Report No. D-2009-032 December 12, 2008

Inspector General
United States Department of Defense

The America Supports You Program

Additional Information and Copies

To obtain additional copies of this report, visit the Web site of the Department of Defense Inspector General at http://www.dodig.mil/audit/reports or contact the Secondary Reports Distribution Unit at (703) 604-8937 (DSN 664-8937) or fax (703) 604-8932.

Suggestions for Audits

To suggest ideas for or to request future audits, contact the Office of the Deputy Inspector General for Auditing at (703) 604-9142 (DSN 664-9142) or fax (703) 604-8932. Ideas and requests can also be mailed to:

ODIG-AUD (ATTN: Audit Suggestions)
Department of Defense Inspector General
400 Army Navy Drive (Room 801)
Arlington, VA 22202-4704

Acronyms and Abbreviations

AFIS	American Forces Information Service
ASD(PA)	Assistant Secretary of Defense for Public Affairs
ASY	America Supports You
COR	Contracting Officer Representative
FTE	Full Time Equivalent
GWOT	Global War on Terror
JCOC	Joint Civilian Orientation Conference
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MWR	Morale, Welfare, and Recreation
SDI	Susan Davis International
SOCO	Standards of Conduct Office
USO	United Services Organization

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

December 12, 2008

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE
(COMPTROLLER)/DOD CHIEF FINANCIAL OFFICER
PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE
(PERSONNEL AND READINESS)
ASSISTANT SECRETARY OF DEFENSE FOR PUBLIC AFFAIRS
GENERAL COUNSEL, DEPARTMENT OF DEFENSE

SUBJECT: Report on the America Supports You Program (Report No. D-2009-032)

We are providing this report for review and comment. We considered management comments on a draft of this report in preparing the final report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. The Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer and Assistant Secretary of Defense for Public Affairs comments were responsive to the recommendations. However, the Principal Deputy Under Secretary of Defense (Personnel and Readiness) and the General Counsel of the Department of Defense comments did not meet the intent of the recommendations. Therefore, we request additional comments from the Principal Deputy Under Secretary of Defense (Personnel and Readiness) on Recommendation D.3. and the General Counsel of the Department of Defense on Recommendation B.1. by January 12, 2009. If possible, send your comments in electronic format (Adobe Acrobat file only) to Joseph.Bucsko@dodig.mil. Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to accept the / Signed / symbol in place of the actual signature.

We appreciate the courtesies extended to the staff. Please direct questions to Mr. Henry F. Kleinknecht at (703) 604-9324 (DSN 664-9324) or Mr. Joseph P. Bucsko at (703) 604-9337 (DSN 664-9337). The team members are listed inside the back cover.

Bruce A. Burton
for Richard B. Jolliffe
Assistant Inspector General
Acquisition and Contract Management

Results in Brief: The America Supports You Program

What We Did

At the request of the Assistant Secretary of Defense for Public Affairs [ASD(PA)], we reviewed the administrative, procedural, and fiscal actions involving the formation and operation of the America Supports You (ASY) program.

What We Found

The Deputy Assistant Secretary of Defense for Internal Communications and Public Liaison (Deputy Assistant Secretary) is conducting the ASY program (created in 2004) in a questionable and unregulated manner. As a result, the ASY program has produced results that were not consistent with the program's primary objective (finding A).

A private nonprofit fund using the ASY name and logo has been established to collect monetary donations, creating confusion between the DoD ASY program and the private ASY fund. As a result, the public may be unable to differentiate between the DoD program and the private ASY fund; allowing the private fund to operate under the DoD program name basically constitutes implied endorsement, presenting additional liability for any misuse of donations, and the private fund benefits from DoD branding the ASY program name (finding B).

The Office of the ASD(PA) provided broad statements of work and inadequate oversight for $8.8 million in charges made by Susan Davis International (SDI) for its public relations efforts to promote or "brand" the ASY program and the services provided appear to be personal in nature. As a result, in FY 2007, the ASD(PA) procured 11.5 full-time equivalents from SDI for about $2.6 million to include annual rates for managers/executives from $312,821 to $662,691 to perform public relations efforts. In addition, SDI was reimbursed for charges that are specifically unallowable under Federal Acquisition Regulation Part 31 and appropriation laws. (finding C).

The American Forces Information Service, working under the authority of the Deputy Assistant Secretary, inappropriately transferred $9.2 million of appropriated funds to Stars and Stripes through uniform funding and management procedures to finance ASY program expenses through its nonappropriated fund. As a result, Stars and Stripes officials failed to perform their fiduciary responsibility. In addition, Stars and Stripes officials have lost visibility of about $4.1 million of appropriated funds transferred for ASY requirements. We also calculated that the Stars and Stripes nonappropriated fund account has subsidized ASY expenses by about $1.9 million through FY 2007 (finding D).

Issues identified during the audit were referred to the DoD Inspector General, Directorate for Investigations of Senior Officials for review as potential senior official misconduct.

Agency Comments and Our Response

We received comments that were responsive to the report recommendations from the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer and the Assistant Secretary of Defense for Public Affairs. However, the Principal Deputy Under Secretary of Defense for Personnel and Readiness and the DoD General Counsel comments did not meet the intent of the recommendations. Therefore, we request additional comments on Recommendations B.1. and D.3. by January 12, 2009. Please see the recommendations table on the back of this page. Please see the findings sections of the report for a detailed discussion of the agency comments and our response.

Recommendations Table

Agency	Recommendations Requiring Comment	No Additional Comments Required
Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer		D.1.
Principal Deputy Under Secretary of Defense for Personnel and Readiness	D.3.	
Assistant Secretary of Defense for Public Affairs		A.1.a. through A.1.j.; B.2.a. through B.2.b.; C.1. through C.6.; and D.2.a. and D.2.b.
General Counsel of the Department of Defense	B.1.	A.2.

Please provide comments by January 12, 2009.

Table of Contents

Introduction

Objectives

At the request of the Assistant Secretary of Defense for Public Affairs [ASD(PA)], we reviewed the administrative, procedural, and fiscal actions involving the formation and operation of the America Supports You (ASY) program. Specifically, we reviewed whether the program is effectively accomplishing its mission. We also evaluated the administration of the ASY Web site for compliance with DoD policy. See Appendix A for a discussion of the scope and methodology, and prior audit coverage.

Review of Internal Controls

We determined that material internal control weaknesses in the Office of the ASD(PA) office existed as defined by DoD Instruction 5010.40, "Managers' Internal Control (MIC) Program Procedures," January 4, 2006. The Office of the ASD(PA) did not have effective internal control procedures to ensure proper contract administration and organizational management to include adequate tasking of the contractor and oversight of contractor charges, accounting and use of funds, and proper segregation of duties. Implementing Recommendations A.1.a., A.1.c., A.1.h., A.1.i., A.1.j., C.1., C.3., C.4., C.5., D.2.a., and D.2.b. will improve the Office of the ASD(PA) contract administration and organizational management procedures to ensure that Joint Ethics Regulations will not be violated, adequate oversight of senior official's actions occurs, and taxpayer funds are properly safeguarded. We will provide a copy of this report to the senior official responsible for internal controls within the Office of the ASD(PA).

Background

Guidance

On September 29, 2006, the Deputy Secretary of Defense issued a memorandum to define DoD organizational and management responsibilities for the ASY program. The memorandum outlined the primary objective of the ASY program.

> In November 2004, the Department of Defense launched the America Supports You (ASY) program **to showcase and communicate to U.S. military members defending our freedom around the globe what thousands of individual citizens, community groups, corporations, businesses, and others are doing to support them and their families.** The subsequent success and significance of the ASY program in supporting the morale, welfare, and mission of our fighting forces warrant **the establishment of more clearly defined DoD organizational and management responsibilities for the ASY program. [Emphasis added]**

The memorandum also defined the management structure and other responsibilities for the program.

> Accordingly, the Assistant Secretary of Defense for Public Affairs (ASD (PA)) is directed to designate a senior Public Affairs Coordinating Official (PASCO) for the Office of the Secretary of Defense for the ASY program. Additionally, the Secretaries of the Military Departments and the Chairman of the Joint Chiefs of Staff are requested to appoint liaisons to the PASCO at the General/Flag Officer or Senior Executive Service level.
>
> **The ASD (PA) shall also establish an ASY Steering Committee** (ASYSC) comprised of the PASCO and Military Service and Joint Staff liaison officers, as well as representative(s) from the Office of the Under Secretary of Defense for Personnel and Readiness. The ASYSC will meet as needed and will be chaired by the PASCO. **The role of the ASYSC will be to recommend and coordinate policies and programs that provide similar support and recognition to service members and their families.**
>
> **Annually, at the end of the fiscal year, the ASD (PA) will provide the Secretary of Defense a status report on ASY activities** for the year ending and the major initiatives planned for the next fiscal year.
>
> The Director, Program Analysis and Evaluation, in coordination with the ASD (PA) shall establish a Program Element to increase visibility, support, and oversight of ASY.
>
> The Under Secretary of Defense (Comptroller) shall review the adequacy of program funding in the *FY 2007-2009* [sic] as submitted in the American Forces Information Service budget estimate submission.
>
> The ASD (PA) in consultation with the Director, Administration and Management, the General Counsel of the Department of Defense, and others affected shall take the necessary action to revise and update DoD Directives 5122.5 and 5410.18 as appropriate to incorporate the ASY Program. **[emphasis added]**

Funding

From FY 2005 through FY 2007, the ASY program received $9.2 million of appropriated funds from American Forces Information Service (AFIS) and from the Global War on Terror (GWOT) supplemental budget. The ASY program was mainly dependent on the funds allocated from AFIS, which totaled about $5.4 million. The ASY program received an additional $3.8 million of funds from the GWOT supplemental budget through FY 2007 ($0.8 million for FY 2006 and $3.0 million for FY 2007). The ASY program received about $3.1 million for FY 2008 from the GWOT supplemental budget.

Contractor Support

The preponderance of the program funding was spent on contracts with Susan Davis International (SDI) for public relations services for the program. A total of six contracts or delivery orders were issued that had payments totaling more than $8.8 million from September 2004 through FY 2007. A bridge order was awarded for 6 months to provide coverage for the program until a new contract could be awarded. On May 14, 2008, SDI

was awarded a 1-year contract with an estimated value of $3 million and four additional 1-year options with an estimated total value of $15.3 million.

Program Management

Since its inception, the Deputy Assistant Secretary of Defense for Internal Communications and Public Liaison[1] (Deputy Assistant Secretary) has provided day-to-day management of the ASY program. The ASY program was originally created as a 6-month public awareness program. However, the program continued beyond the initial 6-month period under the control and management of the Deputy Assistant Secretary. Because there was no Director for AFIS, the Deputy Assistant Secretary assumed the management duties for five AFIS functional activities: Public Communications, Information Resource Management, American Forces Radio and Television Service, Defense Media Center, and Stars and Stripes Newspaper. The Deputy Assistant Secretary used these AFIS programs to provide funding and support for the ASY program.

[1] The Deputy Assistant Secretary of Defense for Internal Communications and the Deputy Assistant Secretary of Defense for Public Liaison are two separate positions. However, currently the functions are being performed by one individual so in the report we use the term Deputy Assistant Secretary of Defense for Internal Communication and Public Liaison.

Finding A. Program Operations

The Deputy Assistant Secretary of Defense for Internal Communications and Public Liaison (Deputy Assistant Secretary) is conducting the ASY program in a questionable and unregulated manner. Specifically, the Deputy Assistant Secretary:

- used contracts with Susan Davis International, a public relations firm, with payments totaling more than $8.8 million (since September 2004) to primarily solicit or build support from school children, corporations, celebrities, and the media, and to organize ASY special events and procure promotional items to promote or "brand" the ASY program during the past 3 years;

- used the Joint Civilian Orientation Conference to build support and promote the ASY program;

- employed a corporate recognition program and displayed corporate logos on the ASY Web site, which violates DoD policy and gave preferential treatment to select ASY homefront groups; and

- used contracts with the Advertising Council for $338,014 to promote the program through an advertising campaign and $191,024 to purchase ASY dog tags.

These questionable and unregulated actions occurred because the ASD(PA) failed to establish the ASY Steering Committee with representation from the Military Departments and the Chairman of the Joint Chiefs of Staff to recommend and coordinate policies and programs that provide similar support and recognition to Service members and their families. The ASD(PA) also failed to provide the Secretary of Defense a status report of past and future ASY activities. As a result, the ASY program has spent more than $9 million and produced results that were not consistent with the program's objective "to showcase and communicate to U.S. military members defending our freedom around the globe what thousands of individual citizens, community groups, corporations, businesses, and others are doing to support them and their families."

Guidance on Solicitation, Fundraising, and Endorsement

According to the DoD Standards of Conduct Office (SOCO), historically, DoD has not solicited support for programs from the general public. Thus, the advice from SOCO as well as Department ethics counselors is for DoD employees not to solicit support for programs. In 2005, while SOCO worked with the Senate Armed Services Committee to amend title 10 of United States Code section 2601, "General Gift Funds," DoD requested explicit authority to solicit support. However, the Senate Armed Services Committee did not approve the solicitation language and indicated that should DoD ever try to solicit, Congress would enact legislation specifically denying DoD solicitation authority.

SOCO Advice to Deputy Assistant Secretary

The Deputy Assistant Secretary consulted SOCO attorneys between 2003 and 2005 relating to solicitation, fundraising, and endorsement. In June 2004, the Deputy Assistant Secretary e-mailed SOCO:

> Issue:
> Overseas, we make troops buy a digital receiver for their televisions so they can see AFRTS [American Forces Radio and Television Service]. If they live on base, it is free but if we don't have base housing for them, we make them buy the receiver. It is a few hundred dollars.
>
> . . . . . .
>
> I would like to provide the boxes free of charge, the DoD would own them and loan them out to the deployed troop. The cost of this is a one time charge of $55 million dollars. . . .
>
> Comptroller isn't interested in coughing up that much money right now.
>
> So here is my question . . . **Is there a way for me to make this situation know [sic] to corporate America and offer them the option of "sponsoring" a receiver? So the receiver might have a sticker on it that says "brought to you by Sears" [Emphasis added]**

The SOCO attorney responded to the question, **"Of course, you may not solicit anyone, especially corporate America, to sponsor the receivers. That's a no-no."**

In September 2005, the Deputy Assistant Secretary e-mailed SOCO about DoD participation at a check presentation for PGA TOUR fundraising event.

> [T]he [PGA], as you know, has been doing fundraisers for different military charities. [T]hey would like to present a token check to a senior [D]o[D] person at their year end event. [T]he check would be symbolic of hte [sic] money they have donated to the military charities. [S]o it isn't an actual check it is more of a demonstration of what has happened. [T]hey have raised over [$]300,000 for the military charities. [I]sn't that great?
>
> [I]s a senior [DOD] person allowed to accept the "check". [sic] [T]o be clear, the money has already been donated so the person won't be accepting any money at all.

The SOCO attorney responded to the Deputy Assistant Secretary that the DoD representative could acknowledge the PGA's contribution but could not endorse or solicit funds. Specifically, the attorney stated:

> A senior DoD person could certainly thank the PGA for providing funds that will benefit members of the Armed Forces. **This DoD representative could not endorse the PGA or solicit funds, but could acknowledge their contribution.** Since the check is not real, he or she is not acting as an agent for the military relief societies, nor should it appear so. A better milieu would be for the DoD representative to thank the PGA and stand on the perimeter of the

> presentation of the bogus check to a representative of the military relief societies.
>
> You also mentioned that this will occur at the PGA year-end event. **Is this event appropriate for DoD to participate in? Is it a fundraiser? [Emphasis added]**

Ethics Regulations

Joint Ethics Regulation 3-210 requires that "DoD employees shall not officially endorse or appear to endorse membership drives or fundraising for any non-Federal entity except" for organizations that have special authority (that is, the Combined Federal Campaign). Joint Ethics Regulation 3-209 requires that DoD or its employees in their official capacities may neither state nor imply endorsement of a non-Federal entity, event, product, service, or enterprise. Specifically, the Regulation states:

> **Endorsement of a non-Federal entity, event, product, service, or enterprise may be neither stated nor implied by DoD or DoD employees in their official capacities** and titles, positions, or organization names may not be used to suggest **official endorsement or preferential treatment** of any non-Federal entity… **[Emphasis added]**

Soliciting or Building Support for ASY Program

SDI, a public relations firm, was paid more than $8.8 million to primarily solicit or build support from school children, corporations, celebrities, and the media to promote or "brand" the ASY program during the past 3 years. Table 1 shows the different contracts and amount spent by fiscal year for public relations support.

Table 1. Public Relations Contract Payments to Susan Davis International

	Fiscal Year			
Contract/Delivery Order	2005	2006	2007	Total
W74V8H-04-F-1172	$ 821,350	-	-	$ 821,350
W74V8H-05-F-1172	550,478	-	-	550,478
NAFBA1-05-F-0531	821,698[1]	$2,383,669	-	3,205,367
NAFBA1-06-F-0256	-	478,168	-	478,168
NAFSS1-06-F-0011	-	704,860	$ 809,006	1,513,866
NAFSS1-07-F-0007	-	-	2,258,628 [2]	2,258,628
Total	**$2,193,526**	**$3,566,696**	**$3,067,634**	**$ 8,827,856**

[1] Washington Headquarters Service reimbursed the American Forces Information Service Budget $236,491 for Susan Davis International labor and material charges.
[2] This includes the Washington Headquarters Service direct payment of $385,072 to Susan Davis International for labor and material charges related to the 2007 National Freedom Walk.

Instead of focusing on its primary mission of showcasing and communicating support to the troops and their families, the ASY program focus has been on building or soliciting support from the public. The initial contract awarded on September 30, 2004, to SDI required the contractor to recognize and "build" support for the U.S Armed Forces. Specifically, the statement of objective stated:

> To **recognize, build** and communicate America's support for the men and women in the U.S. Armed Forces through a six-month national awareness campaign entitled "America Supports You." **[Emphasis added]**

Soliciting Support From School Children

SDI solicited support from school children, teachers, and administrators by entering into five separate agreements with Lifetime Learning Systems. The agreements totaled $600,720 and created inserts about the ASY program to the Weekly Reader,[2] including posters that solicited support for the ASY program from school children, teachers, and administrators and conducted a survey of grades 3–6 on their awareness of the program. Table 2 outlines what each of the agreements provided.

Table 2. Lifetime Learning Systems Agreements

Date	Amount	Services
1/7/2006	$245,435	93,000 Posters, guides, and reply cards for teachers
1/11/2006	171,185	2.1 Million inserts for students
4/14/2006	12,000	Survey of 3,000 3rd–6th graders about ASY Program awareness
4/20/2006	99,750	16,615 Posters, brochures, response cards, and surveys for public libraries and fax blast to 100,543 principals
5/2/2007	72,350	21,548 Posters and letters to elementary and secondary schools
Total	**$600,720**	

For example, the January 11, 2006, agreement provided for an ASY supplement to the Weekly Reader Issue 25, dated May 5, 2006, that openly solicited children to thank the troops, organize an ASY Freedom Walk at their school, and to join the ASY program. Specifically, the supplement stated:

> **Hold an America Supports You Freedom Walk at your school**
>
> . . . . . .
>
> You can even hold an America Supports You Freedom Walk at your school. By working with your principal and teachers, **you can be involved in creating a special event that helps all of your classmates remember what happened in our country on September 11, 2001. And it's a chance to say thank you to all of our veterans, past and present, for protecting your freedoms. [emphasis added]**

The children's supplement also contained a checklist, which included the date of the walk, for students to talk with principals/teachers, pick a walk location, time, length of walk, and to advertise the walk. Similarly, in August 2007, the ASY program sent a

[2] The Weekly Reader offers engaging educational materials, reinforcing curriculums with reader-friendly, supplemental learning tools for kids and teens.

letter to educators at elementary and secondary schools to help organize and promote Freedom Walks from school children as well as outline the accomplishments of a 10-year-old child who had organized a Freedom Walk in his Ohio hometown. Figure 1 is a picture of the poster provided to schools with a letter soliciting support.

Figure 1. ASY Poster Soliciting Support From Schools

Hiring a public relations contractor to build or solicit school children's support for the ASY program is questionable and is not consistent with the program's mission of communicating support to the troops and their families.

Soliciting Support From Corporations

SDI was also used to build support from corporations for the ASY program. SDI solicited corporations directly to support the program and created a corporate toolkit that marketed the publicity DoD can supply in return for joining with the ASY program.

In late 2004 or early 2005, an SDI Vice President solicited the Commissioner of the PGA TOUR to support the ASY program. The solicitation led to the PGA TOUR announcing its support of the ASY program in February 2005. In June 2005, SDI and the Deputy Assistant Secretary met with PGA TOUR officials to discuss how the PGA TOUR would support ASY. The PGA TOUR decided to support ASY through fundraising events at its Tournament Players Clubs. The proceeds from the fundraising events were donated to ASY homefront groups that were chosen by the PGA TOUR. In 2005, Tournament Players Clubs held 18 fundraising events for 3 ASY homefront groups (the Wounded

Warrior Project, Homes For Our Troops, and the Intrepid Fallen Heroes Fund). In 2006, Tournament Players Clubs held 21 fundraising events for the same 3 ASY Homefront groups. In 2007, Tournament Players Clubs held 21 fundraising events for 6 ASY homefront groups (the Wounded Warriors Project, Homes for Our Troops, the Intrepid Fallen Heroes Fund, Operation Homefront, the Special Operations Warrior Foundation, and the Naval Special Warfare Foundation). According to the PGA TOUR, the Deputy Assistant Secretary spoke at Tournament Players Club fundraising events located in Boston, Massachusetts, and in Minnesota in 2006, as well as at the Tournament Players Club Avenel, Potomac, Maryland, fundraising event in 2007. In addition, the PGA TOUR also created a brochure that used the ASY name and logo. Figure 2 shows the front cover of the PGA TOUR brochure for its fundraising events with the ASY name and a portion of the inside that includes the logo and promotes a partnership with PGA TOUR fundraising events.

