

1 IMPLEMENTATION OF WARTIME CONTRACTING REFORMS

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3 TUESDAY, JULY 16, 2013

4 United States Senate,
5 Committee on Homeland Security and Governmental Affairs,
6 Subcommittee on Financial and Contracting Oversight,
7 Washington, D.C.

8 The Subcommittee met, pursuant to notice, at 9:33 a.m.,
9 in Room SD-342, Dirksen Senate Office Building, Hon. Claire
10 McCaskill, Chairman of the Subcommittee, presiding.

11 Present: Senators McCaskill, Johnson, Ayotte, and
12 Coburn.

13 OPENING STATEMENT OF SENATOR MCCASKILL

14 Senator McCaskill. Good morning. Thank you all for
15 being here. I thank Senator Johnson for attending this
16 morning.

17 It is hard to believe that I have been at this for over
18 six years working on wartime contracting. It has been in
19 many ways a roller coaster ride.

20 There have been days that I thought there was no hope
21 and then there are other days when we were able to get so
22 many of these provisions finally into law that I thought we
23 were really rounding the corner; and today we are here to
24 examine if, in fact, we have turned a corner or if we still
25 have a lot of work to do.

1 We are going to today review the implementation of the
2 wartime contracting reforms mandated in last year's National
3 Defense Authorization Act and to address a couple of current
4 contracting issues that have come up.

5 On August 31, 2011, the Commission on Wartime
6 Contracting in Iraq and Afghanistan presented its final
7 report to Congress. On February 29, 2012, Senator Webb and
8 I introduced S. 2139, the Comprehensive Contingency Contract
9 and Reform Act of 2012, which was based on the findings and
10 recommendations of the Commission.

11 Just so everyone remembers, Senator Webb and I began in
12 2007 when we arrived in the Senate as new freshman working
13 on getting a War Contracting Commission that could look
14 extensively at issues of how we contract during times of
15 war.

16 The provisions of the Comprehensive Contingency
17 Contracting Reform Act, which were based on the findings of
18 that Commission, were incorporated in the fiscal year 2013
19 NDAA that was signed into law January 2 of this year.

20 A few of the provisions had reporting requirements that
21 were due earlier this month and several of those provisions
22 have targets to be met by the end of this year.

23 This morning we have representatives of the Defense
24 Department, State Department, and USAID here to testify
25 about how their respective agencies are complying with the

1 wartime contracting provisions.

2 Based on the reports that these agencies have made to
3 Congress, they are working to implement these provisions. I
4 am encouraged by their progress. However, there is still a
5 long way to go.

6 The majority of the provisions in the law passed last
7 year apply only to future contingencies. Unfortunately,
8 they do not apply to Afghanistan now where we are continuing
9 to hear about contracting problems.

10 I learned just this week that the Defense Department
11 spent millions to construct a building in Afghanistan that
12 has never been used. This facility was built despite the
13 fact that the forward commanders said they neither needed
14 nor wanted this facility in May 2010, almost a full year
15 before construction began.

16 We now have a brand-new state-of-the-art building that
17 cost the taxpayers \$34 million to build. The worst part is
18 that all indications are they are going to tear it down. We
19 cannot even give it away to the Afghanistan government for
20 free because they do not want a building that they will have
21 to spend millions to rewire because it was built to U.S.
22 electrical code.

23 I also recently learned that more than \$13 million may
24 have been wasted on a USAID agricultural development
25 contract with a company called Chemonics. The waste alone

1 is bad enough but the Special Inspector General also found
2 that the contractor failed to cooperate with the audit.
3 Frankly, that is just unacceptable.

4 I will also ask questions about the security of our
5 embassy in Kabul. The Subcommittee first held a hearing on
6 this topic in 2009 and I continue to have serious concerns
7 regarding that contract.

8 These examples illustrate why it is so important that
9 contracting reforms passed this year are fully implemented
10 and our government has learned the lessons finally once and
11 for all of Kosovo, Iraq, and Afghanistan. I plan to
12 continue to hold hearings like this one until that time
13 comes.

14 The Office of Federal Procurement Policy has provided a
15 letter regarding their implementation of the war contracting
16 provisions. I ask unanimous consent that this be included
17 in the hearing record.

18 [The document follows:]

19 / SUBCOMMITTEE INSERT

1 Senator McCaskill. I thank the witnesses for being
2 here today and I look forward to their testimony.

3 Senator Johnson.

4 OPENING STATEMENT OF SENATOR JOHNSON.

5 Senator Johnson. Thank you, Madam Chair.

6 It is interesting, the couple of examples you did bring
7 out that I would like to reinforce a little bit. The \$34
8 million building, 64,000 square feet, what is just
9 depressing about that is the commanders tried to stop its
10 construction.

11 It was originally proposed in February 2010. By May of
12 2010, they said they really do not want it but in February
13 2011 it was contracted out and we went ahead and produced it
14 or constructed it at a cost of \$531 per square foot.

