

On July 30, 2011, the Special Inspector General for Iraqi Reconstruction (SIGIR) [published](#) an audit report discussing costs incurred by ANHAM FZCO—a company incorporated in the United Arab Emirates (UAE). ANHAM was awarded a \$300 million ID/IQ contract with six cost-reimbursement Task Orders “to provide for the receipt, storage, and forward movement of supplies and equipment needed to reconstitute the Iraqi Security Forces and reconstruct the country’s infrastructure.” According to the SIGIR’s report—

The contract required Anham to provide all resources necessary to operate and maintain the warehouses, including logistics, management, and life support. These warehouse and distribution sites received, held, repackaged and redistributed supplies and equipment to Iraqi government ministries. The U.S. military’s ultimate goal was to transfer operational control to the Iraqi military. While the contract stated that some services could be used to move materiel for projects supporting U.S. military forces, coalition and/or multinational forces, and other governmental/non-governmental agencies, U.S. on-site commanders stated that almost all goods shipped through these facilities went to the Government of Iraq.

The SIGIR found significant problems with the Government’s oversight of ANHAM. Its criticisms had many targets, including DCAA, DCMA, the cognizant ACO, and the cognizant Contracting Officer’s Representative (COR). Its audit report stated—

SIGIR found significant weaknesses in the government’s oversight of Anham business systems and other contract administration functions. These weaknesses left the government at particular risk of paying unreasonable costs. The government’s oversight of Anham’s business systems was supposed to provide assurances that Anham was following FAR requirements and reduce risks of paying unreasonable prices for goods and services, but it broke down. Of the three key Anham business systems that DCAA was responsible for reviewing, DCAA approved only Anham’s accounting system. DCAA did not review Anham’s estimating system, and, while it did review Anham’s billing system, it was done late into the contract and only then uncovered significant weaknesses.

DCMA reviewed and recommended approval of Anham’s purchasing system but did so without asking important questions about close and/or affiliated relationships that Anham may have had with its subcontractors. Further, DCMA recommended approval of the purchasing system even though it was unable to find documentation of price analysis in any of the cases that it

reviewed.

According to DCMA officials, they have changed their approach to performing purchasing system reviews, and based on their current procedures, they would not have recommended approval of Anham's purchasing system. In addition, DCAA has not yet completed an incurred cost review.

SIGIR also found that ACO and COR contract oversight was weak. The CORs did not compare all vouchers to receiving documents, as required, to assure that the government was billed for only delivered items, and the government allowed Anham employees to sign for receipt of \$10 million in goods, a major control problem.

Notably, the SIGIR audit report stated that DCAA had concluded that ANHAM's accounting system was adequate, but that its "procedures utilized in the audit program were not sufficiently robust to render an opinion on the key control activities and objectives that comprise a full-scope audit of internal controls."

And while DCAA had issues with ANHAM's billing system, the company was 20 months into contract performance before the DCAA audit report was issued. Finally, DCAA never got around to performing a review of ANHAM's estimating system, and never performed an incurred cost audit. The SIGIR report noted (somewhat dryly, we think) that "DCAA is behind in conducting its incurred cost audits."

Looking at DCMA's oversight of ANHAM, SIGIR reported—

Although DCMA approved Anham's purchasing system, its review of 55 Anham purchase orders and subcontracts found the following:

- 38 purchase orders and subcontracts lacked adequate documentation (source justification, price analysis, etc.).
- 34 purchase orders and subcontracts required a price analysis, and all 34 had "ineffective" price analyses (e.g., "The files lacked documentation to support this.").
- 34 subcontracts/purchase orders required a justification for awards made without adequate price competition, and 32 of the justifications to support these single/sole source

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awards were inadequate .

The SIGIR's report went into much detail regarding overlapping management relationships between ANHAM and some of its subcontractors. As it reported, "Exploring these relationships is important because it may raise important questions about whether there is truly an arms-length business relationship between the prime contractor and its subcontractors." (Knowing how the Middle East does business, we're not surprised at the relationships. Perhaps if the SIGIR auditors had spent some time in Japan auditing keiretsu ... but we digress.)

The SIGIR conducted its own review of ANHAM's costs and—perhaps unsurprisingly—questioned several million dollars' worth. The SIGIR audit report stated: "SIGIR questions \$4.4 million or almost 39 % of the costs from a judgmentally selected sample of about \$11.4 million in vouchers and procurement actions because they appear to be not fair and reasonable or were not properly documented." But that was just the ante. SIGIR's conclusion was a bit more ... well, to use a poker metaphor, SIGIR went "all-in", saying—

As a result of the multiple problems identified in this report, SIGIR is questioning all of the costs on this contract, \$113.4 million, and recommends that the U.S. military initiate a systematic review of billing practices on all Anham contracts in Iraq and Afghanistan. Currently, Anham holds about \$3.9 billion in U.S. government contracts.

