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S. Hrg. 110–437

MANAGEMENT AND OVERSIGHT OF CONTINGENCY CONTRACTING IN HOSTILE ZONES

JOINT HEARING

BEFORE THE

FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY SUBCOMMITTEE

AND THE

OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

JANUARY 24, 2008

Available via http://www.gpoaccess.gov/congress/index.html

Printed for the use of the Committee on Homeland Security and Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

41–448 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
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MANAGEMENT AND OVERSIGHT OF CONTINGENCY CONTRACTING IN HOSTILE ZONES

THURSDAY, JANUARY 24, 2008

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICE,AND INTERNATIONAL SECURITY,
AND THE SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA,
OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittees met, pursuant to notice, at 2:30 p.m., in Room SD–342, Dirksen Senate Office Building, Hon. Thomas R. Carper, Chairman of the Subcommittee, presiding.

Present: Senators Carper, Akaka, Levin, McCaskill, and Collins.

OPENING STATEMENT OF SENATOR CARPER

Chairman CARPER. The Subcommittee will come to order. I want to thank my colleague, my dear friend, Senator Akaka, for co-hosting and co-chairing this hearing with me today.

We will be joined shortly by others of our colleagues. The Senate is working today on FISA legislation dealing with the surveillance court that was established, thirty-some years ago, I believe.

And we are going to be voting on and off during the afternoon on amendments to that bill. We just finished the first, and I am sure more will follow. Hopefully, they will not be too disruptive.

But I would like to say when I am Majority Leader, we won't have these votes interrupting my Subcommittee hearings, so that will probably be a while.

Well, we are glad you are all here and we will be welcoming Senator Coburn shortly; Senator Collins, who is the Ranking Member of the full Committee; and others as they come and go in the afternoon.

Nearly 5 years after going into Iraq, we still do not know how many contractors are there. We have estimates, but they differ.

Last summer, the U.S. Central Command told us that there were about 130,000. Then later, they updated that number to approximately 180,000 contractors. The Gansler Commission Report, which came out in October, estimated that there may be 160,000 contractors in Iraq.

The Government Accountability Office (GAO) bases its cost estimate on what the Department of Defense said last year, which was that there are over 120,000 contractors in Iraq.

But whatever estimate we ultimately accept, one thing seems for sure: We now have maybe as many, maybe even more, contractors in Iraq as we have U.S. troops.

There is an old saying that you cannot manage what you cannot measure. And we in Congress are in a position to try to oversee contracting in Iraq among other places—without our government agencies knowing how many contractors there actually are in theater.

Certainly, the continuing lack of management attention and proper oversight over the contractors in a war zone has resulted in runaway costs. Unfortunately, waste, fraud, and abuse are all too common in Iraq.

Out of $57 billion worth of contracts for services and for reconstruction work in Iraq, the Defense Contract Audit Agency has reported that more than $10 billion, or roughly one-sixth of the total spent on contracts, is either questionable or cannot be supported because of lack of contractor information needed to assess costs.

To date, there are more than 80 separate criminal investigations into contracts totaling more, I believe, than $5 billion. And despite the dedicated, talented, and hard working contracting professionals we have, contract abuse appears to have become endemic.

Late last year, we learned that the U.S. military paid a Florida company nearly $32 million to build barracks and offices for Iraqi army units, even though nothing was ever built.

Earlier last year, the Special Inspector General of Iraq—he is with us today—told us that Parsons Global, Inc., was charged with building 140 primary health care centers throughout Iraq, but only completed six after 2 years and $.5 billion dollars had been spent.

Parsons was also paid $62 million to build the Iraqi Police College, but the barracks failed to include proper plumbing, causing sewage to leak through the floors. The building, my staff has learned, has not yet been repaired. Construction of the $600 million U.S. Embassy in Baghdad continues to be plagued with safety and construction problems, and a contractor, First Kuwaiti, has been accused of labor abuses and human trafficking. And the list goes on.

But let me be quick to add, though, that the story is not all gloom and doom. There are strides being made on all fronts, and they are worthy of recognition.

In response to the 2007 Department of Defense Authorization Bill, the DOD has established a comprehensive policy and program framework for managing contractors and contractor personnel deployed with our forces on contingency operations.

The Army, under the leadership of our former colleague, Secretary Pete Geren, commissioned the Gansler Report, and, with the blessing of Defense Secretary Gates, has begun implementing some of its recommendations.

A Memorandum of Agreement has been recently reached between the Department of Defense and the Department of State defining the authorities and the responsibilities of private sector contractors in Iraq.

With the leadership of Senators Lieberman and Collins, we were able to get more accountability in contracting. And, with the leadership of the freshman senators, we were able to pass into law the Wartime Contracting Commission. I, along with, I think, most of my colleagues here and on our full Committee were co-sponsors of both pieces of legislation.

I called for this hearing for two reasons: First, how to figure out how to improve contracting practices in Iraq and Afghanistan; and second, how to prevent these contracting problems from happening again.

As elected Members of Congress, we have an obligation to safeguard American taxpayer dollars, wherever they are being spent. The point of this hearing is to move forward and plan better for future contingencies, which the United States is certain to face.

Today, I want to try to ensure the following—and we have a couple of charts set up here with the goals of today's hearing.[1]

Goal one is that the workforce problems caused by inadequate staffing on the contracting and contract management sides are being addressed and solved; second is that the lack of training for military personnel and civilians on the battlefield is remedied before the next contingency operation. And third is that we capture the lessons learned and inculcate them into military leadership schools and civilian training for contracting officers.

And if you will just look to the other side of the room, number four and five—number four that we are planning U.S. government-wide how to deal with reconstruction and stabilization crises in conflict and post-conflict areas, and who should be charged to implement those interagency activities; and finally that Congress plays an effective and active role in the path forward.

To date, the United States has appropriated nearly $630 billion for Iraq and Afghanistan, and has spent nearly $470 billion in Iraq alone.

A large part of that money is going to contractors, contractors involved in providing services to our troops and in reconstruction projects. Since 2003, we have passed nine supplemental bills for Iraq and Afghanistan. We will be asked to vote on another one later this year.

At home, we are addressing huge, growing fiscal imbalances due to our aging population, skyrocketing healthcare costs, and a sharp decline in the housing sector. And now, we are facing a recession.

We need to do everything we can to make sure the American taxpayer is getting what he or she paid for, and that is what we intend to do. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Senator Carper. It is great to be with you and to work with you.

I want to thank you personally for organizing this important hearing and for jointly conducting it with the Oversight of Government Management Subcommittee.

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[1] The charts referred to by Senator Carper appears in the Appendix on page 210.

I recently held a hearing in my capacity as Chairman of the Armed Services Readiness Subcommittee, which examined deeply rooted problems in Army contracting.

At that hearing, we took testimony from Dr. Gansler, who spearheaded a very revealing and thorough report, which we will hear about from our second panel today.

Contracting specialists are being asked to oversee an increasingly large number of contracts, as was mentioned by the Chairman. Since 1999, the number of contracting specialists has been frozen at about 30,000 at the Department of Defense, even as the number of contracts has ballooned.

We have seen less oversight and less accountability at the Department of Defense and government-wide as well. It seems not a week goes by where I do not see yet another news story about waste, fraud, abuse, and even violence carried out by contractors in theater.

Last year, the Armed Services Committee heard about appalling contractor waste and abuse committed by Halliburton under the LOGCAP contract. The Special Inspector General's reports likewise have painted a troubling picture of contracting failures in Iraq.

It also came to light recently that contract security officers in Iraq working for the Department of State used unjustified lethal force against Iraqi civilians. Shockingly, it seems that these contractors are immune from prosecution under either Iraqi or U.S. law.

Most recently, we learned of contractors in Iraq committing crimes against their fellow employees, including rape, with virtually no response from this Administration.

Contracting can be a valuable tool to supplement government services and fulfill our responsibilities to our troops and to the American people. But at times, it seems that this Administration is turning contracts into corporate giveaways.

We must restore accountability, without question. Congress, the military, and the State Department must redouble their efforts to reduce the financial costs to American taxpayers, as well as tragic human costs that can result from failures of a contractor oversight and accountability.

These failures are the result of a crisis on multiple levels. First, there is a workforce crisis. As I noted a moment ago, the number of acquisition specialists has remained stagnant while contracting has expanded dramatically.

The shortage of acquisition workers will continue to get worse if we do not address it. According to the Federal Acquisition Institute in their Fiscal Year 2006 annual report on the Federal acquisition workforce, over half of the Federal Government's acquisition workforce will be eligible to retire in the next 10 years. Many of these will be at the Department of Defense.

Second, there is a management crisis. We simply do not have enough individuals to conduct adequate contract planning, execution, and oversight.

Unfortunately, planning and oversight often go by the wayside so that contracting specialists can meet deadlines and get deliverables. This, again, is not acceptable.

The acquisition workforce needs enough competent managers to oversee the billions of dollars of taxpayers' money spent on contracts.

Finally, the most troubling: There is a crisis of accountability. Committees from both the House and the Senate have held countless hearings on contracting problems in Iraq and Afghanistan for the past 4 years. We created a Special Inspector General for Iraq.

Still, no one in this Administration has been able and been held accountable for these failures. Problems are consistently overlooked or ignored.

We need to shift course in the management of contracting. While it is imperative to look at the past to find what has gone wrong, it is more important to look to what can be done better.

I fully support many of the recommendations made by the Gansler Commission and by the Government Accountability Office. I am committed to working with my colleagues to continue oversight in this critical area, and I am equally committed to taking any necessary steps to fix these problems.

Agencies must invest more in recruiting top-quality contracting specialists to provide for oversight. Such an investment would be far less costly than paying for more flawed, wasteful, multi-million dollar contracts.

I plan to work especially vigorously on the workforce aspect of this issue in my capacity as Chairman of both the Oversight of the Government Management Subcommittee and the Armed Services Readiness Subcommittee.

I would like to invite my colleagues here to join me at a hearing on my OGM Subcommittee which we will hold soon on government-wide acquisition workforce challenges.

This is a serious problem throughout the government and it needs our urgent attention.

Again, thank you, Senator Carper, for agreeing to hold this joint hearing, and I thank our witnesses for coming here to provide their valuable insight. I hope our hearing today will lead to some real progress. Thank you very much.

Senator CARPER. You bet, Mr. Chairman. Thank you, and it is just an honor to sit here next to you and I think this makes a lot of sense for us to do this together. Senator Collins, welcome.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman. Mr. Chairmen, I guess I need to say today.

I want to commend you both for holding this joint hearing, and for your diligent focus on a very serious problem, and that is ensuring that taxpayers' dollars are wisely spent no matter the circumstances.

Our Committee, both at the full Committee level and at the Subcommittee level, has held countless hearings looking at contracting, highlighting examples of wasteful spending, even examples of outright fraud.

We have found that natural disasters and military deployments since the year 2000 have helped to double the dollar volume of Federal contracting, which now exceeds an astonishing $400 billion a year. A vast amount of that contracting has gone to the Iraq recon-

struction effort, but there were also billions of dollars that have been spent in reconstruction efforts for the Gulf Coast in the wake of Hurricane Katrina.

But whether you are looking at the Iraqi reconstruction effort or the reconstruction of the Gulf Coast, unfortunately, you see common problems.

You see an insufficient Federal workforce to oversee and write the requirements for those contracts. You see a lack of training. You see a lack of a contingency contracting corps that could be assembled to respond to a natural disaster. And not coincidentally, you see an over-reliance on non-competitive, no-bid contracts, which do not ensure that the taxpayer is getting the best value and the highest quality goods.

Meanwhile, and not coincidentally, the GAO, the Special Inspector General for Iraq Reconstruction, and agency inspectors general have identified waste, fraud and abuse, and fiscal mismanagement exceeding billions of dollars.

These problems demand action. They waste taxpayers' dollars and impede the achievement of program objectives. Contracting problems in war zones carry additional risks of frustrating the military missions, jeopardizing relations with friendly governments, and diluting the effectiveness of America's financial commitments to promoting security, stability, and respect for human rights.

Last fall's report by former Under Secretary of Defense Dr. Gansler paralleled what this Committee has found in its investigations, and, again, it is the same litany of problems—an over-reliance on no-bid contracts, a vastly expanded workload, insufficient staffing, insufficient training, and deficient oversight.

I believe the Senate took an important step toward contracting reform with its unanimous passage of S. 680, the Contracting and Accountability Act, which both Chairmen have co-sponsored.

It is a bipartisan bill, and it would make a big difference. It not only addresses the over-reliance on sole source, no-bid contracts, but it really focuses on the acquisition workforce.

That is far less glamorous, but arguably it is even more important than the new restrictions that we have imposed or will impose on no-bid contracts.

The legislation would also establish a contingency contracting corps, to ensure that trained and experienced contracting officers can deploy to combat zones or to areas struck by natural disaster.

The House has also passed a contracting reform bill, and I hope that this will be one of the accomplishments that we can get done this year.

Again, I want to commend both Chairmen for their interest and commitment to this issue, and I am very pleased to join them this afternoon. Thank you.

Senator CARPER. Thank you very much, Senator Collins, and we are pleased to join you in support of that legislation.

Senator COLLINS. Thank you.

Senator CARPER. Thank you for your leadership.

I am going to go ahead and introduce our witnesses at this time, and we will start with Stuart Bowen. It is always a pleasure to have you with us, the Special Inspector General for Iraq Recon-

struction, who I have learned just yesterday was married not long ago at Rehoboth Beach, Delaware.

Mr. BOWEN. That's right.

Senator CARPER. That's got to be the start to a good wedding, a good marriage.

Mr. BOWEN. Thank you.

Senator CARPER. Four years into his job, he's been to Iraq 18 times. I think Senator Biden may have the high number here in the Senate. He has, I think, been eight or nine times, so you have doubled our list.

When you go, how long do you stay?

Mr. BOWEN. Two to 3 weeks.

Senator CARPER. OK.

Mr. BOWEN. In the summer, sometimes 4 to 5 weeks.

Senator CARPER. OK. I think I would shorten those summer visits, if I were you. It is pretty hot over there in the summer.

Well, 4 years into his job, Mr. Bowen has been to Iraq, as I said, for 18 times, more than twice the number of, as far as I know, any of us in the Senate.

He has been a vocal advocate of ensuring fiscal stewardship over the $44 billion in U.S. appropriated reconstruction funds. Thank you, sir.

Mr. BOWEN. Thank you.

Senator CARPER. Thanks for joining us. Our next witness, Bill Solis, is Director of the Defense Capabilities and Management Team in the U.S. Government Accountability Office.

His portfolio of work covers issues such as contractors on the battlefield, supply chain management, force protection for ground forces, and equipment reset. He is joined today by his colleague from GAO, Carol Coffey, and the two of you look a whole lot like the folks from the GAO who briefed Senator McCaskill and myself and our staffs before we went to Iraq back in June. So, it is good to see you both. Thank you for your help then and thank you for your help today; and frankly, your help in preparing for this hearing.

Dina Rasor is a partner in the Bauman and Rasor Group. Currently, she serves as Director of the Follow the Money Project, which is dedicated to making sure U.S. soldiers have the equipment they need in Iraq and Afghanistan by following the money allocated for the war effort.

She previously served the Project on Military Procurement for 10 years, which exposed event scandals in the 1980's, including over pricing and fraud in procurement systems, such as the infamous $7,600 coffee brewers—I remember those—and the $670 armrest in the C–5 cargo plane, which we have stationed at Dover Air Force Base. And did you ever work on P–3s, anything on the P–3 aircraft, the Navy P–3 aircraft?

Ms. RASOR. A little bit.

Senator CARPER. OK. Fair enough.

Ms. RASOR. I've worked a lot on airlift, though.

Senator CARPER. OK. As I recall, the coffee brewer was one that would make coffee at sea level. It would make coffee at 50,000 feet. It would make coffee a thousand feet below the water.

Ms. RASOR. Well, the specs were just that it would still make coffee after an impact of 40 G's, which no C–5 would survive, but you would still have coffee.

Senator CARPER. Yes. I always wondered how good was that coffee. That is a lot of money for a cup of coffee.

Ms. RASOR. Soldiers—troops told me not so good.

Senator CARPER. All right. Thank you, Ms. Rasor.

Robert Bauman is an investigator with the Follow the Money Project and a partner in Bauman and Rasor Group. He has 24 years of experience as a DOD Criminal Investigator, investigating many large defense contractors.

He and Dina Rasor have recently co-authored a book entitled "Betraying Our Troops: The Destructive Results of Privatizing the War." Was that published last year?

Ms. RASOR. Yes.

Senator CARPER. Good. And finally, I really want to extend a warm welcome to Perry Jefferies, First Sergeant, U.S. Army, Retired. We were talking earlier, and he tells me he had served 25 years. Is that correct?

Mr. JEFFERIES. Between the Texas National Guard and the U.S. Army, yes, sir.

Senator CARPER. All right. Well, thank you so much for a quarter of a century of service to our Nation.

As a First Sergeant with the Army's Fourth Infantry Division in Iraq, Mr. Jefferies earned the Bronze Star. And while in the Army, he served in Korea and Germany in infantry, armor, and cavalry units, and as an instructor at the Armor School at Fort Knox. Upon retirement, he was awarded the Legion of Merit.

He is a founding member of Iraq and Afghanistan Veterans of America, and again, our country owes you a huge debt of gratitude. Thank you for your service.

Before I turn it over to Mr. Bowen to offer his statement, I am going to ask our witnesses to try to stick to around 5 minutes. If you go a little bit over that, it is not the end of the world, but I try to ask you to adhere to that.

We have been joined by Senator McCaskill, and I was just mentioning before we went on our CODEL to Iraq and Kuwait and other places how Mr. Solis and Ms. Coffey were good enough to brief us and our staff. They denied it. But we know it was them.

Senator McCaskill, would you like to make any statement at all before we turn it over to our witnesses?

OPENING STATEMENT OF SENATOR McCASKILL

Senator MCCASKILL. Well, there are a number of people that are testifying today that have been of great assistance to me since I have arrived in Washington. This is, in a weird way, the stuff that I find most exciting. I know that is hard for people to understand that I think contracting and following the money is very important. And I am glad we are having this hearing, Mr. Chairman.

I learned a lot when I was in Kuwait and Iraq looking at contracting issues, and most of it was not good. Most of it would make most Americans sick to their stomach.

We clearly were not prepared for contracting in the way that we engaged in contracting in this conflict. We were not prepared by

being trained. We were not prepared by process. We were not prepared by oversight. And we certainly were not prepared for accountability.

And I think it is very important that we focus on one important fact. Things don't change unless there are consequences. If people are not fired or demoted or if there is not a failure to promote in the military because of massive failure of appropriate oversight and management, things will not change.

One of the most disheartening things I heard when I was in Kuwait and Iraq was the admission by many people I talked to that the exact same mistakes had been made in Bosnia.

And guess what they did after Bosnia? They did a lessons learned. And guess what happened to the lessons learned? Nobody read it before Iraq. And so, the same mistakes were repeated again.

And there is no way we can look the American people in the eye and say that we are not going to let this happen again unless there are consequences when people fail to look out for the taxpayers' money in a way that is responsible.

So this hearing is important, but I do think that the Contracting Commission, which I am very excited about that will be a bipartisan effort beginning next year, if we do not look at their recommendations in the coming years, and make sure that this is not just about talk, and these hearings are very important and I know how many of them we have had. There have been, by my count, I think 300 different reports written about contracting problems. And there have been, by my count, tens upon thousands. I think we have figured out now, there are around 30,000 auditors in the Department of Defense alone.

Now, this does not make America feel good about where we are.

So, I am glad we are having this hearing. And I do not want to be the gloom and doom person here, but I will tell you I do not think all the hearings in the world are going to make a difference until somebody starts losing their job. Somebody loses a star. Someone fails to get a star. Someone at the Department of Defense is fired because of how they have done their job when it comes to watching taxpayer money. Thank you, Mr. Chairman.

Senator CARPER. Senator McCaskill, we thank you as well. Mr. Bowen, please proceed.

STATEMENT OF STUART W. BOWEN, JR.,[1] SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

Mr. BOWEN. Thank you, Mr. Chairman, Ranking Member Collins, Senator McCaskill, and Members of the Committee. I am pleased to be here to address the topic of today's hearing, Management and Oversight of Contingency Contracting in Hostile Zones, one of which I travel regularly.

I am here to tell you that there are two fundamental aspects to analyzing this issue in my view: First, the oversight of the contracting processes in a contingency zone; and, second, oversight of contractors on the battlefield.

[1] The prepared statement of Mr. Bowen appears in the Appendix on page 57.

My office's work has focused chiefly on the former issue, and my testimony today, which I will summarize briefly, analyzes that matter.

SIGIR's mandate gives us broad jurisdiction to look across agency lines in overseeing the use of about $45 billion in U.S. Government money appropriated for the relief and reconstruction of Iraq.

We have issued more than 200 audits, opened more than 200 inspections, opened more than 300 investigations, and issued three lessons learned reports. My talk today will focus on our lessons learned report on contracting and procurement.

Our next quarterly report will be delivered to the Congress in 5 days, and, as you noted, I leave for my 19th trip to Iraq next month.

In my remarks, there are three matters I would like to address briefly: One, our recommendations regarding contracting in Iraq reconstruction; two, what congressional actions have been taken and their efficacy, and three, the core challenge with analyzing and addressing the problems of contingency operations management.

In 2006, we issued our second lessons learned report on contracting and procurement. The first lessons learned report was on human capital management, and the last one, presented to this Committee last spring, was on program management.

At the hearing before the full Committee in August, we presented our findings and conclusions. We noted that our extensive review, which included interviewing all those in charge of contracting in Iraq and reviewing all the documents related to it that, indeed, found contracting procurement personnel were not adequately included in the planning for Iraq reconstruction. There was too broad a use of sole source contracts early on in the process and especially limited competition contracts; that there was no single set of contracting regulations at work in Iraq. There were a whole series of agency-driven versions of the Federal Acquisition Regulation.

There was no deployable contracting system available at the time that the Iraq relief and reconstruction began. There was no single unified contracting entity to manage contracting in theater. There was a failure in Iraq to definitize contracts as one of our audits identified in detail, and there was an overuse of the expensive design-build, cost-based contracts, with limited, or not effective enough, invoice review. We continue to do our invoice review of those contracts, but different contracting mechanisms would have been better.

Our recommendations promoted the creation of a contingency Federal Acquisition Regulation, institutionalization of programs like the Commanders' Emergency Response Program, including contracting officials early on in contingency ops, and creating a contingency contracting corps, which S. 680 proposes to do, and which has passed the Senate.

The Senate has acted through S. 680 in a very effective way to address some of our recommendations, including the contingency contracting corps issue; the need to address cost-plus contracts and get control and oversight on them; and to address the dramatic drop in the acquisition workforce over the last 15 years.

The OMB Office of Federal Procurement Policy has adopted SIGIR's guidance for contingency contracts, and, so, that recommendation is having an effect within the Executive Branch as well, and additional evidence is the Gansler Report, a very effective review of the Department of the Army's contracting challenges, echoing similar problems, ones that this Committee has uncovered in hearings and ones that we have identified in our reporting.

The next phase of our lessons learned effort will be to look at contingency operation management writ large, which was the issue that Senator McCaskill was addressing. The contracting problems, the personnel problems, the program management problems are symptoms of a larger issue, and that is for the U.S. Government to address how it is structured to manage operations, relief and reconstruction operations, in a contingency environment.

And with that, that concludes my brief statement. I look forward to your questions. Thank you, Mr. Chairman.

Senator CARPER. Very fine. Thank you for that statement and for your work. Mr. Solis, you are recognized.

Mr. SOLIS. Thank you.

Senator CARPER. Why don't you proceed?

STATEMENT OF WILLIAM M. SOLIS,[1] DIRECTOR, DEFENSE CAPABILITIES AND MANAGEMENT, ACCOMPANIED BY CAROLE F. COFFEY, ASSISTANT DIRECTOR, DEFENSE CAPABILITIES AND MANAGEMENT TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. SOLIS. Chairman Carper, Senator Collins, and Senator McCaskill, I am pleased to be here today to discuss a number of issues regarding the oversight and management of the contracting with the beginning of military operations in Iraq, the scope, size, and use of contractors has grown exponentially, making the management and oversight of them more complex.

Your continuing oversight of this issue is paramount, not only to improving the management of contractors, but also helps ensure our military members receive high quality contract services in the most economical and efficient manner.

My testimony will focus first on the problems that DOD has faced in managing and overseeing contractor support to deployed forces; and second, the future challenges that DOD will need to address to improve its oversight and management of contractors at deployed locations.

In addition, as you requested, we have developed several actions the Congress may wish to consider requiring DOD to take on.

Since 1997, we have reported on long-standing problems that have hindered DOD's management and oversight of contractors at deployed locations. Examples of these problems include: The failure to follow planning guidance; an inadequate number of contract oversight and management personnel; the lack of visibility over contracts and the number of contractors; failure to systemically collect and distribute lessons learned; and a lack of comprehensive training for contractor oversight personnel and military commanders.

[1] The prepared statement of Mr. Solis appears in the Appendix on page 73.

In addition, we have also reported on the lack of high level attention and leadership within DOD to deal with these problems. Not surprisingly and in some cases where there has been a lack of oversight and training with contractors, there have been both monetary and operational consequences.

To its credit and in response to some of our recommendations, DOD has begun to address some of these long-standing issues by designating a focal point within the OSD to deal with contractor oversight issues, implementing a database to maintain accountability of contractor personnel in Iraq and Afghanistan, issuing in 2005, a comprehensive guidance on contractor support to deployed forces, which is a noteworthy improvement.

However, we found little evidence that DOD and its components were implementing the 2005 guidance or much of the other guidance addressing management and oversight of contractors supporting deployed forces.

Therefore, we believe, the issue is now centered on DOD leadership ensuring that existing guidance is being implemented and complied with.

Based on our past work, several additional challenges will need to be addressed by DOD to improve oversight and management of contractors supporting deployed forces in future operations.

These challenges include a number of broader issues, such as incorporating contractors as part of the total force, determining the proper balance of military, civilians, and contractors in future contingencies and operations, clarifying how DOD will work with other government agencies in future contingencies and operations, and addressing the use and role of contractors in its plan to expand and transform the Army and Marine Corps.

As requested, we have considered some specific legislative remedies for the challenges facing DOD. While we believe DOD bears the primary responsibility for taking actions to address these challenges, there are three actions that the Congress may wish to consider requiring DOD to take in order to improve oversight and management of contractors and ultimately to improve services provided to the war fighter.

These include: Again, determining the appropriate balance of contractors and military personnel as it shapes its forces for the future, including the use and role of contractor support to deployed forces and force structure and readiness reporting; and ensuring that operation plans include specific information on the use and role of contractor support to deployed forces.

In closing, I think it is important to recognize that we are dealing with a very complex and complicated issue. Today, there are as many contractors supporting military forces in Iraq as there are military forces themselves.

These contractors provide a large range of services. Put simply: Contractors are an enormous and essential part of our way our military operates today, and DOD's efforts to address long-standing challenges with its oversight and management of contractors at deployed locations touches fundamental aspects of how the military is organized, how resources and responsibilities are allocated, and how it prepares for and executes the missions in peace time and during combat.

What is needed is an institutional change that accepts the reality of contractors as a vital part of the total force and fundamental change in how DOD thinks about, plans for, and executes its use of contractors to support deployed forces.

As an officer told us in 2006, "contractors are not fire and forget."

This concludes my prepared remarks. I will be happy to answer any question that you may have.

Senator CARPER. Mr. Solis, thank you very much for your testimony, to both of you for your help in past months and also in preparation for this hearing.

Mr. SOLIS. Thank you.

Senator CARPER. Ms. Rasor, you are recognized and please proceed.

STATEMENT OF DINA L. RASOR,[1] DIRECTOR, FOLLOW THE MONEY PROJECT; AND CO-AUTHOR OF "BETRAYING OUR TROOPS: THE DESTRUCTIVE RESULTS OF PRIVATIZING WAR"

Ms. RASOR. OK. Thank you very much for having us today. I wanted to say—I guess we are kind of dating ourselves—but between the two of us we have 50 years of experience of looking at this, so it is very frustrating to see where we are today.

We took time out of our normal work to write this book, because we heard so much from so many soldiers that troubled us. And when we were writing the book, we wanted to write it from the soldier and the contractor employee's point of view. And we spent a lot of time talking to a lot of people.

But one of the things that I learned the most about—in the course of writing this book—is how did this get started? How is it that we suddenly had this giant leap in the amount of contractors compared to the Gulf War and wars before this?

And I am going to be discussing about contractors on the battlefield in hostile areas where they should be, where they should not be, and then I am going to defer to Robert Bauman with all his years of training in oversight, although we both talk about oversight.

When we interviewed General Paul Kern, the head of the Army Materiel Command, for this book, he brought out something that I had not thought of, and it just did not dawn on me. He said, I was told to prepare for this war in a short—I am paraphrasing him here—amount of time for this war. And there was suddenly a troop cap put on us, and it was not just a troop cap on people who pulled the trigger. It was a troop cap on the people who did the logistics.

And, of course, many of you may know that logistics is the weak sister in the sense of getting funding in the Army and the Department of Defense. It is not the glamour career.

And so, he is looking around saying I do not have enough people. What am I going to do?

Well, they pulled out the LOGCAP III contract that KBR had to service troops around the world—Bosnia and other places. And when they pulled it out, it was a $60 million a year contract. It has

[1] The prepared statement of Ms. Rasor and Mr. Bauman appears in the Appendix on page 101.

now accrued, most estimates I have heard, $26 billion. That is contract growth.

So what happened was suddenly because of this troop cap, because of this force, this contract was exploded in ways never thought of before, and I think of Iraq now as the land of unintended consequences. And one of the unintended consequences that I am very concerned about that is where the contractors are and how much do you rely on them and how do the troops rely on them?

This situation was an anomaly. It does not have to be permanent. We do not have to have contractors in hostile zones at this level. I am not against contractors. I am not against the use of contractors. I am for using contractors where it makes sense, where it saves money, and when they have effective oversight.

But there is an Achilles' heel here. The Achilles' heel is you cannot put people—contractors and contractor employees—in vital logistics areas in a hostile zone, where the soldiers have to rely on them getting through for their food, water supplies, ammunition, and everything else.

And there is a reason for that. When you join the Armed Forces, you take an oath. You are under the Uniform Code of Military Justice. And we all know how patriotic our troops are. But the reason that we have the Uniform Code of Military Justice is you give up some of your constitutional rights, and one of them is you cannot just quit and go home. You stay.

And you are expected to stay and fight. If you are an Army truck driver and you think that road is dangerous and you tell your sergeant you do not want to go there—you know in the back of your mind, your goal is—your choices are drive or be brought up on charges.

And the reason is that war is chaos. War is dangerous, and you ask people in war to do things against their own self interest. And that is why we have a military.

When you put a contractor truck driver in that situation—I am not talking about driving in a safe situation—I am talking about driving those long convoys, those thin lines of supply support from base to base in Kuwait—you have got two problems. One, are you asking the contractor to supply food and water to soldiers in outlying areas, which, by the way, the LOGCAP contract requires them to do, but they do not do it.

When you do that, you have two problems. You have a contractor who has a statement of work who may decide I do not want to do some of this or all of it. I do not want to do some of it. Our book is full of that, of them halfway doing it.

And the commander does not have the same kind of control of going up as he would someone under him, relieving him of command for not doing his job and putting in someone else.

The commander has the job going back and forth with our peace time procurement rules; to run back, start a breach of contract proceedings in the United States. And the other part of that is contractor employees can quit at any time. That is their constitutional right, and they have.

One of the examples is when you all remember when one of the first KBR truck convoys blew up and Tommy Hamil got kidnapped,

and he was in a car with the insurgency, with a gun to his head. And that was flashed all over the news. Well, a whole lot of contracting truck drivers quit, and there were a thousand trucks stopped at the Turkish border, and the Army had to scramble to find somebody to drive them.

Senator CARPER. Ms. Rasor, I could listen to you testify, frankly, for a whole lot longer, but finish your thought. And we will——

Ms. RASOR. Yes. OK.

Senator CARPER [continuing]. Turn it over to Mr. Bauman.

Ms. RASOR. All right. So, I wanted to put this into the mix, because this is something people do not think about.

Now, what are we going to do if the Iraqi Parliament decides to pull the immunity for the contractors? How many more will go home and leave us in the lurch? I really would like you to listen to Perry Jefferies on this.

So, I would like to say that my suggestion is you have to pull the contractors back to the safe fortified bases, to Kuwait, to the Green Zone, and figure out the line in the sand that you do not go across so that our soldiers are not stuck when the contractor fails to perform or the contractor employees quit. Their lives are at stake. And I am just appalled that this could happen to our troops.

Now, I am going to turn it over to Mr. Bauman to talk more about the things that——

Senator CARPER. Mr. Bauman, you are welcome. Thank you.

STATEMENT OF ROBERT H. BAUMAN,[1] INVESTIGATOR, FOLLOW THE MONEY PROJECT; AND CO-AUTHOR OF "BETRAYING OUR TROOPS: THE DESTRUCTIVE RESULTS OF PRIVATIZING WAR"

Mr. BAUMAN. Good afternoon, Mr. Chairman, and Members of the Subcommittees.

I am here today with Ms. Rasor to speak about the problem with acquisition management and oversight for contingency contracts in Iraq.

It has been well documented by government agencies that the Army's management and oversight of its contingency contracts for services in Iraq and Afghanistan has been seriously deficient. Our book also discloses on-the-ground accounts of how poor acquisition management and oversight has affected our troops.

Deficient acquisition management and oversight seriously erodes the government's ability to maintain control and accountability of its contracts.

Such deficiencies should not have been a surprise for the Army. As far back as 1994, the GAO and other agencies have disclosed these problems on the part of the Army on contingency contracts.

Despite years of being aware of the problems, the Army has taken no substantive action to resolve their management and oversight problems. There is no telling how many billions of dollars have been wasted as a result.

A startling example of just how dysfunctional and ineffective oversight has been on the ground in Iraq, especially for the

[1] The prepared statement of Ms. Rasor and Mr. Bauman appears in the Appendix on page 101.

LOGCAP contract, was revealed in a 2005 LOGCAP Team Detachment after-action report we obtained from a source who was part of that team.

LOGCAP support personnel, who are also called planners, were assigned to all the primary bases in Iraq between 2004 and 2005 and were required to submit comments and issues regarding their tour of duty.

These submissions were rolled up into the after action report submitted through the LOGCAP chain of command. I request this report be included for the record.[1]

Senator CARPER. Without objection.

Mr. BAUMAN. These planners were there to monitor the contract and provide advice, assistance, and recommendations on LOGCAP issues to the Administrative Contracting Officer, the military, and KBR. Unfortunately, they did not have authority over the contractor or the ACO.

The report disclosed a lack of support by their chain of command and being at the mercy of KBR for life support that was inadequate, untimely, and unresponsive.

ACOs were not trained in LOGCAP and inexperienced in their roles. The LOGCAP program manager acted as a cheerleader for KBR and led the charge in supporting boondoggles for the contractor.

Planners suggested possible conflicts of interest and unethical or criminal activities between DCMA, the LOGCAP program manager, other unnamed government agencies, and KBR in monitoring the contract, including possible collusion.

Although the Gansler Commission Report was correct in recommending the need for more skilled acquisition and contract monitoring personnel, that alone does not address the root problems for defense contracting in general.

Those root problems are the significant weakening of contract laws and regulations over the last 13½ years, under the guise of acquisition reform, and the partnering process between DOD and contractors.

The Federal Acquisition Streaming Act and the Federal Acquisition Reform Act, both enacted in the 1990's, impacted Federal procurement laws and regulations by repealing or superseding various aspects of the statutory basis for government contracting such as weakening the use of the cost accounting standards, the backbone of controlling contractor costs.

The partnering process in DOD contracting is a concept that has been a disaster for government agencies and the taxpayer. Based on a mutual commitment between government and industry to work cooperatively as a team, it accepts the concept of mutual common interests among the parties to further the interests of the contract. But it does not consider where those interests might be different, especially when it comes to pricing of contracts, technical issues, or differences in manpower, skill, and experience.

[1] The report entitled "Logistics Civil Augmentation Program (LOGCAP) LOGCAP Support Unit (LSU) Det. Y8—Iraq, After Action Report & Lessons Learned, Operation Iraqi Freedom," submitted by Mr. Bauman appears in the Appendix on page 176.

Large contractors in particular have far more acquisition resources, skill, and experience than DOD, and, therefore, dominate the acquisition process under this process.

With partnering, a large contractor can insinuate itself into the acquisition process and dominate or influence acquisition management and oversight to its benefit.

It seems the Army has decided the best way to remedy its deficiencies in acquisition management and oversight is to outsource these functions, such as what has been happening for the new LOGCAP IV contract. Contractors managing contractors compromises the government's control of the process and creates a conflict of objectives between contractors in the DOD.

It also questions the support contractor's relationships and motive with the contractors it will oversee and evaluate.

But who is going to watch the watchers? Certainly, not the Army. They do not have the resources to do that. Acquisition and oversight should be considered an inherently governmental function to maintain the government's authority over contingency contracting and to have a contractor manage other contractors is tantamount to having a fox guarding the hen house.

We recommend that the Congress incorporate remedies strongly recommended by GAO, SIGIR, and the Gansler Commission to grow the oversight acquisition personnel who have been trained and are skilled in this type of contracting.

At the same time, FASA, FARA, and SARA laws should be repealed or modified, as they effect government contracting to include strengthening CAS to provide acquisition and oversight personnel with the tools to control costs.

We also recommend eliminating the partnering process. There needs to be a clear acquisition authority over the contractor and over the process.

Acquisition management and oversight should be an inherently government function. Therefore, Congress should enact a law restricting or eliminating the privatization of this process.

I look forward to your questions.

Senator CARPER. I am sure you will have some. Thank you so much, Mr. Bauman, for being here and for your help today.

Mr. Jefferies, again, we are grateful for your service. We are grateful that you are here. And you are recognized for 5 minutes or so. Take a little more if you need it, but try to stick to that if you can. Thank you.

STATEMENT OF PERRY JEFFERIES,[1] FIRST SERGEANT, U.S. ARMY (RET.), IRAQ AND AFGHANISTAN VETERANS OF AMERICA

Mr. JEFFERIES. Thank you, sir. Good afternoon, Chairman Carper, Ranking Member Collins, and Senator McCaskill.

I am here to speak about the effects of contingency contracting on the battlefield as I encountered them in my role as a Calvary First Sergeant in Iraq. This is a short version of my full statement, and you have got the rest of it for the record.

[1] The prepared statement of Mr. Jefferies appears in the Appendix on page 114.

Senator CARPER. Your full statement will be made a part of the record.

Mr. JEFFERIES. I encountered these effects as the First Sergeant for Headquarters Troop, 1 Squadron, 10 U.S. Cavalry where I was assigned since June 2000 until I retired in 2004.

I served in that role while I was in Iraq from April through October 2003. My troops' role was to staff, supply, treat, arm, and support Force Package I, the lead element of the 4 Infantry Division during Operation Iraqi Freedom I.

We were tasked organized with a field artillery battalion and elements of a support battalion, specifically the Forward Logistics Element that we called the FLE.

Just to try to give you an idea of how big this element was, my troop or my squadron on its own normally had about 800 people. In Iraq, we moved with about 2,000 people, a fairly self-sufficient task force.

I retired from the Army in 2004 and I am testifying today as a private citizen.

But Chief of Staff General Peter Schoomaker wants retirees to wear this new Army Retired lapel pin and think while you are doing it: "I was a soldier, I am a soldier, and I always will be a soldier." My director asked me what made me an expert to come here and testify today, and I told him because I lived it, and I am still a soldier.

Soldiers are expected to maintain the Professional Army Ethic, and that means to speak out with the value of candor when it is needed. And I think there are some important issues, and I think that my soldiers were affected by the way these contracts worked while we were in Iraq and that needs to be said.

I would like to point out that I work as a contractor at Fort Hood, and I understand that some services can be delivered by contractors in an efficient and responsible manner, and I try to do that every day. And that frees soldiers to train for war and to do those other important tasks instead of some of the miscellany that they might get caught up in otherwise.

But what I refer here to are some large-scale support tasks doctrinally provided by combat support or combat service support units that were supposed to be provided to our unit in Iraq by civilian companies.

While I was in Iraq, the task force that I was part of moved independently from our higher headquarters and support units. That made us rely on contractors in various locations to provide bulk supplies and services to us. When these contractors failed to provide or to deliver, their failure impacted my soldiers in a negative way. And I will discuss two issues now. There are others in my longer statement and some examples. To paraphrase one of my former commanders, whom I discussed my appearance with here today, he said we had just enough stuff to kick in the door, but we could not stay in the room for very long without help. And I think that should be changed.

We were affected when water, food, and repair parts were not delivered to my unit in a timely manner. There were many weeks in Iraq when my entire unit survived on what we called two and

two's—two bottles of water and two MREs, or packaged meals ready-to-eat a day.

It is infuriating to know now that the water from our unit was sitting inside storage containers inside Iraq, but never moved forward. By Army supply doctrine, our higher headquarters was supposed to push these supplies to us—in other words, deliver what we needed. But, since the Army was relying on the LOGCAP contract to provide these supplies, other missions were assigned to our support, transportation, and logistics personnel that were supposed to get that done. So even though those supplies were paid for and designated for our use, they did not make that final mile, and they were never handed off to my unit or the element that supported them.

When we departed from Kuwait to attack into Iraq, we carried with us all the food, water, and other supplies we could put our hands on. We literally covered our tracked vehicles with bottles of water and food.

Thankfully, we were organized with the Forward Logistics Element from the 404th Forward Support Battalion, so we had a little bit of extra capability, and we were near to self-sufficient for a few days. But even with all those plans and all of our soldiers' hard extra work to make them work, we felt our first supply shortages as soon as we crossed the gate into Iraq and saw Iraqi children standing by the side of the road. They held leaflets that the U.S. forces had dropped before them promising them food, water, and medicine. And they were literally begging for food and water, and we did not have any to give them.

This system was troubled, too, by the absence of the normal supply runs. We were not able to evacuate our prisoners or broken equipment to rear areas as we had trained to do because since there were no trucks coming forward, there was no back haul capability to take it back.

We moved through Iraq from Kuwait to Baghdad to Tikrit and then finally out to the eastern border, near Iran. As the main hostilities settled down so did we; first, in some positions in the desert that we called the dust bowl, and later we moved to the Kirkush Military Training Barracks—named Camp Caldwell after a young soldier who died there the first night we arrived.

While we were at the dust bowl, water ran so short that even our scouts who stood on the checkpoints in the 120-degree sun were restricted to one or two one-liter bottles of water per day.

When a laundry unit finally reported to us, I was forced to commandeer the water and use it to supply my soldiers. And then I put all their soldiers on guard duty. All this happened while supplies designated for my unit and supposedly delivered by KBR sat elsewhere in Iraq and went undelivered.

Our soldiers had to add the mission of re-supply to their other activities just to ensure our survival. For example, the logistics officer from our Forward Support Element organized convoys to go to Baghdad and other places looking for supplies. In one case, they drove all the way back to Kuwait City to get hydraulic oil that we needed for our tanks. These were soldiers whose time was already accounted for since KBR was supposed to be providing these deliveries.

We felt other effects when contractors and subcontractors not only did not provide the required deliverables to the government, and my unit had to provide these or accomplish the task that these companies had been contracted to do.

In late July, the trainers for the new Iraqi Army reported to our forward operating base at Camp Caldwell. Instead of relieving us from non-mission-essential tasks, they added to them.

We had to provide food and water to the contractors. There was pressure on us to provide hot meals to these contractors even when we could not deliver them to all of our soldiers.

Once again, we had to restrict the amounts of water provided to American soldiers to two bottles a day so that we could provide the new Iraqi Army trainees four bottles of water a day. We had to cover gaps in their contractor security and training. Meanwhile, our other military missions continued, and, in some cases, multiplied because of while we were out.

One day at Camp Caldwell, I spent a day escorting a contract officer from General Sanchez's office and several KBR contractors around while they discussed services they were supposed to provide to us. That was the first time I heard the words "statement of work."

While I was in Iraq, these people never followed through on work we discussed or other support that I only found out about once I had returned to the United States.

Part of the problem with contingency contracts is that there is only a very remote connection between the people managing the contract and those receiving the service. Contract oversight personnels are assigned to the higher levels of leadership, not generally to the tactical levels supposed to receive these services.

We were certainly not set up to monitor the terms and conditions of most contracts and receive services or had no idea of the scope of work, the conditions, or terms, we were responsible for, and we did not have a 1–800 contact number that we could call and find out about the contracting.

I understand that the Army is creating a new type of contracting non-commissioned officer to help monitor contracts, but they are not deployed where the rubber meets the road, at least not yet.

Worse, to me, it seems like a self-defeating proposition. If we have to add all these additional structures for oversight to the contracts in the front of the battlefield, then why don't we just let those people execute the mission to start with?

Just have them do the job the contractor is doing. The best way to prepare for tactical logistics, I feel, is to allow commanders to plan them and execute them with their own proper resources.

There were a lot of other issues while I was in Iraq, but a lot of people worked very hard and eventually to good effect to correct a lot of the problems. But that in itself is a problem.

During the invasion, during the crucial tactical phase, when units are contending for battle space and fighting for position, that is a bad time to be figuring it out. That needs to be done ahead of time, and then trained to as near perfection as possible, because plans will go wrong when they are executed. They are going to go wrong. That is the nature of war. But if you have a good plan at least you have got a good basis for change.

Hoping that your beans, bullets, and Band-Aids show up magically on time and in the right place, that is no kind of a plan. It is only a recipe for disaster. The best way to prepare for tactical logistics is to allow commanders to plan them.

In my opinion, the Department of Defense should reduce its dependence on contractors and rebuild a self-sustaining logistics capability into its units. It should never again find itself in a position where it can only accomplish the mission with the permission of a civilian company unless the Administration is prepared to immediately nationalize these companies in time of war.

And what I am talking about is delivery—trucks, security, the people to move supplies, all this must be under military control from the combatant commander on down at least until security is established and the kinetic part of the fight has ended.

Thank you for the opportunity to appear before you, and I would be pleased to answer any questions you have.

Senator CARPER. Mr. Jefferies, thank you very much for your excellent testimony. It went on little bit, but that was worth waiting for.

The point that you make and your testimony, Mr. Jefferies is we sometimes focus understandably on the amount of money that is wasted, or the amount of money, tax dollars that are used ineffectively or inappropriately.

We do not always focus on the consequences for the war fighter.

Mr. JEFFERIES. Yes, sir.

Senator CARPER. And what you have done is to just give us very graphically what the consequences are for the people that are out there fighting. Their lives are on the line, and trying to do their job, and how they need better support than in too many cases they have gotten in the last 4 years.

Mr. JEFFERIES. Hooah.

Senator CARPER. For those of you who do not know, that is an Army term, "hooah." We do not have those in the Navy, but maybe we should. It is a good one.

I sort of thought about this question as you all testified, I was born 2 years after World War II ended. I do not remember much about the Korean War except from my uncle, who has told me about it who served over there as a Marine. My dad, along with my uncle, served in World War II, so I know something of that.

And I served in the Vietnam War myself, and was involved as the Governor and Commander-in-Chief of our National Guard in Delaware, and was in Congress during the Persian Gulf War, so I have some idea what was going on in those wars.

I do not ever recall in the war that I served in or that my uncles and my father served in, where we had this kind of reliance on contractors. I just do not remember anything like this. I know we had some reliance in the Vietnam War, but nothing of this magnitude.

How did this happen? My recollection is that our Secretary of Defense, Secretary Rumsfeld, wanted us to sort of redesign our defense and to have a smaller force, and I suppose a smaller uniformed force, and maybe the flip-side of that is by having a smaller uniformed force, we end up with a larger civilian force and private sector force that we use as contractors.

Now, maybe that is the genesis of this. But how did we go down this road in the first place? What started us down there? Anyone?

Ms. RASOR. Well, I felt really compelled to tell Perry Jefferies' story in my book, because, I, like I said it never dawned on me that troop cap meant logistics. And it also never dawned on me that they would actually believe that you could rely on contractors not to leave.

And so, I think that is the start of it, but I think it was sort of the perfect storm. There was a lack of oversight already. There was already a problem. There was a rush to go to war. And this set up a situation where the troops and troop set all the way up—amazing, and one of our people we talk about in the book is now at West Point, and a brilliant captain. They just did not know what the logistics situation was because it got changed. It got changed while they were on the way to the war. And I think that people are kind of lost on that—because people say well, now contractors are there, and we rely on them, but we cannot change it.

No, this was an unusual circumstance. And so, I am really hoping that the Army and the Congress look at this and say we do not have to do this again.

Senator CARPER. All right. Mr. Solis and then Mr. Bowen?

Mr. SOLIS. Yes, I was going to say part of it has to start with if you go back to the early 1990's, when after the first Gulf War, we downsized the forces.

I think also, which is maybe a beginning of a more recent phenomenon and General Casey even talked about it yesterday, is that one of the core missions that the Army is going to take on now is stability operations. And so, the missions are changing. And not only are we using more folks like in the logistics area, we have linguists in Iraq. We have interrogators that we are now using as contractors or intel analysts. So, we are expanding——

Senator CARPER. We even have sociologists and——

Mr. SOLIS. That's right.

Senator CARPER [continuing]. And anthropologists——

Mr. SOLIS. That's correct.

Senator CARPER [continuing]. Who, I am told, are doing pretty good work for you.

Mr. SOLIS. Right. I mean, in addition, private security contractors. A number of different fields are being used. But I think part of the genesis is the downsizing of the force, the increase in different types of missions.

So, I think there is—and part of that, also, I would mention that there is a requirement. There is a lot of requirements on the books for guidance in terms of preparing for the types of missions you are going to have into the future for the military, what are going to be your needs, not only for the military and civilians, but for contractors.

And so, there is a lot on the books already. So, this necessarily should not be a surprise that we have these problems because there has been planning and there is planning guidance on the books already.

Senator CARPER. All right. Mr. Bowen, please.

Mr. BOWEN. A policy decision was made in the Department of Defense in 1991 to outsource primary logistical support for the

Army and for military members in contingency operations. That resulted in the issuance of the first LOGCAP contract. It was a multi-year contract. It went to Kellogg, Brown, and Root. They retained it; it was annually renewed until 1995 or 1996, when it was recompeted and awarded to DynCorp.

DynCorp held that contract for five more years. It was recompeted again in 2000, and Kellogg, Brown, and Root earned that contract. And it was recompeted last year, and it was divided up for the first time among three different contractors—Fluor; Kellogg, Brown, and Root; and a third one. It has been challenged, so it is still—the issuance is still pending.

The point being is the outsourcing of providing food, fuel, and billeting, or shelter, to troops in the field through contractors was made in the late 1980s, early 1990s—that was a policy decision. It resulted in the LOGCAP series of contracts, and it was a philosophical reflection, I think, of the trend towards outsourcing of many previously governmental functions within the U.S. Government as they evolved and also, perhaps, was part of the peace dividend process as well.

Senator CARPER. All right. Thank you.

Ms. COFFEY. Senator, if I may?

Senator CARPER. Please.

Ms. COFFEY. Some of these decisions are actually the result of unintended consequences. For example, when an acquisition person decides not to buy the technical data package for a weapons system, then they have to depend on contractors to support that weapons system because they do not own the technical data.

Decisions that have been made to buy a limited number of aircraft or some kind of weapons system and then does not—is no longer economically feasible for the Department to train people to fix these weapon systems, then makes us rely on contractors.

So, it is not—no one made a decision to bring 120,000 contractors into Iraq. Many, many people make a decision to bring one or two based on decisions that have been made maybe 20 or 25 years ago.

Senator CARPER. All right. That was a helpful insight. Thank you.

My time has expired. I am going to yield to our co-chair here, Senator Akaka, and, if you would, Mr. Chairman, I ask each of us to keep ourselves to about 7 minutes. And then we will have time for a second round, maybe a little shorter second round. Mr. Chairman, thanks very much again.

Senator AKAKA. Thank you very much, Mr. Chairman. Mr. Bowen, you recommend that any civilian agency contracting in a contingency environment should conduct Gansler-type studies of their contracting practices.

Mr. BOWEN. That's right.

Senator AKAKA. This is a useful proposal, I feel. However, it seems that there are several cross-cutting issues affecting all agencies with contracts in Iraq that can be identified now.

What are the most pressing contracting problems that you have identified that agencies should address in the short term?

Mr. BOWEN. First, with respect to contingency operations, tracking the number of contracts and contracting actions going on in theater through a single database is essential.

Second, developing a single point, a one-stop shop, if you will, where theater contingency contracting is carried out would help achieve better insight and oversight to what contracting actions are going on.