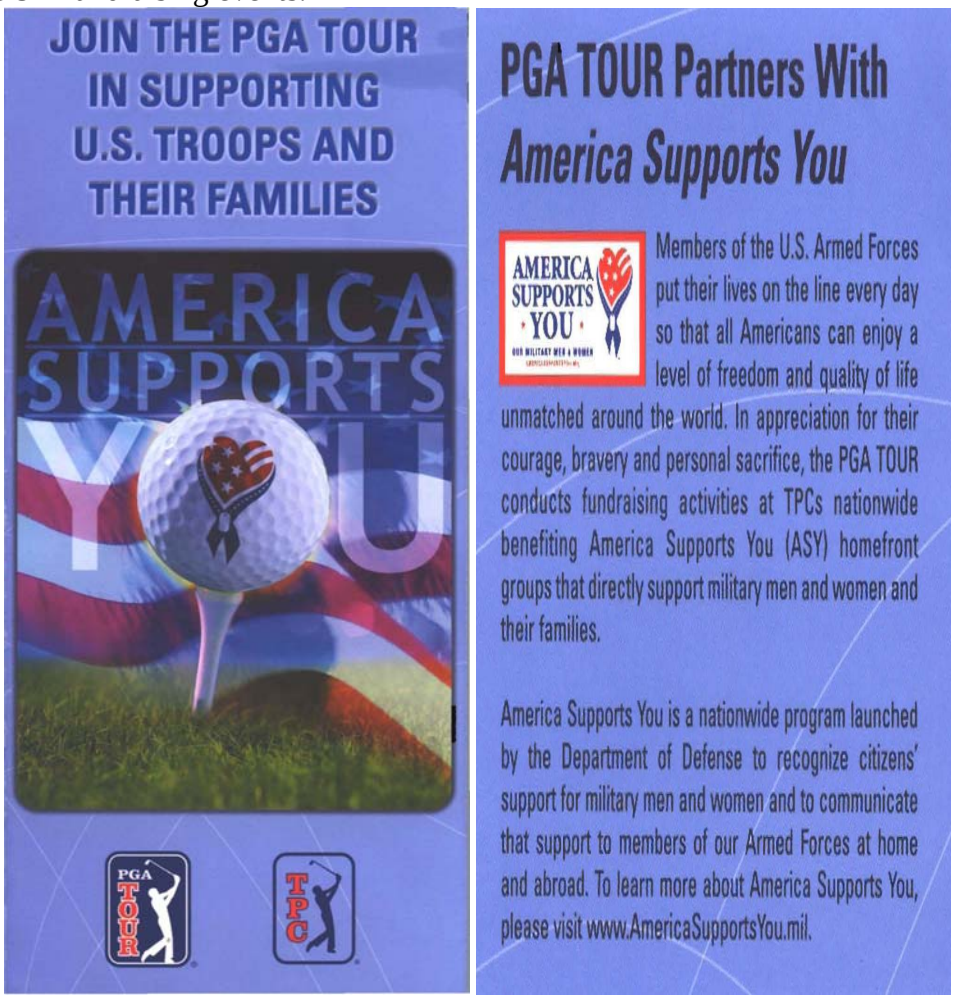


Figure 2. PGA TOUR Brochure "Co-Branding" Fundraising Events

The brochure makes it clear that the DoD ASY program is the "main attraction." According to a SOCO attorney, the use of the ASY name, logo, and a military color guard picture on the back cover implies endorsement of the PGA TOUR fundraiser by DoD, which violates the Joint Ethics Regulation. The brochure was not submitted for

legal review because the brochure had been created and paid for by the PGA TOUR. It was not until a legal staff member came across the brochure that it was finally reviewed. Legal counsel subsequently advised Public Affairs officials to inform the PGA TOUR that they could no longer use the brochure in the promotion of the Tournament Players Club fundraising events. According to a Public Affairs official, the Tournament Players Club events also displayed a large banner with the ASY name and logo. In addition, according to the Air Force Public Affairs office, five to six requests from the Deputy Assistant Secretary for flyovers at PGA TOUR events were denied because the events were private fundraisers. As a result, a senior DoD official's presence and speech at a non-Federal entity fundraising event connected to DoD's ASY program was inappropriate and implied DoD endorsement of the fundraiser.

In addition to the PGA TOUR, our review of SDI daily activity logs has uncovered more examples of corporations approached for support of the ASY program.

> January 9, 2007. Edited the outline for ASY Partnership Portfolio for use in meeting with corporations on behalf of Homefront organizations.
>
> January 15, 2007. Developed tactics for approaching corporate prospects for Homefront partnership initiative.
>
> January 16, 2007. Compiled list of prospective corporations for partnership with Homefront groups.
>
> March 12, 2007. Began drafting corporate invitation letters to meeting in April to discuss homefront adoption program.
>
> March 15, 2007. Participated in conference call with PGA Tour and TPC [Tournament Players Club] to discuss their outreach to their major corporate sponsors encouraging support for ASY.
>
> March 26, 2007. Drafted corporate partner invitation letter for possible Pentagon Roundtable Discussion event.

Corporate Toolkit

SDI also used a corporate toolkit to explain the advantages of joining with the ASY program. The toolkit makes many promises of publicity for corporations in return for their support of the ASY program. The publicity includes features on the ASY Web site, American Forces Radio and Television Service, the Pentagon Channel, and the weekly newsletter that reaches thousands of people including Congress and the media. Additionally, corporations receive weekly advertisements in Stars and Stripes and they are authorized to co-brand their events with ASY. Specifically, the toolkit section titled, "Corporate and Organization Team Opportunities," states:

> *America Supports You* works with each corporation and organization to communicate its efforts for the troops and their families with specially designed programs, along with the following:
>
> - **New team members are featured on the official Department of Defense *America Supports You* Web site**

and, via the American Forces Radio and Television Service (AFRTS) and Pentagon Channel, broadcast to the military in 177 countries.

- Companies can post a link to www.AmericaSupportsYou.mil on the home page of their corporate Web sites.

- **Weekly ads in *Stars & Stripes* (delivered to troops in the Middle East) feature the contributions and programs of corporate partners.**

- *America Supports You* and corporate team members issue joint press releases announcing new team membership. . . . . .

- ***America Supports You* dog tags and lapel pins are available for** purchase to be used for employees, **fundraising activities,** grassroots groups, or other special projects.

- **A weekly e-newsletter is delivered to thousands of key supporters nationwide, to Congress, and to the news media,** announcing new members and other activities of the *America Supports You* team.

- **Companies can highlight special promotions for the troops and their families through approved use of the *America Supports You* brand in their advertising and marketing materials.**

- **Corporations or organizations can co-brand special events with the *America Supports You* program.**

Join the Team! **[Emphasis added]**

Figure 3 is an example of an ad in Stars and Stripes for ASY corporate supporters.

Figure 3. Stars and Stripes Ad for the Indianapolis 500

The solicitation of corporate support for the ASY program is inappropriate, contrary to Departmental guidance, and again shows the operations of the program were not focused on communicating public support to the troops. See Appendix B for a listing of corporations who have joined with the ASY program.

Soliciting Support From Celebrities

SDI also solicited support from celebrities to help put on special events such as the Freedom Walk, Memorial Day parade, Military Appreciation Month, and concerts, while gaining media attention to "brand" the ASY program name. In its contract proposal, SDI provided a list of more than 40 celebrities for which they had contact information and discussed the importance of using celebrities' "star-presence" at ASY events. Specifically, the proposal stated:

> The Celebrity Council will be a key component of the public awareness outreach campaign. They will add star-presence to America Supports You events, will be asked to make note of America Supports You in their own public appearances, and can be asked to participate in public service announcements as well. The names of our celebrity participants will be included in campaign materials as well. SDI is well-positioned to develop this council, adding additional resources to the list of celebrities already supporting Department of Defense initiatives. For the Martin Luther King, Jr. Memorial Foundation, we have built a list of some forty celebrities representing all aspects of sports and entertainment, and are incorporating them in the Foundation's campaign in a variety of ways including the development of a

> nationwide radio psa [public service announcement] campaign currently in production.

SDI implemented its proposal for the ASY program by soliciting celebrity shout-outs to the troops. The ASY Web site contains more than 100 celebrity shout-outs, including shout-outs on location at the Verizon Center in Washington, D.C., when the World Wrestling Entertainment performed, or at the Pentagon when the Jenny Boyle Band performed. However, most of these videos were shot in places other the national capitol area. Many of the videos were taken at the Oscars in Los Angeles, California, where people such as John Singleton, Rick Gonsalez, Jessica Biel, Gwyneth Paltrow, Ryan Gossling, Celine Dion, and Mickey Rooney recorded their shout-outs to the troops. Siedah Garrett and Michael Buble recorded their shout-outs at the Grammys. Musin Muhammad, Rex Grossman, and Peyton Manning all recorded shout-outs at the Super Bowl. Shout-outs were also recorded by Pat Sajak, Vanna White, and Alex Trebek on their game show sets. According to a Public Affairs official, the Oscars and these other events were not normally covered by DoD before the ASY program.

In its contract proposal, SDI stated that it would "invite celebrities to donate their time." However, we found that most celebrities charged DoD fees for their appearance or performance. Gary Sinise and his Lt. Dan Band received a fee to perform at a Military Appreciation Month concert (see Figure 4) in May 2006 and DoD paid transportation, meals, lodging, and other miscellaneous expenses.

Figure 4. Gary Sinise Performing at a Military Appreciation Month Event

Clint Black charged a service fee to perform at the 2005 Freedom Walk and DoD paid additional expenses of $6,743.

Figure 5. Clint Black and Then-Secretary of Defense Donald Rumsfeld at the 2005 Freedom Walk Concert

Chely Wright received a performance salary for performing at the Intrepid Concert in May 2005. DoD paid more than $165,000 in total for the Intrepid Concert. The Harlem Gospel Choir charged an engagement fee for performing at the 2007 Freedom Walk and DoD also paid transportation expenses.

By comparison, the United Services Organization (USO), which puts on shows for the troops stationed within the war zone, does not pay celebrity entertainers any service fees and reimburses only travel and food costs.

Hiring a contractor to solicit support from celebrities and paying entertainer fees for concerts held stateside to gain media attention for the ASY program is questionable and is not focused on the primary ASY mission.

Soliciting Support From the Media

SDI also contacted major media outlets to build support and grow publicity for the ASY program. In its contract proposal, SDI emphasized the importance of "branding" the ASY program through the national media. SDI discussed key story angles to gain publicity such as the Celebrity Council, corporate supporters, ASY activities (that is, special events), and a radio media tour.

> To promote these message points, SDI would develop a national media kit and regional toolkit that would ensure continuity of message, reinforced branding, and cohesive outreach to both national and regional media targets.
>
> . . . . . .

> SDI will also develop a variety of story angles and seek out national media opportunities throughout the six month campaign targeting a wide range of media outlets. Key story angles and ideas include:
>
> . . . . . .
>
> - Pitch visual activities to CNN, MSNBC, Fox, and the network morning shows . . .
>
> . . . . . .
>
> - Announce the Celebrity Council to the entertainment press including reporters and editors at: *The LA Times*, *USA TODAY*, the *NY Post Page Six*, *US Weekly*, *People*, *Star*, *Entertainment Weekly*, *Variety*, and *Hollywood Reporter*.
>
> - Pitch stories about the partners and corporate programs to support the troops to *Fortune*, *Businessweek*, MSNBC, CNBC, and *The Wall Street Journal*.
>
> . . . . . .
>
> - Schedule a radio media tour with ABC Radio, American Urban Radio Network, AP, CBS, CNN, NPR's *Morning Edition*, NPR's *All Things Considered*, and NPR's *Talk of the Nation*.

According to daily reports, SDI solicited media to provide coverage of the ASY program and worked to obtain interviews for ASY personnel. According to SDI, media outlets initially were hesitant to support the ASY program because the program was viewed as DoD attempting to grow support for the war. That viewpoint has subsequently changed and media coverage of the program has increased.

> January 29, 2007. Called stations to encourage running the ASY Valentine's Day PSA. Confirmed interest with 11 TV stations who would like to run the Valentine's Day PSA.
>
> . . . . . .
>
> Call to CBS Sports contacts asking for ASY lower third mention during flyover during Super Bowl.
>
> May 2, 2007. Reached out to Today [S]how and compiled media list to pitch story ideas.
>
> May 3, 2007. Drafted and sent e-mail to Margo Baumgart at Good Morning America regarding May media initiatives.
>
> May 4, 2007. Outreach to Time Magazine, Financial Times, CNN, CBS, NBC, ABC, and Charlie Rose Show regarding ASY.
>
> August 14, 2007. Pitched Allison [Deputy Assistant Secretary of Defense for Internal Communication and Public Liaison] to Fox and Friends. Working on senior executive meeting at FOX.

Additionally, SDI solicited media support of ASY homefront organizations and a Freedom Walk organizer to obtain media opportunities for these groups.

> December 11, 2006. Reached out to producer for Good Morning America asking GMA to add ASY link to their website for Operation Homefront/Wal-mart events.
>
> February 1, 2007. Assisted in setting up interview for Shauna Fleming with KCBS radio in Los Angeles to discuss ASY 2.6 [million letters of thanks] in 2006 and her visit to the Pentagon.
>
> May 18, 2007. Spoke to Amy Palmer about possibility of featuring Operation Homefront on CBS Early Show.
>
> June 25, 2007. Spoke with Access Hollywood producer regarding Colton Lockner appearance on set of Hannah Montana.
>
> June 26, 2007. Continued working on matching up homefront groups with CBS summer city tour.
>
> July 3, 2007. Started filling out application with CNN Heroes Special for Colton Lockner's nomination.

Further, the ASY program released a press release on March 17, 2005, making the Deputy Assistant Secretary "available" to the media to discuss the program as part of a parallel story on the 2-year anniversary of the start of Operation Iraqi Freedom.

> For media outlets covering the anniversary story, an important parallel story angle is the broad and diverse outpouring of support of the American people for our service members and their families, especially those serving in harm's way.
>
> . . . . . .
>
> . . . Deputy Assistant Secretary of Defense for Internal Communications and Public Liaison, is available to discuss the "America Support[s] You" program and the importance of recognizing the support of the American people for our Armed Forces.

The direct solicitation of media coverage to publicize the ASY program is inappropriate. The program operations need to be focused on how to communicate public support to the troops.

The Assistant Secretary of Defense for Public Affairs needs to take appropriate action and create adequate controls to ensure that employees or contractors do not violate the ethics regulations relating to solicitation, fundraising, and endorsement.

ASY Special Events

SDI was also paid to organize ASY special events to attract media coverage to promote or "brand" the program. We were able to identify that about $3.6 million was spent on special events to gain media coverage to promote the ASY program. These special

events include the Freedom Walk, the Memorial Day parade, and the Intrepid Concert. Table 3 shows the cost of ASY special events we identified.

Table 3. Special Event Expenses

Event	Total
Freedom Walk	$2,576,807
Memorial Day	834,711
Intrepid Concert	165,036
Total	**$3,576,554**

Freedom Walk

The National Freedom Walk was created under the ASY program. The National Freedom Walk has been held annually since September 2005 to honor the victims of September 11, 2001, and the troops. In 2007, the National Freedom Walk had about 10,000 participants and there were a total of 230 Freedom Walks held throughout the world, which included all 50 states and 10 foreign countries. The Deputy Assistant Secretary used SDI to organize and coordinate the National Freedom Walk in Washington, D.C., as well as secure entertainment and purchase logistics support for the event. SDI also solicited community groups and schools to put on Freedom Walks in their towns. Table 4 shows the breakdown of the $2.6 million in expenses for the Freedom Walk by fiscal year.

Table 4. Freedom Walk Expenses by Fiscal Year

	FY 2005	FY 2006	FY 2007	Total
Stars and Stripes				
Susan Davis International labor	$183,163	$ 259,899	-	$ 443,062
Susan Davis International material	543,693	605,184	$132,006	1,280,883*
Washington Headquarters Service				
Susan Davis International labor	-	-	$232,087	$ 232,087
Susan Davis International material	$ 20,045	-	152,985	173,031*
Other expenses	69,162	$ 180,590	197,993	447,745
Total	**$816,063**	**$1,045,673**	**$715,071**	**$2,576,807** *

*Slight rounding inconsistencies may exist because auditor calculations included decimal places.

Memorial Day Parade

Since 2005, the National Memorial Day Parade has been held each Memorial Day in the nation's capital to honor the current Service members and veterans of the United States military. According to SDI, in 2006, a congressional requirement sought to bring Service members representing all branches of the military to participate. The Deputy Assistant Secretary took on the responsibility of authorizing payment for this congressional requirement and used its contractor and Washington Headquarters Service to pay for the event. Each service member was allowed to bring one guest and they were issued official Government travel orders that covered the mode of travel and per diem. Lodging expenses were not covered by the travel orders because SDI entered into agreements with Marriott to obtain rooms for the Service members. However, our review of lodging charges has uncovered duplicate or unused hotel room charges being paid by DoD. The

travel costs and per diem were paid by Washington Headquarters Service through a Military Interdepartmental Purchase Request to the participating Military Department. Table 5 categorizes the expenses paid for the Memorial Day Parade.

Table 5. 2006 Memorial Day Expenses

Susan Davis International	Expenses
Material	$260,150
Hotels	118,699
Labor	81,008
Subtotal	$459,857
Washington Headquarters Service	
Travel/Per diem	$374,854
Total	**$834,711**

However, we were unable to obtain complete documentation to support actual travel and per diem expenses from the Coast Guard and Air National Guard. The ASY program also entered a float in the 2006 Memorial Day Parade. The float was purchased by its contractor, SDI, for $3,750. Figure 6 shows a picture of the ASY Memorial Day Parade float.

Figure 6. America Supports You Memorial Day Parade Float

Intrepid Concert

SDI was paid more than $165,000 to put on the Intrepid Concert held on May 28, 2005, at the Intrepid Sea Air Space Museum as part of Fleet Week 2005 in New York City. The concert featured entertainers Chely Wright and Montgomery Gentry. SDI worked with Intermedia Production Group to handle all of the entertainment and production needs for the concert. The total concert cost was $165,036, which included approximately $15,000 in performer airfares; $15,651 for hotels; and $20,475 in management fees and performance salaries. Neither SDI nor Intermedia Production Group, which dissolved in 2006, was able to provide us with supporting documentation of charges paid by DoD. The problem with obtaining adequate documentation and level

of review by DoD contracting officer representatives (COR) is discussed in more detail in finding C.

Armed Forces Bowl

SDI helped create a partnership with the Armed Forces Bowl organizers for the ASY program. SDI tasks included promoting the ASY program, obtaining shout-outs from the troops for the bowl game, and featuring the Bell Helicopter Armed Forces Bowl on the ASY e-newsletter. The 2006 and 2007 Armed Forces Bowl displayed an ASY logo on the football field during the event. Figure 7 shows a picture of the ASY logo on the football field at the 2007 Armed Forces Bowl.

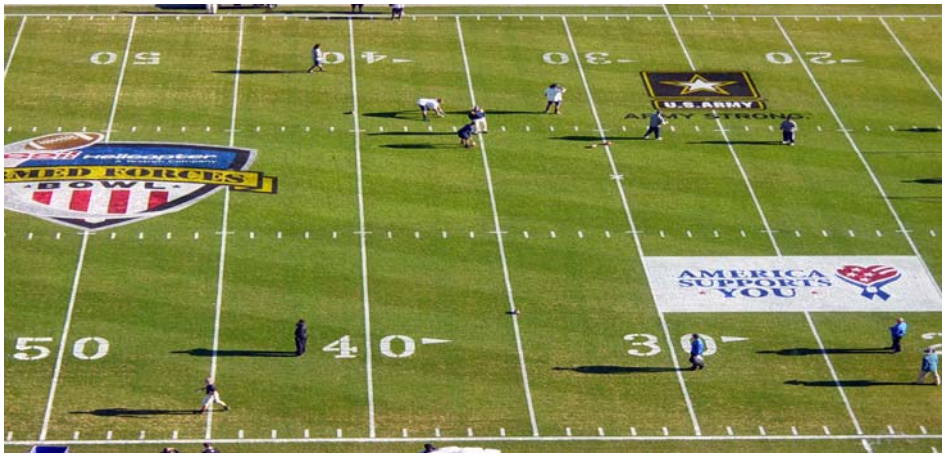


Figure 7. America Supports You Logo at Armed Forces Bowl

According to bowl organizers, the ASY ad on the field was provided free of charge because the ASY program helped the bowl get coverage on Armed Forces Radio and Television Service, provided contact information for the Secretary of the Army, who was honored at halftime of the game and shout-outs from the troops that could be aired during the game. However, the Army was charged to have its logo advertised on the field based on its package with ESPN. In addition to the free ad on the field, the ASY program also received:

- two 30-second public service announcements that were aired on the stadium video board;
- ASY signage in the North and South end zones and a rotating ASY logo on stadium display;
- full-page print ad in Game Day Program and Visitor's Fan Guide;
- ASY article and logo in bowl e-newsletter;
- ASY logo and Web link on bowl Web site;
- on-site ASY and homefront group display areas (inside and outside stadium) as part of Armed Forces Adventure Zone;

- on-site space for ASY trailer in Adventure Zone; and
- ASY flag on an Air Force parachute jumper onto the field.

In return, bowl organizers requested participation from military branches to include transportation to attend the game, attendance by senior and local members for bowl kick-off luncheon, coin toss, halftime ceremonies, golf tournaments, parade, and team announcement party. Bowl organizers requested Armed Forces hardware and displays from each branch, flyovers and parachute teams, and military bands. Bowl organizers also requested participation from the Armed Forces Network and other DoD media assets to include a live game broadcast on Armed Forces Network; air non-commercial/public service announcements for Bell Helicopter and others; promote bowl awareness on the Pentagon Channel, American Forces Press Service, ASY Web site, Stars and Stripes, DoD/Military Internet sites, and other Defense media outlets.

The Assistant Secretary of Defense for Public Affairs needs to determine whether funding special events held stateside to promote the ASY program is an appropriate and cost-effective way to meet the primary mission of communicating public support to the troops.

Promotional Items

SDI also procured ASY promotional items that were used to promote or brand the program. We found several transactions amounting to almost $89,000 where the contractor procured items that could be used to promote the program to the public (see table 6).

Table 6. America Supports You Promotional Items

Invoice Date	Item (Source)	Amount
6/6/2005	ASY Lapel Pins (C. Forbes, Inc.)	$ 1,519
6/6/2005	ASY Golf Shirts (Leaderpromos)	1,081
7/25/2005	ASY Lapel Pins and Appreciation Cards (C. Forbes, Inc.)	4,489
7/25/2005	ASY Magnets (Fort America)	990
7/25/2005	ASY Shirts (Leaderpromos)	124
9/21/2005	ASY Shirts (Leaderpromos)	3,098
9/21/2005	Patriotic Pins (Alamo Stamp & Engraving)	2,025
9/21/2005	Pins (Fort America)	1,000
10/12/2005	Pins (Fort America)	1,650
10/12/2005	Apparel (Leaderpromos)	550
4/4/2006	ASY Pins/T-shirts	490
5/9/2006	ASY Pins/T-shirts/Hats	12,779
6/5/2006	ASY Pins	819
9/21/2006	Freedom Walk Volunteer Shirts (Mulberry Tree)	1,755
9/21/2006	Shirts (Leaderpromos)	3,009
10/6/2006	Freedom Walk Volunteer Shirts (Mulberry Tree)	1,780
10/9/2007	Freedom Walk Volunteer/Participant T-shirts (Buxton Brown)	51,750
Total		**$ 88,907***

***Slight rounding inconsistencies exist because auditor calculations included decimal places.

In addition, we also found that $191,024 of ASY dog tags were procured directly from C. Forbes, Inc., and Capital Design, Inc. The dog tag procurements are discussed later in the finding under the section "other program expenses." Based on information contained in the contract files, the dog tag procurement from C. Forbes, Inc., and t-shirts for the Freedom Walk were distributed mostly to the general public. The other transactions appear to be for public use as well. Using appropriated money to provide promotional items to the public is not allowed unless specific authority has been obtained. We do not see that the ASY program has this authority and feel these procurements are questionable and may violate appropriation laws.

The Assistant Secretary of Defense for Public Affairs needs to determine whether the procurement of America Supports You promotional items for the public is appropriate.

Joint Civilian Orientation Conference

The Joint Civilian Orientation Conference[3] (JCOC) was also used to promote the ASY program and solicit support from corporations through the conference attendees. According to the former Special Assistant to the ASD(PA), who attended JCOC 74, JCOC was used as a recruiting tool for the ASY program. There were specific agenda items where JCOC members were required to sign ASY banners and take pictures with the ASY banners on JCOC trips. Figure 8 shows members of JCOC 72 (October 2006) and 73 (April 2007) posing for pictures and signing ASY banners. Similar pictures exist for JCOC 74 (November 2007) but are not shown on the JCOC Web site.

Figure 8. JCOC 72 and 73 Members Working With ASY Banners

In addition, the JCOC 72 agenda included a page that pitched the ASY program to participants. The document stated:

> ***America Supports You*** is a Department of Defense program recognizing citizens' support for our military and communicating that support to members of our Armed Forces and their families, at home and abroad . . .