15 Now, I have done a lot of construction for, you know,
16 plants, pretty complex manufacturing structures. We have
17 never had anything that cost \$531. We checked with the
18 National Association of Home Builders. The average cost of
19 a home is about \$80 per square foot. So, there are so many
20 problems with that example you raised. We will certainly
21 have questions on that.

22 You also talked about the security situation in the
23 embassy in Kabul. There is a pretty interesting article
24 that I would like to submit for the record by the Project on
25 Government Oversight. It was actually a report issued in

1 January 2013.

2 And, as you are reading that report, again this is
3 contractor security and whistleblowers from that contract
4 that are being fired for raising alarms about the lack of
5 security.

6 And, what is alarming to me is, as I am hearing in this
7 report, the response of the State Department saying that it
8 takes very seriously the concerns of the Aegis personnel but
9 at the same time those people are being fired.

10 It is eerily similar to what we heard in terms of the
11 security around the embassy or the consulate in Benghazi and
12 the resulting tragedy of that. So, I am going to have a
13 number of questions about that situation as well.

14 Madam Chair, I really commend your efforts in holding
15 hearings like this. Our hearing yesterday, we just hear the
16 same problems time and time again, the lack of
17 accountability, the lack of incentives to do things in a
18 cost efficient manner; and when it comes to talking about
19 protecting our personnel in very dangerous places, it seems
20 like we are going to make the same mistakes time and time
21 again.

22 So, this is a very timely airing. I am looking forward
23 to the testimony of the witnesses and I certainly appreciate
24 you coming here to testify. Thank you.

25 Senator McCaskill. Thank you, and let me introduce the

1 witnesses. Richard Ginman serves as Director of Defense
2 Procurement and Acquisition Policy. He retired as a rear
3 admiral from the U.S. Navy after 30 years of service in
4 2000. Prior to assuming his current position, he served as
5 Principal Deputy to the Director from 2008 until 2010 and
6 Deputy Director of Contingency Contracting and Acquisition
7 Policy from 2010 until becoming the Director in June of
8 2011.

9 Patrick Kennedy has served as Under Secretary for
10 Management in the United States State Department since 2007.
11 He has been with the Department of State for 39 years and
12 has held positions including Director of the Office
13 Management Policy, rightsizing innovation, Assistant
14 Secretary for Administration, U.S. Representative to the UN
15 for Management and Reform, Chief of Staff of the Coalition
16 Provisional Authority in Iraq and Deputy Director of
17 National Intelligence for Management.

18 Aman Djahanbani is the Senior Procurement Executive,
19 Chief Acquisition Officer and Director of the Office of
20 Acquisition and assistance at USAID. Before assuming his
21 current position, Mr. Djahanbani worked overseas as a
22 supervisory contracting officer for USAID. He began his
23 procurement career with the U.S. Department of Defense where
24 he worked for more than a decade at the Naval Regional
25 Contracting Center in Saudi Arabia and Singapore.

1 It is the custom of the Subcommittee to swear all
2 witnesses that appear. I would ask you to stand and do you
3 swear the testimony that you give before this can
4 Subcommittee will be the truth, the whole truth, and nothing
5 but the truth, so help you God?

6 Mr. Ginman. I do.

7 Mr. Kennedy. I do.

8 Mr. Djahanbani. I do.

9 Senator McCaskill. Let the record reflect that the
10 witnesses have all answered in the affirmative.

11 We will be using a timing system. Five minutes give or
12 take. We are not going to be, we may harp on other things.
13 We will not harp on that.

14 Mr. Ginman, if you would go ahead with your testimony.

15 Thank you very much.

1 TESTIMONY OF RICHARD GINMAN, DIRECTOR, DEFENSE
2 PROCUREMENT AND ACQUISITION POLICY, U.S.
3 DEPARTMENT OF DEFENSE

4 Mr. Ginman. Chairwoman McCaskill, Senator Johnson,
5 distinguished members of the Subcommittee. I welcome this
6 opportunity to discuss the Department of Defense's
7 "Implementation of Wartime Contracting Reforms." You asked
8 me to address 14 provisions in the National Defense
9 Authorization Act for fiscal year 2013. Each provision is
10 covered in my written testimony and I asked that it be some
11 method for the record.

12 Senator McCaskill. It will.

13 Mr. Ginman. The Department has made a number of
14 improvements to operational contract support, or OCS for
15 short, based on independent reviews such as the Commission
16 on Wartime Contracting, the Gansler Commission, and various
17 Inspector General reports as well as the Department's own
18 analysis.

19 From the top down, the Department is committed to
20 ensuring support for our war fighters through contracts that
21 are carefully planned for, executed, and monitored. This
22 applies to the current mission in Afghanistan as well as to
23 future conflicts.