Third, ensuring that there is an effective continuity or process for continuity of contracting officers in theater. One thing that we have uncovered over and over again in Iraq is that a contract sometimes will not have a contracting officer on it, while the previous one has departed, and the next one is waiting to arrive.

The Joint Contracting Command-Iraq, with respect to DOD contracts, has done a good job addressing that problem we identified early on, but it, nevertheless, continues to be an issue.

And finally, we recommended in our contracting lessons learned, our first recommendation, was the development of a contingency Federal Acquisition Regulation—in other words, one set of regulations that all contractors will know are the rules of the game in contingency environments for contracting. That is not the case today.

Senator CARPER. Chairman Akaka, can I interrupt for just a moment? We are in a situation where Senator McCaskill needs to go preside at four o'clock. And Senator Collins is required to be at another hearing of equal importance, and what I would like to do, if it is all right, is just maybe to yield to Senator McCaskill for, say, 5 minutes, and then she could slip off to preside and then back to you. Is that all right?

Senator MCCASKILL. I think that you should yield to Senator Collins for 5 minutes and then back to me, because then I would have time for 5 minutes to get there.

Senator COLLINS. Thank you.

Senator CARPER. All right. Fair enough. Senator Collins.

Senator MCCASKILL. Because you were here before I was, and, besides that, you are more senior. See I am figuring it out.

Senator COLLINS. You are a quick study. Thank you very much.

Senator CARPER. Thanks for helping us work this out.

Senator MCCASKILL. And thank you very much, Senator Akaka.

Senator COLLINS. Yes, first, let me thank you both. I have a classified briefing from the Intelligence Officer that I am 15 minutes late for already, so I very much appreciate that.

I wanted to follow up on the issue that Chairman Carper raised, because it really is a central issue, and that is when is it appropriate to use contractors and when is it not?

And that is not an easy issue to resolve. I was struck, however, Mr. Solis, by your written statement, which pointed out that in Desert Storm, the Department of Defense used some 9,200 contract employees, but in the current war, the Department is now using 129,000 contract employees.

We have heard eloquent testimony from Sergeant Jefferies of an appalling situation in which rather than the contractor taking care of the soldiers, the soldiers were taking care of the contractors.

We heard Mr. Bauman refer to contractors overseeing other contractors. That was a real problem with the Coast Guard Deepwater contract.

So, I would ask you, Mr. Solis, when is it appropriate, what criteria would you suggest that the Pentagon should be using to de-

termine when a function should be contracted out and when it should not be. And specifically, in a war zone should logistics be contracted out?

Mr. SOLIS. One of the things I am suggesting that the Department needs to go back and look at exactly what are going to be the requirements for operations into the future? What is the mix of people that they are going to need based on those requirements? What is the risk of having military—civilians and/or contractors do those particular functions?

I will say that, notwithstanding all the problems that we have talked about with LOGCAP, in our conversations, too, with military members, when there has been proper oversight, proper planning, the contract has worked.

So, I am not necessarily opposed to necessarily using contractors in a hostile zone. I think even if, if you recall recently, there were five contractors that were killed in the Green Zone. So, I do not know that there is any particular safe place.

But again, I think the Department needs to go back, figure out what its core requirements are, then who's going to fulfill those requirements? Who's the best at doing it and what are the risks? And that is not going to be easy, but I think there needs to be some sort of, as we suggest, a QDR type review, a Goldwater-Nichols Review of exactly what are my requirements, who needs to do it, and how is it going to get done.

Senator COLLINS. Mr. Inspector General, in order to have accountability, you have to have clear lines of responsibility. In order to do what Senator McCaskill correctly suggests should be done about holding individuals accountable, it has to be clear who is responsible.

One of your major recommendations—or one of your major findings—has been that there is no single agency in charge of post-conflict situations. You have the Department of Defense prior to the war. You have the Department of Defense in the midst of the war. Right now, you have State, Justice, AID, Department of Defense, and you have done audits that show that they do not necessarily work well together.

How important is it for us to tackle the issue of making sure that there is a single point of responsibility after the—in the post-conflict situation, though I would argue we are still in a conflict situation, too.

Mr. BOWEN. I would say that you have identified the most important area for a forum in addressing the structural challenges of managing post-conflict contingency operations.

In Iraq, as a practical matter, in fact, there have been three different agencies that have effectively been in charge of the relief and reconstruction process. Iraq Relief and Reconstruction Fund I was allocated primarily to the U.S. Agency for International Development because that was all that was deemed at the time necessary to invest in Iraq.

That quickly changed in the course of 2003 when the Department of Defense effectively took over most of the contracting, the $13 billion of IRRF II.

And then in 2004, the Department of State took over. So, simply, the experience of Iraq exposes, I think, the challenge of identifying

who's in charge. And, thus, our lessons learned program, which will produce its next report later this year, focuses on exactly this issue and will make some recommendations to Congress for reform.

Senator COLLINS. Thank you. And thank you, Mr. Chairman. And I thank my colleagues.

Senator CARPER. You bet. Thank you so much for coming, and again thank you for your leadership on these issues.

Senator McCaskill, thank you.

Senator MCCASKILL. Thank you, and I really appreciate Senator Akaka giving me just a couple of minutes before I go preside.

As you can imagine, this is really painful for me that I only have 5 minutes, and I am like a kid in a candy store right now. I do not know where to start.

Let me ask you this, Inspector General, are you aware of anyone who has been fired or demoted because of their failure to oversee a contract appropriately in Iraq?

Mr. BOWEN. Off the top of my head, no. I would have to get to back to you with information. We may have that in our files, but I cannot name one now.

Senator MCCASKILL. Can anyone on the panel name anyone who has been fired or demoted because of problems with the way they oversaw contracts in Iraq?

Mr. JEFFERIES. Ma'am, I cannot name them, but they put a major from the Reserves from Texas in jail for it. They have had a couple go to jail.

Senator MCCASKILL. And I am not talking about somebody who we caught stealing.

Mr. JEFFERIES. Right.

Senator MCCASKILL. We had active military, a number of active military, that have been caught stealing, and obviously this was mostly Army contracting oversight that failed. And we know that our weapons, frankly, probably have been used against us, because we failed to even do the basics of marking a weapon and inventorying a weapon when we brought it into the country of even keeping track of where the weapons were, and obviously we know. I have seen the myriad arrows and charts with all the problems in terms of fraud.

I am talking about just not thinking it is important whether or not something cost a dollar or $10,000, the kind of failure to oversee. Anybody that anybody knows has ever been fired or demoted for that?

Ms. RASOR. I have an example of an opposite situation. One of the main characters in our book, Major Rick Lambert, was a LOGCAP planner and then when he went to the LOGCAP contracting office, he said you have no idea what is going on in Iraq. This is ridiculous. The troops are not getting what they need. There is a lot of waste in time. And he was told by his senior—the senior authorities—I will not tell you because it is too identifying—but one of them said I want to get my next star. Keep your mouth shut. And Major Lambert has been retaliated against.

So, unfortunately, he was very disillusioned because he thought, surely, if I go and tell the top-level people in this office——

Senator MCCASKILL. Something will happen.

Ms. RASOR [continuing]. Something will happen. So, we have not run into anyone. Quite frankly, I have to tell you, Senator, having done this for 25 years, I have rarely seen anyone fired in 25 years for doing a lot of this kind of stuff.

Senator MCCASKILL. Let me ask you also, Inspector General, I was really concerned when I read the Center for Public Integrity's recent report about the $20 billion in contracts that have gone to foreign companies that we do not know who they are; that it is impossible to determine who these companies are. They are just listed as foreign companies.

Are you aware of unidentified foreign entities that are actually contractors in Iraq that we do not have the documentation or the available documentation as to who these companies actually are?

Mr. BOWEN. Not within my jurisdiction. I have not uncovered that, but we will look into it.

Senator MCCASKILL. Well, that is obviously a concern——

Mr. BOWEN. Yes.

Senator MCCASKILL [continuing]. That we would have. In fact, their key finding from their analysis at the Center for Public Integrity is that the number one contractor from 2004 to 2006 is, in fact, unidentified foreign entities. They actually are at $20 billion, and KBR is at $16 billion.

Mr. BOWEN. Are these DOD funds?

Senator MCCASKILL. I am assuming they are DOD funds. Then on top of that, if you look at that, along with the foreign contractors that are identified, 45 percent of all the funds obligated in the top 100 contractors in Iraq from 2004 to 2006, in fact, are foreign companies.

Mr. BOWEN. That is not true with respect to the Iraq Relief and Reconstruction Fund——

Senator MCCASKILL. Correct.

Mr. BOWEN [continuing]. Or the Iraq Security Forces Fund. There has been over the last 2 years an Iraqi First Program that the embassy and the Joint Contracting Command in Iraq have pushed aggressively forward and, so, about 60 to 70 percent of the contracting actions done now are done with Iraqi firms. And that also applies to the Commanders' Emergency Response Program.

Senator MCCASKILL. And I think that is good. That is strategic. I am worried. I mean, some of the ones they identified a large contractor was Turkey and other countries, and I just—it goes back to the point that Ms. Rasor was making is if we are going to contract with foreign entities, they—if they are going to be in the hostile zone and they are going to be in a situation where they need to be focused on protecting the men and women who are there for us, even if they are getting less water than the Iraqi folks are getting, we need to make sure we know who they are, and we need to make sure we know what kind of oversight they have of the men and women that are working in the conflict, particularly in an area of the world where sometimes it is difficult to figure out who is on our side and who is not.

I would love your follow up on that problem of foreign contractors and our ability to oversee them.

Mr. BOWEN. We will get back to you on it.

Senator MCCASKILL. Hopefully, you guys will still be going when I finish presiding. If you are not, you know we will begin hopefully working with the contracting commission next year, and I look forward to seeing all of you there. Thank you.

Mr. BOWEN. Thank you.

Senator CARPER. Senator McCaskill, thank you. We will be here for a while, I assure you. Thank you for your good work on these fronts. Senator Akaka, thank you for your willingness to yield. We appreciate that very much.

Senator AKAKA. Thank you very much, Mr. Chairman.

Mr. Solis, you testified about the extraordinary growth in contract employees serving the Armed Services, and stated that DOD does not have an adequate number of contract oversight and management personnel.

In particular, your written testimony provides staggering statistics that Army contracting personnel experienced a 600 percent increase in their workload and are performing more complex tasks, while the Army, civilian, and military contracting workforce has remained stagnant or declined.

What can be done in both the short term and long term to address this shortage of contracting personnel? Is DOD taking any positive steps in this regard?

Mr. SOLIS. Well, I believe they are taking some steps for the short term.

But nonetheless, again I keep jumping back to what is going to be needed for the future, and I think, as you think about growing the force, as you think about your requirements for the future, how many of those, for example, the 70,000 in terms of growing the Army and the Marine Corps I believe, how much of that is going to be devoted to this kind of activity in terms of contract oversight?

I think there needs to be a look at those kinds of things before the Department moves along to make sure that if we are going to continue to contract at the level that we are at, that there is some insurance that there is adequate contractor oversight personnel to do the kinds of things that we are doing either like Iraq or for future stability operations.

Senator AKAKA. Has the GAO looked at how many acquisition specialists the Federal Government has compared to their counterparts at the contracting firms, such as KBR?

Mr. SOLIS. I do not think we have. I know we have reported on many problems with the acquisition workforce in general and some of the things that you alluded to—the number of people who are eligible to retire. But I do not know that we have looked specifically at that issue.

Senator AKAKA. Mr. Bowen, your office's October 2007 quarterly report states that, to date, your office's cases have resulted in 13 arrests and five convictions.

Could you provide any update to those numbers and tell us how many cases your office has referred for prosecution and how you make that determination?

Mr. BOWEN. Yes, sir. We have 52 open cases; 36 are at the Department of Justice for prosecutorial management and review; 14 persons have been arrested; 14 indicted; 5 convicted; 5 in prisons;

and we've recovered over $17 million in forfeiture or simple direct recovery of stolen funds.

The process for deciding how a case gets prosecuted is carried out through a joint effort between the Department of Justice attorneys and my investigators, as well as several task forces, of which SIGIR is a part.

Senator AKAKA. Have these cases come about because of complaints or reports?

Mr. BOWEN. Yes, they have. The largest case we have uncovered to date involved a corruption scheme in Hillah, South Central Baghdad, resulting in the imprisonment of four individuals. Five more are going to trial in March.

That case arose from a whistleblower. And, of note, the National Defense Authorization Act strengthened protections for whistleblowers who report to SIGIR.

Senator AKAKA. Yes. Thank you very much, Mr. Chairman.

Senator CARPER. You bet. Thank you, my friend.

GAO and SIGIR have made several suggestions for congressional action. If you can think out of all those suggestions that have been made, what are one or two of the most important actions that Congress should take to ensure that the problems experienced in Iraq are not experienced in the future?

Mr. SOLIS. Again, I would come back. I think there needs to be some kind of Goldwater-Nichols, some sort of QDR Review, within DOD that need to be done. But I think the Congress needs to get a report back on where the Department stands in terms of that particular action.

Until they decide what the core requirements for its future missions are and who is going to do that, I think that is the kind of thing that needs to be done and what is the role of the contractor not only for combat zones, but it can be a wide sweeping contractor look not only again for deployed locations, but also for maintenance and weapon systems and things of that nature.

Senator CARPER. All right. Ms. Coffey.

Ms. COFFEY. I would just add that I believe and GAO continues to believe that all of the recommendations that we have made in the past continue to be valid and should be implemented as soon as possible.

Senator CARPER. Which one or two would you say are the most important?

Ms. COFFEY. Well, in several reports, we have made recommendations that the Department establish teams of experts to go in and review the services of contracts like LOGCAP because the need for service and the appropriate level of service can change. So, periodically, experts should go in and determine whether the service is the right amount at the right time.

We have found that when the government looks for savings, the government finds savings. And in several of our reports, we have noted that even small little changes can result in big savings.

For example, the Marines, when they took over the activity in Djibouti, changed from commercial laundry detergent to laundry detergent that is available in the military supply system, and was able to save a considerable amount of money.

So those kind of little things can add up, and that kind of process should take place regularly.

Senator CARPER. Good. Mr. Bauman.

Mr. BAUMAN. One of the GAO recommendations I thought was very noteworthy going all the way back to about 1996 in the Balkans, but it certainly is appropriate today because it has not been acted on and that is determining level of service. When we deal with the labor issues, a lot of labor costs are going to be probably the overwhelming largest costs of the contract.

Back in Bosnia, there was a real concern about the fact that the LOGCAP acquisition people did not have a handle at all on what the level of service should be, and relied on KBR—relied on their estimates and their level of service that they recommended. And they went with that without really determining on their own whether it was appropriate or not.

And now, we see in Iraq that this issue has been raised time and time again, because we have received many reports about the fact that there are a lot of workers over there, especially on the bases, who only work a few hours a day, but charge 12 hours a day. And it goes on 7 days a week.

We had on a radio show, a truck—former KBR truck driver that called in and said yes, he made an awful lot of money, $100,000 or whatever it was. It was great money. All I had to do is to work 3 hours. Then I just worked 3 days and sat around for 4 days, but still had to charge 12 hours a day, 7 days a week. And that would seem to be the routine.

So, this is an issue that I think is very important for someone to pick up, whether it is—it could be DCAA. It could be the Army Audit Agency. It could be GAO. It could be anybody or even SIGIR, but it is an issue that I think cries out for a real hard look, because of the costs that are spiraling out of control. And I would put labor costs into that category.

Senator CARPER. All right. Thank you. Ms. Rasor.

Ms. RASOR. I have been looking at this in the last 25 years, and you certainly understand having to deal with this, it seems like every new weapon system is exponentially more expensive than the last until finally we only have one plane for all three services.

This war is starting the same thing. The way you game a system on a cost-plus, cost-reimbursement contract is not the little margin of profit you are going to get calculated. You make sure, especially when there is no auditors, investigators around, you run up your charges—and labor charges are one of them. You run up your costs to the max as much as you can, as fast as you can. That increases your overhead rate. Then the next time, when you are ready for the next statement of work, that becomes the baseline. And that baseline and then you say OK, now, we are going to do this, and we are going to do a little more. And then you run that one up. And then that becomes the new baseline. And then you run that one up.

And so, what happens is this new normal. This has happened now in Iraq, and now we have this incredibly unscrubbed, loaded, historical cost of what it costs to use contractors and fight a war using contractors in the battlefield or outside the battlefield.

What I think needs to be done is all these contract costs need to be scrubbed back down to reality, and looked at and scrubbed—

labor costs, overhead costs, and everything else. That is how you game the system. You get well on the next contract. It is called contract nourishment. It is old as the hills.

But in this situation, it is worse because there were very few governors on it.

So, if we accept these historic costs as what it is going to cost to go to war, we will not be able to afford to go to war with contractors no matter how much money you pour in.

Now, it took weapon systems many generations of weapon systems of fraud and fat to get to where we are now. This new industry, the war service industry, has already run their historic costs up to astronomical numbers, and that has to be scaled back.

Senator CARPER. Thank you. Senator Akaka, any other questions of this panel? Please proceed.

Senator AKAKA. Thank you very much, Mr. Chairman.

Mr. Solis, one issue that Ms. Rasor and Mr. Bauman have raised in their book is that the media, and, therefore the public, generally sees conditions at large bases in Iraq, where top military officials are often stationed. They went on to observe that at these bases contractors took very good care of our troops, while at more remote bases, soldiers had to use duct tape and take care of their boots in that way, and drink shower water because there was no clean drinking water available.

So, based on your work in military operations in hostile zones, have you observed similar differences in conditions at large bases compared to remote bases?

Mr. SOLIS. Yes. Let me go back to, I think, as I have testified before you, too, there have been longstanding problems with DOD's and the Services' supply chains.

I would offer, though, that I think the further you go out to a forward operating base—not that they should not get a certain level of supply and service—the more difficult it does become in a hostile zone. But nonetheless, there have been problems with the distribution and management and movement of supplies within the theater.

Ms. COFFEY. Well, and recently, we have been speaking to units who have recently returned from Iraq within 30 days of their return, and we have spoken to them about these kinds of situations. And I will say that generally at this point, military members we speak to are very happy and generally very appreciative of the services they have received, and they generally, or at this point in time, seem to be happy with what they are getting.

Ms. RASOR. Can I make a point on this? These are the statements of work for KBR, of where they are supposed to deliver food, supplies, and water. Now, this is true this is earlier in the war and maybe it is better now, although I just heard a story today that shows the opposite.

In the first statement of work, they were supposed to go 100 kilometers around main bases. Perry was within that 100 kilometers. It did not happen. And the second statement of work has to do with different supplies. KBR was supposed to go 250 to 400 kilometers among that bases.

And I know that people come back and say well, it is getting better. It is getting better. We are 5 years into this war. And the fact

is that KBR refused when it got hostile to go out there, and do that perimeter run.

And so, it was in their statement of work to do it, to get the water to Perry, get the food and water to him and others. But they just did not—would not do it. They would tell the commander and the LOGCAP planner we are not doing it. They even went so far and what we illustrate in our book at one point saying we are not going to have our guys come out of our trailers and feed the troops at this base because you have not paid the bills, which, by the way, was legal for them to do.

The bottom line is that you—when these outlying areas, when it gets dicey and they do not go, the troops do not get the food. But it was in their statement of work that they were supposed to do this. And they just chose not to do it.

Ms. COFFEY. Senator, if I could add one more thing?

Senator AKAKA. Ms. Coffey.

Ms. COFFEY. When we looked at the use—the activities in Bosnia, we found that the U.S. Army in Europe had developed very strict standards for what each base should have. And that was a lesson learned that was not necessarily taken forward to Iraq. And so, the size of the housing, the number of facilities, the size of the gym, that was all laid out, and that is what each base commander had to have depending on the personnel at his base.

And so it made making these decisions much easier, and it also was an opportunity to sort of use those standards to limit contract growth, because these were the standards everyone had agreed to. This is an important lesson learned, as I say, that was not taken forward.

Senator AKAKA. Ms. Rasor, you noted that the Military Extraterritorial Jurisdiction Act can be used to prosecute crimes committed by contractors.

I have been distressed by media accounts that contract employees in Iraq may have committed serious offenses, including rape, without punishment. Do you know of any case of MEJA being used to prosecute any contract employee for wrongdoing committed in Iraq or Afghanistan?

Ms. RASOR. Well, since I am not a legal expert on this, I would defer to Scott Horton, whom we spent a lot of time talking to, and he has been testifying in Congress. He is writing a book right now, on the law in Iraq.

I do not know of any specific cases. I do know that we have talked an awful lot about KBR employees who came back. As an investigator, it is actually amazingly easy to find people who are former KBR employees because there are so many people who came back.

And there was a fear of lack of—there was sort of a whole attitude, and not just KBR, with contractors, that you could pretty much get away with whatever you wanted out there; when they had the immunity thing, that set a mindset that the contractors were not under any umbrella.

Now, we saw it very graphically with Blackwater, but I am sure there were lots and lots of other instances like that. But when I talked to Scott Horton about—for this hearing to write my testimony, he said to me you can use it for the most egregious type of

criminal stuff, and it will probably work. And he does not think that the UCMJ will work because a civilian has not given up their constitutional rights. But he said you cannot use it administratively. You cannot use it because a contractor says I quit and go home. You cannot use it because a contractor or employee, refuses to do a job.

He said only for the most egregious crimes.—we do cover a lot of the security contractors in our book, too. And almost all of them told us that when they got there, they felt that they had no law over them.

Senator AKAKA. Well, Mr. Chairman, my time has expired, and I will submit my questions.

Senator CARPER. Fair enough. I have just one last question for this panel. And then we will excuse you, thank you, and bring forth our second panel. Then we will break for dinner—no, no. [Laughter.]

This last question would be for Mr. Bowen, if you would, please. And I believe that you said to us that there ought to be what we call a one-stop shop for contractors in Iraq, and I guess in Afghanistan as well.

And let me just ask whose responsibility do you think that ultimately should be? And what can my colleagues and I do to make sure that happens?

Mr. BOWEN. I think developing such a resource would be part of the reform of contingency relief and reconstruction operations writ large, namely that once you identify an entity, be it new or an existing agency, that will be charged with managing contingency ops, then that entity will be in charge of developing human capital management policies, contracting policies, and program management policies that would be applicable to all the contracting in-theater.

So, I think to take it piecemeal would be a challenge—and would perhaps Balkanize the solution to a Balkanized problem.

I think that the larger and more ambitious reform would empower whomever is put in charge of contingency operations with the authority of effectively coordinating these important functions.

Senator CARPER. Who should that entity be?

Mr. BOWEN. Well, there are several ways that the Congress could choose to go. One would be a USTR-like entity, a new entity where a director of contingency operations reports to the President and has charge of managing the interagency issues and develops the civilian reserve corps, the contingency contracting corps—all of the elements that would go into deploying a ready team to carry out contingency operations.

Alternatively, it would involve the Congress directing the various departments that play the largest role in contingency operations to work better together through more effective coordinated systems.

Senator CARPER. All right. Well, all of you have been very generous with your time, and we are grateful to you for that. We are grateful to you for your testimony, your responses to our questions, and for your service to our country.

Several of my colleagues were unable to join us who had to leave and will probably want to submit questions for the record, and I would just ask that you do your best to respond promptly to those.

But our thanks to each of you for joining us today, and you are excused at this time, and we will welcome our second panel to take your seats. Thank you so much.

Mr. BOWEN. Thank you, Mr. Chairman.

Senator CARPER. All right. I am going to ask all of our witnesses to try to keep your comments to 5 minutes. But we appreciate your patience. I will quickly introduce our witnesses on panel two.

Jack Bell, Deputy Under Secretary of Defense for Logistics and Materiel Readiness. And prior to this appointment, Mr. Bell was the Deputy Under Secretary for the Army, and earlier as the First Chief of Staff of the State Department's Afghanistan Reconstruction Group in Kabul. I understand you are a highly decorated officer, having served in the Marine Corps. Semper Fi. Thank you for your service, my friend.

Next we have General David Maddox, U.S. Army, Retired. General Maddox is the former Commanding General, U.S. Army, Europe, and Seventh Army. He led the reduction of armed forces in Europe from 213,000 to 75,000 troops and restructured the force footprint and training of the U.S. Army forces in Europe.

Our third witness is Ambassador John Herbst. He is the Coordinator for Reconstruction and Stabilization in the U.S. Department of State. Ambassador Herbst was the U.S. Ambassador to Ukraine and Uzbekistan. Are you currently the U.S. ambassador there?

Mr. HERBST. No, I left there 18 months ago.

Senator CARPER. All right. Thank you. He also served our embassies in Israel, Russia, and Saudi Arabia.

Next, William Moser is Deputy Assistant Secretary for Logistics Management at the Department of State and one time a basketball referee in the State of Delaware. [Laughter.]

No, there is another Bill Moser.

Mr. MOSER. Even though I love basketball, I will not claim that.

Senator CARPER. All right. Another Bill Moser. Mr. Moser, I understand, has served in the Foreign Service since 1984 across many disciplines, including financial management, political-military affairs, and energy affairs. We are glad you are here.

And finally, James Kunder, Acting Deputy Administrator of the U.S. Agency for International Development is joining us today.

Mr. Kunder has served with USAID in numerous leadership roles in Afghanistan as well as Asia and the Near East. Mr. Kunder was also an infantry platoon commander in the U.S. Marine Corps from 1970 to 1973. That is when I was on active duty, as well. Thank you for your service. We have got a couple of Marines here, and an Army fellow, we are delighted that you are all here.

I am going to ask Mr. Bell, if you do not mind, just kicking it off, and we will again try to hold it to 5 minutes, and we will go through all of our witnesses and ask some questions. Thank you.

STATEMENT OF THE HON. P. JACKSON BELL,[1] DEPUTY UNDER SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS, U.S. DEPARTMENT OF DEFENSE

Mr. BELL. Thank you, Chairman Carper, Chairman Akaka. Thanks for this opportunity first of all to discuss the Department of Defense's initiatives to improve the management and oversight of contingency contracting.

As has been discussed here today, contractors supporting our military forces, both at home and deployed, are performing critical support functions that are integral to the success of our military operations. They have become part of our total force that DOD must manage on an integrated basis with our military forces.

At the end of Fiscal Year 2007, CENTCOM reported 196,000 contractor personnel working for DOD in Iraq and Afghanistan, and the 160,000 figure that is reported in the Gansler Report was the one up to date for Iraq.

Faced with the unprecedented scale of deployed contractor operations I have just identified, the Department of Defense obviously has confronted major challenges associated with the visibility of contractors, their integration, their oversight, and the management of such a large contractor force working along side our deployed military personnel, a challenge that, frankly, DOD was not adequately prepared to address.

At DOD, we have launched a series of major initiatives to strengthen the management and contractor personnel accompanying our forces. This does include the DOD follow up to the recommendations on the Gansler Report.

However, a work still in progress, the Gansler Report follow up will not be covered in my testimony today, with the Army having the lead.

In the limited time that I have available for oral testimony, I do want to identify three other major DOD initiatives that are discussed in more detail in my written testimony, and I would be happy to discuss those initiatives in more detail during the discussion period.

In the first area, as mentioned earlier by Mr. Solis, my office has led a DOD effort since 2006 to establish a comprehensive framework for managing contractors deployed with our military forces.

We provided a preliminary report to Congress last October identifying the major elements of this framework. We will be providing the final report to Congress in April.

However, many of the elements of this framework are already being implemented in our current contracting management operations in Iraq and Afghanistan.

The second major initiative was launched in September 2007, when Secretary Gates directed that an assessment be made of improvements needed in strengthening the management of contractor operations for DOD in Iraq.

To this end, I led an OSD Team to Iraq, where we consulted with our military and civilian leaders and recommended five initiatives. These recommendations were endorsed by General Petraeus and were approved for implementation by Secretary Gates.

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[1] The prepared statement of Mr. Bell appears in the Appendix on page 123.

Implementation of these initiatives is already underway. Among them, two of note that have been discussed earlier in the hearing today, one of them was to strengthen further the authority of the Joint Contracting Command for Iraq and Afghanistan to give it overall authority to review and clear contracts and task orders being implemented in Iraq and Afghanistan.

The JCCIA, as we call it, is adding up to 48 additional personnel in theater as we speak to provide this additional oversight.

We also recommended the strengthening of the Defense Contract Management Agency, or DCMA's, post-award contract administration and oversight for contracting in Iraq and Afghanistan. In response to that recommendation, DCMA has already deployed 100 additional personnel to theater in December and is preparing to deploy up to an additional 150 DCMA personnel in March to the theater as needed.

The third area I would like to highlight was identified earlier, which is the development of an MOA, which has been implemented by DOD and the State Department. Both DOD and the State Department recognize the need to improve the coordination of personnel security contractor operations in Iraq.

We executed the MOA on December 5, 2007. It covers a broad range of management policies and procedures to achieve a more effective coordination of PSC operations in Iraq. Again, I will refer you to my written testimony for a listing of the key elements in this MOA.

Many aspects of it have already been implemented, and others are in implementation.

Taken together, these three initiatives substantially strengthen DOD's capabilities and performance in managing our contractors and contractor personnel.

And with that introduction as an index of my written testimony, I will be happy to answer your questions. Thank you again for the opportunity.

Senator CARPER. Mr. Bell, thank you so much. General Maddox, welcome.

STATEMENT OF GENERAL DAVID M. MADDOX,[1] U.S. ARMY (RET.), FORMER COMMANDER IN CHIEF, U.S. ARMY EUROPE; AND MEMBER OF THE GANSLER COMMISSION

General MADDOX. Senator Carper, Senator Akaka. I was a member of the Gansler Commission, and——

Senator CARPER. Roughly how many people served on the Gansler Commission? And for what period of time were you operating?

General MADDOX. The Chairman, of course, was Jacques Gansler, who had been the Under Secretary of Defense for Acquisition Technology and Logistics from 1997 to 2001. We had five additional commissioners to cover a broad range of aspects. I was one of the five. I represented the Army's operational community. The four others were Retired General Lee Solomon, who represented Army Acquisition; Retired Rear Admiral Dave Oliver, who provided alternative service perspective, but also the experience in Iraq

[1] The prepared statement of General Maddox appears in the Appendix on page 131.

when he served with the Coalition Provisional Authority; and Dave Barteau and George Singley, who are very senior experienced Department of Defense civilians.

Senator CARPER. And who appointed you? Were you appointed by Secretary Geren?

General MADDOX. We were appointed by Secretary Geren, and because of the criticality of the issue, when we were appointed, we were given 45 days to do our work.

Senator CARPER. All right. Pretty quick turnaround. OK. Thanks very much. I am sorry for interrupting.

General MADDOX. Our charter was forward looking. That is, we were tasked to ensure that institutionally the Army is best positioned for future operations, which we view will be expeditionary, joint, and most likely multi-agency.

It is important to recognize that we did not address current fraud, equipment accountability, and private security contracts because there were actions going on in each of those three areas.

In looking at our charter, in September and October, we conducted 122 interviews. We talked to people across the board in the United States and deployed.

We did one thing, and that was when we looked at the word expeditionary in the dictionary, it relates to overseas. We broadened that definition to include CONUS for emergency conditions like Hurricane Katrina, because the responsiveness requirements are very similar.

Despite the broad spectrum of our interviews—122 people in Iraq, in Afghanistan, in Kuwait, in the United States—we received almost universal agreement on what the issues are, what changes are required, and the absolute need for change.

The Commission crafted a broad strategy for addressing the shortcomes, which we published as an independent report dated October 31, 2007, entitled "Urgent Reform Required: Army Expeditionary Contracting."[1]

I would request, Mr. Chairman, that the executive summary from that report be included in the record of today's proceeding.

Senator CARPER. Without objection.

General MADDOX. One thing hit us very quickly and that was an understanding that the Army, and more broadly DOD, did not have a problem with a single organization or a group of individuals, but had, in fact, a very systemic problem.

The operational Army is clearly expeditionary and it is on a war footing. Yet, it has not fully recognized the impact of the large number of contractors involved in expeditionary operations and their potential impact on mission success.

In fact, with our number of 160,000, half of the total force are contractors. And that aspect on both sides needs to be understood. I, in fact, in looking at your goals, would suggest that the third goal, the one on who gets trained, is not limited to contracting personnel; that the role of the operational people, that is, the contract requirement is not done by a contracting officer. It is done by the customer, who is in the operational side. Source selection is not

[1] The report entitled "Urgent Reform Required: Army Expeditionary Contracting" appears in the Appendix on page 142.

done by the contracting officer. It is done by the operational side. And the majority of the people supervising what is going on are contracting officer representatives, which come from the operational force.

Senator CARPER. Mr. Bell, did I see you nodding your head vigorously when General Maddox made that statement?

Mr. BELL. Yes, sir. You did.

Senator CARPER. All right. Thanks very much. Just want to get that head nod in for the record. [Laughter.]

General MADDOX. But it is important because it is a cultural issue, and culture does not change quickly. But it is not just the contracting officers that need to be helped. It is the whole force that recognizes the role of the operational aspect of the force and the contracting part.

Based on the problems we discovered and the valuable information that we learned, we developed recommendations that address the gravity of the situation and the urgent need for reform.

In short, we identified four areas for our future success. One was contracting personnel—increase the stature, quantity, and career development of contracting personnel—military and civilian—especially for expeditionary operations.

Second, organization and responsibility. Restructure the Army Contracting Organization and restore its overall responsibility to facilitate high quality contracting and contract management in both expeditionary and peace time operations.

Third, training and tools. Provide training and tools for overall contracting activities in expeditionary operations.

And fourth, legislative, regulatory, and policy. Obtain legislative, regulatory, and policy assistance to enable contracting effectiveness in expeditionary operations.

Our report covers the details of the first three. So, today, I would like to focus on this fourth category and ask for congressional assistance with the legislative aspects of the Commission's recommendations.

First, we recommend that Congress authorize general officer billets for Army contracting and joint contracting. Specifically, this Commission recommends that five new Army general officers, as well as one senior executive service billet, be established and fenced for the Secretary to assign to meet this urgent need.

We have identified a requirement for five general officers.

The five additional joint officers be established and include a three-star for the expanded scope of the Defense Contract Management Agency, which we strongly recommend and would service backfill authorizations for joint positions.

These military billets should not be created at the expense of existing civilian senior executive service contracting authorizations with the Army workforce. These need to be maintained.

In the past decade and a half, we have witnessed the elimination of general officers in the contracting field. In 1990, there were five Army contracting general officers. Today, there are none.

In joint commands, there were four contracting flag and general officer positions, and they have similarly disappeared. When the question was raised what general officer has been fired, there is none to fire.

Today, all that remains is one temporary position, the Joint Contracting Command Iraq-Afghanistan, which at the time of the report was being filled by an Air Force officer.

The Commission believes that this backslide needs to be remedied, and we must get back at least to where we were in 1990.

We need general officers to lead the Army transformation. We need some general officers so when you look in the career field, there might be a place that you would aspire to be.

We need those general officers to be advocates to understand what is going on and provide the right leadership that is needed for this effort.

Second, the Commission recommended an increase in Army contracting personnel authorizations by 1,983. That includes increasing Army military by 400; civilians by 1,000, as well as providing 583 billets, military and civilian, for Army support to the Defense Contract Management Agency.

In the DOD Authorization Act for Fiscal Year 1996, DOD was required to reduce the acquisition force by 25 percent by the year 2000. They did it.

But after September 11, 2001, we have had a seven-fold increase and greater complexity in the contracting environment, and yet, the workforce has not grown.

On top of that, of those that remain, only 56 percent of the military officers and 53 percent of the civilians in the contracting career field are certified for their current positions.

Senator CARPER. General Maddox, I am going to ask you to go ahead and try to wrap up. You are about 5 minutes over.

General MADDOX. OK.

Senator CARPER. It is very interesting testimony, but I just want to make sure everyone has a chance to testify. Thank you.

General MADDOX. We need enough people to fill the billets that are in theater, and they are not being filled.

With regard to DCMA, they are the contract management agency for Defense. They are not doing the job across the board, and they need the additional resources to do that.

If DCMA does not do that, and that is where the 583 for the Army were identified, then the Services need to pick up that responsibility by service and be resourced accordingly.

Third is the incentives for our civilian personnel. We order uniformed military people to go to war. We do not order civilians. They volunteer. And yet, the authorizations for our civilians who are doing the contracting do not compare with the force that they support nor the people that are being contracted.

Specifically, they do not get a tax write-off for their pay while they are in country. While they are cared for if they are hurt there, they have no sustainment if they need long-term care. And if they have civilian life insurance with a war clause and are killed, they are not covered.

Fourth, we believe that the Congress should enable flexibility of funding through a contingency operation transfer fund, without color of money and fiscal year. We picked up that recommendation from the Overseas Contingency Operation Transfer Fund, which was approved by Congress and is currently in existence for AID. But it needs to be created on a standby basis.

Fifth, and lastly, we recommend standby legislation to waive small business and U.S. labor provisions, Buy America, Berry Amendments, especially medical and other such provisions to allow rapid local buying, if required, in expeditionary operations. In Iraq, Buy America has been waived, but it is currently tied to this operation.

We have a lot of other recommendations that do not involve the Congress. They are in the report, and they are to be observed.

Sometimes it takes a crisis to bring out major change. We have got the crisis. We have got the opportunity to fix this and not go through this problem again. We hope we can have congressional assistance, and I am ready for your questions later.

Senator CARPER. You bet. I know you will have that assistance and thank you for your testimony today. Thank you for serving as a commissioner as well, and for your service to our country.

Ambassador Herbst.

STATEMENT OF THE HON. JOHN HERBST,[1] AMBASSADOR OF UKRAINE (2003–2006) AND UZBEKISTAN (2000–2006), COORDINATOR FOR RECONSTRUCTION AND STABILIZATION, U.S. DEPARTMENT OF STATE

Mr. HERBST. Mr. Chairman, thank you very much for the opportunity to testify today.

I am going to be a little bit bolder than I had planned to be. The last two plus hours have explored in some depths the problems of running stabilization operations.

I am here before you to say that we, my organization, the Coordinator for Reconstruction and Stabilization, has a well conceived answer to many of the problems that we have discussed and specifically to help you to achieve the goal you have at the top of that sheet over there—planning a U.S. Government-wide reconstruction and stabilization crisis in conflict and post-conflict areas, and knowing how to implement interagency precisely on that operation.

My office was created to do two things. I work directly for the Secretary of State, and the Secretary of State was asked by the President to ensure that we could mobilize all resources of the civilian agency of the U.S. Government to deal with a stabilization crisis, and to coordinate what they do with the military; and to ensure that we have the civilians we need with the right skills, the right equipment, and the right training to deploy to crises in the golden hour, the first hours after we deal with that crisis.

SCRS in the State Department—that is what my office is known as—has had real success, although not enough, in achieving those two objectives. Specifically, we have done the following to deal with the first of those challenges—to coordinate the U.S. Government.

The Administration has agreed at senior levels to the creation of something called the Interagency Management System, which would be used in the next stabilization and reconstruction crisis.

This interagency management system has the following elements.

The first is the least interesting. It is something called the Country Reconstruction and Stabilization Group. It is an assistant sec-

[1] The prepared statement of Mr. Herbst appears in the Appendix on page 155.

retary-level group, which involve every single agency which has some contribution to make to deal with the crisis.

This group, the CRSG, would both define policy options for the leadership of our government, as well as oversee implementation.

The CRSG would be assisted in this by a secretariat. The secretariat would be also interagency, run by my office. It would have the critical function of writing a plan of civilian operations that includes all the assets that every single civilian agency can bring to bear on this.

Since the Department of Defense would be represented in this secretariat, it would link up at the highest level defense and civilian planning for a military operation.

The third part of this interagency management system is called an integrated planning cell. If, in fact, there is a military operation alongside a civilian operation, this integration planning cell, which is interagency and led by SCRS, would deploy to the military headquarters which is conducting military operations.

If it is an American-led operation, say, in Latin America, it means it would be deployed to SOUTHCOM. If it was an international operation led by the United Nations, we would deploy to U.N. headquarters.

The purpose of this integration planning cell is to make sure that at the theater level, military and civilian plans are completely linked.

The last part of this integration, the Interagency Management System (IMS), is called advance civilian teams. This is another word for PRTs. This would be an interagency group led in many cases by my office, but not exclusively. There might be cases where AID would be in charge of this interagency—this active advanced civilian team. They would deploy to the country in crisis. They would have all the civilians you need with the right skill sets to deal with civilian side of operations. If there is an American embassy there, they would be under the command of the Chief of Mission, the ambassador; if there is none, it would be the senior U.S. Government civilian presence in the country.

This system, again, is now part of the Administration's policy. It is there to be employed in the next stabilization crisis. That is our first task.

The second task is making sure we have the civilians with the right skills needed to deploy to these places. We also have agreement in the Administration on creating three pools of civilians who would have all of the skills you need to deal with a stabilization crisis.

The skills we are talking about are not those normally found in the State Department. We are talking about engineers of all kinds. We are talking about all the people involved in the rule of law—policemen, judges, corrections officials. We are talking about city planners. We are talking about health officials, public administrators, port officials, and so on.

We will find people with the right skill sets, and we will create first, an active response corps. These will be people whose job it will be—civilians in the U.S. Government—to deploy to countries in crisis. These people will be in the State Department, in USAID, in Justice, in Treasury, in Commerce, etc.

They will be folks who will train substantially, including with the military, and within 48 hours of a decision to deploy, they will be on their way. They will be able to arrive, if circumstances require, with the 82 Airborne at the beginning of an operation. They could also go in lieu of the 82 Airborne. But they will be ready to deploy immediately.

Backing them up will be something we call the Standby Response Corps. These are folks who will be sitting in the same civilian agencies as the Active Response Corps. They will have full-time day jobs. But they will be training several weeks a year for deployment in a crisis.

We feel that these people will be—we should be able to deploy a minimum of 10 percent of them once we need them; a maximum of 25 percent.

For every one Active Response Corps member, there will be eight Standby Response Corps members. So we have a large pool to draw from. That is the second part of the civilian response capability.

The third is something called the Civilian Reserve Corps.

Senator CARPER. Actually, I am going to ask you to go ahead and try to wrap it up, and I want to make sure we have time to hear from Mr. Moser and Mr. Kunder——

Mr. HERBST. OK. By my count——

Senator CARPER [continuing]. Before we start our votes. Thank you.

Mr. HERBST. OK. The Civilian Reserve Corps is going to be like our military reserves, people in the private sector. They will have day jobs, but they will be training like our military reserves for several weeks a year. They will sign up for 4 years. They will be able to deploy for—they will have an obligation to deploy for 1 year in that 4-year period.

If these things are funded, we have received appropriations for a 500-person Civilian Reserve Corps. We are waiting for authorizing legislation. S. 613 or H.R. 1084 could provide the authorization we need. If we had these various capabilities, we will have a command and control structure with the trained civilian talent we need to oversee any stabilization operation.

Thank you. I think I was about 4½ minutes.

Senator CARPER. That was great. Thank you very much. Mr. Moser.

STATEMENT OF WILLIAM H. MOSER,[1] DEPUTY ASSISTANT SECRETARY FOR LOGISTICS MANAGEMENT, U.S. DEPARTMENT OF STATE

Mr. MOSER. Chairman Carper, Chairman Akaka, thank you for the opportunity to appear here, and I would ask that my full written statement be a part of the record.

Senator CARPER. Yes. In fact, your full written statement and the full statement of everyone else will be entered in the record.

Mr. MOSER. Thank you very much.

Senator CARPER. Please proceed.

Mr. MOSER. And I will keep this as brief as possible.

[1] The prepared statement of Mr. Moser appears in the Appendix on page 162.

The Department of State has extensive experience with contracting in crisis situations. Diplomatic activity is ever changing, and to meet the needs of our diplomatic activity and our country amid evolving world events, we have to do effective contracting.

Contracts were needed to evacuate staff, protect property, and close missions in the 1990s in Pakistan, Somalia, Sudan, Liberia, and the country formerly known as Zaire.

During the Bosnian War, we contracted for vehicles, equipment, and supplies for the Sanctions Assistance Mission, and as hostilities decreased in the Balkans, we provided contracting support for supplies, services, and equipment, to embassies in the region, and set up new embassies in Skopje, Sarajevo, Zagreb, and Ljubljana.

One of my other duties besides contracting—the contracting activity is also the transportation activity, and I would like to note here that our contingency transportation contract successfully aided in the evacuation of 13,000 American citizens from Lebanon in 2006, and I think many would applaud the State Department for having—for mounting a very successful effort at that time, and contracting was there at the core of that activity.

Just after the Al Qaeda bombings in Nairobi and Dar es Salaam, we further refined our strategy for dealing with contingency contracting support. Our Office of Acquisition Management partners with various State Department offices both at headquarters and around the world to determine the type of contracts that would best support their emergency requirements. And we have identified first responders in our contracting corps who will go with those program offices in crisis situations.

That is not to say, though, that our experience in Iraq and Afghanistan has not shown us that there are areas where we need to improve our contingency capabilities.

We have learned that we need more resources on site that we can improve planning, price analysis, contract formation, and oversight. And I think that all of these areas are things that have been highlighted in the discussion today.

However the State Department's resource limitations have prevented us from expanding the resources as rapidly as the growth in our contract requirements.

Since 2001, the workload of the State Department's Office of Acquisitions has grown dramatically, with no commensurate increase in staffing. The volume of transactions grew from $2 billion in 2001 to $6.1 billion in 2007. And we kept approximately—we gained three full-time equivalent employees during this period.

To rectify this situation and to gain the flexibility required in a rapidly-changing geopolitical environment, the Under Secretary for Management directed the transformation of the Office of Acquisition Management, our contracting activity, to a working capital funded organization. A 1 percent fee for service, based on the amount of contract award, will hopefully, with the approval of our appropriations and authorizing committees, cover the expenses of the acquisition activity.

The working capital fund structure will permit the State Department to significantly increase the amount of cost and price analysis, legal review, and contract oversight performed.

We want to ensure that our contracts meet the standard of integrity demanded by this committee, the rest of Congress, and the American people.

The contracting operation needs to be more agile and responsive to all future contracting needs, including contingency contracting. We want to be able to rapidly increase the resources devoted to such contract action, whether the contract performance is in Iraq, Darfur, or Haiti.

Successful contracting depends on close partnership with program offices. The Department's Office of Acquisitions Management is working closely with Ambassador Herbst's office, the Coordinator for Reconstruction and Stabilization, to improve contingency contracting.

And I have also had the pleasure of working with Mr. Bell on our joint—on the MOU that John Negroponte, our Deputy Secretary, and Gordon England, the Deputy Secretary of Defense, signed in December 2007 to improve management and oversight of private security contractors in hostile zones.

We look forward to the further cooperation with the Department of Defense and to provide the best contract support possible to our diplomatic and military forces around the globe. And we hope that we can, through these things that we are discussing today, offer solutions to the problems that you have so admirably highlighted.

Thank you for your testimony—and I welcome your questions.

Senator CARPER. You bet. Mr. Moser, thank you so much. Mr. Kunder, you are going to wrap it up for us. And then we will ask some questions and call it a day.

STATEMENT OF JAMES R. KUNDER,[1] ACTING DEPUTY ASSISTANT ADMINISTRATOR, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. KUNDER. Thank you, Chairman Akaka. You are very kind to hear out 11 witnesses on a long Thursday afternoon. I am number 11. I realize that.

We took seriously your request to look at lessons learned. And we have five bullet point lessons that we tried to distill from our experience that I would like to share with you.

First, is to get the IG involved early and often. We decided early on in both Afghanistan and Iraq to seek concurrent audits from our Inspector General, and we invited them to join our team on the ground in both Kabul and Baghdad. That has paid dividends. We are also fans of Stuart Bowen, but we brought our own Inspector General on and I think that has helped to add a layer of accountability that was important to us.

Second, we need to increase civilian military training, because the civilian military teams lash up during these kinds of contingency operations, and we have to bring the contracting culture and the broader culture together ahead of time. Sitting five rows behind me are two of our colleagues in town from Kabul, Jim Hope and Fareed Ahmed Payan. They are on their way to Fort Bragg, North Carolina——

[1] The prepared statement of Mr. Kunder appears in the Appendix on page 166.

Senator CARPER. Would both of you just raise your hands? Thank you. Thanks for joining us.

Mr. KUNDER. They are on their way to Fort Bragg for Joint Provincial Reconstruction Team training. We have been trying to do that kind of thing, but we need to invest more resources so that when we lash up out in the field, we are talking the same language and working with the same kind of contracting procedures.

Third—and I have listened very intensely—I know there is a lot of interest in the Subcommittees, which we appreciate.

I have listened intently to all the discussion about sole source contracting and full and open competition. And I would just appeal to the Subcommittees to think carefully about maintaining in the Federal Acquisition Regulations sufficient authority to handle the kind of flexibility, and the changing environment that we encounter in these kinds of contingency operations. Almost by definition, the circumstances on the ground are going to change very rapidly in Afghanistan and Iraq.

I plead guilty. I have waived full and open competition requirements. And when I did that, I did it because I was saving—thought I was saving lives of U.S. troops by acting quickly to turn on a dime so that we could get roads built or schools built or health clinics built. And I am a strong believer in full and open competition, but we have got to preserve the authority we currently have under law to do less than full and open competition when it is essential to accomplish the mission in these complex and changing environments.

The fourth point, the next to last point, I just want to add USAID's endorsement for what Ambassador John Herbst said. A year and a half ago, or 2 years ago now, the U.S. Interagency, Department of Defense, the Joint Chiefs of Staff, USAID, the State Department got together at the NSC, and we thought we came up with the comprehensive fix for getting everybody on the same page in contingency operations, both in contracting, but beyond contracting. That was by creating the Coordinator for Reconstruction and Stabilization. And that is an important initiative which I hope in the category of Congress playing an effective role we would appeal that more resources be put behind that operation.

And fifth, and finally, I provided for the Subcommittees this page of analysis on our staffing levels. We have reduced our oversight capability under both Republican and Democratic Administrations and Republican and Democratic Congresses. Over the last 25 years, we have reduced our USAID staffing overseas—our technical experts in engineering, health care, education—by 80 percent. [1]

So now that we are grappling with these oversight and accountability issues, as General Maddox said, it comes back to having bodies on the ground who can go out and look at these projects. And we simply are running on fumes when it comes to accountability issues, and, again, that is something that we would like to talk to the Congress about.

Thank you very much for the opportunity to testify.

Senator CARPER. Thank you. Very nice to have you summarizing those recommendations. Thanks so much.

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[1] The chart referred to appears in the Appendix on page 175.

Let me start off with a question for Mr. Bell. And the Department's October, I think it was 2007, Interim Report to Congress outlines a significant list of initiatives that the Department plans to take to help improve its oversight of contractors supporting deploying forces.

Just explain for us, if you will, specifically how will you manage and oversee contractors during the next contingency operation?

How will you sustain this effort during the transition to a new Administration? Again, how will you sustain this effort during the transition to a new Administration?

I understand from my staff that your position is being downgraded from a level three to a level four? I do not know if that is correct or not. But what implications, if that is true, does this have for the important work that you and your office is directing?

Mr. BELL. OK. Thank you. Let me address those questions. In the proposal we gave to Congress outlining the new framework for managing this, we have identified the requirement to empower a joint contracting command to be deployed into the AOR with the military forces. We have, in fact, done that in Iraq and Afghanistan.

At the time we originally deployed them, we did not enable them to have the necessary authority we thought was necessary.

We have since corrected that, and in the trip the Secretary sent us on in September, we went ahead and empowered the joint contracting command to have authority over all contracts to be implemented within Iraq and Afghanistan.

So our intent in the future is to give that same sort of a joint contracting command authority to oversee all contracts that are going to be implemented in theater to ensure they have all of the necessary provisions regarding compliance with rules and laws to make sure that we standardize the approach to life support and essential services, and that will all be accomplished through a joint contracting command.

To enable us to deploy that sort of a command, we are also creating a launch agency, which we have called different names, but essentially, it is a contract acquisition support office, and that organization has a standing joint contracting command ready to deploy. And each time it deploys one, if we deployed one, for example, to an operation in Africa or South America, it then creates another standing joint contracting command to be able to deploy to the next operation.

That is the answer to your first question.

The second question is how do we plan to sustain the effort we have underway for the Administration change?

What we have done is we have embedded within DOD policies, instructions, directives, and regulations, the provisions about how this will function. The framework that you see there is actually pursuant to and will be documented in a DOD instruction called 3020.41. It is also specifically responsive to legislation in Section 854 of the 2007 NDAA, and so, for that reason, it is not subject to change with Administrations.

Your third comment: In the 2007 NDAA, a provision was put in that when I leave my position here, the position is to be downgraded from a level three to a level four.

That was done I think in advance of the decision made for us—for my office to take on the total contracting oversight policy responsibility for the Department of Defense.

