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# CONTINGENCY CONTRACTING

## DOD Has Taken Steps to Address Commission Recommendations, but Should Better Document Progress and Improve Contract Data

The report distributed the morning of September 30, 2021, did not include the correct title for an addressee. This corrected file contains this information.

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## CONTINGENCY CONTRACTING

### DOD Has Taken Steps to Address Commission Recommendations, but Should Better Document Progress and Improve Contract Data

#### Why GAO Did This Study

DOD has relied on contingency contracting to conduct a wide range of activities worldwide. DOD projects that factors, such as the use of high-tech equipment and military force structure reductions, will require contract support in most future operations.

The National Defense Authorization Act for Fiscal Year 2020 includes a provision for GAO to review the use of contractors in contingency operations, exercises, and other activities since 2009. This report evaluates the extent to which DOD 1) documented its actions to implement the recommendations made by the Commission on Wartime Contracting, and 2) tracked and reported on contracts and contractor personnel supporting contingencies.

GAO performed a content analysis of DOD actions to address the Commission's recommendations, reviewed laws and DOD guidance, and analyzed contract and personnel data reported from calendar years 2009 through 2020.

#### What GAO Recommends

GAO is making four recommendations to ensure that DOD fully documents progress on the Commission's recommendations, and improves data related to applicable contingency operations described in department guidance. DOD partially concurred with two recommendations and did not concur with two recommendations. GAO continues to believe that all of its recommendations are still warranted.

#### What GAO Found

The Department of Defense (DOD) has taken steps to implement the 16 of 30 recommendations it agreed to address and that were made by the Commission on Wartime Contracting in Iraq and Afghanistan (Commission). The Commission was established by law to develop recommendations to improve various aspects of contingency contracting, which is the process of obtaining goods, services, and construction and comprises contractor personnel who provide support to operations that may include combat and other activities that are considered contingency operations. However, DOD's documentation on the status of half of the 16 recommendations as part of an action plan it issued in 2013 was inconsistent or incomplete. By fully documenting the progress of the department's efforts to implement the recommendations, DOD could help achieve the Commission's vision for improving the oversight and management of contingency contracting operations.

DOD's information system—Synchronized Predeployment and Operational Tracker-Enterprise Suite (SPOT-ES)—tracks and reports information about contracts and contractor personnel supporting applicable contingency operations. However, GAO found that SPOT-ES is not able to track and report information by the type of applicable contingency operations that DOD contracts and contractors have supported. DOD officials told GAO that there is no definitive list of such contingencies from one authoritative source. In addition, DOD has not designated a single office responsible for monitoring and reporting which operations, exercises, and other activities are associated with an applicable contingency operation in SPOT-ES. Without the ability to identify data on operations, exercises, and other activities that are considered applicable contingency operations within SPOT-ES, DOD planners may find it more difficult to identify and make decisions on contractor personnel or capabilities to support them. Additionally, an office that is designated with the responsibility could provide additional oversight to DOD by better monitoring and reporting on the department's contractor personnel.

GAO also found that information on the status of thousands of quarterly deployment records on contractor personnel supporting applicable contingency operations was missing in SPOT-ES at the time of our review. DOD guidance requires various SPOT-ES users to enter or review information related to contracts and contractor personnel supporting applicable contingency operations. However, it does not clearly specify who is responsible for resolving missing information. Without clarifying the responsibility for resolving missing or inaccurate data in SPOT-ES within DOD guidance, communicating such information to contracting organizations, and taking steps to improve data completeness and accuracy, the reliability of data in SPOT-ES is at risk. Further, DOD's ability will be hindered when there is a need to locate the whereabouts of contractor personnel during an emergency or when contractors exit at a contingency location.

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## Abbreviations

|         |   |
|---------|---|
| DOD     | Department of Defense   |
| JAMMS   | Joint Asset Movement Management System                              |
| NDAA    | National Defense Authorization Act                                  |
| OCS     | Operational Contract Support  |
| SPOT-ES | Synchronized Predeployment and Operational Tracker-Enterprise Suite |
| TOPSS   | Total Operational Picture Support System                            |

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September 30, 2021

Congressional Committees

The Department of Defense (DOD) has long relied on contractors to support a wide range of contingency operations worldwide. Such operations may include combat and other activities, including recovery from natural disasters, humanitarian crises, or other calamitous events. Contractors have provided support to U.S. armed forces deployed outside of the United States to the U.S. Central Command area of responsibility to conduct military operations in Iraq and Afghanistan, for example, as well as operations and exercises to provide security and foster cooperation in various regions, such as logistics support, base operations support, private security, and transportation.<sup>1</sup>

Contingency contracting is the process of obtaining goods, services, and construction in support of contingency operations, and DOD identifies this contracting as a part of Operational Contract Support (OCS). Contingency contracting entails the use of contractor personnel from as many as 195 countries who comprise a critical component of the department's ability to provide forces and support U.S. military capabilities.<sup>2</sup> According to DOD Instruction 3020.41, *Operational Contract Support (OCS)*, OCS actions shall be implemented to incorporate appropriate contingency program

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<sup>1</sup>U.S. Central Command is one of six geographic combatant commands that DOD operates to perform its mission and manage military operations in its respective geographic region. U.S. Central Command stretches from Northeast Africa across the Middle East to Central and Southwest Asia. Operations that have occurred in the U.S. Central Command area of responsibility include Combined Joint Task Force Operation Inherent Resolve and North Atlantic Treaty Organization's Operation Resolute Support. U.S. Africa Command, U.S. European Command, U.S. Indo-Pacific Command, and U.S. Southern Command are examples of DOD's geographic combatant commands that provide regional security and participate in exercises with allies and partners to foster regional cooperation.

<sup>2</sup>OCS is the process of planning for and obtaining supplies, services, and construction from commercial sources in support of combatant commander-directed operations. Joint Chiefs of Staff, Joint Pub. 4-10, *Operational Contract Support* at GL-8 (Mar. 4, 2019). DOD also defines OCS as the ability to orchestrate and synchronize the provision of integrated contract support and management of contractor personnel providing support to the joint force within a designated operational area. DOD Instruction 3020.41, *Operational Contract Support (OCS)* (Dec. 20, 2011) (incorporating change 2, Aug. 31, 2018).

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management processes during “applicable contingency operations.”<sup>3</sup> DOD obligations for contracts in support of contingency operations totaled about \$158 billion from calendar year 2009 to 2019.<sup>4</sup> According to DOD, contractor personnel continue to outnumber deployed service members in military operations such as Iraq and Afghanistan. Further, DOD projects that the continual introduction of high-tech equipment, coupled with military force structure reductions, limits on the number of military personnel, and continuing deployments will require some level of contract support in future operations.

In recent years, we have reported on DOD’s challenges to address contingency contracting issues. Most recently, in our 2021 report on high-risk areas in the federal government, we reported that DOD continues to demonstrate top leadership for addressing challenges in operational contract support, but could do more to address risks involving other areas related to operational contract support. This includes marshaling resources to perform contracting activities in a timely manner, issuing vendor threat mitigation guidance, and issuing a revised instruction that integrates operational contract support through the department.<sup>5</sup>

Congress has passed and the President has signed legislation to address contingency contracting matters. For example, the National Defense Authorization Act for Fiscal Year 2008 established the Commission on Wartime Contracting in Iraq and Afghanistan (Commission) to assess various matters, including contracting for reconstruction, logistical support, and security functions; examine waste, fraud, and abuse; and provide recommendations to Congress to improve various aspects of

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<sup>3</sup>DOD Instruction 3020.41, para. 4.a(1); see also 32 C.F.R. § 158.4(a)(1) (2020). Although the term “contingency operations” is defined in section 101 of Title 10, U.S. Code, DOD Instruction 3020.41 applies more broadly to DOD operations (contingency, humanitarian assistance, and other peace operations) outside the United States; other military operations as determined by a Combatant Commander; or as directed by the Secretary of Defense. For purposes of the DOD instruction, these are referred to collectively as “applicable contingency operations.”

<sup>4</sup>The total amount is based on DOD contract actions reported to the Federal Procurement Data System-Next Generation for contingency operations as defined in section 101(a)(13) of Title 10, U.S. Code, and contracts performed in Iraq or Afghanistan. An agency incurs an obligation when, for example, it places an order, signs a contract, awards a grant, purchases a service, or takes other actions that require the government to make payments to the public or from one government account to another.

<sup>5</sup>GAO, *High Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas*, GAO-21-119SP (Washington, D.C.: Mar. 2, 2021).

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contingency contracting.<sup>6</sup> The Commission issued a final report in August 2011 that contained 30 recommendations about contracting practices in current and future contingency environments, 16 of which DOD agreed to address.<sup>7</sup>

Section 887 of the National Defense Authorization Act (NDAA) for Fiscal Year 2020 includes a provision that we review the use of contractors to perform work supporting contingency operations since January 1, 2009, including matters related to the recommendations made by the Commission on Wartime Contracting.<sup>8</sup> In this report, we evaluated the extent to which DOD 1) documented its actions to implement the recommendations made by the Commission on Wartime Contracting; and 2) tracked and reported on contracts and contractor personnel supporting applicable contingency operations.<sup>9</sup> In addition, in appendix I, we provide information on contingency contractor personnel and contract obligations from calendar year 2009 to 2019.

To address our first objective, we reviewed the recommendations that the Commission presented in its 2011 final report to Congress to improve the structures, policies, and resources for managing the contracting process and contractors. We also reviewed our 2012 correspondence report that summarized the actions DOD had taken or planned to take to address the Commission's recommendations.<sup>10</sup> We performed a content analysis in

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<sup>6</sup>The Commission on Wartime Contracting was established by section 841 of the National Defense Authorization Act for Fiscal Year 2008, which was subsequently amended in 2008 and 2009. Pub. L. No. 110-181, § 841 (2008); Duncan Hunter NDAA for Fiscal Year 2009, Pub. L. No. 110-417, § 851 (2008); NDAA for Fiscal Year 2010, Pub. L. No. 111-84, § 822 (2009).

<sup>7</sup>*Transforming Wartime Contracting: Controlling Costs, Reducing Risks, Final Report to Congress* (Aug. 31, 2011). This final report also included recommendations to other agencies such as the Department of State and U.S. Agency for International Development, but for the purpose of this review, we focused on those 16 recommendations that were directed to DOD.

<sup>8</sup>Pub. L. No. 116-92, § 887 (2019).

<sup>9</sup>In December 2020, we provided the congressional defense committees with an information paper in response to the provision. We also recently issued related work in response to section 889 of the NDAA for Fiscal Year 2020 on DOD's use of private security contractors in support of contingency or other operations. See GAO, *Private Security Contractors: DOD Needs to Better Identify and Monitor Personnel and Contracts*, GAO-21-255 (Washington, D.C.: July 29, 2021).

<sup>10</sup>GAO, *Contingency Contracting: Agency Actions to Address Recommendations by the Commission on Wartime Contracting in Iraq and Afghanistan*, GAO-12-85R (Washington, D.C.: Aug. 1, 2012).

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which we examined information on DOD’s actions in response to each of the relevant recommendations that DOD agreed to address. We also obtained written responses from DOD organizations that explained their actions to address the Commission’s recommendations, and identified updates by comparing these actions to older ones. However, we did not assess the extent to which DOD’s actions fulfilled the Commission’s recommendations. Further, we reviewed the Operational Contract Support Action Plan for Fiscal Years 2013—2016 to determine the completeness and consistency of the department’s documentation of actions to address the Commission’s recommendations. We determined whether DOD’s documentation was complete or consistent by reviewing DOD’s action plan, which contained a rating system that provided information on which recommendations listed in the action plan were fully addressed or challenging to implement, and which were identified as closed or open. We also reviewed DOD’s written responses and supporting documentation that described actions the department had taken to address the Commission’s recommendations. In addition, we reviewed the Department of Defense Operational Contract Support Functional Capabilities Integration Board Charter to determine the roles and responsibilities of the board to oversee and monitor actions related to improving contingency contracting.<sup>11</sup>

To address our second objective, we reviewed laws, regulations and other documents related to the management and oversight of DOD’s information system—known as the Synchronized Predeployment and Operational Tracker-Enterprise Suite (SPOT-ES)—which serves as DOD’s central repository for up-to-date status and reporting on contractors and contractor personnel providing support for contingency operations. Further, we reviewed the DOD Business Rules for the Synchronized Predeployment and Operational Tracker on instructing end users on collecting and uploading data on contract and contractor personnel.<sup>12</sup> We determined that the control environment, monitoring, and information and communication components in the *Standards for Internal Control in the Federal Government* were significant to this objective, along with underlying principles that management should establish an organizational structure; assign responsibility and delegate authority;

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<sup>11</sup>*Department of Defense Operational Contract Support Functional Capabilities Integration Board Charter* (Mar. 2, 2020).