24 The Department established a permanent board to oversee
25 our progress in improving OCS capability. The board

1 identified 10 capability areas requiring improvement and
2 more than 140 individual actions. I provided your staff the
3 entire action plan last week for your review.

4 Also, the Department is engaged in a better buying
5 power initiative to obtain greater efficiency and
6 productivity in our spending. We take seriously our charge
7 to protect public funds.

8 In addition, the Department works with its civilian
9 agency colleagues on federal-wide initiatives, interagency
10 topics, ensuring lessons learned. This includes working
11 with the Department of State and USAID, who are here with me
12 today.

13 Some improvements in contingency and conventional
14 contracting have required congressional assistance. We
15 appreciate this Subcommittee's continued strong support not
16 only for necessary legislation but also for our deployed
17 forces both military and civilian.

18 The Department is focused on meeting the war fighters
19 current and future needs while judiciously managing the
20 Department's resources and balancing risk. Much has been
21 accomplished but, of course, challenges remain.

22 Thank you for the opportunity to appear before you
23 today to discuss the Department's implementation of wartime
24 contracting legislation and I welcome your questions.

25 [The prepared statement of Mr. Ginman follows:]

1 Senator McCaskill. Yes.

1 TESTIMONY OF THE HONORABLE PATRICK KENNEDY, UNDER
2 SECRETARY OF STATE FOR MANAGEMENT, U.S. DEPARTMENT
3 OF STATE

4 Mr. Kennedy. Good morning, Madam Chairwoman, Senator
5 Johnson, Senator Ayotte. Thank you for inviting me here
6 today to discuss the Department of State's implementation of
7 contingency contracting provisions in the fiscal year 2013
8 National Defense Authorization Act, a matter that I know is
9 of particular interest to the Chair.

10 State takes this contracting responsibility seriously
11 and is always seeking improvements. Directly after the
12 enactment of the 2013 NDAA, State formed three working
13 groups to focus on risk assessment for contingency
14 contracting, contracting management, and our acquisitions
15 and contracts management workforce.

16 The results were incorporated into our Section 850
17 report which was sent to the Congress last month. The
18 working groups found that State's structure and processes
19 support our national security mission and that our
20 centralized acquisitions office, based in Washington, D.C.,
21 and our two Regional Procurement Support Offices support our
22 contingency contracting requirements.

23 The working groups continue meeting to advance the
24 implementation of the NDAA provisions, and we are working
25 with General Accountability Office on their Section 850

1 engagement.

2 The Department continues making improvements to its
3 contracting program. The Office of Acquisitions Management
4 continues to hire contracting staff. We have emphasized
5 increasing the number of Contracting Officer Representatives
6 in our regional and functional bureaus for the day-to-day
7 contract oversight.

8 We have improved COR training and established a COR
9 Advisory Board to share best practices.

10 State is establishing a contract management office in
11 Kuwait to support our Iraq operations and this could be a
12 model for future contingencies.

13 The State will examine using human resources
14 flexibilities such as recruitment, retention, and relocation
15 incentives to ensure expedient hiring for contract oversight
16 functions. As flagged by GAO, State issues guidance to
17 strengthen management of interagency acquisition agreements
18 as working with DOD on overall coordinating arrangements.

19 Regarding our NDAA sections, State examined its use of
20 SPOT under Section 844. We believe SPOT is the preferred
21 system for tracking personnel under contingency contracts
22 and are working to improve data quality.

23 We are also working with DOD to integrate data from the
24 Federal procurement data system automatically into SPOT. We
25 continue using SPOT reporting to Congress with DOD and USAID

1 per Section 847.

2 We are evaluating our risk management processes under
3 Section 846 and are looking at more formally establishing a
4 centralized risk management unit at State.

5 The new responsibilities of the Chief Acquisition
6 Officer under Section 849 have been specifically
7 incorporated into those of State's CIO.

8 Per Section 861, we have designated a suspension and
9 debarment official who is not part of either the Office of
10 the Inspector General or the Office of Acquisitions. This
11 SDO is supported by a newly added suspension and debarment
12 program manager who works only on S and D matters. Per the
13 GAO, successful S and D programs have dedicated resources,
14 detailed policies, and a referral process.

15 State has all three and we have gone from zero
16 suspension and debarments in fiscal year 2008 to three
17 suspensions and 31 debarments to date in fiscal year 2013.

18 Several sections of the bill, namely 802, 852, and 853
19 promote government-wide changes and need incorporation into
20 the Federal Acquisition Regulations. State is an active
21 member of the Civilian Acquisition Council and is working on
22 these matters as detailed in my written statement which I
23 hope would be entered into the record.

24 Senator McCaskill. Without objection it will be.

25 Mr. Kennedy. Under Section 862, the State is working

1 with the Office of Federal Procurement Policy and the
2 interagency in developing standards to ensure continued
3 alignment of our existing contract writing system with any
4 new government-wide data standards that might be developed.