My personal experience has been that it takes all of the standing and status of a level three, four-star equivalent officer, if you will, to have the access to get into theater and into the field that you need in order to provide this effective oversight. My personal recommendation is that is a decision that we would like to see Congress reverse.

Senator CARPER. OK. Anybody on the panel want to comment in response to anything that Mr. Bell has said?

I am going to yield to Senator Akaka. I want to make sure if the bell goes off for the next vote, that we both have a chance to ask questions. But, Mr. Chairman, feel free to engage right now if you want.

Senator AKAKA. Thank you. Thank you, Mr. Chairman.

Mr. Kunder, first, let me thank you for your testimony. I would like to note that your nomination to be Deputy Administrator of USAID has been pending for some time now, and I hope the Senate will be able to move it soon.

You have an impressive resume. And I thank you for your willingness to continue serving our country.

Presidential Directive 44 designated Ambassador Herbst's office as Coordinator for Reconstruction and Stabilization in Iraq.

The Directive explicitly spells out that the Secretary of State and Defense are to coordinate through this office.

In addition, USAID already takes policy guidance from the Secretary of State. What extent have you worked directly with the Office of the Coordinator for Reconstruction and Stabilization?

Mr. KUNDER. Sir, as I mentioned, we believe very strongly that the civilian side of the U.S. Government needs to be a better partner for the military side of the U.S. Government when it comes to contingency operations, and we believe strongly that the Coordinator for Reconstruction and Stabilization should be the overall coordinator of that function.

We have detailed a number of staff from the U.S. Agency for International Development to Ambassador Herbst's operation, and we are also beginning to organize our internal staffing so that we can be part of the team that he described.

I am not here to lobby about dollars today, but the legislation that would provide the funding for Ambassador Herbst's operation is also hung up. And so we have not yet been able fully to move forward.

But at USAID, we strongly endorse the concept. We have been providing staff, and we stand ready once we stand up this interagency team to play our role in that operation.

Senator AKAKA. Thank you. Ambassador Herbst, I would like to follow up with you on that same Presidential Directive which made your office the Coordinator for Reconstruction and Stabilization.

According to your office's Web site, you have a budget of about $20 million, 15 permanent staff, and a dozen interagency detailees. Is that about correct?

Mr. HERBST. Our budget in Fiscal Year 2007 was a little bit over $7 million. And with that budget, we have a staff right now of ap-

proximately 88, but only 24 of our staff are permanent FTE positions. We have detailees from other agencies. We have something called Y Tours, which are 1-year assignments that are given to us by the main complement at the State Department. And we also have some contractors.

Senator AKAKA. The Department of Defense, on the other hand, gets billions of dollars of reconstruction funds for Iraq and has thousands more people tasked to reconstruction.

Do you have any authority or influence over reconstruction contracts entered into at any of the various agencies discussed in the Directive?

Mr. HERBST. Our office was created to make sure that we are prepared to deal with the stabilization crises that come up next.

So we have played a very small, tiny role, in Iraq. We have played a somewhat larger, but still not large, role in Afghanistan.

So we have not been involved in these sorts of issues that you have described in current operations.

Senator AKAKA. All right. Thank you. Thank you, Mr. Chairman.

Senator CARPER. You bet. We have been joined by the Chairman of the Armed Services Committee and the Chairman of the Investigations Subcommittee of the Homeland Security Government Affairs Committee, and it is just great to see you. We appreciate very much working with your staff in anticipation of this hearing, and you are welcome to speak, ask questions for as long as you wish. Thank you for coming.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Mr. Chairman, thank you very much for all the work you are doing on this, and our staffs have, indeed, cooperated. We thank you and Senator Akaka for delving into this issue the way you have. We have been into it, too, and it is going to take all the work of many committees and subcommittees, I think, to try to straighten this out.

Section 1088 of the 2005 Defense Authorization Act extended criminal jurisdiction of the U.S. civilian courts to personnel whose employment relates to supporting the mission of the Department of Defense overseas regardless of whether those personnel are contracting with the Department of Defense or a civilian agency.

Section 552 of the National Defense Authorization Act for Fiscal Year 2007 extended criminal jurisdiction of the military courts under the Uniform Code of Military Justice to persons serving with or accompanying an armed force in the field during a time of declared war or a contingency operation, such as our current operations in Iraq and Afghanistan.

Now, despite the enactment of these provisions and the presence of those provisions on the books, we continue to hear questions raised about the jurisdiction of U.S. military and civilian courts over criminal misconduct by contractor employees on the battlefield in Iraq and Afghanistan.

Do you believe that there is a gap in the jurisdiction over criminal misconduct by contractor employees in Iraq and Afghanistan or do you believe that all such conduct is subject to jurisdiction of either the military or the civilian courts?

Mr. Bell, you want to start off?

Mr. BELL. Yes, sir. First of all, I would be the last one at the table to attempt to make a legal interpretation, but if you will grant me the liberty of a layman's——

Senator LEVIN. Well, what is your understanding? Is there a gap?

Mr. BELL. We believe there is a gap. And with regard to MEJA and the application of Section 1088 from 2005, the provision was I believe the term of art was supporting DOD regardless of whether they were contractors of DOD. I think there has been some question about whether contractors who were supporting the operations of the State Department in a country, for example, in Iraq, were supporting DOD or were supporting the diplomatic mission, and that has caused some questions about the applicability of MEJA to those forces that are not associated with the term supporting DOD.

I think that has been the question. We have consulted with the State Department. Our general counsel's offices have consulted with the State Department's general counsel's office. We believe that the provisions need to be clarified to ensure that gap, to the extent it represents a serious gap, is closed.

Senator LEVIN. Does anyone else want to add anything to that?

Mr. MOSER. Well, as the State Department official that has actually been most—closely involved in with this, Jack has essentially stated what the joint position that we have. And in the Memorandum of Understanding signed between Mr. Negroponte and Mr. England that is very much clear that we want to seek—that we are seeking a legislative remedy.

Senator LEVIN. You support a legislative remedy?

Mr. MOSER. Yes, we do.

Senator LEVIN. I assume you do, Secretary Bell?

Mr. BELL. We do, sir.

Senator LEVIN. OK. Now, the Department of Defense has not yet issued a guidance implementing the expanded jurisdiction of the military courts under Section 552 of the National Defense Authorization Act. When are we going to get that guidance?

Mr. BELL. Well, first of all, sir, we have issued a memorandum to the military forces indicating that the provisions of the UCMJ are in effect and, in fact, they are being followed in Iraq and Afghanistan today. The wording of the implementing guidance is in its final stages, and the Secretary has been consulting with the OGC. We expect him to issue that sometime in the very near term.

Senator LEVIN. Does that mean within a month?

Mr. BELL. Yes, sir.

Senator LEVIN. Thank you. The Gansler Commission Report states that "the number and expertise of the military contracting professionals must be significantly increased." To address the problems which have been experienced in theater, the Commission recommends that the Army hire 2,000 new contracting personnel.

So, Secretary Bell, does the Department of Defense plan to implement that recommendation?

Mr. BELL. Sir, as I have said at the beginning of my testimony, the provisions for my testimony here were not to include responses to the Gansler Report, for which the Army has the lead responsibility. That is being reviewed at this time, and they will have a response soon.

Senator LEVIN. I am wondering, Mr. Chairman, if we can then ask the Army, for the record, if they would answer that question.

Senator CARPER. Yes, we can.

Senator LEVIN. Thanks. Now, the Gansler Commission also says that the Army's difficulty in adjusting to the singular problems of Kuwait, Iraq, and Afghanistan is, in large part, due to the fact there are no generals assigned to contracting responsibilities.

The Commission recommends Congress authorize a core set of 10 additional general officers for contracting positions.

Is your answer to the intent of the Department on that point the same as before?

Mr. BELL. It is, sir, although I would say in the work we have done on developing a strategic framework, we have identified the same problem, which is the need to create significant and meaningful career paths up through the general officer rank for contracting officers.

Senator LEVIN. OK. Mr. Chairman, then, if we could—these Subcommittees could ask the Army the question.

Senator CARPER. And we will.

Senator LEVIN. Thank you.

Section 862 of the National Defense Authorization Act for Fiscal Year 2008, which is going to be sent to the President for signature today, requires for the first time that private security contractors hired by the State Department and other Federal agencies to work in a war zone comply with directives and orders issued by our military commanders, as well as with DOD regulations.

Mr. Bell, Mr. Herbst, Mr. Kunder, will this provision be promptly implemented?

Mr. BELL. Let me take that answer. Sir, as I indicated earlier before you arrived here, we have already reached a Memorandum of Agreement with the State Department on implementing exactly those provisions in Iraq, and that has been implemented. We are now in process of working with the State Department, and USAID. Our intention is to fully implement those provisions.

Senator LEVIN. Well, the agreement did not have this law in front of it, nor did it, as I remember, the language go as far as this law does?

Mr. BELL. That's correct. And we intend to.

Senator LEVIN. It was a consultation or coordination rather than under the direction of; is that correct?

Mr. BELL. We understand the implication of the difference.

Senator LEVIN. OK. Then let me re-ask my question.

Mr. BELL. Yes, sir.

Senator LEVIN. Are you going to fully implement the new law?

Mr. BELL. It is our intention to do so.

Senator LEVIN. I will take that as a yes.

What about State Department folks? Are you familiar with what we have done?

Mr. MOSER. Yes, sir. We have had serious discussions, particularly with Mr. Bell and his group, and we have expected the enactment of the legislation. But I am really not—this is not something that I am really allowed to make a comment on. Thank you.

Senator LEVIN. Not allowed to?

Mr. MOSER. Well, I am head of contracting. I cannot give you a policy position on a piece of——

Senator LEVIN. OK.

Mr. MOSER [continuing]. Legislation that hasn't been signed by the President.

Senator LEVIN. All right. If it had been signed this morning, could you—— [Laughter.]

So if it is reported to you it has now been signed, could you comment on it?

Mr. MOSER. Well, something our intention is, it is just like the Federal Acquisition Regulations. If it is law, we are going to comply with it.

Senator LEVIN. OK. There is a new commission on wartime contracting that has been adopted as part of the Defense Authorization Act, which we hope has been signed this afternoon or tomorrow. Will there be full cooperation with the operations of the new commission, Secretary Bell?

Mr. BELL. Senator Levin, we actually welcome that opportunity. We think the focus that the Congress has provided with Section 854 and with the follow-up legislation that Sections 861 and 862 ares very helpful to this cause. We are very mindful of the urgency of improving and strengthening our contractor management, so we would welcome that.

Senator LEVIN. OK. And, Mr. Herbst, Ambassador Herbst, and I think, Mr. Kunder, you would be the ones to answer that for the State Department and USAID? Are you familiar with what we did? And are you going to fully cooperate?

Mr. HERBST. This is not my area of responsibility. Sorry, Senator.

Senator LEVIN. Mr. Kunder? Either one. Mr. Moser?

Mr. KUNDER. You pass the law, sir. We will obey the law.

Senator LEVIN. Are you familiar with what is in it?

Mr. KUNDER. We generally are familiar with the authorization, sir.

Senator LEVIN. All right.

Mr. MOSER. Yes, and I would say that is true for the State Department as well, Senator Levin.

Senator LEVIN. OK. Secretary Bell, more than a year ago, senior Army officials told the Senate Armed Services Committee that the Army's $20 billion LOGCAP contract, which until now has been performed by a single contractor, was going to be broken up into multiple contracts so that we would have competition for individual task orders awarded under the contract.

Now, the Armed Services Committee feels so strongly that this is the right approach that in our 2008 authorization bill, soon to be an act, there is a strong new requirement to award contracts of this type to multiple companies.

So far, the Army has been unable to live up to the commitment to split up the LOGCAP contract among multiple companies because the award of the new contracts was held up by a successful bid protest.

Can you give us a idea as to how soon the Department will determine how to proceed in light of this successful bid protest? And

how soon we can expect to have new contracts in place so that we can have competition for those tasks orders?

Mr. BELL. Sir, we certainly agree with the intent of the Congress on that. I would like to take that as a question for the record for the Army if we may.

Senator LEVIN. All right. Will you give us a timetable on that?

Mr. BELL. Yes, sir, we will.

Senator LEVIN. Thank you. Mr. Chairman, I appreciate your courtesies as always.

Senator CARPER. You bet. Thank you so much for coming here and for letting us work with you and vice versa.

I have a series of three questions that I am going to ask both Mr. Bell and General Maddox to comment on.

How does our military capture contracting lessons learned and incorporate them into operational planning?

Mr. BELL. We have several mechanisms within DOD to do that. One is that JFCOM has an overall DOD responsibility to do lessons learned on all of our contingency operations.

In addition to that, within the contracting framework that we have established and reported to Congress on, we have a specific module requirement to do lessons learned on contracting management and to input that both to our own operations as well as to the JFCOM overall operation.

Senator CARPER. All right. General Maddox, would you like to add or take away?

General MADDOX. We have got an organization that is charged with lessons learned. They are collecting them. We are not convinced that they get passed as well as they could. One of the suggestions that came out of our interacting within the Army during the Commission was in addition to the lessons learned to establish a blog on the Web, where contracting personnel can exchange their lessons back and forth with each other.

Senator CARPER. All right.

General MADDOX. And I think that is going to be implemented.

Senator CARPER. OK. Thanks.

The second question for both of you is how is feedback circulated back to each of the forces to ensure continued improvement?

Mr. BELL. We think in terms of the continuity of military operations, which is the one of greatest concerns because of the rotation of troops, one of the things we have done is extended the overlap of command transitions. For example, we have just had a succession and change of command of the head of the Joint Contracting Command for Iraq and Afghanistan. And that overlap between the succeeding commanding officer and the outgoing commanding officer was spread out over a full 2½-month period to ensure that we got continuity in that operation.

In addition, the departing commander is going be available for ongoing consultations, both here in the States and back in Iraq.

Senator CARPER. All right. General Maddox.

General MADDOX. I do not think that is adequate. I think that is necessary. But it gets to the issue that this problem is not limited to the contracting people. And while we do overlaps from an operational point of view between units coming in and out of Iraq,

I am not convinced that we do enough in recognition of the relationship of their operation and contracting.

One specific is contracting officer representatives. They are people who go and watch the execution of a contract. If it is the dining facility operation, it is somebody that operates with mess halls. If it is fuel resupply, it is somebody that has been in the fuel business. During our investigation, we found out that many of the contracting officer representatives did not know that they were going to have that function until they got in country.

And then, in some cases—and I actually experienced this in my career, I became a contracting officer representative, and I did not know what the term meant.

There is some education going on, but I think we need to make sure that while the operational units are switching that we do a better job of the new unit comes in, knows what the unit going had in responsibility for contracting officer representatives and other aspects of it, and that gets overlapped, too.

Mr. BELL. If I could amplify on that, Senator Carper.

Senator CARPER. Sure. Go ahead.

Mr. BELL. We certainly agree within DOD and certainly within my organization working on the strategic framework that one of the great difficulties we have been confronted with is the significant downsizing of contracting personnel as well as contracting oversight personnel.

It is clear that in order to do an effective job on the scale that we need to do it for a deployed operation, we are going to have to have a significantly larger force of qualified individuals so that they can do the job as well as have orderly transitions.

Senator CARPER. My third and final question of each of you is should these lessons be considered and/or implemented in the development of curricula and be institutionalized in the Center for Army Lessons Learned?

Mr. BELL. With regard to our efforts, one of the parts of the strategic framework that we are developing at this point in time is a training program not only for contracting and acquisition personnel, but for line commanders and NCOs who increasingly are dependent on contracting support in the field of operation.

We have that program in place now at the Duke Defense Acquisition University. We are in the process of getting it in actually at the Service Academies as well as places like ICAF and NDU.

Senator CARPER. General Maddox.

General MADDOX. And I know in the Army that they are putting it into their own curriculum. There is an effort ongoing right now by the Chief in trying to do a better job of bringing his new two stars on board. And in the next month they have already put together a program to do that, and I know that the contracting part is an integral part of that.

Senator CARPER. All right. Thank you.

In closing, I am going to ask each of our witnesses—I am just going to start with you, Mr. Kunder, if I could—and if you just want to leave us with a closing thought as to something you think is just extremely important for us to keep in mind, for us to keep in mind as Members of the Senate relevant Subcommittees that we should particularly focus on and be mindful of.

Mr. KUNDER. Thank you, sir. I just wanted to emphasize the criticality of what General Maddox has been talking about——

Senator CARPER. OK.

Mr. KUNDER [continuing]. That we need to pay attention to staffing both on the contract officers side, and then on the technical officers side.

I will not take time to cite the numbers—grotesquely short on the contract officer side. We are relying on contractors at USAID not just for logistic support, but to do our core work of building schools, building hospitals, building roads. And so what we also need is engineers, education specialists, healthcare specialists out there looking at that.

I just got a great note the other day from General John Allen, the Marine Commander in Anbar Province, citing the role of our men at the Provincial Reconstruction Teams. He called them heroes. The problem is there are only three heroes out there.

So we have the staffing issues that General Maddox has emphasized both on the contract officers' side and then on the technical officers side to go out and make sure that school is being built right or that road is being built right.

I would emphasize that we have got to focus on these staffing issues that are so critical to the oversight that I know the Subcommittees cares about. Thank you, sir.

Senator CARPER. All right. Thank you. Mr. Moser, any closing thoughts that you would like to emphasize?

Mr. MOSER. Yes. Thank you very much, Senator Carper.

I would like to emphasize as well what my colleague, Mr. Kunder, has emphasized is that if you look at our contracting operation, if you look at USAID's contracting operation, we do not have the contracting personnel that we need to guarantee that the taxpayer dollar is being protected.

We think that if we come up—we have a reasonable proposal on the table that we think could modify that. We are going to work with USAID to work through some of their problems, but we are very concerned about the integrity in the contracting process. We do not feel that we have had major scandals up to now, but we do not feel like that we can continue in the same situation.

And then we also want to put in—make sure that we are ready to do the contracting support that we can take care of Ambassador Herbst and make sure that his operation in our next crisis gets off to the right start.

Senator CARPER. All right. Thank you.

Mr. Herbst, a closing thought?

Mr. HERBST. We have created the means to deal effectively with the next stabilization crisis. There is an Administration position on this, supported across the interagency. We request the support of the Congress to both authorize and support it. Thank you.

Senator CARPER. Thank you.

Senator CARPER. General Maddox.

General MADDOX. I think the majority of the recommendations that the Gansler Commission put together can be implemented within the DOD.

Senator CARPER. But without the congressional involvement?

General MADDOX. The majority of them can be done within DOD. The critical piece is we are not going to solve this problem if we do not put leaders in place and enough people to get the job done.

Senator CARPER. Leaders at what level?

General MADDOX. I am talking about the five general officers for the Army.

Senator CARPER. OK.

General MADDOX. If we do not put them in place and increase the number of people that are charged to do this job, this problem is going to continue.

Senator CARPER. Thank you, sir.

Mr. Bell, the last word?

Mr. BELL. Yes, sir. We believe at DOD that the execution of our national military strategy with the military forces that were authorized by Congress will continue to make us dependent on significant contractor support for our deployed forces.

We recognize it is a complex challenge. We recognize now we must manage our contracting force as part of an integrated effort with our military forces. We believe that we are making significant strides forward, notwithstanding the problems that have been identified. We appreciate the congressional support. The provisions of Section 854 and 552 with regard to application of UCMJ are very important steps forward in helping us integrate our management of the total force, and so we look forward to being able to report to you the actual results and benefits of what we are doing.

Senator CARPER. Thank you.

Let me say in conclusion, I was first drawn to this issue as a former State Treasurer and one who was mindful of spending my State's money judiciously and squeezing every dime as much as we could. And I feel like we had an obligation to the State's taxpayers to do that.

And I thought about the contracting work and some of the horror stories that we have all heard, but my first thought really focused on the waste of money, money that we do not have, money that we are borrowing around the world as it turns out, and the fraud and it just rubs me the wrong way, annoys the heck out of me. I know it does for other folks, too, that are trying to put food on the table, a roof over their heads, and send their kids to school and all.

But sometimes we get lost in all this—when we let this kind of behavior occur and reoccur again and again, we undermine our troops, and we make their difficult tasks even more so.

None of this is good. All of this is bad. And they deserve better. And frankly so do the people who pay my salary and the salary of all those who work around here. I am encouraged that over 4 years into this war, we are starting to figure this one out. It is a little bit like closing the barn door when the horses have escaped. But it is better than never closing it, and we have to make sure that we follow through on the good intentions that have been outlined. I know some good work has been done. But we want to make sure that we follow through and finish this job.

And finally, when we do and we get it right this time, the key is when we find ourselves in another episode along these lines in the future, and we probably will, that we will not make the mistake that we did with respect to the Balkans where we kind of had

learned those lessons, wrote them down, and when this one rolled around in Iraq and Afghanistan we frankly have had to learn those lessons over again. It is tragic. It is not necessary. We have got to not let that happen again.

That having been said, I thank you all for your testimony here today and for preparing for this and for helping us to focus on these issues.

I think the questions that my colleagues have asked are important ones, and we want you to know as you leave here that we stand prepared to be supportive, to work with you, and to be supportive of getting us on the right track and making sure that we stay there.

I hope to join my colleagues in pushing for the Gansler Commission recommendations, for their implementation, and as well as to ensure that we have the military and civilian workforce on hand, trained and prepared to do their jobs. And we are going to continue to look forward to you for some guidance in that regard.

The hearing record is going to be open for 2 more weeks for the submission of some additional statements and questions. I would ask of each of you and our previous panel of witnesses for your cooperation in trying to get prompt responses to the questions that you might receive and that are going to be submitted for the record.

With that having been said, again, our thanks to each of you, and this hearing is adjourned. Thanks so much.

[Whereupon, at 5:35 p.m., the Subcommittee was adjourned.]

APPENDIX

FOR OFFICIAL USE ONLY UNTIL RELEASED BY THE
SENATE SUBCOMMITTEES ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES AND INTERNATIONAL SECURITY AND ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

STATEMENT OF

STUART W. BOWEN, JR.
SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES AND INTERNATIONAL SECURITY

AND

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

"IMPROVING CONTRACTING AND GOVERNMENT OVERSIGHT OF CONTRACTORS PERFORMING WORK IN CONTINGENCY OPERATIONS"

JANUARY 24, 2008
WASHINGTON, D.C.

Chairman Carper, Chairman Akaka, Ranking Member Coburn, Ranking Member Voinovich and members of the Committee, thank you for the opportunity to discuss future actions and initiatives to improve contracting and government oversight of contractors performing work in contingency operations. SIGIR's continuous presence in Iraq and the volume of work we have performed in response to our legislative mandate have provided us with unique insights into this complex situation. Our mandate— to promote economy, efficiency and effectiveness, and to prevent and detect waste, fraud and abuse in the administration of programs and operations supported by the Iraq reconstruction funds —gives us a broad perspective across the work of both federal agencies and international organizations involved in the reconstruction of Iraq. We have issued more than 100 audit reports as well as three lessons learned reports specifically targeting issues with contracting and procurement; program and project management; and

human capital management. It is our hope that this body of work can be used to help guide the way forward to improve future U.S. contracting activities in contingency operations. Appendices A through C list all our audits, lessons learned reports and testimony to Congress. We are currently engaged in focused contract audits that address the adequacy of contract oversight and management, vulnerabilities to fraud, waste, and abuse; and what we received for the funds expended. These audits are in response to a Congressional requirement that we conduct forensic audits. To continue our on-the-ground oversight, I am about to leave on my 19th trip to Iraq since I became Inspector General. Moreover, our next Quarterly Report to the Congress will be transmitted to the Congress on January 30th.

In July 2006, SIGIR issued a lessons learned report on contracting and procurement. This well-received report drew from our work, that of other oversight bodies looking at Iraq reconstruction; interviews with key government and non government officials, and a SIGIR forum attended by senior executives and experts from the U.S. government, industry and academia – many of whom had first-hand experience in Iraq. Since that report, our audit and inspections work has continued to identify contracting challenges and develop recommendations.

Today I would like to discuss with you three key issues:

- First, our lessons learned in contingency contracting and procurement and SIGIR recommendations which address the deficiencies identified in our reports
- Second, key congressional and executive agency initiatives taken to address contingency contracting problems, and
- Third, additional actions that the Congress may want to consider in improving oversight and management of contracts in a contingency environment

LESSONS LEARNED IN CONTRACTING AND PROCUREMENT

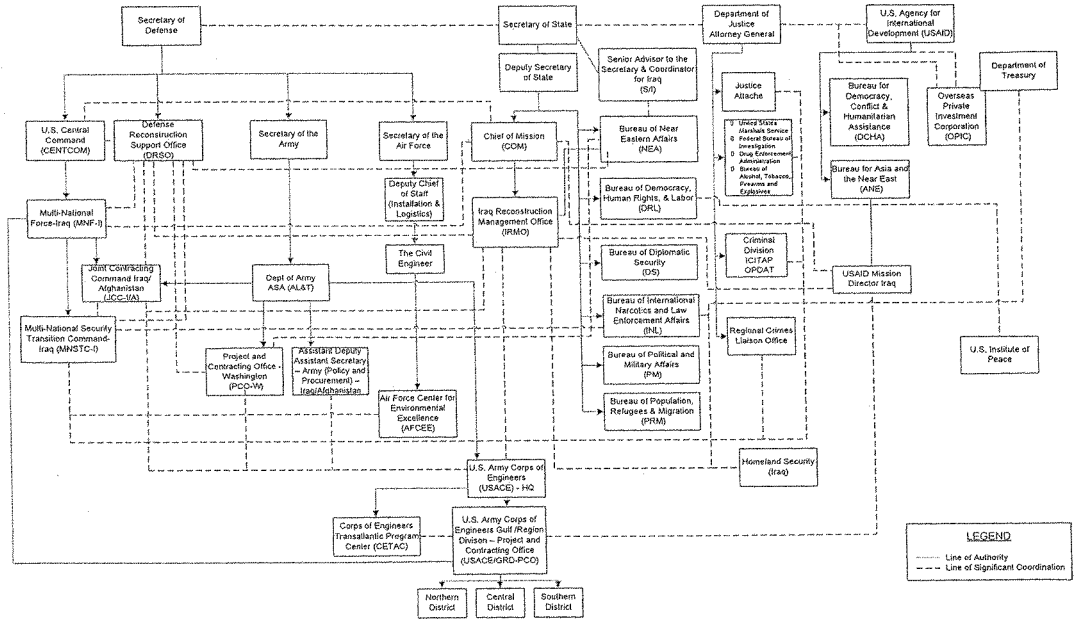
Let me start with our lessons learned report on contracting and procurement. First it is important to keep in mind that the goals of contingency contracting differ in one significant way from other government contracting: the work is done in a dangerous and ever-evolving environment. Contracting under these circumstances requires an agency's most experienced contracting and program management personnel and top level oversight to address conditions in a fast paced environment that is particularly vulnerable to waste, fraud and abuse. It also means that contractors bear a high degree of risk, and thus are more likely to perform work under cost reimbursable contracts which have to be carefully managed to ensure results.

With this premise in mind, SIGIR has identified several key lessons learned. These include the following:

Strategy and Planning

- Include contracting and procurement personnel in all planning stages for post conflict reconstruction operations. The pre-deployment interagency working groups for Iraq reconstruction did not plan adequately to include these personnel. Moreover, our subsequent work has demonstrated that program and project management staff also need to be involved in all decision making as they are ultimately responsible for ensuring that the U.S. is obtaining the goods and services it paid for.
- Clearly define, properly allocate, and effectively communicate essential contracting and procurement roles and responsibilities to all participating agencies. The failure to define contracting and procurement, as well as program and project management roles and responsibilities at the outset resulted in a fragmented system, foreclosing opportunities for collaboration and coordination on contracting and procurement. The chart below – which was based on agency submissions of their roles and missions – illustrates what is hard to characterize in any way other than a convoluted system of management in Iraq. It is clear why confusion rather than coordination abounded. For example, SIGIR determined that the Embassy, the Joint Area Support Group-Central, and the Defense Contract Management Agency were not fully aware of their respective oversight responsibilities for the KBR Logistics Civil Augmentation Program contract which provided life support services to the U.S. Chief of Mission staff in Baghdad ("Logistics Civil Augmentation Program Task Order 130: Requirements, Validation, Government Oversight and Contractor Performance", (SIGIR-07-001, June 22, 2007). Additionally, our review of the "Management of the Primary Healthcare Construction Projects" (SIGIR-06-011, April 29, 2007) found that officials could not determine who, out of at least four different organizations involved in managing the contract, made changes to the scope of the work. Nevertheless, officials told us that it was likely that whoever did so may have made decisions without the requisite authority.

Lines of Authority and Significant, Frequent Organization Interfaces, As Reported By the Organizations



Source: "Fact Sheet on the Roles and Responsibilities of U.S. Government Organizations Conducting IRRF Funded Reconstruction Activities" (SIGIR-07-008, July 26, 2007)

- Emphasize contracting methods that support smaller projects in the early phases of a contingency reconstruction effort. The Commander's Emergency Response Program (CERP) and similar initiatives in Iraq proved the value of relatively small, rapidly executable projects that meet immediate local needs. Our review of the CERP ("Management of the Commanders Emergency Response Program in Iraq, (SIGIR-07-006, April 26, 2007) determined that CERP was used to undertake a variety of non-construction and construction projects to respond to urgent humanitarian and relief requirements in local communities. Military commanders report that smaller projects like those funded through the CERP contribute to community support and put local citizens to work thereby minimizing insurgent activity. These projects included, for example, repairing and reconstructing local schools, health clinics, and hospitals and water and sanitation infrastructure. As CERP has succeeded in Iraq, other funds have attempted to replicate the CERP model, for example the Department of State Quick Reaction Fund (QRF) – used by the Provincial Reconstruction Teams to fund low cost projects in the provinces.
- Generally avoid using sole-source and limited competition contracting actions. These exceptional contracting actions can be used in exceptional cases, but the emphasis must always be on full transparency in contracting and procurement. The use of sole-source and limited competition contracting in Iraq should have diminished as the program matured and previously sole-sourced limited competition contracts should have been promptly re-bid.

Policy and Process

- Establish a single set of simple contracting regulations and procedures that provide uniform direction to all contracting personnel in a contingency environment. The contracting process in Iraq suffered from a tapestry of regulations applied by diverse agencies which caused inconsistencies and inefficiencies that inhibited management and oversight. In our Lessons Learned in Contracting and Procurement report we discussed that in early 2004 there were about 20 different organizations undertaking contracting in Iraq. SIGIR also found that some entities that did not have authority – such as Iraqi Ministries – were also awarding contracts.
- Develop deployable contracting and procurement systems before mobilizing for post-conflict efforts and test them to ensure that they can be effectively implemented in contingency situations. Contracting entities in Iraq developed ad hoc operating systems and procedures, limiting efficiency and leading to inconsistent contracting documentation. SIGIR has issued numerous audits on the effects of failures in providing deployable contracting and procurement management systems. SIGIR found that although there was some effort to develop contracting policy in theater, adherence was haphazard. For example, SIGIR's review "Management of Rapid Regional Response Program Contracts in South-Central Region" (SIGIR-05-023, January 23, 2006) found that in letting Development Fund for Iraq (DFI) contracts U.S. officials: split project requirements to keep contract awards under the $500,000 threshold to circumvent

required reviews; issued contracts without required authorization; paid contracts in full at the time of signing and completion or project work was not verified. Further, U.S. officials could not ensure that fraud, waste and abuse did not occur because of material control weaknesses. Our report on "Management of the Contracts and Grants Used to Construct and Operate the Babylon Police Academy" (SIGIR-05-016, October 26, 2005) found similar problems in managing this specific contract.

- Definitize contracts early in the process. SIGIR Audit 06-019 found that there was a lack of clarity regarding regulatory requirements for definitization of task orders issued under contracts classified as Indefinite-Delivery/Indefinite Quantity (IDIQ). These resulted in diminished visibility and control over contractor costs by the government.
- Designate a single unified contracting entity to coordinate all contracting activity in theater. A unified contract review and approval point would help secure the maintenance of accurate information on all contracts and enhance management and oversight. A centralized supporting contract management tracking system, requiring all agencies to be a party, would allow for all contract and financial data to be presented in a uniform and consistent manner. SIGIR has reported on the difficulty in providing accurate and consistent contract information. Our report "The Evolution of the Iraq Reconstruction Management System (SIGIR-06-001, April 24, 2006) highlighted the difficulties in developing a system to track contracts using Iraq Relief and Reconstruction Funds which resulted in incomplete, inconsistent and therefore inaccurate data. DoD recently assigned this responsibility to the Joint Contracting Command Iraq/Afghanistan.
- Ensure sufficient data collection and integration before developing contract or task order requirements. The lack of good requirements data slowed progress early in the reconstruction program. The impact of the paucity of information on what contractors were to deliver was reflected in a number of our audits. Our review of the "Management of the Primary Healthcare Centers Constructions Projects (SIGIR-06-011) is illustrative in that the U.S. Government directed the contractor to build 150 healthcare centers before any sites had been identified. Additionally, in SIGIR Review of Bechtel's Spending Under its Phase II Iraq Reconstruction Contract (SIGIR-07-009, July 27, 2007) we concluded that it was difficult to measure the relationship between requirements, costs and output/outcomes in part because requirements were not always specific and the scope of work changed over time.
- Avoid using expensive design-build contracts that have unclear requirements and are awarded on a cost-plus basis, especially for simpler projects when standard structures are needed in large numbers over a wide geographical area such as for schools and clinics. Large cost plus construction consortia may be appropriate for very extensive projects, but most projects in Iraq were smaller and could have been executed through fixed-price direct contracting. It is critical to always first assess whether requirements are clear and fixed price contracts are the more suitable and cost effective approach.
- Use operational assessment teams and audit teams to evaluate and provide suggested improvements to post-conflict reconstruction contracting processes and systems.

Oversight entities should play a consultative role (along with their evaluative role), because the rapid pace of reconstruction contingency programs cannot easily accommodate the recommendations of long-term assessments or audits. I also would add that such an early consultative mechanism could ensure that proper internal controls are in place and operating before programs begin to minimize the potential for fraud, waste and abuse.

PRINCIPAL SIGIR RECOMMENDATIONS

Building from these lessons learned the following are principal recommendations SIGIR has made to improve contingency contracting.

- Explore the creation of an enhanced Contingency Federal Acquisition Regulation (CFAR). We observed that agencies have developed agency specific regulations implementing the government wide Federal Acquisition Regulation (FAR). For example, the Army notes that the Department of State, which has unique capabilities important to expeditionary situations, has developed FAR implementing procedures that differ from DoD's.
- Pursue the institutionalization of special contracting programs such as the CERP which we noted before have unique roles in post-conflict reconstruction.
- Include contracting and program management staff at all phases of planning for contingency operations.
- Create a deployable reserve corps of contracting personnel who are trained to execute rapid relief and reconstruction contracting during contingency operations.
- Develop and implement information systems for managing contracting and procurement in contingency operations.
- Pre-compete and pre-qualify a diverse pool of contractors with expertise in specialized reconstruction areas.

KEY CONGRESSIONAL AND EXECUTIVE BRANCH INITIATIVES TO ADDRESS CONTINGENCY CONTRACTING PROBLEMS.

The Congress has and continues to take action addressing the needs of contracting in a post conflict environment. Unfortunately, we do not see the same level of commitment within the executive branch, especially in principal civilian agencies.

Key Congressional Actions

Since SIGIR began its work, the Congress has initiated actions to manage contracting more effectively in a contingency environment. The John Warner National Defense Authorization Act for Fiscal Year 2007 included specific actions that the Secretary of Defense

must take to plan for and manage contingency contracting. The legislation, for example, stipulated that the Secretary of Defense must develop policies and procedures for defining contingency contracting requirements, provide for better program management by identifying a deployable cadre of experts and provide training for contingency contracting among other requirements. We look forward to seeing the actions the Department of Defense has taken to address these legislative requirements.

Last fall, the Congress included in the National Defense Authorization Act for Fiscal Year 2008 an amendment submitted by Chairman Carper and Senator McCaskill which requires contracting training for personnel outside the acquisition workforce. Their amendment addresses the condition whereby many unit commanders with no contracting experience are now being called upon to oversee contracts and contractors.

Congress is also considering other legislation to address the endemic problems in contracting across agency boundaries. I note the efforts of the Committee on Homeland Security and Governmental Affairs to encourage acquisition reform throughout the government with Committee passage of the "Accountability in Government Contracting Act of 2007". This Act addresses many of the issues SIGIR has identified by establishing a government-wide intern program to strengthen the Federal acquisition workforce, establish a contingency contracting corps to establish a cadre of experienced personnel who would deploy in response to manmade and natural contingency operations, and providing specific guidance to encourage accountability and limit waste and abuse.

Key Executive Branch Actions

Executive branch agencies have had a mixed response to the challenges faced in contingency contracting. One important initiative is the Secretary of the Army's establishment of a commission to study Army acquisition and program management in an expeditionary environment. The Commission's report, commonly referred to as the Gansler Report, identified a broad spectrum of systemic problems in the areas of financial management, civilian and military personnel management, training and education and doctrine, regulation and processes. For example, the Commission recommended increases in the quantity and career development of military and civilian contracting personnel and training for contracting activities in expeditionary operations. The Department of Defense has also taken actions to streamline contracting under one entity – the Joint Contracting Command Iraq/Afghanistan (JCC-I/A), and ensure coordinated clearance of all DOD contracts in Iraq through the JCC-I/A.

The Department of State and the U.S. Agency for International Development have not, however, undertaken any similar self-analyses, although our work identified that these agencies also encounter systemic personnel and oversight problems.

For example, our October 2007 report on the Department of State's Bureau for International Narcotics and Law Enforcement Affairs (INL) management of DynCorp

International's contract for the Iraqi Police Training Program identified significant management deficiencies. We found that INL's workload increased substantially without a commensurate increase in personnel.

As a result, INL did not know specifically what it received for most of the $1.2 billion in expenditures, and INL's lack of controls created an environment vulnerable to waste and fraud. DoS contracting staff in INL and other bureaus point to a number of factors which impede their ability to adequately manage contracts most notably that the Department has not allocated the requisite number of full time government staff to contracting positions and hires temporary contractors, who have high attrition rates, to manage contractors.

OPTIONS FOR CONGRESSIONAL CONSIDERATION

I have noted that the Congress had taken a number of steps to improve post-conflict contracting. Moreover, the Army has initiated its own review, with the Commission on Army Acquisition issuing a report on the subject. We generally support the Commission report's recommendations and note that many of them are tied directly to areas of concern that SIGIR identified. We look forward to seeing their implementation. Nevertheless, as you have correctly maintained, management improvements and enhanced oversight are still needed. As such, we offer the following suggestions for consideration by the Congress.

We suggest that the Congress consider requiring any civilian agencies contracting in a contingency environment, most notably DoS and USAID, conduct their own Gansler-type studies to identify contracting deficiencies and corrective actions. Specifically, we suggest these studies address their contracting and program and project management requirements, the status of their efforts to hire, train and ensure the speedy deployment of contingency contracting staff, and polices and procedures to manage and oversee contracts and contractors.

Given the critical need for coordination and collaboration, we further suggest these studies also address how the agencies will work with their civilian, as well as military, counterparts in contingency operations. In this regard, I would also suggest that specific timeframes be established for identifying contracting and contract management problem areas and reporting to Congress their solutions, including implementation plans with identified priorities of specific tasks and completion dates.

Let me close by thanking you for inviting me to testify and, on behalf of my colleagues, for your support of SIGIR's work. This completes my statement, and I look forward to responding to your questions.

Appendix A

SIGIR
AUDIT REPORT INVENTORY

Report Number	Report Title	Date of Report
08-004	Outcome, Cost, And Oversight Of Reconstruction Of Taji Military Base And Baghdad Recruiting Center	13-Dec-07
08-003	Review of the Use of Contractors in Managing Iraq Relief and Reconstruction Projects	29-Oct-07
08-002	Logistics Civil Augmentation Program Task Orders 130 and 151: Program Management, Reimbursement, and Transition	30-Oct-07
08-001	Interim Report on Efforts and Further Actions Needed to Implement a Financial Management System in Iraq	24-Oct-07
07-016	Interim Review of DynCorp International, LLC, Spending Under Its Contract for the Iraqi Police Training Program	23-Oct-07
07-015	Review of the Effectiveness of the Provincial Reconstruction Team Program in Iraq	18-Oct-07
07-014	Status of the Provincial Reconstruction Team Program Expansion in Iraq	25-Jul-07
07-012	Review of Iraq Relief and Reconstruction Fund Unmatched Disbursements at the Department of State	26-Apr-07
07-011	Controls Over Unliquidated Obligations in the Iraq Relief and Reconstruction Fund	23-Oct-07
07-010	Agency Management of the Closeout Process for Iraq Relief and Reconstruction Fund Contracts	24-Oct-07
07-009	Review of Bechtel's Spending under Its Phase II Iraq Reconstruction Contract	24-Jul-07
07-008	Fact Sheet on the Roles and Responsibilities of U.S. Government Organizations Conducting IRRF-funded Reconstruction Activities	26-Jul-07
07-007	Status of U.S. Government Anticorruption Efforts in Iraq	24-Jul-07
07-006	Management of the Commander's Emergency Response Program in Iraq for Fiscal Year 2006	26-Apr-07
07-005	Fact Sheet on Sources and Uses of U.S. Funding Provided in Fiscal Year 2006 for Iraq Relief and Reconstruction	27-Jul-07
07-004	Transferring Iraq Relief and Reconstruction Fund Capital Projects to the Government of Iraq	25-Jul-07
07-003	Cost-to-complete Reporting for Iraq Reconstruction Projects	26-Jul-07
07-002	Status of the Advanced First Responder Network	25-Apr-07
07-001	Logistics Civil Augmentation Program Task Order 130: Requirements Validation, Government Oversight, and Contractor Performance	22-Jun-07
06-045	Status of Ministerial Capacity Development in Iraq	30-Jan-07

Report Number	Report Title	Date of Report
06-044	Fact Sheet on Major U.S. Contractors' Security Costs Related to Iraq Relief and Reconstruction Fund Contracting Activities	30-Jan-07
06-043	Review of Iraq Relief and Reconstruction Fund Unmatched Disbursements	30-Jan-07
06-040	Improper Obligations Using the Iraq Relief and Reconstruction Fund (IRRF 2)	30-Jan-07
06-039	Review of USAID/Bechtel National, Inc., Property Management Controls for Contract SPU-C-00-04-00001-00	29-Jan-07
06-038	Unclassified Summary of SIGIR's Review of Efforts to Increase Iraq's Capability to Protect Its Energy Infrastructure	27-Sep-06
06-037	Interim Audit Report on Improper Obligations Using the Iraq Relief and Reconstruction Fund (IRRF-2)	22-Sep-06
06-036	Follow-up on SIGIR Recommendations Concerning the Development Fund for Iraq (DFI)	29-Jan-07
06-035	Interim Audit Report on Inappropriate Use of Proprietary Data Markings by the Logistics Civil Augmentation Program (LOGCAP) Contractor	26-Oct-06
06-034	Status of the Provincial Reconstruction Team Program in Iraq	29-Oct-06
06-033	Iraqi Security Forces: Weapons Provided by the U.S. Department of Defense Using the Iraq Relief and Reconstruction Fund	28-Oct-06
06-032	Iraqi Security Forces: Review of Plans to Implement Logistics Capabilities	28-Oct-06
06-031	Management of the Iraqi Interim Government Fund	27-Oct-06
06-030	Status of Medical Equipment and Other Non-construction Items Purchased for PHCs	30-Jan-07
06-029	Review of DynCorp International, LLC, Contract Number S LMAQM-04-C-0030, Task Order 0338, for the Iraqi Police Training Program Support	30-Jan-07
06-028	Review of Administrative Task Orders for Iraq Reconstruction Contracts	23-Oct-06
06-026	Review of the U.S. Agency for International Development's Management of the Basrah Children's Hospital Project	28-Jul-06
06-025	Review of the Medical Equipment Purchased for the Primary Healthcare Centers Associated with Parsons Global Services, Inc., Contract Number W914NS-04-D-0006	28-Jul-06
06-024	Joint Cash Count : Iraq National Weapons Card Program	26-Jul-06
06-023	Changes in Iraq Relief and Reconstruction Fund Program Activities – January through March 2006	28-Jul-06
06-021	Joint Survey of the U.S. Embassy – Iraq's Anticorruption Program	28-Jul-06
06-020	Review of the Advanced First Responder Network	28-Jul-06
06-019	Review of the Use of Definitization Requirements for Contracts Supporting Reconstruction in Iraq	28-Jul-06

Report Number	Report Title	Date of Report
06-018	Survey of the Status of Funding for Iraq Programs Allocated to the Department of State's Bureau of International Narcotics and Law Enforcement Affairs as of December 31, 2005	Jul-06
06-017	Transition of Iraq Relief and Reconstruction Fund Projects to the Iraqi Government	28-Jul-06
06-016	Interim Audit Report on the Review of the Equipment Purchased for Primary Healthcare Centers Associated with Parsons Global Services, Contract Number W914NS-04-D-0006	29-Apr-06
06-015	Iraqi Armed Forces Seized Assets Fund: Review of Contracts and Financial Documents	28-Apr-06
06-013	Briefing to the International Advisory and Monitoring Board for Iraq: Management Controls Over the Development Fund for Iraq	28-Apr-06
06-012	Development Fund for Iraq Cash Accountability Review: Joint Area Support Group-Central/Falluja	28-Apr-06
06-011	Management of the Primary Healthcare Centers Construction Projects	29-Apr-06
06-010	Review of the Multi-National Security Transition Command-Iraq Reconciliation of the Iraqi Armed Forces Seized Assets Fund	28-Apr-06
06-009	Review of Task Force Shield Programs	28-Apr-06
06-008	Development Fund for Iraq-Cash Accountability Review: Joint Area Support Group-Central	28-Apr-06
06-007	U.S. Agency for International Development: Management of the Transfer of Iraq Relief and Reconstruction Fund Projects to the Iraqi Government	29-Apr-06
06-006	Multi-National Security Transition Command-Iraq: Management of the Transfer of IRRF-funded Assets to the Iraqi Government	29-Apr-06
06-005	Follow-up on Recommendations Made in SIGIR Audit Reports Related to Management and Control of the Development Fund for Iraq	28-Apr-06
06-004	Changes in Iraq Relief and Reconstruction Fund Program Activities-October through December 2005	28-Apr-06
06-003	Review of Data Entry and General Controls in the Collecting and Reporting of the Iraq Relief and Reconstruction Fund	28-Apr-06
06-002	Prompt Payment Act: Analysis of Expenditures Made From the Iraq Relief and Reconstruction Fund	3-Feb-06
06-001	Management of Iraq Relief and Reconstruction Fund Program: The Evolution of the Iraq Reconstruction Management System	24-Apr-06
05-029	Challenges Faced in Carrying Out Iraq Relief and Reconstruction Fund Activities	26-Jan-06
05-028	GRD-PCO Management of the Transfer of IRRF-funded Assets to the Government of Iraq 05-028	23-Jan-06
05-027	Methodologies for Reporting Cost-to-complete Estimates	27-Jan-06

Report Number	Report Title	Date of Report
05-026	Issues Related to the Use of $50 Million Appropriation to Support the Management and Reporting of the Iraq Relief and Reconstruction Fund	27-Jan-06
05-025	Management of the Commander's Emergency Response Program for Fiscal Year 2005	23-Jan-06
05-024	Management of the Mansuria Electrical Reconstruction Project	23-Jan-06
05-023	Management of Rapid Regional Response Program Contracts in South-Central Iraq	23-Jan-06
05-022	Managing Sustainment for Iraq Relief and Reconstruction Fund Programs	24-Oct-05
05-021	Management of Iraq Relief and Reconstruction Fund Programs - Cost-to-Complete Estimate Reporting	24-Oct-05
05-020	Management of the Contracts, Grant, and Micro-Purchases Used To Rehabilitate the Karbala Library	26-Oct-05
05-019	Attestation Engagement Concerning the Award of Non-Competitive Contract DACA63-03-D-0005 to Kellogg, Brown, and Root Services, Inc.	30-Sep-05
05-018	Acquisition of Armored Vehicles Purchased Through Contract W914NS-05-M-1189	21-Oct-05
05-017	Award Fee Process for Contractors Involved in Iraq Reconstruction	25-Oct-05
05-016	Management of the Contracts and Grants Used To Construct and Operate the Babylon Police Academy	26-Oct-05
05-015	Management of Rapid Regional Response Program Grants in South-Central Iraq	26-Oct-05
05-014	Management of Commanders' Emergency Response Program for Fiscal Year 2004	13-Oct-05
05-013	Controls Over Equipment Acquired by Security Contractors	9-Sep-05
05-012	Policies and Procedures Used for Iraq Relief and Reconstruction Fund Project Management Construction Quality Assurance	22-Jul-05
05-011	Cost-to-Complete Estimates and Financial Reporting for the Management of the Iraq Relief and Reconstruction Fund	26-Jul-05
05-010	Interim Briefing to the Project and Contracting Office - Iraq and the Joint Contracting Command - Iraq on the Audit of the Award Fee Process	26-Jul-05
05-009	Reconciliation of Reporting Differences of the Source of Funds Used on Contracts After June 28, 2004	8-Jul-05
05-008	Administration of Contracts Funded by the Development Fund of Iraq	30-Apr-05
05-007	Administration of Iraq Relief and Reconstruction Fund Contract Files	30-Apr-05
05-006	Control of Cash Provided to South-Central Iraq	30-Apr-05
05-005	Compliance with Contract No. W911S0-04-C-003 Awarded to Aegis Defence Services Limited	20-Apr-05
05-004	CORRECTED - Oversight of Funds Provided to Iraqi Ministries through the National Budget Process	30-Jan-05

Report Number	Report Title	Date of Report
05-003	Memorandum Report regarding audit of Task Order 0044 of the Logistics Civil Augmentation Program III Contract	23-Nov-04
05-002	Accountability and Control of Materiel Assets of the Coalition Provisional Authority in Kuwait	25-Oct-04
05-001	Coalition Provisional Authority Control of Appropriated Funds	22-Oct-04
04-013	Coalition Provisional Authority's Contracting Processes Leading Up to and Including Contract Award	27-Jul-04
04-011	Audit of the Accountability and Control of Materiel Assets of the Coalition Provisional Authority in Baghdad	26-Jul-04
04-009	Coalition Provisional Authority Comptroller Cash Management Controls Over the Development Fund for Iraq	28-Jul-04
04-008	Coalition Provisional Authority Control Over Seized and Vested Assets	30-Jul-04
04-007	Oil for Food Cash Controls for the Office of Project Coordination in Erbil, Iraq	26-Jul-04
04-006	Corporate Governance for Contractors Performing Iraq Reconstruction Efforts	21-Jul-04
04-005	Award of Sector Design-Build Construction Contracts	23-Jul-04
04-004	Task Orders Awarded by the Air Force Center for Environmental Excellence in Support of the Coalition Provisional Authority	28-Jul-04
04-003	Federal Deployment Center Forward Operations at the Kuwait Hilton	25-Jun-04
04-002	Management of Personnel Assigned to the Coalition Provisional Authority in Baghdad	25-Jun-04
04-001	Coalition Provisional Authority Coordination of Donated Funds	25-Jun-04

Appendix B

SIGIR
LESSONS LEARNED INITIATIVES

Initiative	Initiative Title	Date of Initiative
Lessons Learned in Human Capital Management	Iraq Reconstruction: Lessons in Human Capital Management	January 2006
Lessons Learned in Contracting and Procurement	Iraq Reconstruction: Lessons in Contracting and Procurement	July 2006
Lessons Learned in Program and Project Management	Iraq Reconstruction: Lessons in Program and Project Management	March 2007

Appendix C

SIGIR TESTIMONIES

Report Number	Testimony Title	Date of Testimony
07-017T	Assessing an Effective Diplomatic and Development Program in Iraq: An Examination of the Diplomatic Surge (SIGIR 07-017T)	30-Oct-07
07-016T	Effectiveness of the Provincial Reconstruction Team Program in Iraq (SIGIR 07-016T)	18-Oct-07
07-015T	Assessing the State of Iraqi Corruption (SIGIR 07-015T)	4-Oct-07
07-014T	The Role of the Department of Defense in Provincial Reconstruction Teams (SIGIR 07-014T)	5-Sep-07
07-013T	The Costs of Military Operations and Reconstruction in Iraq and Afghanistan (SIGIR 07-013T)	31-Jul-07
07-012T	War Profiteering and Other Contractor Crimes Committed Overseas (SIGIR 07-012T)	19-Jun-07
07-011T	Iraq: Is Reconstruction Failing? (SIGIR 07-011T)	22-May-07
07-010T	Contracting in Iraq Reconstruction (SIGIR 07-010T)	10-May-07
07-009T	Can Iraq Pay for Its Own Reconstruction? (SIGIR 07-009T)	27-Mar-07
07-008T	SIGIR Lessons Learned: Program & Project Management (SIGIR 07-008T)	22-Mar-07
07-007T	SIGIR Investigations in Iraq (SIGIR 07-007T)	20-Mar-07
07-006T	Iraq Security Forces (SIGIR 07-006T)	9-Mar-07
07-005T	U.S. Contracting in Iraq (SIGIR 07-005T)	15-Feb-07
07-004T	Review of Iraq Reconstruction Oversight (SIGIR 07-004T)	8-Feb-07
07-003T	United States' Involvement in Iraq Reconstruction (SIGIR 07-003T)	6-Feb-07
07-001T	Review of Iraq Reconstruction (SIGIR 07-001T)	18-Jan-07
06-005T	Oversight Hearing on Reconstruction Contracting in Iraq (SIGIR 06-005T)	28-Sep-06
06-004T	Iraq Reconstruction: Lessons Learned in Contracting and Procurement (SIGIR-06-004T)	2-Aug-06
06-003T	Review of Iraq Reconstruction (SIGIR-06-003T)	8-Jun-06
06-002T	Hearing to Examine Iraq Stabilization and Reconstruction (SIGIR-06-002T)	8-Feb-06
06-001T	Hearing on Contracting Issues in Iraq (SIGIR-06-001T)	7-Feb-06
05-003T	Hearing on Iraq: Perceptions, Realities and Cost-to-Complete (SIGIR-05-003T)	18-Oct-05
05-002T	Oversight Hearing on Iraq Reconstruction (SIGIR-05-002T)	7-Sep-05
05-001T	The Development Fund for Iraq: U.S. Management of Iraq Oil Proceeds and compliance with UNSCR 1483 (SIGIR-05-001T)	21-Jun-05

United States Government Accountability Office

GAO

Testimony

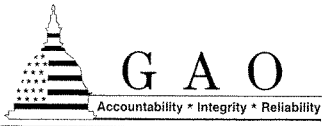
Before the Committee on Homeland Security and Governmental Affairs Subcommittees, U.S. Senate

For Release on Delivery
Expected at 2:30 p.m. EST
Thursday, January 24, 2008

MILITARY OPERATIONS

Implementation of Existing Guidance and Other Actions Needed to Improve DOD's Oversight and Management of Contractors in Future Operations

Statement of William M. Solis, Director
Defense Capabilities and Management



GAO-08-436T

January 24, 2008

GAO
Accountability·Integrity·Reliability

Highlights

Highlights of GAO-08-436T, a testimony before the Committee on Homeland Security and Governmental Affairs Subcommittees, U.S. Senate

MILITARY OPERATIONS:

Implementation of Existing Guidance and Other Actions Needed to Improve DOD's Oversight and Management of Contractors in Future Operations

Why GAO Did This Study

The Department of Defense (DOD) relies extensively on contractors to support deployed forces for services that range from food and housing services to intelligence analysis. Since 1997, GAO has reported on DOD's shortcomings in managing and overseeing its use of contractor support. Part of the difficulty attributed to these shortcomings is that no one person or entity made the decision to send 129,000 contractors to Iraq. Rather, numerous DOD activities were involved, thus adding to the complexity of the problems which GAO identified in its past work on this topic. This testimony focuses on (1) the problems that DOD has faced in managing and overseeing its contractor support to deployed forces and (2) future challenges that DOD will need to address to improve its oversight and management of contractors at deployed locations. In addition, as requested, several actions that Congress may wish to consider requiring DOD to take are included.