<sup>12</sup>*DOD Business Rules for the Synchronized Predeployment and Operational Tracker (SPOT)* (Sept. 25, 2019).

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designate an entity to monitor and report activities necessary to identify changes in the internal control system; and use quality information that is appropriate, current, complete, accurate, accessible, and provided on a timely basis.<sup>13</sup> We assessed 1) whether quarterly SPOT-ES records identify applicable contingency operations from January 1, 2015 through March 31, 2020, the most recent quarter of data available at the time of our review; and 2) the process by which SPOT-ES records on contracts and contractor personnel supporting contingency operations are tracked and recorded against those standards.<sup>14</sup> We conducted a data reliability assessment of the records on contracts and contractor personnel obtained from SPOT-ES, and distributed a data reliability questionnaire to DOD to obtain written responses on the completeness and accuracy of the data. We found examples of data on contractor personnel that were incomplete or inaccurate. However, based on our review of the totality of records obtained, we determined the data to be sufficiently reliable for assessing completeness and accuracy.

To provide information on contingency contractor personnel deployments and contract obligations, we collected and analyzed 4.5 million quarterly SPOT-ES records for more than 700,000 contractor personnel deployments from the period January 1, 2009, through December 31, 2019. We determined the types of operations and exercises that contractors supported, functions performed by contractor personnel, and their place of performance. In addition, we also determined the total dollar amount of contract obligations contingency coded in the Federal Procurement Data System-Next Generation and identified as supporting overseas contingency operations in Iraq and Afghanistan that have occurred from January 1, 2019, through December 31, 2019. We determined the data to be sufficiently reliable for the purposes of identifying the number of contractor personnel, the type of work they performed, and performance location in support of contingency operations from calendar years 2009 to 2019. For a more detailed discussion of our objectives, scope, and methodology, see appendix II.

We conducted this performance audit from March 2020 to September 2021 in accordance with generally accepted government auditing

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<sup>13</sup>GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

<sup>14</sup>Each of these records is a quarterly observation of a contractor personnel's deployment status. Because contractor personnel can be deployed for multiple quarters, an individual contractor personnel may have multiple records in this dataset.

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standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

### DOD Organizations That Have Roles and Responsibilities Related to the Management and Oversight of Contingency Contracting

Several DOD organizations have roles and responsibilities related to the management and oversight of contingency contracting. Within DOD, the Under Secretary of Defense for Acquisition and Sustainment serves as the principal staff assistant and advisor to the Secretary of Defense for all matters relating to acquisition and sustainment.<sup>15</sup> This Under Secretary exercises authority and direction over two subordinate organizations that are involved with DOD contingency contracting management: the offices of the Assistant Secretary of Defense for Acquisition and the Assistant Secretary of Defense for Sustainment. The Deputy Assistant Secretary of Defense for Logistics reports to the Assistant Secretary of Defense for Sustainment and, among other things, is responsible for implementing a program management approach to plan, orchestrate, integrate, and synchronize the preparation and execution of acquisitions of supplies, services, and construction in support of applicable operations.<sup>16</sup>

The Principal Director of Defense Pricing and Contracting reports to the Assistant Secretary of Defense for Acquisition, and assists with the development of policy solutions or guidance as well as training tools for contingency contracting providing contract support to the warfighter, and proposes legislative initiatives that support the accomplishment of the contingency contracting mission.

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<sup>15</sup>Among other responsibilities and functions, the Under Secretary of Defense for Acquisition and Sustainment provides contingency contracting policy and guidance to the warfighter. DOD Directive 5135.02, *Under Secretary of Defense for Acquisition and Sustainment (USD(A&S))*, para. 2.ac (July 15, 2020).

<sup>16</sup>DOD Directive 3020.49, *Program Management for the Planning and Execution of Operational Contract Support*, para. 2.3 (Aug. 14, 2020).

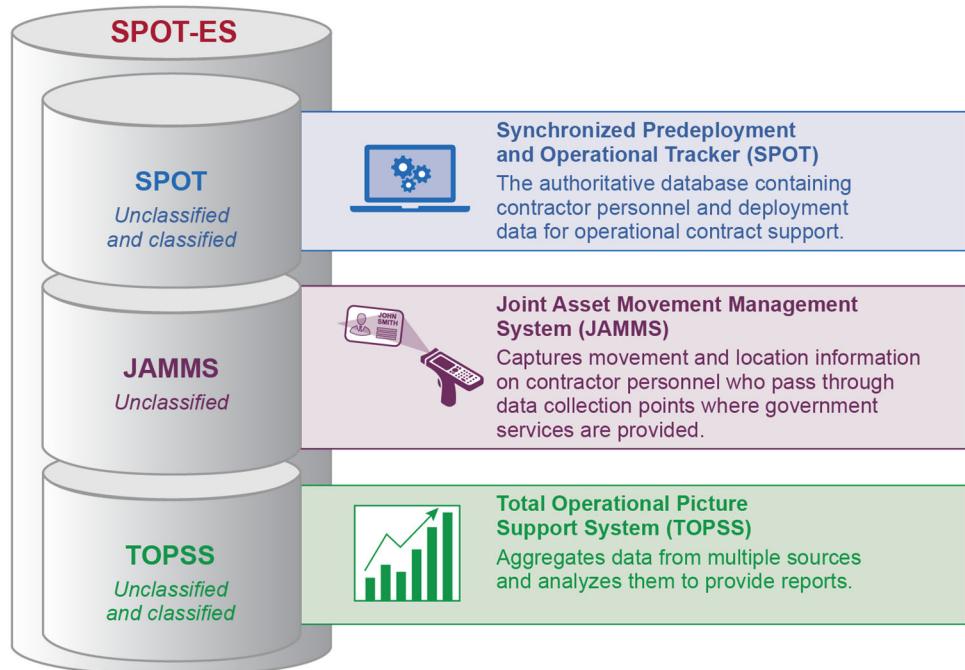
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## Synchronized Predeployment and Operational Tracker-Enterprise Suite (SPOT-ES)

SPOT-ES is the joint enterprise suite of products that serves as DOD's authoritative source for DOD contractor personnel supporting contingency, humanitarian, and peacekeeping missions. SPOT-ES comprises three components: SPOT, the Joint Asset Movement Management System (JAMMS), and the Total Operational Picture Support System (TOPSS).<sup>17</sup> Figure 1 illustrates the three components of SPOT-ES, and provides a description of the system's functional capabilities that can be used to disseminate information on contractor personnel and generate custom reports that provide information on, among other things, contractor personnel deployment and movement.

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**Figure 1: Key Components and Capabilities of DOD Synchronized Predeployment and Operational Tracker-Enterprise Suite**



Source: GAO analysis of Synchronized Predeployment and Operational Tracker-Enterprise Suite (SPOT-ES) information. | GAO-21-344

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<sup>17</sup>SPOT-ES comprises five systems: unclassified and classified versions of the SPOT database, unclassified and classified versions of the Total Operational Picture Support System analytic and reporting tool, and the Joint Asset Movement Management System personnel-location tracking tool. The SPOT database automatically generates letters of authorization that contractor personnel are required to have to travel to, from, and within the designated operational area. The letters of authorization also identify authorizations, privileges, or government support that contractor personnel are entitled to under the specific contract for which they are deployed.

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Note: On January 25, 2007, DOD designated SPOT as the central repository for information on contractors authorized to accompany the force. DOD has developed regulations, policy, and other guidance to ensure that contracting officers and contractors supporting contingency operations enter and maintain proper data in SPOT.

SPOT-ES tracks contract and contractor personnel data in support of all combatant commands. According to DOD, as the importance of operational contract support has grown, SPOT-ES has expanded to include operations and exercises worldwide.<sup>18</sup> SPOT-ES also provides data to personnel accountability and financial databases such as the Contractor Debt System and Theater Medical Data Store.<sup>19</sup> Although SPOT-ES primarily tracks contractor personnel for DOD, users also include other government agencies, such as the State Department and U.S Agency for International Development.

The Defense Manpower Data Center—which reports to the Defense Human Resources Activity—manages and provides operational support for SPOT-ES. According to the DOD Business Rules for SPOT (SPOT Business Rules), SPOT-ES is intended to provide information on existing and previously contracted support, so that planners and others may consider current and historical data when developing future requirements for the force structure supporting military operations.<sup>20</sup>

DOD has added some tracking and reporting features to SPOT-ES to improve data quality since 2015. For example, the program management office introduced a series of standard and customizable audit reports in TOPSS so that the system can now generate reports on individual contractor personnel. Further details on demographic information obtained from SPOT-ES on the use of contractors supporting contingency operations and information obtained from the Federal Procurement Data

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<sup>18</sup>On January 25, 2007, DOD designated SPOT as the central repository for information on contractors authorized to accompany United States forces. The SPOT Business Rules provide a description of statutory and policy requirements for using SPOT-ES to maintain contractor personnel deployment data.

<sup>19</sup>The Contractor Debt System receives SPOT data monthly on the number of meals consumed at dining facilities in the U.S. Central Command area of responsibility. The Theater Medical Data Store receives SPOT data quarterly on the contractor personnel who have received treatment at military medical facilities.

<sup>20</sup>*DOD Business Rules for the Synchronized Predeployment and Operational Tracker (SPOT)* (Sept. 25, 2019). Generally, “force structure” is the number and types of units that comprise the force, their size, and their composition (e.g., divisions, brigades, and companies). The SPOT Business Rules provide a description of statutory and policy requirements for using SPOT-ES to maintain contractor personnel deployment data.

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## DOD Has Taken Actions to Implement Many of the Commission's Recommendations, but Did Not Consistently or Completely Document Those Actions

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System-Next Generation on contract obligation data are presented in appendix I.

We found that DOD has taken actions to implement many of the recommendations made by the Commission on Wartime Contracting in Iraq and Afghanistan. The Commission's final report to Congress in August 2011 contained 30 recommendations by the Commission on Wartime Contracting. As of our 2012 report, DOD had agreed to address 16 of the original 30 recommendations made by the Commission on Wartime Contracting.<sup>21</sup> In appendix III, we present the 16 recommendations made by the Commission on Wartime Contracting that DOD agreed to address. We also present the actions that DOD reported it has taken or will take to address them.

For eight of the 16 Commission recommendations that DOD agreed to address, we found that DOD's documentation of actions taken to implement the recommendations was inconsistent in six cases and incomplete in two others. DOD documented its actions in its Operational Contract Support Action Plan for Fiscal Years 2013—2016, which it issued in 2013.<sup>22</sup> DOD's action plan listed each of the 16 recommendations it had agreed to address, using a red-yellow-green stoplight rating to illustrate whether the department considered a recommendation "not implemented," "challenging to implement," or "implemented." The plan also showed whether the department identified the status of the recommendation as "open" (i.e., not implemented) or

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<sup>21</sup>In 2012, DOD did not agree to address 14 of the 30 Commission on Wartime Contracting recommendations because DOD had determined that existing policies or practices already met the intent of the recommendations or had disagreed with the recommendations. In addition, some of these recommendations were directed to other agencies. For example, some of the 27 recommendations were also applicable to the Department of State and some of the 25 recommendations were also applicable to the U.S. Agency for International Development. The 14 Commission on Wartime Contracting recommendations that DOD decided not to address covered the following strategic areas, including: (1) phasing out the use of security contractors for certain functions; (2) improving interagency coordination and guidance and taking actions to mitigate the threat of additional waste; (3) elevating and expanding the authority of military officials who are responsible for contingency contracting on the Joint Staff, the combatant commanders' staffs, and in the military services; (4) setting and meeting annual increases in competition goals for contingency contracts; and (5) strengthening enforcement tools to improve oversight of contractors. For additional information, see [GAO-12-854R](#).