5 Under Section 1273, the Department of State will
6 undertake assessments to ensure that a capital project that
7 is both requested by the host government and can be
8 sustained by it. Since NDAA enactment, State has not
9 undertaken any capital projects that would trigger the need
10 for an assessment.

11 With regard to private security contractors, I know
12 that the Chair has concerns PSCs providing security at posts
13 such as Kabul, and I will be glad to answer any questions.

14 The State Department has used the guards for the
15 protection of our facilities and personnel since the 1970s.
16 PSCs are critical to our readiness and capability to carry
17 out American foreign policy under dangerous and uncertain
18 security conditions.

19 We fully appreciate the need for robust oversight of
20 PSCs. Particularly in conflict areas, contractors are
21 operationally overseeing and contractually managed by direct
22 hire State personnel. My written testimony describes our
23 oversight message.

24 Currently in Kabul, we have a well managed, effectively
25 functioning contract that provides security to protect our

1 people and facilities.

2 In conclusion, while we recognize that State's
3 contracting organization is organized effectively to
4 undertake both routine and contingency contracting, we know
5 and we believe that we must strive to learn from past
6 practices and to better align contingency contracting
7 especially with the guidance of the 2013 NDAA provisions.

8 The Department will continue to refine its processes,
9 procedures and strategies to ensure that adequate resources
10 and oversight mechanisms are in place for future
11 contingencies.

12 I stand ready to answer any questions that you might
13 have, Madam Chair.

14 [The prepared statement of Mr. Kennedy follows:]

1 Senator McCaskill. Thank you, Secretary Kennedy.

2 Yes, Mr. Djahanbani.

1 TESTIMONY OF AMAN DJAHANBANI, SENIOR PROCUREMENT
2 EXECUTIVE AND DIRECTOR, OFFICE OF ACQUISITION AND
3 ASSISTANCE, U.S. AGENCY FOR INTERNATIONAL
4 DEVELOPMENT

5 Mr. Djahanbani. Chairman McCaskill, Ranking Member
6 Johnson, thank you for the opportunity to discuss the
7 actions the United States Agency for
8 International Development has taken to implement the
9 contracting reform provisions
10 passed into law in the fiscal year 2013 National Defense
11 Authorization Act. I will briefly summarize my remarks and
12 asked that my full statement be entered into the record.

13 USAID welcomes the Subcommittee's continued interest in
14 these matters. Our agency has thousands of personnel
15 working in more than 80 missions worldwide to improve the
16 economic environment, global health, food security, and
17 overall development of these nations in support of U.S.
18 foreign policy.

19 This means that we are often operating in areas of
20 conflict and contingencies. So, we as an agency and I
21 personally recognize and support the emphasis on greater
22 accountability, sustainable results, and compliance that the
23 provisions have brought forth.

24 I came into my current position with more than 25 years
25 of interagency contracting experience including in

1 contingency operations. I started my career with the
2 Department of Defense; and since joining the foreign service
3 in 1998, I have served in missions from Ghana to Peru to
4 Jordan and recently spent two years as the supervisory
5 contracting officer in Pakistan.

6 I have personal experience with many of the real issues
7 facing our program offices today and fully support the
8 intent and spirit of this legislation.

9 Over the last several years, USAID has undertaken an
10 aggressive series of reforms called USAID Forward. I am
11 proud and honored to say that many of our USAID Forward
12 efforts are in line with your legislation. The provision
13 provide solutions to some of the most important issues that
14 we continue to face in our engagements in Afghanistan and
15 Iraq and foster a better environment for contingency
16 contracting in the future. In fact, we have proactively
17 implemented many of these reforms over the last few years.

18 The last time USAID appeared before you we told the
19 Subcommittee we were exploring ways in which we could
20 strengthen the independent authority of our agency
21 suspension and debarment official. While our current
22 structure meets the requirements of the provisions, USAID is
23 transferring the duties out of the procurement office to a
24 senior official within the Bureau for Management.

25 Additionally in 2011, Administrator Shah issued the

1 USAID sustainable guidance for Afghanistan aimed at ensuring
2 programs are sustainable and closely aligned with U.S. and
3 Afghan national priorities.

4 We are conducting regular reviews of our projects and
5 have taken actions to cancel projects where necessary
6 including some infrastructure road programs like the Bamyan-
7 Dushi Road in Afghanistan.

8 We also have modified some projects midway to increase
9 their sustainable results while preserving the existing
10 investment of American taxpayer dollars.

11 The bottom line is that we are learning from the past
12 and leveraging lessons from Iraq and Afghanistan to build a
13 stronger foundation for effective, accountable contracting
14 practices.

15 Sustainability is undoubtedly one of the greatest
16 challenges we face during a time of war or conflict.
17 However, we as an agency have a core belief that it is
18 imperative for not only contingency operations but for all
19 of our operations. It is one of the key pillars of USAID
20 Forward.