This testimony is based on previously issued GAO reports and testimonies on DOD's management and oversight of contractor support to deployed forces that focused primarily on U.S. efforts in Southwest Asia. This work was conducted in accordance with generally accepted government auditing standards.

What GAO Found

Several long-standing problems have hindered DOD's management and oversight of contractors at deployed locations, even in cases where DOD and its components have developed guidance related to these problems. These problems include failure to follow planning guidance, an inadequate number of contract oversight and management personnel, failure to systematically collect and distribute lessons learned, and lack of comprehensive training for contract oversight personnel and military commanders. GAO's previous work in this area has identified several instances where poor oversight and management of contractors led to negative monetary and operational impacts. As reported in a 2006 GAO report, DOD has taken a number of steps over the last several years to improve and consolidate its long-standing guidance pertaining to the use of contractors to support deployed forces. For example, in October 2005, DOD issued its first comprehensive guidance on contractor support to deployed forces. However, GAO found little evidence that DOD or its components were implementing the 2005 guidance or much of the other guidance addressing the management and oversight of contractors supporting deployed forces. Therefore, GAO believes that the issue is now centered on DOD leadership ensuring that the existing guidance is being implemented and complied with.

Based on GAO's past work, several challenges will need to be addressed by DOD to improve the oversight and management of contractors supporting deployed forces in future operations and ensure warfighters are receiving the support they rely on in an effective and efficient manner. Those challenges include: (1) incorporating contractors as part of the total force, (2) determining the proper balance of contractors and military personnel in future contingencies and operations, (3) clarifying how DOD will work with other government agencies in future contingencies and operations, and (4) addressing the use and role of contractors into its plans to expand and transform the Army and the Marine Corps.

To view the full product, including the scope and methodology, click on GAO-08-436T. For more information, contact William M. Solis at (202) 512-8365 or solisw@gao.gov.

I am pleased to be here today to discuss a number of issues regarding the oversight and management of contingency contracting in hostile zones. As you know, the Department of Defense (DOD) relies extensively on contractors for services that include communication services, interpreters who accompany military patrols, base operations support (e.g., food and housing), weapons systems maintenance, and intelligence analysis to provide support to our military operations in Southwest Asia. Our previous work has highlighted long-standing problems regarding the oversight and management of contractors supporting deployed forces, and we continue to conduct work looking at various aspects of these problems. Many of the problems we see in Iraq and Afghanistan stem from these long-standing problems and need to be viewed in that context. Moreover, although DOD estimated in its October 2007 report to Congress that 129,000 contractors support deployed forces in Iraq,[1] no one person or organization made a decision to send 129,000 contractors to Iraq. Rather, the decision to send contractors to support forces in Iraq was made by numerous DOD activities both within and outside of Iraq. The scope and scale of contract support to deployed forces therefore contributes to the complexity of the problems we have identified in our past work on this topic.

My testimony today will focus on (1) the problems that DOD has faced in managing and overseeing its contractor support to deployed forces and (2) future challenges that DOD will need to address to improve its oversight and management of contractors at deployed locations. In addition, as you requested, we have developed several actions the Congress may wish to consider requiring DOD to take.

In preparing this testimony, we relied on previously issued GAO reports and testimonies on DOD's management and oversight of contractor support to deployed forces that focused primarily on our efforts in Southwest Asia. This work was conducted in accordance with generally accepted government auditing standards. A list of GAO products used to prepare this testimony is located in appendix 1.

Summary

Several long-standing problems have hindered DOD's management and oversight of contractors at deployed locations. Examples of these

[1] Department of Defense, *Report on DOD Program for Planning, Managing, and Accounting for Contractor Services and Contractor Personnel during Contingency Operations* (October 2007).

problems include failure to follow planning guidance, an inadequate number of contract oversight and management personnel, failure to systematically collect and distribute lessons learned, and lack of comprehensive training for contract oversight personnel and military commanders. For example, we found that the Army did not follow its planning guidance when deciding to use the Army's Logistics Civil Augmentation Program (LOGCAP) in Iraq, resulting in the plan being revised seven times in less than 1 year. Moreover, too few contract oversight and management personnel were deployed to locations using contractor support. Having too few contract oversight personnel results in surveillance not being performed sufficiently, and ultimately DOD not having reasonable assurance that contractors are meeting their contract requirements efficiently and effectively. Although DOD policy requires the collection and distribution of lessons learned to the maximum extent possible, our prior work found DOD lacks sufficient procedures to help ensure that lessons learned are collected and shared. In addition, DOD has long recognized the need to comprehensively train contract oversight personnel and military commanders; however, DOD does not routinely incorporate information about contractor support for deployed forces in its pre-deployment training of military personnel. During the course of our work, we found examples where limited or no pre-deployment training caused a variety of problems for military commanders in a deployed location, such as not being able to adequately plan for the use of contractors upon deployment, not knowing what services would be provided through contractors, or not being prepared to provide force protection. We have found several instances where poor oversight and management of contractors has led to negative monetary and operational impacts. As we reported in 2006, DOD has taken a number of steps over the last several years to improve and consolidate its long-standing guidance pertaining to the use of contractors to support deployed forces. For example, DOD's 2005 issuance of comprehensive guidance on contractor support to deployed forces is a noteworthy improvement. However, we found little evidence that DOD or its components were implementing the 2005 guidance or much of the other guidance addressing the management and oversight of contractors supporting deployed forces. Therefore, we believe that the issue is now centered on DOD leadership ensuring that the existing guidance is being implemented and complied with.

Based on our past work, several challenges will need to be addressed by DOD to improve the oversight and management of contractors supporting deployed forces in future operations and ensure warfighters are receiving the support they rely on in an effective and efficient manner. Those

challenges include a number of broader issues, such as (1) incorporating contractors as part of the total force, (2) determining the proper balance of contractors and military personnel in future contingencies and operations, (3) clarifying how DOD will work with other government agencies in future contingencies and operations, and (4) addressing the use and role of contractors into its plans to expand and transform the Army and the Marine Corps.

As requested, we considered specific legislative remedies for the challenges facing DOD. While we believe that DOD bears the primary responsibility for taking actions to address these challenges, these are three actions the Congress may wish to consider requiring DOD to take in order to improve oversight and management of contractors and, ultimately, improve the services provided to the warfighter now and in future operations:

- Determine the appropriate balance of contractors and military personnel as it shapes the force for the future.
- Include the use and role of contractor support to deployed forces in force structure and capabilities reporting.
- Ensure that operations plans include specific information on the use and roles of contractor support to deployed forces.

Background

The U.S. military has long used contractors to provide supplies and services to deployed U.S. forces, and more recently contractors have been involved in every major military operation since the 1991 Gulf War.[2] However, the scale of contractor support DOD relies on today in Iraq and elsewhere throughout Southwest Asia has increased considerably from what DOD relied on during previous military operations, such as Operation Desert Shield/Desert Storm and in the Balkans. Moreover, DOD's reliance on contractors continues to grow. In December 2006, the Army alone estimated that almost 60,000 contractor employees supported ongoing military operations in Southwest Asia. In October 2007,[3] DOD

[2] Contractors supporting deployed forces refer to DOD contractor personnel who are authorized to accompany U.S. military forces in contingency operations or other military operations, or exercises designated by the geographic Combatant Commander.

[3] *Report on DOD Program for Planning, Managing, and Accounting for Contractor Services and Contractor Personnel during Contingency Operations.*

estimated that the number of contractors in Iraq to be about 129,000. By way of contrast, an estimated 9,200 contractor personnel supported military operations in the 1991 Gulf War. Factors that have contributed to this increase include reductions in the size of the military, an increase in the number of operations and missions undertaken, and DOD's use of increasingly sophisticated weapons systems.

DOD uses contractors to meet many of its logistical and operational support needs during combat operations, peacekeeping missions, and humanitarian assistance missions. Today, contractors located throughout Southwest Asia provide U.S. forces with such services as linguist support, equipment maintenance, base operations support, and security support. In Iraq and Afghanistan, contractors provide deployed U.S. forces with communication services; interpreters who accompany military patrols; base operations support (e.g., food and housing); weapons systems maintenance; intelligence analysis; and a variety of other support. Contractors also provide logistics support such as parts and equipment distribution, ammunition accountability and control, port support activities, and support to weapons systems and tactical vehicles. For example, in Kuwait and Qatar, the Army uses contractors to refurbish, repair, and return to the warfighters a variety of military vehicles, such as the Bradley Fighting Vehicle, armored personnel carriers, and the High-Mobility, Multi-Purpose Wheeled Vehicle (HMMWV).

Since our initial work on the use of contractors to support deployed forces in 1997, DOD has taken a number of actions to implement recommendations that we have made to improve its management of contractors. For example, in 2003 we recommended that the department develop comprehensive guidance to help the services manage contractors' supporting deployed forces.[4] In response to this recommendation, the department issued the first comprehensive guidance dealing with contractors who support deployed forces in October 2005.[5] Additionally, in October 2006, DOD established the office of the Assistant Deputy Under Secretary of Defense for Program Support to serve as the office with primary responsibility for contractor support issues. This office has led the

[4] GAO, *Military Operations: Contractors Provide Vital Services to Deployed Forces but Are Not Adequately Addressed in DOD Plans*, GAO-03-695 (Washington, D.C.: June 24, 2003).

[5] Department of Defense Instruction 3020.41, Contractor Personnel Authorized to Accompany the U.S. Armed Forces (Oct. 3, 2005).

effort to develop and implement a database which, when fully implemented, will allow by-name accountability of contractors who deploy with the force. This database implements recommendations we made in 2003 and 2006 to enhance the department's visibility over contractors in locations such as Iraq and Afghanistan.

DOD Has Experienced Problems with Its Oversight and Management of Contractors at Deployed Locations, but Has Taken Some Steps to Address These Problems

Several long-standing problems have hindered DOD's management and oversight of contractors at deployed locations. These problems include failure to follow long-standing planning guidance, ensure an adequate number of trained contract oversight and management personnel, systematically collect and distribute lessons learned, and comprehensively train contract oversight personnel and military commanders. We have found several instances where poor oversight and management of contractors have led to negative monetary and operational impacts. As we reported in 2006, DOD has taken a number of steps over the last several years to improve and consolidate its long-standing guidance pertaining to the use of contractors to support deployed forces.[6] However, DOD leadership needs to ensure implementation of and compliance with existing guidance to improve the department's oversight and management of contractors supporting deployed forces.

DOD Has Not Followed Long-standing Planning Guidance Regarding the Use of Contractors to Support Deployed Forces

As we have noted in previous reports and testimonies, DOD has not followed long-standing planning guidance, particularly by not adequately factoring the use and role of contractors into its planning. For example, we noted in our 2003 report that the operations plan for the war in Iraq contained only limited information on contractor support.[7] However, Joint Publication 4.0,[8] which provides doctrine and guidance for combatant commanders and their components regarding the planning and execution of logistic support of joint operations, stresses the importance of fully integrating into logistics plans and orders the logistics functions performed by contractors along with those performed by military personnel and government civilians. Additionally, in our 2004 report, we noted that the Army did not follow its planning guidance when deciding to

[6] GAO-03-695.

[7] GAO-03-695.

[8] The Joint Chiefs of Staff, *Doctrine for Logistic Support of Joint Operations*, Joint Publication 4-0 (Washington, D.C.: Apr. 2000).

use LOGCAP in Iraq.[9] According to Army guidance, integrated planning is a governing principle of contractor support, and for contractor support to be effective and responsive, its use needs to be considered and integrated into the planning process. Proper planning identifies the full extent of contractor involvement, how and where contractor support is provided, and any responsibilities the Army may have in supporting the contractor. Additional Army guidance stresses the need for the clear identification of requirements and the development of a comprehensive statement of work early in the contingency planning process. Because this Army guidance was not followed, the plan to support the troops in Iraq was not comprehensive and was revised seven times in less than 1 year. These revisions generated a significant amount of rework for the contractor and the contracting officers. Additionally, time spent reviewing revisions to the task orders is time that is not available for other oversight activities. While operational considerations may have driven some of these changes, we believe others were more likely to have resulted from ineffective planning. The lack of planning also impacts the post-award administration of contracts. For example, in our 2004 report,[10] we noted that one reason the Army was unable to definitize the LOGCAP task orders was the frequent revisions to the task orders. Without timely definitization of task orders, the government is less able to control costs.

Our 2003 report also concluded that essential contractor services had not been identified and backup planning was not being done.[11] DOD policy requires DOD and its components to determine which contractor-provided services will be essential during crisis situations and to (1) develop and implement plans and procedures to provide a reasonable assurance of the continuation of essential services during crisis situations and (2) prepare a contingency plan for obtaining the essential service from an alternate source should the contractor be unable to provide it. According to DOD Instruction 3020.37,[12] commanders have three options if they cannot obtain reasonable assurance of continuation of essential contractor service: they can obtain military, DOD civilian, or host nation personnel to perform the

[9] GAO, *Military Operations: DOD's Extensive Use of Logistics Support Contracts Requires Strengthened Oversight*, GAO-04-854 (Washington, D.C.: July 19, 2004).

[10] GAO-04-854.

[11] GAO-03-695.

[12] Department of Defense Instruction 3020.37, Continuation of Essential DOD Contractor Services During Crises, Nov. 6, 1990 (Change 1, Jan. 26, 1996).

services, they can prepare a contingency plan for obtaining essential services, or they can accept the risk attendant with a disruption of services during crisis situations. However, our 2003 review found that essential contractor services had not been identified and backup planning was not being done. Without firm plans, there is no assurance that the personnel needed to provide the essential services would be available when needed.

Moreover, because DOD and its components have not reviewed contractor support to identify essential services, the department lacks the visibility needed to provide senior leaders and military commanders with information on the totality of contractor support to deployed forces. As we noted in 2003 and 2006,[13] having this information is important in order for military commanders to incorporate contractor support into their planning efforts. For example, senior military commanders in Iraq told us that when they began to develop a base consolidation plan for Iraq, they had no source to draw upon to determine how many contractors were on each installation. Limited visibility can also hinder the ability of commanders to make informed decisions regarding base operations support (e.g., food and housing) and force protection for all personnel on an installation. Similarly, we found that limited visibility over contractors and the services they provide at a deployed location can hinder the ability of military commanders to fully understand the impact that decisions such as restrictive installation access and badging requirements can have on the ability of contractors to provide services.

As noted above, DOD has taken some steps to improve its visibility over contractor support. In addition, according to an October 2007 DOD report to Congress on managing contractor support to deployed forces,[14] the department is developing a cadre of contracting planners whose primary focus will be to review contractor support portions of combatant commanders' operations plans and contingency plans, including the requirements for contractor services.

[13] GAO-03-695 and GAO, *Military Operations: High-Level DOD Action Needed to Address Long-standing Problems with Management and Oversight of Contractors Supporting Deployed Forces*, GAO-07-145 (Washington, D.C.: Dec. 18, 2006).

[14] *Report on DOD Program for Planning, Managing, and Accounting for Contractor Services and Contractor Personnel during Contingency Operations.*

DOD Lacks an Adequate Number of Trained Contract Oversight and Management Personnel

As we noted in several of our previous reports, having the right people with the right skills to oversee contractor performance is crucial to ensuring that DOD receives the best value for the billions of dollars spent each year on contractor-provided services supporting forces deployed to Iraq and elsewhere. Since 1992, we designated DOD contract management as a high-risk area, and it remains so today, in part, due to concerns over the adequacy of the department's acquisition workforce, including contract oversight personnel. While this is a DOD-wide problem, having too few contract oversight personnel presents unique difficulties at deployed locations given the more demanding contracting environment as compared to the United States. Although we could find no DOD guidelines on the appropriate number of personnel needed to oversee and manage DOD contracts at a deployed location, several reviews by GAO and DOD organizations have consistently found significant deficiencies in DOD's oversight of contractors due to an inadequate number of trained personnel to carry out these duties.

In 2004,[15] we reported that DOD did not always have enough contract oversight personnel in place to manage and oversee its logistics support contracts such as LOGCAP and the Air Force Contract Augmentation Program (AFCAP). As a result, the Defense Contract Management Agency was unable to account for $2 million worth of tools that had been purchased using the AFCAP contract. The following year, we reported in our High-Risk Series that inadequate staffing contributed to contract management challenges in Iraq.[16] During our 2006 review,[17] several contract oversight personnel we met with told us DOD does not have adequate personnel at deployed locations. For example, a contracting officer's representative for a linguistic support contract told us he had only one part-time assistant, limiting his ability to manage and oversee the contractor personnel for whom he was responsible. The official noted that he had a battalion's worth of people with a battalion's worth of problems but lacked the equivalent of a battalion's staff to deal with those problems. Similarly, an official with the LOGCAP Program Office told us that the office did not prepare to hire additional budget analysts and legal personnel in anticipation of an increased use of LOGCAP services due to Operation Iraqi Freedom. According to the official, had adequate staffing

[15] GAO-04-854.

[16] GAO, *High-Risk Series: An Update*, GAO-05-207 (Washington, D.C.: January 2005).

[17] GAO-07-145.

been in place early, the Army could have realized substantial savings through more effective reviews of the increasing volume of LOGCAP requirements. More recently,[18] we reported that the Army did not have adequate staff to conduct oversight of an equipment maintenance contract in Kuwait. During our review of the contract, we found that vacant authorized oversight personnel positions included a quality assurance specialist, a property administrator, and two quality assurance inspectors. Army officials also told us that in addition to the two quality assurance inspectors needed to fill the vacant positions, more quality assurance inspectors were needed. According to Army officials, vacant and reduced inspector and analyst positions meant that surveillance was not being performed sufficiently in some areas and the Army was less able to perform data analyses, identify trends in contractor performance, and improve quality processes.

In addition to our work, a number of other reviews of DOD's contractor oversight personnel have identified similar problems. A 2004 Joint Staff review of the Defense Contract Management Agency's responsiveness and readiness to support deployed forces found that the agency had not programmed adequate resources to support current and future contingency contract requirements. The review also found that the Defense Contract Management Agency manpower shortages were aggravated by internal policies that limited the ability of personnel to execute those missions. More recently, the 2007 report of the Commission on Army Acquisition and Program Management in Expeditionary Operations stated that the Army lacks the leadership and military and civilian personnel to provide sufficient contracting support to either expeditionary or peacetime missions.[19] According to the commission, Army contracting personnel experienced a 600 percent increase in their workload and are performing more complex tasks, while the number of Army civilians and military in the contracting workforce has remained stagnant or declined. As a result, the commission found that the vital task of post-award contract management is rarely being done.

[18] GAO, *Defense Logistics: The Army Needs to Implement an Effective Management and Oversight Plan for the Equipment Maintenance Contract in Kuwait*, GAO-08-316R (Washington, D.C.: Jan. 22, 2008).

[19] Commission on Army Acquisition and Program Management in Expeditionary Operations, *Urgent Reform Required: Army Expeditionary Contracting* (Oct. 31, 2007).

As we noted in our 2006 report,[20] without adequate contract oversight personnel in place to monitor its many contracts in deployed locations such as Iraq, DOD may not be able to obtain reasonable assurance that contractors are meeting their contract requirements efficiently and effectively. However, some actions have been taken since our report to address the issue of inadequate numbers of trained contract oversight and management personnel. For example, in February 2007, the Deputy Assistant Secretary of the Army (Policy and Procurement) issued guidance that for service contracts greater that $2,500, the contracting officer shall appoint certified contracting officer's representatives in writing, identify properly trained contracting officer's representatives for active service contracts, and ensure that a government quality assurance surveillance plan is prepared and implemented for service contracts. In addition, Congress has taken steps to improve oversight by increasing the budgets for the Defense Contract Audit Agency, Defense Contract Management Agency, and the Defense Department's Inspector General in the fiscal year 2008 Defense Department Appropriations.[21]

DOD Is Not Systematically Collecting and Distributing Lessons Learned

Although DOD and its components have used contractors to support deployed forces in several prior military operations, DOD does not systematically ensure that institutional knowledge regarding the use of contractors to support deployed forces, including lessons learned and best practices, is shared with military personnel at deployed locations. We previously reported that DOD could benefit from systemically collecting and sharing its institutional knowledge to help ensure that it is factored into planning, work processes, and other activities.[22] We have also made several recommendations that, among other things, called for DOD to incorporate lessons learned from its experience in the Balkans to improve the efficiency and effectiveness of the Army's LOGCAP contract, implement a departmentwide lessons-learned program to capture the experiences of military units that have used logistics support contracts, and establish a focal point within the Office of the Under Secretary of Defense to lead and coordinate the development of a departmentwide

[20] GAO-07-145.

[21] Conference Report 110-434, accompanying Pub. L. No. 110-116 (Nov. 13, 2007).

[22] GAO, *Information Technology: DOD Needs to Leverage Lessons Learned from Its Outsourcing Projects*, GAO-03-371 (Washington, D.C.: Apr. 25, 2003); and *Military Training: Potential to Use Lessons Learned to Avoid Past Mistakes Is Largely Untapped* (GAO/NSIAD-95-152 (Washington, D.C.: Aug. 9, 1995).

lessons-learned program to collect and distribute the department's institutional knowledge regarding all forms of contractor support to deployed forces.[23]

Although DOD has policy requiring the collection and distribution of lessons learned to the maximum extent possible, we found in our previous work that no procedures were in place to ensure that lessons learned are collected and shared. For example, DOD has established the Joint Lessons Learned Program, designed to enhance joint capabilities through discovery, knowledge development, implementation, and sharing of lessons learned from joint operations, training events, exercises, and other activities.[24] The program applies to the Joint Staff, combatant commands, services, and combat support agencies that are to coordinate activities and collaboratively exchange lesson observations, findings, and recommendation to the maximum extent possible. According to DOD policy, combatant commands are responsible for executing and supporting joint lessons learned functions including lesson discovery, knowledge development, and implementation activities. U.S. Joint Forces Command is responsible for developing and implementing the capability to collect and analyze observations from current operations and ensuring key findings are appropriately disseminated.

The Army regulation which establishes policies, responsibilities, and procedures for the implementation of the LOGCAP program makes customers that receive services under the LOGCAP contract responsible for collecting lessons learned.[25] Nonetheless, we have repeatedly found that DOD is not systematically collecting and sharing lessons learned on the use of contractors to support to deployed forces. Despite years of experience using contractors to support forces deployed to the Balkans, Southwest Asia, Iraq, and Afghanistan, DOD has made few efforts to leverage this institutional knowledge. As a result, many of the problems we identified in earlier operations have recurred in current operations. In 2004,[26] we reported that despite over 10 years of experience in using

[23] GAO-04-854 and GAO-07-145.

[24] Chairman of the Joint Chiefs of Staff Instruction 3150.25C, Joint Lessons Learned Program (Apr. 11, 2007).

[25] Army Regulation 700-137, Logistics Civil Augmentation Program (LOGCAP) (Dec. 16, 1985).

[26] GAO-04-854.

logistics support contracts, the Army continued to experience the same types of problems it experienced during earlier deployments that used LOGCAP for support. For example, we found that U.S. Army, Europe, which has had the most experience in using logistics support contracts, has not consolidated its lessons learned and made them available for others. Similarly, in 2006 we learned that a guidebook developed by U.S. Army, Europe on the use of a logistical support contract was not made available to military commanders in Iraq until mid-2006.[27]

During the course of our 2006 work[28], we found no organization within DOD or its components responsible for developing procedures to capture lessons learned on the use of contractor support at deployed locations. Likewise, we found that neither the Joint Force's Command Joint Center for Operational Analysis nor the Army's Center for Army Lessons Learned was actively collecting lessons learned on the use of contractor support in Iraq. We noted that when lessons learned are not collected and shared, DOD and its components run the risk of repeating past mistakes and being unable to build on the efficiencies and effectiveness others have developed during past operations that involved contractor support. We also found a failure to share best practices and lessons learned between units as one redeploys and the other deploys to replace it. As a result, new units essentially start at ground zero, having to resolve a number of difficulties until they understand contractor roles and responsibilities.

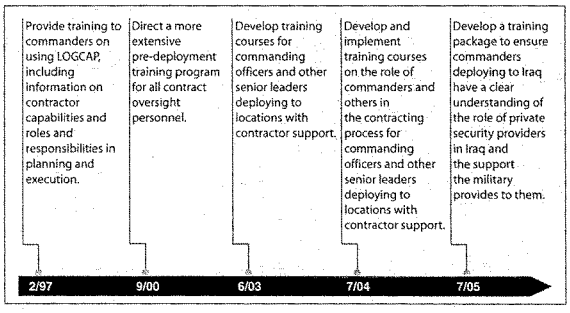
DOD Does Not Comprehensively Train Contract Oversight Personnel and Military Commanders

DOD does not routinely incorporate information about contractor support for deployed forces in its pre-deployment training of military personnel, despite the long-standing recognition of the need to provide such information. We have discussed the need for better pre-deployment training of military commanders and contract oversight personnel since the mid-1990s and have made several recommendations aimed at improving such training as shown in figure 1.

[27] GAO-07-145.

[28] GAO-07-145.

Figure 1: Previous GAO Recommendations Highlighting the Need for Better Training on the Use of Contractor Support to Deployed Forces



Source: GAO.

Moreover, according to DOD policy, personnel should receive timely and effective training to ensure they have the knowledge and other tools necessary to accomplish their missions. Nevertheless, we continue to find little evidence that improvements have been made in terms of how DOD and its components train military commanders and contract oversight personnel on the use of contractors to support deployed forces prior to their deployment. For example, in an October 2007 report to Congress on managing contractor support to deployed forces, DOD discussed broad, contractor management-related training programs that it intends to implement in the future.[29] Without properly trained personnel, DOD will continue to face risks of fraud, waste, and abuse.

Limited or no pre-deployment training on the use of contractor support can cause a variety of problems for military commanders in a deployed location. As we reported in 2006,[30] with limited or no pre-deployment training on the extent of contractor support to deployed forces, military commanders may not be able to adequately plan for the use of those

[29] *Report on DOD Program for Planning, Managing, and Accounting for Contractor Services and Contractor Personnel during Contingency Operations.*

[30] GAO-07-145.

contractors. In its 2007 report,[31] the Commission on Army Acquisition and Program Management in Expeditionary Operations found that combatant commands do not recognize the significance of contracts and contractors in expeditionary operations, and concluded that the Army needs to educate and train commanders on the important operational role of contracting. Several military commanders we met with in 2006 said their pre-deployment training did not provide them with sufficient information regarding the extent of contractor support that they would be relying on in Iraq. These commanders were therefore surprised by the substantial number of personnel they had to allocate to perform missions such as on-base escorts for third-country and host-country nationals, convoy security, and other force protection support to contractors. In addition, limited or no pre-deployment training for military commanders on the use of contractor support to deployed forces can result in confusion regarding their roles and responsibilities in managing and overseeing contractors. For example, we found some instances where a lack of training raised concerns over the potential for military commanders to direct contractors to perform work outside the scope of the contract, something commanders lack the authority to do. As Army guidance makes clear, when military commanders try to direct contractors to perform activities outside the scope of the contract, this can cause the government to incur additional charges because modifications would need to be made to the contract and, in some cases, the direction may potentially result in a violation of competition requirements. In addition, our 2005 report on the use of private security contractors in Iraq noted that commanders told us they received no training or guidance on how to work with private security providers in Iraq.[32] To highlight the lack of training and guidance, representatives from one unit told us that they did not know there were private security providers in their battle space until the providers began calling for assistance. They also said that any information about who would be in the battle space and the support the military should be providing would be useful.

We also found that contract oversight personnel such as contracting officer's representatives received little or no pre-deployment training regarding their roles and responsibilities in monitoring contractor

[31] Commission on Army Acquisition and Program Management in Expeditionary Operations.

[32] GAO, *Rebuilding Iraq: Action Needed to Improve Use of Private Security Providers*, GAO-05-737 (Washington, D.C.: July 28, 2005).

performance. Many of the contracting officer's representatives we spoke with in 2003 and 2006 said that training before they assumed these positions would have better prepared them to effectively oversee contractor performance. Although DOD has created an online training course for contracting officer's representatives, individuals we spoke with noted that it was difficult to set aside the time necessary to complete the training once they arrived in Iraq. Furthermore, in most cases, deploying individuals were not informed that they would be performing contracting officer representative duties until after they had deployed. We found several instances where the failure to identify and train contracting officer's representatives prior to their deployment hindered the ability of those individuals to effectively manage and oversee contractors. For example, the contracting officer's representative for an intelligence support contract in Iraq had not been informed of his responsibilities prior to deploying and had no previous experience working with contractors. The official told us he found little value in the online training course and subsequently did not believe this training adequately prepared him to execute his contract oversight responsibilities, such as reviewing invoices submitted by the contractor. Similarly, officials from a corps support group in Iraq told us that until they were able to get a properly trained contracting officer's representative in place, they experienced numerous problems regarding the quality of food service provided by LOGCAP. The 2007 report of the Commission on Army Acquisition and Program Management in Expeditionary Operations also discussed the need to train contracting officer's representatives and warned that the lack of training could lead to fraud, waste, and abuse.[33]

Some steps have been taken to help address the issue of pre-deployment training of military commanders and contract oversight personnel. In DOD's response to our 2006 report,[34] the Director of Defense Procurement and Acquisition Policy stated that the Army is making changes to its logistics training programs to be better positioned to meet current and future challenges. This included incorporating contracting officer's representatives training into its basic and advanced training for its ordnance, transportation, and quartermaster corps. In addition, the Defense Acquisition University has updated its contingency contracting course to include a lesson on contractors accompanying the force. More

[33] Commission on Army Acquisition and Program Management in Expeditionary Operations.

[34] GAO-07-145.

recently, the National Defense Authorization bill for fiscal year 2008 included a provision addressing the need for contingency contractor training for personnel outside the acquisition workforce.[35] This provision requires that military personnel receive training sufficient to ensure that they understand the scope and scale of contractor support they will experience in contingency operations and are prepared for their roles and responsibilities regarding contractor oversight and program management among others.

DOD's Problems in Managing and Overseeing Contractors Have Had Negative Impacts at Deployed Locations

DOD's problems managing and overseeing contractors at deployed locations make it difficult for the department to be assured that it is getting the services it needs on time and at a fair and reasonable price. Over the past few years, we reported some of the results of these long-standing problems. While many of the situations we discuss below highlight monetary consequences, poor contract management and oversight can affect military operations as well. Furthermore, although determining the extent of the financial impact is not always feasible or practicable, the inability to quantify the financial impact should not detract from efforts to achieve greater rigor and accountability in DOD contracting practices. The following are examples of negative impacts that have occurred at deployed locations.

- On January 22, 2008,[36] we issued a report on the Army's equipment maintenance contract in Kuwait and concluded that the Army did not always follow key principles included in the Army Quality Program. This instruction specifies the use of performance information to perform root-cause analysis and foster continuous improvement. In addition, the battalion's July 2006 draft maintenance management plan requires that contractor performance data should be analyzed to help identify the cause of new and/or recurring quality problems and evaluate the contractor's performance. However, we found that the Army did not begin to track contractor pass/fail rates until July 2007. According to Army quality assurance officials, this metric was not tracked and monitored because they did not have sufficient quality assurance staff to perform such an analysis. By not tracking and monitoring the percent of equipment submitted for Army acceptance that failed quality assurance inspection, the Army did not know the extent to which the contractor was meeting the

[35] H.R. 4986, § 849.

[36] GAO-08-316R.

specified maintenance standard requirements nor could it identify problem areas in the contractor's processes and initiate corrective action. Furthermore, our analysis of Army data found that for five types of vehicles inspected by quality assurance personnel between July 2006 and May 2007, 18 percent to 31 percent of the equipment presented to the Army as ready for acceptance failed government inspection. In addition, some equipment presented to the Army as ready for acceptance failed government inspection multiple times, sometimes for the same deficiencies. When the Army inspected equipment that did not meet standards, it was returned to the contractor for continued repair. Our analysis of Army data found that since May 2005 an additional 188,000 hours were worked to repair equipment after the first failed government inspection, which translates into an additional cost of approximately $4.2 million.

- In July 2004,[37] we reported that the Air Force had used the Air Force Contract Augmentation Program (AFCAP) contract to supply commodities for its heavy construction squadrons because it did not deploy with enough contracting and finance personnel to buy materials quickly or in large quantities. Additionally, the U.S. Agency for International Development has used the contract to provide disaster relief and humanitarian assistance supplies. In some cases, the contractor simply bought the supplies and delivered them to the customer under cost-plus award fee task orders. We noted that the contractor had received more than $2 million in award fees since February 2002 for these commodity supply task orders. While permitted, the use of cost-plus award fee task orders to obtain supplies may not be cost-effective, as the government reimburses the contractor's costs and pays award fees for orders with little risk. Air Force officials recognized that this business arrangement may not be cost-effective. Under the current Air Force Contract Augmentation Program (AFCAP) contract, commodities may be obtained using only firm fixed price orders or cost-plus fixed fee orders.

- The lack of sufficiently trained personnel can also lead to the inefficient use of military personnel. In our December 2006 report,[38] officials with a Stryker brigade told us a lack of contractor management training hindered their ability to resolve staffing issues with a contractor conducting background screenings of third-country and host-country nationals. In this case, shortages of contractor-provided screeners forced the brigade to use

[37] GAO-04-854.

[38] GAO-07-145.

its own intelligence personnel to conduct screenings. As a result, those personnel were not available for their primary intelligence-gathering responsibilities.

- In July 2004,[39] we reported that a disagreement between the LOGCAP contractor and the Defense Contract Audit Agency (DCAA) on how to bill for services to feed soldiers in Iraq involved at least $88 million in questioned costs. In this case, the statement of work required the contractor to build, equip, and operate dining facilities at various base camps and provide four meals a day for the base camp populations. The statement of work did not specify, however, whether the government should be billed on the camp populations specified in the statement of work or on the actual head count. This is an important distinction because the specified camp population was significantly higher than the actual head count, and the subcontractors providing the services generally billed the contractor for the specified base camp population. A contractor analysis of selected invoices over a 4-month period found that it had billed the government for food service for more than 15.9 million soldiers when only 12.5 million—more than 3.4 million fewer—had passed through the dining facilities. DCAA believed that the contractor should have billed the government on the actual head count services, whereas the contractor believed that it should have billed the government based on the camp populations specified in the statement of work. A clearer statement of work, coupled with better DOD oversight of the contract, could have prevented the disagreement and mitigated the government's risk of paying for more services than needed.

DOD Leadership Needs to Ensure Implementation of and Compliance with Existing Guidance Regarding Oversight and Management of Contractors

Based on our previous work, we believe DOD leadership needs to ensure implementation of and compliance with existing guidance in order to improve its oversight and management of contractors supporting deployed forces in future operations and ensure warfighters are receiving the support they rely on in an effective and efficient manner. As we reported in 2006,[40] DOD has taken a number of steps over the last several years to improve and consolidate its long-standing guidance pertaining to the use of contractors to support deployed force. For example, in October 2005, the department issued the first comprehensive guidance dealing with contractors who support deployed forces.[41] Moreover, largely in response

[39] GAO-04-854.

[40] GAO-07-145.

[41] Department of Defense Instruction 3020.41.

to the recommendation in our 2006 report, DOD established the office of the Assistant Deputy Under Secretary of Defense (Program Support) within the office of the Deputy Under Secretary of Defense for Logistics and Materiel Readiness to serve as the focal point to lead DOD's efforts to improve contract management and oversight.

However, as we reported in 2006,[42] although the issuance of DOD's new guidance was a noteworthy improvement, we found little evidence that DOD or its component components were implementing the 2005 guidance. In addition, we found little evidence that DOD or its components were implementing other guidance addressing the management and oversight of contractors supporting deployed forces. For example, DOD and service guidance requires the collection of lessons learned, the appointment of certified contracting officer's representatives, and that all personnel receive timely and effective training to ensure they have the knowledge and other tools necessary to accomplish their missions. However, as reflected in the problems discussed above, DOD and its components are also having difficulties implementing and complying with this guidance. Given DOD's continued difficulties meeting these requirements, it is clear that guidance alone will not fix these long-standing problems. Therefore, we believe that the issue is now centered on DOD leadership ensuring that the existing guidance is being implemented and complied with.

Future Challenges DOD Will Need to Address to Improve Its Oversight and Management of Contractors at Deployed Locations

Looking at our past work, I would like to make a number of broad observations about challenges we believe will need to be addressed by DOD to improve the oversight and management of contractors supporting deployed forces in future operations and ensure warfighters are receiving the support they rely on in an effective and efficient manner. There are four issues in particular that merit attention by DOD: (1) incorporating contractors as part of the total force, (2) determining the proper balance of contractors and military personnel in future contingencies and operations, (3) clarifying how DOD will work with other government agencies in future contingencies and operations, and (4) addressing the use and role of contractors into its plans to expand and transform the Army and the Marine Corps.

[42] GAO-07-145.

Incorporating Contractors as Part of the Total Force

DOD relies on contractors as part of the total force, which the department defines as its active and reserve military components, its civil servants, and its contractors. As DOD's 2006 Quadrennial Defense Review noted,[43] "The department and military services must carefully distribute skills among the four elements of the total force (Active Component, Reserve Component, civilians, and contractors) to optimize their contributions across the range of military operations, from peace to war." Furthermore, in a November 2007 briefing on challenges and opportunities associated with DOD's transformation efforts,[44] the Comptroller General called on DOD to employ a total force management approach to planning and execution (e.g., military, civilian, and contractors). Similarly, the 2007 report of the Commission on Army Acquisition and Program Management in Expeditionary Operations called on the Army to transform its culture with regard to contracting and establish contracting as a core competency.[45] Many of the long-standing problems we have identified regarding the oversight and management of contractor support to deployed forces stem from DOD's reluctance to plan for contractors as an integral part of the total force. This is evidenced by the fact that DOD does not incorporate the use and role of contractors in its professional military education. For example, an official from the Army's Training and Doctrine Command said it was important that all DOD components incorporate into their institutional training information on the use of contractors in deployed location so that all military personnel who deploy have a basic awareness of contractor support issues prior to deploying. We therefore recommended in our 2006 report that DOD develop training standards for the services on the integration of basic familiarity with contractor support into their professional military education.[46] This would be an important first step towards incorporating the use and role of contractors across the department.

[43] DOD, Quadrenial Defense Review Report (Feb. 6, 2006).

[44] GAO, *Defense Transformation: Challenges and Opportunities*, GAO-08-323CG (Washington, D.C.: Nov. 29, 2007).

[45] Commission on Army Acquisition and Program Management in Expeditionary Operations.

[46] GAO-07-145.

Determining the Proper Balance of Contractors and Military Personnel in Future Contingencies and Operations

DOD needs to determine the appropriate balance between contractors and military personnel in deployed locations in order to ensure its ability to meet its future mission requirements while at the same time assuring it has the capacity to oversee and manage contractors supporting those future missions. As the Comptroller General stated in April 2007,[47] given DOD's heavy and increasing reliance on contractors in Iraq and elsewhere, and the risks this reliance entails, it may be appropriate to ask if DOD has become too reliant on contractors to provide essential services. This is becoming a more important issue, as DOD becomes increasingly involved in missions such as stability operations. Looking towards the future, the department needs to consider how it will use contractors to support those missions and how it will ensure the effective management and oversight of those contractors. What is needed is a comprehensive, forward-looking review of contractor support to deployed forces that provides the proper balance between contractor support and the core capabilities of military forces over the next several years. The National Defense Authorization bill for fiscal year 2008 requires the Secretary of Defense to conduct, every 4 years, a comprehensive assessment of the roles and missions of the armed forces and the core competencies and capabilities of DOD to perform and support such roles and missions.[48] This could provide the foundation for a comprehensive examination of the support DOD will require contractors to provide in future operations and core capabilities the department believes it should not be relying on contractors to perform. Only when DOD has established its future vision for the use and role of contractors supporting deployed forces can it effectively address its long-term capability to oversee and manage those contractors.

Clarifying How DOD Will Work with Other Government Agencies in Future Contingencies and Operations

As DOD works to improve its oversight and management of contractors supporting deployed forces, it is increasingly working with other government agencies at those deployed locations. This has raised a number of issues that will likely continue to affect future operations unless the U.S. government acts to resolve them. For example, the Department of the Defense and the Department of State need to determine who should be responsible for providing security to the U.S. government employees and contractors working in contingency operations. If the U.S. government determines that it will use private security companies during

[47] GAO, *Stabilizing and Rebuilding Iraq: Conditions in Iraq Are Conducive to Fraud, Waste, and Abuse*, GAO-07-525T (Washington, D.C.: Apr. 23, 2007).

[48] H.R. 4986, § 941.

contingency operations, it is imperative that DOD and the other agencies agree on regulations and procedures to govern the use of private security companies and clarify their rules of engagement. Another question that has come up in Iraq and may occur in future operations is which agency should be responsible for reconstruction efforts. Moreover, there are issues that arise from the different rules and regulations governing military personnel, DOD civilians, other government agency employees, and contractors who may all be living and working on the same installation. For example, concerns have been raised about the applicability of the Military Extraterritorial Jurisdiction Act to crimes committed by contractors who support agencies other than DOD at deployed locations.[49] In addition, contractors working for DOD in Iraq and Afghanistan fall under military policies that prohibit the use of alcohol, gambling, and other behaviors. However, contractors working for other agencies are generally not required to follow these policies, which can lead to tensions and erode military efforts to maintain discipline and morale. Given that DOD can expect to work more closely with other agencies in the future, the department will need to develop memoranda of understanding with those agencies and update its guidance to improve its working relationship with its partners across the U.S. government.

Addressing the Use and Role of Contractors into Plans to Expand and Transform the Army and the Marine Corps

DOD also needs to address the role and use of contractor support to deployed forces as the department develops its plan to expand and transform its military forces. The department is in the process of planning for a substantial increase in the size of the Army and the Marine Corps. As it develops these plans, it is important that the department address the impact this growth in military forces will have on the contractor services needed to support those forces. Moreover, DOD should recognize that not all of the additional personnel must be dedicated to combat arms; a portion of that increase should be dedicated to expanding and enhancing the department's professional acquisition corps. In addition, as the department continues to transform its forces, DOD should ensure that it is addressing contract oversight and management requirements, such as personnel requirements. For example, the 2007 report of the Commission on Army Acquisition and Program Management in Expeditionary Operations recommended that the Army establish an Expeditionary Contracting Command that would be responsible for providing skilled,

[49] Military Extraterritorial Jurisdiction Act (18 U.S.C. 3261).

trained, contracting personnel for the support of expeditionary forces, assigned to deployable or deployed commands.[50]

Concluding Observations

In closing, I believe the long-standing challenges DOD faces transcend the current operations in Iraq and Afghanistan and demand a comprehensive effort to resolve. As requested, we considered specific legislative remedies for the challenges facing DOD. While we believe that DOD bears the primary responsibility for taking actions to address the challenges discussed above, these are three actions Congress may wish to consider requiring DOD to take in order to improve oversight and management of contractors and, ultimately, improve the services provided to the warfighter now and in future operations::

- **Determine the appropriate balance of contractors and military personnel as it shapes the force for the future**. A Quadrennial Defense Review-type study of contracting may be in order, one which comprehensively examines the support DOD will require contractors to provide in future operations and the core capabilities the department believes it should not be relying on contractors to perform. In addition, as the department continues to grow and transform its military forces, it should ensure that the role of contractor support to deployed forces is incorporated into its planning efforts.

- **Include the use and role of contractor support to deployed forces in force structure and capabilities reporting**. DOD regularly reports on the readiness status, capabilities assessments, and other review of the status and capabilities of its forces. Given the reality that DOD is dependant on contractors for much of its support in deployed locations, the department should include information on the specific missions contractors will be asked to perform, the operational impacts associated with the use of contractors, and the personnel necessary to effectively oversee and manage those contractors. In addition, these reports should address the risks associated with the potential loss of contractor support.

- **Ensure that operations plans include specific information on the use and roles of contractor support to deployed forces**. DOD guidance requires that contractor support be fully integrated into the logistics annex of operations and contingency plans. However, our

[50] Commission on Army Acquisition and Program Management in Expeditionary Operations.

previous work indicates that this is not being done at a sufficient level. Because of the increased use of contractors to support deployed forces and the variety of missions DOD may be asked to perform, Congress may want to take steps to gain assurances that operations plans for those missions sufficiently consider the use and role of contractors.

Chairmen Carper and Akaka and members of the subcommittees, this concludes my prepared remarks. I would be happy to answer any questions you may have.

Contacts and Acknowledgments

For questions about this statement, please contact Bill Solis at (202) 512-8365. Other individuals making key contributions to this statement include Carole Coffey, Assistant Director, Sarah Baker, Grace Coleman, and James Reynolds.

Appendix I: Related GAO Products

- *Defense Logistics: The Army Needs to Implement an Effective Management and Oversight Plan for the Equipment Maintenance Contract in Kuwait.* GAO-08-316R. Washington, D.C.: January 22, 2008.
- *Defense Acquisitions: Improved Management and Oversight Needed to Better Control DOD's Acquisition of Services.* GAO-07-832T. Washington, D.C.: May 10, 2007.
- *Military Operations: High-Level DOD Action Needed to Address Long-standing Problems with Management and Oversight of Contractors Supporting Deployed Forces.* GAO-07-145. Washington, D.C.: December 18, 2006.
- *Rebuilding Iraq: Continued Progress Requires Overcoming Contract Management Challenges.* GAO-06-1130T. Washington, D.C.: September 28, 2006.
- *Military Operations: Background Screenings of Contractor Employees Supporting Deployed Forces May Lack Critical Information, but U.S. Forces Take Steps to Mitigate the Risks Contractors May Pose.* GAO-06-999R. Washington, D.C.: September 22, 2006.
- *Rebuilding Iraq: Actions Still Needed to Improve the Use of Private Security Providers.* GAO-06-865T. Washington, D.C.: June 13, 2006.
- *Rebuilding Iraq: Actions Needed to Improve Use of Private Security Providers.* GAO-05-737. Washington, D.C.: July 28, 2005.
- *Interagency Contracting: Problems with DOD's and Interior's Orders to Support Military Operations.* GAO-05-201. Washington, D.C.: April 29, 2005.
- *Defense Logistics: High-Level DOD Coordination Is Needed to Further Improve the Management of the Army's LOGCAP Contract.* GAO-05-328. Washington, D.C.: March 21, 2005.
- *Contract Management: Opportunities to Improve Surveillance on Department of Defense Service Contracts.* GAO-05-274. Washington, D.C.: March 17, 2005.
- *Military Operations: DOD's Extensive Use of Logistics Support Contracts Requires Strengthened Oversight.* GAO-04-854. Washington, D.C.: July 19, 2004.

- *Military Operations: Contractors Provide Vital Services to Deployed Forces but Are not Adequately Addressed in DOD Plans.* GAO-03-695. Washington, D.C.: June 24, 2003.
- *Contingency Operations: Army Should Do More to Control Contract Cost in the Balkans.* GAO/NSIAD-00-225. Washington, D.C.: September 29, 2000.
- *Contingency Operations: Opportunities to Improve the Logistics Civil Augmentation Program.* GAO/NSIAD-97-63. Washington, D.C.: February 11, 1997.

Testimony of Dina Rasor and Robert Bauman

Committee on Homeland Security and Governmental Affairs

Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security

Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia

Management and Oversight of Contingency Contracting in Hostile Zones

Thursday, January 24, 2:30 p.m.

Mr. Chairmen and members of the subcommittees,

Thank you for asking us to testify today. My name is Dina Rasor and this is my co-author, Robert Bauman. Last year, because of the concern we had for the troops, we authored a book entitled, *Betraying Our Troops: The Destructive Results of Privatizing War.* We felt compelled to write this book because of the many horror stories we were hearing from soldiers and contractor employees in Iraq and those who have returned from Iraq. Our book follows the experiences of eleven individuals, some soldiers and some contractor employees, through the buildup to the war, the war and now the occupation.

Robert Bauman and I have been investigating defense procurement fraud and waste for most of our careers. Mr. Bauman was a career investigator for the DOD Defense Criminal Investigative Service (DCIS), a Vietnam veteran, and is a Certified Fraud Examiner (CFE). I founded and directed the Project on Military Procurement for ten years. It is now known as the Project on Government Oversight (POGO) and I serve on the Board of Directors as Treasurer. We run a small project called the Follow the Money Project (www.followthemoneyproject.org) that is dedicated to investigating where the money appropriated for the Iraq and Afghanistan wars is going -- especially money that should be going to the troops. We also are partners in the Bauman & Rasor Group, a consulting firm with an emphasis on qui tam False Claims Act lawsuits.

We are here today to look at the consequences of contracting so much of the Iraq war effort out to contractors, problems we have seen, how it has affected the troops. We have some suggestions to prevent such massive problems from happening in the future. Today, I will speak about some fundamental problems of using contractors in a war zone and its effects on the troops and Mr. Bauman will speak about problems due to the lack of oversight on the contractors. We also have some recommendations for the subcommittees based on our experience in this area.

We would like to emphasize that we are not against service contractors in the DOD, but we are concerned about placing them in unfortified hostile areas

The Achilles' Heel of Contractors in a Hostile Zone

Before the war started, the DOD was on a course of contracting out work at a higher rate than seen in the past. This caused alarm in some of the oversight organizations, such as the Government Accountability Office (GAO) and the DOD Inspector General. Both of these organizations wrote reports about their concerns of using contractors in hostile areas. The Army was warned about the dangers of using contractors in a hostile area.

