

With regard to the most recent response from HQDA, I still have several concerns that I believe have a direct effect on future positive outcomes based upon what I have read and observed.

I am very concerned about the deferral of punitive actions by the current Commanding General of INSCOM, primarily because she is due to be reassigned in March 2012 and forecasted to take over the position currently held by Lt General Zahner which has direct oversight at the Army Headquarters G-2. I do not mean to suggest that MG Mary Legere would do anything improper, but I do recognize that when the new CG comes in, he will be totally unfamiliar with the whole issue and the whole thing will likely be swept under the rug with no one deserving of immediate punitive actions, ever being subject to any, including replacement. This is almost like an "all-to-convenient" transfer for the people involved. With a new CG coming aboard and having to acclimate himself to his new position, amidst getting to know his senior staff who will undoubtedly pursue attempting to snow him under with individual requirements, indicating a vast opportunity for all to be forgotten. The current CG has been presented with facts through the investigation process and most assuredly has enough adverse details to take immediate action. It appears as though the CG is waiting for the adjudication of the numerous allegations of Anti-Deficiency Act violations to be returned before assessing the situation as a whole. But, she must recognize too that the individuals already having been assessed by the Investigating Officer and concurred with by the HQDA G-2 as being guilty of gross mismanagement are still in positions of leadership and an influence over those subordinate to them. Also, any punitive actions that amount from confirmed Anti-Deficiency Act violations will be far outside of the scope of her authority.

I am very concerned that the same individuals who have had leadership roles and failed miserably in the past, while their disgruntled subordinates grumble, but have failed to file formal grievances, and whom now have been found to be operating within the realms of gross mismanagement, are still in exactly the same positions as before, and absolutely nothing has changed. Considering the time that has passed since the initial investigation, I believe each individual involved is quite confident that if nothing has happened yet, it most likely never will. This would be a travesty of unequivocal proportions. Managers who were found to be grossly mismanaging should have already been reassigned, and most assuredly demoted. Yet they continue to function in leadership roles and be an influential factor with regard to their subordinates.

Another issue to bring up regarding disciplinary actions concerns the fact that many of these "managers" came directly from the military upon retiring, were definitely not qualified for the job at the current rank (usually GS-14 and 15s upon entry), never progressed up the civilian ranking structure to prove their abilities, were not necessarily good leaders on the military side, were molly-coddled throughout their careers by the actual performing personnel, generally the enlisted force, do not have the education in or outside of government to perform as effective managers, have never supervised or managed the civilian workforce and got their jobs not via competitive service, but by their friends and colleagues. There is nothing competitive about any of that. I am very much all in, in terms of military members coming over to the civilian workforce upon leaving military service. However, in all cases, personnel should be placed in the workforce wholly upon their capabilities, not where buddies bring them in as acts of friendship and loyalty. There is definite and apparent inequity in terms of the enlisted force and junior officers, vice senior officers with regard to this concern. Military leaders who were

fortunate enough to be promoted to the senior ranks, and as such acted in the capacity of managers, more frequently than not, presiding over many activities of which they had no idea and were wholly dependent upon their staff to complete, should not be presumed to have passed the rest of those in the command chain who have been striving hard to develop the knowledge and capabilities that ultimately lead to leadership roles in the civilian workforce, simply because of their end rank and role in military service. This is a huge, very transparent, and very wrong common undertaking many of us witness daily.