21 It is also a focus area of the agency's new senior
22 management accountability review process in which all new
23 awards at the \$25 million level will be validated by an
24 Assistant Administrator to ensure the project meets federal
25 accountability criteria including a demonstrated commitment

1 to sustainable results. Additionally, the Administrator
2 himself will provide the final authorization to make an
3 award at or above \$75 million.

4 USAID has also developed for the first time ever a
5 corporate level acquisition and assistance plan that allows
6 us to see all procurements across the agencies worldwide
7 operations. This plan is has helped create transparency
8 throughout the agency and has contributed significantly to
9 streamline, more effective implementing mechanisms.

10 USAID continues to be a world-class development agency
11 and is proudly taking actions to implement reforms to
12 strengthen our contracting practices.

13 With regard to your specific legislation, my written
14 statement details the actions we are taking as an agency to
15 implement them, and I am happy to address any particular
16 section you like.

17 I want to thank you for this opportunity to discuss
18 these actions and to receive input from you and your staff.
19 We are all working towards the same goals to increasing
20 accountability, sustainable results, and compliance across
21 the spectrum of not only contingency contracting but all
22 government contracting.

23 Thank you again and I look forward to our discussion.

24 [The prepared statement of Mr. Djahanbani follows:]

1 Senator McCaskill. Thank you very much. Let me start
2 before I begin asking questions and a knowledge that
3 everyone is making progress. I mean, these hearings, as you
4 all are painfully aware from my perspective, are all about
5 making a point and holding your feet to the fire and so my
6 questions, some of them are going to be tough but I did want
7 to acknowledge at the beginning of the questioning that we
8 are making progress.

9 It is much better than it was in 2007 in every single
10 one of your agencies but I have to start with obviously the
11 awkward situation that I find myself in that, having been
12 reassured by the Defense Department over and over and over
13 again that sustainability is always considered in, you know,
14 I mean, when we argued with them about what kind of
15 sustainability analysis, oh, I was reassured, oh, we always
16 do sustainability.

17 Well, clearly we have a brand-new building that the
18 right-hand did not know what the left-hand was doing or,
19 even worse, the right-hand ignored the left-hand which were
20 the commanders on the ground.

21 Let me give you an opportunity, Mr. Ginman, to explain
22 how in the world this thing got built when the people on the
23 ground were saying stop, stop, do not do this, we do not
24 need it, and it will not be used.

25 Mr. Ginman. I do not have an explanation and it is

1 very difficult to sit here and say that at least as it is
2 reported and clearly we now have a building that is not
3 needed and I do not know how it will be finally disposed of.

4 I do know the Army has initiated a, it is called an
5 Army Regulation 15-6 Investigation to go through all of the
6 analysis and what it is; and until those facts are actually
7 reported out, until that investigation is done, I do not
8 think the Department is in a position to be able to state
9 unequivocally what actually occurred and why and who was
10 accountable.

11 But certainly in the face of being told we do not need
12 this and then proceeding, that just does not make sense.

13 Senator McCaskill. Especially when you look at the
14 time period that passed before the contract was given and if
15 you get a heads-up in May of 2010 that the building is not
16 needed and the contracts are not executed until the
17 following year, it really shows a systemic issue on this and
18 it is what I said about CERP and the son of CERP and, you
19 know, as you know, the Afghanistan infrastructure fund where
20 are we are doing this and frankly we have got the same thing
21 when we look at the Chemonics audit at AID.

22 You know, I think you probably know this without me
23 saying it that I am not going to stop on this until I know
24 who it was that failed to read the file or who it was that
25 said go ahead and let the contract without doing due

1 diligence about the necessity of the building.

2 And, by the way, the sad thing here is to most
3 Americans \$34 million sounds like a lot of money. You know
4 what I am worried about? I am worried about the people who
5 are making these decisions, this is chump change.

6 Mr. Ginman. Yes, ma'am.

7 Senator McCaskill. Who cares about the \$34 million; it
8 is only \$34 million.

9 Mr. Ginman. What I do know is over the course of the
10 last 18 months the theater has done four separate reviews of
11 the MILCON budget, has taken either descoped or canceled
12 \$1.4 billion worth of MILCON projects. That is somewhere in
13 excess of a hundred separate projects.

14 I also know that to CSTC-A NTM-A, the group that does
15 the procurements for Afghanistan, has taken two and a half
16 billion, has done a series of views and has taken two and a
17 half billion dollars out of that project, excuse me, totally
18 out of that project, and that General Dunford has kicked off
19 a fifth review once again in MILCON just to ensure that we
20 are not doing this.

21 So, how this one went through, I just, I cannot sit
22 here and give you an explanation.

23 Senator McCaskill. I am on the edge of my seat--

24 Mr. Ginman. Yes, ma'am.

25 Senator McCaskill. --to get this information. You

1 know, please explain to everyone that the more quickly we
2 can do this I think it is pretty important that we come up
3 with an answer to the question, how did this happen sooner
4 rather than later because of every day that passes that we
5 do not know the answer, it makes me very nervous that it is
6 happening in other places.

