# Questions for the Record Submitted to Under Secretary Patrick Kennedy by Senator Claire McCaskill (1) Senate Committee on Homeland Security and Governmental Affairs July 16, 2013

### **Question:**

The 2013 National Defense Authorization Act (NDAA) wartime contracting reforms instituted significant organizational, procedural and reporting changes for the Department of State (State), including mandating risk assessments. An overriding purpose of these reforms was to prevent State from entering contracts that would have harmed American interests or wasted American tax dollars.

What specific State contract, project or program was successfully stopped because of NDAA wartime contracting reforms?

## Answer:

No Department of State contracts, projects or programs have been stopped because of the NDAA 2013 wartime contracting reforms signed into law in January 2013.

# Questions for the Record Submitted to Under Secretary Patrick Kennedy by Senator Claire McCaskill (2) Senate Committee on Homeland Security and Governmental Affairs July 16, 2013

### **Question:**

NDAA Section 844 demands increased information and accuracy regarding contracts and contractor personnel in contingency operations. In order to determine the progress of State's data collection and reporting, please provide the following information for July 16, 2013 (or indicate that State does not yet have the capability of either collecting or generating the information).

- Q: What is the total number of contracts that State has entered into in Afghanistan?
- Q: What is the value of those contracts?
- Q: What is the total number of contractor personnel that State has in Afghanistan?
- Q: What is the total number of security personnel that State has in Afghanistan?
- Q: What is the total number of State contractor casualties in Afghanistan?

### Answer:

The Department of State has 87 active contracts in Afghanistan\*. The value of these contracts is \$422 million. According to the Synchronized Predeployment and Operational Tracker, the database of record, in July 2013, there were 3,582 contractors performing on a State contract in Afghanistan. The total number of contract security personnel in Afghanistan was 2,781.

The Department does not keep a record of State-specific data on casualties, but rather relies on the Department of Labor's Office of Workers' Compensation (OWCP) Defense Base Act (DBA) Case Summary Report. To standardize

reporting beginning in FY 2012, the Department, DoD and USAID decided to report casualty data in a consolidated manner using the OWCP DBA Case Summary Report. The report, which is pulled at the end of the fiscal year, provides data on the total number of DBA cases created during the period from all employers that have contracts with the federal government. We will provide this data as soon as it is available.

\*Source data is from FPDS-NG.

# Questions for the Record Submitted to Under Secretary Patrick Kennedy by Senator Claire McCaskill (3) Senate Committee on Homeland Security and Governmental Affairs July 16, 2013

## **Question:**

NDAA Section 861 requires State to identify Suspension and Debarment officials, ensure their independence from the acquisition office, and to effectively staff and resource them. State identified its Suspension and Debarment official as the Procurement Executive, an official outside of the Primary Acquisition Office.

Q: Given that the Procurement Executive is responsible for determining policy regarding how acquisitions are made, how is this official sufficiently independent from acquisition decision-making to comply with the intent of Section 861?

### **Answer:**

The Procurement Executive is not involved in the source selection process for grants or contracts and is independent of award decisions. The Director of the Office of Acquisitions Management (A/LM/AQM) is the Head of Contracting Activity (HCA). The HCA reports to the Deputy Assistant Secretary for Logistics Management (A/LM), who reports to the Chief Acquisition Officer (CAO) (who is the Bureau of Administration Assistant Secretary). Source selection activity follows this chain of command. The Procurement Executive reports separately to the Chief Acquisition Officer and is not in the source selection chain. Determining acquisition policy provides the Procurement Executive with the necessary expertise

to make debarment and suspension determinations based on a firm understanding of the acquisition and grants-making processes.

# Questions for the Record Submitted to Under Secretary Patrick Kennedy by Senator Claire McCaskill (4) Senate Committee on Homeland Security and Governmental Affairs July 16, 2013

## **Question:**

One of the major concerns in wartime contracting has been the numbers of contractors who overrun budgets, fall behind schedule, or fail to fulfill their promised performance—and yet are awarded new contracts for different projects. Recently, in an effort to help solve this problem, the Office of Management and Budget announced a goal of 100% reporting by 2015.

Q: What is your current level of past performance reporting?

## **Answer:**

The Department of State is currently reporting 17% of transactions in the past performance database. The Department will continue to seek improvement in its past performance reporting.

# Questions for the Record Submitted to Under Secretary Patrick Kennedy by Senator Claire McCaskill (5) Senate Committee on Homeland Security and Governmental Affairs July 16, 2013

### **Question:**

During State's staff briefing with the subcommittee, State indicated that it was endeavoring to increase its past performance reporting to 65% for the 2013 calendar year. State indicated that this was a goal set by OMB. During the Office of Federal Procurement Policy (OFPP)'s staff briefing with the subcommittee, OFPP agreed that OMB had set a 2015 goal, but denied that OMB had set any 2013 agency goals for performance reporting.

Q: What is State's 2013 past performance reporting goal and who set it?

## **Answer:**

The Office of Management and Budget (OFPP) indicated that agencies should target improved past performance reporting and recommended 65% for agencies with lower levels of current reporting. As I said during my testimony, I have set a goal of 45 to 50% for the Department and will continue to seek improvement in our past performance reporting.

# Questions for the Record Submitted to Under Secretary Patrick Kennedy by Senator Claire McCaskill (6) Senate Committee on Homeland Security and Governmental Affairs July 16, 2013

### **Question:**

Section 841 of the 2012 NDAA, "Prohibition on Contracting with the Enemy in the United States Central Command Theater of Operations," sought to prevent contractors from funding insurgents in Afghanistan. Senate bill S.675, the "Never Contract With The Enemy Act," would amend Section 841 to apply worldwide, without ties to a military operation and expand its scope to those who "support" the enemy.

Does State support Senate bill S.675? Why or why not?

### **Answer:**

As I said during my testimony, the Department would support an independent grant of authority to the Secretary of State to be able to cut off a contract where it is determined that money is going to terrorists. The Department has preliminary comments on S. 675, and would be glad to discuss the bill and our comments with the Committee.

# Questions for the Record Submitted to Under Secretary Patrick Kennedy by Senator Claire McCaskill (7) Senate Committee on Homeland Security and Governmental Affairs July 16, 2013

## **Question:**

In a prior meeting between Under Secretary Kennedy and Senator McCaskill, Under Secretary Kennedy agreed to provide a cost benefit analysis of the use of federal employees versus contractors in State operations. Please provide this cost estimate analysis.

## **Answer:**

The response to this question will be provided under separate cover.