I know that several potential Anti-Deficiency Act violations were alleged in the findings of the investigation (of which all should, based upon my read of the law, be found to be valid). I am very concerned that the actions taken to appropriately investigate these violations will be done via in-house representatives of the senior staff who tend to support one another and will likely be pressured to find that mistakes were made, not issues of material knowledge and total disregard. What this tends to produce is a product that warrants a "slap on the hand" and a demand by the senior command for all INSCOM members to be provided training on the subject matter, something we already subscribe to, as opposed to forwarding information that proved that the action officer knew well in advance of his actions, the rules, and intentionally continued to take action in violation of the statutes in all of the alleged offenses. Keeping in mind that the Investigating Officer did not find that mistakes were made, but rather gross mismanagement, this should indicate to the common person that actions were not simply neglected, but rather were knowingly disregarded to attain a desire at all costs. I would still recommend that these investigations be accomplished via sources from outside the command and by those having no personal interactions with the people involved in the alleged violations. Else wise, this situation will be a "whisk broom and rug" exercise. Most of the time, in training, we are advised that ADA violations do come with consequences. The law states the maximum to be five years or \$10000.00 or both for each violation, but even though a few people have been removed or fined, the basic knowledge most people operate under is that this is more of a threat than a reality. One reason for that is that the greater majority of reported violations are weakly investigated such that it can appear in the end to have been a simple mistake, mostly caused by lack of training and knowledge to the contrary. But the truth is, in most cases, these were, or should have been well understood actions that were entirely disregarded. And the truth be known, even where such discoveries are found and reported, the way the investigative process works, the individual(s) generally are not likely to see any resultant adverse actions.

Mr. Lance, our senior SES, is the most suspect of the whole of those in leadership over INSCOM. He vastly overlooks many issues and blocks them from proceeding to the CG as opposed to oversight; his primary responsibility. Such "lackluster" oversight is a key factor why I am deeply concerned about these violations being minimized, if not justified. Throughout the whole process involved in this complaint from decision making throughout, including many obviously half-hearted, borderline dishonest responses provided during this inquiry I have been able to ascertain from details retrieved from the original investigation response documents and knowledge I have from discussions with the responsible party(s), that this is the likely planned outcome. Individuals selected by Mr. Lance, undoubtedly selected as trustworthy advocates of him and his ways, will certainly pursue their obligation to fulfill a directed action, but will not do so with the fidelity expected, or provide the priority

or the deeper investigative interest of the government to discover the truth. This is one of the most “Good Ole Boy/Girl” organizations I have ever been a part of; that approach begins at the top and outside of the senior members, is discriminately elite. To date, I am wholly unaware of anyone openly conducting any sort of investigation to resolve any form of conclusion, supporting either right or wrong. Sure appears to be, more or less, a “pencil whipping” exercise.

I am absolutely amazed that the Contracting Officer has decided not to correct the improperly let contract. This is a decision that should have been levied upon him at the very first discovery of wrongdoing. To offer this decision as one that a Contracting Officer may or may not elect to fix, is both bizarre and a challenge against the warrant in which they are bound to do what is right and in the best interest of the government.

Why the Army Command elected not to direct, based upon their findings, that the Contracting Officer render the current contract with Silverback 7 to be ended and a new base contract be accomplished to include an Indefinite Delivery/Indefinite Quantity contract with appropriate Task Orders as required, even if that means a complete re-compete, and resultant cost increases incurred may include the necessary to down-scope aspects of the contract, is beyond me. Instead, we continue to operate under the Base Firm-Fixed-Price contract that continues to offer the contractor more than they are entitled, and all remaining the same, will until 2014 when all the option years have been exercised. No matter how you justify any of this, the fact remains that as long as this contract advocates on behalf of the government a need for up to 49 persons under a Firm-Fixed-Price contract whether any number less than 49 represents acceptance of significant risk and overpayment.

Currently, the Army’s response that 43 of 49 personnel are currently on board, demonstrates that someone still doesn’t get what’s going on here. In a Firm-Fixed-Fee contract (not IDIQ) the contractor is entitled to all of the proceeds whether performed or not based upon the anticipation that all personnel will be provided. Were this an IDIQ contract issued on a Firm-Fixed-Price basis, this whole issue would have never materialized as the total of the Task Orders based upon a bona fide need at the immediate time, times the contractor’s agreed upon per body cost would have been appropriate. But we continue to operate on a poorly executed document that, in fact, continues to allow for overpayment to the current contractor. What does one have to do to get the experts (supposedly) to see the error in their ways? Obviously, this investigation did not instill in the minds of responsible individuals any sense of right or wrong, common sense, questions of ethics, or responsibility.