A 1991 DOD Inspector General[1] Report warned about the problems that the services could have if the contractors would leave or not work in emergency situations. This report says that the problem was exposed in a 1988 DOD Inspector General report but firm plans had not been established. The report also warned that a DOD instruction written in 1990 (updated in 1996) was not being followed.[2] Section 4.4 of that instruction states:

For situations where the cognizant DoD Component Commander has a reasonable doubt about the continuation of essential services during crisis situations by the incumbent contractor, the Commander shall prepare a contingency plan for obtaining the essential service from alternate sources (military, DOD civilian, host-nation, other contractor(s)).

At the beginning of the war, in June 2003, the Government Accountability Office warned in a report that the commanders did not have back up plans, as required in the instruction above, on what to do if the contractors did not stay in a hostile area.[3]

One of the soldiers that we profiled in our book is Perry Jefferies, who is sitting at this panel today. I would urge you to listen carefully to his story and read his full testimony. Here was an experienced military man who was in charge of logistics for 1800+ men in the desert during and after the war and his story graphically illustrates what happens to our troops when the contractor is unwilling to go "beyond the wire" to serve troops.

According to KBR's LOGCAP Statement of Work (SOW), CJTF-7, 14 Nov 2004, the company was supposed to go within 100 kilometers of a base to supply the troops. According to another LOGCAP SOW, DAAA09-02-D-0007, Task Order 89.00, 10 APR 2005, water and other supplies were to be distributed as far as 250 kilometer to 400 kilometers from designed bases. Yet we have received many emails and letters from troops letting us know how much trouble they had getting even the most basic supplies during this period. Our book is full of examples where the contractor would not take the

[1] http://www.dodig.mil/audit2/91-105.pdf
[2] http://www.dtic.mil/whs/directives/corres/pdf/302037p.pdf
[3] http://www.gao.gov/new.items/d03695.pdf

risk and leave the bases. We call it the "just say no" problem of using contractors for vital supplies on the battlefield. .

Although the Army was already on its way toward contracting out its logistics, we learned, in the course of researching our book, that the lead up to the war made the problem much worse. For our book, we interviewed two generals, Lieutenant General Paul Kern, commanding general of the Army Materiel Command (AMC) from 2001-2004 and Major General Wade "Hamp" McManus, Jr., commanding general for the U.S Army Field Support Group from 2000-2004. Both men were responsible for the planning of the logistics in the rapid push to war. Although we interviewed each man separately, they had a common perspective of the problems of the war.

General Kern emphasized that because there was a cap on all troops, not just combat troops, the logistics arm also did not have enough troops for their mission. In desperation for logistics personnel in the run up to the war, the Army took the LOGCAP III contract that they had with Halliburton/KBR to supply troops around the world in areas such as the Balkans, and exploded it to replace the people and supplies that they did not have in the Army because of the troop cap. To place this in perspective, the LOGCAP III contract was around $60 million a year. To date, the LOGCAP III contact is estimated to have cost the Army $26 billion. Using the contract in this way led to many of the problems that we are seeing today. Both generals believe that some contracting out of logistics is here to stay but after some prodding admitted that they would have wanted their own personnel delivering the logistics on the battlefield and in hostile areas.

General McManus said in his interview that "the question one has to ask is have we asked our companies to do things we shouldn't have? Are we pushing them too far to deliver?" He also would have preferred to have logistic troops in a battlefield situation…"that's why we have an army." General Kern concurred by stating that he "would have preferred using military over contractors. More control. You train them and know what you have. You haven't recruited, trained, and equipped contractors. You don't have NCOs with them all the time. You don't know their families."

In the course of our research, we have come to the conclusion that the Army and the DOD have to draw a "line in the sand" and decide what is inherently governmental (IG) for logistics in a war or hostile zone. It is crucial that this be done because of the fog of war and because failure to know this line puts our troops at risk. Recently, the DOD published a revised DOD Instruction NUMBER 1100.22, Guidance for Determining Workforce Mix, September 7, 2006. This instruction is to try to guide the DOD and military commanders on what should be IG and what could be contracted out. This section lays out scenarios that resemble the DOD's situation in Iraq:

E2.2.1. Exemption for Military CS and CSS [Contract Support and Contract Service Support]

E2.2.1.1. Manpower authorities shall designate commercial CS or CSS functions in

operating forces (DoD Functions M415-M810 of Reference (n)) for military performance and code the manpower B if, in the commander's judgment, a military capability is not normally required for proper performance of the duties, but performance of the function by DoD civilians or contractors or total reliance on DoD civilians or contractors would constitute an unacceptable risk.

E2.2.1.2. This includes situations where there is a significant risk that:

E2.2.1.2.1. The threat level could increase and military personnel would be needed on short notice to provide or augment a military capability.26

E2.2.1.2.2. There would be an unsafe number of personnel in hostile areas who are not combatants.

E2.2.1.2.3. DoD civilians or private sector contractors will not 27 or cannot continue to perform their work.28

E2.2.1.2.4. Security provided by private sector contractors could prove inadequate due to inferior weapons, operational security (OPSEC), communications, or training. This always includes security for nuclear weapons, as required by DoD 5210.41-M (Reference (u)) ,and could include security for captured chemical, biological, radiological, and high explosive weapons and Conventional Arms, Ammunitions, and Explosives.

E2.2.1.3. This manpower is exempt from private sector performance. It provides a ready and controlled source of technical competence (core capability) necessary to ensure an effective and timely response to an emergency or national defense contingency in the event military

25 Section 118(b) of Reference (g) requires the Department to identify the resources needed "to execute successfully the full range of missions called for in the national defense strategy at a low to moderate level of risk."

26 Section 113(i) of Reference (g) requires the Department to address "the means by which the DoD will maintain the capability to reconstitute or expand the defense capabilities and programs of the Armed Forces of the United States on short notice to meet a resurgent or increased threat to the national security of the United States."

27 Except during a declared war, DoD civilian and private sector contract employees have the discretionary option of quitting their jobs and not performing their duties without being subject to criminal prosecution under the UCMJ.

28 This includes situations where the commander has concerns that the contractor can no longer fulfill the terms of the contract because the threat level, duration of hostilities, or factors specified in the contract have changed significantly, or because U.S. law, international law, HN law, or international or HN support agreements (e.g.,SOFAs) have

changed in a manner that affects contract arrangements, or because of political or social situations.

We see this as the Achilles' heel in using contractors in a hostile zone. The contractors can refuse to do some or all of the work in a task order and the commander does not have immediate ways to solve the problem, only protracted civil administrative and legal remedies. A contractor employee has the right to quit on the spot, even on the battlefield, and go home. Both of these actions, especially when the contractor is in charge of vital logistics, can greatly put the troops and mission in danger. In other words, the contractor and his employee can just say no.

These contractors and their employees have replaced troops who did not have that option. The Uniform Code of Military Justice (UCMJ) was designed to prevent troops from quitting the battlefield or hostile areas. No matter how patriotic our troops and commanders may be, we are asking them to do something that is directly against their self interest. When they take an oath to the Armed Services, they place themselves under the UCMJ and give up some rights. This is needed on the battlefield. If a soldier refuses to do a job under a lawful order, he can be jailed and court-martialed. If a soldier decides that he doesn't want any more of the war and leaves, he can be jailed and charged with desertion. If a commander is not doing his job or refuses to do some of his job, he can immediately be relieved of command and court-martialed. This is the type of action that you need on the battlefield or hostile areas because the troops' lives depend on it. It doesn't work when you put civilian contractors in the same role in hostile areas and you don't have the same law to make them do the work.

Recently, the House of Representatives had hearings on the problems of civilian and legal issues in Iraq. One of the people who testified was Scott Horton, an attorney who has a background in military law and is writing a book about the legal problems in Iraq. He told me that while the Congress is looking at MEJA (Military Extraterritorial Jurisdiction Act) and the UCMJ for legal remedies for contractors, but that this was only for crime and serious offense. He believes that the Army could not use the UCMJ or other legal remedies against contractors or contractor employees for refusing do work or quitting because it would not pass a constitutional test. So while HR 2740 will address problems of contractor crime in Iraq, we will still have the problem of contractors quitting on the battlefield with little recourse for the commander who is counting on them.

See footnote 27 in the DOD Instructions above that notes: *Except during a declared war, DoD civilian and private sector contract employees have the discretionary option of quitting their jobs and not performing their duties without being subject to criminal prosecution under the UCMJ.*

This note was left in the newly revised DOD Statement despite some language that the Congress has recently inserted about the UCMJ.

Furthermore, the Army does not have a contingency plan to deal with contractors leaving or not doing the full job because the Army has allowed their own logistics arm to atrophy. They don't have the manpower, the plans or the resources to do the job themselves while they have contracted out some of their most vital logistics, food, water, supplies and running the truck convoys that bring in all the supplies that they need to fight in a war or occupation.

In the introduction of our book, we tell a disturbing story of a manager for KBR, who was contracted to provide food, water, supply transportation and other services to our troops in Iraq. He told a general at his Iraq base that unless KBR was paid for their submitted invoices, his workers would stay in their housing containers and do nothing until the money was paid. In other words, KBR was threatening a work stoppage in a war zone.

This was not an isolated incident. Later in the book, we verified that this was happening across Iraq at various bases as KBR approached or exceeded their "not-to exceed" costs. Since the Army had contracted with KBR to provide these services which had been traditionally done by the Army, they had no back up plan and paid the bills. These generals had to process these questionable billing demands up through the ranks of the general officer corps and the civilian managers to the high level in the Army, and they released the money to be paid.

Ironically, according to peacetime procurement law, KBR has the legal right to stop work on any contract once they reached a threshold on spending money. Known as the Limitation of Government's Obligation (LOGO) clause (DFAR Supplement §252.232-7007), it states "the contractor will not be obligated to continue work…beyond that point." "That Point" occurs when the DOD runs out of appropriated funds for a given period of time and must wait for additional funding. The military cannot spend money beyond the amount appropriated. These peacetime rules don't work in war and illustrate another problem of using contractors in hostile areas without thinking through the problems.

It is very troublesome that these generals, who may have argued and jawboned KBR in meetings, were allowing contractors to control the logistics of their war. Since the early supplemental money for the war was what is called "colorless", i.e. could be allocated for whatever was needed, there are concerns that the contractor bills took precedence over other traditional Army needs such as body armor, night vision goggles, and other critical combat equipment. The Congress has been voting more and more money to be sure that the troops have what they need and yet the Army has barely been able to supply the demand for this equipment. This is exactly the type of situation that the DOD Instruction above was trying to prevent. But this instruction is written in the usually byzantine DOD procurement speak. The commanders of war do not have the time to read and try to understand the loopholes and murky provisions in this statement and they certainly do not have the time to understand complicated contract language and shifting task orders with the contractors.

The Iraq Parliament is considering lifting the immunity from prosecution exemption that was granted to the contractors by the Coalition Provisional Authority. If Iraq does eliminate immunity and a contactor employee does get thrown in Iraqi jail, there could be a crippling flight of employee personnel out of the country in rapid order. The companies will tell you that they can get foreign nationals to stay and do the work. There are a larger number of them than Americans in many of these jobs. But the supervisory management people, who are mostly American, could leave and the logistics and security of the U.S. forces could be put a great risk and could embolden the insurgency to take advantage of this potentially vulnerable hit on the logistics supply chain and private security details.

The DOD and the Army need to draw this line in the sand where no contractor can serve in a vital mission in a hostile zone. The DOD Instruction above is inadequate and too hard to understand for the commander in the midst of a war. If the DOD is not willing or able to make this line very clear, the Congress needs to step in and draw that line. We would suggest that the newly passed Wartime Contracting Commission be tasked with studying this problem and coming up with legislation that would make it illegal to put contractors in situations that are risky for the troops, the contractors and the mission.

Our suggestion would be that contractors should not serve in vital logistic or security roles in hostile areas. In Iraq, this would mean that contractors should be limited to Kuwait, the Green Zone and fortified military bases. Contractors, especially, should not be in charge and driving truck convoys carrying vital supplies and logistics for the troops. Our book has numerous examples of how the logistics system failed the troops and we don't want to see this in future conflicts. Our troops deserve better.

The subcommittee will be hearing from Mr. Jack Bell the Deputy Under Secretary for Logistics and Materiel Readiness in the next panel. We interviewed Jack Bell for our book.

We worked long and hard to get an interview with Mr.Bell to get his civilian take on the problems of contractors in this war on the logistics and supplies. He made a puzzling comment that "soldiers complaining on the battlefield is actually a sign of good morale as far as we are concerned." He then made a rote statement that was clearly given to him by the Army:

"To our knowledge, none of the warfighters suffered long-term adverse consequences due to failure to provide them the equipment or supplies they needed to conduct the war fight." [Chapter 24, p.227]

We were stunned at the absolutism of his statement because the lack of body armor stories were in the media and the un-armored Humvee controversy was also getting attention. I would suggest that you ask Perry Jefferies today if he agrees with that statement and did not suffer "long-term adverse consequences" by not having enough food, water, fuel, supplies and parts while sitting in the desert and trying to accomplish

his mission. We suggest that you ask about his statements in light that he is one of the top people in DOD responsible for logistics and material. Maybe he could bring the Army people that gave him that statement and let them explain the body armor problems and the myriad of contractor logistics and supply problems that plague this war and occupation.

Acquisition Management and Oversight

According to an excellent report recently published by the Center for Public Integrity, "U.S. government contracts for work in Iraq and Afghanistan have grown more than 50 percent annually, from $11 billion in 2004 to almost $17 billion in 2005 and more than $25 billion in 2006."[4]

Has the amount of troops in Iraq grown 50 percent in each of those years? Has the mission grown 50 percent each of those years? Has the construction grown 50 percent in each of those years? No, but the billings have. It is the oldest defense scam on the books...run up the costs on the first contract or task order, that becomes the new normal and then the next contract or task order will have those inflated billings and more. It is especially easy to do this during a war when the Army is counting on you for supplies and security and those few pesky DOD auditors are way behind the lines without access to the necessary books. It also helps to have chaotic book keeping so the commander just has to take your word on how much things are costing.

It has been well documented by government agencies that the Army's management and oversight of its contingency contracts for services in Iraq and Afghanistan has been seriously deficient. Our book also discloses on-the-ground accounts of how poor acquisition management and oversight has affected our troops and the taxpayer. Deficient acquisition management and oversight seriously erodes the government's ability to maintain control and accountability of its contracts.

Such deficiencies should not have been a surprise for the Army. As far back as 1994 in Haiti, and 1996 in the Balkans, the Army's acquisition management was criticized by their own Army Audit Agency and the GAO for poor oversight, not having the ability to monitor the contractor's performance, and using contract management personnel who were inexperienced and lacked an understanding of the LOGCAP contract resulting in unnecessary costs. The GAO found the same problems continued to exist in the Balkans in 2000[5] and 2003[6].

Despite years of being aware of their contract management and oversight deficiencies, the Army took no substantive action to resolve those problems and was

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[4] http://www.publicintegrity.org/WOWII

[5] http://www.gao.gov/archive/2000/ns00225.pdf

[6] http://www.gao.gov/new.items/d03695.pdf

caught with their pants down when LOGCAP exploded after the start of the Iraq conflict in 2003. As of 2007, there continued to be no progress in upgrading this deficient, ineffective, and dysfunctional oversight and contract management process in order to determine cost reasonableness of a contract now worth more than $25 billion. There is no telling how many billions of dollars have been wasted as a result.

A startling example of just how dysfunctional and ineffective oversight has been on the ground in Iraq, for the LOGCAP contract, was revealed in a 2005 LOGCAP Team Detachment after-action report we obtained from a source who was part of that team. LOGCAP support personnel (called "Planners") were assigned to all the primary bases in Iraq between June 2004 and June 2005 and were required to submit comments and issues regarding their tour of duty. These submissions were rolled-up into the after action report submitted through the LOGCAP chain of command. A copy of this report has been provided to the Committee. These Planners were there to monitor the contract and provide advice, assistance and recommendations on LOGCAP issues to the Administrative Contracting Officer (ACO), military, and KBR. Unfortunately, they did not have authority over the contractor or the ACOs.

The report disclosed poor communications, no teamwork, and a lack of information sharing between the LOGCAP Detachment Headquarters in Baghdad and the Planners in the field. There was a lack of support by the Army Materiel Command and a failure to properly equip the Planners. Unbelievably, as a result, Planners were at the mercy of KBR for life support that was, on the whole, inadequate, untimely and unresponsive. They had to often work without the most basic issue items. One Planner was given a housing container by KBR which had only a mattress on the floor and was littered with empty urine water bottles, and assorted debris. His reaction was if they would do this to the Planner, what do they do to the soldier? The answer was the very same and less. Yet, KBR living standards for their employees were higher than soldiers.' They claim that they are suppose to live like the soldiers when they actually did not.

The report went on to say ACO's and Planners were not working together as a team. ACOs were not aware of the Planner's role and often failed to utilize knowledge and advice of Planners often deferring to KBR instead. Conflicts existed between Planners and other military, Defense Contract Management Agency (DCMA), Program Contracting Officer (PCO), and other DoD agency personnel. Chaotic lines of communication were common with no clear lines of responsibility or authority.

The report further disclosed that some Planners had a lack of knowledge of LOGCAP and how to turn on KBR to do work. This lack of knowledge created misinformation on the part of the military and KBR as to contract requirements. ACO's were not trained in LOGCAP and were confused as to Planner duties and many were very inexperienced in their roles. But, what was frustrating to the Planners in their efforts to curb waste and abuse was that the LOGCAP Program Manager acted as a cheerleader for KBR. Despite efforts by the Planners to put a stop to contractor money wasting boondoggles, the Program Manager was leading the charge in supporting those boondoggles for KBR.

In addition to a lack of support by their own chain of command, the ACO was also not fully supportive of Planners especially when they requested cost data from KBR. KBR was often slow to comply or refuse to provide this important data. Planners could do little to compel KBR to provide data because they had no authority over their actions. When KBR issued situation reports to the ACO, they were useless. These reports often did not tell the truth and lacked important information. KBR management was reluctant to provide information because, they said, it could be used against them.

Planners revealed there were possible conflicts of interest and unethical or criminal activities between DCMA, the LOGCAP Program Manager, other unnamed government agencies, and KBR in monitoring the contract. There were allegations of collusion with KBR, acting as employees of KBR, overlooking violations of performance in the execution of the statement of work, getting favorable treatment over a regular soldier, and obtaining employment with KBR for friends, or themselves. Despite the important issues raised in this after-action report, there has been no evidence the Army has addressed any of them. The Army has shown it can not provide adequate oversight and management with their own personnel in Iraq. Moreover, recent revelations in Kuwait demonstrates that the Army can not control its own personnel awarding contracts in that country and had to shift its contracting office back to Rock Island, Illinois.

Although the Gansler Commission report was correct in recommending the need for more skilled acquisition and contract monitoring personnel – essential in ensuring cost control and contractor performance, that alone does not address the root problems for defense contracting in general. Those root problems are the significant weakening of contract laws and regulations over the last 13+ years, under the guise of "acquisition reform," that now permit many previously prohibited contracting practices, and the "Partnering" process, between DOD and contractors, used in such contracts as LOGCAP. Because of this weakening of contract laws and regulations, simply hiring more acquisition and oversight personnel will not provide meaningful opportunities to take preventative or remedial action to prevent contractor fraud, waste, and abuse.

During the 1990s, acquisition reform laws such as the Federal Acquisition Streamlining Act (FASA), enacted in 1994, and the Federal Acquisition Reform Act (FARA), enacted in 1996, had a significant impact on procurement laws and regulations. In 2004, the Services Acquisition Reform Act (SARA) was enacted that further weakened the DOD's negotiating position and oversight with respect to service type contracts. Generally, these Acts repealed and/or superseded various aspects of the statutory basis for government contracting such modifying the Competition in Contracting Act which mandated full and open competition and amending the Armed Services Procurement Act that included eliminating the need to submit cost or pricing data to support contract pricing.

In addition FASA and FARA substantially weakened the use of the Cost Accounting Standards (CAS) – the backbone of controlling contractor costs by setting accounting rules for contractors. Also, during FY 1996, A "Panel" was created to review

CAS. The net result of the Panel's report was to create more CAS exemptions, waivers and increased dollar threshold criteria which had the effect of eliminating many large contracts and contractors from CAS coverage. This Panel also derailed an important CAS Board initiative that would have prevented contractors from changing their accounting methodologies while performing a contract without also showing the government what the cost impact of the accounting change would be.

The "Partnering" process in DOD contracting is a concept that has been a disaster for government agencies and the taxpayer. It is based on a "mutual commitment between government and industry to work cooperatively as a team." It accepts the concept of mutual common interests among the parties to further the interests of the contract. It does not consider where those interests might be different especially when it comes to pricing of contracts, technical issues, etc. It also does not take into account the differences in manpower, skill, and experience. We believe that the Partnering process was initiated to mask the significant deterioration of acquisition and oversight personnel in the 1990s. Large contractors, in particular, have far more acquisition resources, skill, and experience than the DOD and therefore dominate the acquisition process under the Partnering process. With Partnering, a large contractor can insinuate itself into the acquisition process and dominate or influence acquisition management and oversight to its benefit. It is why we see LOGCAP officials relying on KBR, deferring to KBR on support for their oversight personnel, accepting contractor boondoggles, and accepting explanations on important cost issues, such as level of service, without question.

It seems the Army has decided the best way to remedy its deficiencies in acquisition management and oversight is to outsource those functions. For the LOGCAP IV contract, the Army has awarded a "support" contract to SERCO to provide "acquisition and life cycle management support for the program." That contract is now on hold because of contractor challenges and the old LOGCAP III contract still remains in effect with all its inflated costs and lack of oversight.

Having a contractor involved in the acquisition, planning, and management support over a large contract usurps governments control over the management and oversight of that contract and compromises the checks and balances of the acquisition process. It also creates a conflict of interest concern since contractor objectives are to make a profit while the DOD's is to save money. It brings into question the support contractor's relationships with the three contractors on LOGCAP IV vis-à-vis the Army in providing its analysis and assessments of who wins task orders and at what cost on this type of contract. There is some precedence. Both DOD and State awarded more that $500 million in contracts to contractors to manage other contractors in Iraq mainly because the CPA did not have sufficient staff to manage or oversee those contracts or the support contractors. Given the current posture of insufficient acquisition and oversight staff, the Army runs the risk of ceding control and of the acquisition process and contractor accountability to the support contractors. Who is going to watch the watchers? Certainly not the Army. They don't have the resources to do that. Acquisition and oversight should be considered an inherently governmental function to maintain authority over contingency contracting. To have a contractor manage other contractors is

tantamount to having a fox guard the hen house. Congress should enact a law restricting or eliminating this process.

Another area that needs to be addressed is going after the money that has already been fraudulently taken in this war. The new Wartime Contracting Commission is one place to start. But, based on our experience, it will take a willing and tough Department of Justice to file False Claims suits against companies that have taken advantage of this situation. When Dina Rasor worked on reforming the military procurement problems of the 1980s, she heard from the then assistant DOD IG that he would refer cases for prosecution to the "black hole of Justice" never to be heard of again. The Congress and the DOD should not consider these ill gotten gains as water under the bridge and insist that this Department of Justice and the DOJ in the next administration take an aggressive and persistent action against any contactor that has defrauded the government whether it be in the criminal or civil realm. Based on our experience, there is an opportunity to recover perhaps billions of dollars and set the tone for the next conflict that there will be steep penalties to pay for taking advantage of our nation at war.

Without this pressure on the DOJ, the Wartime Contracting Commission may see its referrals die in the black hole of Justice.

We felt compelled to write this book for the public and to fund our Follow the Money Project so that troops like Perry Jefferies will never have to face these circumstances again during war. Congress and the DOD need to act to put contractors, this new War Service Industry, back where they belong – inside the wire and out of vital logistics and security in a hostile zone.

We recommend the following remedies:

-- Congress and the DOD need to distinctly define what is inherently governmental and military on the battlefield and in a hostile zone and strictly restrict contractor so that the troops do not have to face logistic, security and supply problems while risking their lives. In Iraq, we believe contractors should be restricted to Kuwait and other border countries, the Green Zone, and fortified bases. Contractors should be forbidden to run truck convoys or any other logistics transportation in hostile areas.

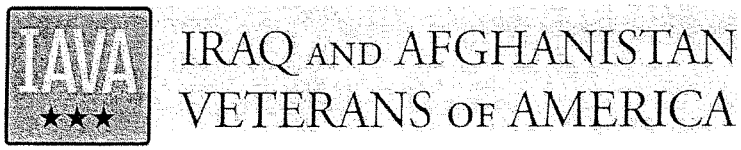
-- Incorporate remedies strongly recommended by GAO, SIGIR, and the Gansler Commission to grow the oversight and acquisition personnel who have been trained and are skilled in contingency contracting. Congress should require benchmarks and a time limit to implement these recommendations. This should include training for all LOGCAP, ASC, and AMC personnel to ensure appropriate support to field oversight and acquisition personnel.

--Repeal FASA, FARA and SARA laws as they effect government contracting and strengthen CAS to provide acquisition and oversight personnel with the tools to control costs.

-- Eliminate the "Partnering" process. Although the philosophy of Partnering was the replacement of the "us vs. them" mentality with a "win-win" mentality, the reality has been a win (contractor) – lose (DOD) result. DOD must regain control of the acquisition process in order to regain control of costs. It doesn't have to be an "us vs. them" mentality, but there needs to be a clear acquisition authority over the contractor and the process. This can be done with eliminating Partnering, increasing acquisition and oversight personnel who have been well trained and skilled in managing high cost, and strengthening procurement rules and regulations.

--Acquisition management and oversight should be an inherently government function. To have contractors manage contractors is like having the fox guard the hen house. Congress should enact a law restricting or eliminating this process.

-- Congress needs to let the Department of Justice know that they expect rigorous investigation and prosecution of war contractor fraud whether it be criminal prosecution or the False Claims Act. Without a strong and determined DOJ, the contractors will think that they can get away with this type of behavior in the chaos of a war situation



Statement of

Perry Jefferies
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On "Management and Oversight of Contingency Contracting in Hostile Zones"

For the Senate Committee on Governmental Affairs

Subcommittee on Financial Management, the Budget and International Security

U.S. Senate

Washington, DC

January 24, 2008

Good afternoon Chairman Carper, Senator Coburn and members of the committee. It is an honor to appear before this committee to discuss some of what I saw in Iraq in 2003.

I am here today to testify on the effects of contingency contracting on the battlefield. I encountered them as the first sergeant for Headquarters Troop, 1st Squadron, 10th United States Cavalry in June 2000. I served in that role until I returned from Iraq to retire in October 2003. My troops' role was to staff, supply, treat, arm, and support Force Package I, the lead element of the 4th Infantry Division in Operation Iraqi Freedom I. In Iraq the squadron was task organized with 1st Battalion, 17th Field Artillery and elements of the 404th Support Battalion, specifically the forward logistics element or FLE. Numbers varied from day to day but my troop had about 400 Soldiers and supported between 1800 and 2000 Soldiers each day.

I retired from the Army in 2004 and am testifying today as a private citizen. Chief of Staff General Peter Schoomaker wants retirees to wear the new "Army Retired" lapel pin with thoughts of: "I was a soldier, I am a soldier and I always will be a soldier." Soldiers are expected to maintain the Professional Army Ethic, including the values of courage, candor, competence, and commitment. I think that it is important to highlight issues that bear on the welfare of Soldiers, including the great ones I served with, those I work with every day, and those that will follow in all of our footsteps. We owe them that commitment and sometimes that requires candor. I can tell you that I discussed my statements with Soldiers I served with, both my superiors and my subordinates and each of them encouraged me to speak out in the hopes of improving this kind of situation in the future.

I can discuss what happened to my unit and what steps we took to mitigate the effects of services not provided to us. I cannot discuss the exact terms of any single contract as neither I nor any member of my immediate chain of command were privy to the exact statements of work and contracts that bound these companies. Further, most orders, logs, and official documents accumulated by my unit command post at that time were stamped as secret and I am unsure of the disposition of them. I do not have to discuss secret information today and doubt that I could gain access to it at this point. Some dates I refer to may be off by a few days as I have had to use the date-time stamps of personal photos, emails, and letters to reconstruct some of my unit's actions and movements.

I would like to point out that I work as a contractor at Fort Hood in Texas now. I understand that some services can be delivered by contractors in an efficient and responsible manner, freeing Soldiers to train for war. The company I work for works hard to provide a quality service to the government and strives every day to make a positive difference for the nation. I have an understanding of the ethics process and contribute to deliverables which my employer is very careful to provide in accordance with our contract. I think that some specific and fatigue tasks are best done by contractors. But to paraphrase one of my commanders "we had enough stuff to kick in the door, but we couldn't stay in the room" without outside help.

While preparing for and moving through Iraq, my unit was constantly accompanied by and supported by a variety of contractors, primarily maintenance personnel who functioned as an integral part of our team. I found that they gave honorable service, and sometimes went above and beyond tasks assigned to them in that very austere environment. They generally functioned as part of our team, although rules for accountability and security were often unclear or nonexistent. But I am here to talk about some large scale support tasks that have been described as doctrinally provided by combat support or combat service support units that were supposed to be provided to our unit by different contractors, under the Logistics Civil Augmentation Program or LOGCAP, a process known as contingency contracting. While I was in Iraq these contractors failed to deliver and their failure impacted my Soldiers in a negative way.

While I was in Iraq, the task force that I was part of moved independently of our higher headquarters and support units, making us rely on contractors in various locations to provide bulk supplies and services to us. My Soldiers felt two kinds of effects when these contractors failed to complete their work. The first effect I will label as indirect and generally resulted in a lack of some critical item the contractor should have provided but did not. The second was direct and felt when a contractor requested or needed support from our units and we had to provide it to them, especially when they were supposed to provide that support.

We felt indirect effects when water, food, and repair parts were not delivered to my unit in a timely manner. There were many weeks in Iraq when my entire unit survived on one or two bottles of water per man per day. Now I know that the water for my unit was sitting in storage containers inside Iraq, but not moved forward. Regardless, the final mile of delivery, the hand off between a support element and mine, did not occur.

I entered Iraq with the 4th Infantry Division's Force Package One, primarily the First Squadron, 10th United States Cavalry on April 14, 2003. When we

departed from Kuwait to attack into Iraq, we carried with us all the food, water, and other supplies we could. After moving from airfield to airfield over a period of weeks, we had exhausted those supplies and required regular re-supply but it did not come. Although the doctrine was to carry three day's food, fuel, and ammunition with the unit (a full Basic Load), in truth a unit rarely has that much carrying capacity. Thankfully, we were organized with the FLE from 404th Support Battalion so that we had an extra capability and were near to self-sufficient for a few days. But even with all of the plans and all of the Soldier's extra work to make them work, we felt our first supply shortage as we crossed the gate into Iraq and saw Iraqi children standing by the side of the road. It didn't take long to realize that they were begging for food and water. They held leaflets that United States forces had dropped promising food, water, and medicine. We had none.

By Army supply doctrine, our higher headquarters was supposed to 'push' these supplies to us - in other words - deliver what we needed. But, as the Army was relying on the LOGCAP contract to provide these supplies, other missions were assigned to the support, transportation, and logistics personnel that were supposed to get this done. My unit moved through Iraq, from Kuwait to Baghdad, to Tikrit, and finally out to the western border with Iran. As the main hostilities settled down, so did we, first in positions in the desert that we called "the Dustbowl" and later at the Kirkush Military Training Barracks, known as Camp Caldwell. While we were at the Dustbowl, water ran so short that even our scouts who stood on checkpoints in the 120 degree sun were restricted to one or two one liter bottles of water per day. When a laundry unit reported to us, I was forced to commandeer the water and use it to supply our Soldiers. All this happened while supplies designated for my unit by KBR sat elsewhere and went undelivered. Our Soldiers had to take on the mission of re-supply to their other ones just to survive. For example, the logistics officer from our support element organized convoys to go to Baghdad and other places looking for supplies. These were Soldiers whose time was already accounted for since KBR was supposed to make these deliveries.

The system was troubled too, by the absence of these normal supply runs. We were not able to evacuate prisoners and broken equipment to the rear area as we trained to do. Since there were no trucks coming forward, there was no back-haul capability either. Our unit attacked the Taji Military Compound north of Baghdad. By the evening of April 16 over 40 Iraqi prisoners were turned over to our headquarters troop element to secure. The doctrine for handling enemy prisoners of war is to speed them quickly to the rear. Our operations order said that military police would take the prisoners but they were not in country yet. As my unit continued to move north, the commander and I had to create plans for leapfrogging the

prisoners and our supplies and equipment. Even though this (moving prisoners) was not a contracted activity but a failure to execute the plan, it is illustrative of the good reasons for allowing the military to control its supplies and equipment. If we'd have had all the carrying capacity anticipated to support our needs this prisoner movement would have been a much less disruptive activity.

War is war and my unit expected and dealt with the harsh climate and austere conditions. In fact, I joked that I was willing to "trade comfort for rules" but by the 23d of April we were down to 2 meals a day and made a rule that water could only be used for drinking - no more washing. On the 5th of May, an order came down from 4th Infantry Division that we were to be "weaned off of bottled water." This was troubling because we had only two of our planned four water trailers, many more people than normal and no one was delivering supplies. On April 30th, I wrote:

> *"We are still hurting for water, have no hot food (although Brigade has one daily), no showers or bathrooms or amenities. In HHT, we are just making up as many excuses as we can think of for no mail, trying to beg borrow or steal water, oil and repair parts."*

Now I know that the water for my unit was sitting in military shipping containers (CONEX) inside Iraq, but not moved forward. Regardless, the final mile of delivery, the hand off between a support element and mine had not been worked out.

By May we'd moved to a position we called the Dustbowl near the Iraq-Iran border to overwatch the Mujahadeen-e-Khalq (MEK). Conditions did not improve, but we had moved even farther from our support. CPT Cirella, from the FLE, began to organize routine supply runs we called the Red Ball Express. Almost all of the supplies we did get from that point on came from these runs. I wrote:

> *"14 May – "114+ today – Iraq heats up. Today was the day we were supposed to get some word on stop-loss, but nothing yet. Not even any new rumors about our return. We still have no parts to repair an ever-growing inventory of broken tanks, no bath & shower unit (although the Brigade Commander thinks we do), no cold water or ice, little mail and little current news.*
>
> *... Our next mission, if it starts will be in this same general AO, but will have us spreading out even farther! ... We tried to go to*

the town close to here today but someone had bought the ice before us and the CO got a flat and so we returned empty-handed.
We are still on 2 & 2s, while BDE is eating 3 hot meals a day. I think it's not right to keep these soldiers (and me) this way."

and a few days later:

"We are seeing FRAGOs about MWR tents and cyber-cafes in the rear, while we still need food & water, but, Yay!, the Bath & Shower unit showed up yesterday. I took all of their water and put it in trailers to drink and then put the operators on guard. They are shitting bricks. The Div CSM has visited us once, to one troop, since leaving the states, he was scared and aghast at how we lived, then ran away fast.

In one case, they took a convoy all the way back to Kuwait City to find FRH, a hydraulic oil used by our tanks.

In late May we moved to Camp Caldwell, the Kirkush Military Training Barracks and continued the same Red Ball Express Procedure, but had more storage room and was assigned a Reverse Osmosis Purification Unit (ROPU) to make drinking water. For all intents and purposes we'd become self-sufficient on military personnel and equipment alone. A problem was that someone had gotten money to provide these things to us. Another problem was that our convoys began to be attacked and there was a need for increased security at Camp Caldwell, which meant more guard duty, more driving and less sleep or rest for all the Soldiers involved.

We felt the direct effects when contractors such as Vinnel personnel and their sub-contractors did not provide required deliverables to the government and my unit either had to provide those or accomplish tasks that these companies had been paid to do.

In late July the contract force for Vinnel / MPRI - trainers for the New Iraqi Army - reported to our forward operating base. Instead of relieving us from non-mission-essential tasks, they added to them. We had to provide food and water to them. There was pressure to provide hot meals to these contractors even when we could not deliver them to all of our Soldiers. Once again, we had to restrict the amounts of water provided to American Soldiers to two bottles a day so that we could provide the Iraqi Army trainees four bottles a day. We had a rough time dealing with the Vinnel personnel. We

had to cover gaps in contractor security and training. On the first day, about 20 of them arrived, either got off and right back on, or stayed on the bus and refused to debark. They were taken back to Baghdad and I guess quit right there. Instead of providing interior security and contracting out their meals, they immediately turned to us for that support. Their workers had access to the PX goods we brought in and would buy it all up before my Soldiers could. They were unable to account for the weapons to be issued and we had to have Soldiers do it for our own safety. We had to provide extra guards and eventually a permanent quick reaction force because they never got control of their charges. Meanwhile our other military missions continued and in some cases multiplied.

There were other issues and at the same time, many people working very hard and eventually to good effect to correct problems. But that in itself is a problem. During the invasion - during the critical tactical phases where units contend for position or numbers - is a bad time for people to be "figuring it out." That needs to be done ahead of time and then trained to as near perfection as possible, because the plans will go wrong when executed if not. That is the nature of war. If you have a good plan you have a good basis for change. Hoping that your "beans bullets and band-aids" show up magically, on time, and in the right place is not any kind of a plan. It is only a recipe for disaster. It is better to train with your support and to have a relationship with who will provide it. Even such a small thing as a metal banded crate of ammunition delivered to a tank without the means to open it can spell disaster during a fight and these things need to be worked out ahead of time.

To respond to some of the concerns in your invitation I would like to point out that contract oversight personnel are assigned to high levels of leadership and not generally to tactical units. While I was in Iraq the only person in our squadron who was authorized to sign and pay for a contract was our S4 Officer - Captain Christopher Crawford. He was easily the most traveled person in our squadron, excepting maybe the commander, and never was able to rest. We were certainly not set up to monitor the terms and conditions of most contracts and received services or were supposed to that we had no idea of the scope of work, the conditions or terms we were responsible for, and we did not have a "1-800-CONTRACT" number that we could call and find out about contracting. I understand that the Army is creating a new type of contracting non-commissioned officer to help monitor contracts but they are not deployed where the rubber meets the road, at least not yet. Worse - it seems a self-defeating proposition. If contracting is supposed to reduce dependency on Soldier resources, why does it need more Soldiers? Just have them do the job the contractor is doing. The best way to prepare for tactical logistics is to allow commanders to plan them with their own, proper, resources.

In my opinion, the Department of Defense should reduce its dependence on contractors and build a self-sustaining logistics capability into its units. The Army should never find itself in a position where it can only accomplish the mission with the permission of a civilian company, unless the administration is prepared to immediately nationalize these companies in a time of war. To this end, while the civilian leadership should provide the resources that the Armed Forces need do their jobs, the military leadership must also be smart and honest and build unit structures that can complete their assigned tasks, accomplish their mission, and sustain themselves. Nearly every unit I know of or was assigned to since the 1980s was lacking in key personnel. Unit rolls are constructed for a perfect scenario and do not take into account attrition, security, or administrative requirements. Despite the rules against it every headquarters at the brigade level and above on Fort Hood when I deployed to Iraq was staffed at more than 105%. These people are pulled from subordinate units, leaving them unable to perform all their missions, much less stand the casualty rates and operational tempo in Iraq without creating *ad hoc* structures, risky fixes, or simply not complying with some directives. While in Iraq, I rarely had enough qualified drivers to move all of my vehicles. We had to 'leap frog' convoys and run single operator crews even when there were rules against it just to keep moving.

What I am really talking about is delivery. Trucks, security, the people to move supplies - all this must be under military control from the combatant commander on down, at least until security is established and the kinetic part of the fight has ended.

I would also like you to consider three things.

First, When a contractor performs their job, even successfully, they do so in support of their company and for profit. To do otherwise would be a form of shorting, or stealing, from the employer or its constituents. A contractor's first loyalty is not to the nation or to Soldiers around them, but to a company. Monies that are paid to companies benefit them and their constituents, not the nation. A lot of the money earned in war zones and foreign countries is tax free to the United States. Therefore, it is money that flows from the taxpayer through the government and out - out of the country - out of the hands that supplied it - and so, out of reach of the government that could use it. A contractor can always say "no" - Soldiers say "yes" with every breath they draw.

Second, The idea that there must be a cost savings to using contractors is false. Actually, it is either false or else something much worse. Companies that provide competent services to American forces have basically two ways to look for labor to provide these services. First, they can look to personnel

who were trained in our Armed Forces - either completing their obligations, by retirement, or by expulsion for health or behavior reasons. In this case, America has already picked up the tab for the training. The other place that contractors can look to is foreign nationals. Many services are provided by foreign nationals or third country nationals in Iraq. But unless the companies practically enslave their workers, the it is expensive and the workers must then be augmented by American forces guarding, supervising, and leading them. When a contractor is injured in support of our conflict, the Defense Base Act and the Longshoreman and Harbor Worker's Compensation Act requires that the government still pay for his treatment. Even if the contractor is captured certain benefits accrue to them and their family. Since 2003, the Department of Defense has prescribed the inclusion of the Defense Base Act Clause and the Workers' Compensation and War Hazard Insurance Overseas clause in contracts written for overseas performance. In the end, there may be some small immediate monetary benefit to contracting battlefield services but I think that if you actually run the numbers and figure in all the payouts for contractors you will find that they are not much if any cheaper on a man-to-man basis and that they are much more expensive in the totality of after-profit dollars, the loss of tax dollars, etc.

And last, if the contractors are American and suffer a brain injury, either Traumatic Brain Injury (TBI) or Post Traumatic Stress Disorder (PTSD), they will initially be treated in one of our military and Veteran facilities, if eligible. Further care may be provided there, especially if they are a retiree or Veteran, even though it may be for in injury sustained with a contract. Otherwise, and possibly for the worse, they will land untreated in our communities and on our streets. Veterans form a large part of the homeless now. While some will become leaders or captains of industry, how many former contractors from OIF / OEF will become part of the next generation of homelessness and who will pick up the tab for these people?

Thank you for the opportunity to appear before you. I would be pleased to answer any questions you have.

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Testimony of

Mr. Jack Bell

**Deputy Under Secretary of Defense for
Logistics and Materiel Readiness
Office of the Under Secretary of Defense
Acquisition, Technology and Logistics
U.S. Department of Defense**

**Hearing before the
U. S. Senate Subcommittee on Federal Financial Management,
Government Information, Federal Services, and International
Security**

On

**Management and Oversight of Contingency Contracting in Hostile
Zones**

January 24, 2008

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Chairman Carper, Ranking Member Coburn, and Members of the Committee: thank you for this opportunity to appear before you today to discuss the Department of Defense's initiatives to improve the management and oversight of contingency contracting in hostile zones.

Contractors supporting our military forces in contingency operations, both at home and deployed with our military forces, are performing critical support functions that are integral to the success of military operations. They have become part of our total force, a concept that DoD must manage on an integrated basis with our military forces.

The current Global War on Terrorism (GWOT) deployments of DoD military forces are the first major contingency operations to reflect the full impact of the shift to reliance on contractor personnel for a significant part of critical support functions. The scale and duration of GWOT operations have required a significant commitment for support by contractors and required significant employment of contractor personnel in forward areas. At the end of fiscal year (FY) 2007, the U.S. Central Command (USCENTCOM) reported over 196,000 contractor personnel working for the DoD in Iraq and Afghanistan.

Faced with this unprecedented scale of our dependence on contractors, we have confronted major challenges associated with the visibility, integration, oversight, and management of a large contractor force working along side our deployed military personnel that, frankly, we were not adequately prepared to address.

Based upon a host of lessons learned, independent studies, GAO and SIGIR reports, and the direction of Congress, we have launched several major initiatives to strengthen the management of contractors and contractor personnel accompanying our military forces on contingency operations. These initiatives are based upon four guiding principles:

- Support the Warfighter and war-fighting needs;
- Manage the total force, military and civilian, on an integrated basis;
- Maintain the capability to scale rapidly to support changing war-fighting requirements – surging, downsizing, and retrograding, as needed; and
- Ensure that the initiatives to strengthen contractor management fit into a comprehensive framework of requirements planning, contracting, contract administration, and contractor personnel tracking and accountability.

In my report today, I want to highlight four major initiatives currently underway.

These are:

1. Establish a comprehensive policy and program management framework for use in future contingency operations that can be spiraled into current operational deployments;
2. Strengthen the management of current contractor operations in Iraq and Afghanistan;
3. Coordinate with the Department of State on PSC operations in the battle space in Iraq; and
4. Take action on the recommendations in the Gansler Report on Contracting in the CENTCOM AOR.

DoD is working diligently to follow-up on the observations and recommendations in the Gansler Report. However, as a work still in process, these efforts will not be covered in my testimony today, except as they are being addressed in the overarching DoD initiatives already underway. Each of the first three initiatives is described in the remainder of my testimony today.

Establishment of a Comprehensive Policy and Program Management Framework

DoD Instruction 3020.41 was issued in October 2005, defining broad DoD policy on the management of contractors in support of contingency operations. Following its issuance and in response to the requirements of Section 854 of the FY 2007 National Defense Authorization Act (NDAA) in October 2006, my office was charged with the responsibility to establish a comprehensive policy and program management framework for managing contractors and contractor personnel deployed with our military forces on contingency operations. I established the Office of the Assistant Deputy Under Secretary of Defense for Program Support (ADUSD-PS) and appointed the ADUSD-PS to establish and oversee this effort, and to provide other focused support for the logistics and materiel readiness needs of Geographic Combatant Commanders (GCCs).

The ADUSD-PS, in consultation with the Chairman of the Joint Chiefs of Staff and with the Military Services, has already developed and reported to Congress last October the major elements of the comprehensive policy and program management framework. Refinements to this framework are being made on a timetable to provide the final report by the April timetable Congress requires. As described below, many of the elements of this framework are already being implemented in Iraq and Afghanistan to support current operations and requirements. These elements are:

1. Deploy contracting planners to the GCCs to develop contracting annexes for OPLANS and CONPLANS. This includes the determination of contracting requirements in support of a contingency operation, as well as the drafting of contracts and task orders to support these requirements as the military forces

deploy. Deployment of these planners is already underway, and our GCCs already report enthusiastic support for this effort.

2. Establish a deployable contingency acquisition capability to assume control over the clearance of contracts and task orders to be implemented within the operational AOR with the senior officer reporting directly to the combatant commander. Two requirements must be met in this regard; a standing capability must be established to launch Joint Contracting Command (JCC) wherever and whenever needed to support contingency operations; and the JCC must have the authority to review and approve all contracts being implemented within the AOR and to oversee post-award contract administration. This theater clearance authority and contract clearance review process has already been put into effect for the Joint Contracting Command - Iraq and Afghanistan (JCC-I/A).

3. Deploy a system to identify and track the activities and movements of contractor personnel who accompany our military forces in the AOR, to verify their authorities and access, and to vet their entitlement to support services by the deployed military force. DoD has selected the Synchronized Pre-deployment Operational Tracker (SPOT) system for this purpose, and is already deploying it within Iraq, Afghanistan, and other parts of the CENTCOM theater of operations. The SPOT program provides a web-based automated system to track contractor personnel movements within the forward area. It provides a basis for validating the identification and authority of individual contractor personnel associated with specific contracts, their authorization for access to specific DoD facilities, and their individual eligibility for specific DoD support services. By making available information on contractor location, training, and capabilities, SPOT improves the ability of the current civilian and military acquisition workforce to conduct program management activities during contingency operations.

   We have already achieved close to 100% accountability for contracts covering DoD's Personal Security Contractors (PSCs) and DoD translators and interpreters working in Iraq and Afghanistan, and continue to populate the specific personnel records. Presently, more than 70,000 other DoD contractors working there can be found within the system and the numbers continue to steadily improve. We anticipate being able to extend the scope of coverage to include most other U.S. Government PSCs in the SPOT system this year, as well as to include all DoD contractors operating in Iraq and Afghanistan.

4. Establish training and education programs for both contracting personnel and line officers and NCOs on the role, use, and relationships of contractors to military personnel. Programs of Instruction (POI) have already been developed for acquisition professionals and are being developed for contracting professionals

and line officers and NCOs. These will continue to be improved as we implement our lessons learned.

We have developed a competency model for contracting officers and have set standards for six categories of contracting, one being contracting in an expeditionary environment. All contracting officers, including those in Iraq and Afghanistan, will complete an assessment utilizing the model this Spring. The results will enable us to improve training for expeditionary contracting personnel and to shape career and leadership development plans and programs for all expeditionary contracting personnel; and the Defense Acquisition University will continue to develop curriculum to meet these professional requirements. In addition, we are broadening training for operational military leaders, both officer and enlisted, across all grades on management of contractors deploying with forces. This training will initially be included in professional military education programs such as the War College, service staff colleges, and basic non commissioned officer courses.

5. Establish an institutional basis for codifying the policies and program management requirements for use in future operations. The umbrella DoD Instruction 3020.41 is already in place and the complementary Joint Doctrine is being incorporated into Joint Publication 4-10. These documents will be updated as needed, and serve as the basis for Combatant Commanders to issue rules, regulations, and guidance for contracting operations supporting contingency operations in their commands.

6. Establish a "Lessons Learned" program relating to management of contractors and contractor personnel and integrate it into other Lessons Learned programs of DoD. This effort is already underway, and is being informed by the results of contractor management operations currently underway in Iraq and Afghanistan.

Strengthening Current Management of Contractors in Iraq and Afghanistan

In September 2007, the Secretary of Defense directed that an assessment be undertaken to identify improvements needed to strengthen the management of current DoD contractor management operations in Iraq. To this end, I led an OSD team to Iraq, where we consulted with military and civilian leaders in Iraq and recommended five initiatives. These recommendations were endorsed by GEN Petraeus and approved for implementation by the Secretary of Defense. These initiatives, already underway, are:

1. Accelerate the implementation of UCMJ authority over DoD contractors to strengthen the legal accountability of contractor personnel and to proactively seek to eliminate misconduct of contractor personnel and to minimize incidents affecting innocent civilians in Iraq. In late September 2007, the Deputy Secretary

of Defense signed out a memo to GCC commanders emphasizing the importance of accelerating the implementation of USMJ authority over DoD contractors, as authorized under Section 522 of the 2007 NDAA.

2. Conduct a meeting of Personal Security Contractor (PSC) company executives, hosted by the Deputy Secretary of Defense, to discuss new DoD initiatives, issues, and improvements needed in contractor management of their personnel.

   In the weeks subsequent to our recommendation, DoD and the State Department (DoS) have signed an MOA regarding coordination of PSC operations in Iraq, described later in my testimony. As a result, this meeting with PSC company executives, now scheduled for January 30th, has been expanded to include DoS PSC company leaders as well, and will now be co-hosted Deputy Secretary of Defense England and Deputy Secretary of State Negroponte. It will cover key provisions of the Memorandum of Agreement between DoD and DoS, as well as other initiatives, including the implementation of UCMJ for DoD Contractor personnel deployed with our military forces in contingency operations.

3. Establish battle space commander control over contractor movements and convoy operations in the battle space. Battle space commanders are in the best position to determine if a threat exists along a planned route of a contractor movement, and need to be aware of the location of contractor convoy movements in their AORs to enable them to provide timely incident response and med evac support. This oversight authority has already been established and work is now underway to enhance the direct communications between contractor convoys and the battle space commanders.

4. Establish the authority of the Joint Contracting Command for Iraq and Afghanistan (JCC-I/A) to pre-clear all contracts and task orders to be implemented in Iraq and Afghanistan. This authority was approved and the authorizing memo was signed out by the Under Secretary – Acquisition, Technology, and Logistics on 19 October 2007. Implementing guidance has already been issued by the Director of Procurement and Acquisition Policy (DPAP), and JCC-I/A is in process of reviewing all new critical contracts, and is adding up to 48 additional personnel in theater to provide a 96-hour turn-time on contracts submitted by executing departments and agencies.

5. Strengthen the Defense Contract Management Agency (DCMA) post-award contract administration and oversight support for contracting in Iraq and Afghanistan. In response, DCMA has already deployed an additional 100 personnel to theater, and is preparing to deploy up to an additional 150 personnel to theater as needed.

Establish and Implement a Memorandum of Agreement (MOA) between the State Department and the Department of Defense to coordinate PSC operations in Iraq.