[3] The JCOC program has been held 74 times since 1948 and is sponsored by the Secretary of Defense for civilian public opinion leaders interested in growing their knowledge of the military and national defense issues.

. . . . . .

More than 25 corporations have joined the ***America Supports You*** program—including AT&T, Checkers, the Grand Ole Opry, McDonald's, NASCAR, the PGA TOUR, Ringling Bros. and Barnum & Bailey and Wal-Mart.

Celebrities and sports figures are lending their support to ***America Supports You*** in a variety of ways including making personal appearances and appearing in public service announcements.

The Ad Council selected ***America Supports You*** for a print, radio and online public service announcement campaign encouraging people to show their support for the troops and directing people to the ***America Supports You*** Web site. The popular PSAs are appearing nationwide.

. . . . . .

To find out how you can help, visit www.AmericaSupportsYou.mil.

The JCOC 2006 Year in Review report also provides additional evidence of the Department promoting the ASY program and its corporate supporters. Specifically, the report stated:

> JCOC alumni continue to play an active role with America Supports You in a number of different ways. Through their companies and personally, alumni have partnered with grassroots groups, donated money, organized special events and volunteered their time. Through this involvement, they have energized their employees and communities to get involved.
>
> One of the 2007 goals for America Supports You is to identify a company to adopt each of the nearly 250 grassroots members listed on the website.

Further, the JCOC Year in Review report also highlighted the actions of ASY corporate supporters, Checkers drive-in restaurants, and the PGA TOUR in support of the ASY program.

SDI daily reports also captured the solicitation of JCOC members and their incorporation in "building" support for the ASY program.

> January 17, 2007. Updated Homefront Partnership Tracking Sheet with JCOC companies recommended by [a Public Affairs official].
>
> January 18, 2007. Sorted Homefront groups, JCOC, and corporate team members by state for better matching capability.
>
> February 26, 2007. Spoke with [a Public Affairs official] to discuss upcoming conference call with JCOC member . . . about possible Hollywood event.

These questionable actions are contrary to the overall mission of the JCOC program, which was used inappropriately to solicit support and promote the ASY program.

The Assistant Secretary of Defense for Public Affairs needs to ensure that the Joint Civilian Orientation Conference is not used to solicit support for DoD programs.

Corporate Recognition

A recognition program for corporate support was employed and corporate logos were displayed on the ASY Web site, which violates DoD policy. Preferential treatment was also given to select homefront groups.

Recognition Program

In addition to the other publicity promised by DoD, the ASY program used a formal recognition program for corporations and other individuals to highlight their support of the ASY program and to garner additional media coverage. The ASY program awarded the Office of the Secretary of Defense Exceptional Public Service Awards to select supporters. According to a press release, the Exceptional Public Service Awards were ". . . established to recognize non-career federal employees, private citizens and foreign nationals for their contribution, assistance or support of activities for the U.S. armed services."

In its proposal, SDI outlined the importance of a recognition program. Specifically, the proposal stated:

> We suggest a recognition program that would identify and honor individuals, non-profits and corporations in each of the 50 states that are supporting the troops. Members of Congress and Governors from each state would be asked to select a person, business or non-profit from their state or district who is doing something special to support the troops and submit details on what they are doing.
>
> Each person selected will receive a letter from Secretary [of Defense] . . . for framed display . . . We encourage highlighting their choices through op-eds, regional media, newsletters, member radio/TV shows and in speeches, events, activities, etc.

Based on the award recipients we identified, three were corporate supporters of the program as shown by table 7.

Table 7. ASY Exceptional Public Service Award Recipients

Date	Recipient
March 7, 2006	Indianapolis Motor Speedway (supporter)
December 13, 2006	World Wrestling Entertainment (supporter)
February 1, 2007	Orange Lutheran High School Principal
March 15, 2007	DuPont Teflon and Treat the Troops
April 12, 2007	Mayor of Peoria, Arizona
May 4, 2007	RE/MAX(supporter)
June 28, 2007	Simonton Windows and Homes For Our Troops
July 30, 2007	Dr. Laura Schlessinger

According to the Deputy Assistant Secretary, there are no written criteria for selecting the recipients of this award. Further, no DoD policy exists or was established for recognizing corporations or individuals for their support of DoD programs.

The Assistant Secretary of Defense for Public Affairs needs to determine whether the Department should continue to give recognition awards to corporations and celebrities in return for their support of the ASY program.

Corporate Logos on ASY Web Site

The ASY Web site also lists corporate logos, which is in violation of DoD Web site policy. See the table in Appendix B for a list of the corporate supporters. Figure 9 shows the top section of the ASY Web site corporate supporters page.

Figure 9. Top Section of the ASY Web Site Corporate Team Supporters

At the bottom of the Web page, the ASY Web site has the following disclaimer relating to the corporate logos:

> The presence of corporate logos on this page does not in any way imply endorsement of these corporations or their services on the part of the Department of Defense.

However, regardless of this disclaimer, Section 8, "External Links," of the DoD Web Site Administration Policies and Procedures specifically prohibits graphics or logos depicting companies from appearing on publicly accessible DoD Web sites.

The DoD General Counsel needs to determine whether company logos should be removed from the America Supports You Web site.

Preferential Treatment

DoD Public Affairs gave preferential treatment to select homefront organizations. Certain nonprofit organizations were provided with a DoD memorandum of understanding (MOU) that was used to legitimize their organization. One organization was funded by DoD through its public relations contract with SDI.

Operation Homefront

On October 11, 2006, the Deputy Assistant Secretary entered into an MOU with Operation Homefront to delineate support that DoD will provide to Operation Homefront. Specifically, the agreement states:

> 1. This Memorandum of Understanding (MOU) between the United States Department of Defense (DoD), **on behalf of the United States Armed Forces and the America Supports You Program, and Operation Homefront (hereinafter collectively referred to as "the Parties") delineates the support that DoD will provide to Operation Homefront in furtherance of its mission and the support that Operation Homefront will provide to military members and their families.**
>
> . . . . . .
>
> 4. To the extent compatible with its mission and DoD 5500.7-R, "Joint Ethics Regulation," **DoD will inform military personnel, as appropriate, about Operation Homefront's support and services to the military community.**
>
> 5. **The Department of Defense recognizes that the goals of Operation Homefront are consistent with DoD's America Supports You program** in its efforts to support military members and their families. **[Emphasis added]**

Operation Homefront on its Web site promotes that it is "one of a select few charities" to operate under an MOU presented by DoD. Although the MOU does explicitly state that this agreement does not constitute DoD endorsement of Operation Homefront, the memorandum provides for DoD support, promotion within the military, and DoD's recognition of consistent goals with its own program. We believe the MOU does constitute an endorsement by DoD.

Upon review of Operation Homefront's 2006 tax return, we found several contributions from DoD contractors and ASY corporate supporters. SDI, DoD's contractor for the America Supports You Program, contributed $10,000 and Fleishman-Hillard, DoD's contractor for the Why We Serve program, contributed $5,000 to Operation Homefront. Further, ASY corporate supporters such as Wal-Mart, Tri-West Healthcare Alliance, and Toyota gave cash and non-cash contributions totaling $597,732 to the nonprofit. Operation Homefront was also added to the PGA TOUR, another ASY corporate supporter, fundraising events for 2007.

We were unable to determine the DoD involvement in connecting ASY corporate supporters with Operation Homefront. However, the facts seem questionable and show

Operation Homefront appears to have received preferential treatment from DoD over other ASY nonprofit organizations.

ThanksUSA

According to contract modifications, SDI was authorized $50,000 for the benefit of the ThanksUSA (Treasure Hunt Aiding Needs of Kids and Spouses of those serving the United States of America) nonprofit as a specific contract line item. According to weekly agenda calls, SDI discussed ThanksUSA with Public Affairs officials from November 2005 through early January 2006. In addition, in May 2007, SDI called ThanksUSA to gauge its interest in participating in a Barnes and Noble Web site promotion. Again, it appears that ThanksUSA has received more support from DoD than other nonprofit organizations.

Ranking of Homefront Groups

Our review of SDI daily reports and agendas provided another example of the ASY program involvement in ranking homefront groups.

> February 26, 2007. ASY to provide NASCAR with a list of on-site and homefront components we are most interested in and rank these items in order of priority.

We believe that DoD or its contractor's involvement in ranking or providing preferential treatment to nonprofit organizations is questionable and creates a potential liability for the Department.

Complaints From Nonprofit Organizations

During the course of the audit, we spoke with a few ASY homefront groups that made informal complaints about the operations of the ASY program. The complaints alleged that there was no DoD criteria established to review and accept grass-roots organizations; the ASY program was attempting to take corporate sponsors from nonprofit organizations; and that the ASY program was taking credit for the nonprofit organizations' accomplishments even though the DoD program did nothing to help them accomplish their mission. One group felt that the program was inappropriately focused on gaining corporate support instead of advertising the public support to the troops.

During the audit, we were not able to fully review all of the allegations made against the ASY program operations. However, there appears to be validity to some of the allegations made. As shown in this report, we also found that program operations were not focused on its primary mission of communicating support to the troops. Further, we found several instances of the program soliciting corporations and using multiple avenues to gain media attention to promote or "brand" the ASY program.

The Assistant Secretary of Defense for Public Affairs needs to establish adequate controls to ensure that the Department does not give preferential treatment to select nonprofit organizations.

Other Program Expenses

The Deputy Assistant Secretary also used contracts totaling $529,038 for an advertising campaign and manufacture of dog tags to promote the ASY program. Table 8 outlines the additional ASY program expenses.

Table 8. Other Expenses for the America Supports You Program

Contractors	Contract	Service	Total
Advertising Council	W74V8H-05-P-0402	ASY ad campaign	$ 338,014
Chip Forbes	NAFBA1-05-M-0096	ASY dog tags	142,024*
Capital Design	NAFBA1-05-M-0298	ASY dog tags	49,000
Total			**$ 529,038**

* Actual contract amount was $133,750; however, $142,024 was actually paid. Therefore, $8,274 in excess of the contract obligation was paid.

The ASY program received public relations services from the Advertising Council for an ASY ad campaign that totaled $338,014. SDI, in its proposal, had requested DoD to use the Advertising Council to obtain broad national placement of the ASY program. Specifically, SDI's proposal stated:

> A multi-media public service campaign designed and distributed by the Ad Council (including radio, print, and Internet) would cost approximately $300,000. That includes all design, production, duplication, and distribution costs. A campaign could be developed for mid-November distribution. While the costs are significant, working through the Ad Council would achieve the broadest national placement and distribution and the quickest time to market.

The Advertising Council created downloadable Web banners and print ads in several different sizes, four radio public service announcements, and a video public service announcement.

Figure 10 is an example of a print ad created by the Advertising Council.

Figure 10. ASY Print Ad

The ASY program also procured ASY dog tags to brand the ASY program. SDI, in its proposal, recommended dog tags as an innovative campaign element to "brand" the program "nationally and link the American Public and troops serving abroad." Figure 11 shows examples of ASY dog tags.

Figure 11. Dog Tags Purchased for the ASY Program

The Assistant Secretary of Defense for Public Affairs needs to determine whether the expenditure of funds to promote the program is appropriate and effective in communicating public support to the troops.

ASY Program Controls

The ASD(PA) did not establish the ASY steering committee with representation from the Military Departments and Chairman of the Joint Chiefs of Staff to recommend and coordinate policies and programs that provide similar support and recognition to Service members and their families. Additionally, the ASD(PA) did not provide the Secretary of

Defense a status report of past and future ASY activities or implement any of the other oversight mechanisms. As a result, the Deputy Assistant Secretary has had complete autonomy over the program. See page 1 of the report for the text of the Deputy Secretary of Defense memorandum of September 29, 2006, on the ASY program.

Attempts to Establish the Steering Committee

According to the Deputy Assistant Secretary, the first attempt made to establish the steering committee was on February 5, 2007, more than 4 months after direction from the Deputy Secretary of Defense. The Deputy Assistant Secretary sent a memorandum to the ASD(PA) for approval that would have established the steering committee. Then on March 5, 2007, the Deputy Assistant Secretary provided responses to specific questions from the ASD(PA) about the steering committee. Initially, the Deputy Assistant Secretary provided an explanation of the purpose of the steering committee and Public Affairs coordinating official:

> The purpose for the creation of the America Supports You program steering committee and PASCO [Public Affairs Coordinating Official] is to create a long-lasting DoD program that will continue to maximize and build support for our troops and their families. ASY [America Supports You] reaches across all Services and demographics and for the first time in DoD history, it provides a tool that allows us to meet needs in a timely fashion and also helps the general public find meaningful ways to express their support. Penetrating through the negative media environment is challenging but if we continue to sustain ASY and integrate it throughout DoD, we will continue to have a strong voice that communicates America Support for our military. This Steering Committee/PASCO is an important step to ongoing success.

Subsequently, the Deputy Assistant Secretary provided answers to the questions raised by the ASD(PA) regarding the decisions of the Public Affairs coordinating official and management structure of the steering committee. The Deputy Assistant Secretary responded that the steering committee was basically a system that can measure the program operations and submitted a self-nomination for the position because the ASY program was managed within her department:

> 1. Who decided on the PASCO?
>
> a. The structure set up in the memo from Secretary England is the basic structure for how programs within DoD are run. It doesn't have to function with this type of oversight or a board but it is a good way to ensure coordination and continuity. Secretary England usually requires a system that can be measured and the Steering Committee/PASCO is one way of establishing that system. . . .
>
> 2. Who decided on the Chair?
>
> a. This is your decision so you have the choice of naming anyone on your staff to be the PASCO. I put in my name because the America Supports You program is currently in my department.

On March 6, 2007, the Deputy Assistant Secretary responded to the concern of the ASD(PA) regarding self nominations but again stated an appropriate selection would be herself. Specifically, the Deputy Assistant Secretary responded:

> Thank you for the feedback on the America Supports You Steering Committee, I understand your [sic] feeling uncomfortable with self-nominations . . .
>
> As to options for the leadership of the PASCO [Public Affairs Coordinating Official], you might consider the following:
> - Inside PA [Public Affairs]:
>   - Since the Steering Committee is made up of General/Flag Officers the options within PA seem limited to yourself or one of your DASD's.
>   - DASD's Options:
>   - It seems that since the America Supports You Program is currently in my area of responsibility, I would be an appropriate selection. . . .

According to the Deputy Assistant Secretary, after these discussions, the ASD(PA) made the decision not to implement the steering committee for the ASY program as directed by the Deputy Secretary of Defense. Thus, the Deputy Assistant Secretary continued to manage and control the program unchecked and no oversight for the ASY program was established.

The Assistant Secretary of Defense needs to establish the steering committee and designate a Public Affairs Coordinating Official.

Status Reports

According to the Deputy Assistant Secretary, no other requirements in the Secretary's letter were implemented including the ASY program status report for past and future ASY activities to the Secretary of Defense.

The Assistant Secretary of Defense for Public Affairs needs to set up procedures to ensure that the Secretary of Defense receives a status briefing on America Supports You program activities as required.

We will provide the Secretary of Defense a copy of the final report.

Conclusion

Adequate controls and oversight over the ASY program were never established and the ASY program operations were not focused on its primary objective of showcasing and communicating public support to the troops and their families. Instead, the program used contracts with a public relations contractor, SDI, totaling more than $8.8 million to

promote the program through costly special events held stateside generally for the public, not focused on our warfighters in Iraq and Afghanistan.

Consequently, the impact and usefulness of the ASY program to provide support for the troops is unknown. We agree that while corporate supporters have provided some free benefits to the troops such as reduced prices and tickets to concerts, amusement parks, and sporting events, obtaining free benefits for the troops was not the intent of the ASY program and we do not believe these benefits were provided by the corporations because of the ASY program. Similarly, the ASY program's impact on homefront organizations is also unknown as these organizations were established by individual citizens who wanted to support the troops whether or not the ASY program existed.

We also acknowledge that public service announcements were provided to the troops through DoD media and that the ASY Web site does provide a central tool for troops to find out information about available support from hundreds of homefront groups. However, the ASY program's main focus of relying on its Web site as the main communication method with the troops has not yielded measurable results on the effectiveness of the program in accomplishing its primary objective.

The Assistant Secretary of Defense for Public Affairs needs to establish appropriate metrics to measure the effectiveness of ASY program operations in accomplishing its primary mission of communicating the public support to the troops.

Recommendations, Agency Comments, and Our Response

A.1. We recommend that the Assistant Secretary of Defense for Public Affairs:

a. Take appropriate action and create adequate controls to ensure that employees or contractors do not violate the ethics regulations relating to solicitation, fundraising, and endorsement.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that he issued instructions to ensure the Office of the ASD(PA) programs do not engage in solicitation, fundraising, or endorsement. The Principal Deputy also commented that all staff members are required to take community relations policy and ethics training by December 31, 2008, and that the ASY program has a new program manager, COR, and contract that provides better oversight of contractor activities.

Our Response. We consider the comments responsive.

b. Determine whether funding special events held stateside is an appropriate and cost-effective way to meet the primary mission of the America Supports You program.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy

commented that stateside special events can be an appropriate and cost-effective means of communicating public support to Military members and their families as the primary audience. The Principal Deputy also commented that the new ASY program manager has been tasked to ensure proposed special events are consistent with this standard.

Our Response. We consider the comments responsive.

c. Determine whether the procurement of America Supports You promotional items for the public is appropriate.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the Office of the ASD(PA) does not have special authorization to use appropriated funds to purchase promotional items and that the new ASY program manager is responsible for ensuring that all ASY-related purchases and expenditures are in compliance with appropriation laws and applicable DoD authorities. The Principal Deputy also commented that additional management controls include the WHS Financial Management Directorate and contracting officer or COR oversight of purchases.

Our Response. We consider the comments responsive.

d. Ensure that the Joint Civilian Orientation Conference is not used to solicit support for DoD programs.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that JCOC staff members have been directed not to promote ASY as part of the JCOC program and will receive refresher training on applicable ethics rules. Further, the Principal Deputy commented that all JCOC activities will be conducted in compliance with ethics rules and in accordance with DoD policies.

Our Response. We consider the comments responsive.

e. Determine whether the Department should continue to give recognition awards to corporations and celebrities in return for their support of the America Supports You program.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that recognition awards will be submitted in accordance with existing DoD policies and instructions.

Our Response. We consider the comments responsive.

f. Establish adequate controls to ensure that the Department does not give preferential treatment to select nonprofit organizations.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the Office of the ASD(PA) has developed and implemented standard operating procedures and templates that preclude preferential treatment to select organizations.

Our Response. We consider the comments responsive.

g. Determine whether the expenditure of funds to promote the program is appropriate and effective in communicating public support to the troops.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the expenditure of appropriated funds to build support for the ASY program is not appropriate. Further, the Principal Deputy commented that the expenditure of appropriated funds to communicate public support to Service members is appropriate and effective in executing the ASY mission.

Our Response. We consider the comments responsive.

h. Establish the steering committee and designate a Public Affairs Coordinating Official.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the original mission of ASY has been re-established and the mission is well within the Office of ASD(PA) expertise and capabilities. Therefore, the ASD(PA) will recommend to the Deputy Secretary of Defense that the establishment of a Public Affairs Coordinating Official and ASY Steering Committee are no longer required.

Our Response. We consider the comments responsive.

i. Set up procedures to ensure that the Secretary of Defense receives a status briefing on America Supports You program activities as required.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the ASY program manager will provide an annual ASY status briefing to the Principal Deputy for further submission to the Secretary of Defense. The briefing is expected by November 2009.

Our Response. We consider the comments responsive.

j. Establish appropriate metrics to measure the effectiveness of the America Supports You program operations in accomplishing its primary mission of communicating the public support to the troops.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the ASY program manager will research and establish appropriate metrics to measure the effectiveness of ASY program initiatives along with a reportable system of measurement.

Our Response. We consider the comments responsive.

A.2. We recommend that the General Counsel of the Department of Defense determine whether company logos should be removed from the America Supports You Web site.

Agency Comments. The Principal Deputy General Counsel commented that there are no express exceptions to the DoD Web site Administration Policies and Procedures. The DoD Web site policy specifically prohibits graphics or logos depicting companies from appearing on publicly accessible DoD Web sites. Thus, company logos identified in the draft report should be removed from the ASY Web site.

Our Response. We consider the comments responsive. As of the date of this report, the corporate logos link has been removed from the ASY Web site. However, the corporate supporters Web page has not been removed from the ASY Web site and can be located when using the search tool. We feel this Web page should also be removed.

Finding B. America Supports You — Private Fund

A private nonprofit fund using the ASY name and logo has been established to collect monetary donations, creating confusion between the DoD ASY program and the private ASY fund; the Deputy Assistant Secretary was directly involved in obtaining monetary donations for the private fund. The confusion occurred because the Office of the ASD(PA) does not regulate the use of its trademarked program name and logo and the program was originally designed to come under the sponsorship of DoD. As a result, the public may be unable to differentiate between the DoD ASY program and the private ASY fund; allowing the private fund to operate under the official DoD program's name basically constitutes implied DoD endorsement, presenting additional liability for any misuse of donations, and the private ASY fund unfairly benefits from the "branding" of the ASY program name by DoD.

America Supports You Fund

On June 28, 2007, the Internal Revenue Service granted nonprofit status to the private ASY fund. According to documents obtained, the private fund was established as an adjunct to the DoD ASY program and to allow individuals and corporations to make tax deductible contributions. This mission of the private fund is described below.

> Funds are used to support the activities of the various grassroots groups in such areas as marketing, training, office supplies, web page design, accounting, grant preparation, purchase of airline tickets for military members and their families and purchasing items and shipping "care" packages to troops. A major focus will be developing new programs as well as coordinating and assisting the efforts of the homefront groups in supporting wounded veterans in military and veterans hospitals. Another priority will be to develop programs and support "packages" aimed specifically at returning Reserve component (National Guard and Reserve) members who, when returning home, often lack the support infrastructure that a military base provides.

Creation of the Private Fund

Initially, in October 2005, the Deputy Assistant Secretary submitted a legislative proposal to formally establish a DoD ASY fund that would allow DoD to solicit and accept monetary donations from citizens. The DoD ASY fund also planned to have the usual powers of a nonprofit organization that would let it promote voluntary partnerships between the Government and the private sector in activities to support the Military and their families. Congress denied the proposal in its entirety.

Subsequently, in November 2005, another legislative proposal from the Deputy Assistant Secretary again failed to establish a DoD ASY fund. Then DoD attorneys advised the Deputy Assistant Secretary that the only way to establish a foundation was in a personal or private capacity.

According to the interim ASY fund President, the Deputy Assistant Secretary asked him to set up the ASY fund. The interim President arranged for "pro bono" assistance by a Washington, D.C., law firm to submit the Internal Revenue Service filing for nonprofit status.

Use of ASY Name and Logo

The private ASY fund uses the DoD-trademarked ASY program name and logo when conducting its business. For example, on December 18, 2007, the ASY fund sent a letter that had the official DoD ASY logo on the top to Bank of America thanking it for its monetary donation to the private fund. The official DoD ASY logo also appears on the ASY fund Web site that was registered by SDI, DoD's contractor for the ASY program. Figure 12 shows the fund's Web site using DoD's official ASY name and logo. The name and logo are also very similar to the official DoD ASY Web site header in Figure 13.

Figure 12. ASY Fund Web Site Under Construction

Now compare the ASY Fund header to the official DoD ASY Web site.

Figure 13. DoD ASY Web Site Header

The ASY logo/symbol is available for download on the DoD ASY Web site in various sizes and formats, such as a coffee mug, ball cap, T-shirt, etc.

Figure 14 is an example of the official DoD ASY name and logo that is downloadable from the DoD ASY Web site.