<sup>22</sup>Department of Defense, *Operational Contract Support Action Plan*, Fiscal Years 2013–2016 (April 2013).

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“closed” (i.e., implemented). For the eight cases, we identified the following:

- Three received green or “implemented” ratings, yet were designated as open.
- Three recommendations received yellow or “challenging to implement” ratings, but were designated as closed.
- DOD did not provide any documentation in the action plan for two additional recommendations.

Figure 2 shows the eight recommendations for which DOD provided inconsistent or incomplete documentation, and the eight recommendations for which DOD provided consistent (e.g., implemented-closed) documentation.

**Figure 2: GAO's Assessment of DOD's Documentation on the Implementation of the Commission on Wartime Contracting Recommendations in Its Operational Contract Support Action Plan, Fiscal Year 2013-2016**

| Commission on Wartime Contracting Recommendations   | Rating | Status | DOD documentation |
|---|--------|--------|-------------------|
| 1. Provide funding and direction for agencies involved in contingency operations to identify a trained, experienced, and deployable cadre for stabilization-and-reconstruction functions in areas of contingency operations so that the government has an alternative to contracting for performance of critical or sensitive functions.          | ✓      | ○      | ↔                 |
| 2. Provide a strategic plan for deploying these cadres that includes provisions for mandatory deployability of civilian members, and is supported by a back-up capability for rapidly making temporary hires for large-scale or long-term contingency operations.   | ✓      | ○      | ↔                 |
| 3. Phase out the use of host-nation private security contractors in Afghanistan for the convoys on high-volume roads that the insurgency controls or contests.  | ■      | ●      | ↔                 |
| 4. When private security or other contractors are to be armed, they should be overseen by government employees and tracked in a centralized system, as is done in Iraq.   | ■      | ●      | ↔                 |
| 5. Reliance on private security contractors should be accompanied by greater use and emphasis on vetting, training, authorizing arms, and weapons control: post-convoy debriefing, locational tracking, and video monitoring; and more thorough and comprehensive management.   | ■      | ●      | ↔                 |
| 6. Ensure that any new requirements and acquisition strategies for projects or services to be handed over to a host nation include a detailed assessment of long-term costs and of host nations' ability and willingness to meet those costs.   | ✓      | ○      | ↔                 |
| 7. Make consent to U.S. jurisdiction a condition of contract award.   | —      | —      | ↓                 |
| 8. The Secretaries of State and Defense extend and intensify their collaborative planning for the transition, including executing an agreement to establish a single, senior-level coordinator and decision-maker to guide progress and promptly address major issues whose resolution may exceed the authorities of departmental working groups. | —      | —      | ↓                 |
| 9. Issue and ensure implementation of policy guidance for using risk factors, such as operational, situational, financial and political to provide guidance on what functions are appropriate to contract for in a contingency setting.   | ✓      | ●      | ↑                 |
| 10. Provide funding and direction to establish a trained, experienced, and deployable cadre for acquisition management and contractor-oversight functions in areas of contingency operations so that the government has an alternative to relying on contractors for acquisition management and oversight.  | ✗      | ○      | ↑                 |
| 11. Hold military commanders responsible for making, publicizing, and revising their determinations of security-contracting appropriateness as conditions change, giving particular consideration to the geographic, temporal, and organizational proximity to armed conflict.  | ✓      | ●      | ↑                 |
| 12. Agency heads should require competition reporting and goals for contingency contracts.  | ✓      | ●      | ↑                 |
| 13. Agency heads should break out and compete major subcontract requirements from omnibus support contracts.  | ✓      | ●      | ↑                 |
| 14. Strengthen authority to withhold contract payments for inadequate business systems.   | ✓      | ●      | ↑                 |
| 15. Amend access-to-records authority to permit broader government access to contractor records.  | ✓      | ●      | ↑                 |
| 16. Increase agencies' staff and resources to enable adequate management of all aspects of contingency contracting such as acquisition planning.  | ✗      | ○      | ↑                 |

✓ Implemented      ○ Open      ↑ Consistent<sup>a</sup>  
■ Challenging to implement      ● Closed      ↔ Inconsistent<sup>b</sup>  
✗ Not implemented      — Not reported      ↓ Incomplete<sup>c</sup>  
— Not rated

Source: GAO analysis of Department of Defense (DOD) information. | GAO-21-344

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In one example, DOD documented in the action plan as green or “implemented” the recommendation to provide a strategic plan for deploying cadres that includes provisions for mandatory and rapid deployability of civilian personnel. However, DOD designated it as “open”. When we asked DOD officials about this rating, they stated that this recommendation was designated as open because it is being continuously updated as part of the Continuous Process Improvement approach.<sup>23</sup> The officials also stated that they are developing a comprehensive DOD instruction that will include provisions for implementing the civilian deployability recommendation.

Further, DOD documented in the action plan three recommendations as yellow or “challenging to implement”, but designated these same recommendations as “closed” in its action plan. For example, one recommendation was that when private security or other contractors are to be armed, they should be overseen by government employees and tracked in a centralized system. DOD officials stated that the SPOT-ES system is the primary system for collecting data on contractor personnel deployed with U.S. forces. They further stated that the SPOT Business Rules, DOD Instruction 3020.50 on private security contractors operating in contingency and other operations, and DOD Instruction 3020.41 on operational contract support provide direction on the oversight of contractor personnel. However, at the time of our review, the department officials we interviewed could not explain to us why the recommendation was documented in the action plan as challenging to implement and yet was closed.

Based on our review of DOD’s action plan, we found that DOD’s OCS Functional Capabilities Integration Board served as DOD’s principal forum for monitoring and documenting progress on the recommendations while the Commission was active. Historically, the Board also documented actions regarding the extent to which the Commission’s recommendations were implemented. According to its charter, the Board shall publish, monitor, and oversee the implementation of annual action plans.

The Board served as the principal collaborative forum for DOD’s action plan. However, following the disestablishment of the Commission after the issuance of its final report in August 2011 and the closeout of the Commission’s recommendations in April 2013, collateral organizations

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<sup>23</sup>According to DOD officials, the Continuous Process Improvement is an ongoing approach to improve capabilities, functions, and processes within required resources and priorities.

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would continue to monitor issues raised by the Commission and elevate them to the Board as necessary. As a result, since the issuance of the Fiscal Year 2013-2016 Action Plan, the Board has not continued to update and document the status of the Commission's recommendations. Specifically, officials in the Office of the Deputy Assistant Secretary of Defense for Logistics stated that DOD's action plan contained a comprehensive review of the actions that the department had taken to address and close out each of the Commission's recommendations. These officials further stated that they do not need to report on actions to address the recommendations that were not documented completely or consistently because they already made a final statement in DOD's action plan.

While DOD believes the recommendations made by the Commission have been documented, our review shows that DOD's actions to address half (8 of 16) of the recommendations were not documented consistently or completely as of the last update in April 2013. In addition, although the Functional Capabilities Integration Board charter calls for it to publish, monitor, and oversee implementation of an annual OCS Action Plan that captures recent capability assessments, ongoing initiatives, and corrective actions, the Board has not been directed to fully document the department's progress on implementing the Commission on Wartime Contracting recommendations.

By fully documenting the progress of the recommendations, including for recommendations where the action plan was inconsistent and incomplete, the Board could help achieve the Commission's vision for improving the oversight and management of contingency contracting operations based on DOD's past efforts and future efforts as well.

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## DOD Has a System to Track and Report Data on Contracts and Contractor Personnel, but These Data Were Incomplete

DOD uses an information system, SPOT-ES, to track and report on contracts and contractor personnel, and has recently added features to improve data quality to ensure better visibility on contractor personnel movement in operational environments. However, SPOT-ES does not track contractor personnel deployments according to their association with applicable contingency operations. In addition, we found that some

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## DOD's Information System Tracks and Reports Data on Contracts and Contractor Personnel, but Does Not Show If These Data Are Related to Applicable Contingency Operations

records in SPOT-ES were missing information on contractor personnel, including letters of authorization and in-theater arrival dates.<sup>24</sup>

SPOT-ES has a data element to identify operations, exercises, and other activities for contracts and contractor personnel, but this data element does not include information on applicable contingency operations. Under the current procedures, contractors create a deployment record in which they can fill in the data element by selecting specific names, such as “Operation Enduring Freedom” or “Operation Inherent Resolve,” from a drop-down list.<sup>25</sup> Contractors may also select “other” or “unknown” from the list if they do not know the correct operation name, or they may contact their assigned government contracting officer to obtain this information.

However, SPOT-ES does not identify which operations, exercises, and other activities are considered applicable contingency operations, even if a contractor follows the steps to create a deployment record and include information on a specific operation or exercise. We sought to determine whether DOD had a comprehensive list that would identify which operations, exercises, and other activities were identified as each of the various types of applicable contingency operations for the purposes of DOD Instruction 3020.41.<sup>26</sup> The Joint Staff, J3, Operations Directorate, provided a memo in response to our inquiry that confirmed its database does not specify which operations and exercises support a contingency

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<sup>24</sup>Letters of authorization are documents contractor personnel are required to have in order to travel to, from, and within the designated operational area. Letters of authorization also identify authorizations, privileges, or government support that contractor personnel are entitled to under the specific contract for which they are deployed.

<sup>25</sup>Operation Inherent Resolve, which commenced on June 15, 2014, comprises military actions against the threat posed by the Islamic State of Iraq and Syria, Operation Resolute Support, which commenced January 1, 2015, is a non-combat mission to train, advise and assist the Afghan National Defense and Security Forces.

<sup>26</sup>In January 2021, DOD issued a proposed rule that would update part 158 of Title 32, Code of Federal Regulations; currently, part 158 generally mirrors DOD Instruction 3020.41. Among the proposed changes was a change from the term “applicable contingency operations” to the term “applicable operations,” which would cover contingency operations, humanitarian assistance, or peace operations conducted outside the U.S., and other activities, including operations and exercises outside the U.S. as determined by a combatant commander or as directed by the Secretary of Defense. See 86 Fed. Reg. 1063, 1066 (Jan. 7, 2021).

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as determined by a combatant commander.<sup>27</sup> The memo also stated that the information is unobtainable from any source within that organization.

Officials with the Defense Manpower Data Center stated that SPOT-ES captures the names of other types of operations, exercises, and other activities that are not contingencies depending on guidance from sources, such as combatant commands. For example, we found that the data table in SPOT-ES includes descriptions of activities that may occur in a peacetime environment, such as security assistance and managing prepositioned stocks, and military training and exercises such as Talisman Saber and exercise support operations for U.S. Southern Command.<sup>28</sup> Consequently, data in SPOT-ES covers a wider range of operations, exercises, and other activities beyond those that are considered applicable contingency operations. SPOT-ES also contains data from contracts for a number of U.S. government departments and agencies other than DOD, State, and United States Agency for International Development. We were unable to determine from the data whether these agencies are providing support for operations, exercises, and other activities under an applicable contingency operation or other military activities.<sup>29</sup>

According to DOD Instruction 3020.41, *Operational Contract Support (OCS)*, SPOT-ES shall track information for all DOD contracts supporting applicable contingency operations as directed by the Under Secretary of

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<sup>27</sup>The Chairman of the Joint Chiefs of Staff has various responsibilities related to strategic and contingency planning, and evaluates the overall preparedness of the joint force to perform the responsibilities of that force under national defense strategies and to respond to significant contingencies worldwide. The Joint Staff, J3, Operations Directorate, identifies its mission as assisting the Chairman in carrying out responsibilities as the principal military advisor to the President and Secretary of Defense, developing and providing guidance to the combatant commanders, and relaying communications between the President and the Secretary of Defense and the combatant commanders regarding current operations and plans.