Both the Department of Defense and the State Department recognized the need to achieve a higher degree of coordination of PSC operations in Iraq in order to minimize the possibility of additional incidents involving innocent persons. As described earlier, we executed an MOA on 5 December 2007. This MOA covers a broad range of management policies and procedures to achieve more effective management coordination of PSC operations in Iraq. These include:

- Establishment of common minimum standards of training and certification of all PSC contractor personnel;
- Compliance with the contractor licensing and other requirements of the Government of Iraq and of the Multi-National Force – Iraq (MNF-I) rules and regulations;
- Standardization of weapons, ammunition, and defensive equipment permitted to be used by PSC contractors;
- Adoption of common standards for Rules on the Use of Force (RUF) and escalation procedures;
- Adoption of the substantially identical policies, procedures, and oversight for the coordination of DoS PSC convoy movements transiting the battle space as for DoD PSC operations (see description above);
- Coordination on incident management, response, and follow-up investigations;
- Commitments on transparent, timely reporting and investigations of incidents between the US Mission in Iraq (USM-I) and MNF-I, with timely reporting of same to the Iraqi Ministry of the Interior.
- Compliance with Coalition checkpoint operations and requirements;
- Standardization on the policies, timing and amounts of condolence payments to be made for casualties or property damage among innocent persons;

Many aspects of the MOA have already been implemented. Interim procedures have been adopted where permanent solutions require additional work. Others are in stages of standardization and final design. The Secretary of Defense has directed that a report be provided to him by February 28, identifying the implementation status of the major elements of the MOA identified above.

In addition to these initiatives already underway, the Department of Defense and the State Department are already working to address the requirements in the pending 2008 NDAA. Sections 861 and 862 require the establishment of a Memorandum of Understanding (MOU) among DoD, the State Department, and the U.S. Agency for International Development (USAID), to cover all contracts being implemented in Iraq and Afghanistan, all contractors of these Departments and

agencies (not just PSCs), and to cover Afghanistan as well as Iraq. In addition, these Sections require the establishment of a comprehensive data base of contract and contractor personnel data, available in an on-line basis to appropriate Legislative Branch Committees and the GAO.

Taken together, these initiatives substantially strengthen the DoD's capabilities and performance in managing our relationship with our contractors and contractor personnel, and achieve an unprecedented level of coordination among DoD, the State Department, and USAID.

We appreciate the interest and support Congress is providing to this effort.

At this time, I look forward to your questions and thank you again for this opportunity to appear before your Committee.

STATEMENT BY

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BEFORE THE

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY
COMMITTEE ON SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

URGENT REFORM REQUIRED: ARMY EXPEDITIONARY CONTRACTING

THE REPORT OF THE COMMISSION ON
ARMY ACQUISITION AND PROGRAM MANAGEMENT
IN EXPEDITIONARY OPERATIONS

JANUARY 24, 2008

NOT FOR PUBLICATION
UNTIL RELEASED
BY THE COMMITTEE
ON SECURITY AND
GOVERNMENTAL AFFAIRS

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The Secretary of the Army established an independent "Commission on Army Acquisition and Program Management in Expeditionary Operations" to review the lessons learned in recent operations; and to provide forward-looking recommendations to ensure that future military operations achieve greater effectiveness, efficiency, and transparency. I was honored to participate on the Commission, under the leadership of the Chairman, Dr. Jacques S. Gansler, who was the Under Secretary of Defense (Acquisition, Technology and Logistics) from 1997 to 2001. Dr. Gansler regrets that he is unable to appear before the Subcommittee personally, but I have fully coordinated this statement with him and the other Commission members.

As Chairman, Dr. Gansler assembled five Commissioners with expertise and insight into government acquisition, including program management and contracting. I represented the Army's operational community. The other four Commissioners offered the perspective of additional communities: General (Ret.) Leon Salomon represented the Army's acquisition community; Rear Admiral (Ret.) David Oliver provided alternate Service representation and recent experience in Iraq, through his service with the Coalition Provisional Authority, and David Berteau and George Singley offered a very senior, experienced Department of Defense civilian vantage point.

At the Secretary's direction, we conducted our efforts within a compressed 45-day timeframe, indicative of immediate challenges facing the Army. Our focus was on how to prevent any shortcomings in Army acquisition and program management in expeditionary operations for the next time. Our charter was forward-looking: we were tasked to ensure that, institutionally, the Army is best positioned for future operations—which will be expeditionary, joint, and likely to be multi-agency political/military events.

At the outset, it is important to note that other, concurrent activities were underway, focusing on different aspects of today's challenges. Lieutenant General Ross Thompson and Ms. Kathryn Condon are co-chairing the Army Contracting Task Force that was—and still is—looking at the current fraud issues. Separately, the Department of Defense Inspector General, Lieutenant General (Ret.) Claude Kicklighter, has been looking at equipment accountability issues. And, outside of DoD, Ambassador Kennedy of the State Department has an effort underway to examine private security contracts. Thus, current fraud, equipment accountability, and private security contracts were not within the purview of this Commission.

To address our forward-looking tasking, in September and October 2007, the Commission engaged officials within all of the relevant communities through 122 interviews. The individuals we heard from represented a wide range of stakeholders, from senior military leadership, to field operators, to audit personnel, to contractor-support personnel, and so forth. We spoke to people both state-side and deployed. Our discussions with personnel inside the continental U.S.—or CONUS—were important, especially since we defined "expeditionary" as not only *outside* of CONUS but also emergency conditions *within* CONUS (like a Katrina incident); given that there are very great similarities in terms of the responsiveness to both situations. We also heard from people currently deployed in Iraq, Afghanistan, and Kuwait. Given the compact schedule, the Southwest Asia interviews were conducted by video teleconference. We separately interviewed the commander of the Joint Contracting Command-Iraq/Afghanistan, then the next level of military leadership, and then the worker level; all in the absence of their supervisors, so that we were able to get an objective, independent assessment.

Despite the broad spectrum represented by our interviews, we received almost universal agreement on what the issues are; what changes are required; and the absolute need for change.

As a result, the Commission crafted a broad-based strategy for addressing shortcomings; which we published in an independent report dated October 31, 2007; and titled *Urgent Reform Required: Army Expeditionary Contracting*. I would request that the Executive Summary from that report be included in the record of today's proceedings. I appreciate this Subcommittee's invitation to highlight some key findings and recommendations from that report.

Our key findings include the observation that the Army—and, more broadly, DoD—does not have a problem with a single organization or a group of individuals; rather, the Army and DoD are faced with a systemic challenge in executing expeditionary operations, both from an operational and an institutional vantage point. The "Operational Army" is expeditionary and on a war footing. Yet, it has not fully recognized the impact of the large number of contractors involved in expeditionary operations and on their potential impact to mission success. In fact, today, with approximately 160,000 contractors in the Iraq/Afghanistan/Kuwait zone, they represent about 50 percent of the "total force." Additionally, critical segments of the "Institutional Army"—which supports the "Operational Army"—have not adapted in order to provide responsive acquisitions and sustainment for expeditionary operations. Some specific examples where shortcomings exist include:

- Financial management – On the LOGCAP program last year, there were 141 incremental funding contract modifications. That means that the contract had to be modified 141 times, just because the approved money was not being adequately released (by OMB, OSD Comptroller, and/or Army Comptroller). This is inconsistent with war-time needs. We have to be able to provide the money in a timely fashion, in order to run expeditionary operations effectively and efficiently.

- Civilian personnel – Our Government civil servants do not qualify for favored income tax benefits (comparable to military personnel and contractors in the same situation) when deployed in support of expeditionary operations; and do not have the benefit of long-term medical coverage for injuries sustained in-theater. Nor is their life insurance coverage extended for "acts of war;" yet they are asked to "volunteer" to go into the war zone.
- Military personnel –There are no longer any Army General Officer positions for career contracting professionals. In 1990, there were five. So there is little incentive to pursue this career field. Yet, for expeditionary operations, we need contracting people in uniform in this critical area to be leading in the war zone.
- Contracting and contract management – The contracting process is very complicated and involves multiple stakeholders. This is not simply signing a piece of paper to create a contract. The process ranges from defining requirements all the way through the 70-plus steps of post-award contract management, to ensure mission accomplishment. When done properly these important functions ensure efficient use of our tax dollars and control waste, fraud, and abuse, but we found they were often not done; and, when done at all, it was a "pick-up game."

Contracting should be a core capability of the Army, but it currently is treated as an operational and institutional side issue.

We found that the DoD has an extremely dedicated corps of contracting people. The problem is they are understaffed, overworked, under-trained, under-supported, and, I would argue, most importantly, under-valued. Some data points illustrate the current challenges:

- Only 3 percent or so of Army contracting personnel are active duty military. Many more trained and experienced military personnel (officers and non-commissioned officers) are required in an expeditionary environment.
- The DoD Authorization Act for Fiscal Year 1996 required DoD to reduce its acquisition workforce by 25 percent by the end of Fiscal Year 2000. After those reductions, the Department has not increased the acquisition workforce, even though the budget has gone up dramatically since 9/11/01. In fact, despite about a seven-fold workload increase, and the greater complexity of contracting in this intense environment, the civilian and military contracting workforce has been declining; and of those remaining, only 56 percent of the military officers and 53 percent of the civilians in the contracting career field are certified for their current positions.

Based on the valuable lessons learned, the Commission developed recommendations that address the gravity of the situation, and the urgent need for reform. In short, the Commission identified four key elements to future success:

1. Contracting personnel—increase the stature, quantity, and career development of contracting personnel, military and civilian (especially for expeditionary operations);
2. Organization and responsibility—restructure the Army contracting organization and restore its overall responsibility to facilitate high-quality contracting and contract management in both expeditionary and peacetime operations;
3. Training and tools—provide training and tools for overall contracting activities in expeditionary operations; and

4. Legislative, regulatory, and policy—obtain legislative, regulatory, and policy assistance to enable contracting effectiveness in expeditionary operations.

Our report covers the details of the first three areas, so today I would like to focus on the fourth category, and ask for Congressional assistance with the legislative aspects of the Commission's recommendations.

First, we recommend that Congress authorize General Officer billets for Army contracting and Joint contracting. Specifically, this Commission recommends that five new Army General Officers, as well as one Senior Executive Service billet, be established and "fenced," for the Secretary to assign to meet this urgent need. And five additional joint General or Flag billets be established, including a three-Star for the expanded scope of the Defense Contract Management Agency (which we strongly recommend), and with Service "back-fill" authorizations for the joint positions. These military officer billets should not be created at the expense of existing civilian Senior Executive Service contracting authorizations in the Army workforce. These must be maintained.

In the past decade and a half, we have witnessed the elimination of General Officers in the contracting field. As I noted, in 1990, there were five Army General Officers. Some started as two-Star positions, were reduced to one-Star, and then all five were eliminated. In the Joint commands, all four contracting Flag and General Officer positions have similarly disappeared. Today, all that remains is one temporary position: the Joint Contracting Command-Iraq/Afghanistan, which is being filled now by an Air Force officer. The Commission believes this backslide needs to be remedied. We must at least get back to where we were in 1990.

General Officers must lead an Army transformation to make contracting an Army core competence. The Army needs General Officers who know contracting and can serve as

functional advocates for expeditionary operations; and to avoid the problems that are now being experienced in Iraq, Afghanistan, and Kuwait. These General Officers, who must be permanently assigned to contracting, will initiate and sustain improvement to Army acquisition, grow future leaders, and support leadership efforts. Our report identifies the specific positions the required General Officers would fill, as well as the organizational changes required to achieve the desired transformation in Army and Joint contracting.

Second, the Commission recommends an increase in Army contracting personnel authorizations by 1,983. That includes increasing Army military by 400 and civilian by 1,000, as well as providing 583 billets, military and civilian, for Army support to DCMA. The Army contracting personnel total increase is not that significant, relative to the total people currently in the Army contracting career field, even including the DCMA fill-in.

In 1990, the Army had approximately 10,000 people in contracting. This was reduced to approximately 5,500, where it has largely remained; while the dollar value of Army contracts has increased 331 percent, and the number of Army contract actions increased 654 percent (from approximately 52,900 to 398,700 between 1992 and 2006).

The Army is the DoD "Executive Agent" for contracting in Iraq and Afghanistan, but is unable to fill military or civilian contracting billets, in either quantity or qualifications. There are far too few Army contracting personnel in-theater to meet their commitments. Congress must help the Army meet its commitment to support the troops on future expeditionary missions by authorizing additional Army contracting personnel.

To meet the critical need for contract post-award management, the Commission recommends that DCMA become DoD's "worldwide, contract management center of excellence." To do this, DCMA needs additional resources. The House Appropriations

Committee has acknowledged the need for more DCMA personnel by recently saying, "It is clear that DoD currently lacks the means to provide proper oversight of its service contracts, in part because of an insufficient number of contract oversight personnel." The Commission believes 583 DCMA billets are needed for Army support alone. Of course, if DCMA does not perform worldwide contract management for DoD, the Services are going to have to fulfill this responsibility, and will need to be resourced for it.

Third, the Commission recommends Congressional action to improve incentives for Army civilian contracting personnel who volunteer to deploy for expeditionary contracting. Right now, they are undervalued—in compensation; education and training; career opportunities; and other occupational incentives. As a result, many approved contracting positions go unfilled, especially in-theater. The DoD owes this dedicated core of civilian patriots its appreciation and better treatment. Congress can help address this problem by providing government civilians tax-free status when deployed (like their military and contractor counterparts), and long-term medical care and life insurance for in-theater injury or death. Our deployed military are tax free from the moment they hit the ground and have long-term medical coverage and life insurance for any injuries or death sustained while deployed. Yet comparable tax benefits are not accorded to deployed government civilians. If DoD is to incentivize its civilian workforce to deploy to what can be extreme and hostile work environments, they must be afforded tax treatment and benefits coverage comparable to that of the military. In addition, Congress should provide "stand-by" removal of the pay cap for deployed civilians, for any future expedition. Although this has been done for Iraq, it is specific to the current engagement and not available for the next time.

Fourth, the Commission recommends that Congress enable funding flexibility through an adequately resourced "contingency operations transfer fund." This would be a Defense transfer

fund without "color of money" or fiscal year limitations, with the DoD responsible for providing Congress with insight via reporting on expenditures and savings. This recommendation is based on the Balkans' "Overseas Contingency Operations Transfer Fund," which was approved by Congress, and which currently exists for AID. However, right now, such a fund does not exist for Iraq, and we believe that not only should it be created for Iraq, but also for any future expeditionary operations, on a legislative "stand-by" basis.

Fifth, and finally, we recommend that Congress provide "stand-by" legislation to waive small business and U. S. labor provisions, Buy American, Berry Amendment, Specialty Metals and other such provisions to allow rapid, local buying, if required, in expeditionary operations. In Iraq, a "Buy America" waiver exists, but again this is specific to the current operation and therefore not available to any future expedition.

The preceding are just some highlights of the many recommendations contained in the report, but which are particularly relevant for today's purposes because they require Congressional action. In addition, the report includes recommended actions for the Secretary of the Army and the Secretary of Defense. The Commission has briefed both Secretaries, concurrent with the report's publication and release. Both Secretaries indicated that they fully support the Committee's report and have begun to move out quickly on its recommendations. But they need Congressional help on key aspects of the report, which I have highlighted here today.

Additionally, the Chairman of the House Armed Services Committee released a statement on November 1 saying that "Congress will seriously consider the Commission's recommendations, particularly those that require legislative action." During a prior hearing

before the Senate Armed Services Committee, the chairman of the Readiness and Management Support Subcommittee stated "These recommendations have my full support."

Given the importance and urgency of these actions in support of our troops, the Commission is hopeful that Congress will consider some out-of-cycle action to address the recommendations I have outlined today.

In closing, I would like to observe that too often it takes a crisis to bring about major change. We believe the Iraq/Kuwait/Afghanistan contracting problems have created such a crisis! Changes are urgently required in the area of Army contracting – especially directed to future expeditionary operations. These changes are essential to make the Institutional Army the "Generating Force" in both name and capability. It is up to the Military and Secretariat leadership (both in the Army and the overall DoD) to bring about the needed changes. And they cannot make many of the necessary improvements without Congressional assistance.

I hope you will agree, and provide that needed support. Our troops deserve it.

This concludes my prepared statement.

Urgent Reform Required:
Army Expeditionary Contracting

Report of the "Commission on Army Acquisition and Program Management in Expeditionary Operations"

Electronic copies of this report can be found at:
http://www.army.mil/docs/
Gansler_Commission_Report_Final_071031.pdf

I. Executive Summary

The acquisition failures in expeditionary operations require a systemic fix of the Army acquisition system.

The Secretary of the Army established an independent Commission on Army Acquisition and Program Management in Expeditionary Operations to review the lessons learned in recent operations and provide forward-looking recommendations to ensure that future military operations achieve greater effectiveness, efficiency, and transparency.[1] The Commission assessed process (including internal controls), personnel, organization, training, policy and regulation, as well as explored legislative solutions, to ensure that the Army is properly equipped for future expeditionary operations.[2]

The "Operational Army"[3] is expeditionary and on a war footing, but does not yet fully recognize the impact of contractors in expeditionary operations and on mission success, as evidenced by poor requirements definition.

The Commission found that the following critical segments of the "Institutional Army"[4] have not adapted in order to enable responsive acquisitions and sustainment for expeditionary operations. Specifically:

- Financial management
- Civilian and military personnel
- Contracting and contract management
- Training and education
- Doctrine, regulations, and processes

These key failures encumber the Army acquisition system's performance and have significantly contributed to the waste, fraud, and abuse in-theater by Army personnel.

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[1] The Commission charter is available at Appendix B.

[2] The term "expeditionary" includes both OCONUS and domestic emergency operations. The Commission believes the term "expeditionary"—rather than "contingency"—is a broader term that better encompasses any future national defense and national security missions. The Commission therefore uses this term throughout the report.

[3] The Operational Army consists of numbered armies, corps, divisions, brigades, and battalions that conduct full spectrum operations around the world.

[4] The Institutional Army supports the Operational Army. Institutional organizations provide the infrastructure necessary to raise, train, equip, deploy, and ensure the readiness of all Army forces.

The Commission found that:

- The expeditionary environment requires more trained and experienced military officers and non-commissioned officers (NCOs). Yet, only 3 percent of Army contracting personnel are active duty military and there are no longer any Army contracting career General Officer (GO) positions.
- The Army's acquisition workforce is not adequately staffed, trained, structured, or empowered to meet the Army needs of the 21st Century deployed warfighters. Only 56 percent of the military officers and 53 percent of the civilians in the contracting career field are certified for their current positions.
- Notwithstanding a seven-fold workload increase and greater complexity of contracting, the Institutional Army is not supporting this key capability.
- Notwithstanding there being almost as many contractor personnel in the Kuwait/Iraq/Afghanistan Theater as there are U.S. military, the Operational Army does not yet recognize the impact of contracting and contractors in expeditionary operations and on mission success.
- What should be a core competence—contracting (from requirements definition, through contract management, to contract closeout)—is treated as an operational and institutional side issue.

Unanimous Accord: Acquisition Failures in Expeditionary Operations Urgently Require a Systemic Fix of Army Contracting

The Commission heard testimony from more than 100 individuals who are well experienced in the challenges of Army acquisition in expeditionary operations, primarily in Kuwait, Iraq, and Afghanistan. The most notable characteristic of the testimony is a nearly unanimous perception of the current problems, their gravity, and the urgent need for reform. The people in the field understand the issues and identified the necessary solutions, and the Commission recommendations reflect these valuable lessons learned.

> ***"There are things Commanders in the field see as problems that people in DC don't think are problems–we should listen to the Commanders.***
>
> ***This problem is pervasive DoD-wide, because workload continues to go up while contracting and acquisition assets go down–there is a cost to these trends that is paid in risk, and we don't realize how big the bill is until there's a scandal.***
>
> ***The civilian personnel system does not serve an expeditionary force well–the system needs to provide superior short-term and career incentives to civilians who stay close to the combat mission.***
>
> ***Until you put Generals back in charge of contracting, the career field will continue to get no respect or resources."***
>
> (G.O., speaking of his experience of contracting in Iraq)

History shows that whatever threats the Army next faces will be different from the last, but they are likely to be expeditionary and likely to involve high numbers of contractor personnel. At the same time, operating the most potent military force of all time carries with it the burden that nothing is as simple as it once was. Our Armed Forces have been stretched thin. Technology has changed. All of our Military Services now use contractors to provide essential services. What has not changed is that contracting with taxpayer's funds is an inherently governmental function, and the military commander needs competent professional advice in the exercise of the expeditionary contracting mission.

Therefore, timely and efficient contracting for materiel, supplies, and services in support of expeditionary operations, and the subsequent management of those contracts, are and will be a key component of our achieving success in future military operations. Contracting is the nexus between our warfighters' requirements and the contractors that fulfill those requirements—whether for food service, interpreters, communications operations, equipment repair, new or modified equipment, or other supplies and services indispensable to warfighting operations. In support of critical military operations, contractor personnel must provide timely services and equipment to the warfighter; and the Army contracting community must acquire those services and equipment effectively, efficiently, and legally; while operating in a dangerous, fast-paced environment. Over half of the personnel currently in Iraq and Afghanistan are contract employees. This puts Army contracting (writing, negotiating, monitoring, and achieving accountability and enforcement of the contracts), along with modern (information-based) logistics support, squarely at the forefront of our challenges in supporting expeditionary operations. It also invokes command-level issues: Commanders must have timely situational awareness of contracts and contractor personnel and assets on the battlefield, to properly plan, synchronize operations, and manage the supply chain.

The Army currently lacks the leadership and personnel (military and civilian) to provide sufficient contracting support to either expeditionary or peacetime operations. The Army's difficulty in adjusting to the singular problems of Kuwait, Iraq, and Afghanistan is in large part due to the fact that there are no Generals assigned to contracting responsibilities. This is a decade-old blight: the cutbacks began in 1991, and no General Officers have held an Army

contracting position since 1998.[5] In a military environment (especially in an expeditionary environment), the number and level of the Generals associated with a discipline reflects its importance. A General is held accountable for his or her leadership. Today, the Secretary of the Army cannot replace a General and obtain a new start for Army contracting—the Army has no Generals doing contracting.

Army contracting personnel face over a 600 percent increase in workload, while performing more complex actions than ever before (for sophisticated services and buying systems-of-systems). Yet, the number of Army civilian and military in the contracting workforce is stagnant or declining.[6] Experienced military contracting personnel are essential for the success of expeditionary operations. Uniformed contracting experts provide the Army with professionals who have served in combat branches and easily understand the Army organizational structure. However, only three percent of Army contracting personnel are military.[7] The number and expertise of the military contracting professionals must be significantly increased in order to fill this void.

Experienced civilian contracting personnel are also essential for expeditionary operations. Any corrective actions addressing the shortage of military personnel must also address civilian personnel.[8] The Commission found Army civil servants to be an extremely dedicated and competent group; however, they are currently being managed by personnel policies that are both out-of-date and irrelevant to the Army mission and challenges of today, especially those of expeditionary operations.

The Army is the DoD "Executive Agent" for contracting in Iraq and Afghanistan, but is unable to fill military or civilian contracting billets, in either quantity or qualification. Although providing contracting support to the Army and Marine Corps is not an Air Force mission, an Air Force Major General currently is in command of the Joint Contracting Command–Iraq/Afghanistan (JCC-I/A). The Air Force also provides over 67 percent of the JCC-I/A contracting resources supporting the ground forces, and is handling most of the complex contract actions such as reconstruction operations.

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[5] In fact, the Commission learned that field-grade officers with contracting backgrounds pursue program management positions within the Program Executive Office (PEO), where general officer positions exist. Although both contracting and program management are under the "acquisition" career field, they are distinct professions, each needing competent professionals and officers.

[6] Indicative of the lack of transparency and responsibility for the contracting enterprise, this Commission was unable to get consistent data on the Army contracting career field (military and civilian).

[7] In contrast, 37 percent of the Air Force contracting workforce is military.

[8] Using skilled civil servants to perform inherently governmental contracting functions frees up uniformed personnel to address increasing warfighting, training, and technology demands.

FOUR KEY IMPROVEMENTS ARE NEEDED

Although this report suggests a significant number of recommended changes to improve Army acquisition and program management in expeditionary operations (as detailed in Section IV of this report), the Commission makes four overarching recommendations to ensure the success of future expeditionary operations:

1. Increase the stature, quantity, and career development of military and civilian contracting personnel (especially for expeditionary operations).
2. Restructure organization and restore responsibility to facilitate contracting and contract management in expeditionary and CONUS operations.
3. Provide training and tools for overall contracting activities in expeditionary operations.
4. Obtain legislative, regulatory, and policy assistance to enable contracting effectiveness in expeditionary operations.

OVERCOMING THE BARRIERS EXPERIENCED BY IN-THEATER WORKFORCE

The span of the challenges are highlighted in the following summary of what the "boots on the ground" contracting personnel and their commanders in Iraq, Afghanistan, and Kuwait told the Commission.

Contracting Personnel

- *Army contracting personnel need military leadership in the form of General Officer positions.* It is unlikely that an Army contracting corps with an adequate number of General Officers would have been so ill-equipped to serve the Operational Army in expeditionary operations. These flag officers would have been "at the table" planning and supporting the operation. Another benefit of having contracting General Officer positions is the increased attractiveness of the contracting corps as a career profession to quality officers that aspire to General Officer rank.
- *Army military contracting personnel, both officers and non-commissioned officers, need to start their contracting career much earlier than they currently do.* While the strength of company-level operational experience is seen as a significant strength of Army military contracting personnel (which is appreciated by both their civilian personnel and Air Force counterparts), entering the contracting field as a field-grade officer or high-ranked NCO with low-level contracting skills and experience does a terrible disservice to our military contracting personnel.

> ***"I am assigned to a field grade command with lieutenant qualifications."***
> (Army contracting field grade officer, regarding his first acquisition assignment)

- *Expeditionary contracting should never be a first assignment.* Contracting personnel sent into a theater of operations need to be highly skilled, adequately trained, and prepared for the challenging, fast-paced demands of expeditionary operations. As the commander of JCC-I/A stated, "This is the Super Bowl, not a scrimmage."

> ***"You don't teach someone to swim by throwing him in the water. Similarly, you shouldn't teach someone contracting skills by throwing him unprepared into a contingency contracting assignment."***
> (Army General Officer)

Organization and Responsibility

- *The Army should not separate a contracting corps from weapons systems or base operations contracting.* Expeditionary contracting is not a specialized business; it is the same business operating at a mission-critical tempo—which requires greater experience, skill, and judgment. Contracting professionals benefit from broad exposure to non-expeditionary assignments. Expeditionary contracting personnel need the training, knowledge, and experience necessary to know how to best support the warfighter while operating within the bounds of sound and legal business judgment; and under the "special provisions" allowable under the Federal Acquisition Regulation for such expedited needs.

> ***"You can't think outside the box if you don't know what's inside the box."***
> (Army General Officer)

- *Contracting personnel need an effective "customer" interface* that performs the type of function an acquisition management staff officer performs. Specifically, the Operational Army must be positioned to translate requirements into statements of work that quickly and seamlessly can be placed on contract.

- *Contracting personnel supporting expeditionary operations need to be on the ground in-theater* where they can interface and interact with their customer: the warfighter. Reach-back to CONUS has not worked well due to the absence of timely interface with the warfighter and the different operations tempo experienced in-theater, where business is conducted 70 to 80 hours a week at a bare minimum, not just during standard CONUS business hours (which, of course, are often in significantly different time zones). The Commission does not consider it responsive if the expeditionary personnel have to deal with a CONUS-based Duty Officer who takes an off-hours request and forwards it to those responsible for acting on the request the next duty day.

> ***"In-theater, we had lots of people in Washington telling us the rules, but having little sense of urgency."***
> (Former Army Contracting Official)

Training and Tools

- *Expeditionary forces need information technology and eBusiness tools.* Expeditionary contracting personnel feel that they are years behind other OCONUS locations with technology, yet they are working in an environment where the operations tempo demands the support of automated tools. Contract writing systems are insufficient and not standardized, negatively impacting the ability to accomplish the mission. Information systems to track contractor personnel, assets, and performance are critical but lacking. Commanders need a common, relevant picture of contractors in the battle space, for operational planning, logistics planning, and situational awareness. Simple eBusiness tools for sample documents, such as statements of work, and rules for application are needed on line and on compact disc. This needs to be user-friendly, similar to commercially available tax software.

- *The Army needs to capture contracting lessons learned from Operation Iraqi Freedom and Operation Enduring Freedom and inculcate them into the military leadership schools and the Center for Army Lessons Learned (CALL).* The Army needs to train operational commanders on the important role contracting plays, as well as their responsibilities in the process. Further, the role and importance of contractors in expeditionary operations should be part of the curricula at command schools (e.g., the War College, CGSC, Sergeant Majors Academy,) and courses for Officers (e.g., Officer Advanced Course), Warrant Officers, and NCOs. Finally, the Army needs to recognize that, in order to operate in a streamlined, agile expeditionary environment, it must, by necessity, rely on contractors to provide combat service support. This means command and control is different. For example, commanders complain about a lack of knowledge of who is in their battle space—they know who military personnel and units are, what their mission is and where they are, but the same is not true for the contractor personnel.

Legislative, Regulatory, and Policy Assistance

- *In-theater contracting personnel have a need for an Expeditionary Contracting Manual.* Contracting is a rules-based process and profession, and contracting personnel need a clearly articulated, and pre-positioned, packaged set of acquisition rules that can immediately be referenced and applied to meet the exceptional contracting requirements of expeditionary operations and they must be pre-trained on the use of these "special provisions." The Commission heard deployed contracting professionals testify on the need for an Expeditionary Contracting Manual that is focused on the expedited processes and flexibilities necessary for procuring the support needed by our warfighters in an expeditionary operation.

- *The Army must provide incentives for civilian contracting personnel* to ensure that the Army can tap into its largest population of contracting expertise. The Army also needs to be honest and upfront with them about the assignment and conditions and treat them with respect equal to the military personnel.

> ***"We are deploying civilians to the theater based on rules established 30 to 40 years ago."***
> (Army SES)

- *Civil servants need personnel policies that support the roles they may be tasked to serve when the U.S. is engaged in expeditionary military operations*. The Army should do a complete personnel policy review to identify changes necessary to support, properly incentivize, discipline, and provide for its civilian personnel who may be engaged in expeditionary military operations. This includes those personnel who are sent to the theater of operations—including civilian Army contracting professionals—as well as those who fill the void created by personnel deploying to theater.

INSTITUTIONAL ISSUES THAT MUST BE ADDRESSED

Those charged with getting the job done have provided valuable insight into the doctrine, policies, tools, and resources needed for success. Clearly, the Army must address the repeated and alarming testimony that detailed the failure of the institution (both the Institutional Army and the Department of Defense) to anticipate, plan for, adapt, and adjust acquisition and program management to the needs of the Operational Army as it has been transformed, since the end of the Cold War, into an expeditionary force. The Institutional Army has not adjusted to the challenges of providing timely, efficient, and effective contracting support to the force in Operation Iraqi Freedom (more than half of which is contractor personnel). Essentially, the Army sent a skeleton contracting force into theater without the tools or resources necessary to adequately support our warfighters. The personnel placed in that untenable position focused on getting the job done, as best they could under the circumstances—where support is needed in a matter of hours, or, at best, days. They used their knowledge, skill, limited resources, and extraordinary dedication to get contracts awarded. Alarmingly, most of the institutional deficiencies remain four-and-a-half-years after the world's best Army rolled triumphantly into Baghdad.

> ***"The contracting professionals who rose to the occasion in Iraq and Afghanistan deserve a medal. If, during the next expeditionary operation, we face the same institutional mistakes that put them in such a position, someone should be shot."***
> (General Officer speaking of his experience of contracting in Iraq)

The Army must fix the cause of such failures, and the symptoms will subside. The cause is a culture that does not sufficiently value or recognize the importance of contracting, contract management, and contractors in expeditionary operations. Without the necessary contracting leadership, the necessary change cannot be achieved.

The Army Must Transform the Army's Culture with Regard to Contracting

The Commission believes that the Army contracting community has reached a "tipping point" that requires extraordinary action. Perhaps most notable was a question that the Commission repeatedly asked the experts, "Who in the Army is responsible for the situation we are in today?" In reply, the Commission repeatedly heard that there are no General Officers responsible for Army contracting—responsibility was diffused among many organizations, both within CONUS and in the field.

The Commission believes that the identified problems will not be solved by accomplishing any list of corrective actions, no matter how thoughtful, thorough, and extensive the list, unless this is also accompanied by a significant change in the organization of the Army with regard to the contracting community, and the acquisition community within which the contracting function lies.

In fact, while this Commission, other commissions, task forces, and auditors look at the current contracting issues and bring fresh eyes to the problems, the Commission believes that all attempted remedies will be temporary unless the Army returns to basic organizational and Army leadership principles.

Despite the increasing importance of the acquisition process to the Army's performance, the Army apparently has not valued the skill and experience required to perform those processes. Numerous attempts over the last 20 years, both legislative and organizational, to modify that value culture have not succeeded. Despite the outstanding professionalism and talent that is resident at every level of the Army, without significant systemic change, the Army acquisition processes can be expected to inevitably return to below-mediocrity.

General Officers Must Lead the Transformation to Make Contracting an Army Core Competence

To initiate and sustain improvement to Army acquisition, grow future leaders, and support leadership efforts, the Army must designate an appropriate number of General Officers (and Senior Executive Service personnel) who will be permanently assigned to contracting.

In the 1990s there were five Army slots and four joint slots available for General Officers in key contracting and contract management positions. Today, there are no Army slots and only one joint slot (which is currently being filled by an Air Force two-Star officer from the contracting career field). Over this period, the Army Competition Advocate has been decreased from a two-Star billet to a colonel, while the Defense Contract Management Agency has been changed from a joint two-Star billet to a civilian executive.

In order to provide for increased and prolonged professionalism and problem-solving in the military environment; in order to recognize the increased complexity and cost of modern military products and services; and in order to prevent the suboptimal migration of senior military billet assets from the acquisition corps to the operating forces: Congress should authorize these General Officer and SES billets and specifically assign them to the Secretary of the Army, so that the Secretary may ensure they are assigned only to acquisition and contracting billets. These General Officer and SES billets will, through normal Army staffing assignment policy, also drive the assignment of the necessary officers, enlisted personnel, and civil servants who should populate this critical area. This Commission recommends that five new General Officers, and one SES billet, be established for the Secretary to assign to meet this urgent need, and five more joint General or Flag billets be established, including a three-Star for the Defense Contract Management Agency.

Army Operational Leadership Must Understand the Transformation

The necessary transformation must be Army-wide. Thus, not only must the acquisition community have leadership—in the form of General Officers—to lead the change, it must grow future leaders and support for leadership efforts, and have sufficient numbers of military and civilian professionals to carry out the changes. In addition, those operators outside the acquisition community must be trained on the role and importance of contracting and contractors in expeditionary operations. This Commission recommends that all leadership courses address the significance of contracting and contractors and that combat exercises include contracting events.

A Single Army Contracting Command Must Establish Contracting as a Core Competence

Under the current organization, none of the contracting commands have responsibility to synchronize all aspects of contracting below the Army Secretariat level. This adversely affects those within the profession and outside the profession. Within the contracting profession, no single advocate for a "cradle to grave" career plan for excellence exists. Outside the profession, commanders and contractors have to deal with multiple heads of contracting activities (HCAs) and principal assistants responsible for contracting (PARCs). These multiple interactions can result in varying policy interpretations and poor operations. These effects are compounded in the expeditionary environment, with its heightened contracting workload, complexity, and tempo.

This Commission recommends a single Army Contracting Command, reporting to the Commanding General of Army Materiel Command, be established and charged with developing a relevant and ready expeditionary contracting capability. The Commander of the Army Contracting Command would have directive authority over all Army contracting capabilities and provide a single focal point for status and readiness of the Army-wide contracting workforce.

A General Officer Must Be Accountable for Post-Award Contract Management

Another major area of concern to the Commission is the failure of both the Army and Defense organizations to perform a mission that is critical to operational success in-theater, and where the Army was, and clearly still is, failing: post-award contract management. Contract management is an essential contracting function to ensure mission accomplishment, and it is an important control to minimize fraud, waste, and abuse.

As stated above, the few contracting resources available in-theater are dedicated to the timely award of contracts. However, in the area of contract management, because of staffing constraints, even the JCC-I/A must engage in a dangerous game of risk management. Contract management for low-risk contracts is forsaken in favor of managing high-risk contracts. JCC-I/A is relying on the "squeaky wheel" method, rather than a proactive method of contract management. For high-risk items (e.g., mission-critical concrete barriers), JCC-I/A devotes the resources to perform proactive contract management. Another important aspect of contract management—contract close-out—is simply not being accomplished. Only about 5 percent of the completed contracts in Iraq are being closed out.

Contract management is the function of the Defense Contract Management Agency (DCMA). However, DCMA is focused on the management of weapons systems contracts (as is the majority of the acquisition community). Although DCMA has DoD's resident expertise in contract management, having absorbed all the Military Services professional contract managers when it was established, it is neither staffed nor resourced to provide operational contract management for the types of contracting efforts supporting expeditionary operations—base, post, camp, and station contracts. DCMA has not been engaged in managing contracts in-theater, except in a limited capacity (managing contracts that were awarded outside the theater of operations such as LOGCAP). Its role and staffing should be expanded and DCMA should be responsible for <u>all</u> post-award contract management for expeditionary operations. As a Combat Support Agency, DCMA, with its increased responsibility, should be led by a three-Star General or Flag Officer, as is the Defense Intelligence Agency and Defense Logistics Agency (DLA).[9] The individual selected and assigned must have extensive acquisition/contract management expertise.

[9] When DCMA's predecessor organization, the Defense Contract Management Command, was under DLA it was led by a two-Star general officer. It is now led by an SES.

SUCCESS MUST BE MEASURED

The Commission recommends a Secretary of the Army chartered Special Task Force be established and tasked to plan for, and achieve, the needed transformation with the proper sense of urgency. The Commission believes that key recommendations should be implemented within six months.

Within 30 days, the task force should develop an ambitious plan for implementing the Commission's recommendations, and provide that plan to the Commission for review. The transition plan—which should identify the sequence in which the projects will be accomplished and describe key aspects of each project—will help the Army bridge the gap between where its acquisition system is today and where it should be in the future. The plan must address all four major improvement areas: contracting personnel; organization and responsibility; training and tools; and legislative, regulatory, and policy assistance. The numerous projects to be included in the transition plan vary in complexity and are interrelated. Therefore, the Army should treat the plan as a program, operating with a consistent approach. One of the initial steps must be to appoint a Special Task Force Leader to develop program goals, objectives, and an integrated master plan for implementation. The program goals and objectives should be reviewed by the Commission. The implementation plan should include periodic coordination with this Commission. At a minimum, the Commission will measure success quarterly by reviewing program reports, with an annual program review.

PREPARED STATEMENT

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U.S. DEPARTMENT OF STATE

BEFORE THE SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE

January 24, 2008

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today about how the Department of State is strengthening the capacity of the U.S. Government to address reconstruction and stabilization (R&S) crises.

The hard lesson that we have learned in the post-Cold War world is that failed states and instability within countries far distant from our shores can pose a national security threat to the United States. Somalia, Bosnia, Kosovo, East Timor, Afghanistan, Iraq, Lebanon, Haiti – crises such as these are an inevitable feature of the world we live in and have very real consequences for American interests. The issue is not *whether* similar crises will occur, but when, where, and how will we respond?

When facing a stabilization crisis, we must, as a government, determine the most effective approach, and then ensure that we have the corresponding tools, resources, and capacity to respond quickly and follow through to success.

As the Secretary of State's Coordinator for Reconstruction and Stabilization, my office is charged with two tasks. The first is to ensure that the entire U.S. Government is organized to deal with reconstruction and stabilization (R&S) crises, and that civilian and military plans are harmonized. The second and equally important task is to build the U.S. civilian capacity to staff these missions so that when the President and Secretary call upon us to respond we can put the right people in the right place, with the right skills, doing the right things, at the most critical time.

Since S/CRS was established in 2004 we have built up a modest rapid response capability within the State Department and a growing cadre of civilian planners in our office of 80 experts. We are an interagency office with detailees over the past 3 years from USAID, Defense, U.S. Army Corps of Engineers, Treasury, Justice, Homeland Security, Labor, the Intelligence Community, and other parts of State. Our team is currently providing planning, operations or assessment assistance in Afghanistan, Sudan, Haiti, Nepal, Sri Lanka, Kosovo, and Liberia. We also have an officer detailed to AFRICOM and another to SOUTHCOM.

Over the last two years, we have piloted new concepts and engaged in important planning operations. We opened the U.S. office in Darfur's capital of El Fasher and helped coordinate assistance on the ground in Lebanon for the Ambassador. We sent teams to Afghanistan, as well, to facilitate planning at U.S. Provincial Reconstruction Teams. These engagements have proven the value of our approach, but this is not enough. The civilian agencies need to be a true partner to the military in stabilization crises or, even better, to take on these challenges in a significant way so that armed forces do not have to intervene. This requires a major, perhaps even a revolutionary, change in the way the U.S. Government approaches and resources conflict response. Just as the military underwent tremendous reform in the 1980s following the passage of Goldwater-Nichols legislation, we are proposing shifts across our civilian agencies that will bring all elements of national power to bear in the defense of America's vital interests.

The costs of ignoring weak and failed states are potentially enormous. As we have learned, states and regions in chaos can become breeding grounds for terrorism, weapons proliferation, trafficking in humans and narcotics, organized crime, and humanitarian catastrophes. The U.S. Government does not have to police these situations alone, but we do have to be ready to demonstrate leadership and engage effectively when help is needed most and when our national security interests are at stake. If we can intervene in time, we may be able to help put in place the necessary building blocks for lasting peace and good governance. To accomplish this, the U.S. Government must resource civilian post-conflict capacities at a level commensurate with national security priorities. In sum, we must reform our national security architecture.

INSTITUTIONALIZING THE PRESIDENT'S DIRECTIVE FOR R&S

Over the last year, we have been working together across 15 civilian and military agencies to answer President Bush's 2005 call in National Security Presidential Directive 44 (NSPD-44) to significantly improve the management of U.S. Government reconstruction and stabilization operations. The Presidential Directive puts the Secretary of State in charge of integrated U.S. efforts to prepare, plan for, and conduct these activities, and calls on the Secretaries of State and Defense to harmonize civilian and military efforts so that civilians are planning and operating with the military from the start of any operation.

This unprecedented process has brought experts from the NSC, DOD, USAID, State, Justice, Agriculture, Commerce, Treasury, Transportation, Homeland Security, Health and Human Services, OMB, OPM, Energy, and the Intelligence Community to sit together and honestly determine the U.S. civilian capacity needed to succeed in a stabilization operation. It was an extraordinary commitment of staff and expertise.

This group's intense examination of U.S. responses in Afghanistan, Iraq, Bosnia, Kosovo, Haiti, East Timor, and Lebanon independently identified the same needs that are highlighted in S.613, the "Reconstruction and Stabilization Civilian Management Act," proposed by Chairman Biden and Senator Lugar. This important legislation calls for an Active Response Corps of up to 250 first responders from civilian federal agencies, a Standby Response Corps of up to 2000 existing government officials, and a Civilian Reserve Corps drawn from private sector experts and state and local government officials from across the United States. Congressmen Farr and Saxton have proposed companion legislation in the House of Representatives (H.R. 1084).

However, identifying and recruiting the people we need is only a first step. This gets us the right people, with the right skills, at the right time. Making sure that these experts are doing the right things, synchronized between civilian and the military leadership on the ground, according to <u>one</u> strategic plan; that is the most complex and interesting task of NSPD-44. The Directive charges us to develop a unified interagency management system for planning and operations. When I came to this role a year and a half ago, I can honestly say that I was not sure that we would see the Interagency Management System, or IMS, in my tenure. Over the last year, however, the IMS was finalized by an interagency committee, approved at the highest levels, and is being exercised with the military. We are now well on our way to realizing this new system as the mechanism we will use to respond to the next stabilization crisis.

CREATING A FRAMEWORK FOR FASTER, MORE EFFECTIVE RESPONSE

In a stabilization crisis, a wide range of actors within the U.S. Government needs to be part of any effective response, and their work must be integrated. If we work at cross-purposes, with unclear guidance or conflicting missions, we will cripple our efforts from the start and lead to ineffective use of resources, people and time. More importantly, it will lead us to miss the window of opportunity for change for those most in need on the ground. The new approach I alluded to above, called the Interagency Management System (IMS) for Reconstruction and Stabilization, integrates these efforts through three inter-linked elements:

Country Reconstruction and Stabilization Group (CRSG): Essentially a reinforced Policy Coordinating Committee, this is a Washington-based decision-making body at the Assistant Secretary level, including representatives from all agencies involved in a particular R&S mission. It focuses only on the crisis at hand and its core purpose is to facilitate effective and timely decisions, planning, and mobilization of resources. Each CRSG will have a Secretariat, which provides a full time staff to plan, unify effort, resolve disputes, and maintain a 24-7 common operating picture across all agencies. The Secretariat oversees creation of the unified strategic plan taking account of all U.S. Government capabilities that may be required in the crisis.

Integration Planning Cell (IPC): This is a civilian planning cell deployed to the relevant Geographic Combatant Command (GCC) or multinational headquarters to harmonize civilian and military planning, processes, and operations. It will generally consist of civilian planners and regional and sector-specific experts from across the U.S. Government.

Advance Civilian Team (ACT): This consists of one or more rapid response teams that deploy to the field to support the Chief of Mission in developing and implementing the U.S. R&S strategic plan. If a U.S. Embassy is present, the ACT will integrate with Embassy and USAID mission structures, under the authority of the Chief of Mission. If the U.S. does not have a diplomatic presence in country, the ACT can help establish one. The ACT can further deploy Field Advance Civilian Teams (FACTs), similar to the Provincial Reconstruction Teams (PRTs) that have been operating in Iraq and Afghanistan, to coordinate R&S programs at the provincial or local level, with or independently of a military or international peacekeeping effort.

The value of the IMS is that it links an agreed whole-of-government planning and management process with integrated operations on the ground. It clarifies roles, responsibilities, and processes for interagency R&S planning and operations. The IMS is flexible and scaleable to the situation and can integrate personnel from all relevant agencies. This system is designed for highly complex crises and operations, and is not intended to respond to the political and humanitarian situations that are regularly and effectively handled through current organizations and systems.

We have been partnering with other civilian agencies, the military, and international partners to test the IMS, working out systems and potential challenges in the exercise environment, so that we will be ready to activate immediately the IMS when the next crisis erupts.

HOW IT WORKS

When the next crisis does occur, the Secretary of State, the NSC, and Principals from DOD and other agencies, will consult and determine if we should stand up a Country Reconstruction and Stabilization Group. If the system is activated, the CRSG Secretariat would be staffed immediately by my office and regional bureaus at State, pulling in representatives from other federal agencies. The CRSG would then plan with these agencies and the Embassy, mobilize human and logistical resources, jumpstart contracts, and establish the common operating picture necessary to ensure all U.S. actors have the information they need to plan and respond. The CRSG would work closely with other civilian or military task forces.

If the crisis requires military involvement or support, an Integration Planning Cell comprised of country and sector experts would be sent from the CRSG to the relevant military combatant command. This team would ensure that military planning is harmonized with strategic planning in Washington and the Embassy, and that there is open communication.

If the Embassy needs immediate assistance, either for planning or response, or if an official U.S. presence does not exist, an Advance Civilian Team could be deployed. With Active Response Corps members standing by, the first part of this team could depart within 48 hours to contribute to R&S planning, assessments, reporting, program proposals, and basic assistance, as required. Part of the team will be highly expeditionary, able to base themselves at the provincial or regional level and/or with military forces, or independently. These Field Active Civilian Teams (FACTs) will include civilian personnel with a range of specialties and agency backgrounds and the necessary training and R&S expertise.

The ACT, Embassy, and FACTs on the ground will engage in an implementation planning process with Washington and the Combatant Command that enables agencies to focus and synchronize contracts, programs and activities to greatest effect. These civilian experts can do on-site assessments, informing the contracting process and speeding up time from concept development to execution on the ground. This strong civilian presence also allows for effective monitoring and oversight of programs. The goal is to develop flexible programming that can meet the needs of the changing environment. The common implementation plan allows for constant monitoring of progress across all areas of the mission to allow us to change course quickly as necessary across agencies and ensure that we are using our resources well.

BUILDING CIVILIAN CAPACITY FOR DEPLOYMENTS

The effectiveness of the IMS relies heavily on the quality, experience, and commitment of the civilian experts involved. Civilian officers from across our government have served and continue to serve our nation honorably in troubled places around the world. But the reality is we simply do not always have the appropriate skill-sets or equipment available to deploy rapidly in the immediate aftermath of a crisis when we can have the greatest impact on stability.

Hence, my second task – building a U.S. civilian response capability that is trained, equipped and prepared to deploy in a crisis. This requires not just improving the recruiting, training, and expectations of our workforces but also ensuring we can call-up adequate resources when needed. We have devised a new three-tiered system to get civilians on the ground quickly in a

stabilization mission. Together, this civilian response corps will have the skills necessary to operate collaboratively in a country with a weak or non-functioning government.

Active and Standby Response Corps
The first tier of the new U.S. civilian R&S response capacity is the Active Response Corps, which is made up of federal employees whose full-time job is to work in support of R&S activities, ready to go in 48 hours if necessary for deployments of up to 6 months. They spend their time training, preparing, and deploying to crisis spots. Our eleven current ARC officers, all of whom are in the State Department, have already served in Sudan, Lebanon, Afghanistan, Haiti, Chad, Liberia, Iraq, and Kosovo.

The Active Response Corps is followed by the second-tier Standby Response Corps (SRC). These are current U.S. Government employees with full-time jobs and relevant specialties who have volunteered to undergo training and to be considered for deployments of up to six months on 30-45 days notice. The SRC currently has 90 members who are full-time employees and 200 who are retirees, all of whom have been drawn from the State Department.

The goal for the future is to significantly expand the Active and Standby Corps to reflect the U.S. Government interagency with civilians from USAID, Justice, Treasury, Commerce, Agriculture, HHS, and DHS. In FY 2008 these agencies have agreed to build and train a pilot interagency SRC of 500.

Civilian Reserve Corps
The third tier is the U.S. Civilian Reserve Corps. Stabilization and reconstruction environments require larger numbers of available, skilled, and trained personnel and a broader range of expertise than the U.S. Government has on-staff in adequate numbers – from police trainers to engineers to city planners. That is why the President called for the creation of the Civilian Reserve Corps in his 2007 State of the Union address. Such a corps creates a pool of experts on call, without the expense of bringing them on as permanent U.S. Government employees. As we have seen in Iraq, such experts play a critical role in reconstruction and stabilization, and quicker access to them can contribute to the overall success of a mission. When deployed, members of the Reserve Corps provide technical assistance to the host government. The reserve system would provide two advantages over relying solely on contractors: faster response and greater accountability. While the Reserve Corps would provide immediate expertise in the field, we would still need to use grants and contracts with implementing partners to deliver long term assistance.

The Civilian Reserve Corps has been approved at senior levels, and funded in the FY 2007 supplemental appropriations act (P.L. 110-28). This funding would allow us to recruit, hire, and train elements of the first 500 members of the Civilian Reserve Corps and to pre-position equipment so that they are fully prepared to deploy. However, funding provided was restricted and made subject to authorizing legislation, such as S.613 and H.R. 1084. These are important pieces of legislation, and the Administration hopes that they soon can be turned into law.

The approach we are taking on the Civilian Reserve Corps has garnered support from many corners, including the Special Inspector General for Iraq. SIGIR has consistently made the point

that we do not have contracting procedures flexible enough for contingencies, nor sufficient personnel trained to oversee contracts in the field. In SIGIR's July 2006 report on Iraq Reconstruction, it called for the creation of "a deployable reserve corps of contracting personnel who are trained to execute rapid relief and reconstruction contracting during contingency operations," which it says could be coordinated by S/CRS as part of the Civilian Reserve Corps.

The State Department is ready and eager to take on the challenge of building civilian response capacity. In late April, the Department formed an interagency task force that was charged with tackling the final questions for the design of the Civilian Reserve Corps. The task force was led by S/CRS, with staff detailed from across the U.S. Government. Once necessary authorities are received to make the funds available, I am confident that the State Department can have the first group of civilian reservists prepared and ready to deploy within twelve months. If the United States builds the U.S. civilian response capacity described above, we would be able to put close to 1200 trained and skilled civilians into the field within the first eight weeks of a crisis. This is a significant capability, and one our nation needs.

It is important to understand that the capability we are developing can be used in all kinds of environments. It can be deployed alongside the military when the conditions are non-permissive, deployed instead of the military to prevent a crisis from escalating, or deployed with our international partners in UN or NATO-led missions, for instance.