Figure 14. Downloadable ASY Name and Logo

Clearly, the private fund's use of the official DoD-trademarked logo causes confusion for the public and constitutes implied endorsement by DoD. According to the interim President of the fund, the fund received approval from a DoD General Counsel attorney to call the fund by the same ASY name. However, we believe there needs to be a clear line of separation between the DoD program and the private fund and the name of the private fund should be changed.

The DoD General Counsel needs to determine whether it's appropriate for a privately managed fund to use the official ASY program trademarked name and logo.

Fund Board

The fund board consists of former senior Federal employees, including a former Under Secretary of State and former Assistant Secretary of Defense, former acting Assistant Secretary of Defense for Public Affairs, and a former special assistant to the Deputy Assistant Secretary of Defense. According to the interim President of the fund, the board, which has met just one time, is uncompensated but can get expenses reimbursed. Further, the board makeup will be reconstituted in the near future.

SDI Work on ASY Fund

SDI daily activity reports have shown that the contractor is doing work for both the private ASY fund and the DoD ASY program. Contractor personnel stated that work for the ASY fund is "pro bono" or done without compensation for the public good. However, we did find instances in the billable activities where the ASY fund was discussed. For example, a March 14, 2007, entry stated:

> Informed Victory Management **that a representative from ASY Fund** will contact them regarding VM's interest in donating proceeds from the sale of limited edition Jeff Gordon ASY race car posters. **[Emphasis added]**

In addition, there are several instances documented in daily reports of SDI employees reaching out to Congress and planning to hold a congressional caucus, which, according to the SDI chairman, was established to advocate the ASY program and private nonprofit fund. We were unable to determine whether SDI was inappropriately charging labor hours to the DoD ASY program for the private fund.

Additionally, the involvement of the DoD ASY contractor in the private ASY fund also raises additional concerns and further blurs the delineation of the fund from the official DoD program.

Donations to ASY Fund

According to the interim ASY fund President, as of March 3, 2008, the fund had a balance of $97,023 and had expended only $5,750 for the Freedom Walk and Internal Revenue Service filing fee. The largest donation received by the ASY fund was $50,000 from Bank of America. According to the Bank of America Military Segment Executive, another bank employee, who also acts as the chairman of the ASY Fund Board, introduced him to the Deputy Assistant Secretary to discuss the ASY program. After the discussion with the Deputy Assistant Secretary, the executive made a $50,000 donation to ASY and mailed a check to SDI, the DoD contractor, address. The Deputy Assistant Secretary's direct involvement in obtaining monetary donations for the private ASY fund is not appropriate and increases the chance of confusion between the official DoD program and the privately managed fund. Our discussion with the Bank's Military Segment Executive clearly showed that he did not understand that the ASY fund is privately managed and not part of the official DoD ASY program.

ASY Corporate Supporters

Y3K Grafix, which provides an ASY-themed truck wrap, donates proceeds from its sponsorship fees to the private ASY fund. According to the President of Y3K Grafix, the Deputy Assistant Secretary informed him that an ASY fund was being established. Subsequently, Y3K Grafix promoted that its proceeds would be donated to the ASY fund. Specifically, Y3K Grafix's Web site stated:

> **The Trailer Wrap Program is a public awareness campaign promoting the "America Supports You" program.** The Sponsorship fees cover the cost of production, application and the removal of the graphics. **These fees are eligible for a tax deductable [sic] donation as the proceeds are donated to the ASY Fund** and are distributed to grass roots non-profit organizations dedicated to serving the men and women of the military and their families. **[Emphasis added]**

Prior to the ASY Fund establishment, proceeds were donated directly to homefront organizations.

Figure 15 shows the ASY-themed truck wrap with DoD program logo and name.

Figure 15. ASY Truck Wrap at the 2006 Memorial Day Parade

In addition to the Memorial Day parade, ASY-themed trucks participated in Fourth of July festivities, the 2006 Armed Forces Bowl, Daytona 500 NASCAR event, and a Houston Texans Football game. However, Y3K Grafix lost money on the truck-wrap program so no actual monetary donations were made to the ASY Fund.

The use of the DoD ASY program name and logo and involvement of a senior DoD official to fundraise for the private ASY Fund is inappropriate. Also, the use of corporate logos with the official DoD program logo implies endorsement of the corporations by DoD.

After the General Counsel renders an opinion on the matter, the Assistant Secretary of Defense for Public Affairs needs to take action, if appropriate, to prevent the private fund's use of the DoD trademarked program name and logo.

Unregulated Trademark

In its proposal, SDI recommended the development of a logo/symbol for the ASY program to create an identity for use in the national branding effort. The logo was provided free of charge to anyone via the ASY Web site and the use of the logo was not monitored by Public Affairs. Specifically, SDI's proposal stated:

> The overall look and feel of the "America Supports You" campaign will be supported through a national branding effort. . . . The goal is to create a new communication platform that powerfully articulates the value of "America Supports You" through words and visuals . . .
> Our team member is Grafik Communications, which has successfully designed logos and branding strategies for more than 10 years. . . .
>
> . . . . . .
>
> - Logo/Campaign Identity – Like the pink ribbon that symbolizes the Breast Cancer initiative, or the yellow wrist band that supported Lance Armstrong, it will be critical to have an identifiable symbol created that captures the essence of the "America Supports You" campaign. . . .

- . . . For this campaign to be successful, it will have to be adopted at a grass roots level. . . . logos and a number of elements . . . that can be easily downloaded and customized. For instance if a community group wants to put together a large banner to announce an event, they will be able to go to the website and download a banner that already has all of the campaign logos and messages in a banner format.

Grafik was paid more than $118,495 by SDI for creative design services, including designing the initial ASY Web site ($45,000), developing the ASY logo and campaign tool kits ($42,245), project management ($4,484), and other miscellaneous services ($26,767).

On April 26, 2005, Stars and Stripes filed for a registered trademark for the words "America Supports You," and the ASY logo. The Stars and Stripes request for trademark was registered on July 4, 2006.

DoD Public Affairs also did not provide any oversight of the use of its program name and logo. During the audit, we identified that the ASY logo was being used inappropriately by Café Press to promote political causes titled "right wing swag" and the ASY logo was put on various clothing items, coffee mugs, and magnets for sale. For example, a thong undergarment with the ASY name and logo can be purchased from Café Press for $14.99.

The use of a DoD program name and logo for political purposes and on potentially offensive clothing items is inappropriate and does not help the ASY program accomplish its primary mission.

The Assistant Secretary of Defense for Public Affairs needs to enforce its registered trademark and provide adequate oversight of its use.

Conclusion

The public has had difficulty understanding that the private ASY fund is a separate entity from the DoD ASY program. DoD is basically providing the private fund an implied endorsement by permitting it to operate under the official DoD program name and use its logo, which can only create additional liability for the Department should there be any misuse of donations. Finally, the private ASY fund unfairly benefits more than other nonprofit groups from the "branding" of the ASY program name by DoD, as discussed in finding A, and the involvement of senior Defense officials in the private ASY fund fundraising efforts is not appropriate.

Recommendations, Agency Comments, and Our Response

B.1. We recommend that the General Counsel of the Department of Defense determine whether it's appropriate for a privately managed fund to use the official America Supports You program name and logo.

Agency Comments. The Principal Deputy General Counsel commented that the recommendation is currently being reviewed and analyzed. A more detailed response will be provided within 30 days.

Our Response. This recommendation remains unresolved until we receive additional comments from the DoD General Counsel. Therefore, the DoD General Counsel needs to provide comments to the final report.

B.2. We recommend that the Assistant Secretary of Defense for Public Affairs:

> **a. After the DoD General Counsel renders an opinion on the matter, take action, if appropriate, to prevent the private fund's use of the DoD trademarked program name and logo.**

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the Office of the ASD(PA) will take appropriate action after the DoD General Counsel renders an opinion.

Our Response. We consider the comments responsive.

> **b. Obtain a registered trademark for all purposes and provide adequate oversight of its use.**

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that two new applications were filed in July 2008 to protect the ASY logo.

Our Response. We consider the comments responsive.

Finding C. Contractor Support

The Office of the ASD(PA) provided only broad statements of work and inadequate oversight for $8.8 million in charges made by SDI for its public relations efforts to promote or "brand" the ASY program and the services provided appear to be personal in nature. In addition, while improvements have been made in the contracting process, the solicitation and award of the follow-on contract to SDI valued at $18.3 million for the base year and four 1-year options on May 14, 2008, raises questions about the cost-effectiveness of contractor support. Currently, the Office of the ASD(PA) has contracted for and spent or plans to spend close to $30 million[4] with SDI for public relations support. Specific shortcomings with the contracts include:

- the contracting officer failure to adequately task the contractor, obtain proposals, and require the contractor to relate labor hours to specific tasks;
- the CORs failed to effectively review the appropriateness and reasonableness of contractor charges;
- the Deputy Assistant Secretary's involvement in the entire procurement process to include establishing and funding the requirement, selecting the contractor, and reviewing and approving invoices; and
- the failure to obtain adequate competition or effectively evaluate price reasonableness on the follow-on contract.

As a result, in FY 2007, the Office of the ASD(PA) procured 11.5 full-time equivalents (FTE)[5] from SDI for about $2.6 million or an average annual rate of $223,453 per person to perform public relations efforts. This includes annual rates[6] for top positions such as senior project executive at $662,691; project executive at $498,960; senior program manager at $411,142; and program manager at $312,821. In addition, SDI was reimbursed $17,345 for charges that were either duplicate or specifically unallowable under the Federal Acquisition Regulation and appropriation laws, such as first class airfare for entertainers, alcoholic beverages, hotel room charges above per diem, and entertainment costs, precluding good fiduciary responsibility of taxpayer funds.

Guidance

Nonappropriated Funds

The Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement do not apply to nonappropriated fund contracting. To date, the majority of funds expended to SDI were nonappropriated funds from the Stars and Stripes

---

[4] Including about $2 million in charges made since FY 2007 that were not reviewed.
[5] FTE is a measurement equal to one staff person working a full-time work schedule for one year.
[6] The annual rates were calculated based on annual productive hours of 1,776 for a full-time equivalent as specified in the OMB Circular No. A-76 multiplied by the hourly rates of each position.

nonappropriated fund. Finding D discusses the appropriateness of using Stars and Stripes nonappropriated funds to pay for ASY contractor support, a practice outside the purpose of the nonappropriated fund.

Personal Services Guidance

The Federal Acquisition Regulation, Part 37.104, "Personal Services Contracts," establishes that Congress must provide specific authorization for personal services and that the key question is whether the Government maintains relatively continuous supervision and control of contractor employees.

> (a) **A personal services contract is characterized by the employer-employee relationship it creates between the Government and the contractor's personnel.** The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by contract, rather than by direct hire, circumvents those laws unless Congress has specifically authorized acquisition of the services by contract.
>
> (b) Agencies shall not award personal services contracts unless specifically authorized by statute (*e.g.*, 5 U.S.C. [United States Code] 3109) to do so.
>
> (c)
>
> **(1) An employer-employee relationship under a service contract occurs when, as a result of**
>
> (i) the contract's terms or
>
> **(ii) the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee.** However, giving an order for a specific article or service, with the right to reject the finished product or result, is not the type of supervision or control that converts an individual who is an independent contractor (such as a contractor employee) into a Government employee.
>
> (2) Each contract arrangement must be judged in the light of its own facts and circumstances, **the key question always being: Will the Government exercise relatively continuous supervision and control over the contractor personnel performing the contract.** The sporadic, unauthorized supervision of only one of a large number of contractor employees might reasonably be considered not relevant, while relatively continuous Government supervision of a substantial number of contractor employees would have to be taken strongly into account (see (d) of this section).
>
> **(d) The following descriptive elements should be used as a guide in assessing whether or not a proposed contract is personal in nature:**
>
> **(1) Performance on site.**
>
> **(2) Principal tools and equipment furnished by the Government.**
>
> **(3) Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.**

(4) Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel.

(5) The need for the type of service provided can reasonably be expected to last beyond 1 year.

(6) The inherent nature of the service, or the manner in which it is provided, reasonably requires directly or indirectly, Government direction or supervision of contractor employees in order to --

(i) Adequately protect the Government's interest;

(ii) Retain control of the function involved; or

(iii) Retain full personal responsibility for the function supported in a duly authorized Federal officer or employee. [emphasis added]

Contracting Officer Representative Guidance and Policy

The Defense Federal Acquisition Regulation Supplement Subpart 201.6, "Contracting Authority and Responsibilities," establishes the responsibilities of a contracting officer designating a COR and requirements to be designated a COR.

(1) Follow the procedures at PGI [Procedures, Guidance, and Information] 201.602-2 regarding designation of a contracting officer's representative (COR).

(2) A COR—

. . . . . .

(ii) Must be qualified by training and experience commensurate with the responsibilities to be delegated in accordance with department/agency guidelines.

. . . . . .

(V) Must be designated in writing, and a copy furnished the contractor and the contract administration office—

(A) Specifying the extent of the COR's authority to act on behalf of the contracting officer;

(B) Identifying the limitations on the COR's authority;

(C) Specifying the period covered by the designation;

(D) Stating the authority is not redelegable; and

(E) Stating that the COR may be personally liable for unauthorized acts.

On December 6, 2006, the Director, Defense Procurement and Acquisition Policy issued a policy memorandum on "Designation of Contracting Officer's Representatives on Contracts for Services in Support of the Department of Defense Requirements." The memorandum discussed concerns with continued weaknesses identified by the Government Accountability Office and the DoD Inspector General and reiterates the requirement that CORs be properly trained and assigned prior to contract performance.

> **I am concerned that the post-award management of contracts for services in support of Department of Defense (DoD) requirements needs more focus and rigor. Organizations that review DoD contracts for services, including the Government Accountability Office and the DoD Inspector General, continue to identify weaknesses in this key function.**
>
> The role of a Contracting Officer's Representative (COR) is to assist in the technical monitoring or administration of a contract. . . .
>
> **Accordingly, please ensure that a properly trained COR is designated for contracts for services in support of DoD requirements before contract performance begins, and that properly trained CORs are identified on active contracts for services in support of DoD requirements.** In addition, please ensure that the contribution of CORs in assisting in the monitoring or administration of contracts is addressed as appropriate in the performance reviews of individuals who perform COR duties. **COR training is available via a web-based module, CLC 106, "COR with a Mission Focus" at www.dau.mil. [emphasis added]**

The training course "COR with a Mission Focus" instructs CORs that they are responsible for monitoring the contractor's performance on the contract. The course provides the COR with best practices, such as reviewing monthly reports to measure performance of the contract and reviewing invoices and cancelled checks to verify charges for direct materials and travel expenses. The course cautions that the COR should be sure not to "approve travel . . . over and above that provided for in the contract." Further, when reviewing labor hours, the COR should periodically visit the contractor's site to verify that work on the contract is being performed and to select and review a sample of job time records to check the accuracy of charges.

Internal Controls

Management is responsible for developing and maintaining internal control activities that comply with the Office of Management and Budget Circular A-123, "Management's Responsibility for Internal Control." See Appendix C for more information on internal control standards.

Tasking the Contractor

The SDI contracts included only a broad scope of work and did not require that specific task orders be issued and did not require that the contractor provide proposals for specific tasks. Consequently, it would be difficult for the contractor to execute the ASY contract strategy without significant supplemental verbal guidance from DoD representatives.

Initial Contract

The statement of objectives for the initial contract W74V8H-04-F-1172, awarded in September 2004, established the following broad objective:

> To **recognize, build** and communicate America's support for the men and women in the U.S. Armed Forces through a six-month national awareness campaign entitled "America Supports You." **[Emphasis added]**

The contract also established the following broad creative campaign components:

> SUBPART A. Strategy & Planning:
> (1) National strategy and partnership plan to include celebrity, business, non-profit, military organizations . . . and individuals for participation on national and regional levels.
>
> (2) National media strategy, message, and outreach.
>
> (3) Innovative campaign elements with creative ideas to link citizens at home with deployed service members abroad.
>
> SUBPART B. Campaign Events:
> (4) National media tour with campaign panel to include, but not limited to, senior military leaders' spouses, celebrity spokespersons, and CEOs [Chief Executive Officers].
>
> (5) Campaign launch event from Washington D.C.
>
> (6) Major regional events.
>
> (7) Robust Web campaign.
>
> SUBPART C. Marketing and Advertising Products:
>
> SUBPART D. Interactive web page components providing a means of communicating with military members and others supporting the campaign, and allowing for recognition and tracking of participation.
> (8) Recognition program from Department of Defense to individuals, companies, and organizations.
>
> (9) Radio, print, and web PSA's [public service announcements]. (Spots will be created in-house.)
>
> (10) Collateral Materials. (Please specify with related costs.)

Modification P00002 issued on January 25, 2005, changed these requirements through additional clarifying language. Under Subpart A requirements for "direct interaction, scripting, taping, and programming with celebrities, regional and national sports organizations, and specific business sponsors rather than relying on coordination of such efforts via established support organizations such as USO," were added. The national media strategy, message, and outreach requirement was reduced. Further, in trying to link citizens with the troops, the modification incorporated the requirement for innovative "big picture" items such as Macy's Parade, Jumbotron on Times Square, MTV, and Late Nite shows with coverage and communication to troops via DoD media plus greater ASY campaign visibility at grassroots events.

Under Subpart B, the modification increased strategic planning and timing of this element to include greater contractor production of talking points and contractor media training. Under Subpart D, the modification deleted the recognition program requirement and incorporated the ASY dog tag presentations as an alternative to the established requirement with additional corporate outreach. In addition, the modification covered increased costs of collateral materials for press kits and the production of an e-newsletter.

The statement of work for follow-on contract W74V8H-05-F-1172 used basically the same language except it added the requirement for extensive contractor coordination of logistics and arrangements for overseas "salute events." The contractor could not satisfactorily complete the tasks as written without significant supplemental direction by DoD personnel.

Stars and Stripes Orders

In August 2005, Stars and Stripes took over contracting by awarding order NAFBA1-05-F-0531 with a similar work statement. The work statement also established a requirement for special events. Specifically, the Work Statement section C-1, under strategy and planning stated:

> (4) Special Events:
>
> (a) National media and overseas outreach salute tours to include participation by, but not limited to, senior military leaders' spouses, celebrity spokespersons, and CEOs [Chief Executive Officers]. This requires considerable time for strategic planning and execution of this element. It also requires extensive contractor coordination of logistics and arrangements for overseas salute events, production of talking points, scripting, and various program materials for specific markets, as well as contractor's media training/guidance of participants and support for execution of events.
>
> (b) Major regional events stateside and salute events in overseas deployment locations.
>
> (c) Robust web campaign.

Modification P00001 added $400,000 for the Pentagon Memorial National Freedom Walk. However, the work statement added the task under paragraph "d" but did not provide any additional detailed information for the contractor to complete the task and the contractor never provided a proposal to DoD for this specific task.

> (d) The Pentagon Memorial Freedom Walk Regional Marketing Event, stateside event.

Therefore, the contractor could not satisfactorily complete the tasks without significant supplemental direction by DoD personnel.

Similarly, in January 2006, modification P00002 to this order added $600,000 in funds for assistance with launch of the ThanksUSA nationwide treasure hunt for youth. Again,

the work statement failed to provide the contractor with a descriptive task that would not require significant substantial verbal direction from DoD. Specifically, modification P00002 added the following language to paragraph (e) of the special events section of the work statement and the contractor was not required to provide a proposal for this task:

> (e) As part of the special events including America Supports You geographic conference for ASY team member organizations, regional outreach Freedom Song events, and assistance with launch of THANKS USA nationwide treasure hunt for youth.

In February 2006, modification P00004 to this order added $500,000 for the Memorial Day 2006 event, with only the following language, "The scope of services shall be in accordance with paragraph C-1(4)." Again, the tasking is broad in nature and can only be completed with significant supplemental verbal guidance from DoD and again there was no proposal from the contractor for this task. Similar issues exist with Stars and Stripes statement of work for FYs 2006 and 2007 orders. The contractor also did not provide a proposal for any of the modifications; therefore, contract requirements were never defined in clear, specific, and objective terms with measurable outcomes.

Contractor Call Agendas and Activity Reports

During the audit, we obtained the weekly call agendas and conference call minutes from November 2004 through November 2006. The calls included ASD(PA) officials, including the Deputy Assistant Secretary, and representatives from SDI. For example, the March 14, 2005, agenda included corporate updates, including McDonald's and Marvel comics; sports updates on PGA TOUR among others; media activities, events, and concert tour strategy were discussed. These calls were conducted once a week and provided DoD the opportunity to direct contractor activities. In another example, the January 23, 2007, daily report contained one entry that stated the contractor "Drafted letter of Nomination for [Deputy Assistant Secretary] for the NAGC [National Association of Government Communicators] "Communicator of the Year" award." The drafting of the nomination letter is a service unrelated to the ASY contract and could only have been performed by the contractor because of verbal guidance of a DoD employee.

Contractor Labor Hours

The contracting officer never required the contractor to submit proposals for individual tasks; therefore, the CORs could not perform adequate oversight of labor hours charged by the contractor because the labor hours could not be associated with specific tasks. Table 9 shows that SDI labor charges were 66.5 percent of total contract charges of $8.8 million and averaged $110,716 each month.

Table 9. Labor Charges Invoiced

Total	Labor	Percent	Material	Percent
$8,827,439	$5,867,965	66.5	$2,959,474	33.5

Average Monthly Labor Charge

Employees	Hours	Labor
14	930.5	$110,716

During our review of SDI invoices, we discovered questionable labor charges that warranted more scrutiny. The Army Contracting Center of Excellence[7] contracting officer issued modification P00004 with an effective date of June 30, 2005, for delivery order W74V8H-04-F-1172 that consolidated $115,748 from three separate contract line items. Then, 12 days later, on July 12, 2005, SDI billed exactly $115,748 for labor hours worked in June 2005, which included a project assistant charge of 332.92 labor hours during the month, or more than 15 hours a day based on the number of workdays that month. Another questionable aspect of this charge is the 0.92 hours because previously SDI time records had reported time mostly in quarter-hour increments.

Also, on the August 1, 2005, invoice, SDI billed labor charges of $162,667; however, the invoice did not provide any more information to include hours by individual, hourly bill rates, and titles of the individual who worked. We do not see how the contracting officer or COR could verify that the labor charges are accurate.

SDI labor charges also included charges for individuals such as Mr. Ed Rollins, a well-known Republican political strategist. SDI made a check payment of $15,000 to the strategist for his work on the ASY program. The current interim ASY fund President also billed labor hours at the Senior Project Executive hourly rate of as much as $373.28.

Given the size of the labor charges on each invoice, more specific tasks need to be established to allow for a reasonable review of contractor effort.

The Assistant Secretary of Defense for Public Affairs needs to ensure contracting officials adequately task the contractor, require the contractor to submit proposals for each task, review the reasonableness of the contractor proposal, negotiate prices for services provided, and establish measurable outcomes.

Reasonableness of Contractor Charges

The COR did not adequately review supporting documentation such as receipts and subcontractor invoices to substantiate SDI expenses and the contractor did not have adequate controls to preclude unallowable charges. As a result, SDI was reimbursed for charges that are specifically unallowable under Federal Acquisition Regulation Part 31, "Contract Cost Principles and Procedures," such as alcohol charges, first class airfare, and hotel room charges above per diem. The Office of the ASD(PA) also spent appropriated funds on entertainment expense without specific authorization. Finally, the continual lack of adequate oversight increased the risk that the Department would pay excessive or unnecessary charges, precluding good fiduciary responsibility of taxpayer funds.

[7] The Army Contracting Center of Excellence was formerly known as the Defense Contracting Command - Washington.