<sup>28</sup>Talisman Saber is an annual exercise between U.S. and Australian forces in the U.S. Indo-Pacific Command area of operations.

<sup>29</sup>According to the System of Records Notice for SPOT-ES, in addition to DOD contractor personnel, the system may include information regarding DOD military personnel and civilian employees supporting certain operations and activities, as well as those from the Department of State and United States Agency for International Development. Moreover, SPOT-ES may cover government civilian and contractor personnel of other federal agencies, including those listed above, that may use the system to account for their personnel when supporting contingency operations, humanitarian assistance operations, peace operations, disaster relief operations, exercises, events, and other activities within and outside the U.S.

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Defense for Acquisition, Technology, and Logistics (now the Under Secretary of Defense for Acquisition and Sustainment) or the combatant commander. The DOD instruction states that SPOT data elements are intended to provide planners and combatant commanders an awareness of the nature and extent, and potential risks and capabilities associated with contracted support. Additionally, *Standards for Internal Control in the Federal Government* state that management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives. The standards also state that management should establish and monitor activities and lines of reporting to communicate changes that have occurred or are needed because of changes in the entity and its environment.

DOD's inability to track contracts and contractors associated with contingency operations is due to two reasons. First, Defense Manpower Data Center officials told us that there is no definitive list of named contingencies from a single authoritative source. These officials said that a comprehensive review of the items on the "Operations" drop-down list in SPOT-ES has not been conducted in years. In addition, these officials said that they could not readily identify the universe of operations, exercises, and other activities that are associated with an applicable contingency operation. Second, DOD officials told us that there is no single office responsible for monitoring and reporting which operations, exercises, and other activities are associated with a contingency in SPOT-ES. DOD officials also told us that designating a single office could ensure that there is better oversight of those operations, exercises, and other activities that the combatant commander has identified.

Without the ability to identify data on operations, exercises, and other activities that are considered applicable contingency operations within SPOT-ES, DOD planners may find it more difficult to identify and make decisions on contractor personnel or capabilities to support contingency operations. Additionally, an office that is designated with the responsibility could provide additional oversight to DOD by monitoring and reporting on the accountability of the department's contractor personnel.

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**SPOT-ES Records Had Missing Data on the Status of Contractor Personnel**

Our review of all quarterly SPOT-ES records for the period January 1, 2015 through March 31, 2020—approximately 1.09 million quarterly records in total—found thousands of examples of cases that had missing

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data, were inaccurate, or both at the time of our review.<sup>30</sup> DOD guidance, including DOD Instruction 3020.41, Defense Federal Acquisition Regulation Supplement clause 252.225-7040, and the SPOT Business Rules, requires contractors and certain DOD officials to use SPOT to enter all applicable data on contractor personnel. This includes data on letters of authorization, and in-theater arrival dates.

- **Letters of Authorization:** We found that about 47,000 quarterly SPOT-ES records were missing an approval date for a letter of authorization from 2015 to first quarter 2020.<sup>31</sup> A letter of authorization, when signed by a contracting officer, allows personnel to travel to, from, or within the designated operational area. It also includes information about authorizations and privileges (such as authorization to carry a weapon) or government support (such as government-furnished meals) that contractor personnel are entitled to under the specific contract for which they are deployed. Of these records, about 33,000 applied to deployments of contractor personnel supporting Army contracting organizations, even though the contractor personnel were listed in an active status.<sup>32</sup> About 10,000 records applied to deployments of contractor personnel, listed in an active status supporting Air Force and Navy contracting organizations.

Army and Navy officials provided various explanations for the missing or inaccurate data. Army officials said that many of the records from the Defense Manpower Data Center contained old or closed letters of authorization and did not match the current letters of authorization tracked in Army records. Additionally, Navy officials stated that a number of records in SPOT-ES were not updated by contractors or the letters of authorization had expired and could not be updated.

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<sup>30</sup>For this analysis, we aggregated quarterly contractor personnel deployment records to analyze the prevalence of missing or inaccurate data among unique contractor personnel deployed at least once between January 1, 2015 and March 31, 2020. Each of these records represents a quarterly observation of a contractor personnel's deployment status. Because contractor personnel can be deployed for multiple quarters, an individual contractor personnel may have multiple records in this dataset.

<sup>31</sup>The 47,000 quarterly SPOT-ES deployment records include contractor personnel representing U.S. and third country nationals, but did not include local nationals. According to SPOT Business Rules, local nationals do not require a letter of authorization. In addition, these quarterly records were missing a letter of authorization at least once for the contractor personnel between 2015 and first quarter 2020.

<sup>32</sup>According to SPOT Business Rules, active status refers to a contractor that is in a status to continue performance on the current or subsequent contract, if necessary.

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Defense Federal Acquisition Regulation Supplement clause 252.225-7040—which is to be used in certain contracts related to contingency, peace operations, and other designated military operations or exercises—requires contractor companies to use SPOT to maintain data on all contractor personnel that are authorized to accompany U.S. armed forces deployed outside the United States.<sup>33</sup> The clause also requires contractor personnel to have a SPOT-generated letter of authorization signed by a contracting officer to process through a deployment center or to travel to, from, or within the designated operational area. Without a letter of authorization, it would be more difficult to track or account for contractor personnel in theater.

- **In-Theater Arrival Dates:** Of the more than 1.09 million quarterly SPOT-ES records containing data in an active status, over 1,000 records from 2015 to first quarter 2020 in SPOT-ES were missing in-theater arrival dates at the time of our review. This information was missing in some instances for more than 30 days after the estimated deployment start date. Contractor personnel's in-theater arrival date—whether of a U.S. citizen or a third-country national—is typically recorded when a letter of authorization is scanned at a point of debarkation. The in-theater arrival date may precede the estimated start date for the deployment. Army and Air Force officials provided various explanations for the missing information. Army officials attributed the missing information on in-theater arrival dates to delays in host nations processing visas and more recently to the quarantine restrictions on personnel movement arising from the COVID-19 pandemic. Additionally, Air Force officials attributed the missing information on in-theater arrival dates to delays in host nations processing visas. Further, Navy officials said that some inaccurate records on in-theater arrival dates were because of changed plans resulting in employees that had never arrived in theater. Defense Manpower Data Center officials attributed the missing information on in-theater arrival dates to the closing of duplicate records; updated

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<sup>33</sup>The clause requires the contractor to use SPOT-ES to enter and maintain data for all contractors authorized to accompany the force (defined in the clause) and, as designated by the Under Secretary of Defense for Acquisition, Technology and Logistics, or the combatant commander, personnel who are not contractors authorized to accompany the force but are supporting U.S. Armed Forces deployed outside the U.S. in specified circumstances. 48 C.F.R. (DFARS) § 252.225-7040(g) (Oct. 2015). The clause is to be used in solicitations and contracts for performance in a designated operational area that authorize contractor personnel to support U.S. Armed Forces deployed outside the U.S. in contingency operations, peace operations consistent with Joint Publication 3-07.3, or other military operations or exercises, when designated by the combatant commander or as directed by the Secretary of Defense. DFARS § 225.371-5(a).

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records with revised arrival dates; expired letters of authorization; and letters of authorization that were automatically cancelled because an individual never deployed to a duty station.

DOD guidance assigns responsibilities and provides procedures for relevant offices regarding data or information associated with contractor personnel in applicable contingency operations outside the United States. Specifically, the SPOT Business Rules indicates that the contracting officer is responsible for reviewing data, such as deployment start dates, and validating and updating information before contractor personnel are authorized to enter in theater and access government services. In addition, the SPOT Business Rules states that only the contracting officer can digitally sign the letter of authorization or revoke it, such as in case any significant changes need to be made to the deployment information.

The department issued DOD Instruction 3020.41 to, among other things, designate the key roles and responsibilities of several organizations in providing oversight and implementation of SPOT-ES and for implementing requirements in the SPOT Business Rules. Additionally, the instruction indicates that the Under Secretary of Defense for Acquisition and Sustainment (formerly the Under Secretary of Defense for Acquisition, Technology, and Logistics) is responsible for developing, coordinating, establishing, and overseeing the implementation of DOD policy for managing operational contract support.

The Principal Director of Defense Pricing and Contracting (formerly the Director of Defense Procurement and Acquisition Policy) is responsible for developing contingency contracting policy and improving DOD business processes for contingency contracting while working in conjunction with senior procurement executives across the department.<sup>34</sup> The Principal Director of Defense Pricing and Contracting (Defense Pricing and Contracting) is also responsible for ensuring that contracting officers implement relevant laws and policies and proposing legislative initiatives that support the accomplishment of the contingency contracting mission. Finally, the military departments, defense agencies, and DOD field activities are responsible for ensuring that assigned contracting

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<sup>34</sup>See DOD Instruction 3020.41, encl. 4, para. 2. Additionally, the Deputy Assistant Secretary of Defense for Program Support—a position that has since been eliminated—was responsible for improving DOD business practices for operational contract support, including ensuring the designation and implementation of a contract visibility and contractor personnel accountability system (currently SPOT), including business rules for its use. *Id.* encl. 4, para. 3.f.

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activities populate SPOT with the required data in accordance with the SPOT Business Rules.<sup>35</sup>

In addition, DOD assigned responsibilities for entering and maintaining data in SPOT-ES in the relevant Defense Federal Acquisition Regulation Supplement clause. The clause provides that the contractor shall enter the required information about their contractor personnel prior to deployment and shall maintain accurate, up-to-date information throughout the deployment for all covered contractor personnel.<sup>36</sup> The clause also notes that contractor personnel must have a SPOT-generated letter of authorization signed by the contracting officer to process through a deployment center or to travel to, from, or within the designated operational area.<sup>37</sup> Meanwhile, DOD Instruction 3020.41 provides that contracting officers, through the terms of the contract, shall require contractors to enter data and to maintain and update the information.<sup>38</sup> SPOT Business Rules also states that the contracting officer is responsible for approving and signing the letter of authorization and validating deployment start and end dates. Furthermore, the *Standards for Internal Control in the Federal Government* states that management should internally communicate the necessary quality information to

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<sup>35</sup>See DOD Instruction 3020.41, encl. 4, paras. 1, 2, 11. The military departments are the Departments of the Army, Air Force, and Navy. Defense agencies and DOD field activities are organized to perform selected consolidated support and service functions for the department.

<sup>36</sup>The clause requires the contractor to use SPOT-ES to enter and maintain data for all contractors authorized to accompany the force (defined in the clause) and, as designated by the Under Secretary of Defense for Acquisition, Technology and Logistics, or the combatant commander, personnel who are not contractors authorized to accompany the force but are supporting U.S. Armed Forces deployed outside the U.S. in specified circumstances. DFARS § 252.225-7040(g). DOD has issued alternative clauses, known as class deviations, for several combatant commands that expand or provide greater specificity regarding which personnel must be included in SPOT and when SPOT must be used. See Class Deviation 2017-O0004, *Contractor Personnel Performing in the United States Central Command Area of Responsibility* (Sept. 15, 2017); Class Deviation 2016-O0008, *Contractor Personnel Performing in the United States Africa Command Area of Responsibility* (June 10, 2016); Class Deviation 2014-O0016, *Requirements for Contractor Personnel Performing in the U.S. Southern Command Area of Responsibility* (Oct. 6, 2014) (superseded in February 2021 by Class Deviation 2021-O0004). See also Class Deviation 2018-O0019, *Contractor Personnel Performing in Japan* (Aug. 30, 2018).

<sup>37</sup>DFARS § 252.225-7040(c)(3); see also § 225.371-3(e).

<sup>38</sup>DOD Instruction 3020.41, encl. 2, para. 3.c(2)(b). The instruction also requires contracting officers or their designated representatives to verify that contractors have updated SPOT to reflect the change in status of an employee following redeployment. *Id.* encl. 2, para. 5.d.