A GLOBAL RESPONSIBILITY

The challenges we face in weak and failed states are recognized around the world. We share a commitment with our international partners to prevent states from failing and to resolve both the causes and consequences of violent conflict. There are offices or positions similar to mine in London, Ottawa, Berlin and the United Nations. We have reached out to all of our partners in those offices as well as to colleagues in France, Japan, NATO, the European Union, Norway, Finland, and South Korea, among others. We are looking for as many partners as possible so that we can develop global capacity. From the creation of S/CRS-type offices to the signing of the G-8 statement on commitment to cooperation on R&S, we are seeing signs of progress.

CONCLUSION

There is no doubt that fragile and failing states present an on-going threat to our national security. We cannot continue to make do with a resource imbalance that leaves the Pentagon as the only part of our government capable of undertaking sustained, large-scale reconstruction and stabilization missions. This is true not only because most of the critical R&S tasks are civilian in nature and require a civilian lead, but also due to the burden placed on our armed forces, which detracts from our overall military readiness.

Building U.S. civilian capacity will ensure that we are able to partner with the military when necessary for the challenges that lie ahead and to deal with some crises without having to invoke U.S. military power. This is the right and the smart thing to do. The effort we make – and the expenses we incur – to develop a strong, fast U.S. civilian response capability will reduce the cost we ultimately pay, both in dollars and in lives, to manage the national security dangers arising from failed and destabilized states.

Thank you.

Opening Statement
of
William H. Moser
Deputy Assistant Secretary of State for Logistics Management

Chairman Carper, Ranking Member Coburn and Members of the Committee, thank you for the opportunity to appear before you today to discuss the Department of State's initiatives to improve the management and oversight of contracting activity in hostile zones.

The Department of State has extensive experience with contracting in crisis situations. Diplomatic activity is ever-changing to meet the needs of our country amid evolving world events. Contracts were needed to evacuate staff, protect property and close missions in the 1990s in Pakistan, Somalia, Sudan, Liberia, and Zaire. During the Bosnian War, we contracted for vehicles, equipment and supplies for the Sanctions Assistance Mission. As hostilities decreased in the Balkans, we provided contracting support for supplies, services and equipment to embassies in the region, and stood up new embassies in Skopje, Sarajevo, Zagreb and Ljubljana. We contracted for medical and safety equipment for regional embassies in the Middle East during the 1991 Persian Gulf War.

Just after the Al Qaeda bombings in Nairobi and Dar es Salaam, we further refined our strategy for dealing with contingency contracting support. Our Office of Acquisitions Management partners with various Department offices, both at headquarters and around the world, to determine the type of contracts that would best support their emergency requirements. Our contingency transportation contracts helped evacuate 13,000 American citizens from war-torn Lebanon in 2006.

Our contracting activity routinely supports the Department of State in crisis situations. Program offices provide mission requirements, technical guidance and managerial oversight. Contracting officers support program offices in assessing needs and awarding contracts in accordance with laws and regulations. To prepare for the next crisis, we have identified as first responders contracting officers that are ready to rollout with program office staff.

Even before we opened Embassy Baghdad in July 2004, we dispatched personnel to Iraq to work on site to award and administer contracts to support the mission. Support of Embassy Baghdad remains the top priority for our contracting personnel. To date, our central contracting activity has awarded 35 contracts with approximately 6,500 contractor personnel in country. We contract for construction, operations and maintenance of facilities; security services to protect our mission personnel and visitors; and translation services to facilitate diplomatic dialog. These contracts are essential to the support of our diplomatic mission.

One major contract employs experienced professionals to train Iraqi civilian police. Another contract employs de-mining teams. In addition, we contract for experts such as economists, agronomists, engineers, and others. Although, the State Department does not maintain these capabilities in-house, contractor personnel supplement the skills of our traditional diplomatic workforce and are essential in our efforts to rebuild Iraq.

We've established a comprehensive policy and operational framework for the deployment of contractors who will work alongside our diplomats. Before deployment, pre-performance conferences are held to go over the

terms and conditions of each contract, including "dos" and "don'ts", and the whole range of administrative, technical and security requirements. We hand out an "Iraq Deployment Guide" to contractors covering medical, security and country clearance requirements; travel and transit information; and training. All those deployed must attend a Foreign Affairs Counter Threat (FACT) training course presented by the Department's Bureau of Diplomatic Security and the Foreign Service Institute. Contractors also provide additional in-house training for their employees.

One of the most effective contracting mechanisms that we have found to be responsive to urgent foreign policy requirements is the use of Indefinite Delivery/Indefinite Quantity (IDIQs) contracts. These types of contracts can be used to acquire supplies and services when the exact time or exact quantities of future deliveries are not known at the time of contract award. Both our worldwide civilian police force training and personnel protection services contracts are IDIQs. In Iraq, Afghanistan and other locations, they have been used effectively to meet the requirements of a rapidly changing environment when we cannot predetermine the precise services the Department requires.

Our experience in Iraq and Afghanistan has shown that there are areas where we need to improve our contingency capabilities. We've learned that we need more resources on-site so that we can improve planning, price analysis, contract formation and oversight. However, resource limitations have prevented us from expanding the resources as rapidly as the growth in contract requirements.

Since 2001, the workload of the State Department's Office of Acquisitions has grown dramatically with no commensurate increase in staffing. The volume of transactions grew from $2 billion in 2001 to $6.1 billion in 2007. To gain the flexibility required in a rapidly changing geopolitical environment, the Under Secretary for Management directed the transformation of the Office of Acquisitions Management to a working capital funded organization. A one percent fee for service, based on the amount of contract award, will cover the expenses of the acquisition activity.

The working capital fund structure will permit the State Department to significantly increase the amount of cost and price analysis, legal review and contract oversight performed. We want to ensure that our contracts meet the standard of integrity demanded by Congress and the American people. The contracting operation will be more agile and responsive to all future contracting needs, including contingency contracting. We will be able to readily increase the resources devoted to each contract action, whether the contract performance is in Iraq, Darfur or Haiti.

Successful contracting depends on close partnership with program offices. The Department's Office of Acquisitions Management is working closely with the Office of the Coordinator for Reconstruction and Stabilization (S/CRS) to improve contingency contracting. We are also working with our Department of Defense colleagues to guarantee coordination in hostile zones. Deputy Secretary of Defense Gordon England and Deputy Secretary of State John Negroponte signed a Memorandum of Understanding (MOU) in December 2007 to improve management and oversight of private security contractors in hostile zones. We look forward to further cooperation with the Department of Defense to provide the contracting support to the diplomatic and military forces around the globe as they face the daily challenges of serving in difficult and hostile areas.

I look forward to your questions and thank you for the opportunity address the members of the committee.

James Kunder
Acting Deputy Administrator
U.S. Agency for International Development
Statement before the Senate Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security and the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia
Management and Oversight of Contingency Contracting in Hostile Zones
January 24, 2008

Chairmen Carper and Akaka, Ranking Members Coburn and Voinovich, senators and professional staff:

Thank you for giving me the opportunity to discuss the U.S. Agency for International Development's (USAID) oversight of reconstruction contracting in Iraq and Afghanistan, the lessons we have learned over the past few years, and the steps we are taking to ensure we provide the best possible stewardship of the public's funds.

Let me begin by stating the obvious. Those who have not seen it for themselves may find it difficult to understand the extent of the destruction in both the countries. Afghanistan was already one of the poorest and least developed countries in the world – before the overthrow of the King in 1973 and the Soviet invasion in 1979. Over the next two decades, the economy, infrastructure and social fabric of the country were almost completely destroyed. In Iraq, two dozen years of Saddam's rule perverted and degraded what had been one of the most highly developed countries in the Arab world. In both countries, the rule of law vanished, policing disappeared, and criminal elements flourished. Under the best of circumstances, it would take years for wounds like these to heal.

Iraq and Afghanistan remain highly dangerous places to operate. The lack of security has added up to 25 percent to the cost of doing business in those countries, given the increased risks our implementing partners are asked to bear. Insecurity has often led to a slower pace of project implementation and completion, and has limited the number of firms that are qualified or willing to bid on our projects.

We have an obligation to protect our people, for it is not just armed forces that are at risk – witness our development colleague who was killed in Kabul in the attack on the Serena Hotel last week. In Afghanistan, approximately 200 civilians working on USAID-funded projects have been killed in hostile actions to date and another 240 injured. In Iraq, approximately 110 expatriate and Iraqi civilians have been killed working on our projects and more than 100 injured. We appreciate the efforts of the Regional Security Officers to keep our people safe in Iraq and Afghanistan. That said, the reality is that the restrictions imposed on USAID staff severely limit our ability to visit projects and provide as much oversight as we would wish.

Our work in both countries has been thoroughly and continuously audited. We currently have a nine-person team from the USAID Inspector General's based in Baghdad including both auditors and investigative staff. The USAID/IG has conducted 38 performance audits and reviews, plus an additional 105 reports on Iraq programs and funding through our partners in the Defense Contract Audit Agency (DCAA). In addition, the Government Accountability Office (GAO) has conducted 16 major audits in Iraq of USAID programs or U.S. efforts that include USAID activities. Similarly, SIGIR has conducted approximately 40 audits of USAID-related work in Iraq, plus individual project assessments, 15 quarterly reports, and three lessons learned reports.

In Afghanistan, our Office of the Inspector General has completed 18 performance and 23 financial audits as of December 2007. And we have been part of a working group, composed of the IGs from USAID, GAO and the Departments of State and Defense.

Not a single one of these audits revealed findings of pervasive waste, fraud and abuse. Have we been perfect? Of course not. Particularly at the beginning, we made our share of mistakes. But many of them have been rectified, and we continue to work to improve both the implementation and the monitoring of our programs.

Yet the perception may have lingered in the media and in the public mind that U.S. foreign assistance in Iraq and Afghanistan has been fraught with waste, fraud and abuse. I respectfully disagree with this point of view, and I hope you will bear with me as I try to show you why.

Accomplishments

First, we have accomplished far more in both countries than is generally acknowledged. The U.S. military, Iraqis, and outside experts are also noting the critical role these programs play in helping consolidate our security gains under the surge and helping the Iraqis transition to self-reliance. Some of our recent achievements in Iraq include:

1. Community Stabilization Program: The program has put more than 54,000 Iraqis to work; given 7,000 people vocational education; established apprenticeships for 2,000; and made over $276 million available for 5,930 projects. This has been a key element in the success of our "clear, hold, build" effort in Baghdad and Anbar Province with the U.S. military.

2. Local and Provincial Government Capacity Building: Through our local and provincial governance program, we have trained over 4,000 council members, 28 governors, 42 deputy governors, 420 directors general, and key staff in 380 Iraqi ministries and departments, increasing their capacity to manage and execute budgets in a transparent and sustainable manner. These efforts are now paying off through improving budget execution at the local level.

3. National Capacity Development Program: This program has trained more than 5,000 civil servants in modern management principles. As part of the "civilian surge," USAID and its partners have fielded more than 50 advisors to work with the central government and throughout the country – in addition to the work our PRT officers have done in this area.

4. Municipal and Local Governments: Our PRTs have helped establish or rebuild 16 governorate councils, 96 district councils, 195 city or sub-district councils and 437 neighborhood councils, and elections for governors, mayors, and local councils have been organized.

5. Community Action Program: We established 1450 community associations in 18 provinces that help energize Iraqis implement local priority projects identified through a collaborative process between citizens and local leaders. These projects require a 25 percent contribution to enhance local ownership of the project and thereby improve sustainability. An important indicator of the success of this program is how community

associations from nearby towns are moving beyond the immediate, local level and working together to determine common priorities.

6. Economic Growth: We supported the Iraqi Company for Bank Guarantees and helped establish five small business development centers supporting local companies, linking over 30,000 businesses through central and regional registries.

7. Microfinance Development: We have established microfinance lending in all 18 provinces, whose current loan portfolio consists of nearly 65,000 outstanding loans totaling over $137 million – with a 98 percent repayment rate.

8. Agricultural Production Rehabilitation: 68 veterinary clinics have been established serving five million animals and 135,000 animal breeders.

9. Baghdad Province: The Baghdad PRT has worked with the Governor in this most critical province to improve essential services and with the Provincial Reconstruction and Development Committee to award 42 construction projects valued at $81 million.

10. Anbar Province: Our PRT helped re-open the Provincial Government Center; launched projects worth $450,000 for university and provincial institutions; and has pioneered the "helicopter engagement" initiative which is reconnecting Anbar's far-flung cities and towns with the provincial government.

In Afghanistan, we have:

1. Helped organize and run both presidential and parliamentary elections, and re-established a functioning Parliament after 30 years of war. On Monday, January 21, Parliament celebrated its third year, opening the joint session of the National Assembly of Afghanistan.

2. Rebuilt the health care system, increasing the number of people who live within four hours of health services from eight percent in 2001 to over 80 percent today.

3. Helped decrease infant mortality by at least 22 percent, saving over 80,000 infant lives saved per year, through building and supporting health

facilities, training community health workers, and supplying vaccinations. More than 95 percent of the population – including over 7 million children – has now been inoculated against polio as opposed to just 35 percent two years ago.

4. Raised school enrollment from less than a million to over five million students. More than a third of these are girls.

5. Reconstructed over 1600 kilometers of roads, reducing travel times, increasing access to government services and economic opportunities, and producing 5 million cash-for-work labor days.

6. Helped Afghan farmers find new markets for their exports in Dubai and New Delhi and facilitated the sale and export of more than 20,000 tons of pomegranates to Dubai, India, Europe, and Canada.

7. Re-launched the currency and successfully established the Central Bank (Da Afghanistan Bank). New commercial banking laws are fostering a banking sector with 18 banks and more than 162 branches – including the central bank and state-owned banks -- in over 20 provinces. This has brought in $75 million in capital injection.

8. Organized successful agriculture fairs that connected farmers with global businesses and showcased innovative farming techniques. Nearly 300,000 people attended two national AgFairs in Kabul and regional AgFairs in the provinces of Helmand, Nangarhar, Badakhshan, Balkh, and Herat

9. Encouraged women's rights, helping thousands of women return to the workplace and have a voice in government. For example, Afghanistan's Women Business Federation membership increased by 50 percent from FY '06 to FY '07. The number of female health services providers has increased from 39 percent in 2004 to 76 percent in 2006. Currently the Afghan government has one female governor, one female minister, and 90 female members of Parliament.

10. Helped raise GDP every year since 2002.

Contracting in Iraq and Afghanistan

Turning now to some of the contracting issues that are part of the daily challenge of working in Afghanistan and Iraq, I would like to point to some of the tensions and trade-offs inherent in this work.

We must recognize that there is an inherent tension between the need to move quickly in highly volatile places like Iraq and Afghanistan and the need to ensure that our programs are well-designed, meet local needs, and are open and accountable. It takes months to go through all the stages of a full and open competition. We must carefully follow the requirements outlined in the Federal Acquisition Regulations. And yet during that time, conditions in countries like Iraq and Afghanistan can change dramatically. New opportunities may arise and unforeseen dangers may emerge. Momentum gained can be lost. A vitally-needed program can be held up for a full year, as happened when a firm lodged a protest during the normal procurement process for the Iraq Provincial Economic Growth program.

Given the above, there are circumstances in which the need to move quickly requires expedited mechanisms for the delivery of development assistance. Still, we recognize the need to open up our contracting to as many bidders as possible for, in the long run competition is the surest means to achieve results and the fairest for all concerned.

So I would suggest to the subcommittee that it may never be possible to reconcile entirely the need for speed with the desire to put each contract up for full and open competition in a rapidly evolving post-conflict environment. I suspect my colleagues at the Defense Department and State would share this view.

One of the more consistent complaints about USAID's work in Iraq and Afghanistan has been the size of the individual contracts and grants we have awarded. But the fact is only a limited number of firms can operate effectively in high risk environments.

In less risky environments, USAID awards contracts to local firms. But few firms in Iraq or Afghanistan are yet able to comply with USG regulations or have the systems in place to assure the necessary transparency and accountability. Further, the process of adjudication in country in case of disputes is either weak or non-existent. Our implementing partners, on the

other hand, can often mentor local subcontractors, and indeed many are doing so today.

One of the methods we have adopted to address the issue of mega-contracts is to break them down into smaller pieces and direct task orders for sub-contractors, which can increasingly be awarded to local firms. And as we move forward, we hope to replicate what we have done with REACH -- our successful Afghan health program. In that case, we began with one large program; however, the follow-on program now has three main contractors, each with their particular strengths and expertise.

I have already noted the importance of getting our programs up and running quickly in Iraq and Afghanistan, and clearly sole source or limited competition contracts offer that advantage. However, USAID makes every effort to use full and open competition as is feasible given the needs on the ground. In fact, the GAO said in its "Status of Competition for Iraq Reconstruction Contracts" report that, "USAID competitively awarded contract actions for 99 percent of its obligations" between October 2003 and April 2006.

One mechanism that has caused some debate is the use of cost-plus-fixed-fee (CPFF) contract. Auditors sometimes consider these CPFFs as unnecessarily expensive. However, we believe that the use of CPFF contracts has proven extremely effective in Iraq because they provide significant programmatic flexibility in a rapidly-changing environment, allow for quick mobilization of the implementing partner, and provide for economies of scale by eliminating the need to have multiple contractors each with associated administrative and other costs. It is also important to remember that USAID was able to engage good, solid firms because we shared the risks – and the cost of that risk – with them. When you work in dangerous environments, you need to share the risks to get the best firms to bid, and then work together with them to get the best possible performance. Another element of their effectiveness is that we have managed to obligate the vast majority of our funds relatively quickly.

It is expected that the pending National Defense Authorization Act, HR 4986, will require USAID and State to use DoD's SPOT (Synchronized Pre-deployment Operational Tracker) system to monitor information on a host of issues. We believe this is an important step in interagency

coordination, and we have already begun work to prepare for the new requirements.

Ours is hardly the USAID of old, Mr. Chairman. Working in Iraq and Afghanistan has brought us much closer to the military than at any time since Vietnam. We have created an Office of Military Affairs and sent some of our most experienced officers to work directly with CENTCOM and other military commands. And through our PRTs in Afghanistan and Iraq, we are working hand-in-glove with our colleagues in the armed forces, pushing development out into the provincial and local levels and learning a lot about each other in the process. This has required our contracting officers to learn new techniques when operating in conflict environments.

One out of every six USAID contracting officers overseas now works in Afghanistan or Iraq. We also have more contracting officers working in conflict and post-conflict regions around the world than anytime since Vietnam. As USAID moves forward, we will need to carefully ensure that lessons we have learned are carried forward.

The fact that we are working in so many conflict and post-conflict zones has necessitated major changes in our programs and our relations with the military and presented significant challenges to our ability to meet the requirements of our PRTs and the Global War on Terrorism. However, working in conjunction with our military and other interagency colleagues, we will continue to adapt and proactively meet these and new challenges as they arise.

Lessons Learned

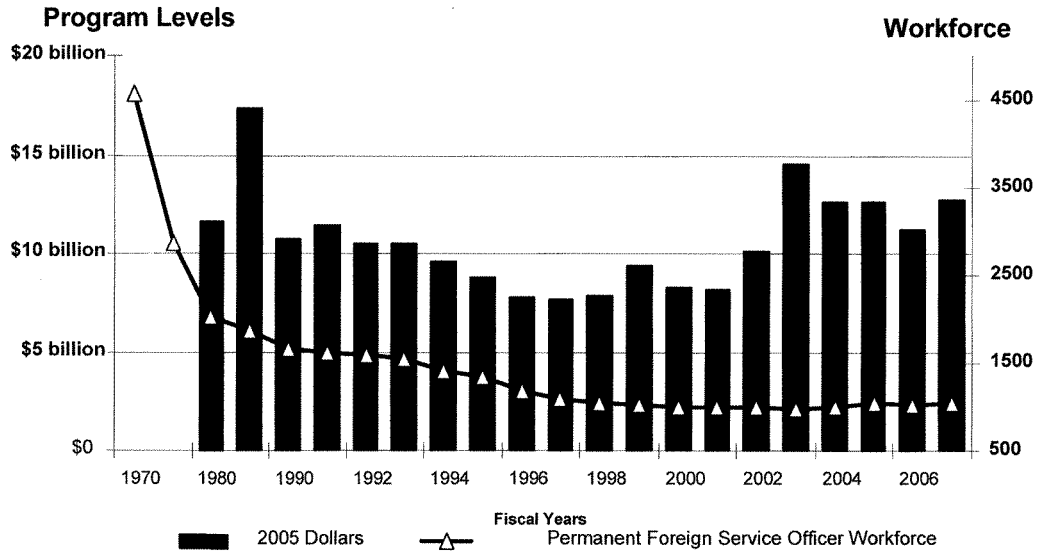
- The mutual advantages of working closely with the military in conflict and post-conflict environments.
- The value of concurrent auditing.
- The need for flexibility in contracting, programming and staffing.
- The unique ability of PRTs to work in risky environments and through close cooperation of civilian and military elements bring development to the regional and local level in countries like Iraq and Afghanistan.
- Reconstruction and development training are essential for officers going to the field.

- If we are to respond to urgent post-conflict situations in the future, we must have the staff and resources to carry out our mission.

In conclusion, Mr. Chairman, I would like to thank the subcommittees again for inviting me today. It is an honor to be here and to have the opportunity to discuss some of the most challenging issues my agency faces and the progress we are making in Afghanistan and Iraq alongside our State, DoD, and other USG colleagues. I look forward to your questions.

USAID
FROM THE AMERICAN PEOPLE

Diminished Foreign Service Cadre Erodes Technical Leadership, Oversight, Policy Impact on Foreign Nations, and Innovation



Logistics Civil Augmentation Program (LOGCAP) LOGCAP Support Unit (LSU) Det.Y8 - Iraq

After Action Report & Lessons Learned OPERATION IRAQI FREEDOM

The After Action Report (AAR) comments enclosed are comments provided and collected from the LOGCAP Support Unit (LSU) - Iraq, W8G8Y8 redeploying personnel, Defense Contract Management Agency representatives, the Multi-National Forces - Iraq during our tenure in Iraq from June 2004 through June 2005.

Listing Of After Action Report Topics

I. ROLES, RESPONSIBILITIES, RELATIONSHIPS
- A. LOGCAP Teamwork
- B. Support in General from KBR
- C. Politics Involved with Various Customers
- D. Roles, Responsibilities, Relationships
- E. The LOGCAP Planner should be part of the MSC G4 Staff
- F. Appoint an OIC for TEAM LOGCAP

II. TRAINING AND DOCTRINE
- A. Key Ingredients to the Success of a LOGCAP Team

B. Properly Educating the Customer on the Mission and Capabilities of LOGCAP
C. What does the LOGCAP planner need in to know in order to provide adequate support to his customers or to be an effective LOGCAP planner?
D. LOGCAP Knowledge and Expectations
E. Training and Educating – of the Customer(s)
F. Training and Doctrine
G. ACOs not Knowledgeable in LOGCAP
H. The Concept of LOGCAP is not getting to the Higher Levels

III. MOBILIZATION AND UTILIZATION

A. LSU Mobilization and Rotation
B. Mobilization of the LSU Reserve Unit
C. No Personnel Replacement System in Place
D. LSU Relying on Cross Leveled Soldiers
E. No Administration Staff while on Deployment

IV. OPERATIONS

A. Weekly Progress Reviews for LOGCAP Projects
B. Provide Updates of the Statement of Work to all Team Members Throughout the Development Process
C. Supporting Civilians and Contractors
D. Too Many Repetitive SITREPS

V. CONTRACT/CONTRACTOR

A. Contractor Support and LSU Equipment
B. Contractor Performance Measures and Boards
C. Contract / Contractor
D. Contract / Contractor
E. KBR SITREPS are not Informative
F. No Coordination with Military Units that Desire that their Subcontractors be on LOGCAP Support before they showed up in Theater
G. Potential LOGCAP Support to ISF, ING, and U.S. Advisor Teams
H. Certain People need to be Investigated Further for Possible Criminal Activity

I. ROLES, RESPONSIBILITIES, RELATIONSHIPS
A.

SHORT TITLE: LOGCAP TEAMWORK

ISSUE: LOGCAP TEAMWORK

DISCUSSION: During this tour the LOGCAP Detachment Headquarters at Camp Victory did not sponsor a training/ team building event for all of the planners due to travel restrictions, tactical situations, and R&R schedules. DCMA does this on a regular basis because they are all on short tours. They have all their Aces, Wars, and Property Techs get together for a weekend of training, discussion, operational updates and team building.

RECOMMENDATION: Future detachments should attempt to plan some type of Unit Activity. This would go along way towards building some type of unit cohesion. Current structure is not really conducive to teamwork. Communication from the LOGCAP Detachment Headquarters at Camp Victory is very poor. "I heard from so and so" is not effective communications. Recommend the Detachment Commander be more visible to the field.

I. ROLES, RESPONSIBILITIES, RELATIONSHIPS
B.

SHORT TITLE: SUPPORT FROM KBR

ISSUE: UNDERSTANDING THE REQUIREMENT FOR KBR TO SUPPORT TEAM LOGCAP.

DISCUSSION: DCMA is not fully aware of KBR's requirement to support the planner. Just recently the ACO at Camp Echo actually read the SOP and SOW, and identified the shortcomings by KBR. He immediately issued an ACL directing KBR to rectify the problems. As of this date KBR has not corrected anything. This is an education issue for one. It is also the failure of AMC to actually equip the LSU. If I was a contractor, and I was supporting a unit fielded by Army Material Command, I would probably do the same. My impression would be, "how important is the LOGCAP unit?", when their own command will not support them. I have seen some extravagant JARB decisions for what would be classified as a luxury, yet LOGCAP cannot even provide a laptop or a printer. I have purchased just about all of my administrative needs such as pens, paper etc, or obtained from customer units. Think of how that looks to the customer unit?

RECOMMENDATIONS: Provide better training to DCMA prior to deployment.

I. ROLES, RESPONSIBILITIES, RELATIONSHIPS
C.

SHORT TITLE: POLITICS INVOLVED WITH VARIOUS CUSTOMERS

ISSUE: LOGCAP PERSONNEL SHOULD BE AWARE OF THE POLITICS INVOLVED WITH VARIOUS CUSTOMERS

DISCUSSION: Military and civilian customers of LOGCAP task orders are often working in a political environment, related to funding and also expectations. Some LOGCAP task orders support non-DOD customers, and continuously more task orders are supporting larger numbers of civilians. It is not the norm for civilians to expect the service levels that are typical for a military unit and its members. Determining how to manage varying service levels is a task that must be learned over time and through working with the primary and other LOGCAP paying customers.

RECOMMENDATON: Consideration and awareness of the political environment must be evaluated in many LOGCAP situations. Knowing who to ask, how to get a recommendation and the sources for information must be a part of LOGCAP processes in the political environments.

I. ROLES, RESPONSIBILITIES, RELATIONSHIPS
D.

SHORT TITLE: ROLES, RESPONSIBILITES, RELATIONSHIPS

ISSUE: EVERYONE NEEDS TO WORK TOGETHER AS A TEAM

DISCUSSION: ACOs need to accept the fact that LOGCAP is the parent agency. Some ACOs want to act as if the LOGCAP Planner is their staff. Others do not utilize the LOGCAP Planner at all. Most ACOs fail to use a very valuable asset in the Planner. Some ACOs have opted to ask KBR's PM for advice instead of the Planner. Finally my fourth ACO underneath this same task order, asked me to vet all requests for LOTDs and ACLs for him. Being a team player, I was glad to assist in any fashion.

RECOMMENDATION: ACOs need to given a class on LOGCAP. They need to be taught that we are here as additional government oversight. They need to be taught that the only distinction between us is their warrant. **The LOGCAP Planner's title should be changed to LOGCAP LNO.**

I. ROLES, RESPONSIBILITIES, RELATIONSHIPS
E.

SHORT TITLE: THE LOGCAP PLANNER SHOULD BE PART OF THE MSC G4 STAFF.

ISSUE: EVERY MSC SHOULD HAVE THEIR OWN LOGCAP PLANNER ON THE G4 STAFF, SO THAT THEY CAN CAPTURE REQUIREMENTS PRIOR TO DEPLOYING TO THE THEATER.

DISCUSSION: Every unit below the MSC wanted their own LOGCCAP planner. The ASG commander at Al Asad kept insisting that they needed their own dedicated LOGCAP planner. They were told that they work for the MEF and to work with the LOGCAP planner assigned to the MEF. This is the reason that LOGCAP needs to be taught at OBC, OAC, and CGSC levels so that each unit can grow their own LOGCAP planner. Also, by having the LOGCCAP Planner as part of the G4 staff, there would be better support when it comes to force protection and getting around in theater.

RECOMMENDATION: This should be implemented and the LOGCAP Support Unit would not be needed in the future.

I. ROLES, RESPONSIBILITIES, RELATIONSHIPS
F.

SHORT TITLE: APPOINT AN OIC FOR TEAM LOGCAP

ISSUE: THERE IS NOT ONE OIC THAT COMMANDS TEAM LOGCAP

DISCUSSION: There should be an overall OIC at the 0-6 level for Team LOGCAP. There were too many conflicts with all 4 agencies. You have people with too much knowledge or rank straying into each others' lanes of responsibilities. Everybody, to include the civilians, think they are the ones who run the show. Within the LSU cell, should PM LOGCAP fall under the LSU Detachment OIC? AMC Deputy Cdr, LTG Hack asked this question when he was visiting Iraq in 2004 and was confused as to why this was not done. Should it be set up just like the AMC Field Support Brigade in Balad? There you have a GS-14 as the Deputy Commander. Last year, somebody at AFSC tried to draft a FRAGO where the PM LOGCAP forward representative was going to be the one that ran all of Team LOGCAP. This did not get far and was squashed. The current question now is where does the PCO forward fall in the chain of command of Team LOGCAP? Does this person issue orders to the LSU?

RECOMMENDATION: A military officer in the rank of 05 or 06 needs to be appointed to be overall in charge of Team LOGCAP. Do not place senior grade civilians (GS13 and higher) here because it causes flare ups when they think that you work for them and they try to pull rank.

II. TRAINING AND DOCTRINE
A.

SHORT TITLE: KEY INGREDIENTS TO THE SUCCESS OF A LOGCAP TEAM

ISSUE: THERE WERE MIXED RESULTS THROUGHOUT THE THEATER ON THE SUCCESS OF WORKING RELATIONSHIPS BETWEEN LOGCAP PLANNERS AND ADMINISTRATIVE CONTRACTING OFFICERS

DISCUSSION: Throughout the theater there were mixed results on the success of working relationships on Team LOGCAP. In order to succeed in this fast paced, highly stressful environment it is imperative that the LOGCAP Planner and ACO develop a close relationship that fosters success and presents one face to the customer. The following guidelines are offered:

- The relationship between the LOGCAP Planner and ACO is "rank less". Rank should be put aside and a relationship of partnering should take affect. Neither member should attempt to "boss" the other, the LOGCAP Planner and ACO need to become true partners in their efforts of supporting the customer and leading the LOGCAP Team.

- If at all possible the LOGCAP Planner and ACO should have their work spaces co-located. This allows for much better coordination of efforts and further presents one face to the customer.

- Conduct all business with the customer together. Whether you are conducting a meeting, visiting a site or hosting visitors to your camp, work together as a team in all endeavors.

RECOMMENDATION: As soon as possible establish a close, working relationship with your ACO. Co-locate your work areas, conduct all meetings with the customer together and always present one face to the military.

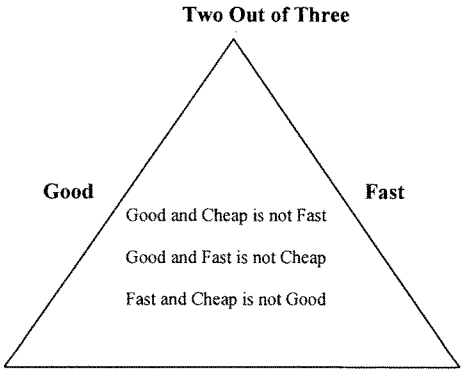
II. TRAINING AND DOCTRINE
B.

SHORT TITLE: PROPERLY EDUCATING THE CUSTOMER ON THE MISSION AND CAPABILITIES OF LOGCAP

ISSUE: THERE WERE TIMES WHEN THE CUSTOMER HAD UNREALISTIC EXPECTATIONS OF THE SPEED THAT SERVICES COULD BE PUT IN PLACE, THE COST OF SERVICES AND THE QUALITY OF SERVICES.

DISCUSSION: There were occasions when in the course of executing LOGCAP services that the customer had unrealistic expectations of the program. The phrase was often heard, "We want it fast and cheap." The LOGCAP program is an outstanding service that can be used to support the force in the field and when planned and executed properly is a combat force multiplier.

RECOMMENDATION: The LOGCAP Planner and ACO should team together early on to provide a mission brief to their customers outlining the mission and capabilities of LOGCAP. It is imperative that Team LOGCAP manage expectations with the customer and continually provide updates on projects and services that are being provided.



II. TRAINING AND DOCTRINE
C.

SHORT TITLE: WHAT DOES THE LOGCAP PLANNER NEED TO KNOW IN ORDER TO PROVICE ADEQUATE SUPPORT TO HIS CUSTOMERS OR TO BE AN EFFECTIVE LOGCAP PLANNER?

ISSUE: IF THE PLANNER DOES NOT UNDERSTAND LOGCAP HE OR SHE CANNOT HELP HIS CUSTOMERS GET SUPPORT, AND THE CUSTOMERS LOSES RESPECT FOR THE PLANNERS AND RELY TOO HEAVILY ON THE ACO FOR EVERYTHING.

DISCUSSION: I had some camps where the customers did not know what services were provided by LOGCAP. Some of the results of unknowledgeable customers are as follows:

1) I had some customers that were rigging up generators to get electricity in some of the bombed out buildings they were living in. Soldiers were getting shocked because of faulty wiring.
2) Some soldier were living in tents while other were living in trailers because they did not know how to do a SOW and IGCE for trailers.
3) Some customers did not have enough abution units in accordance with the sand book standards because they did not know the process for getting KBR services turned on.
4) I had camps were the customer did not know how to get a generator or ablution unit turned on for O&M support to KBR. The results were many TOC's, office buildings, and trailers purchased by the customer were not receiving O&M support.
5) BN CDR, BN XO, S-4, G-4, etc. screaming and yelling why can Victory get this and we cannot. How can I send Soldiers out to fight everyday and they come back to these living conditions.
6) Customers are trying to plan for support for surge but do not know how to get tents and generators turned over to KBR. The result is that units get the tents through contingency contracting but fail to get O&M support and the Soldiers live in a cold tent, poor lighting with generator going out constantly.

RECOMMENDATION: I would recommend the following: Know the SOW and know the process for getting work turned on by KBR. One example is when a customer asks you how we can get KBR to fix my lights or my Soldiers are getting shocked and I do not know what to do to get this fixed. You need to have KBR turned on for electrical O&M on your building. Electrical O&M on the building means that they will replace the lights, do repairs on the electrical outlets, repair the electrical wiring, etc. I need you to do an LOTD request to the ACO and ensure that you Site Mayor, S-4, and/or G4 support you in getting support for this building.

1) Know how to get generators, HVAC units, and buildings turned over to KBR property books.
2) Know the Basis of Estimate (BOE). Customer says that I believe that KBR was providing support to this building but now they have stopped. Reply: I have looked at the BOE and that is one of the buildings listed on the BOE so I will have the Area Manager and the ACO ensure that KBR starts performing O&M on the building.

3) Know how to do an IGCE, know what language needs to be in the SOW for getting additional LOGCAP requirements approved by the JARB board, know the process for getting a JARB packet approved.
4) Example the BN CDR, G4, or Camp Mayor says to you I have 1000 additional Soldiers that will be living in my camp in the next 6 months and I need additional trailers and ablution units to support them. What do I do? First ensure they have gotten C4 or G4 approval. Second make sure that the camp is scheduled to be there for at least another year to 18 months. Third show the customer how to write a SOW for the additional personnel coming to the camp and do the IGCE for them at the same time. Explain to them what Generator O&M, power generation, water works, DFAC support, facility management, ablution units, latrines, port-a-potties, and waste management mean. He needs to know that these things need to be added to support his request for supporting the additional Soldiers.
5) Get involved and ensure that the customers know you care and that you will help them.

II. TRAINING AND DOCTRINE
D.

SHORT TITLE: LOGCAP KNOWLEDGE AND EXPECTIONS

ISSUES: LOGCAP KNOWLEDGE AND EXPECTATIONS

DISCUSSION: Thus far the education process has not been successful. DCMA, KBR management, and customer units are reading the LOGCAP SOP for the first time. A salesman approach is being used by the LSU, this is not correct. It is a commander's option to choose LOGCAP. Expectations are fueled by misinformation.

RECOMMENDATION: Re-evaluate the current education program, and refine LOGCAP intent and priority of use.

II. TRAINING AND DOCTRINE
E.

SHORT TITLE: TRAINING AND EDUCATING – OF THE CUSTOMER(S)

ISSUE: TRAINING AND EDUCATING – OF THE CUSTOMER(S)

DISCUSSION: It has been learned many times over, that customers of LOGCAP need to be reminded and educated of the LOGCAP principles and processes. The limitations and the capabilities must be communicated over and over, to individuals of an organization, and to each different organization as well. A methodology for explaining, educating and responding to questions is useful for efficiency. Examples that pertain to the customer are beneficial as well. Having access to several such documents / tools / examples is worthwhile and they should be maintained. While each task order is unique, there are some common education points and then some specific to the task order (environment) as well. Various customers attempt to meet various "requirements" by fitting their requirement into the task order(s) – in some cases that works, in others it won't work. For some task orders, the LOGCAP customer is challenged to identify and accept "guest" customers in the current operating environment – people who need support sometimes "just show up" and expect to be supported.

RECOMMENDATON: A methodology and template for explaining, educating and responding to questions is useful, for efficiency and the anticipation of ongoing questions. Keep examples that pertain to the customer, and are beneficial for several types of customers as well.

II. TRAINING AND DOCTRINE
F.

SHORT TITLE: TRAINING AND DOCTRINE

ISSUE: OUR TRAINING NEEDS TO BE MORE SPECIFIC; THE ARMY NEEDS TO BE TAUGHT ABOUT LOGCAP

DISCUSSION: The training that a LOGCAP Planner undergoes needs to be more specific. We spend too much time on generic Army skills, and not enough on LOGCAP specific training.

RECOMMENDATION: We need to develop a LOGCAP Acronym & Abbreviation Guide. Our training should incorporate actual SITREPs and Trip Reports from the past. We need to be tutored on constructing IGCEs, and the writing of Scopes of Work. The LOGCAP Triangle should be taught to all Planners for use in the field. More classes needed to be geared towards KBR's organizational chart, and functions of their respective departments. **LOGCAP familiarization needs to be implemented in CAS3 and CGSC.**

II. TRAINING AND DOCTRINE
G.

SHORT TITLE: ACOs NOT KNOWLEDGEABLE IN LOGCAP

ISSUE: NOT ALL ACOs WERE KNOWLEDGEABLE ON LOGCAP OPERATIONS. THEY WERE LEARNING AS THEY WERE GOING.

DISCUSSION: ACOs were not trained in LOGCAP – look at their AARs. An example is when the DCMA Commander for Iraq was saying that LOGCAP Planners should be doing Technical Support to Negotiations (TSN) for a Kellogg Brown & Root Services, Inc. (KBR) proposal because his ACOs were not trained in it. We had to tell him that LOGCAP Planners had no experience in this as well because we did not have an acquisition background. A quote from COL John Miles, DCMA Commander, Iraq, "many of the ACOs I am getting are so inexperienced that they will struggle with typical ACOs duties much less a TSN."

RECOMMENDATION: LSU should take a more proactive approach and train more ACOs during the year at CONUS prior to a deployment to LOGCAP. They should be integrated with the LSU in CONUS on a full time basis. The LSU should have some JMD slots with Acquisition Contract, DCMA, and finance specialists.

II. TRAINING AND DOCTRINE
H.

SHORT TITLE: THE CONCEPT OF LOGCAP IS NOT GETTING TO THE HIGHER LEVELS.

ISSUE: PEOPLE FROM THE HIGHER LEVELS OF DEPARTMENT OF DEFENSE, CENTCOM AND OTHER AGENCIES HAVE NO CLUE ON WHAT LOGCAP DOES OR DOES NOT DO.

DISCUSSION: PM LOGCAP doesn't do a great job on informing DA & OSD on what LOGCAP is and does. We were always getting questions from DA & OSD through the CFLLC C8 during the TO89 funding shortfalls on what it provides Such as what is the living standard? Why are the DFACs serving 4 meals a day? Why are Soldiers getting steak and lobster and 6 types of ice cream? Why are Soldiers living better than they would in the states? What was PM LOGCAP been doing all these years?

Uneducated leaders at AMC that don't know LOGCAP. If AMC is the proponent for LOGCAP, how come some of the senior leadership is so clueless? For example, AMC FSB Commanders, who kept insisting that they do not pay for LOGCAP, "because we are part of the Army and we provide support to the force."

There should be a LOGCAP LSU LNO at the CENTCOM level to handle and pass info to them. Why were we getting RFIs from CENTCOM when they could have gone straight to AMC?

PM LOGCAP acts as cheerleader for KBR and should cease engaging in this. Even though the theater put out FRAGO 408 that ordered that LOGCAP is to be the last resort after a unit goes to other sources for their support. You have General Casey, MNF-I Commander, ordering a 10% cut in LOGCAP. When MNF-I did bottled water plant planning and decided against using LOGCAP and KBR, Don Trautner, on a VTC, was so upset with it, that he said, "Well, maybe they will come back to LOGCAP." Look at when Task Order 89 was initially going to be broken into 6 different task orders. You had PM LOGCAP leading the charge in being so proactive in supporting this boondoggle idea and not staffing it through the MNC-I staff. Thanks to MAJ Pathakis, LOGCAP Operations Officer, this madness was stopped.

RECOMMENDATION: Have more visibility at the higher levels and inform these people on the capabilities of LOGCAP.

III. MOBILIZATION AND UTILIZATION
A.

SHORT TITLE: LSU MOBILIZATION AND ROTATION

ISSUE: INCREMENTAL MOBILIZATION AND ROTATION OF LSU PERSONNEL INTO THEATER

DISCUSSION: An incremental mobilization and rotation of personnel into theater versus a complete switch-out of LSU personnel would provide better continuity of LOGCAP information and operations. Also, need to have staggered rotation, not whole unit transition, this doesn't mean bringing in the replacements early then the prior group leaving early.

RECOMMENDATION: Recommend an incremental mobilization and deployment of future LSU elements and rotating in no more than 3-4 personnel per month.

III. MOBILIZATION AND UTILIZATION
B.

SHORT TITLE: MOBILIZATION OF THE LSU RESERVE UNIT

ISSUE: MOBILIZE THE LSU RESERVE UNIT

DISCUSSION: This LSU Detachment consisted of mostly cross leveled Soldiers. Yet when you analyze previous deployment orders there were 56 LSU drilling reservists that had not spent the total 2 years on active duty. With some planning and insight the LSU could have rotated the reserve unit through the AOR and not had to cross level other reservists. This cross leveling resulted in training, morale, and support problems. For example, during mobilization nearly a week was wasted with passes that the cross-leveled people could not take advantage of. Training was conducted that the Reserve Unit performs and would not have had to be done if it was a LSU member.

RECOMMENDATION: AMC IG investigates the LSU over requests for cross leveling and mobilization in general. And provide recommendations for restructuring the mobilization and organization of the LSU to the offices of AMC and perhaps Army leadership.

III. MOBILIZATION AND UTILIZATION
C.

SHORT TITLE: NO PERSONNEL REPLACEMENT SYSTEM IN PLACE.

ISSUE: THERE IS NO REAL WORKABLE PERSONNEL REPLACEMENT SYSTEM IN PLACE TO REPLACE INJURED OR INCOMPETENT LOGCAP PLANNERS.

DISCUSSION: No contingency plans for replacing planners if KIA/WIA, medical, or not performing to standard. It took two months to generate a replacement for a LTC when he could not get validated for deployment at Ft. Dix. No options of replacing people were available. Nobody from the LOGCAP Support Unit (LSU) in CONUS could be made available. We have been lucky, so far, that nobody was seriously wounded or killed. I kept wondering how replacements would have been made available to continue the mission. We were able to shift a planner from Kuwait when a planner was medically evacuated from Iraq. If LOGCAP was so highly visible on the AMC plate, then how come I could not replace people? If it does replace people, LOGCAP was known in the past to shift people that did not perform or had a bad reputation, around to other theaters. But it doesn't work, because their reputation follows them and the word gets out. It is embarrassing when you have KBR point out to you, "hey, I remember so and so from that previous operation, and he was a dud. Why is he here?" Currently, we are going through the same problem again on finding or shifting an officer to replace someone that was found to be non-deployable, but now has deployed to see if she can function if her living conditions are changed. The SRP process needs to be revamped so that people can be identified in the beginning that are not deployable and not before they get on a plane.

RECOMMENDATION: The LSU should have a pool of ready to deploy personnel to replace planners in theater, if need be, in the least amount of time so that the mission would not be impacted. If this officer that deployed does not work out, then the LSU will go through again what we went through when we had a planner that was medically evacuated. The USAR needs to improve identifying Soldiers as early as possible if they are not deployable before they get to a mobilization station.

III. MOBILIZATION AND UTILIZATION
D.

SHORT TITLE: LSU RELYING ON CROSSLEVELED SOLDIERS

ISSUE: THE LSU SHOULD BE TAKING A PROACTIVE APPROACH IN GROWING A NEW CROP OF LOGCAP PLANNERS FOR THE NEXT FIVE YEARS WORTH OF ROTATIONS

DISCUSSION: The LOGCAP Support Unit is relying on crossleveled Soldiers that do not have a solid LOGCP experience to conduct their missions while protecting their own from mobilization to a real war zone and relying on cross leveled personnel with no previous LOGCAP experience to perform missions. When you look at the orders awarding medals for former LSU Soldiers, you will notice that the majority of them did not do a full year in theater. Why does PM LOGCAP need so many officers from the LSU? These officers could be better used on deployment. These LSU unit members are trained in LOGCAP on a year round basis. If LOGCAP is so high profile, why are they not double slotting people ahead of the next rotation? Using their own personnel for "safe" and short missions to Georgia and Philippines. Why LOGCAP in those places and not direct contracting? Another reason that LOGCAP uses to protect its mission. Why were AMC active duty officers, in non LOGCAP missions, only doing 4-6 month rotations and USAR officers were stuck with one year deployments?

RECOMMENDATION: Start identifying Soldiers ahead of time for rotations. Switch to a shorter rotation schedule. 3-4 month rotations work out a lot better than a year. After a year on deployment, nerves start to fray. There are more chances for fist to face meetings when situations get out of hand. Attention to detail starts to degrade and you have incidents like SIPR violations. Enforce the 2 year limit on the rest of the Soldiers of the LSU that are left. Take them out of PM LOGCAP and hire some GS-7 to take their job. Augment the LSU with double slotted Planner positions that will deploy. These slots can be either paid or points only. There are 11 USAR Reinforcement Training Units (RTU) in the Ft. Belvoir and Washington D.C. that have USAR officers in the system that are willing to drill for points. This would be a useful source of personnel to tap into to fill out the LSU personnel needs for the future. Use retirees that are willing to be recalled to fill deploying planner slots. There were a lot of us that would had preferred to deploy with a "real" unit to a war zone and used the skills that we had trained for over the past decades to use.

III. MOBILIZATION AND UTILIZATION
E.

SHORT TITLE: NO ADMINISTRATION STAFF WHILE ON DEPLOYMENT.

ISSUE: ADMINISTRATION STAFF NEEDED AT THE LSU DETACTMENT HEADQUARTERS SO THAT THE PLANNERS WILL NOT BE TIED DOWN WITH PAPERWORK.

DISCUSSION: No enlisted admin staff to do all the administrative matters. Time taken out to do all S1, 2, 3, & 4 matters.

RECOMMENDATION: A combined administration staff should be made from DCMA, PARC, and the LSU to support everybody's needs. Or have the AMC-FSB-Iraq assign enlisted Soldiers to the LSU.

IV. OPERATIONS
A.

SHORT TITLE: WEEKLY PROGRESS REVIEWS FOR LOGCAP PROJECTS

ISSUE: WEEKLY MEETINGS ARE IMPORTANT TO TRACKING PROGRESS, ENSURING COORDINATION AND MANAGING CUSTOMER EXPECTATIONS

DISCUSSION: In order to properly track progress, correctly incorporate changes in design, conduct coordination efforts and manage customer expectations it is imperative to conduct weekly meetings with the customer, Team LOGCAP and KBR.

The contents of the meeting should include an update provided by KBR and status of the project in accordance with the schedule, discussion of any design changes and coordination plans for all actions affecting the project. The last part of the meeting should include a discussion and assignment of all outstanding action items with due dates.

A member of Team LOGCAP should write and publish minutes of each meeting and distribute a copy to all those who participate in the meeting.

RECOMMENDATION: Team LOGCAP should conduct weekly meetings with the customer and KBR when executing LOGCAP projects and services.

IV. OPERATIONS
B.

SHORT TITLE: PROVIDE UPDATES OF THE STATEMENT OF WORK TO ALL TEAM MEMBERS THROUGHOUT THE DEVELOPMENT PROCESS

ISSUE: ALL TEAM MEMBERS WERE NOT ALWAYS PROVIDED AN UPDATED COPY OF THE LATEST STATEMENT OF WORK DURING THE APPROVAL PROCESS

DISCUSSION: During the development of a new Statement of Work, ROM review and acceptance, JARB's and PCO actions all the players on the team were not always provided the most updated copy of the Statement of Work. Changes and updates are made to the Statement of Work by various entities to include legal, PM Shop, and the PCO. During this process the tracking of the correct version of the Statement of Work can become confusing.

RECOMMENDATION: The LOGCAP Planner needs to serve as the focal point for the correct version of the Statement of Work. Once the Statement of Work is updated it is imperative that the LOGCAP Planner distribute copies to all team members to include the PCO, PM, KBR, and the customer.

IV. OPERATIONS
C.

SHORT TITLE: SUPPORTING CIVILIANS AND CONTRACTORS

ISSUE: SUPPORTING CIVILIANS AND CONTRACTORS

DISCUSSION: With more and more various contractors serving and supporting the efforts in theater, direct support to these contractors is becoming a challenging part of managing LOGCAP services. Government agencies (officers) that plan for the contracted requirements, need to plan to use and fund for appropriate life support. This is a major problem, especially when the ones who plan for the contracts (other non-LOGCAP contracting officers) are not in the area of the operation, but managing and operating from remote locations, or all the way back in CONUS. The government representatives managing contractors should be informed and engaged in the LOGCAP planning and ongoing processes.

RECOMMENDATON: LOGCAP principles and procedures be communicated and provided to more government personnel and other Non-LOGCAP contracting officers, to enable better planning to meet the needs of additional contractors and civilians.

IV. OPERATIONS
D.

SHORT TITLE: TOO MANY REPETITIVE SITREPS

ISSUE: DIFFERENT PEOPLE FROM AMC GENERATE DIFFERENT VERSIONS OF THE SAME SITREP DURING THE WEEK.

DISCUSSION: Too many SITREPS from different people. Directorate of Operations LOGCAP/HQ AMC, Don Trautner, Don Anderson, and Judi Amri each generates their own SITREP or update on a daily to weekly basis. Most of the information did not sync with each other. Such as we in Iraq would say that this Task Order is "Red" and the AMC SITREP would say it is "Amber". Some of the information was useless. Nobody seems to proofread the reports for grammar errors before they distribute it. Some of the previous reports were written by someone with a lack of knowledge of the English language, or they did not know what spell check was. Why so many? Trying to make work for people?

RECOMMENDATION: One SITREP should only be generated on a weekly basis.

V. CONTRACT/CONTRACTOR
A.

SHORT TITLE: CONTRACTOR SUPPORT AND LSU EQUIPMENT

ISSUE: CONTRACTOR SUPPORT AND LSU EQUIPMENT

DISCUSSION: Transportation: Throughout the entire tour this planner had access to an SUV, which was meticulously maintained by KBR. This area alone was the highlight of support. This level of support was consistent through out, until light skinned vehicles were no longer permitted to travel in convoys.

This planner has been held in place at times, due to lack of suitable vehicle for tactical usage. Planner has to work his schedule around linkup with convoys. The LOGCAP planner is always at the mercy of supporting units, especially to KBR. KBR support on the whole is inadequate, untimely and very unresponsive. For example, Laptop computers etc. KBR will provide a laptop, the serviceability, and reliability is suspect. The system I was issued could not even download the EPSQ program, or Form Flow. Printer usage was non existent, as was telephone service. Telephone cards were primary source of communications. . :

RECOMMENDATION: LOGCAP Planner should be issued the most current armored HUMVEE, equipped with all issue items currently fielded to include SINCGARS, and GPS. As a subordinate to AMC, there is no reason for any Planner to do without the most basic issue items. To include an M-4 Carbine as standard issue, in lieu of the locally procured AK -47. This planner is quite familiar with the AK -47. This familiarity was acquired thru two tours in Viet Nam. I have seen other planners, as well as DCMA personnel (civilians) carrying these weapons, who in my opinion are dangerous to themselves, and others. I am in the process preparing a JARB packet for my replacement. The request is for all of the above mentioned items.