Contracting Officer Representatives

The CORs for the SDI contracts or delivery orders did not review and approve payment for all of the invoices and did not always have required COR training. As a result, best practices were not followed and the scrutiny applied to the contractor charges was inadequate. For the six different contracts or delivery orders awarded to SDI, five CORs were assigned. The CORs were normally in the direct chain of command of the Deputy Assistant Secretary. We determined that individuals other than the COR approved payment for invoices. Documentation shows that the Deputy Assistant Secretary directly approved 21 invoices for payment totaling more than $3.3 million and was involved in other payments approved by the COR. The former special assistant to the Deputy Assistant Secretary, who acted as the COR for most of the invoices, never had any required COR training and the COR, assigned in March 2007, did not take the recommended training course by the Defense Procurement and Acquisition Policy office.

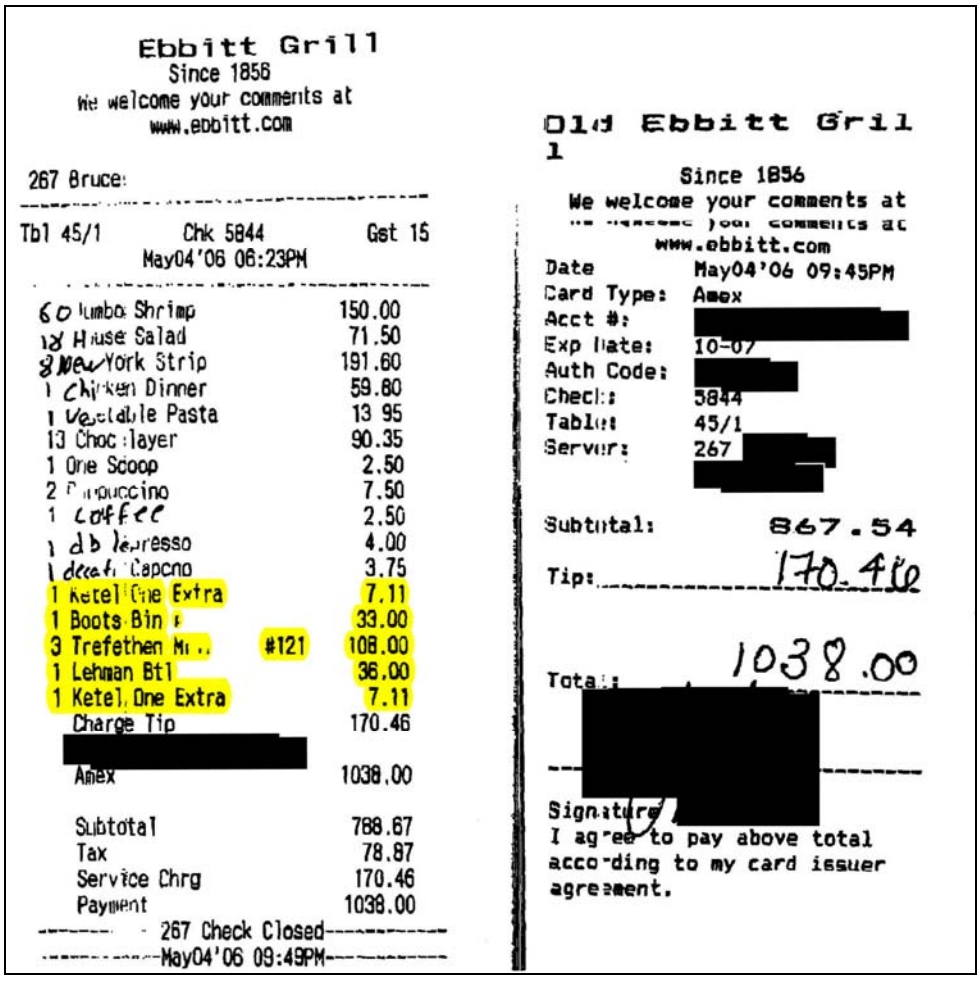
Unallowable Charges

The COR also failed to adequately review the items that were included in the total direct expenses claimed on SDI invoices to ensure that all expenses paid on the contract were allowable. Our review of invoices has discovered that unallowable charges, such as alcohol, first-class airfare, and hotels above per diem, were paid.

Alcoholic Beverages

The June 2006 invoice included a meal charge of $1,038 for a group of 15 patrons at the Old Ebbitt Grill restaurant. According to SDI, the meal receipt was for Gary Sinise and his Lt. Dan Band who were in the area to perform during Military Appreciation Month. However, we were unable to verify the claim that Mr. Sinise and his band actually ate at the restaurant. Given the lax controls and poor documentation, basically any receipt could be charged to the SDI contract and attributed to entertainers. After reviewing the restaurant credit card receipt, as the COR should have, we determined that $252, including taxes and gratuity were unallowable charges for the purchase of alcohol, which is prohibited by Federal Acquisition Regulation Part 31. Specifically, Part 31.205-51, “Costs of Alcoholic Beverages,” states that, “Costs of alcohol beverages are unallowable.”

See Figure 16 for the Old Ebbitt's Grill restaurant receipt.



Ebbitt Grill
Since 1856
We welcome your comments at
www.ebbitt.com

267 Bruce:

Tbl 45/1 Chk 5844 Gst 15
May04'06 06:23PM

6	Jumbo Shrimp	150.00
1	House Salad	71.50
2	New York Strip	191.60
1	Chicken Dinner	59.80
1	Vegetable Pasta	13 95
13	Choc layer	90.35
1	One Scoop	2.50
2	Cappuccino	7.50
1	Coffee	2.50
1	db Espresso	4.00
1	decaf Capcno	3.75
1	Ketel One Extra	7.11
1	Boots Bin	33.00
3	Trefethen Mer	#121 108.00
1	Lehman Btl	36.00
1	Ketel One Extra	7.11
	Charge Tip	170.46
	[redacted]	
	Amex	1038.00
	Subtotal	788.67
	Tax	78.87
	Service Chrg	170.46
	Payment	1038.00

267 Check Closed
May04'06 09:49PM

Old Ebbitt Grill
1
Since 1856
We welcome your comments at
www.ebbitt.com

Date May04'06 09:45PM
Card Type: Amex
Acct #: [redacted]
Exp Date: 10-07
Auth Code: [redacted]
Check: 5844
Table: 45/1
Server: 267 [redacted]

Subtotal: 867.54
Tip: 170.46
Total: 1038.00
[redacted]
Signature
I agree to pay above total
according to my card issuer
agreement.

Figure 16. Old Ebbitt Grill Receipt for Alcohol Purchases

Travel Costs

The contracting officer or COR did not enforce contract terms relating to travel. Specifically, we identified that hotel rates charged by the contractor exceeded per diem rates and first-class airfare for an entertainer and guest were paid. Specifically, the contract stated:

> Costs associated with travel and per diem shall be actual costs within the limitations set forth by and in accordance with the terms and conditions of the Joint Travel Regulation (JTR). The Contractor shall submit to the COR all requests for payment for her review prior to payment. **The Contractor shall submit actual or copies of receipts, of airline tickets (coach/economy only is authorized), lodging, car rental and receipts for each reimbursement expenses over $75.00.** It shall be noted that meals are included in the per diem rate that is authorized for area of travel in accordance with the JTR. **[emphasis added]**

First-Class Airfare

Stars and Stripes also paid $1,653 to SDI for first-class airfare expenses claimed on the invoice dated June 5, 2006, despite the contract language explicitly stating only coach airfare is authorized. Specifically, on April 24, 2006, an SDI official booked two economy-class tickets for an entertainer and guest totaling $1,159, but, on May 2, 2006, the airfare tickets were upgraded to first class, which increased the airfare costs to $1,653, inclusive of change and handling fees. The $494 increase in airfare to upgrade to first class is an unallowable charge.

Hotel Charges

On October 9, 2007, SDI billed travel expenses totaling $4,218, which included two nights of lodging in New York totaling $1,093. The two nights lodging charges were billed at rates of $546 and $547 including taxes and fees, respectively. According to General Services Administration per diem rate guidelines, the lodging per diem rate in New York City was $196 per night; with taxes and fees it totaled $226 per night. In addition, the contract file did not have a letter from the contracting officer authorizing expenses above per diem. Thus, we calculate that $642 in lodging costs were unallowable. Clearly, the COR failed to enforce the contract terms or consider the reasonableness and allowability of contractor hotel charges.

The former acting COR, who was responsible for reviewing invoices from September 2005 through February 2007, admitted that contractor travel costs were not verified by her because she assumed that contractor travel expenses were within allowable per diem because SDI frequently traveled with the Deputy Assistant Secretary on the same flights and used the same lodging locations. Further, according to the COR, who has been assigned since March 2007, he was unaware that verifying contractor charges on the invoices was a requirement of his duties.

Federal Acquisition Regulation 31.205-46 provides guidance on contractor travel expenses. The regulation establishes that travel charges that do not exceed per diem rates are considered reasonable. However, if the expenses exceed per diem the contracting officer or the representative must obtain and approve a written justification in advance. Our review of contract documentation maintained by the CORs shows no written justification permitting travel charges above per diem in the contract file.

Duplicate Charges

We also found that duplicate charges were paid for entertainer airfare, shirts, and technical staging.

On the June 5, 2006, invoice, SDI billed duplicate airline tickets for one entertainer. On April 20, 2006, SDI purchased a ticket for $718.60 for an entertainer with arrival and departure dates of May 4, 2006, and May 5, 2006. Then 5 days later, SDI purchased another ticket for the same entertainer that cost $728.60 with arrival and departure dates of May 4, 2006, and May 7, 2006. The two duplicate tickets cost $1,477.20 including all fees. The airfare ticket charge of $718.60 that was not used should not have been charged to the contract. The COR approved payment of unallowable and duplicate

airfare costs because the COR failed to review supporting travel documentation for the invoiced costs.

On September 21, 2006, SDI billed $1,755 for 300 volunteer shirts. The next month, on October 6, 2006, SDI billed for the same volunteer shirts, totaling $1,780. The COR failed to review support for either of the two charges. We reviewed the invoice supporting documentation and determined that the September 2006 charge of $1,755 was not an actual charge, but rather a quote and the October 2006 charge of $1,780 was the actual expense paid by SDI for the shirts on August 24, 2006. Thus, DoD paid $1,755 for shirts that were never received and this amount should be refunded.

Another duplicate expense paid was for technical staging from The Crew Works. Specifically, SDI paid The Crew Works a deposit of $5,083, and billed this amount on the August 31, 2006, invoice that was subsequently reimbursed by DoD on September 6, 2006. A final bill from Crew Works showed that the total expenses were $8,686. Since a deposit of $5,083 had already been paid, the balance due was $3,603, as was shown on the final Crew Works invoice. However, on its September 21, 2006, invoice, SDI billed the Government for total bill of $8,686 and did not take into account the previous payment of $5,083 made by DoD. DoD subsequently reimbursed SDI for $8,686 on September 26, 2006. As a result, DoD paid $5,083 more than the actual expenses. If the COR had reviewed supporting documentation, the billing error would have been identified.

These examples discussed in this report have shown that neither the COR nor the contractor have adequate processes for reviewing or submitting accurate charges. We calculate DoD paid about $8,945 in duplicate or unallowable charges for the examples discussed. However, we have found additional duplicate and unallowable charges paid by DoD of about $8,400 for similar circumstances to those we discussed, making the total amount of duplicate and unallowable charges paid $17,345.

The Assistant Secretary of Defense for Public Affairs needs to seek a full refund from Susan Davis International for duplicate and unallowable charges paid, including interest.

By not establishing an expectation of reviewing supporting records, the CORs created an environment that exposed DoD to a greater risk of overpayment for expenses and permitted the payment of unallowable expenses on the contract. The actions of the CORs preclude good fiduciary responsibility of taxpayer funds.

The Assistant Secretary of Defense for Public Affairs needs to ensure that CORs take recommended training before being designated, review adequate supporting documentation, and ask prudent questions to ensure that the contractor charges submitted are allowable, reasonable, and accurate.

Entertainment Expenses

The Office of the ASD(PA) also spent appropriated funds on ASY entertainment expenses without specific authorization.

The Government Accountability Office, "Principals of Federal Appropriations Law, Third Edition, Volume I," dated January 2004, outlines the following rule related to entertainment expenses.

> . . . **appropriated funds may not be used for entertainment except when specifically authorized by statute** and also authorized or approved by proper administrative officers. **[emphasis added]**

In addition, an official from Armed Forces Entertainment stated that they have not paid compensation fees to entertainers for performing exclusively to the military. Further, according to a USO official, congressionally chartered organizations, like the USO, also follow this practice. DoD Instruction 1330.13, "Armed Forces Entertainment Program," dated March 23, 2004, prescribes procedures for providing effective program of live, professional entertainment for the military and military family members stationed overseas. The Instruction states:

> It is DoD policy to:
>
> 3.1 **Provide free, quality, live, professional entertainment to U.S. Armed Forces personnel and their family members stationed overseas**, with priority going to those personnel in contingency operations and remote and isolated locations.
> . . . . . .
> 5.2 Types of entertainment groups consist of :
>
> 5.2.1. **Free entertainment groups** comprising unsalaried entertainers.
>
> 5.2.2. **Commercially sponsored entertainers** compensated by civilian agencies in return for limited advertising privileges. [**emphasis added**]

Similarly, according to a USO official, the USO does not pay performers compensation or fees but does pay entertainers a flat per diem rate of $150, as well as transportation expenses. According to the charter, USO services are also provided in overseas locations to the men and women of the Armed Forces.

However, our review of the ASY program has shown that the Office of the ASD(PA) has spent at least $228,950 on entertainment expenses, including $53,821 in fees charged by the entertainers or about 23.5 percent of all expenses. For example, a January 2006 e-mail from the SDI Chairman, shows that the Deputy Assistant Secretary was directly involved in arranging the payment of the fee for the Lt. Dan Band.

Table 10 shows the total entertainment fees and expenses paid for ASY entertainment:

Table 10. ASY Entertainment Expenses

		Expenses				
Entertainment	**Fee[1]**	**Transportation**	**Meals**	**Lodging**	**Other[2]**	**Total[1]**
Lt. Dan Band	$	$ 9,549	$1,947	$ 3,699	$ 397[3]	$
Clint Black		3,600	3,143	-	-	
Jenny Boyle		-	614	1,676	-	
Harlem Gospel Choir		3,804	-	-	-	
Craig Morgan/Kenny Thomas/Rockie Band		1,918	221	-	-	
Intrepid Concert		19,862	-	11,389	113,310	
Total	**$53,821**	**$38,733**	**$5,926[4]**	**$16,764**	**$113,707**	**$228,950**

[1] Contractor proprietary information redacted.
[2] Other expenses represent various entertainer expenses including concert production, hospitality, backline, and other miscellaneous costs.
[3] Due to lack of supporting documentation, we were unable to account for $397 worth of expenses.
[4] Slight rounding inconsistencies exist because auditor calculations included decimal places.

We found no specific authority for the Office of the ASD(PA) to use appropriated funds for entertainment expenses. We also are concerned that the entertainers largely performed for the general public rather than military members. The mission of the program was to showcase and communicate to military members what citizens are doing to support them and their families. We question the Office of the ASD(PA) practice of paying profit to entertainers that primarily provide entertainment for the general public.

The current arrangement involving the Office of the ASD(PA), SDI, and entertainers is more commensurate of a common contractual arrangement where ASD(PA) offers appropriated funds in exchange for entertainment services. Consequently, we question whether the ASY program could have put $228,950 to better use in meeting its mission requirements. In addition, the catering expenses directed by the Office of the ASD(PA) for the Freedom Walk and Memorial Day Parade, discussed in finding A, would also qualify as entertainment expenses and are questionable.

The Assistant Secretary of Defense for Public Affairs needs to immediately stop spending appropriated funds for entertainment expenses unless specific authorization by statute has been obtained.

ASY Procurement Process

The Office of the ASD(PA) procurements for the ASY contract did not have proper segregation of duties because the Deputy Assistant Secretary had involvement in the entire procurement process. The Deputy Assistant Secretary was involved in establishing and obtaining funds for the requirement (authorizing the transactions) and selecting the contractor to perform the work. In addition, the Deputy Assistant Secretary had direct supervisory control over follow-on contracts and the COR responsible for measuring performance, which allowed for significant influence over invoice reviews and payment

approvals. Thus, the Deputy Assistant Secretary had too much control and influence over authorizing, reviewing, and approving transactions for the ASY program.

Figure 17 highlights the Deputy Assistant Secretary involvement in the contracting process.

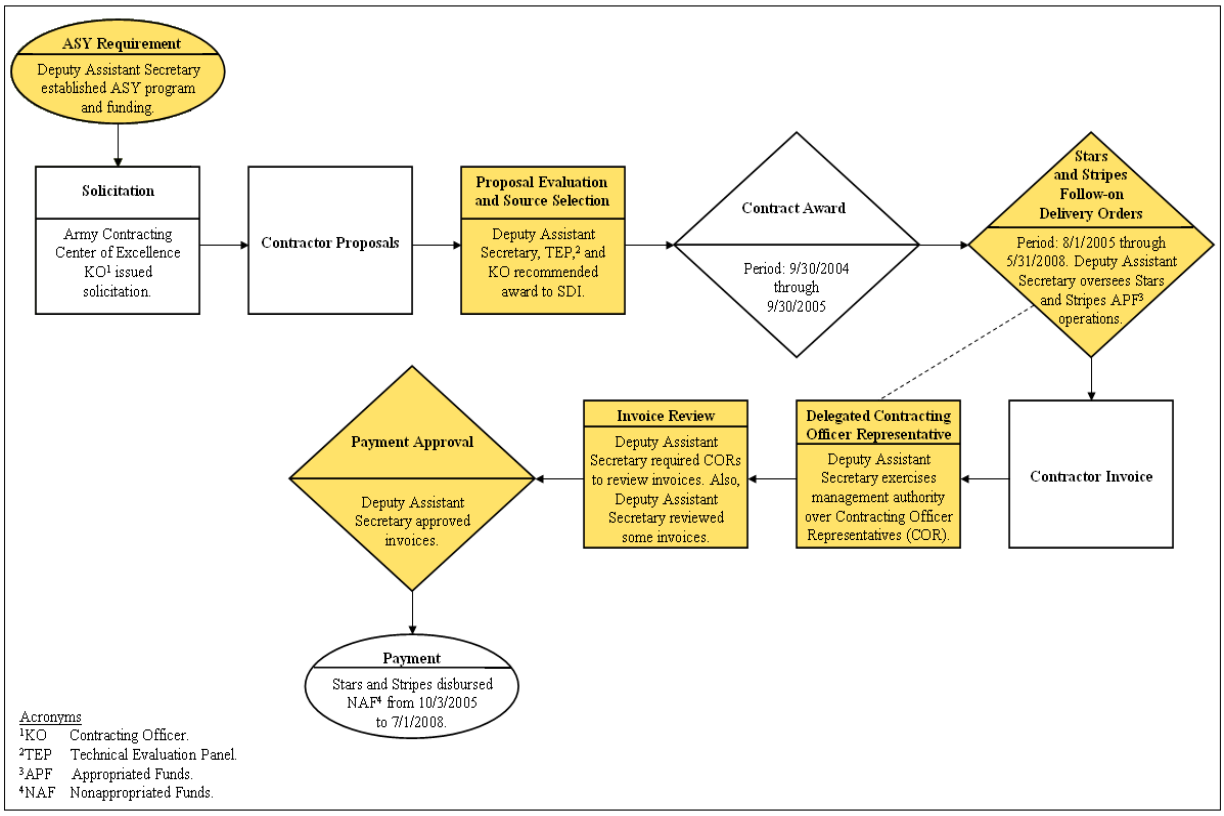


Figure 17. Contracting Process for the America Supports You Program

Clearly, the Office of the ASD(PA) did not have effective internal controls. The internal controls exhibited weaknesses in the control environment, risk assessment, and control activities. Below we discuss each of these areas in greater detail. See Appendix C for more guidance on these areas as established in the Office of Management and Budget Circular No. A-123.

Control Environment

The control environment had a weakness because areas of authority and responsibility were not well-defined. In the current structure, the ASD(PA) failed to appoint a director of AFIS, allowing the Deputy Assistant Secretary to obtain control over budgets to transfer funds from other AFIS programs to fund the ASY program. According to an AFIS budget official, the Deputy Assistant Secretary was not required to seek approval from anyone before transferring the funds. Additionally, the Deputy Assistant Secretary was involved in key processes of the contract, including the recommendation to award the contract to SDI, management of the CORs, and invoice approvals and payments.

In May 2007, we spoke with the Director of Administration and Management, Office of the ASD(PA), who, with the Special Assistant to the ASD(PA), had been tasked by the Assistant Secretary to conduct a top-to-bottom review of the organization to better understand everyone's roles and responsibilities. The review was never completed to our knowledge and the ASD(PA) resigned in October 2007. The interim Assistant Secretary planned for a contractor to conduct an organization climate assessment in December 2007 to again gain more understanding of current operations and improve organizational effectiveness.

The control environment for the Office of the ASD(PA) did not provide well-defined areas of authority and responsibility or an effective management structure for reporting and oversight. These weaknesses hindered the amount of oversight over the Deputy Assistant Secretary activities relative to the ASY program.

Risk Assessment

There were no processes or the processes did not work effectively to identify, analyze, and mitigate the internal risk of too much power by one individual that could prevent the organization from meeting its objectives. As discussed above, the control environment allowed the Deputy Assistant Secretary to assume control of the American Forces Information Service, which permitted additional influence and control over budgets, contracting, and payments.

Control Activities

The Office of the ASD(PA) control activities failed to ensure there was proper segregation of duties in the contracting process for the ASY program. As we discussed in Figure 17, the Deputy Assistant Secretary had significant influence or control over establishing and funding the requirement (authorizing the transactions), selecting the contractor to perform the work, having direct supervisory control over follow-on contracts and the COR responsible for measuring performance, which allowed for too much power and influence over invoice reviews and payment approvals. The Deputy Assistant Secretary also was able to transfer funds from AFIS programs without any higher level review. In addition, because oversight mechanisms called for by the Deputy Secretary of Defense were not established for the ASY program and the Director, AFIS position has been vacant for several years, the supervision over the program and the Deputy Assistant Secretary actions were not effective and there was no accountability for the ASY program.

The Assistant Secretary of Defense for Public Affairs needs to take appropriate action to correct the deficiencies that exist in internal controls and ensure that there is proper segregation of duties and supervision.

Adequate Competition and Price Reasonableness

While improvements have been made in the contracting process, the solicitation and award of the follow-on contract to SDI valued at $18.3 million for the base year and four 1-year options on May 14, 2008, raises questions about the cost-effectiveness of contractor support. The Defense Media Center failed to obtain adequate competition or

effectively evaluate price reasonableness on the follow-on contract. The follow-on contract includes annual rates for senior project executive at $662,945; project executive at $501,010; senior program manager at $411,357; and senior events manager at $390,969 that appear excessive for public relations support.

Contract Improvements

The Performance Work Statement for the follow-on contract also includes a broad scope of work as shown in Section 2.1 of the Performance Work Statement:

> . . . The Deputy Assistant Secretary of Defense for Public Liaison (DASD (PL)) has directed that the America Supports You program continue to communicate America's support of service members and their families and connect the actions of citizen support directly to the service members themselves. **This work encompasses a variety of activities which can not be clearly defined at the time of award of the contract. This is largely because public affairs is often in reaction to events that cannot be predicted, but require affirmative action and response. . . .[emphasis added]**

However, the contract requires DoD to issue more specific task orders and the contractor to submit proposals to the specific task orders. On May 30, 2008, three task orders totaling more than $1.3 million were issued that require the contractor to create an ASY e-newsletter; provide management, redesign, and support for the ASY Web site; and to create and leverage connection opportunities for the ASY program. However, at the time of our site visit to the Defense Media Center on June 18, 2008, the contractor had not submitted proposals to the task orders. The contract requires the contractor to provide a price proposal, within 10 days of receipt of the task order, to include direct labor hours of various positions, along with transportation and other costs that have to be negotiated with the contracting officer. According to the Defense Media Center contract specialist, SDI informed her that they have never been required to submit proposals before for their work on the ASY program.