One of the most inane and purposeless comments of the Army’s responses regards the line suggesting “In the solicitation, the Government encouraged contractors to find efficiencies that would reduce the price of the service.” So What! Isn’t this exactly what any company’s leadership would automatically do to ensure they meet their anticipated profit margin goals? As far as this having some form of value added, this response has no apparent application as to why they chose to act as they did, nor does it infer anything that would take place in-house. In the Request for Proposal, “the Government provided an estimate of 49 CMEs based on prior history of the acquisition in an attempt to assist the contractors in developing their proposals”. Not true! The question of how many personnel each organization within the command wanted was asked of the subordinate commands and apparently amounted to, or was

capped at 49, but no one looked at the contracts in place or this whole mess wouldn't have materialized. The action officer knew well of the contracts and the redundancies, as well as the net effect and made the choice to press on regardless, and what's worse, the contracting personnel followed suit, like sheep. Is anyone responsible here? Do we leave it here and accept that nobody knew what being a professional entitles? I definitely think not! In the end, the response provided, after asking the command what they intended to do, is absurd. The INSCOM response is beautiful in terms of the words written, but I all but guarantee that those words will not translate into action, or more action, than the command has already undertaken. And why is the Army going back to the offender organization and asking them what they intend to do in terms of remedy? Wouldn't it have been a whole lot more effective to have had action authoritatively directed upon the subordinate command by the Army Headquarters? A significant factor as a reason these issues materialized in the first place was because some senior staff members did not go through proper channels, but ultimately, believing they are above the law, policy, and procedures, wanted what they wanted, and went right around them.

I see in the report where the Investigating Officer recommends going back to recoup funds from the Contractors involved in this investigation. The report offers an estimated amount to recoup but fails to direct recoupment action; it is perceived as a recommendation. I do however agree that since one of the Contractors is currently in place, that we can leverage such actions upon them. But I also see a very busy staff in the Contracting Office, based upon workload and inefficiencies, with an all but minimal desire to take such action. This action should be a directive from the highest levels in the Pentagon, based on the acceptance of both gross mismanagement on behalf of the government representatives, and the fact that both parties involved in the initial discussions knew exactly what was going on and the benefits to be achieved; in essence, fraud, first and foremost, waste of public resources contributing to the findings of obvious gross mismanagement, and abuse, by those in power, within INSCOM, who acted in the know, banking on the fact that the risk of being discovered or someone filing a complaint, especially within command channels, was extremely low and even where it was brought to attention, the damage would be trivialized to the point of being swept under the rug. There are many personnel of rank within the command who think they can do as they please, without repercussions. I suggest that to be very wrong. No one is without scrutiny.

With regard to recouping of government resources from the contractors, I want to know if interest on the funds negotiated for return to the U.S. Treasury will be included. There is no doubt where the government fails to make a timely payment to a contractor that they will be all over us regarding requests for interest penalty payments. In a case where they are basically responsible for accepting unearned resources from the government, they should not only have to make restitution of the original funds they improperly accepted, but also any interest on that balance that has accrued from the date on which it was accepted. In this case, monthly payments were made and there would be at least 12 separate calculations to come up with the balance of the interest to include with the monies paid. The acceptance of government funds for services not rendered equates in my mind to theft. And no one should even suggest that both representatives of the government as well as the contractors were unaware of just what was going on here. In my view, if the government endures any issues in the

recouping process, the government should not only terminate the contract, but also put the contractor on the "black list" for future contractual business.

All in all, if these issues are ever to find resolve, it is apparent to me that the senior command is going to have to direct upon the subordinate command tolerance perimeters and to ensure that investigations of the ADA violations aren't just blown off the keep the senior INSCOM staff happy and in their debt, the Army Headquarters is going to have to become actively involved and not rely upon INSCOM to police themselves...they have already proven unworthy in that regard, a point I think we can all agree upon.