under DynCorp GLS Prime Contract

<i>Subcontractor</i>	<i>Type (all IDIQ)</i>	<i>Date Executed</i>	<i>Value</i>	<i>Services</i>
<b>Small Business Subcontractors Performing Only Payment Services:</b>				
Company 1	CPAF	16-Apr-08	\$185,800,000	Payment of Linguists
Company 2	CPFF	22-May-08	\$185,800,000	Payment of Linguists
Company 3	CPAF	16-Jul-08	\$2,535,672	Payment of Linguists
Company 4	CPAF	24-Oct-08	\$20,000,000	Payment of Linguists
Company 5	CPFF	22-Dec-07	\$696,750,000	Payment of Linguists
Company 6	FP/LOE	15-Jul-08	\$284,389	Payment of Linguists
Company 7	CPFF	5-Sep-08	\$185,800,000	Payment of Linguists
Company 8	CPAF	14-Mar-08	\$185,800,000	Payment of Linguists
Company 9	CPFF	22-Dec-07	\$149,631,933	Payment of Linguists
<b>Subtotal Small Business - Payment of Linguists</b>			<b>\$1,612,401,994</b>	<b>35% of prime contract</b>
Company 10	CPAF	12-Mar-08	\$1,045,125,000	Payment of Linguists
Company 11	FP/LOE	27-Nov-07	\$154,277,460	Payment of Linguists
Company 12	CPFF	1-Jun-08	\$9,733,930	Payment of Linguists
<b>Subtotal Large Business - Payment of Linguists</b>			<b>\$1,209,136,390</b>	<b>26% of prime contract</b>
<b>Subtotal - Payment of Linguists</b>			<b>\$2,821,538,384</b>	<b>61% of prime contract</b>
<b>Subcontractors Performing Other Effort:</b>				
Company 13	CPFF	9-Jun-08	\$2,369,505	Kuwait sponsorships and office space
Company 14	CPFF	1-Mar-08	\$61,877,754	CONUS med exams/ONCONUS medical care
Company 15	Cost No Fee	15-Dec-07	\$22,527,759	Seconded personnel and language testing
Company 16	FP + LH	15-Mar-08	\$35,000,000	Logistical services
Company 17	FP + LH	1-Apr-08	\$5,000,000	Various support services
Company 18	T&M	25-Mar-08	\$9,361,411	OCONUS IT Support
<b>Subtotal - other services</b>			<b>\$136,136,429</b>	<b>2.9% of prime contract</b>
<b>Total subcontracts</b>			<b>\$2,957,674,813</b>	<b>64% of prime contract</b>



## Schedule of Subcontractors

### Appendix 2

	Subcontractor Add-On Indirect Costs & Fee (Billed thru GLS to Govt thru July 2009)					GLS Add-On		Total Billed Indirect Add-Ons to Subcontractor Direct Cost
	Fringe	Overhead	G&A	Fee	Total Approximate Subcontractor Add-On Indirect Cost & Fee	Approximate indirect	Approximate Fee Applied	
<b>Subcontractors</b>								
<b>Small Business</b>								
<b>Subcontractors Performing Only Payment Services:</b>								
Company 1	2,346,642	513,785	1,388,211	347,661	4,596,299	689,445	396,431	5,682,175
Company 2	2,644,632	841,707	1,319,102	794,527	5,599,968	839,995	482,997	6,922,961
Company 3	906,776	188,225	309,515	114,421	1,518,938	227,841	131,008	1,877,787
Company 4	282,806	71,711	101,261	38,553	494,331	74,150	42,636	611,116
Company 5	4,520,759	1,829,863	1,983,348	3,066,406	11,400,376	1,710,056	983,282	14,093,714
Company 7	1,726,167	868,835	-	573,077	3,168,079	475,212	273,247	3,916,538
Company 8	1,979,152	-	1,542,247	304,283	3,825,681	573,852	329,965	4,729,499
<b>Subtotal Small Businesses</b>	<b>14,406,934</b>	<b>4,314,125</b>	<b>6,643,684</b>	<b>5,238,929</b>	<b>30,603,672</b>	<b>4,590,551</b>	<b>2,639,567</b>	<b>37,833,789</b>
Company 10	21,942,107	10,312,981	7,591,899	7,278,430	47,125,417	7,068,813	4,064,567	58,258,796
Company 11	-	1,332,336	-	954,841	2,287,176	343,076	197,269	2,827,522
Company 12	-	-	702,216	312,454	1,014,670	152,200	87,515	1,254,385
<b>Subtotal Large Business</b>	<b>21,942,107</b>	<b>11,645,317</b>	<b>8,294,115</b>	<b>8,545,724</b>	<b>50,427,263</b>	<b>7,564,089</b>	<b>4,349,351</b>	<b>62,340,704</b>
<b>Subcontractors Performing Other Effort:</b>								
Company 13					-	-	-	-
Company 14 (Small Business)					-	-	-	-
Company 15	313,199	301,334	189,338	-	803,871	120,581	69,334	993,786
Company 16 (Small Business)	-	-	-	-	-	-	-	-
Company 17	-	-	-	-	-	-	-	-
Company 18 (Small Business)	-	-	5,811	-	5,811	872	501	7,184
Other	-	-	-	-	-	-	-	-
<b>Subtotal - other services</b>	<b>313,199</b>	<b>301,334</b>	<b>195,150</b>	<b>-</b>	<b>809,683</b>	<b>121,452</b>	<b>69,835</b>	<b>1,000,970</b>
<b>Total</b>	<b>\$ 36,662,240</b>	<b>\$ 16,260,776</b>	<b>\$ 15,132,949</b>	<b>\$ 13,784,652</b>	<b>\$ 81,840,617</b>	<b>\$ 12,276,093</b>	<b>\$ 7,058,753</b>	<b>\$ 101,175,463</b>