Consequently, the Defense Media Center has not yet demonstrated that the improved process is working as designed. The contractor needs to comply with the contract terms and send proposals directly to the contracting officer within the time constraints established in the contract.

Legal Advice on Proper Role of the COR

A March 11, 2008, e-mail from an AFIS attorney to the COR of the previous contract, the Acting Director of Community Relations and Public Liaison, opines that DoD is not able to provide relatively continuous supervision, direction, and control of the contractor because it would become an impermissible personal services contract.

> **Regarding adding a line that the contractor will act under direction of the Department and will be responsive to the guidance of the COR**.
>
> The COR monitors performance to ensure compliance with the technical requirements and approval of reports marketing plans/ various

> projects, assesses the quality of performance, and serves as a liaison between the contractor and the Contracting Officer.
>
> **The COR is not authorized to have the contractor act outside the scope of the Contract alter the contract, issue instructions to stop or start work, nor exercise relatively continuous supervision, direction and control over the contractor personnel.**
>
> In response to your question – **We can't state that the contractor will "act under direction" of Department or . . the COR . . . because then the contract becomes an impermissible personal services contract** rather than a contract for PWS [Performance Work Statement] performance in which the Contractor works on approved projects.

There still seems to be confusion in how the COR can interact with the contractor in performing the duties. We remain concerned that the services provided by the contractor could be personal in nature.

Small Business Set-Aside and Short Time Frame

The Defense Media Center issued a small business set-aside solicitation on March 28, 2008. The synopsis for the procurement specified that, "the solicitation is a 100% small business set-aside," with revenues not exceeding $6.5 million. This limitation significantly reduced the competition that could perform this work.

Further, the timetable for the acquisition also limited competition because some small businesses were not able to submit proposals in about 20 days. For example, the President of one small business, who did not submit a proposal, replied to the contracting officer that the time frame was too short and believes that the agency's request was designed to retain the incumbent. Specifically, the president wrote:

> I've reviewed RFP HQ0028-08-R-0010 and the enormous scope of work that is required. This RFP was released on 3/28 and proposals are due by 4/17.
>
> I'm absolutely flabbergasted that agencies (small businesses) are being asked to put together well thought out proposals in a matter of a few weeks. As a veteran, I view this as a very important program for our men and women serving in the military. Why would you rush small businesses to throw something together?
>
> Having developed numerous communications plans during my 35 years in the advertising and public relations business, the process for this particular RFP leads me to believe that it has been designed to retain the incumbent agency.

The contracting specialist provided a response that the playing field is level because the incumbent has not had exposure to the sample task:

> . . . The current contract ends on 1 MAY 08. There have been many unavoidable delays in preparing this requirement. Although the time provided is somewhat short, our technical experts, who have experience

in the commercial public relations field, did not feel that the response time was unfair. We have asked for proposals in the sample task that are not detailed and specific. **Further, we have ensured that the sample task is in an area that has not been the subject of the previous contract and to which the incumbent has not had exposure in order to make sure the playing field is level. [emphasis added]**

Source Selection Evaluation Plan

The source selection evaluation plan for this procurement considered the technical aspect of the proposals as 80 percent and past performance as 20 percent, while price was not considered. The technical portion of the plan focused on previous campaign and corporate experience, qualifications of personnel, contract management and quality control plan, and a mock campaign. Specifically, the plan stated:

a. Technical.
(1) Previous Campaign and Corporate Experience. Panel members will examine the campaign plan submitted in response to the solicitation. In evaluating the campaign plan, the following will be considered: **1) production of a national strategy and partnership plan to include celebrity, business, non-profit, military organizations (such as Employer Support of the Guard and Reserve, veterans organizations, and support groups), and individuals for participation on national and regional levels; 2) production of a national media strategy, message, and outreach for communication nationwide in all markets; 3) production of a national outreach program to include participation by, but not limited to, senior military leaders' spouses, celebrity spokespersons, and CEO's; 4) production of a robust web and interactive campaign; 5) production of an internal communication strategy; 6) establishment of a recognition program for individuals, companies, and organizations; 7) production of plans for conducting major special events; 8) creation of PSA campaigns for internal and external audiences.** The panel will examine information submitted by the offeror concerning the company history, relevance to the work, and the recentness of such experience to the work that will be required under the prospective contract. Consideration of information related to company history and relevant experience will be confined only to information submitted by the offeror. Panel members also will consider the amount of business conducted by the company as evidenced by the gross receipts for the past three years. In making judgments on the depth and relevance of the company's experience, the evaluation panel will consider information on key personnel.

(2) Qualifications of Personnel. Panel members will examine the resumes submitted in response to the solicitation. In evaluating the potential of the personnel submitted, the Government will consider the level of experience and education of personnel proposed for their given job title(s). To be acceptable, resumes must reflect a Baccalaureate degree from an accredited university or college in one of the fields reflected in paragraph 3.4 of the PWS. A minimum of four years of verifiable experience is required (can be a combination of study and work experience).

(3) Contract Management and Quality Control Plan. Panel members will examine the Management and Quality Control plans submitted in response to the solicitation. To be acceptable, the plans must: a) provide an implementation plan, which will familiarize, train and employ manpower to ensure minimized disruption in service; b) provide a staffing plan, which will maintain qualified personnel levels when affected by absenteeism and/or turnover; c) provide a supervision plan with effective lines of communication and responsibility (to include level of authority) for the on-site contract manager; d) provide an acceptable methodology for conducting inspections and performing audits to achieve contract requirements; e) provide an acceptable process for reporting and responding to customer complaints; and f) establish a system for measuring levels of customer satisfaction. The Government will examine the plans to determine how well they demonstrate the offeror's ability to mitigate potential risks and ensure a quality workforce and product.

(4) Mock Campaign. The Government will evaluate the offeror's approach to the strategy, tactics, and creative elements necessary to complete the campaign proposed for the offeror's chosen target audience within the authorized budget. Specific features to be evaluated include:

- Whether the presentation of the mock campaign demonstrated effective use of strategy, i.e., a detailed overall plan to target and reach a specific audience?
- Are the tactics employed appropriate to the scope and type of campaign, and are they specific to the targeted audience?
- Do the creative elements of the proposal demonstrate a thorough understanding of the goals of the campaign and a reasonable a reasonable approach to accomplishing the objective of reaching the target audience?

. . . . . .

The past performance section was scored based on surveys conducted and pricing will not be scored.

b. Past Performance.

The panel will examine the information received in response to the Past Performance Surveys. The team may also seek present and past performance information through use of data independently obtained from other government and commercial sources. In evaluating past performance information, the following areas shall be considered: the currency and relevancy of the information, source of the information, context of the information, and general trends in the offeror's performance.

c. **Price will not be scored.** However, pricing data shall be evaluated to determine completeness, realism, and reasonableness. Completeness means that the required information is submitted and is accurate. Realism means that the price is consistent with the required effort and does not indicate an improvident or unbalanced proposal. Reasonableness means the prices are justified. The SSET will consider the value of each proposal in terms of the merit offered for the price. The Government may select other than the lowest price, acceptable offer if it is determined that the additional merit offered is worth the additional price in relation to the other proposals received. This

> tradeoff process may be in the best interest of the Government. **[emphasis added]**

We do not believe that any other contractor than the incumbent had a fair opportunity to win the award. Making the award a small-business set-aside and requiring a short suspense time to submit proposals severely limited the chance of competition. Further, the source selection evaluation plan favored the incumbent because the contractor has already performed the eight major functions for the ASY program that were outlined in the Previous Campaign and Corporate Experience sub factor of the technical portion. The technical portion also included qualifications of personnel; contract management and quality control plans; mock campaign; and performance measures and standards sub factors, which accounted for 80 percent of the score. As a result, SDI's proposal outlined its accomplishments in the ASY program since September 2004 in performing the major functions desired in the technical proposal. In addition, the Deputy Assistant Secretary's past performance rating also favored the incumbent because it accounted for half of SDI's past performance score (20 percent of total score). The Deputy Assistant Secretary rated all 11 areas of performance as "excellent." Also questionable is whether the COR for the previous contract serving on the source selection evaluation board represents an inherent conflict of interest. Further, the price of the contractor service was not a factor in the total evaluation of proposals. Based on these facts, it seemed that SDI had a clear advantage over the minimal competition in being selected as the contractor.

Cost-Effectiveness of Contractor Support

In FY 2007, the Office of the ASD(PA) procured 11.5 FTEs from SDI for about $2.6 million or an average annual rate of $223,453 per person to perform public relations efforts. Table 11 shows the labor rates for FY 2007.

Table 11. FY 2007 Labor Summary[1]

Position	Hours	Amount	Average Hourly Rate	Annual Rate[2]	FTE[2]
Program Manager	3,091.9	$ 544,593	$176.14	$312,821	1.7
Project Executive	1,558.3	437,784	280.95	498,960	0.9
Program Associate	7,686.1	425,337	55.34	98,281	4.3
Senior Program Manager	1,464.3	338,972	231.50	411,142	0.8
Conference Manager	2,146.8	269,621	125.60	223,057	1.2
Senior Project Executive	538.8	201,046	373.14	662,691	0.3
Senior Event Manager	753.5	165,862	220.12	390,936	0.4
Communications Assistant	1,952.0	147,413	75.52	134,122	1.1
Administrative Support	911.3	18,362	20.15	35,786	0.5
Project Assistant	240.8	10,834	45.00	79,920	0.1
Project Manager	9.8	982	100.75	178,933	0.0
Total	**20,353.2**	**$2,560,806**		**$223,453**	**11.5**

[1]Slight rounding inconsistencies exist because auditor calculations included decimal places.

[2]Based on 1,776 productive hours in the Office of Management and Budget Circular No. A-76.

This includes annual rates for top positions such as senior project executive at $662,691; project executive at $498,960; senior program manager at $411,142; and program manager at $312,821. Table 12 shows the annual rates for the top positions from FY 2007 through the end of the follow-on contract in 2013. The follow-on contract rates start in FY 2008.

Table 12. Annual Rates[1] for Top Positions[2]

FY	Senior Project Executive	Project Executive	Senior Program Manager	Senior Events Manager	Program Manager/ Senior Public Relations Manager
2007	$ 662,691	$ 498,960	$ 411,142	$ 390,936	$ 312,821
2008	662,945	501,010	411,357	390,969	313,127
2009	662,945	501,010	411,357	390,969	313,127
2010	662,945	501,010	411,357	390,969	313,127
2011[3]	673,993	509,357	418,210	397,488	318,344
2012[3]	700,953	529,730	434,936	413,386	331,079
2013	717,042	541,893	444,924	422,866	338,683
Total	**$4,743,516**	**$3,582,969**	**$2,943,283**	**$2,797,582**	**$2,240,307**

[1]Based on 1,776 productive hours per the Office of Management and Budget Circular A-76.

[2]Slight rounding inconsistencies exist because auditor calculations included decimal places.

[3]SDI hourly rates were effective from May 1–April 30 of the following year. For these years, there were two separate rates for each fiscal year, so we applied the annual hours proportionately to each rate.

Table 13 discusses the minimum experience and education requirements for the top positions.

Table 13. Minimum Experience Requirements for Top Positions

Position	Minimum Experience	Minimum Education
Senior Project Executive	15 years experience in managing public relations projects	Bachelor's degree
Project Executive	15 years of public relations experience with at least 12 years of management experience	Bachelor's degree
Senior Program Manager	10 years of public relations experience with at least 7 years of management experience	Bachelor's degree or equivalent professional experience
Senior Events Manager	5 years experience in managing special events on a national scale	Bachelor's degree or equivalent professional experience
Program Manager/Senior Public Relations Manager	7 years experience in managing public relations projects	Bachelor's degree or equivalent professional experience

Paying a public relations contractor annual salaries approaching three-quarters of a million dollars does not appear to be a cost-effective means to support the ASY program and the warfighter. We believe the functions performed by the contractor, if appropriate, could be performed more cost-effectively by DoD employees.

The Assistant Secretary of Defense for Public Affairs needs to determine the cost-effectiveness of contract services for public relations support versus performing the requirement in-house.

Conclusion

The contracting officer failed to adequately task the contractor and the labor hours charged could not be adequately reviewed because there were no contractor cost proposals tied to a specific task. Consequently, DoD representatives would have been required to provide significant direction to permit the contractor to complete the tasks leading to concerns over whether the contractor is performing personal services. CORs also did not perform their fiduciary responsibility over taxpayer funds by paying for unallowable and duplicate charges, failing to follow proper procedures, and failing to establish an environment of scrutiny and cost control by the contractor. We found that the Deputy Assistant Secretary had too much authority and control over the ASY program because the current management structure and internal controls were not effective in providing appropriate supervision or adequate segregation of duties. We found that, while the contract awarded by the Defense Media Center improved the contracting procedures, we do not believe it obtained reasonable prices for contractor support.

Recommendations, Agency Comments, and Our Response

C. We recommend that the Assistant Secretary of Defense for Public Affairs:

1. Ensure contracting officials adequately task the contractor, require the contractor to submit proposals for each task, review the reasonableness of the contractor proposal, negotiate prices for services provided, and establish measurable outcomes.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the Defense Media Activity's Director of Acquisition and Procurement will issue policy to contracting officers to emphasize proper procedures directly related to the recommendation. The Principal Deputy also commented that the Director will conduct quarterly training sessions with all contracting staff.

Our Response. We consider the comments responsive.

2. Seek a full refund from Susan Davis International for duplicate and unallowable charges paid, including interest.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs partially agreed with the recommendation. The Principal Deputy commented that it does not have authority to request a full refund from Susan Davis International. The Principal Deputy also commented that on October 1, 2008, an unsolicited refund in the amount of $7,556.60 was provided to Stars and Stripes from Susan Davis International. Further, the Principal Deputy commented that on October 30, 2008, the Defense Media Activity Director of Acquisition and Procurement requested the Defense Contract Audit Agency to initiate an audit of the contracts before the end of calendar year 2008 and following the audit, the contracting officer will request refunds as appropriate.

Our Response. We consider the comments responsive.

3. Advise contracting officer representatives to take recommended training before being designated and to review adequate supporting documentation and ask prudent questions to ensure that the contractor charges submitted are allowable, reasonable, and accurate.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the Defense Media Activity's Director of Acquisition and Procurement issued policy guidance on October 21, 2008, to ensure CORs are properly designated and trained prior to contract award. The Principal Deputy also commented that the Director will conduct quarterly training sessions with all contracting staff that will emphasize the COR training requirement and discuss roles and responsibilities of the COR, contracting officer, and program manager.

Our Response. We consider the comments responsive.

4. Immediately stop spending appropriated funds for entertainment expenses unless specific authorization by statute has been obtained.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that no funds have been expended since the issuance of the draft report.

Our Response. We consider the comments responsive.

5. Take appropriate action to correct the deficiencies that exist in internal controls and ensure that there is proper segregation of duties and supervision.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that on July 17, 2008, the Principal Deputy provided guidance via e-mail on roles and responsibilities on the program manager and COR. The Principal Deputy also commented that the COR and program manager fall under separate leadership to ensure no one individual has total control over the program.

Our Response. We consider the comments responsive.

6. Determine the cost-effectiveness of contract services for public relations support versus performing the requirement in-house.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that on September 25, 2008, he determined that ASY activities should be conducted to the fullest extent possible by in-house ASD(PA) and Defense Media Activity staff.

Our Response. We consider the comments responsive.

Finding D. Funding of Program Operations

AFIS, working under the authority of the Deputy Assistant Secretary, inappropriately transferred $9.2 million of appropriated funds to Stars and Stripes through "uniform funding and management[8] procedures" to finance ASY program expenses through its nonappropriated fund. The preponderance of those funds (about $5.1 million) was used to fund the SDI contract. The transfer of appropriated funds and expenditure as nonappropriated funds was improper because:

- the Deputy Assistant Secretary and Stars and Stripes wrongly relied on Stars and Stripes authority to employ uniform funding and management procedures to pay for ASY expenses, and

- DoD policy prohibits nonappropriated funds from being used for or to support Public Affairs or other activities or programs outside the purposes for which the nonappropriated fund was established.

As a result, Stars and Stripes officials failed to perform their fiduciary responsibility, as established in DoD Instruction 1015.15, by permitting the unauthorized expenditure of nonappropriated funds outside the purpose of the nonappropriated fund entity. In addition, Stars and Stripes officials have lost visibility of about $4.1 million in appropriated funds transferred specifically for ASY requirements. Further, we calculate that the Stars and Stripes nonappropriated fund account has subsidized ASY expenses by about $1.9 million through FY 2007.

Transfer of Appropriated Funds

AFIS (working under the authority of the Deputy Assistant Secretary) and Stars and Stripes inappropriately executed funding transfers through uniform funding and management procedures to support the ASY program. According to the Automated Budget Management System, from September 2005 through September 2007, the Deputy Assistant Secretary transferred $9.2 million of appropriated funds to Stars and Stripes to support ASY requirements. The Chief Financial Officer, Office of the ASD(PA) and the publisher of Stars and Stripes, with the approval of the Director of Administration and Management, Office of the ASD(PA), implemented uniform funding and management procedures through memoranda of agreement (MOA) from FY 2005 through FY 2007 that obligated more than $6.6 million[9] for the ASY program.

---

[8] Uniform funding and management is the merging of appropriated funds with nonappropriated funds for the purpose of providing morale, welfare, and recreation support services using nonappropriated fund rules and procedures to reduce the duplication of effort and provide better visibility of total program costs.

[9] In 2005, AFIS and Stars and Stripes used utilization, support, and availability procedures to obligate $676,911. Uniform funding and management procedures were used in 2006–2007 to obligate $5.9 million.

However, the total amount transferred ($9.2 million) exceeded the authorized obligations by about $2.6 million (see Table 14).

Table 14. Funding Transfers

FY	Obligated Amount	AFIS Transfers	Unauthorized Amount
2005	$ 676,911	$1,013,491	$ 336,580
2006	2,690,863	4,454,666	1,763,803
2007	3,250,000	3,702,957	452,957
Total	**$6,617,774**	**$9,171,114**	**$2,553,340**

Funding Sources

In FY 2006 and FY 2007, AFIS received $3.8 million ($800,000 and $3 million) for the ASY program from the Defense supplemental budget for GWOT. Specifically, in FY 2007, the AFIS funding request stated:

> Narrative Justification: **Sustainment of the "America Supports You" program that provides support activities for U.S. deployed military**. This program provides a "connector" service for American citizens to connect with military members. America Supports You brings together all of the grassroots support programs both in the states and in the military that directly support our deployed military.
> **Impact if not funded**: Citizens who want to support our troops would not have a central medium and tool for showing their many kinds of support. **In today's environment, it is imperative that the DoD help facilitate this ongoing support and that this support is communicated to deployed forces worldwide**. The value of this program cannot be overstated; our deployed troops must continue to see that the American public and their military leaders support them and their families. [**emphasis added**]

The Deputy Assistant Secretary, without sufficient management or budgetary oversight, reprogrammed and authorized about $5.4 million of appropriated funds from other AFIS programs to Stars and Stripes since FY 2005 to pay for ASY expenses (see Table 15).

Table 15. ASY Program Funding Sources

FY	GWOT Appropriations	AFIS Appropriations	Total
2005		$ 1,013,491	$ 1,013,491
2006	$ 800,000	3,654,666	4,454,666
2007	3,000,000	702,957	3,702,957
Total	**$3,800,000**	**$5,371,114**	**$9,171,114**

While DoD program managers occasionally encounter budget shortfalls that require reduction of resources in one program to satisfy the requirements of another program, reprogramming more than the entire congressionally authorized budget without appropriate oversight indicates inadequate fiscal planning and budgetary controls. We also question whether the operations of the other programs were adversely affected by the apparent preference shown for ASY program needs. The reprogramming of the other

appropriations without proper approval of the Under Secretary of Defense (Comptroller)/ DoD Chief Financial Officer and spending more than available in the appropriation appears to violate the Antideficiency Act. Section 1341(a) of title 31, United States Code, Subchapter III, "Limitations on expending and obligating amounts," states:

> (1) An officer or employee of the United States Government or of the District of Columbia government **may not**—
> (A) **make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation;**

The Assistant Secretary of Defense for Public Affairs needs to improve budgetary controls and oversight of funding for the America Supports You program.

Uniform Funding and Management Procedures

The Deputy Assistant Secretary and Stars and Stripes wrongly relied on the Stars and Stripes authority to employ uniform funding and management procedures to pay for ASY expenses.

Guidance

Public Law 107-314, "Bob Stump National Defense Authorization Act for FY 2003," provides authority for the use of uniform funding and management for Morale, Welfare, and Recreation (MWR) programs. The public law allows appropriated funds made available for MWR programs to be treated as nonappropriated funds and expended in accordance with nonappropriated laws. Specifically, the public law amended section 2491(a) of title 10, United States Code to state:

> Authority for Uniform Funding and Management.—Under regulations prescribed by the Secretary of Defense, **funds appropriated to the Department of Defense and available for morale, welfare, and recreation programs may be treated as nonappropriated funds and expended in accordance with laws applicable to the expenditures of nonappropriated funds. When made available for morale, welfare, and recreation programs under such regulations, appropriated funds shall be considered to be nonappropriated funds for all purposes** and shall remain available until expended. [**emphasis added**]

Under the regulations prescribed by the Secretary of Defense, Stars and Stripes was provided the authority to use uniform funding and management procedures as a Program Group V supplemental mission nonappropriated fund instrumentality.[10]

[10] Program Group V supplemental mission funds are nonappropriated fund instrumentalities that operate as an adjunct to DoD mission activities that generate nonappropriated funds.

DoD Instruction 1015.15, "Establishment, Management, and Control of Nonappropriated Fund Instrumentalities and Financial Management of Supporting Resources," dated October 31, 2007, states:

> 4.4. . . . APFs [appropriated funds] made available to support operations of Program Groups I, II, and V (the **"Stars and Stripes"** and Service Academy mixed-funded athletic or recreational extracurricular programs only) may be provided to a NAFI [nonappropriated fund instrumentalities] under a Memorandum of Agreement (MOA) and treated and expended as NAFs[nonappropriated funds] . . . [**emphasis added**]

Army Implementation

In March 2005, the Army prepared an information briefing on uniform funding and management policy. The briefing established that uniform funding and management procedures should be used to facilitate procurement of property and services for MWR, financial reporting and management, and management of employees. The advantages of uniform funding and management are a reduction in the number of different processes supporting MWR programs; more management responsive tools for procurement, Human Resources, and financial management; and expedited execution of appropriated fund support through up-front transfers. Uniform funding and management requires the immediate obligation, accrual, expense, and disbursement of appropriated funds prior to goods or services being acquired and the transfer of funds based on an established MOA between nonappropriated fund instrumentalities and resource managers. The memoranda should include outlines for MWR requirements and funding, the payment schedule, and purpose for which funds are to be used. After transfer of funds, nonappropriated fund management and accounting systems are responsible for tracking and reporting use of dollars.