7 Mr. Ginman. I am told that the expected due date for
8 the report is somewhere in the next 30 to 60 days, to have
9 completed the analysis.

10 Senator McCaskill. Let me move over to Mr. Djahanbani.
11 I have read the Chemonics audit. Have you read it?

12 Mr. Djahanbani. Yes, ma'am.

13 Senator McCaskill. Do you think all the people that
14 work for you have read it?

15 Mr. Djahanbani. Yes, Madam Chairman, I am pretty sure.

16 Senator McCaskill. I worry that these audits do not
17 get read. You know, that was always something that bugged
18 me when I was doing audits that we worked very hard and one
19 of the goals, performance goals I had when I was an auditor
20 is how do we get people to read them.

21 When I read this audits, first of all, what actions
22 have been taken against this contractor for their failure to
23 cooperate with an audit?

24 Mr. Djahanbani. Madam Chair, we are taking the SIGAR's
25 concerns very, very seriously and we have recently received

1 this audit. The mission is revealing it very carefully
2 because again it is an odd situation that Chemonics that we
3 do business with would not want to cooperate with the
4 auditors.

5 So, Madam Chair, if you could, if I could get back to
6 you, our offices with your office, to understand the case,
7 to read it, and assess it, and understand the situation
8 because we are very concerned about this. If I may, it does
9 not pass the commonsense test at this point.

10 Senator McCaskill. Well, and I want to make sure that,
11 as we look at and I will spend more time on this in the
12 second round about the systems that we are trying to put in
13 place in terms of bad performance by contractors, debarment
14 and suspension, that a failure to cooperate with an audit
15 needs to be part of a bad performance. It needs to be taken
16 into consideration as to their future eligibility for
17 contracts.

18 The other thing I want to drill down on in this
19 particular contract is really the \$64 question about that
20 contract and that is, I would like to know from your agency
21 how much money have we spent trying to get the Afghanistan
22 people to quit growing poppy over the last 20 years?

23 How many billions of dollars have we spent trying to
24 move them off of poppy and what are the performance metrics
25 in that regard? How much success have we really had?

1 And, I am not really sure how building public parks
2 gets them off growing poppy which was part of this contract.
3 You know, I get distributing wheat seed and fertilizer is.
4 I get, you know, building an agricultural center and
5 teaching them ways to make money off of an agricultural
6 economy other than poppy.

7 But, you know, at what point do we throw in the towel?
8 I bet if we take a look at the amount of money we have spent
9 trying to get them off poppy over the last 20 years, I think
10 probably if we look at the numbers, I hope I will be
11 surprised that we had success but I think this may go under
12 the headline of how long we will hit our head against the
13 brick wall much to the detriment of the American taxpayer.

14 Mr. Djahanbani. Madam Chair, I would like to get you
15 the right numbers and if I may get those numbers for you for
16 the record I would like to do that.

17 Senator McCaskill. Okay. We will follow up on that.
18 Senator Johnson.

19 Mr. Djahanbani. Thank you.

20 Senator Johnson. Thank you, Madam Chair.

21 Mr. Ginman, you did realize that we were going to be
22 asking about that \$34 million building, correct?

23 Mr. Ginman. Yes, sir.

24 Senator Johnson. Did you make any phone calls prior to
25 this hearing to get prepared to answer the question?

1 Mr. Ginman. Yes, I did.

2 Senator Johnson. What did you learn other than you are
3 just going to take another 30 to 60 days?

4 Mr. Ginman. Well, so, I did learn there was an
5 investigation ongoing, that the findings of what was in that
6 investigation I do not yet have. They have not been
7 published.

8 Senator Johnson. Why does it take so long to get to
9 the bottom of something that in industry, trust me, if
10 somebody built a \$34 million building and I told them not to
11 build it and it still got built, I would know who made that
12 decision very quickly. I would know within a day. I would
13 know within a few hours. Why is it so impossible to get the
14 questions in the government?

15 Mr. Ginman. I guess I will step way back. Having been
16 a part of a Navy JAG manual investigation for a \$400,000
17 embezzlement in the dispersing office, it took us about 30
18 to 60 days to go through and actually go find the
19 individuals, many whom had left the ship, to be able to go
20 back to the whole thing, get all of that. So, many of the
21 people I am sure that they are now trying to figure out
22 where are they now, who are they--

23 Senator Johnson. There is a chain of command for this,
24 correct?

25 Mr. Ginman. Yes.

1 Senator Johnson. Okay. We will get into that later.
2 What we have is a basic lack of accountability in
3 government, and that is why it is so out of control. I
4 think, you know, quite obviously David Axelrod was right.
5 It is too vast, and that is a problem.