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achieve the entity's objectives. The standards define quality information as appropriate, current, complete, accurate, accessible, and provided on a timely basis.<sup>39</sup>

Based on our review, SPOT Business Rules does not clearly identify who is responsible for resolving any missing or inaccurate information on contractor personnel that should be included in SPOT-ES. DOD has also not ensured the communication of such information to the relevant heads of contracting activities. SPOT-ES program officials stated that they do not always know why data are missing or are not current in SPOT-ES. However, DOD officials stated that the SPOT Business Rules states that contracting officers are responsible for ensuring the contracts' requirements are met and ensuring that contractors provide current information on the status of contractor personnel. DOD officials also said that the SPOT-ES Configuration Control Board, which is composed of members from various DOD organizations, meets quarterly to discuss technical and functional issues in SPOT-ES that require resolution. The Board also periodically amends the SPOT Business Rules accordingly.

According to officials with Defense Pricing and Contracting, the SPOT Business Rules does not prescribe actions for resolving every potential issue SPOT users will encounter. In addition, these officials said that contracting officers use discretion and judgment to resolve SPOT issues, and that Defense Pricing and Contracting will reach out to contracting officers to make them aware of issues in SPOT and ask that they take action to resolve them. However, officials said that Defense Pricing and Contracting is not involved in resolving actions or tracking the completion of actions. Further, officials said that they were considering additional measures to improve data completeness and accuracy that would help ensure that end users are inputting and updating information in the system as required.

Without clarifying within the SPOT Business Rules who is responsible for resolving missing or inaccurate information on contractor personnel in SPOT-ES and communicating correct and complete information to relevant officials, the reliability of the data may be at risk. This could make it more difficult to locate contractor personnel's whereabouts during an emergency such as a global pandemic or increase in hostilities, or to determine when contractor personnel have exited the theater, which

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<sup>39</sup>GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

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could pose logistical or security challenges. Finally, reduced data reliability could affect other information systems to which DOD provides SPOT-ES data.

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## Conclusions

Contingency contracting remains an important tool that DOD continues to rely heavily on both in terms of the number of contractors and contractor personnel and the range of services they provide. DOD has taken actions to address many recommendations of the Commission on Wartime Contracting to improve contingency contracting; however, we found examples of incomplete or inconsistent documentation of DOD's assessments of its actions. If DOD ensured that the OCS Functional Capabilities Integration Board continued to update and document the status of the recommendations, especially those recommendations where documentation was inconsistent or incomplete, DOD could help achieve the Commission's vision for improvements in key areas of contingency contracting operations.

DOD has made improvements to SPOT-ES to enhance visibility and accountability of contractor personnel providing support in contingency operations overseas. However, SPOT-ES does not have complete contractor information on those operations, exercises, and other activities that are designated as applicable contingency operations. Without data on those applicable contingency operations in SPOT-ES, or an office that is responsible for providing oversight on monitoring and reporting which operations, exercises, and other activities are associated with applicable contingency operations, DOD may be unable to determine the type and mix of contractor personnel needed to support future contingency operations or to provide accountability of the department's contractor personnel.

Additionally, SPOT-ES does not have complete information on the status of contractor personnel deploying in theater. If DOD does not ensure that the SPOT Business Rules clearly states who is responsible for resolving any missing information on contractor personnel, communicate such information to relevant heads of contracting organizations, and take steps to improve data completeness and accuracy as appropriate, DOD risks not knowing its contractor personnel's whereabouts during an emergency, such as a global pandemic. DOD also risks having reduced reliability in the data from other systems that use information from SPOT-ES.

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## **Recommendations for Executive Action**

We are making the following four recommendations to DOD.

The Secretary of Defense should ensure that the Under Secretary of Defense for Acquisition and Sustainment directs the OCS Functional Capabilities Integration Board to document the department's progress in implementing the Commission on Wartime Contracting recommendations in a consistent and complete manner. (Recommendation 1)

The Secretary of Defense should ensure that data on operations, exercises, and other activities reported in SPOT-ES are linked with "applicable contingency operations" described in DOD guidance. (Recommendation 2)

Secretary of Defense should designate a single office to provide oversight for monitoring and reporting which operations, exercises, and other activities listed in SPOT-ES are linked with "applicable contingency operations." (Recommendation 3)

The Secretary of Defense should ensure that the Under Secretary of Defense for Acquisition and Sustainment take steps to improve data completeness and accuracy, by revising the SPOT Business Rules as appropriate, and designating responsibility for resolving any missing information on contractor personnel in SPOT-ES, and communicating such information to the relevant heads of contracting activities. (Recommendation 4)

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## **Agency Comments and Our Evaluation**

We provided a draft of this report to DOD for review and comment. DOD provided written comments, which are reprinted in appendix IV. DOD partially concurred with two of our recommendations and did not concur with the other two recommendations. DOD also provided technical comments, which we have incorporated as appropriate.

DOD partially concurred with our first recommendation to document the department's progress in implementing the Commission on Wartime Contracting (Commission) recommendations in a consistent and complete manner. In its written comments, DOD stated that it had addressed the sixteen Commission recommendations from 2011 that were applicable to DOD and that the 30 recommendations outlined by the Commission in 2011 also included recommendations for the Department of State and other non-DOD organizations. DOD also stated that it agrees to publish a closeout report on the 16 applicable DOD recommendations in the Fiscal Year 2022 DOD OCS Action Plan. We believe this planned action to include documentation on the department's progress, if fully

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implemented, would address our recommendation to ensure that documentation of DOD’s progress on implementing the Commission’s recommendations is consistent and complete.

DOD did not concur with our second recommendation to ensure that data on operations, exercises, and other activities reported in SPOT-ES are linked with “applicable contingency operations” described in DOD guidance. In its written comments, DOD stated that implementation of this recommendation would require the existence and maintenance of a central source of information on “applicable contingency operations” and that without this information source, the data cannot be reliably linked to “applicable contingency operations.” DOD also said that, for example, operational types and names change over time, even within the same area of operations. In addition, DOD stated that this data may be considered sensitive and should not be made widely available due to operational security concerns. Further, DOD stated that SPOT-ES entries should be linked to applicable steady state requirements, operations, exercises, or other activities, not just to entries supporting contingency operations.

In our report, we acknowledge that DOD does not have a central source of information on applicable contingency operations and that not all data in SPOT-ES are associated with “applicable contingency operations” as that term is used in DOD Instruction 3020.41. However, we are not recommending DOD develop a central source of information. Instead, we recommend that the available data associated with an applicable contingency operation be linked and readily identifiable in SPOT-ES for present and future use. We also believe that DOD can do so in either its classified or unclassified SPOT database in a way that is responsive to operational security concerns. For example, data in SPOT-ES associated with a humanitarian assistance operation overseas should be linked in a manner that would enable it to be identified as such, and may not necessarily involve using a specific operation name or other unique identifier, so as not to raise security concerns, but which could involve the operation. We continue to believe that DOD would benefit from taking advantage of SPOT-ES near real-time capabilities to maintain the ability to identify which data in SPOT-ES are associated with applicable contingency operations described in DOD guidance. Further, implementing this recommendation would better position DOD to use this information to determine contractor personnel or capabilities needed to support future applicable contingency operations.

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DOD did not concur with our third recommendation to designate a single office to provide oversight for monitoring and reporting which operations, exercises, and other activities listed in SPOT-ES are linked with an “applicable contingency operation.” In its written comments, DOD reiterated that there is not a single source of information on contingency operations to serve as an authoritative data source to support SPOT-ES entries. However, again, we are not recommending DOD develop a central source of information. Instead, we recommend that DOD designate an office to provide oversight for monitoring and reporting which operations, exercises, and other activities listed in SPOT-ES are linked with an applicable contingency operation. We believe doing so would help DOD improve its ability to have better information on contingency operations as an authoritative data source. DOD also stated that, without a mandate, resources, and appropriate security measures, implementation of this recommendation is not possible. We do not believe a mandate or significant resources are needed to make this designation. We also believe, as noted earlier, that DOD can do so in a way that is responsive to operational security concerns. We continue to believe that having an office responsible for providing oversight on monitoring and reporting which operations, exercises, and other activities are associated with applicable contingency operations could enable DOD to better monitor and report on the accountability of contractor personnel.

DOD partially concurred with our fourth recommendation to revise the SPOT Business Rules and other DOD guidance as appropriate and designate responsibility for resolving any missing information on contractor personnel in SPOT-ES and communicating such information to the relevant heads of contracting activities. In its written comments, DOD stated that it does not agree that modification of DOD guidance and SPOT Business Rules is required to address the issue of missing information on contractor personnel in SPOT-ES. In addition, DOD stated that existing DOD guidance and SPOT Business Rules provide clear direction on the requirement to input and monitor SPOT-ES data.

We believe revising SPOT Business Rules and DOD guidance is needed because both currently rely on the role and responsibility of several end users, such as the contracting officer, company administrator, and government authority to provide information, meet requirements, and review and validate deployment details on contractor personnel in SPOT-ES. However, SPOT Business Rules and DOD guidance does not explicitly assign the responsibility for a specific end user to resolve missing information on contractor personnel, and has thus resulted in the information remaining missing. Therefore, ensuring completeness and

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accuracy of data cannot be achieved without clearly designating the responsibility of resolving this information to a specific user.

DOD further stated that of the 400,000 SPOT-ES records we reviewed during this audit, only 40,000 were missing letter of authorization approval dates, and only 5,000 records were missing deployment status information at the time of our review. According to DOD, while this data sample does not reflect a major deficiency, the department will continue to assess and pursue other means to improve SPOT-ES compliance and contractor accountability. We appreciate the department's efforts to continue improving accountability for these data. In response to DOD's comment, we updated our analysis to show that of the 1.09 million total quarterly SPOT-ES records we reviewed, about 47,000 contained missing authorization approval dates, and removed information on missing deployment status, given DOD's concerns about the historical deployments of individuals and their status over time. The effect of even a small number of inaccurate or incomplete records is magnified because SPOT-ES records are used for time-sensitive purposes, such as locating contractor personnel's whereabouts during emergencies, determining when contractor personnel have exited the theater, resolving logistical or security challenges, and disseminating data to other information systems to ensure visibility of information in a timely manner. Therefore, we continue to believe that it is important to have data that are accurate and complete as possible.

Finally, Army and Air Force officials we interviewed provided inconsistent explanations as to why this information was missing in SPOT-ES. Further, DOD officials we interviewed in the Office of the Deputy Assistant Secretary of Defense for Logistics and Office of the Principal Director of Defense Pricing and Contracting also expressed the need to improve compliance and accountability of information submitted in SPOT-ES by end users. In addition, these officials said that our recommendation could be a useful step to ensure the application of SPOT Business Rules is consistent among end users. They also maintained that more steps are needed to ensure that improved compliance of SPOT Business Rules are clear among end users. Therefore, we broadened our recommendation to emphasize a need to improve data completeness and accuracy.

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We are sending copies of this report to the appropriate congressional committees and the Secretary of Defense. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

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If you or your staff have any questions about this report, please contact me at (202) 512-8461 or [sherman@gao.gov](mailto:sherman@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.



Tina Won Sherman  
Director, Defense Capabilities and Management

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*List of Committees*

The Honorable Jack Reed  
Chairman  
The Honorable James. M. Inhofe  
Ranking Member  
Committee on Armed Services  
United States Senate

The Honorable Jon Tester  
Chairman  
The Honorable Richard Shelby  
Subcommittee on Defense  
Committee on Appropriations  
United States Senate

The Honorable Adam Smith  
Chairman  
The Honorable Mike Rogers  
Ranking Member  
Committee on Armed Services  
House of Representatives

The Honorable Betty McCollum  
Chair  
The Honorable Ken Calvert  
Ranking Member  
Subcommittee on Defense  
Committee on Appropriations  
House of Representatives

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# Appendix I: Contingency Contractor Personnel and Contract Obligations from Calendar Years 2009-2019

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From calendar years 2009 to 2019, contractor personnel supported a variety of mission areas in the U.S. Central Command area of responsibility and other geographic combatant commands, with the greatest numbers being in base support, construction, and logistics.<sup>1</sup> According to the Department of Defense (DOD), contractor personnel continue to outnumber deployed service members in military operations, such as those in Iraq and Afghanistan. Many of these contractor personnel are local nationals, who are citizens of the countries in which they operate, or third-country nationals who are non-U.S. citizens who represent as many as 195 countries.<sup>2</sup> Figure 3 shows data maintained in the Synchronized Predeployment and Operational Tracker Enterprise Suite (SPOT-ES) on the contractor personnel deployments at U.S. Central Command, by citizenship category.<sup>3</sup>

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<sup>1</sup>U.S. Central Command is one of six geographic combatant commands, established by DOD to manage military operations in designated areas of responsibility. U.S. Central Command stretches from Northeast Africa across the Middle East to Central and Southwest Asia. U.S. Africa Command, U.S. Indo-Pacific Command, and U.S. Southern Command are examples of DOD's geographic combatant commands that provide regional security and participate in exercises with allies and partners to foster regional cooperation.