The SIGIR audit report raised the ire of the usual taxpayer advocates. For example, David Isenberg wrote this [op-ed piece](#) on HuffPo, in which he quotes a SIGIR report for the proposition that the Department of State is actually hindering effective oversight of contractors in Southwest Asia. According to Mr. Isenberg, SIGIR reported that—

U.S. Embassy-Baghdad again took an extremely circumscribed view of how many persons under COM [Chief of Mission] authority are involved in the 'reconstruction effort.' According to its implausibly narrow approach, as of June 30, 2011, there were only 10 U.S. government civilian employees and 57 contractors under COM authority overseeing or implementing reconstruction programs in Iraq--or just 0.08% of all personnel.

ANHAM had some issues with the SIGIR audit report. It issued a [press release](#) that stated—

[SIGIR's] conclusions are false, without legal or factual justification and convey the completely unfounded claim that the Company overcharged the U.S. Government for one or more items. In fact, the Company saved the U.S. Government and the U.S. Taxpayers nearly 153 million dollars (\$153,000,000) through its performance of the Contract.

That's not all. ANHAM also asserted—

SIGIR also contends that ANHAM's subcontractors may have overcharged for various purchases. This is also false. Every purchase by every subcontractor was the result of a competitive bidding process where the lowest price subcontractor was selected and not a single screw or nail was purchased without prior, advance approval by the U.S. Government after their review of the competitive bidding process amongst potential subcontractors. Full disclosure of the nature of every potential subcontractor was fully disclosed to the U.S. Government.

The Company takes enormous exception to the SIGIR implications. Its suggestions — based on innuendo rather than hard facts — are not the result of a meaningful 'audit.' ANHAM is continually audited by the Defense Contract Audit Agency (DCAA) and welcomes such true audits. ANHAM is also very proud of the savings that it effectuated for the U.S. Government and U.S. Taxpayers on the Contract.

Well, that's a kind of in-your-face response to an audit report, isn't it?

What we find interesting is ANHAM's assertion that the company actually "saved" \$150 million during contract performance. How did ANHAM arrive at that figure? Well, according to its press release—

[ANHAM] was awarded the Contract for its competitive bid of 115 million dollars (\$115,000,000). This price was 132 million (\$132,000,000) less than the Government's independent estimate. This was 53 percent below what the Government had concluded it would have to pay for performance and was substantially more below what was expended, on information and belief, on the contract performance prior to ANHAM's operation thereof.

ANHAM Applies Common Sense to Government Contracting Issues, with Predictable Results

Written by Nick Sanders

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Through the efforts and capabilities of ANHAM, the U.S. Government reduced its costs by more than half on the Contract, which is axiomatic of the fallacies in the SIGIR conclusions.

[Emphasis in original.] In our experience, ANHAM's position—that it “saved” the U.S. Government money by bidding lower than the Independent Government Estimate (IGE)—is the kind of “common sense” businessperson approach to Government contracting that gets companies in trouble time after time. The obvious fact of the matter is that, regardless of its priced offer, ANHAM was awarded cost-reimbursement Task Orders and it had to comply with applicable contract requirements. We don't pretend to know the merits of the parties' positions, but that particular argument is (in our view) a non-starter.

Similarly, SIGIR dismissed ANHAM's arguments, telling [GovExec](#) —

‘The one true point Anham makes ... is that the government didn't complain about the charges. There was a breakdown in the process of cost review, which wasn't as strong as it should have been, but that doesn't render the billings valid.’

We think that, like all Government contractors accused of wrong-doing, ANHAM should lawyer-up and quit trying to use the press as a shield and/or sword. First of all, the press loves a “waste, fraud, and abuse” story because that's what gets attention. The “we've been wronged” bit really doesn't play well. ANHAM should learn from KBR and fight its fights in the ASBCA and/or Court of Federal Claims—and not via press releases.

Second—as previously mentioned—ANHAM is going to need better arguments than “we were the low bidder and thus anything we spend is a better deal than the U.S. was going to get anyway.” The company needs to muster some expert Government cost accounting (and Government contracting) experts and have them write some expert reports. The current “common-sense” approach just won't get it done.

We have a word for business people who approach contracting with the U.S. Government with common sense and a passionate conviction that cost-savings can atone for other compliance sins.

We call those people “defendants”.

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