6 Mr. Kennedy, talk about accountability. Prior to
7 September 11, 2012 terrorist attacks in Benghazi, did you at
8 any time review the March 28, 2012 or July 9, 2012 cables
9 from Ambassador Cretz and Stevens requesting additional
10 security? Did you review those cables?

11 Mr. Kennedy. I believe I have--I believe I did,
12 Senator, I do not have my Benghazi documents here with me
13 what I can check--

14 Senator Johnson. You read those. Okay. Did you
15 discuss those requests with anyone, particularly did you
16 discuss those with Secretary Clinton, Cheryl Mills, Deputy
17 Secretary Nides or Deputy Secretary Burns?

18 Mr. Kennedy. No, sir.

19 Senator Johnson. So, those cables and that
20 information, those requests for security stopped with you?

21 Mr. Kennedy. I guess.

22 Senator Johnson. They went no further?

23 Mr. Kennedy. We review them, Senator. I always have
24 extensive discussions with my colleagues in the diplomatic
25 security service. If matters rise to the point where we

1 feel that we cannot mitigate and the risk based upon the
2 intelligence that is available to us, we act. For example--
3 Senator Johnson. You took that responsibility on
4 yourself then to deny those requests for additional security
5 even though we knew those security situations were
6 deteriorating.

7 Mr. Kennedy. First of all, Senator, the request in
8 several of those cases in those cables, if my recollection
9 is correct, and again I do not have them in front of me,
10 were talking about security in Tripoli, in Tripoli, not in
11 Benghazi.

12 We reviewed the situation very carefully and, as I
13 said, if we cannot mitigate the risk, just as we did in
14 Damascus, Syria, we will close the post and move on.

15 I will be glad to pull those cables as soon as I get
16 back to my office and--

17 Senator Johnson. We have them and we will submit them
18 for the record.

19 [The information follows:]

20 / SUBCOMMITTEE INSERT

1 Senator Johnson. On April 19, 2012, the State
2 Department responded to those requests. This cable informed
3 embassy Tripoli that the Department would continue to
4 withdraw security despite the ambassador's request.

5 Did you at any time review or approve that cable, the
6 April 19 cable that by the way more Secretary Clinton
7 signature?

8 Mr. Kennedy. Again, Senator, that cable, if my
9 recollection is correct, regards Tripoli, sir, our embassy
10 in Tripoli not the temporary mission facility in Benghazi.

11 Senator Johnson. In addition to the September 11 memo
12 which basically said that the State Department did want to
13 maintain a presence in Benghazi, did you at any time review,
14 authorize, or direct the deployment or redeployment of
15 diplomatic security agents in Libya prior to the September
16 11 terrorist attack?

17 Mr. Kennedy. Did I? No, sir, I did not withdraw any
18 diplomatic, I never directed the withdrawal of any
19 diplomatic security agents.

20 Senator Johnson. Did you at any time communicate or
21 confirm to the Defense Department that State Department
22 would not be needing the SST after August 2012, and if so,
23 when?

24 Mr. Kennedy. I did, sir. The SST was a Tripoli-based
25 detachment that had been sent into Tripoli when we went into

1 Tripoli. It consisted of eight shooters in effect plus
2 explosive ordnance detection people, aviation experts,
3 communications experts, medical experts, over the course of
4 our standing up the embassy in Tripoli. No relation at all
5 to Benghazi.

6 In the process of standing up our embassy in Tripoli,
7 the State Department replaced those individuals with State
8 Department personnel. We had sent our own medical
9 personnel. We sent in our own communications--

10 Senator Johnson. We will talk about why we are using
11 State Department rather than military personnel for those
12 types of situations.

13 What is the current status of the employees named in
14 the Accountability Review Board reports, specifically Eric
15 Boswell, Scott Bultrowicz, Charlene Lamb and Raymond
16 Maxwell?

17 Mr. Kennedy. They are on administrative leave.

18 Senator Johnson. And being paid?

19 Mr. Kennedy. Yes, sir.

20 Senator Johnson. Do we know what their next
21 assignments are going to be?

22 Mr. Kennedy. No, sir, we do not.

23 Senator Johnson. Were you fully aware of the
24 deteriorating security situation in Benghazi?

25 Mr. Kennedy. I read the material, Senator, but there

1 was no intelligence generated by either the State Department
2 or by any other of our partners in the U.S. government
3 agency, DOD or the intelligence community, that direct a
4 threat of that nature that appeared in Benghazi. There was
5 a rocket attack. There was a car bomb.

6 Senator Johnson. Why would we actually ramped down the
7 security in Benghazi when the people on the ground were
8 asking for additional security? Why would we do that?

9 Mr. Kennedy. Senator, we did not ramp down the
10 security in Benghazi. The examples you referred to earlier,
11 particularly the SST, were personnel assigned to the embassy
12 in Tripoli, not to the temporary mission facility in
13 Benghazi. So, we did not remove people from Benghazi.