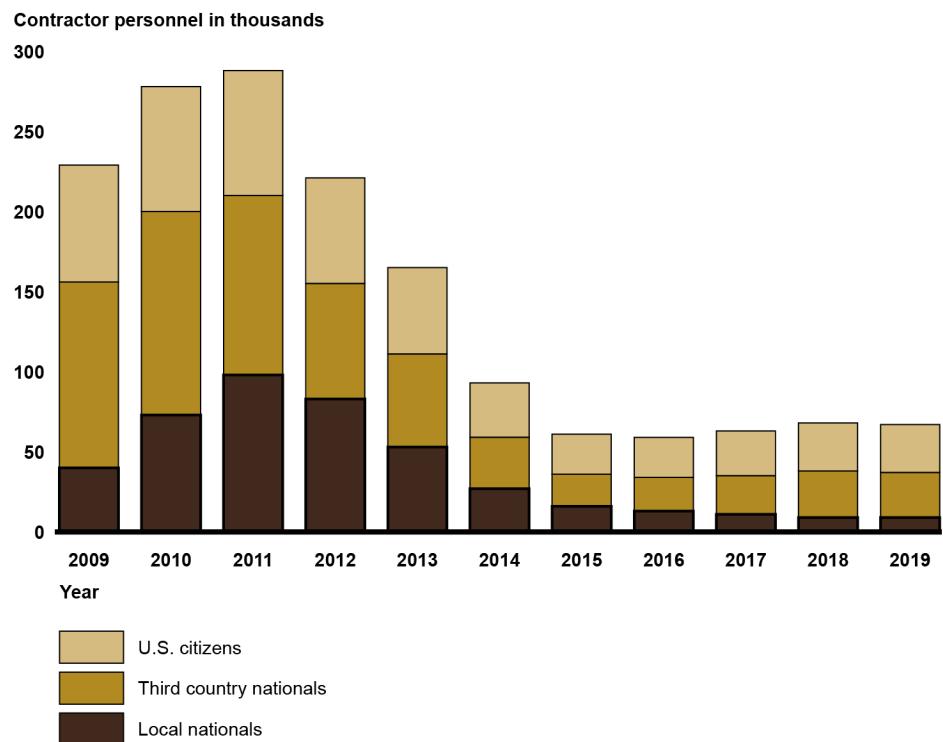
<sup>2</sup>In the U.S. Central Command area of responsibility from calendar years 2009 to 2019, third country nationals contractor personnel accounted for about 300,000, local nationals contractor personnel accounted for about 222,000, and U.S. contractor personnel accounted for about 200,000.

<sup>3</sup>We collected data reported as of the end of the quarter from SPOT-ES for contractor personnel in active and open deployments. We aggregated deployment data to identify unique contractor personnel deployments. In this appendix, each record represents a unique contractor personnel deployment record from 2009-2019. A single contractor with deployment records that span more than one year would appear multiple times in this data.

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**Appendix I: Contingency Contractor Personnel and Contract Obligations from Calendar Years 2009-2019**

**Figure 3: U.S. Central Command Contractor Personnel Deployments by Citizenship from Calendar Years 2009-2019**



According to DOD data, from calendar years 2009 to 2019, total contract obligations in support of applicable contingency operations in Iraq and Afghanistan trended downward as the number of contractor personnel declined.<sup>4</sup> As figure 4 illustrates, they rose between calendar years 2015 to 2018, but the annual total never exceeded the peak year of 2011.

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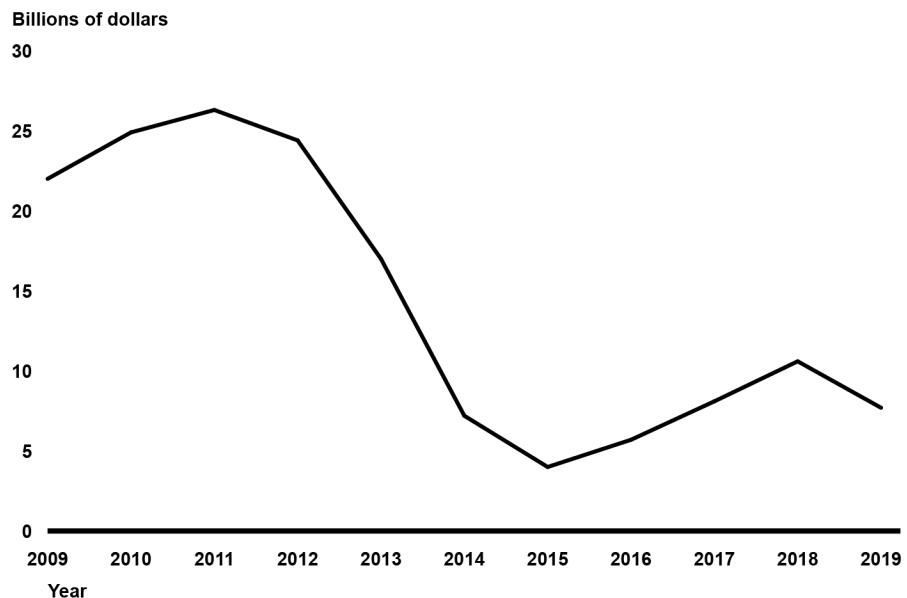
<sup>4</sup>An agency incurs an obligation when, for example, it places an order, signs a contract, awards a grant, purchases a service, or takes other actions that require the government to make payments to the public or from one government account to another.

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**Appendix I: Contingency Contractor Personnel  
and Contract Obligations from Calendar Years  
2009-2019**

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**Figure 4: Total Contract Obligations for Contingency Operations in Iraq and Afghanistan from Calendar Years 2009-2019**



Source: GAO analysis of Department of Defense data. | GAO-21-344

Data in SPOT-ES for calendar years 2009 to 2019 showed that contractor personnel deployments occurred mostly in locations within the U.S. Central Command's area of responsibility, as figure 5 shows.<sup>5</sup>

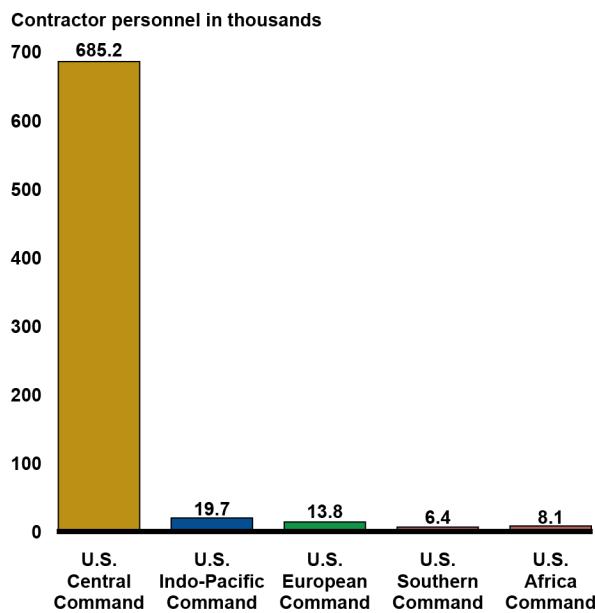
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<sup>5</sup>We collected data from SPOT-ES for contractor personnel in active and open deployments. We also received data from the Defense Manpower Data Center that contained some missing numbers on contractor personnel from 2009 to 2019 by combatant command, quarter, and calendar year.

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**Appendix I: Contingency Contractor Personnel and Contract Obligations from Calendar Years 2009-2019**

**Figure 5: Contingency Contractor Personnel Deployments by Geographic Combatant Command from Calendar Years 2009-2019**



Source: GAO analysis of Department of Defense data. | GAO-21-344

Note: The data from SPOT-ES are based on counts of individual contractor personnel deployments by geographic combatant command as of the end of the quarter from calendar years 2009 to 2019. The data do not include non-DOD organizations reported in SPOT-ES.

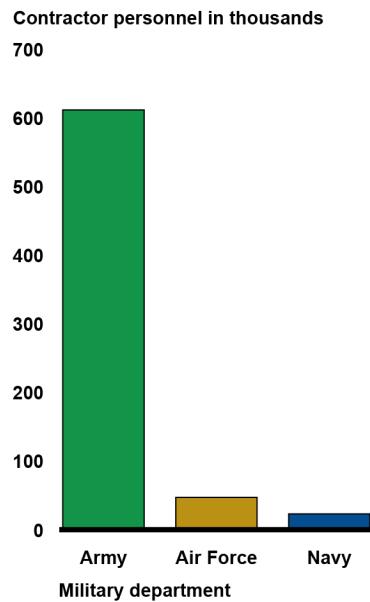
From calendar years 2009 to 2019, the U.S. Army reported the highest number of contractor personnel deployments—at more than 614,000. Air Force reported more than 47,000 contractor personnel deployments and Navy reported more than 23,000 contractor personnel deployments. Figure 6 shows the total number of contingency contractor personnel deployments, by military departments, from 2009 to 2019.

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**Appendix I: Contingency Contractor Personnel and Contract Obligations from Calendar Years 2009-2019**

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**Figure 6: Contingency Contractor Personnel Deployments by Military Department from Calendar Years 2009-2019**



Source: GAO analysis of Department of Defense data. | GAO-21-344

Note: The data from SPOT ES are based on counts of individual contractor personnel deployments by each military department as of the end of the quarter from calendar years 2009 to 2019. The data do not include non-DOD organizations reported in SPOT-ES.

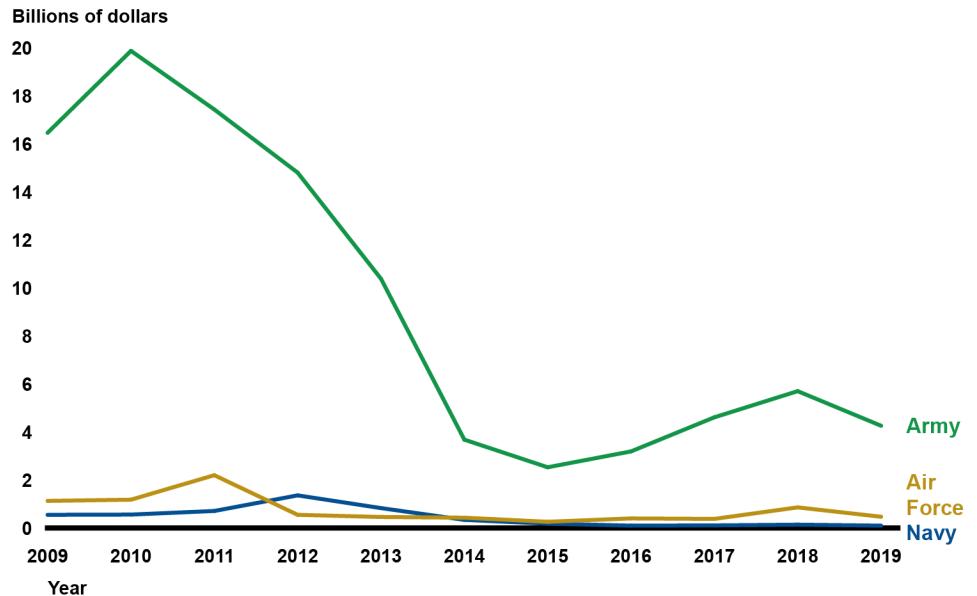
According to DOD data, Army annual contract obligations for contingency operations in Iraq and Afghanistan drastically decreased—about 74 percent—from calendar years 2009 to 2019, while the Air Force saw a significant decrease—about 58 percent—in total contract obligations during that period. Navy total contract obligations—though much smaller than the Army and Air Force—decreased about 82 percent from calendar years 2009 to 2019. See figure 7 showing the total contract obligations by military service for contingency operations in Iraq and Afghanistan, based on data from military departments.