Army Guidance

Army Regulation 215-1, "Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities," establishes policy, prescribes procedures, and assigns responsibilities for Army nonappropriated fund instrumentalities. Section 5-3, "Uniform Funding and Management," establishes that the purpose is to reduce duplication of effort and provide better visibility on MWR program costs. Specifically, the regulation states:

> a. **UFM [Uniform Funding and Management] is the merging of APFs [Appropriated Funds] with NAFs [Nonappropriated Funds] for the purpose of providing MWR support services using NAF rules and procedures, thereby reducing duplication of effort and providing better visibility on MWR program costs.** UFM allows for the immediate obligation, accrual, expense, and disbursement of APF prior to goods or services being acquired by the NAFI [Nonappropriated Fund Instrumentalities]/entity supporting the eligible programs.

Memoranda of Agreement

AFIS, working under the authority of the Deputy Assistant Secretary, and Stars and Stripes entered into MOAs obligating appropriated funds of approximately $28.6 million to Stars and Stripes, which included $6.6 million of support for the ASY program. However, Stars and Stripes, in its supporting role, did not have ownership or day-to-day management of the ASY requirement and the program does not relate to its mission, also making the use of uniform funding and management procedures inappropriate.

DoD Directive 5122.11, "Stars and Stripes (S&S) Newspapers and Business Operations," defines the mission of Stars and Stripes as a self-sustaining operation that provides important news and information to U.S. personnel and their families stationed overseas while generating nonappropriated fund revenues. Clearly, managing ASY contracts does not fit into its mission. The MOAs were inappropriate because the funds appropriated for ASY were not intended for Stars and Stripes' purpose.

Public Law 107-314 and DoD Instruction 1015.15 authorize that appropriated funds made available for MWR programs or supplemental mission nonappropriated fund instrumentality can be treated as nonappropriated funds, which only applies to funds made available for mission-related needs of Stars and Stripes. For illustration purposes, consider that AFIS received supplemental appropriated funds for Stars and Stripes operations. AFIS could transfer the appropriated money to Stars and Stripes for its needs under uniform funding and management procedures and the funds transferred to support the operations of Stars and Stripes is permitted to be expensed through its nonappropriated fund account. However, adding the ASY requirement to Stars and Stripes does not meet the intent of the public law or instruction and it does not provide for better visibility of Stars and Stripes program costs.

Stars and Stripes Authority

DoD Instruction 1015.15 establishes that Stars and Stripes can receive appropriated and nonappropriated fund support similar to a Category B, "Basic Community Support Activities." The Instruction defines funding parameters for the Category B activities.

> 6.2.1.2. Category B – Basic Community Support Activities. Category B activities are financed with a combination of NAF [nonappropriated funds] and APF [appropriated funds] resources. Because their NAF revenue-generating capability is limited, these activities shall be substantially supported with APFs.

While, Stars and Stripes is authorized to use nonappropriated funds through its established fund account, its contracting administrative supporting role does not inherently qualify ASY to use uniform funding and management procedures. The ASY program has no authority to use nonappropriated funds to operate the program as it receives strictly appropriated funds, making the use of nonappropriated funds inappropriate and not consistent with DoD policy.

Prohibited Uses of Nonappropriated Funds

DoD policy prohibits nonappropriated funds from being used for or to support Public Affairs or other activities or programs outside the purposes for which the nonappropriated fund was established.

DoD Guidance

DoD Instruction 1015.15 establishes restrictions on the use of nonappropriated funds. The Instruction prohibits nonappropriated funds to be used for Public Affairs or other activities or programs outside the purposes for which the nonappropriated funds was established. Specifically, Section 6.2.4.1 of the Instruction states:

> **NAFs [nonappropriated funds] are not authorized to be used for or to support** command representation or protocol functions; scholarships, free mailing and/or postage, or any other specific benefit for select individuals or group; **public affairs**, medical, religious, **or other activities or programs outside the purposes for which the NAFI [nonappropriated fund instrumentality] was established**; or to pay for employees not performing duties directly related to the NAFI functions or mission. **[emphasis added]**

Clearly, using Stars and Stripes nonappropriated funds to pay for the ASY program managed by Public Affairs is outside the Stars and Stripes nonappropriated fund instrumentality's purpose and violates DoD Instruction 1015.15.

Army Guidance

Army Regulation 215-1 establishes policy, prescribes procedures, and assigns responsibilities for Army nonappropriated fund instrumentalities. The regulation established that nonappropriated funds are prohibited from use for purposes that cannot withstand public scrutiny, acquiring goods or services authorized to be paid from appropriated funds when available, replacing or supplementing appropriated funds from Public Affairs or support programs outside the purposes of the nonappropriated fund, or substituting authorized appropriated funds as a matter of convenience. Section 5-14, "Prohibited Uses," of the Army Regulation outlines the prohibited uses for nonappropriated funds.

> ***a. Public scrutiny.*** **NAFs [nonappropriated funds] will not be used for any purpose that cannot withstand the test of public scrutiny or which could be deemed a misuse or waste of Soldiers' dollars.**
>
> ***b. Authorized APF [appropriated funds] expenditures.*** **NAFs will not be used to pay costs in acquiring items or services authorized to be paid from APFs when APFs are available** (except under DOD MWR [morale, welfare, and recreation] USA [utilization, support, and availability]/UFM [uniform funding and management] funding practices, see paras 5–2 and 5–3). However, NAFs may be used—
> (1) When the appropriate official certifies in writing that authorized APFs cannot satisfy the requirement.

(2) When functions, programs, and activities to be funded with NAFs are integral to the functions for which the NAFI [nonappropriated fund instrumentality]/entity was established, unless otherwise specified elsewhere in this regulation.

. . . . . .

i. Non-MWR functions.

(1) NAF payment for any expense involved in a change of command or retirement ceremony, command representation, protocol function, scholarships, free mailing or postage, unit ceremonies, or any other specific benefit for select individuals or groups will not be authorized.

(2) Items for retirements, funerals, or other such personal-type events will not be purchased with NAFs.

(3) NAFs will not replace or supplement appropriations for public affairs, medical, religious, or other activities or programs that are outside the purposes for which the NAFI/entity was established.

(4) NAFs will not be used for costs of employees who are not performing duties directly related to the NAFI/entity function or mission.

. . . . . .

t. APF support. **NAFs will not be used instead of authorized APF support as a matter of convenience. [emphasis added]**

Public Scrutiny

The ASY program does not appear to meet the "public scrutiny" test for nonappropriated funds addressed in Army Regulation 215-1. For example, the uniform funding and management practices exercised by the Deputy Assistant Secretary for the ASY program has been subjected to ongoing public scrutiny through newspaper articles published by Stars and Stripes, *The New York Times*, and *Columbia Journalism Review*. Specifically, the articles questioned the appropriateness of transferring congressional appropriations to Stars and Stripes and expending nonappropriated funds on ASY appropriated requirements. Further, the Deputy Assistant Secretary has not established program performance metrics to determine whether ASY has served as an effective medium for communicating public support to military service members, which brings into question the use of this arrangement. We believe that spending funds for a public affairs program that is not part of the nonappropriated fund instrumentality's purpose represents a "misuse or waste of soldier's dollars." Also, the accounting records and controls over both appropriated and nonappropriated funds were not adequate, as discussed later in the report.

Authorized Appropriated Fund Expenditures

As previously discussed in this report, the ASY program is an appropriated fund program and has no authority to use nonappropriated funds. The appropriations received for the ASY program should be direct cited to the contracts awarded to pay for program costs.

Replacement or Substituting of Public Affairs Appropriations

The MOAs entered into by the Office of the ASD(PA) and Stars and Stripes basically permitted the Stars and Stripes nonappropriated funds to replace Public Affairs appropriated funds for the ASY program, which is outside the Stars and Stripes nonappropriated fund instrumentality's purpose. DoD Directive 5122.11, "Stars and

Stripes (S&S) Newspapers and Business Operations," defines the mission of Stars and Stripes as a self-sustaining operation that provides important news and information to U.S. personnel and their families stationed overseas while generating nonappropriated fund revenues. Clearly, managing ASY contracts does not fit into the mission.

Use of Nonappropriated Fund for Convenience

The ASY program has no authority to use nonappropriated funds. So it appears another reason for transferring appropriated funds to Stars and Stripes through MOAs was simply a matter of convenience that allowed more control of the entire process by the Deputy Assistant Secretary as discussed previously in finding C.

Clearly, the arrangement between Stars and Stripes and AFIS violated the prohibited uses of nonappropriated funds as defined by DoD Instruction 1015.15 and Army Regulation 215-1, making the practice inappropriate.

Because the Defense Media Center awarded the follow-on contract on May 14, 2008, which directly cites appropriations, we did not make a recommendation regarding the use of nonappropriated funds.

Fiduciary Responsibility

Stars and Stripes officials failed to perform their fiduciary responsibility, as established in DoD Instruction 1015.15 by permitting the unauthorized expenditure of nonappropriated funds without a legitimate purpose. Section 4.7 of the Instruction states:

> 4.7. **NAFs [nonappropriated funds] are entitled to the same protection as funds of the U.S. Treasury.** The DoD Components shall establish such systems as necessary to **ensure individual fiduciary responsibility for properly using NAF resources and preventing waste, loss, or unauthorized use.** This responsibility extends to all DoD personnel including members of the Armed Forces and civilians paid with either APFs [appropriated funds] or NAFs. **According to section 2783 of Reference (t), NAF personnel who violate NAF regulations are subject to the same penalties under Federal laws that govern the misuse of appropriations by APF personnel.** Violations by military personnel are punishable under the Uniform Code of Military Justice (chapter 47 of Reference (t)).

Section 5 of the Instruction outlines the Principal Deputy Under Secretary of Defense for Personnel and Readiness responsibilities in monitoring compliance with policy to ensure proper administration of nonappropriated fund instrumentalities.

> 5. RESPONSIBILITIES
>
> . . . . . .
>
> 5.2. The PDUSD(P&R) [Principal Deputy Under Secretary of Defense for Personnel and Readiness], under the USD(P&R), shall, in accordance with DoD Directive 5124.8 (Reference (v)), serve as the Principal Staff Assistant and advisor to the USD(P&R) and the Secretary and Deputy Secretary of Defense for NAF policy, DoD

> military and civilian MWR [morale, welfare, and recreation] programs, Armed Service Exchanges, lodging programs, and other authorized NAFIs [nonappropriated fund instrumentalities]. **In discharging this responsibility, the PDUSD(P&R) shall:**
>
> **5.2.1. Develop, promulgate, and monitor compliance with policy and other guidance to ensure proper administration of NAFIs and management of their resources.**
>
> **5.2.2. Serve as the principal DoD point of contact on all policy matters relating to NAFIs and NAFs. [emphasis added]**

The Principal Deputy Under Secretary of Defense for Personnel and Readiness needs to review and initiate appropriate action for Stars and Stripes officials who permitted the unauthorized use of its nonappropriated funds and improper use of uniform funding and management procedures.

Accounting and Use of Funds

Stars and Stripes has lost visibility of $4.1 million in appropriated funds transferred specifically for ASY requirements. Further, we calculate that the Stars and Stripes non-appropriated fund account has subsidized ASY expenses by about $1.9 million through FY 2007.

As discussed previously, Stars and Stripes received $9.2 million in appropriated funds transfers from AFIS. However, according to the Stars and Stripes bank account, only $5.1 million of the appropriated funds were actually deposited into the nonappropriated account, leaving a discrepancy of $4.1 million (see Table 16).

Table 16. Stars and Stripes Accounting of Transferred Appropriated Funds

FY	Appropriated Fund Transfers	Nonappropriated Fund Reimbursement	Unaccounted Appropriation
2005	$ 1,013,491	$ 676,911*	$ 336,580
2006	4,454,666	2,690,863	1,763,803
2007	3,702,957	1,700,000	2,002,957
Total	**$ 9,171,114**	**$5,067,774**	**$4,103,340**

* The $676,911 was obligated in the FY 2005 MOA between ASD(PA) and Stars and Stripes; however, the Stars and Stripes nonappropriated fund bank account was not reimbursed until FY 2007.

In addition, the Stars and Stripes nonappropriated fund account has subsidized ASY expenses by about $1.9 million through FY 2007. Our review of payments made to SDI by Stars and Stripes total more than $6.9 million, while about $5.1 million was reimbursed to the Stars and Stripes bank account (see Table 17).

Table 17. Stars and Stripes Nonappropriated Account Subsidy

FY	Payments	Reimbursement	Subsidy
2006	$4,042,784	$2,690,863	$1,351,921
2007	2,899,964	2,376,911	523,054*
Total	**$6,942,748**	**$5,067,774**	**$1,874,975***

*Slight rounding inconsistencies may exist because auditor calculations included decimal places.

According to the Stars and Stripes Financial Manager, the ASY program was used as a "plug" when asking the AFIS budget office for reimbursement with other Stars and Stripes expenditures because there was not enough money to pay for all of Stars and Stripes needs and this was his method of accounting for reimbursable expenses. The financial manager stated that Stars and Stripes has received sufficient funds from AFIS for ASY expenditures. However, we have not been provided with an adequate accounting of the funds by the financial manager.

While the Office of the ASD(PA) has provided sufficient appropriated funding to Stars and Stripes for the ASY program, the fact remains that the Stars and Stripes nonappropriated fund account has paid out $1.9 million more in ASY expenses than it was reimbursed. Given that Stars and Stripes is unable to account for the remaining $4.1 million of appropriated funds that were transferred, clearly Stars and Stripes accounting for the different types of funds is inadequate. In a January 2008 e-mail, the financial manager for Stars and Stripes admitted that some appropriated funds transferred for the ASY program were used for Stars and Stripes needs:

> **. . . Stars and Stripes deposits some of the APF [appropriated funds] into the NAF [nonappropriated fund], but uses the rest of the APF for other Stars and Stripes appropriated fund authorized purposes.** These funds are not intended for specific uses and can be used for all/all [sic] Stars and Stripes appropriated fund authorized expenses. However, Stars and Stripes uses its NAF to ensure that all SDI contract charges are paid. **[emphasis added]**

While not all of the money transferred by AFIS was specifically authorized by Congress for the ASY program, a significant portion was. Given the poor accounting and oversight, we question whether all appropriated funds were used correctly. For example, in FY 2007, Stars and Stripes reimbursed its nonappropriated account with only $1.7 million of the $3.0 million appropriated by Congress through the supplemental GWOT bill. If the remaining $1.3 million was expended by Stars and Stripes for other purposes that were not authorized by the appropriation, AFIS and Stars and Stripes would

have violated Section 1301(a) of title 31, United States Code, Subchapter I, "Application," which states:

> (a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

The DoD Financial Management Regulation specifically forbids the obligation, procurement, or use of funds for items or services prohibited by the wording of the use of funds from an appropriation. Any misuse of the appropriation would result in a violation of the Antideficiency Act (title 31, United States Code, section 1341).

The Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer needs to request Washington Headquarters Service to conduct a preliminary investigation to determine whether formal investigations should occur for potential Antideficiency Act violations on Stars and Stripes purchases with ASY funds and the reprogramming of appropriations for the ASY program.

The Assistant Secretary of Defense for Public Affairs needs to take appropriate action to correct internal controls over the accounting of appropriated funds transferred to Stars and Stripes.

Conclusion

The use of Stars and Stripes nonappropriated funds to pay for the ASY program expenses was inappropriate. The agreements to use uniform funding and management procedures made by AFIS and Stars and Stripes were inappropriate because the Office of the ASD(PA)-managed ASY program does not fall within the Stars and Stripes mission. The use of Stars and Stripes nonappropriated funds to pay for ASY expenses violated the several prohibited uses of nonappropriated funds outlined in Army Regulation 215-1 and DoD Instruction 1015.15. We found that AFIS and Stars and Stripes also did not exercise due diligence or have appropriate oversight of funding transfers and budgetary controls were not adequate or working effectively. Stars and Stripes officials failed to perform their fiduciary responsibilities to ensure that its nonappropriated fund was used for an appropriate purpose. There was not proper accounting and management of appropriated funds and program expenditures. The commingling of appropriated funds with nonappropriated funds requires effective controls to ensure that appropriated funds and nonappropriated funds are accounted for and expended for authorized purposes. Further, since the funding for the ASY program received precedence over other AFIS programs, we question whether more significant priorities may have been hindered. There appears to be violations of the Antideficiency Act due to appropriations being reprogrammed for the ASY program and more funds than were available in the appropriation were spent on the ASY program. Further, Stars and Stripes spent ASY program appropriated funds on its own needs. Improved controls over budgetary and funds management are needed.

Recommendations, Agency Comments, and Our Response

D.1. We recommend that the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer request Washington Headquarters Service to conduct a preliminary investigation to determine whether formal investigations should occur for potential Antideficiency Act violations on Stars and Stripes purchases with America Supports You funds and the reprogramming of appropriations for the America Supports You program.

Agency Comments. The Acting Deputy Chief Financial Officer, Office of the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer agreed with the recommendation. The Acting Deputy Chief Financial Officer commented that Washington Headquarters Service was requested to conduct a preliminary investigation into ASY funding.

Our Response. We consider the comments responsive.

D.2. We recommend that the Assistant Secretary of Defense for Public Affairs:

a. Improve budgetary controls and oversight of funding for the America Supports You program.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that, in September 2007, budgetary controls and oversight of funding were assigned to the Administration and Management office and now all funding requirements are reviewed by the program manager and COR, and then discussed with the contracting officer. Once agreement is reached, then a task order is definitized. The Principal Deputy also commented that cost will be projected annually for the ASY program and all program purchases will be reviewed for compliance with appropriations laws and applicable DoD fiscal authorities.

Our Response. We consider the comments responsive.

b. Take appropriate action to correct internal controls over the accounting of appropriated funds transferred to Stars and Stripes.

Agency Comments. The Principal Deputy Assistant Secretary of Defense for Public Affairs agreed with the recommendation. The Principal Deputy commented that the Defense Media Activity will clearly define the oversight over Stars and Stripes financial management and accounting operations as well as perform quarterly audits to comply with DoD Instruction 7600.6. In addition, the Defense Media Activity will conduct staff assistance visits, review current internal control procedures, and recommend revisions to those controls, if appropriate.

Our Response. We consider the comments responsive.

D.3. We recommend that the Principal Deputy Under Secretary of Defense for Personnel and Readiness review and initiate appropriate action for Stars

and Stripes officials who permitted the unauthorized use of its nonappropriated funds and the improper use of uniform funding and management procedures.

Agency Comments. The Principal Deputy Under Secretary of Defense for Personnel and Readiness agreed with the report findings but commented that the recommendation should be addressed to the ASD(PA), who, as the principal point of contract for Stars and Stripes, is responsible for monitoring and ensuring compliance with DoD Instruction 1015.15.

Our Response. The Principal Deputy's comments do not meet the intent of the recommendation. As defined in DoD Instruction 1015.15, the Principal Deputy Under Secretary of Defense for Personnel and Readiness serves as the DoD principal staff assistant and advisor for nonappropriated fund policy. The Instruction requires that the Principal Deputy develop, promulgate, and monitor compliance with policy and other guidance to ensure proper administration of nonappropriated fund instrumentalities and management of their resources. Therefore, the Principal Deputy needs to provide additional comments to the final report that specifically address Stars and Stripes noncompliance with its policy and what corrective actions were taken to ensure proper administration of DoD nonappropriated funds.

Appendix A. Scope and Methodology

We conducted this performance audit from July 2007 through August 2008 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.

ASY Program Approach

We reviewed ASY program documents from the inception of the program in 2004 through FY 2007. We focused our review on the Office of the ASD(PA) implementation of the ASY program requirements called for by the Deputy Secretary of Defense. We reviewed the effectiveness of internal controls over program operations and whether the current management structure permitted the potential for abuse. We visited or contacted individuals with ASD(PA), AFIS, Stars and Stripes, SOCO, Washington Headquarters Service, SDI, and the Defense Comptroller. We also contacted the interim President of the private ASY fund to determine the current status of its operation. We interviewed personnel about the formation and operation of the ASY program, program funding, and contracts awarded to support ASY.

Our review of ASY contracts included the contract scope of work, actions by the contractor, funding, Office of the ASD(PA) oversight, and payments. We also reviewed Washington Headquarters Service involvement with and expenses paid for the ASY program. We reviewed SDI invoices from December 2004 through October 2007 to verify the accuracy of charges and appropriateness of how ASY funds were spent. We obtained supporting documentation to verify support for charges made, such as receipts for 18 invoices that had charges relating to ASY special events like the Freedom Walk and Memorial Day Parade and for agreements with Lifetime Learning System. For 12 invoices, we reviewed the appropriateness of travel charges, specifically, to determine that the charges matched the invoice and were appropriate under the contract. The invoices were selected based on the volume of travel and locations of ASY corporate supporters. Additionally, we reviewed SDI's labor charges based on its employee time reports for five invoices. We also reviewed ASY program contracts with the Advertising Council and for ASY dog tags.

Our review of funding for the ASY program included a review of the appropriateness of using uniform funding and management procedures to transfer appropriated funds to a Stars and Stripes nonappropriated fund entity to pay for ASY expenses. We reviewed MOAs between the Office of the ASD(PA) and Stars and Stripes, AFIS records of fund transfers to Stars and Stripes, and Stars and Stripes accounting records for both appropriated and nonappropriated funds. We also reviewed the source of appropriated funds and the AFIS budget requests for the ASY program under the GWOT supplemental budget. We determined the amount of review of the ASY program budget by the Defense Comptroller.

We reviewed Departmental advice and Joint Ethics Regulations relating to solicitation, fundraising, endorsement, and preferential treatment. We also reviewed the ASY Web site for compliance with DoD policy. We reviewed the use of the JCOC program to increase support for the ASY program. We also reviewed current policy and training courses for CORs.

Use of Computer-Processed Data

We did not rely on computer-processed data to perform this audit or support conclusions made in this report.

Prior Coverage

During the last 5 years, the DoD Inspector General has issued one report that directly relates to this audit and the Air Force Audit Agency has issued one report discussing programs that benefit members of the military and their families. Unrestricted DoD Inspector General reports can be accessed at http://www.dodig.mil/audit/reports. Unrestricted Air Force Audit Agency reports can be accessed at https://www.afaa.hq.af.mil/afck/plansreports/reports.shtml.

DoD Inspector General

DoD Inspector General Report No. D-2009-028, "Organizational Structure and Managers' Internal Control Program for the Assistant Secretary of Defense (Public Affairs) and American Forces Information Service," December 10, 2008.

Air Force

Air Force Audit Agency Report No. F2005-0014-FB1000, "Your Guardians of Freedom," September 26, 2005

Appendix B. America Supports You Corporate Supporters

Since November 2004, more than 35 companies have become corporate supporters of the ASY program. These companies receive advantages, including free advertising, in appreciation for joining the ASY program and for their work with homefront groups supporting the military men and women. The table shows a list of the ASY corporate sponsors.

America Supports You Corporate Supporters	
Anheuser-Busch	Morgan Franklin
AT&T	NASCAR
Babies "Я" Us*	Pentagon Federal Credit Union
Barnes & Noble	PGA of America
Bell Helicopter	PGA TOUR
Books-A-Million*	Qwest
Cardstore.com*	Re/Max
Checkers/Rally's	Ringling Brothers
Connect and Join	Sam's Club
DC United	San Diego Padres
eKnowledge	Toyota
Fox Sports Radio*	Tri-West
Grand Ole Opry	USAA
Hallmark Channel	USA Basketball
Indianapolis Motor Speedway	Victory Management Group (VSG)
Lowe's	Wal-Mart
Marvel	Washington Capitals
McDonalds	Washington Nationals
Microsoft	Washington Redskins
Military Channel	World Wrestling Entertainment (WWE)
Mont Blanc	Y3K Grafix

*Subsequently removed from the America Supports You Web site.