V. CONTRACT/CONTRACTOR
B.

SHORT TITLE: CONTRACTOR PERFORMANCE MEASURES AND BOARDS

ISSUE: CONTRACTOR PERFORMANCE MEASURES AND BOARDS

DISCUSSION: This area is quite suspect. For example: When I first arrived here at Diwaniyah, I was given a container which had only a mattress on the floor, and the container was littered with empty urine water bottles, and assorted debris. My first reaction was if they would do this to the LOGCAP Planner, what do they do to the soldier? The answer is the very same and less. .

The furnishings itemized on the ROM, and what is actually in the containers, is a disgrace. The containers I have inspected are furnished with a bed frame, an old extremely filthy and torn Hadji type foam mattress. KBR is just now addressing the inventory and quality issues. KBR has no accountability for the containers on this camp. In fact I was issued one, still occupied by an MND soldier. Yet I was personally told by the Billeting Supervisor, he had inspected this container. .

Another prime example is T –Wall placement on Echo. This is being done in the interest of profit. The walls are approximately 30 Feet high, and placed approximately 5 feet away from the containers. The walls are side by side, and flush with each other. If a rocket or mortar were to impact the following may occur: 1.All of the barriers would crack as a result of being flush. 2. The walls would collapse on the containers, and in some cases the debris would be preventing the occupant to open his door. 3. The containers with the walls facing the AC units, of the containers, would dislodge the AC unit on to the sleeping occupant. Most of the occupants have their beds right under the AC units. In conjunction with the T wall, another area is the bunker construction. The bunkers are the concrete n shaped modules. On top of these are HESKO barriers. Some have up to three HESKOS on two bunkers. Once again a round in close proximity would cause a collapse, trapping the occupants. These T walls are also a good Target Reference Point (TRP). They can be seen with naked eye from the major roadway right outside the camp. The Chief Of Staff concurs, and requested I brief this on Thursday to the Force Protection Personnel. This activity was ongoing until a few days ago. Stop work issued by ACO. This Camp is facing closure in a few months.

RECOMMENDATION: Certify the LOGCAP Planners in a duel capacity, as Planner and QAR. This would give the planner the ability to immediately address any situation. As it is now the planner has absolutely no authority over the actions of KBR. I have found this out on numerous occasions. Every occasion was a concurrence of the LSU, and admonishment to the planner. Future Boards should have Planner input. Force Protection Issues should not be decided by personnel without any combat arms experience/training. This is very true with civilian types.

V. CONTRACT/CONTRACTOR
C.

SHORT TITLE: CONTRACT / CONTRACTOR

ISSUE: OUR TRAINING NEEDS TO BE MORE SPECIFIC; THE ARMY NEEDS TO BE TAUGHT ABOUT LOGCAP

DISCUSSION: The training that a LOGCAP Planner undergoes needs to be more specific. We spend too much time on generic Army skills, and not enough on LOGCAP specific training.

RECOMMENDATION: We need to develop a LOGCAP Acronym & Abbreviation Guide. Our training should incorporate actual SITREPs and Trip Reports from the past. We need to be tutored on the constructing of IGCEs, and the writing of Scopes of Work. The LOGCAP Triangle should be taught to all Planners for use in the field. More classes needed to be geared towards KBR's organizational chart, and functions of their respective departments. **LOGCAP familiarization needs to be implemented in CAS3 and CGSC.**

V. CONTRACT/CONTRACTOR
D.

SHORT TITLE: CONTRACT / CONTRACTOR

ISSUE: TECHNIQUES & TOOLS TO BE USED IN THE ROLE AS THE **"HONEST BROKER"**

DISCUSSION: The ACO must be supportive in the role of the LOGCAP Planner as the "Honest Broker". The ACO must support the LOGCAP Planner when he requests data from KBR, and they are slow to comply or refuse to provide deliverables. The LOGCAP Planner must utilize the QAR, Dashboards, KBR SITREPs, CCOs, Cost Reports, and other DOD agencies as SMEs.

RECOMMENDATION: LOGCAP Planners must attend all relevant daily and weekly meeting to their AOR. The LOGCAP Planner must be conscious of overlapping T.O.s within their AORs. We need to develop a methodology for tracking KBR's expenditures on Internal Service / Work Orders.

V. CONTRACT/CONTRACTOR
E.

SHORT TITLE: KBR SITREPS ARE NOT INFORMATIVE

ISSUE: THE SITREP THAT KBR GENERATES IS NOT USEFUL. IT DOESN'T TELL THE WHOLE STORY BECAUSE THE ARMY DOES NOT WANT TO PAY EXTRA MONEY TO GET THIS INFORMATION.

DISCUSSION: KBR SITREPS are useless. It doesn't tell the truth and everybody in theater at all levels said that it should tell more info. Paragraph 5, "Deliverables", of the SOW of TOs 59 & 89 outlines that these extra reports such as the LOGREP and Ice Plant monthly reports are supposed to be made available, but the Army is not willing to pay the extra money to get these reports generated. Their daily SITREPS say "refer to monthly LOGREP", but these are not available. Each SITREP is different from each site. Some report by color status and others report by percentages. Their color coding should be in sync with the Army way: Green, Amber, Red, and Black. KBR color codes are Red and Blue. Then you have KBR management who are reluctant to give you information such as ice plant status. Their reasoning is that they had the information used against them by the Army when the requirement was not met and that they don't want to be put into that position. When you have the SOW saying "provide ice" then it should not matter whether it comes from an ice plant or being trucked from Kuwait.

RECOMMENDATION: Enforce the Statement of Work where KBR is supposed to provide LOGSTAT reports. Use the Army color scheme when reporting LOG status. Standardize the KBR SITREP for the entire theater.

V. CONTRACT/CONTRACTOR
F.

SHORT TITLE: NO COORDINATION WITH MILITARY UNITS THAT DESIRE THEIR SUBCONTRACTORS BE ON LOGCAP SUPPORT BEFORE THEY SHOWED UP IN THEATER.

ISSUE: NOTHING IS BEING DONE TO CAPTURE SUBCONTRACTOR REQUIREMENTS PRIOR TO DEPLOYING TO THE THEATER. HEADCOUNTS OF HOW MANY SOLDIERS AND CONTRACTORS ON THE BATTLEFIELD IS NOT BEING DONE.

DISCUSSION: Finding out how many Soldiers and contractors in the theater was a big joke. A better way needs to done to capture this info. At one time, MNF-I was going to do a census at all base camps, but it never came to life. Why is this information not captured in Kuwait if everybody is to "swipe" their card when they arrive? Or it needs to be captured in CONUS at the CRCs, PPP stations, APODS, SPODS,

Subcontractors that work for other government agencies that show up in theater expecting LOGCAP support. A better system needs to be set up before they arrive. Often nobody has a clue on when or why these people are here. Then when they do show up, a mad rush is on to get them the support. For example, AMC is the worst violator, if you know ahead of time that subcontractors are showing up to work on projects, then how come their requirements are not worked ahead of time back in CONUS?

RECOMMENDATION: The LSU & PM LOGCAP should be actively engaged in this and make it easier.

V. CONTRACT/CONTRACTOR
G.

SHORT TITLE: POTENIAL LOGCAP SUPPORT TO ISF, ING AND U.S. ADVISOR TEAMS.

ISSUE: NO REAL PLANNING BEING DONE TO POSSIBLY PROVIDE LOGCAP SUPPORT TO THESE AGENCIES IN THE NEAR FUTURE.

DISCUSSION: LOGCAP support to the ISF, ING, and to the U.S. Adviser Teams that will be embedded with them. I see that this will come on line sometime down the road in the near future. I don't see any real planning for this right now, but when it does, you will see everybody scrambling around trying to put this together at the last minute. The support to the ISF & ING and to the U.S. Adviser Teams is so disorganized that it will probably come to LOGCAP and fulfills the requirements as "the last resort". No real guidelines from DA or OSD have come out on how to use this. MSCs keep asking about it. There is some limited support "inside the wire" and while in a "training status". But there is a real need for outside the wire operations support. You have on one hand the Army talking about how many Soldiers it can save by using LOGCAP and on the other trying to divert the same number of CSS Soldiers back to their mission from escort duties to support ISF and ING for "outside the wire" operations. The funding issue needs to be resolved now at levels higher than myself.

RECOMMENDATION: PM LOGCAP needs to be involved in this now.

V. CONTRACT/CONTRACTOR
H.

SHORT TITLE: CERTAIN PEOPLE NEED TO BE INVESTIGATED FURTHER FOR POSSIBLE CRIMINAL AND/OR UNETHICAL ACTIVITY.

ISSUE: POSSIBLE CONFLICTS OF INTEREST AND/OR UNETHICAL OR CRIMINAL ACTIVITIES BETWEEN DCMA, PM LOGCAP, OTHER UNNAMED GOVERNMENT AGENCIES AND KBR IN MONITORING THE CONTRACT.

DISCUSSION: During my year here in Iraq, I have heard accusations from different independent sources of information on how certain people at DCMA, PM LOGCAP and KBR were allegedly acting in collusion with each other and that this could be a possible conflict of interest. The alleged accusations range from "acting as employees of KBR", overlooking certain violations of performance in the execution of the Statement of Work, to getting favorable treatment over a regular GI, obtaining employment at KBR for relatives, friends, or themselves.

There were some ACOs at sites outside of Baghdad that had better living conditions than the planner, e.g. phone, computer, and satellite TV hookup in the living trailer by KBR. Use of an Armored SUV. Living in a trailer that has a separate bedroom and a second office for an ACO to use after hours.

There were times that when DCMA held a hail & farewell, they managed to get appetizers and cakes from the KBR operated DFAC. If I tried doing this on my own, I would probably get kicked out of the DFAC. No other unit could do this, unless it was a VIP meal request or organization day meal, in which you are allowed only one a year.

KBR living standards for their employees are higher than Soldiers'. Look at their trailers. They are all wet trailers while GIs have to walk to an ablution unit. They claim that they are supposed to live like the GIs when they don't.

RECOMMENDATION: I believe that there is enough probable cause to have the United States Department of Justice convene a Special Federal Grand Jury investigation and the United States Department of Treasury's Internal Revenue Service conduct a financial audit on KBR and certain personnel of DCMA, AMC AFSC, PM LOGCAP to see if there are violations of the following United States Code of Federal Statues:
Title 18 United States Code, Section(s) 1031; 1001; 371; 1510; and 2388 to wit - Major Fraud against the U.S.; Making False Statements; Conspiracy to Commit Offense or Defraud the U.S.; Obstruction of Criminal Investigation; and Activities affecting Armed Forces during War.

How Many Contractors Are in Iraq?

Source	Estimated Number
U.S. CENTCOM	Approx. 130,000
U.S. CENTCOM Update	Approx. 180,000
Gansler Report (October 2007)	Approx. 160,000
Government Accountability Office	Does Not Know

Quotes from Gansler Commission Hearings

"I can't get certified Army personnel (civilian or military) to fill my needs."
(Air Force General Officer in Iraq)

"You don't teach someone to swim by throwing him in the water. Similarly, you shouldn't teach someone contracting skills by throwing him unprepared into a contingency contracting assignment."
(Army General Officer)

Quotes from Gansler Commission Hearings

"The contracting professionals who rose to the occasion in Iraq and Afghanistan deserve a medal. If, during the next expeditionary operation, we face the same institutional mistakes that put them in such a position, someone should be shot."

(General Officer speaking of his experience of contracting in Iraq)

Quotes from Gansler Commission Hearings

"Next time I go overseas, I don't want it to be ad hoc."
(Army General Officer)

"We need to have a section in every leadership course on contracting and contractors."
(Army General Officer)

Goals of Today's Hearing

- That the workforce problems caused by inadequate staffing on the contracting and contract management sides are being addressed and solved;

- That the lack of training for military personnel and civilians on the battlefield is remedied before the next contingency operation;

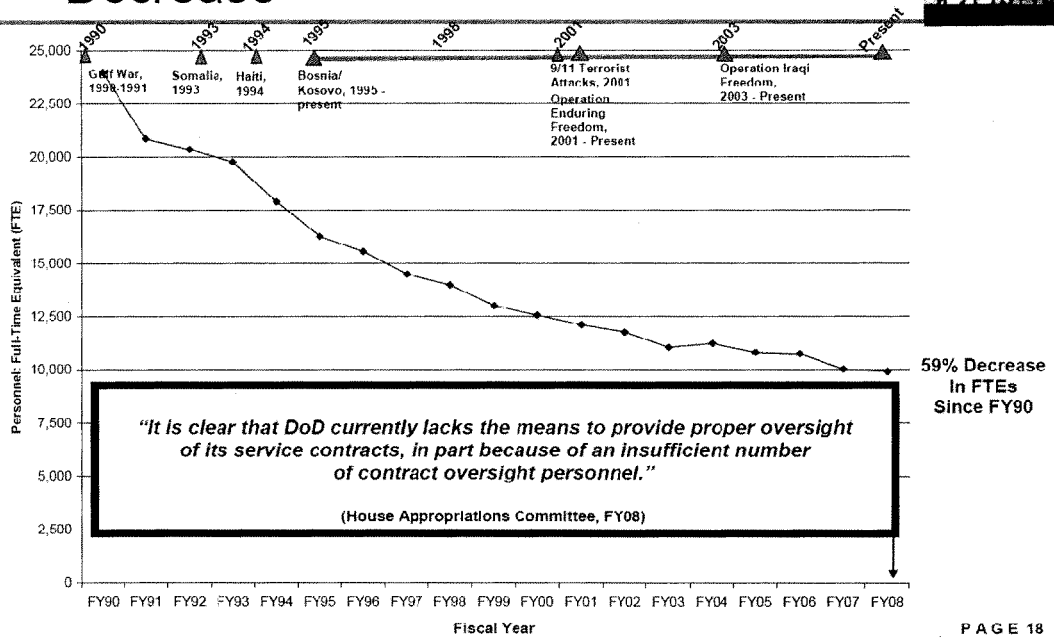
- That we capture the lessons learned and inculcate them into military leadership schools and civilian training for contracting officials;

Goals of Today's Hearing

- That we are planning U.S. government-wide how to deal with reconstruction and stabilization crises in conflict and post-conflict areas and who should be charged to implement those interagency activities; and

- That Congress plays an effective role in the path forward.

DCMA Personnel Continue to Decrease



59% Decrease In FTEs Since FY90

"It is clear that DoD currently lacks the means to provide proper oversight of its service contracts, in part because of an insufficient number of contract oversight personnel."

(House Appropriations Committee, FY08)

PAGE 18

Source: *Urgent Reform Required: Army Expeditionary Contracting.* Report of the "Commission on Army Acquisition and Program Management in Expeditionary Operations" October 21, 2007

Answers To Post-Hearing Questions
Submitted to Robert Bauman and Dina Rasor
From Senator Thomas R. Carper

1. What can commanders on the ground do to ensure the effective and efficient use of contractors?

To address this question, one has to look first at the number of contractors operating within the theater of operations that would have to be accounted for by military commanders. In Iraq and Afghanistan, it was recently reported by the DoD that approximately 200,000 contractor and subcontractor employees being utilized in a variety of roles, are now operating in those theatres with a combined military force of about the same size. That represents a ratio of one contractor for every soldier. In the gulf war, an estimated 9,200 contractor employees deployed to the theater for 575,000 to 697,000 U.S, troops deployed. That works out to approximately one contractor for 62 to 75 soldiers. In Vietnam and WW II, the ratio was much higher.

For the Iraq conflict, a troop cap was imposed by Secretary Rumsfeld, in 2003, below 200,000 that resulted in the Pentagon to have to supplement the force with contractors – a situation not seen in previous wars, to perform support functions, such as the critical supply chain, previously performed by the military. This would imply the high number of contractors used for Iraq was an artificial condition – an anomaly specific to that conflict. The lesson learned from this is that military commanders on the ground, in a hostile zone, cannot effectively manage or control 200,000 contractors, spread out on the battlefield and on fortified bases, along with 200,000 troops. It's a preposterous notion.

First of all, for commanders on the ground to ensure the effective and efficient use of contractors, their numbers need to be limited to a manageable level. For example, within hostile zones, contractors should be limited to providing services to the military within fortified military bases providing meals, laundry services, construction, maintenance, etc – off the battlefield. They can also be used to stage supplies and load trucks, but not drive them in convoys outside the bases. That should be the responsibility of the military on the battlefield. They should not be allowed to operate outside those bases when a region is in war, conflict, or unstable. When contractors are used in close support of troops performing inherently governmental functions, such as military operations on the battlefield, they can seriously affect troop safety and mission objectives with their decisions. Security operators should be limited to protection details within fortified bases, guarding military facilities, and reconstruction projects. Protective details for VIPs should be conducted by either military, in the case of DOD personnel, and State Department security personnel for Embassy personnel.

Second, major contractors providing support to the military in a conflict need to be included in the operational and strategic planning before entering into a conflict or war.

Third, Commanders need to be armed with knowledge of exactly how contractors operate and what services they would provide. This can be done through an education process required of all battlefield commanders before deployment.

Fourth, Commanders need to have well trained and experienced military logistics personnel assigned to their units to interface with contractors and government oversight personnel. The military will need to grow these soldiers through an education process that would arm them with extensive knowledge and lessons learned of contractor operations, performance requirements, and the requirements of the contracts. These personnel would be able to keep the commanders well informed on contractor-military relations and contractor accountability.

Fifth, contract oversight must be strengthened with the necessary personnel – DCMA, DCAA, etc., to bring accountability and performance to a level that would enhance a commander's ability to ensure the effective and efficient use of contractors.

2. What factors impact the degree and type of contract oversight that should be provided by the government?

The factors impacting the degree and type of contract oversight include the contract type, size, and the environment in which it will be performed Of the two types of contracts predominately used in government acquisition – Firm-fixed Priced and Cost Reimbursable, the latter requires a heightened level of oversight because of the high risk this type of contract places on the government. Add to that the size of just one contract (LOGCAP)– now reportedly at $28 billion and rising, the multiple other contracts being performed in the same theater of operations, the unstable contracting environment of Iraq and Afghanistan where contract requirements are constantly in flux, the large number of contractors spread out all over Iraq and Afghanistan, and the closeness of the support to the troops who are performing inherently governmental functions, requires a much higher degree of government attention then normal weapons production contracts performed in the U.S. Without a high level of government oversight under those conditions, the DOD risks losing control over contractor performance and accountability and raises the level of vulnerability to waste, fraud, and abuse.

3. How is feedback circulated back to each of the forces to ensure continued improvement?

The GAO reported that the DOD has not made an effort to systematically collect and share lessons learned on the use of contractors to support deployed forces as far back as support to forces in the Balkans. This has happened in spite of regulations and policies to the contrary. Thus, the DOD has no institutional knowledge of problems facing oversight personnel that results in a repeat of many of the same problems.

A good example of this was the after-action report submitted by the LOGCAP Support Unit in 2005 on lessons learned during the period June 2004 to June 2005 in Iraq. This report was presented to the Subcommittee during the January 24, 2008 hearing. The report was not shared with replacement personnel or discussed within LOGCAP headquarters after the personnel returned to the U.S.

4. Should these lessons be considered and/or implemented in the development of curricula and be institutionalized in the Center for Army Lessons Learned?

The Center for Army Lessons Learned collects after-action reports and other lessons learned for Army operations. Unfortunately, they have not been active in collecting lessons learned on the use of contractors for support in Iraq. Such information is apparently not considered a priority for this agency. Despite the GAO's reports criticizing the DOD's ignoring lessons learned from contractor operations since the mid 1990s, their recommendations to collect and distribute such information to military commanders and oversight personnel has been routinely ignored. In order for the Center for Army Lessons Learned to collect contractor information, they need to establish a dedicated group to accomplish that purpose. Once lessons learned has been collected, it needs to be distributed for educational purposes for military commanders and oversight personnel being deployed to a theater of operations.

5. Why does our government continue to rely on the same contractors?

The DOD will give official reasons why the same contractors are used over and over despite performance, but the unspoken reason has to do with military bureaucrats relying on large contractors to lobby the Congress and do damage control public relations if something goes wrong with a program. The relationship between the contractors and the government, especially since the government has outsourced to the point of even having oversight outsourced, is way too close. Government officials count on the contractor for their current and future job security. Many of the reforms from the 1980s such as the contractor revolving door problem have been repealed or ignored. Congress is also susceptible to contractor lobbying and will protect bad programs for campaign contributions or to keep defense jobs in their district. Until the situation changes, everyone involved benefits from the current system, except the taxpayers and more importantly, the troops.

6. What is the DOD's performance evaluation metrics?

This question of DOD performance metrics is too general to provide a specific answer as metrics differ from agency to agency within DOD. If the question relates to the DOD acquisition workforce, performance metrics also differ depending on agency. The only agency we have some knowledge of regarding its performance metrics is DCAA. We have learned from DCAA sources that their performance metrics are unrealistic and counterproductive in today's audit environment. The primary metric that determines the quality of an audit is a time constraint that often does not allow enough

time to complete comprehensive, difficult audits. There is considerable pressure from management to complete audits in a short time in order to look efficient. This metric was born out of the acquisition reform initiatives of the 1990s when Congress was thinking of privatizing DCAA functions. To counter this threat, DCAA initiated the time constraint metric with a need to look efficient in order to avoid privatization. However, unrealistic time constraints can cut short important audits as has happened in Iraq. Savvy contractors with knowledge of this metric manipulate DCAA audits by stalling in providing important information for DCAA to properly complete audits that could result in a large financial recovery.

7. What are the criteria your department uses to evaluate a company's past performances?

Not applicable

8. Discuss how the current rules for contractors do not work well in a war zone.

There is a fundamental and fatal problem in using contractors on the battlefield as has been the case in the Iraq conflict. First, it was not planned to use contractors to this extent and in hostile zones. As discussed earlier, the artificial troops cap imposed by Secretary Rumsfeld forced the logistic planners of the war to put contractors into battlefield situations. The commanders in the field had to face several problems because of this unfortunate and ill advised decision.

- Contractors and/or their employees can just refuse to do some or all of the work with no easy government recourse or remedy. Our book is full of examples of the contractor refusing to do some of the work because of the danger, leaving troops at the other end without vital supplies and services. Unlike military personnel, who are required to follow orders and stay in hostile areas by the Uniform Code of Military Justice, contractor employees can quit and go home. Even the contractor cannot stop the employees from leaving because the employee has the constitutional right to quit. If the military is relying on the contractor for vital supplies, this can cause a life or death situation for the troops.
- As has been graphically illustrated by the problems generated by Blackwater, private security contractors and logistic contractors are not in the direct military chain of command as are regular troops. A clear chain of command is vital in a war zone. Because of this problem, the military needs to keep contractors off the battlefield and plan for clear lines of command for the contractors in the back zones, such as fortified bases where physical risk is minimized and control is more realistic.
- Besides the problems listed above, there is a distinct resentment of contractor personnel by the troops because of the disparate and great gap in pay and compensation, often for doing the same work. Morale of the troops is damaged when the contractor employee is working with them or doing the same job making two to three times more in compensation, and

can leave whenever he or she likes. Also, as illustrated in our book, the contractor can refuse to do some of the work, forcing commanders, out of desperation and necessity, to press troops into doing the contractor's work, at lower pay and taking the troops from vital work for the mission.

9. What should Congress do to remedy this situation?

A. The DOD has done studies and reports outlining the problem with contractors and how the military needs to plan and make rules for the deployment of contractors. However, these reports are often ignored and plans are not made. Therefore, the Congress must press the DOD to enforce its own rules, either through hearings or legislation.

B. If the DOD is reluctant to make and enforce new policies, the Congress must insist that there be a military line in the sand that contractors do not cross in a war zone. This means that contractors must be limited to fortified back areas and not in hostile areas where the troops must rely on them. In Iraq, this would mean pulling the contractors back into large fortified bases. It is especially important for the DOD to stop using contractors to run the critical supply chain by trucking supplies from base to base. These truck convoys are a thin and vulnerable supply line that needs military drivers as well as military escorts. Civilian truck drivers do not have weapons to protect themselves and have not been trained in defensive maneuvers when attacked. This puts the supply line and the military escorts at risk. Congress should ask the DOD to study and submit where they think this line in the sand for contractors should be. Then the Congress should codify it into law and not leave it to the DOD to make and break their own regulations.

C. Based on Congressional hearings, news reports and lawsuits, it is becoming clear that many of the Iraq contractors took great advantage of the government during this war and ran their costs up to greatly unreasonable levels. The DOD and its audit arm have not kept up with this and now these unscrubbed but paid costs will become the new historical cost for using contractors in future wars. Therefore, the Congress must pass legislation with the war appropriation bills that the DOD must have all the costs of the major contractors in this war scrubbed by the DCAA in a special, wide ranging audit to find waste, fraud and excessive costs. The DOD, and if necessary, the DOJ, must be tasked to recover excessive billing so that the historic costs are reasonable. Unless this is done, all future use of contractors in war or occupation situations will use a greatly inflated baseline and it will be exorbitantly expensive to use any contractors.

Post-Hearing Questions for the Record
Submitted to Mr. Perry Jefferies
From Senator Thomas R. Carper

"Management and Oversight of Contingency Contracting in Hostile Zones"
(January 24th, 2008)

1. What can commanders on the ground do to ensure the effective and efficient use of contractors?

I think the most important thing that commanders can do is to identify what services and materials a contractor is supposed to provide and insure that troops in contact with the contractors understand what is supposed to be provided. I am speaking about logistical contractors and trainers - not personal security detail (PSD) contractors. We had almost no contact with PSDs while I was in Iraq. Most Soldiers do not have to supervise or audit the work of contractors on a daily basis. Until I was dealing with contractors in Iraq I had never heard the words "statement of work" used as a term. Once I understood it, I knew to ask about it when dealing with contractors. If no systemic solution is provided, individual commanders will devise a means to fulfill their responsibilities but they need the very basic information and a charge to safeguard that resource. I spoke with a commander headed to Iraq last weekend. He designated a field grade officer and assigned him a drive to keep track of contractors in his area of responsibility. This is not an ideal solution but it is a method.

Ideally, each commander would know what contracts serviced all his units or that he was responsible for and there would be a standard checklist or inspection sheet to aid him in dealing with the contractors. The commander would have trained personnel assigned to his unit to monitor these contracts, in numbers appropriate to the amount of contracting. Higher levels of command would have trained personnel to spot check or audit the supervision of contracts in subordinate units.

2. What factors impact the degree and type of contract oversight that should be provided by the government?

For tactical units, I think the factors impacting that oversight are a) knowledge of the contract b) availability of manpower to supervise the contract and c) skill of the supervisor contrasted with complexity of the contract. Units may operate in an area, be serviced by, or depend on many different contracts with many different scopes, statements of work, and expected result - all with little paperwork or official notification about the contract. If no mechanism exists to determine the priority in which to apply oversight, then I would think that a risk measurement matrix could be devised that compared the likelihood of failure, fraud, or poor work with the result - from a small missing item to the failure of a mission resulting in death. That tool could help one decide where to put audit or supervisory resources. To illustrate - a quick and uninformed example:

Result of Failure	Likelihood of Failure		
	Frequent or high complexity of work	Possible lack of materiel or services	Unlikely
Catastrophic failure	Must Audit	MustAudit	Should Audit
Failure of mission	Must Audit	Should Audit	Should Audit
Difficulty of completion	Should Audit	Should Audit	Audit when possible
Government loss	Should Audit	Audit when possible	Audit when possible

This is not meant to be a useful exhibit but a suggestion about prioritizing limited resources

3. How is feedback circulated back to each of the forces to ensure continued improvement?

I do not know. No feedback was provided to me or my commanders about contracts or our interaction with them. I have heard several people say that they intended to devise ways of monitoring contracts to "stay out of jail" leading me to believe that news stories about prosecuted frauds are one of the main avenues of feedback.

4. Should these lessons be considered and/or implemented in the development of curricula and be institutionalized in the Center for Army Lessons Learned?

Certainly. Further, the primary lessons should be distilled and included in the periods of instruction (POI) given to non-commissioned officers and officers at the junior and mid-grade levels. More extensive education should be given to senior officers in the appropriate roles or career fields.

The degree to which future education is given to troops should be balanced by the degree to which the services rely on contracting for support in the future. If the current model of much contracting continues, then a lot of education should be offered. If contracting is scaled back, as I would recommend, less may be called for.

5. Thank you for your service to the country. What problems did you see with contractor performance in theater?

It was very difficult for me to determine the scope of problems with contractors in theater because I generally had no idea who they were, what support they were supposed to provide, or the standards they were supposed to provide the support to. We suffered shortages of food and water but I never saw the contract requiring anyone to provide it to us so we made do with what we had. It was only after I was back in the United States that I was told KBR should have done.

That said - some problems that I witnessed were the mass resignation of about a third of the instructors for the New Iraqi Army (NIA) at Camp Caldwell, the inability of the trainers and support staff to secure or support themselves, the demands of Vinnel contractors for food and water support greater than we were able to provide, misbehaviors (drinking, speeding with

vehicles in populated areas, poaching of Soldiers for future employment) of the NIA training staff in front of my Soldiers, and a lack of skill or ability to conduct training.

6. How were these problems resolved by the Army?

Many of the problems were not resolved. Generally, Soldiers fill the gap. My unit was required to provide the logistical and security support that the contract forces could not. We were required to prepare a meal "break" for them although we always refused to provide them a better level of service than our line troops received. I argued frequently with supervisors of the local contractors but our accommodations were flexible at best. The S-3 (Operations) office established ranges and training areas and provided Soldiers to train the Iraqis along with their other missions. One of the biggest problems is that "the Army" did not get involved and the problems were addressed at the local levels in an ad hoc fashion.

7. What were the problems with the Army's logistics system that you saw?

The biggest problem I saw (and the system has changed some since I retired) is an unrealistic expectation that it works as designed and very quickly. Since it did not and since commander's ratings depended in part on the efficiency of the system they "game it" by using other methods to resolve needs. This went on for so long that some people believed it operated as stated and others just assumed Soldier's duty was to run this "below the radar" system to keep vehicles running or weapons firing. When the force moved into Iraq and that "below the radar" system wasn't available all the weaknesses showed with dramatic effect. Basically, there was no upper level logistics system in Iraq. For us, it ended at the task force level. We could generate requests and needs but there was no one to turn them into and then expect to get them filled. It took months before the chain between our unit and the larger support elements in Kuwait or further in the rear were connected.

I worry that, once again, commanders and logistics personnel have figured out how to make the system work in Iraq without addressing systemic weaknesses that will haunt the force if they have to deploy elsewhere.

8. How did contractors add to your responsibilities and burdens as a war fighter?

While on the move in Iraq, the large logistical and supply contractors did not seem to add to our burden since we did not see or encounter them much. We did not know about any supplies they were supposed to provide to us so we did not realize that we were being shorted. Later, at Camp Caldwell, they added to our daily labor in cooking meals, providing supplies, and conducting security as they only took services and resources and returned few. They increased our security, guard, and fatigue details by requiring security and reaction forces without accepting responsibility for these tasks. This reduced all the troops' sleep, fatigue, and rest time as they filled in these details. Within the headquarters we had to brief additional items, account for extra people and materiel, deal with ad hoc organizations, and settle issues normally outside our scope of responsibility.

9. What needs to be done to fix this situation?

The Department of Defense has downsized and contracted itself into a bad position. It is possible that the country could not go to and fight a war without the permission of these various contractors, yet there is no empirical evidence that they save money or improve the progress in a fight. There is lots of evidence that the opposite is true. I think that the logistical capability should be restored to the Armed Services so that, at least in a fight - during true combat operations as opposed to stability and security operations or an occupation - the commanders on the ground have control of their logistical chain. I understand that this means a major re-thinking and provision of forces. But we arrived at this point by making choices and we can make choices to correct an obviously bad situation.

I think there are various ways to move back to a place where commanders control logistics and I understand that each comes with costs, both fiduciary and political. But DoD is at a place now where there is no appetite for locating 8.8 Billion dollars in cash missing in Iraq or for scaling back performance bonuses of millions of dollars to contractors that delivered nothing to the country, and yet Fort Hood cannot afford to pay $220,000 for a mobile blood unit to save lives. DoD could do it - correct this imbalance - with Congress' help and leadership. The size of the services could be increased to allow for logistics elements to be rebuilt. The provision of elements between the active forces and Reserves could be re-looked and the nation mobilized in a bigger way. Rules or laws could be constructed that require logistical providers to be American companies and then nationalize them during war. I am sure there are other solutions, each with positive and negative factors to consider.

I do not have the expertise or even a complete overview of all the data required to make adequate recommendations in detail but it is plain to see that the current systems are not tenable over a long period of time and may already be inadequate for a second front or larger conflict. Despite the claims of cost-savings, I am not aware of true empirical evidence that these large contracts actually save money and there are many instances where it is obviously lost. At some point the Department of Defense should be required to prove this claimed cost savings over using conventional forces and if absent, then troops should be assigned that mission.

CHARRTS No.: SG-01-001
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #1

Relationship between Planning and Lessons Learned

Question. How does our military capture contracting lessons learned and incorporate them into operational planning?

Answer. The Department of Defense understands that it is imperative to leverage experience and lessons learned in order to cultivate innovative solutions and improve performance. In light of this, the Office of the Secretary of Defense has directed that significant findings from after action reports and lessons learned as well as significant findings related to contingency contracting be posted in a common repository. This repository, located on the Defense Acquisition University (DAU) website, is being used extensively by the DAU and the wider contingency contracting community.

In the future, the Joint Contingency Contract Support Office will lead the effort in consolidating contingency contracting lessons learned and coordinating them with the Operational Contract Support Capability Area Manager for incorporation, as required, into policies, procedures, plans and training.

CHARRTS No.: SG-01-002
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #2

Relationship between Planning and Lessons Learned

Question. How is feedback circulated back to each of the forces to ensure continued improvement?

Answer. We have begun to incorporate contractor support into joint exercises and, wherever it makes sense and is possible, we will invite contractors to participate in such exercises. Training themes include: managing specific contractors-on-the-battlefield issues, dealing with incidents involving Private Security Contractors, and the Joint Contracting Command.

The Office of the Under Secretary of Defense for Acquisition, Technology and Logistics (OUSD(AT&L)) in cooperation with Joint Forces Command (JFCOM), is incorporating contractor scenarios into training exercises. Specifically, JFCOM will exercise the Joint Contingency Contract Support Office (JCCSO) capability during a major European Command exercise this spring and summer. These exercises will help to develop Mission Essential Synchronization Lists (MESLs) and lessons learned that can be incorporated into future exercises. OUSD(AT&L) will mandate inclusion of the JCCSO in upcoming exercise planning and execution.

Most important, relevant Department of Defense directives, Instructions, and Joint Publication are updated as Lessons Learned return from the Areas of Responsibility.

CHARRTS No.: SG-01-003
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #3

Relationship between Planning and Lessons Learned

Question. Should these lessons be considered and/or implemented in the development of curricula and be institutionalized in the Center for Army Lessons Learned?

Answer. One of the best ways to get the most out of lessons learned is to incorporate them into school curricula on an iterative basis. The Defense Acquisition University (DAU) is doing just that. They are reviewing recent contingency contracting lessons learned, as submitted from the field, and integrating best practices into existing and new course material, including its Contractor Officer Representative (COR) training. In addition, DAU is working with a contingency contracting officer in Iraq to develop a case highlighting lessons learned and real life situations in a contingency environment. A video is also being prepared in partnership with the Army Criminal Investigation Division that will provide students examples of risks that CORs face in the execution of their duties.

Lessons learned are also being incorporated into the Program of Instruction development on contingency acquisition for use by our Military Departments' Staff Colleges and Senior Military Service and Joint Staff Schools to train, more formally, our senior planners and leaders on roles and responsibilities of planning for and managing contracts and contractor personnel in forward areas. This training will focus all leaders on determining requirements, translating those requirements into Statements of Work, and overseeing the work.

CHARRTS No.: SG-01-004
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #4

DoD Oversight of Contractor Support to Combatant Commands

Question. Please explain how the Department of Defense is now organized to provide policy oversight of contractor support to the combatant commands?

Answer. The Deputy Under Secretary of Defense for Logistics and Materiel Readiness (DUSD (L&MR)) established the Office of the Assistant Deputy Under Secretary of Defense for Program Support (OADUSD (PS)) and appointed the ADUSD (PS). The ADUSD (PS) is responsible for establishing and overseeing the program for managing contractor personnel in forward areas and to provide leadership in other areas to support more effective and efficient Geographic Combatant Commander (GCC) logistics and materiel readiness needs.

The ADUSD (PS) and the Vice Director of Logistics for the Joint Staff, J-4, established a General Officer Steering Committee (GOSC), as required by section 854 of the John Warner National Defense Authorization Act for Fiscal Year 2007. The Steering Committee consists of Military Department and Defense Agency senior procurement executives who meet to oversee and synchronize the development and implementation of joint policies for requirement definitions, contingency program management, and contingency contracting during contingency operations.

CHARRTS No.: SG-01-005
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #5

DoD Adherence to Guidance Related to Contractors for Deployed Forces

Question. GAO made the point in its testimony that DOD is not following much of the long standing guidance related to contractors and contract support for deployed forces. How is the Department ensuring that the guidance that is in place is followed?

Answer. The Department of Defense (DoD) made significant progress in implementing a comprehensive strategy for managing contractors and contract support for contingency operations that address the concerns the Government Accountability Office (GAO) outlined in its testimony. Initiatives include:

- The designation of the Deputy Under Secretary of Defense for Logistics and Material Readiness (DUSD (L&MR)) as the Portfolio Manager for Joint Logistics;
- The designation of the Assistant Deputy Under Secretary of Defense for Program Support (ADUSD (PS)) as the Operational Contract Support Capability Area Manager;
- Developing a roadmap for improved management and oversight of:
    - Synchronized Predeployment and Operational Tracker (SPOT)
    - Joint Contingency Contract Support Office (JCCSO)
    - Joint Operational Contract Support Planners
    - Expanded training
    - Operational Contract Support Concept of Operations.
    - Expanded Lessons Learned Program
- An Office of Secretary of Defense team established to review, develop, and implement, if appropriate, the Gansler Commission Report recommendations that are determined to be applicable to Armed Forces other than the Army; and
- An OSD team, led by the DUSD (L&MR), traveled to Iraq twice since September, overseeing efforts to strengthen management of DoD contractors and to implement the Memorandum of Agreement with the State Department to synchronize polices and operational procedures for Private Security Contractors in Iraq.

In addition, a General Officer Steering Committee was established to develop joint policies for requirements definition, contingency program management, and contingency contracting.

CHARRTS No.: SG-01-006
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #6

DoD October 2007 Interim Report to Congress and Contractor Oversight Incentives

Question. The department's October 2007 interim report to Congress outlines a significant list of initiatives the Department plans to take to help to improve its oversight of contractors supporting deployed forces. How will you manage contractors during the next contingency operation? How will you sustain this effort during the transition to a new administration?

Answer. As you note, the Department of Defense (DoD) developed a comprehensive strategic framework for managing contractors supporting contingency operations some months ago. The DoD framework defines the roles, responsibilities, and processes for the management and integration of all DoD contractors operating under covered contracts in a contingency operation. The draft framework was submitted to Congress in October 2007, and the final report will be submitted in April 2008.

The Assistant Deputy Under Secretary of Defense for Program Support (ADUSD (PS)), a career civil servant, in partnership with the Director for Logistics for the Joint Staff J-4, is sponsoring the development of an Operational Contract Support Concept of Operations (CONOPS) which will illustrate how operational contract support will take place during future contingency operations. This type of future contractor capability will operate as a fully integrated sourcing system, provide end-to-end visibility of contractors and contracts within a Joint Operations Area, and ensure early integration of operational contract support into planning and execution of Combatant Commander missions.

We do not anticipate problems sustaining this effort during a transition to a new administration. By using the CONOPS development process, we will have established an analytical approach to the identification of gaps in current operational contract support and will be able to submit and defend funding requests based on approved solution sets.

CHARRTS No.: SG-01-007
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #7

Effect of Downgrade of Position Level

Question. As a follow-up, I understand from my staff that your position is being downgraded from a Level 3 to a Level 4. What implications does this have for the important work your office is directing?

Answer. The downgrade of the Deputy Under Secretary of Defense for Logistics and Material Readiness (DUSD (L&MR)) position has implications on a variety of levels with respect to the scope of responsibility, level of authority, and inter-departmental relationships.

In spite of the government's increased reliance on contractors (currently exceeding $160B per year), Congress chose to downgrade this billet. A downgraded billet puts the DUSD (L&MR), as the chair of several committees and boards, in the position of being outranked by members on those boards. This change to rank structure will also restrict the accessibility and informality of interpersonal relationships with counterparts in billets within and outside of the Department of Defense.

CHARRTS No.: SG-01-010
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #10

Effective Use of Contractors

Question. What can commanders on the ground do to ensure the effective and efficient use of contractors?

Answer. Commanders need a well-trained cadre of contracting officers, a deployable contract management force, including acquisition specialists and Contracting Officer Technical Representatives to ensure the effective and efficient use of contractors. We are improving these deployable contract management forces in a number of ways. We have instituted a requirement that all contracting officers in an expeditionary environment complete the expeditionary contracting competency assessment. All contracting officers, including those in Iraq and Afghanistan, will complete an assessment this spring utilizing the model. The results will enable us to improve training for expeditionary contracting personnel and to shape career and leadership development plans and programs for all expeditionary contracting personnel. In addition, we are broadening training for operational military leaders, both officer and enlisted, across all grades on management of contractors deploying with forces. This training will focus all leaders on determining requirements, translating those requirements into Statements of Work and overseeing the work. The training will be included in professional military education programs such as the War College, service staff colleges, and basic non-commissioned officer courses.

CHARRTS No.: SG-01-011
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #11

Factors Impacting Contractor Oversight

Question. What factors impact the degree and type of contract oversight that should be provided by the government?

Answer. The contract type (firm fixed-price, cost-plus-fixed-fee, etc.), complexity, dollar value, and special contract provisions such as Government Furnished Property are factors determining the degree and type of contract oversight. The Defense Contract Management Agency or the Contracting Office may perform contract oversight.

CHARRTS No.: SG-01-012
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Levin
Question: #12

Gansler Commission Report

Question. The Gansler Commission report states that "the number and expertise of the military contracting professionals must be significantly increased." To address the problems which have been experience in the theater, the Commission recommends that the Army hire 2,00 new contracting personnel. Does the Department of Defense plan to implement that recommendation? Does the U.S. Army plan to implement that recommendation?

Answer. The Army agreed to increase military and civilian contracting personnel authorizations and is evaluating now the actual increase that is required. The Army is still analyzing the Gansler Commission Report recommendation to increase Army Contracting personnel by 400 military and 1000 civilians, but at this time has tentatively decided that a structure of 301 military expeditionary plus 167 institutional military coupled with 804 civilian personnel is appropriate. The Army has established an Army Contracting Command (ACC) – a two-star level contracting command including two subordinate one-star level commands. The other Military Departments are reviewing their acquisition capabilities as well, to ensure that they are adequately staffed, trained, and structured to meet the needs of future contingency operations.

CHARRTS No.: SG-01-013
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Levin
Question: #13

Gansler Commission Report

Question. The Gansler Commission also says the Army's difficulty in adjusting to the singular problem of Kuwait, Iraq, and Afghanistan is, in large part, due to the fact that there are no generals assigned to contracting responsibilities. The Commission recommends Congress authorize a core set of 10 additional general officers for contracting positions. Does the Department of Defense plan to implement that recommendation? Does the U.S. Army plan to implement that recommendation?

Answer. The Department of Defense is in the process of developing its position on this recommendation in conjunction with the Army's assessment.

CHARRTS No.: SG-01-014
Senate Committee on Governmental Affairs
Hearing Date: January 24, 2008
Subject: Management and Oversight of Contingency Contracting in Hostile Zones
Witness: Mr. Bell
Senator: Senator Carper
Question: #14

DoD Cooperation with State Department

Question. What is the department doing to work with the other departments - namely the department of state - since they have contractor personnel within the contingency operations area?

Answer. The Department of Defense (DoD) is working on measures to improve interagency coordination and meet Congressional mandates to improve oversight and management of contractors in contingency environments.

On December 5, 2007, DoD and the State Department signed a Memorandum of Agreement (MOA) defining a framework for improving accountability and strengthening oversight of operations of U.S. Government Private Security Contractors (USG PSCs) in Iraq. This MOA covers a broad range of management policies and procedures to achieve more effective management and coordination of PSC operations in Iraq that will:

- Establish core standards for vetting, training and certification of all USG PSC contractor personnel;
- Require full compliance with contractor licensing and other rules and regulations of the Government of Iraq (GOI), Embassy Baghdad, and/or the Multi-National Force – Iraq (MNF-I);
- Require that all USG PSCs use only authorized weapons and ammunition;
- Adopt common standards for Rules on the Use of Force (RUF) and escalation procedures;
- Improve the effectiveness of incident management, response, and follow-up investigations;
- Assure transparent, timely reporting and investigations of incidents between U.S. Embassy Baghdad and MNF-I, with timely reporting of same to the GOI;
- Enforce compliance with Coalition checkpoint operations and requirements;
- Establish policies for timely, consistent, and appropriate condolence payments to be made for casualties or property damage among innocent persons; and
- Synchronize PSC operations outside secure bases to establish real-time battle space commander and Regional Security Officer (RSO) oversight, visibility, and coordination of PSC convoy movements in the battlespace. When the battlespace commander determines there is a need for the State PSCs or other convoy operations to alter routes or abort missions, State PSCs will comply with the recommendations of the battlespace commander. Final authority for U.S. Embassy moves rests with the Chief of Mission, but generally he will honor the battle space commander's recommendation. The purposes are to: (1) avoid situations with a high risk of incidents occurring; and, (2) integrate incident management follow-ups with the

Ministry of Interior and Tactical Operations Center and with any persons affected by the incident.

Many aspects of the MOA are already implemented. Interim procedures were adopted in cases where permanent solutions require additional work. Others are in stages of standardization and final design.

DoD and State are also jointly developing a Memorandum of Understanding (MOU) and planning implementation of policies and operational requirements covering matters relating to DoD, State, and U.S. Agency for International Development (USAID) contracting and contractor management in Iraq and Afghanistan as required by section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008.

This MOU will cover all DoD, State, and USAID contractors and contractor personnel, not just PSCs. A draft MOU addressing these requirements is already in development. Once signed, the MOU will be implemented through DoD, State, and USAID policies or guidance and each will prescribe regulations as are necessary to implement the MOU for relevant matters pertaining to their respective agencies. Every effort will be made to implement the provisions of the MOU within the 120 days following the MOU signing, as required in the NDAA for FY 2008.

DoD and State are also moving ahead with efforts to comply with the provisions of section 862 of the NDAA for FY 2008, regarding contractors performing private security operations, specifically in Iraq and Afghanistan, and any other areas designated by the Secretary of Defense that constitute an area of combat operations for the purpose of section 862 of NDAA for FY 2008. The current MOA between DoD and State will assist them in establishing the prescribed regulations on the selection, training, equipping, and conduct of personnel performing private security functions under a covered contract in an area of combat operations.

Questions for the Record to
Mr. James R. Kunder from
Senator Thomas R. Carper
Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government
Information, Federal Services and International Security
January 24, 2008

"Management and Oversight of Contingency
Contracting in Hostile Zones"

Question:

What factors impact the degree and type of contract oversight that should be provided by the government?

Answer:

The responsibility for contract oversight is delegated to the Cognizant Technical Officer (CTO). CTO responsibilities do not vary from contract to contract; however, many factors on the ground will influence the degree of oversight required. Examples of factors that may impact the degree of the CTO's contract oversight include but are not limited to: contract type; security situations on the ground; USAID resources available on the ground; the nature of the program or complexity of the work coupled with the experience of the contractor as well as the contractor's actual performance and progress toward achieving objectives.

Questions for the Record to
Mr. James R. Kunder from
Senator Thomas R. Carper
Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government
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January 24, 2008

"Management and Oversight of Contingency
Contracting in Hostile Zones"

Question:

How much money is USAID responsible for in terms of contracting?

Answer:

In fiscal year 2007, USAID was responsible for $1.1 billion dollars in contracts: $692.5 million in Iraq; $408.9 million in Afghanistan.

Questions for the Record to
Mr. James R. Kunder from
Senator Thomas R. Carper
Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security
January 24, 2008

"Management and Oversight of Contingency Contracting in Hostile Zones"

Question:

Who is responsible for overseeing that money?

Answer:

Responsibility for overseeing contract funds is a joint function of the Contracting Officer (CO) and the Cognizant Technical Officer (CTO), with assistance from others.

The primary person responsible for overseeing contract funds is the CTO, who interacts with the contractor on a daily basis. The CTO monitors technical performance and provides technical direction against contract cost; manages the accrual process (monitor funding pipelines); and, provides administrative approvals such as travel requests, salaries for replacement of key personnel, payment vouchers, and other approvals required in the contract.

Other oversight functions are pre-award audit surveys conducted to determine a contractor's ability to manage federal funds before funds are awarded, and post award contract audits to monitor companies' compliance with Federal cost accounting standards, identify findings, require resolution of those

findings and recommend the issuance of Bill of Collections for unallowable costs. These audits are conducted by the USAID Contract Audit Management Office, the USAID Inspector General's Office, and the Defense Contract Management Agency.

Additionally, oversight of the contract funds is provided by the Contracting Officer and includes ensuring that the contract's originally negotiated costs and cost for equitable adjustments resulting from changes to the contract are fair and reasonable.

Questions for the Record to
Mr. James R. Kunder from
Senator Thomas R. Carper
Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security
January 24, 2008

"Management and Oversight of Contingency Contracting in Hostile Zones"

Question:

Given the dangerous security conditions in Iraq and Afghanistan, how does USAID effectively monitor these programs?

Answer:

In Afghanistan, security conditions often prevent designated USAID staff from monitoring projects themselves, particularly in the more volatile provinces. However, contractors are generally able to conduct site visits throughout the country to monitor progress; they file regular reports with USAID. USAID is exploring all sources of technology to remedy this problem, such as satellite technology (e.g. Google Earth), to monitor some construction projects. Satellite photography and videos are effectively being used to help monitor projects in the West Bank/Gaza.

In Iraq, USAID faces security-related constraints on staff involvement in directly monitoring activities. To compensate for these constraints, USAID has developed an approach to monitoring projects that involves local staff, Provincial Reconstruction Team (PRT) members and independent evaluators. For example,

local staff of USAID contractors use standardized forms to collect written information on project results; the 25 PRTs throughout Iraq enable USAID, in coordination with the military and local officials, to monitor program activities at the local level; additionally, USAID deploys an independent contractor to the field to monitor and evaluate key project components; and, finally, when a project requires a change in direction or is entering a new phase, USAID engages an independent team of experts to evaluate the project.

Questions for the Record to
Mr. James R. Kunder from
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Homeland Security and Governmental Affairs
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January 24, 2008

"Management and Oversight of Contingency
Contracting in Hostile Zones"

Question:

I understand you work with a large number of locals – how do you vet them?

Answer:

USAID Afghanistan vets local hires directly when they are employed by USAID; however, the majority of Afghans are hired by the contractors or grant recipients who are implementing development programs. We are unaware of a uniform process for vetting local hires; however, USAID requires an anti-terrorism certification from contractors as a condition of award and is developing a contractor vetting system for screening individuals that is similar to the one currently piloted in the West Bank/Gaza.

In Iraq, the Regional Security Office (RSO) of the U.S. Embassy vets local Iraqis directly employed by USAID based on guidance in the Foreign Affairs Manual regulations 12 FAM 422.4 and 3 FAM 7222.

RSO vetting includes full-field background investigations of Iraqi applicants, making maximum use of Iraqi investigative records or resources and evaluating information developed for security certification for employment. The

RSO also updates these investigations on a five-year cycle to issue or deny recertification for employment.

A local Iraqi is hired only after these steps are completed:

(1) A personal interview is conducted;

(2) A completed Form OF-174, Application for Employment in the Foreign Service of the United States, has been reviewed;

(3) Appropriate host government and post records have been checked; and,

(4) At least a temporary security certification, good for 120 days, has been issued; extensions of this certification may be issued.

Because of the extenuating circumstances in Iraq, polygraph testing is required of all prospective Iraqi employees. Though not a traditional tool in most posts, it was determined to be necessary for Iraq because vetting information from traditional sources is often unavailable.

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