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**Appendix I: Contingency Contractor Personnel  
and Contract Obligations from Calendar Years  
2009-2019**

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**Figure 7: Total Contract Obligations by Departments of the Army, Air Force, and Navy for Contingency Operations in Iraq and Afghanistan from Calendar Years 2009-2019**



Source: GAO analysis of Department of Defense data. | GAO-21-344

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# Appendix II: Objectives, Scope, and Methodology

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We evaluated the extent to which the Department of Defense (DOD) (1) documented its actions to implement recommendations of the Commission on Wartime Contracting; and (2) tracked and reported on contracts and contractor personnel supporting contingency operations. Contingency operations are described more broadly in DOD Instruction 3020.41, *Operational Contract Support (OCS)*, which applies to DOD operations (contingency, humanitarian assistance, and other peace operations) occurring outside of the United States; other military operations as determined by a combatant commander; or as directed by the Secretary of Defense. For the purposes of the DOD instruction and as noted in our report, these operations are referred to collectively as “applicable contingency operations.”<sup>1</sup>

To address our first objective, we reviewed the recommendations that the Commission on Wartime Contracting (Commission) made in the 2011 final report to Congress to improve the structures, policies, and resources for managing the contracting process and contractors.<sup>2</sup> We also reviewed our 2012 report that summarized the actions DOD had taken or planned to take to address the Commission’s recommendations. To determine the extent to which DOD took action to address the recommendations made by the Commission, we performed a content analysis in which we examined information on DOD’s actions with each of the relevant recommendations that DOD agreed to address. We also reviewed DOD’s written responses and supporting documentation showing what actions they had taken to address the Commission’s recommendations. However, we did not assess or evaluate the extent to which DOD’s actions to address the Commission’s recommendations were fully implemented.

We reviewed DOD’s Action Plan for Fiscal Years 2013-2016 to determine the completeness and consistency of DOD’s evaluation of the Commission’s recommendations.<sup>3</sup> The action plan contained a rating system based on a red-yellow-green stoplight approach and was used to determine the extent to which the recommendations listed in the action plan were fully addressed or challenging to implement and identified as

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<sup>1</sup>DOD Instruction 3020.41, *Operational Contract Support (OCS)*, para. 2 (Dec. 20, 2011) (incorporating change 2, Aug. 31, 2018).

<sup>2</sup>*Transforming Wartime Contracting: Controlling Costs, Reducing Risks, Final Report to Congress* (Aug. 31, 2011). This report also included recommendations to other agencies such as the Department of State and U.S. Agency for International Development, but for the purpose of this review, we focused on those recommendations directed to DOD.

<sup>3</sup>Department of Defense, *Operational Contract Support Action Plan*, FY 2013-2016 (April 2013).

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closed or open. A recommendation rated as red was designated as “not implemented”; a recommendation rated as yellow was designated as “challenging to implement”; and, a recommendation rated as green was designated as “implemented.” Further, if a recommendation was reported as open, then it was identified as “not complete” and if a recommendation was reported as closed, then it was identified as “complete”. In addition, we obtained and reviewed guidance that explains the roles and responsibilities of DOD organizations providing oversight of actions related to improving contingency contracting. We also obtained written responses from DOD organizations explaining their current efforts to address the Commission’s recommendations, and compared their efforts with those previously documented by the department.

To address our second objective, we reviewed laws, regulations and other documents related to the management and oversight of DOD’s information system—known as the Synchronized Predeployment and Operational Tracker-Enterprise Suite (SPOT-ES)—which serves as DOD’s central repository for up-to-date status and reporting on contracts and contractor personnel providing support for contingency operations.<sup>4</sup> We determined that the control environment, information and communication, and monitoring components in the *Standards for Internal Control in the Federal Government* were significant to this objective, along with underlying principles that management should establish an organizational structure, assign responsibility and delegate authority; designate an entity to monitor and report activities necessary to identify changes in the internal control system; and use quality information that is appropriate, current, complete, accurate, accessible, and provided on a timely basis.<sup>5</sup> In addition, we assessed whether SPOT-ES records identify applicable contingency operations with which they are associated, and we assessed the process by which SPOT-ES records on contracts and contractor personnel are tracked and recorded, against those standards.

We collected and analyzed 4.5 million SPOT-ES quarterly deployment records on deployed contractor personnel who have supported DOD contingency operations from January 1, 2009 through December 31, 2019, to determine the types of operations and exercises that contractors have supported, the functions performed by contractor personnel, and

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<sup>4</sup>DOD Business Rules for the Synchronized Predeployment and Operational Tracker (SPOT) (Sept. 25, 2019).

<sup>5</sup>GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

their place of performance. In these data, each record represents a contractor personnel deployment as of the end of the quarter. Since individual contractor personnel can be deployed for multiple quarters, an individual may be represented multiple times in these data. We selected data records from the period since January 1, 2009 in response to section 887 of the National Defense Authorization Act for Fiscal Year 2020. To report on the numbers of contractor personnel deployed from 2009 to 2019, we aggregated contractor personnel deployment records from SPOT-ES to identify unique contractor personnel deployments for each year during this period. Reported contractor personnel deployments therefore include all contractor personnel who had one or more deployment records generated during one of the ten years of our analysis.

To identify missing and inaccurate information in SPOT-ES records, we focused on quarterly deployment data from January 1, 2015 through March 31, 2020. This time frame was selected based on the most recently available data at the time of our report. In addition, we focused on data from the period based on our prior work on DOD contingency contracting and the improvements DOD has made in guidance on the management of contingency contracting and the quality of data to document the movement, location, and status of contractor personnel supporting contingency operations within geographic combatant commands. We previously provided data as part of our review on quarterly deployment status of contractor personnel, but removed that data because of the challenges of comparing the deployment history of individuals with current data indicating their status in SPOT-ES. We also conducted a data reliability assessment of the records on contracts and contractor personnel obtained from SPOT-ES, conducted interviews with DOD officials with the Defense Manpower Data Center to determine system and information controls used to record and store data records, and distributed a data reliability questionnaire to obtain written responses on the completeness and accuracy of the data. We noted evidence DOD provided on key improvements they have made in recent years in SPOT-ES to enhance visibility and accountability of contractors supporting contingency operations. We found examples of data on contractor personnel that were incomplete or inaccurate in SPOT-ES, but believe the data to be sufficiently reliable for the purpose of determining the number of contractor personnel and the type of work they performed in support of contingency operations in the geographic combatant commands from calendar years 2009 to 2019.

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Furthermore, we collected and analyzed data from the General Services Administration's Federal Procurement Data System-Next Generation to determine the total dollar amount of contract obligations contingency coded and identified as supporting overseas contingency operations in Iraq and Afghanistan that have occurred from January 1, 2009 through December 31, 2019. We interviewed DOD, Army, Air Force, and Navy officials about the steps and processes they use to collect and record procurement data on contract obligations for overseas contingency operations, and interviewed officials with the General Services Administration to determine the functionality of Federal Procurement Data System-Next Generation and the data quality reporting requirements and validation of procurement data in the system. We determined the data to be sufficiently reliable for the purposes of assessing how DOD tracks and reports data on contracts and contractor personnel in Federal Procurement Data System-Next Generation supporting contingency operations.<sup>6</sup>

We interviewed officials from the following organizations during our review:

#### **Department of Defense**

- Office of the Under Secretary of Defense (Acquisition and Sustainment)
  - Office of the Assistant Secretary of Defense (Acquisition)
    - The Principal Director of Defense Pricing and Contracting
  - Office of the Assistant Secretary of Defense (Sustainment)
    - Deputy Assistant Secretary of Defense (Logistics)
- Defense Human Resources Activity
  - Defense Manpower and Data Center
- Director for Logistics, Joint Staff J-4

#### **U.S. Central Command**

- Operational Contract Support Integration Cell (J4)

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<sup>6</sup>In October 2020, the Federal Procurement Data System-Next Generation began transitioning report modules into SAM.GOV as part of the General Services Administration's effort to provide a central location for all federal procurement data.

**Department of the Air Force**

- Secretary of the Air Force (Acquisition, Technology, and Logistics)
- Air Force Audit Agency, Acquisition and Contracting Division

**Department of the Army**

- Army Contracting Command - Redstone Arsenal, Alabama
- Army Contracting Command - Rock Island, Rock Island, Illinois

**Department of the Navy**

- Deputy Assistant Secretary of the Navy (Procurement), Policy

**General Services Administration**

- Office of Systems Management, Federal Acquisition Service

We conducted this performance audit from March 2020 to September 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix III: DOD's Actions in Response to Recommendations by the Commission on Wartime Contracting

Table 1 shows examples of actions DOD officials reported they have taken since 2011 to address 16 recommendations made by the Commission on Wartime Contracting.

**Table 1: Examples of DOD Actions in Response to the Commission on Wartime Contracting Recommendations Since 2011**

| Commission on Wartime Contracting Recommendations   | Examples of DOD's Actions, as Reported by DOD   |
|---|---|
| Provide funding and direction for agencies involved in contingency operations to identify a trained, experienced, and deployable cadre for stabilization-and-reconstruction functions in areas of contingency operations so that the government has an alternative to contracting for performance of critical or sensitive functions. | The Office of the Under Secretary of Defense for Personnel and Readiness: <ul style="list-style-type: none"><li>• established a DOD Expeditionary Civilian Program Office,</li><li>• provided guidance for allocating civilians from across DOD components for an expeditionary civilian workforce, and</li><li>• implemented a process to establish the maximum number of non-programmed civilian positions that force providers should be prepared to provide to respond to sourcing needs.</li></ul>   |
| Provide a strategic plan for deploying these cadres that includes provisions for mandatory deployability of civilian members, and is supported by a back-up capability for rapidly making temporary hires for large-scale or long-term contingency operations.  | The Office of the Under Secretary of Defense for Personnel and Readiness: <ul style="list-style-type: none"><li>• established a DOD Expeditionary Civilian Program Office,</li><li>• provided guidance for allocating DOD civilians for an expeditionary civilian workforce, and</li><li>• implemented a process to establish the maximum number of non-programmed civilian positions that force providers should be prepared to provide to respond to sourcing needs.</li></ul> <p>The office also plans to issue a DOD Instruction that includes provisions for mandatory deployability and procedures for rapid deployments of civilian personnel.</p> |
| Phase out the use of host-nation private security contractors in Afghanistan for the convoys on high-volume roads that the insurgency controls or contests.   | In addition to a past acquisition-related issuance, DOD pointed to guidance including DOD Instruction 3020.50 on private security contractors operating in contingency and other operations, noting that private security contractors are limited to a defensive response since they are not authorized to perform inherently governmental functions.   |
| When private security or other contractors are to be armed, they should be overseen by government employees and tracked in a centralized system, as is done in Iraq.  | DOD identified the Synchronized Predeployment and Operational Tracker (SPOT) Business Rules, DOD Instruction 3020.50 on private security contractors operating in contingency and other operations, and DOD Instruction 3020.41 as related to oversight of private security and other contractors, as well as registering, processing, accounting for, and keeping appropriate records of private security contractors and their personnel. Further, DOD stated that SPOT remains the primary system for collecting data on contractor personnel deployed with U.S. forces.   |
| Reliance on private security contractors should be accompanied by greater use and emphasis on vetting, training, authorizing arms, and weapons control; post-convoy debriefing, locational tracking, and video monitoring; and more thorough and comprehensive management.  | DOD pointed to the issuance and updating of DOD Instruction 3020.50 on private security contractors operating in contingency and other operations in response to the recommendation.  |