Appendix C. Internal Control Standards

Management's responsibility for developing and maintaining internal control activities must comply with the following standards.

Control Environment: The control environment is the organizational structure and culture created by management and employees to sustain organizational support for effective internal control. When designing, evaluating or modifying the organizational structure, management must clearly demonstrate its commitment to competence in the workplace. Within the organizational structure, management must clearly: define areas of authority and responsibility; appropriately delegate the authority and responsibility throughout the agency; establish a suitable hierarchy for reporting; support appropriate human capital policies for hiring, training, evaluating, counseling, advancing, compensating and disciplining personnel; and uphold the need for personnel to possess and maintain the proper knowledge and skills to perform their assigned duties as well as understand the importance of maintaining effective internal control within the organization.

Risk Assessment: Management should identify internal and external risks that may prevent the organization from meeting its objectives. When identifying risks, management should take into account relevant interactions within the organization as well as with outside organizations. Management should also consider previous findings; e.g., auditor identified, internal management reviews, or noncompliance with laws and regulations when identifying risks. Identified risks should then be analyzed for their potential effect or impact on the agency.

Control Activities: Control activities include policies, procedures, and mechanisms in place to help ensure that agency objectives are met. Several examples include: proper segregation of duties (separate personnel with authority to authorize a transaction, process the transaction, and review the transaction); physical controls over assets (limited access to inventories or equipment); proper authorization; and appropriate documentation and access to that documentation.

Internal control also needs to be in place over information systems – general and application control . . .

Information and Communications: Information should be communicated to relevant personnel at all levels within an organization. The information should be relevant, reliable, and timely. It is also crucial that an agency communicate with outside organizations as well, whether providing information or receiving it. Examples include: receiving updated guidance from central oversight agencies; management communicating requirements to the operational staff; operational staff communicating with the information systems staff to modify application software to extract data requested in the guidance.

Monitoring: Monitoring the effectiveness of internal control should occur in the normal course of business. In addition, periodic reviews,

reconciliations or comparisons of data should be included as part of the regular assigned duties of personnel. Periodic assessments should be integrated as part of management's continuous monitoring of internal control, which should be ingrained in the agency's operations. If an effective continuous monitoring program is in place, it can level the resources needed to maintain effective internal controls throughout the year.

Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer Comments

OFFICE OF THE UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

SEP 16 2008

COMPTROLLER

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL,
DEFENSE FINANCIAL AUDITING SERVICE PROGRAM
DIRECTOR

SUBJECT: Response to Draft Audit Report, America Supports You Program
(Project No. D2007-D000CH-0213.000)

This memorandum forwards the Office of the Under Secretary of Defense (Comptroller) response to the draft audit report. A copy of the response is attached.

The Department appreciates the opportunity to comment on the subject report. My staff point of contact on this matter are Jaima List. She may be contacted by email at jaima.list@osd.mil or by phone at (703) 697-8812.

David P. Smith
Acting Deputy Chief Financial Officer

Attachment:
As stated

DOD OIG DRAFT REPORT DATED OCTOBER 1, 2008
PROJECT NO. D2007-D000CH-0213.000

THE AMERICA SUPPORTS YOU PROGRAM

OFFICE OF THE UNDER SECRETARY OF DEFENSE (COMPTROLLER) (OUSD) COMMENTS TO THE DOD OIG RECOMMENDATIONS.

RECOMMENDATION D.1: We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer request Washington Headquarters Service to conduct a preliminary investigation to determine whether formal investigations should occur for potential Antideficiency Act violations on Stars and Stripes purchases with America Supports You funds and the reprogramming of appropriations for the America Supports You program.

OUSD(C) RESPONSE: Concur. The Acting Deputy Chief Financial Officer concurs and requested Washington Headquarters Service conduct a preliminary investigation to determine whether formal investigations should occur for potential Antideficiency Act violations on Stars and Stripes purchases with America Supports You funds and the reprogramming of appropriations for the America Supports You program.

Principal Deputy Under Secretary of Defense for Personnel and Readiness Comments

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

PERSONNEL AND READINESS

OCT 24 2008

MEMORANDUM FOR DoD INSPECTOR GENERAL
ATTN: PRINCIPAL DIRECTOR FOR CONTRACTING
ACQUISITION AND CONTRACT MANAGEMENT

SUBJECT: Comments on DoDIG Draft Report on the America Supports You Program (Project No. D2007-D000CH-0213)

This memorandum responds to your request of September 3, 2008, for comments on DoDIG Draft Report on the America Supports You Program (Project No. D2007-D000CH-0213). I concur with the findings of the report. I request that you modify the report to reflect the recommended technical corrections attached.

Thank you for the opportunity to comment. Questions may be directed to Ms. Priscilla Pazzano, Resale Activities & NAF Policy Office, (703) 602-4601.

Michael L. Dominguez
Principal Deputy

Attachment:
As stated

Final Report Reference

DoDIG Draft Report on the America Supports You Program
(Project No. D2007-D000CH-0213)

PDUSD(P&R) Comments

DoDIG Recommendation D.3.:

We recommend that the Principal Deputy Under Secretary of Defense for Personnel and Readiness review and initiate appropriate action for Stars and Stripes officials that permitted the unauthorized use of its nonappropriated funds and the improper use of uniform funding and management procedures.

PDUSD(P&R) Response:

This recommendation is properly addressed to the Assistant Secretary of Defense for Public Affairs (ASD(PA)). In accordance with paragraph 5.5, DoD Instruction 1015.15, "*Establishment, Management, and Control of Nonappropriated Fund Instrumentalities and Financial Management of Supporting Resources,*" the ASD(PA) serves as the principal point of contact for the Stars and Stripes and is responsible for monitoring and ensuring compliance with policy in DoD Instruction 1015.15.

Comment 1: Delete all references to DoD Instruction 1015.10, Programs for Military Morale, Welfare, and Recreation (MWR).

Rationale: DoDI 1015.10 only applies to Military Morale, Welfare and Recreation Programs, not to Supplemental Mission Programs.

Comment 2: Change "DoD" to "Army," (page 67, line 27 and page 69, line 20).

Pages 70 and 72

Rationale: Army regulations only apply to Army nonappropriated fund instrumentalities (NAFIs) and those for which the Army is executive agent, not all DoD NAFIs.

Attachment

Assistant Secretary of Defense for Public Affairs Comments

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
1400 DEFENSE PENTAGON
WASHINGTON, DC 20301-1400

PUBLIC AFFAIRS

NOV 07 2008

MEMORANDUM FOR PROGRAM DIRECTOR, DEFENSE FINANCIAL AUDITING SERVICE, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: The America Supports You Program (Project No. D2007-D000CH-0213.000)

As the Principal Deputy Assistant Secretary of Defense for Public Affairs (PDASD(PA)), I appreciate the opportunity to comment on the subject draft report. As a result of the findings of the draft report, we have conducted a thorough and complete review of the America Supports You (ASY) program, goals, and objectives, and as a result we have refocused the program. The original intent of ASY---- to inform and communicate to U S military members what individual citizens, community groups, corporations, businesses and others are doing to support them and their families ---- has been re-established. The following represents the actions my office has taken to date regarding the recommendations included in the report.

Recommendation A.1. We recommend the Assistant Secretary of Defense for Public Affairs:

a. Take appropriate action and create adequate controls to ensure that employees or contractors do not violate the ethics regulations relating to solicitation, fundraising, and endorsement.

b. Determine whether funding special events held stateside is an appropriate and cost-effective way to meet the primary mission of the America Supports You program.

c. Determine whether the procurement of America Supports You promotional items for the public is appropriate.

d. Ensure that the Joint Civilian Orientation Conference is not used to solicit support for DoD programs.

e. Determine whether the Department should continue to give recognition awards to corporations and celebrities in return for their support of the America Supports You program.

f. Establish adequate controls to ensure that the Department does not give preferential treatment to select nonprofit organizations.

g. Determine whether the expenditure of funds to promote the program is appropriate and effective in communicating public support to the troops.

h. Establish the steering committee and designate a Public Affairs Coordinating Official.

i. Set up procedures to ensure that the Secretary of Defense receives a status briefing on America Supports You program activities as required.

j. Establish appropriate metrics to measure the effectiveness of the America Supports You program operations in accomplishing its primary mission of communicating the public support to the troops.

Response to Recommendation A.1. Concur.

a. The Defense Media Center Contracting Officer appointed a new contracting officer representative on May 30, 2008. In addition, an Indefinite Delivery/Indefinite Quantity contract was awarded June 1, 2008 to provide better oversight of the contractor's activities utilizing task orders for specific events. On July 17, 2008, the PDASD(PA) designated the OASD(PA) Director of Community Relations and Public Liaison (CR&PL) as the new program manager for America Supports You. Both appointments were revalidated by the PDASD(PA) on September 25, 2008 with specific guidance that only the director, CR&PL would oversee or direct ASY activities, and that interaction with the contractor would be the sole purview of the contracting officer or contracting officer representative. Further changes were made to ensure the OASD(PA)/CR&PL policy expert was included in ASY planning meetings to ensure ASY activities are in compliance with DoD policies and ethics guidelines. Any questions or issues beyond the policy expert's scope of expertise are referred to DoD General Counsel (Standards of Conduct Office) for advice and counsel. The PDASD(PA) has issued instructions to ensure that OASD(PA) programs do not engage in solicitation, fundraising or endorsement of any home front group or commercial entity. No later than December 31, 2008, all OASD(PA)/CR&PL staff members will be required to attend community relations policy and ethics training. All new OASD(PA)/CR&PL staff members arriving after December 31, 2008, will be required to receive community relations policy and ethics training as part of their in-processing. In addition, periodic ethics refresher training will be required. Implementation December 31, 2008.

b. Special events held stateside are an essential, appropriate and cost-effective means of fostering public awareness and understanding of DoD missions, personnel, facilities, equipment and programs, especially when amplified by internal and external media coverage. In contrast, the mission of ASY is to inform and communicate to U.S. military members what individual citizens, community groups, corporations, businesses and

others are doing to support them and their families. Special events held stateside can be an appropriate and cost-effective way of communicating this support when those events are executed with large numbers of military members and their families as the primary audience. The PDASD(PA) has tasked the new ASY program manager with ensuring that proposed ASY special events are consistent with this standard. Implementation immediately.

c. OASD(PA) does not have the special authorization necessary to use appropriated money to purchase promotional items for the public. However, IAW federal appropriations law the purchase of educational items in support of community relations missions is allowable, including ASY initiatives. The PDASD(PA) has charged the new ASY program manager with ensuring all ASY-related purchases and expenditures are in compliance with federal appropriations law and applicable DoD fiscal authorities. Additional internal management controls include purchasing and procurement oversight by the contracting officer or contracting officer representative and the WHS Financial Management Directorate. Implementation immediately.

d. Joint Civilian Orientation Conference (JCOC) staff members have been directed not to promote ASY as part of the JCOC program, and will receive refresher training on applicable Federal ethics rules prior to any JCOC travel. All official and unofficial JCOC activities will be conducted in compliance with these Federal ethics rules and IAW DoD policies. Implementation immediately.

e. Recognition awards will be submitted IAW existing DoD policies and instructions. Implementation immediately.

f. OASD(PA)/CR&PL has developed and implemented standard operating procedures and template responses that preclude preferential treatment to select organizations. Implementation September 24, 2008.

g. The expenditure of appropriated funds to communicate to servicemembers the support of American citizens, organizations, businesses and corporations is appropriate and effective in executing the ASY mission. The expenditure of appropriated funds to communicate to the American public the mission of ASY is appropriate and in keeping with the OASD(PA) Community Relations mission of fostering public awareness and understanding of DoD missions, personnel, facilities, equipment and programs. The expenditure of appropriated funds to build support for ASY with the American public is not appropriate. Implementation October 01, 2008.

h. The original intent of ASY—to inform and communicate to U.S. military members what individual citizens, community groups, corporations, businesses and others are doing to support them and their families—has

been re-established. Since this mission is well within the range of OASD(PA)/CR&PL public affairs expertise and capabilities, we will recommend to the Deputy Secretary of Defense that the establishment of a Public Affairs Coordinating Official (PASCO) and ASY Steering Committee (ASYSC) is no longer required. Implementation immediately.

i. The ASY program manager will provide an annual ASY status briefing to PDASD(PA) for further submission to Secretary of Defense. Implementation November 01, 2009.

j. The ASY program manager will research and establish appropriate metrics to measure the effectiveness of ASY program initiatives along with a reportable system of measurement. Implementation March 31, 2009.

Target Implementation A.1. – NLT November 01, 2009

Recommendation B.2. We recommend that the Assistant Secretary of Defense for Public Affairs:

a. After the DoD General Counsel renders an opinion of the matter, take action, if appropriate, to prevent the private fund's use of the DoD trademarked program name and logo.

b. Obtain a registered trademark for all purposes and provide adequate oversight of its use.

Response for Recommendation B.2. Concur.

a. Following DoD General Counsel rendering an opinion, OASD(PA)/CR&PL will take appropriate action.

b. Two new applications were filed on the ASY mark in July 2008. They are:

1. International Class 14 for: Jewelry

2. International Class 41 for: Education services, namely, providing printed and on-line information and educational material in the field of providing public support for members of the United States military; Entertainment information; News reporters services; Providing news in the nature of current event reporting

Additional applications in other areas will be filed if/when it appears that there is a need.

Target Implementation for B.2. – To Be Determined

Recommendation C.: We recommend that the Assistant Secretary of Defense for Public Affairs:

1. Ensure contracting officials adequately task the contractor, require the contractor to submit proposals for each task, review the reasonableness of the contractor proposal, negotiate prices for services provided, and establish measurable outcomes.

2. Seek a full refund from Susan Davis International for duplicate and unallowable charges paid, including interest.

3. Advise contracting officer representatives to take recommended training before being designated and to review adequate supporting documentation and ask prudent questions to ensure that the contractor charges submitted are allowable, reasonable, and accurate.

4. Immediately stop spending appropriated funds for entertainment expenses unless specific authorization by statute has been obtained.

5. Take appropriate action to correct the deficiencies that exist in internal controls and ensure that there is proper segregation of duties and supervision.

6. Determine the cost-effectiveness of contract services for public relations support versus performing the requirement in-house.

Response for Recommendation C.1.: Concur. Defense Media Activity (DMA) Operating Instruction (OI) 40-01 was signed October 21, 2008. This OI assigns responsibility to the DMA Director of Acquisition and Procurement (DMA DAP) to manage and oversee all the DMA's acquisition and procurement functions as the DMA's Chief of Contracting Office. It also assigns responsibility to the DMA Contracting Offices to comply with all applicable laws, regulations and policies as required by the Federal Acquisition Regulation (FAR), Defense FAR Supplement (DFARS), DFARS Procedures, Guidance and Information (DFARS PGI), Defense Logistics Acquisition Directive (DLAD), Defense Logistics Agency (DLA) One Book and the DLA Procurement Policy Letters.

As part of the DMA DAP's management and oversight of the DMA's acquisition and procurement functions, policy guidance will be issued to the DMA Contracting Offices to emphasize proper procedures for tasking the contractor, requiring the contractor to submit proposals for each task, reviewing the reasonableness of the contractor proposal, negotiating prices for services provided, and establishing measurable outcomes.

In addition to policy guidance, the DMA DAP will conduct quarterly training sessions with all contracting office staff. Topics planned for fiscal year 2009 include:
1) Roles and responsibilities for the Contracting Officer, Contracting Officer's Representative, and Program Manager; 2) Change Orders versus Supplemental

Agreements; 3) Proper use of Undefinitized Contractual Actions. Additional training will be conducted on an "as needed" basis to address areas identified in Procurement Management Reviews and internal control program reviews.

Target Implementation for C.1. – October 21, 2008

Response for Recommendation C.2.: Concur in part. The PDASD(PA) does not have the authority to request a full refund from Susan Davis International. The Defense FAR Supplement Procedures, Guidance and Information states:

PGI 232.610 Demand for payment of contract debt.

(1) For contract debts resulting from other than a termination for default, the office that first determines an amount due, whether it be the contract administration office, the contracting office, the disbursing office, or the selling office/agency, shall—

i. Make a demand for payment; and
ii. Provide a copy of the demand to the payment office cited in the contract.

(2) For contract debts resulting from a termination for default, the contracting officer shall make the demand and direct the debtor to make such payment to the designated office.

(3) The contracting office shall forward deferment requests to the contract financing office of the contracting department or agency for a decision on granting the deferment.

On October 01, 2008, an unsolicited refund in the amount of $7,556.60 was provided to Stars & Stripes from Susan Davis International. The refund is detailed below.

1. $1,755.00 – September 21, 2006, 300 volunteer T-Shirts in conjunction with the America Supports You Freedom Walk
2. $5,083.00 – September 21, 2006, Crew Works bill in conjunction with the America Supports You Freedom Walk
3. $718.60 – June 5, 2006, Airfare for a member of the Lt. Dan Band in conjunction with the Military Appreciation Month concert.

The PDASD(PA) does support taking the necessary steps to obtain a refund for duplicate and unallowable charges the government has paid to Susan Davis International. On October 30, 2008, the Defense Media Activity (DMA) Director of Acquisition and Procurement requested the Defense Contract Audit Agency to initiate an audit of the contracts before the end of calendar year 2008. Following such an audit, the respective Contracting Officers for Stars and Stripes and for the Defense Media Center will request refunds, as appropriate.

Response for Recommendation C.3.: Concur. Defense Media Activity (DMA) Operating Instruction (OI) 40-01 was signed October 21, 2008. This OI assigns responsibility to the DMA Director of Acquisition and Procurement (DMA DAP) to manage and oversee all the DMA's acquisition and procurement functions as the DMA's Chief of Contracting Office. It also assigns responsibility to the DMA Contracting Offices to comply with all applicable laws, regulations and policies as required by the Federal Acquisition Regulation (FAR), Defense FAR Supplement (DFARS), DFARS Procedures, Guidance and Information (DFARS PGI), Defense Logistics Acquisition Directive (DLAD), Defense Logistics Agency (DLA) One Book and the DLA Procurement Policy Letters.

As part of the DMA DAP's management and oversight of the DMA's acquisition and procurement functions, policy guidance was issued on October 21, 2008 to the DMA Components and Contracting Offices to ensure compliance with Deputy Secretary of Defense Memorandum "Monitoring Contract Performance in Contracts for Services," August 22, 2008, which requires the Contracting Officer Representative (COR) to be designated and trained prior to contract award. The policy guidance emphasized compliance with DLAD, parts 90.602 and 90.603 and with DFARS PGI 201.602-2(i) which identifies responsibilities of the COR.

In addition to policy guidance, the DMA DAP will conduct quarterly training sessions with all contracting office staff. The roles and responsibilities for the Contracting Officer, Contracting Officer's Representative, and Program Manager will be a topic of training in the first quarter of fiscal year 2009. This training shall emphasize the requirement for CORs to be trained.

Target Implementation for C.3. – December 31, 2008

Response for Recommendation C.4.: Concur. No appropriated funds have been expended for entertainment since the issuance of the Draft Report.

Target Implementation for C.4. – Immediately

Response for Recommendation C.5.: Concur. On July 17, 2008, the PDASD(PA) sent out an e-mail providing guidance on roles and responsibilities. The Program Manager is the Director of the Community Relations and Public Liaison Office and the Contracting Officer Representative works in the Administration and Management office. These two offices fall under separate leadership to ensure there is no one individual with total control over the program management, contracting, and funding processes.

Target Implementation for C.5. – June 1, 2008

Response for Recommendation C.6.: Concur. On September 25, 2008, the PDASD(PA) determined that ASY activities should be conducted to the fullest extent possible by in-house OASD(PA) and DMA staff.

Target Implementation for C.6. – September 25, 2008

Recommendation D.2. We recommend that the Assistant Secretary of Defense for Public Affairs:

a. Improve budgetary controls and oversight of the funding for the America Supports You program.

b. Take appropriate action to correct internal controls over the accounting of appropriated funds transferred to Stars and Stripes.

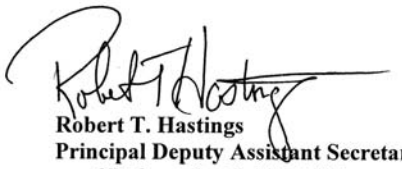
Response for Recommendation D.2. Concur.

a. Budgetary controls and oversight of the funding for the ASY program were placed in the OASD(PA), Administration and Management office September 2007. All funding requirements are now reviewed by the Program Manager and the COR, then discussed with the Contracting Officer. Once an agreement is made, a task order is definitized. Costs associated with mission requirements will be projected annually IAW the President's annual budget submission requirements. All ASY-related purchases and expenditures will be reviewed for compliance with federal appropriations law and applicable DoD fiscal authorities.

b. The DMA will clearly define its oversight responsibilities with respect to the Stars and Stripes (S&S) in light of the establishment of the DMA and then execute those responsibilities. In coordination with the OSD Director of Administration and Management, the DMA will rewrite DoD Directive 5122.11 dated October 5, 1993 (Certified as current as of March 5, 2004), Subject: Stars and Stripes (S&S) Newspaper and Business Operations. DMA will clearly define the financial management and accounting operations and perform quarterly audits to ensure compliance with DoD Instruction 7600.6 Audit of Nonappropriated Fund Instrumentalities and Related Activities. DMA Headquarters will conduct staff assistance visits to S&S and review current management internal control procedures practiced by S&S and recommend as appropriate revisions to internal controls as they pertain to accounting and financial management.

Target Implementation for D.2. – Immediately

We will continue to work on improving our organization by implementing the recommendations, as indicated above, and we will keep your staff apprised of our progress.



Robert T. Hastings
Principal Deputy Assistant Secretary of Defense for Public Affairs

General Counsel, Department of Defense Comments

DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

OCT 2 2 2008

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Report on the America Supports You Program (Project No. D2007-D000CH-0213)

Thank you for the opportunity to review and comment on your draft Report on the America Supports You (ASY) Program. We have been actively working on the two recommendations addressed to the General Counsel of the Department of Defense and provide the following preliminary responses:

Recommendation A.2.: We recommend that the General Counsel of the Department of Defense determine whether company logos should be removed from the America Supports You Web site.

DoD OGC Response: The DoD "Web Site Administration Policies & Procedures," dated 25 November 1998 (updated 11 January 2002), at Part II, Paragraph 8.1.4, states that "[g]raphics or logos depicting companies/products shall not appear on publicly accessible DoD Web sites." There are no express exceptions to this prohibition. Thus, any graphics or logos depicting private companies or products, such as those identified in the draft Report, should be removed from the publicly accessible ASY web site. Our office will provide support for any resulting effort to revise the ASY web site to comply with DoD policies and procedures.

Recommendation B.1.: We recommend that the General Counsel of the Department of Defense determine whether it's appropriate for a privately managed fund to use the official America Supports You program name and logo.

DoD OGC Response: We are reviewing and analyzing this recommendation, as well as the findings upon which it is based. We will follow up within thirty days with a more detailed response describing our conclusions.

Please direct any questions on this matter to Mr. Richard M. Gray at (703) 695-5679.

Daniel J. Dell'Orto
Principal Deputy General Counsel

Team Members

The Department of Defense Office of the Deputy Inspector General for Auditing, Acquisition and Contract Management prepared this report. Personnel of the Department of Defense Office of Inspector General who contributed to the report are listed below.

Richard B. Jolliffe
Bruce A. Burton
Henry F. Kleinknecht
Joseph P. Bucsko
Bradford C. Green
Steven L. Kohne
Jason R. Parks
Mayra G. Velazquez-Perez
Meredith H. Weberg

Inspector General
Department of Defense