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**Appendix III: DOD's Actions in Response to  
Recommendations by the Commission on  
Wartime Contracting**

| <b>Commission on Wartime Contracting Recommendations</b>   | <b>Examples of DOD's Actions, as Reported by DOD</b>  |
|--|---|
| Ensure that any new requirements and acquisition strategies for projects or services to be handed over to a host nation include a detailed assessment of long-term costs and of host nations' ability and willingness to meet those costs.   | The Defense Pricing and Contracting Office noted that DOD 7000.14-R Financial Management Regulation (FMR), Volume 2B, Chapter 8, on Facilities Sustainment and Restoration/Modernization, states that when budgeting for facilities sustainment, components will consider the anticipated levels of host nation support monies and certain other contributions that will be available to reduce the need for appropriated facilities sustainment funding. Defense Pricing and Contracting officials stated that this requirement will be factored into the decision on whether to hand over contingency contracts for projects or services to a host nation.  |
| Make consent to U.S. jurisdiction a condition of contract award.   | DOD noted that the Defense Pricing and Contracting office incorporated various provisions subjecting the contractor to U.S. law, among other things, into the Defense Federal Acquisition Regulation Supplement clause 252.225-7040, regarding contractor personnel supporting U.S. forces deployed outside the United States.  |
| The Secretaries of State and Defense extend and intensify their collaborative planning for the transition, including executing an agreement to establish a single, senior-level coordinator and decision-maker to guide progress and promptly address major issues whose resolution may exceed the authorities of departmental working groups. | DOD officials stated that this recommendation was addressed when the DOD-Department of State Iraq transition mission concluded. DOD has not provided an additional update regarding this statement of actions since 2012.   |
| Issue and ensure implementation of policy guidance for using risk factors, such as operational, situational, financial and political to provide guidance on what functions are appropriate to contract for in a contingency setting.   | DOD identified existing guidance as meeting the intent of this recommendation, such as: <ul style="list-style-type: none"> <li>• DOD Instruction 3020.41 on operational contract support,</li> <li>• DOD Instruction 3020.50 on private security contractors operating in contingency and other operations,</li> <li>• DOD Directive 3020.49 on planning and execution of operational contract support,</li> <li>• Joint Publication 4-10 on Operational Contract Support, and</li> <li>• DOD Instruction 1100.22, on determining workforce mix.</li> </ul> Officials stated that DOD is also developing additional guidance such as a DOD directive establishing processes and procedures on vendor threat mitigation to further respond to this recommendation. |
| Provide funding and direction to establish a trained, experienced, and deployable cadre for acquisition-management and contractor-oversight functions in areas of contingency operations so that the government has an alternative to relying on contractors for acquisition management and oversight.   | The Office of the Under Secretary of Defense for Personnel and Readiness: <ul style="list-style-type: none"> <li>• established a DOD Expeditionary Civilian Program Office,</li> <li>• provided guidance for allocating civilians from across DOD components for an expeditionary civilian workforce, and</li> <li>• implemented a process to establish the maximum number of non-programmed civilian positions that force providers should be prepared to provide to respond to sourcing needs.</li> </ul> DOD also referenced efforts to deploy civilian employees capable of performing acquisition management and contractor oversight functions as part of their core mission.   |

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**Appendix III: DOD's Actions in Response to  
Recommendations by the Commission on  
Wartime Contracting**

| <b>Commission on Wartime Contracting Recommendations</b>   | <b>Examples of DOD's Actions, as Reported by DOD</b>  |
|--|---|
| Hold the ambassador, US Agency for International Development mission director, and military commanders responsible for making, publicizing, and revising their determinations of security-contracting appropriateness as conditions change, giving particular consideration to the geographic, temporal, and organizational proximity to armed conflict. | DOD noted the issuance of part 159 of Title 32, Code of Federal Regulations, and DOD Instruction 3020.50, on private security contractors operating in contingency and other operations. Further, DOD officials stated that the department is planning to develop online training on private security contractor policy based on DOD Instruction 3020.50, which is expected to begin in fiscal year 2022.   |
| Competition reporting and goals. Agency heads should require competition reporting and goals for contingency contracts.  | The Defense Procurement and Acquisition Policy office (now Defense Pricing and Contracting) issued a memorandum in February 2012 establishing contingency contracting competition goals for Operation Enduring Freedom and requirements for components to track and report their progress in meeting the goals.   |
| Subcontracts on omnibus contracts. Agency heads should break out and compete major subcontract requirements from omnibus support contracts.  | It is not clear what actions DOD has taken in response to this recommendation. Defense Pricing and Contracting officials stated that major omnibus contracts may provide substantial benefits to the government, especially multiple award contracts in which requirements are competed amongst a small population of prime contractors. Additionally, officials stated that program executive officers or program managers have sufficient authority to determine the best acquisition strategy to meet agency needs. They further stated that breaking out subcontract requirements from omnibus contracts should be analyzed and considered as part of the acquisition strategy. |
| Protect government's interests. Strengthen authority to withhold contract payments for inadequate business systems.  | DOD stated that it had addressed the recommendation with a Defense Federal Acquisition Regulation Supplement clause published in 2012. Specifically, DOD noted that it issued clause 252.242-7005 to improve the effectiveness of DOD oversight of contractor business systems and, in cases where a contractor has an inadequate business system, allow the contracting officer to withhold payments.  |
| Amend access-to-records authority to permit broader government access to contractor records  | The Defense Pricing and Contracting Office issued Class Deviation 2020-O0001, Prohibition on Providing Funds to the Enemy and Authorization of Additional Access to Records, to implement authority to permit broader government access to contractor and subcontractor records.  |
| Increase agencies' staff and resources to enable adequate management of all aspects of contingency contracting, such as acquisition planning.  | It is not clear what actions DOD has taken in response to this recommendation. DOD officials stated that the military services and agencies are responsible for advocating for allocations and resources. Discussions with individual organizations might be required to gain additional insight into their staffing and resourcing progress or continuing challenges.  |

Source: GAO analysis of Department of Defense information. | GAO-21-344

# Appendix IV: Comments from the Department of Defense



## OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

3500 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3500

06/28/2021

SUSTAINMENT

Ms. Tina Won Sherman  
Acting Director, Defense Capabilities and Management  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Ms. Sherman:

This memorandum is provided in response to your request for the Department of Defense (DoD) response to Government Accountability Office (GAO) Draft Report GAO-21-344, "CONTINGENCY CONTRACTING: DoD Has Taken Steps to Address Commission Recommendations, but Could Better Document Progress and Improve Contract Data," dated June 2021.

The draft report has been reviewed and the DoD response is enclosed for inclusion in the final report. My point of contact is Ms. Anna Carter, Office of the Deputy Assistant Secretary of Defense for Logistics, at anna.l.carter10.civ@mail.mil or 571-309-4669 (Office Mobile).

Sincerely,

CRAMER, PAUL, D [Digitally signed by CRAMER, PAUL, DAVID, 1146906  
AVID, 1146906539 539 Date: 2021-06-28 15:42:04 -04'00']

Paul D. Cramer  
Performing the Duties of Assistant Secretary of  
Defense for Sustainment

Enclosure:  
As stated

**GAO DRAFT REPORT GAO-20-344**

**“CONTINGENCY CONTRACTING: DOD Has Taken Steps to Address Commission  
Recommendations, but Could Better Document Progress and Improve Contract Data”**

**DEPARTMENT OF DEFENSE RESPONSES  
TO THE GAO RECOMMENDATIONS**

**RECOMMENDATION 1:** The Secretary of Defense should ensure that the Under Secretary of Defense for Acquisition and Sustainment directs the Operational Contract Support (OCS) Functional Capabilities Integration Board to document the department’s progress implementing the Commission on Wartime Contracting recommendations in a consistent and complete manner.

**DOD RESPONSE:** Partially Concur. The Department does not agree with the Government Accountability Office’s (GAO) summary and understanding of this topic. The Department has addressed the sixteen Commission on Wartime Contracting recommendations from 2011 that were applicable to the Department of Defense (DoD). During the course of this audit, DoD officials provided clarifying information and participated in multiple interviews. However, the report fails to note the Department’s ongoing contingency contracting and OCS improvement initiatives, and that the 30 recommendations outlined by the Commission in 2011 also included recommendations for the Department of State and other non-DoD organizations. Therefore, the Department agrees to publish a closeout report on the sixteen applicable DoD recommendations in the Fiscal Year 2022 DoD OCS Action Plan. This will be the Department’s final response on the 2011 Commission on Wartime Contracting recommendations. The Commission sunset in September 2011 and the Department continues to assess, identify, and implement solutions to emerging issues impacting current and future contingency operations worldwide.

**RECOMMENDATION 2:** The Secretary of Defense should ensure that data on operations, exercises, and other activities reported in SPOT-ES are linked with “applicable contingency operations” described in DoD guidance.

**DOD RESPONSE:** Non-concur. Implementation of this recommendation would require the existence and maintenance of a central source of information on “applicable contingency operations,” which the Joint Staff confirmed does not exist. Without this information source, SPOT-ES data cannot be reliably linked to “applicable contingency operations.” In addition to the lack of a central data source, there are other issues preventing implementation of this recommendation. For example, operational types and names change over time, even within the same area of operations. This data may also be considered sensitive and should not be made widely available due to operational security concerns. Furthermore, SPOT-ES entries should be linked to applicable steady state requirements, operations, exercises, or other activities, not just to entries supporting contingency operations.

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**Appendix IV: Comments from the Department of Defense**

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**RECOMMENDATION 3:** The Secretary of Defense should designate a single office to provide oversight for monitoring and reporting which operations, exercises, and other activities listed in SPOT-ES are linked with an “applicable contingency operation.”

**DoD RESPONSE:** Non-Concur. As previously stated, there is no single source of information available on contingency operations to serve as an authoritative data source to support SPOT-ES entries. Without a mandate, resources, and appropriate security measures, implementation of this recommendation is not possible.

**RECOMMENDATION 4:** The Secretary of Defense should ensure that the Under Secretary of Defense for Acquisition and Sustainment and the Defense Manpower Data Center coordinate with the Principal Director of Defense Pricing and Contracting to revise the SPOT Business Rules and other DOD guidance as appropriate and designate responsibility for resolving any missing information on contractor personnel in SPOT-ES and communicating such information to the relevant heads of contracting activities.

**DoD RESPONSE:** Partially Concur. The Department does not agree that modification of DoD guidance and SPOT-ES Business Rules is required to address the issue of missing information on contractor personnel in SPOT-ES. Existing DoD guidance and SPOT-ES Business Rules provide clear direction on the requirement to input and monitor SPOT-ES data. Of the 400,000 SPOT-ES records reviewed by GAO during this audit, only 40,000 (10 percent) were missing letter of authorization approval dates; 1,000 records (.25 percent) were missing in-theater arrival dates, and only 5,000 records (1.25 percent) were missing deployment status information. While this data sample does not reflect a major deficiency, the Department will continue to assess and pursue other means to improve SPOT-ES compliance and contractor accountability. Therefore, DoD supports revising recommendation 4 as follows: *The Secretary of Defense should ensure that the Under Secretary of Defense for Acquisition and Sustainment in coordination with the Chairman of the Joint Chiefs of Staff, Combatant Commanders of the Combatant Commands and Secretaries of the Military Departments, assess compliance issues and implement actions to improve SPOT-ES data compliance and accountability.*

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# Appendix V: GAO Contacts and Staff Acknowledgments

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|                              |  |
|------------------------------|--|
| <b>GAO Contact</b>           | Tina Won Sherman, (202) 512-8461 or <a href="mailto:shermant@gao.gov">shermant@gao.gov</a>   |
| <b>Staff Acknowledgments</b> | In addition to the contact name above, GAO staff who made key contributions to this report include Sally Newman (Assistant Director); Tracy Burney, Breanne Cave; Timothy DiNapoli, Suellen Foth; Chad Hinsch; Latrealle Lee (Analyst-in-Charge); Amie Lesser; Richard Powelson; Steve Pruitt; Michael Shaughnessy; and Nathan Tranquilli. |

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