14 Senator Johnson. What is the criteria the State
15 Department uses in contracting out security versus using
16 U.S. military?

17 Mr. Kennedy. It depends upon, it depends upon the host
18 nation approvals. It depends upon funds availability. It
19 depends upon the mission sets that are required.

20 Senator Johnson. During the Foreign Relations
21 Committee hearing when we were questioning Secretary
22 Clinton, there were certainly accusations that one of the
23 problems in Benghazi is the funds just simply were not
24 available. I mean, it is true that if the State Department
25 requests security from the military, they will provide that

1 security and it does not cost the State Department a dime,
2 correct?

3 Mr. Kennedy. That depends, Senator. Some military
4 support is provided on a reimbursable basis and some support
5 is provided on a non-reimbursable basis. It depends on the
6 situation. Sometimes we pay; sometimes we do not.

7 Senator Johnson. What would have been the case in
8 Benghazi?

9 Mr. Kennedy. I do not know because there was no
10 request.

11 Senator Johnson. You never requested it even though
12 the security situation was--

13 Mr. Kennedy. There was no request for military
14 personnel in Benghazi.

15 Senator Johnson. Thank you, Mr. Secretary.

16 Senator McCaskill. Senator Ayotte.

17 Senator Ayotte. I want to thank the Chair and the
18 Ranking Member for holding this important meeting. I want
19 to thank very much the witnesses for being here today.

20 Mr. Ginman, let me just start with particularly
21 contracting in Afghanistan and Section 841 provisions.
22 Senator Brown and I--I know you have worked on this issue
23 very closely--pushed to get the no contracting with the
24 enemy provisions in because one of the issues we have had in
25 Afghanistan, as I understand it, has been that some of the

1 money was flowing into the hands of insurgents. Is that
2 right?

3 Can you describe for me how 841 has been used
4 effectively to cut off funds to insurgents? And then again
5 Senator Blumenthal and I now have after a meeting I had with
6 Major General Longo in Afghanistan in July now have
7 provisions that will extend these authorities to the
8 Department of State and USAID.

9 So, I certainly will be asking both of you about that
10 and also making sure that we can drop the amount from the
11 threshold from 100,000 to 20,000.

12 So, can you talk to me about this issue, and I know
13 that this is a very important issue to me and I am hoping
14 that we will pass this legislation to further enhance these
15 authorities.

16 Mr. Ginman. So, it was, getting the legislation I
17 think two years ago now was important to us.

18 Senator Ayotte. Right.

19 Mr. Ginman. It has been used 11 times. Ten times with
20 subcontractors and one time with a prime to a total of
21 currently I believe \$31 million.

22 We have looked at both the legislation, your bill that
23 was submitted and then the revised Senate bill that was put
24 out and provided view statements. We are basically in
25 agreement with the legislation. We did offer and we have

1 worked with your staff to improve it.

2 I would say I have now read through the current Senate
3 provision and again from my personal perspective, since we
4 have not provided a Department view statement, I am in
5 agreement with what it says and where it goes. I would like
6 to continue to work with your staff.

7 I think there is one particular phraseology that limits
8 our ability to, in fact, void. It deals with head of
9 contracting activity and who has the authority.

10 But, other than that, we put in legislation asking for
11 841, and 842 I would also add is important to us in being
12 able to make it go, the access to records. The Task Force
13 2010, in order to be able to do the analysis and the
14 forensic work they do has got to be able to get to the
15 subcontractor records, and Section 842 gives us that
16 authority.

17 Senator Ayotte. Right.

18 Mr. Ginman. So not only do we need your bill but we
19 also need Section 842 extended as well.

20 Senator Ayotte. So, let me just ask certainly
21 Secretary Kennedy as well as Mr. Djahanbani, I apologize in
22 pronouncing your last name. These provisions that Senator
23 Blumenthal and I have introduced, essentially what they flow
24 from is that understanding that money, taxpayer dollars are
25 flowing to insurgents and our enemies and that the

1 traditional contracting rules that may work well in
2 Washington, that you need greater authorities to cut off
3 these funds sooner particularly in areas where there are
4 obviously wartime situations but also other contingency
5 situations around the world.

6 So, Mr. Kennedy, have you, I would like to ask you what
7 your position would be on extending these authorities to the
8 State Department because it seems to me when I look at what
9 the SIGAR has said, they have said it is important as well
10 as the Commission on Wartime Contracting has identified this
11 as an area where you also should have this authority to cut
12 off funds sooner.

13 So, what is the State Department's position on this?

14 Mr. Kennedy. I have not seen the exact nature of the
15 legislation. I know my colleagues are meeting with your
16 staff, Senator. But, I do not want one penny of U.S.
17 government money to go to any, any terrorist; and therefore,
18 an independent grant of authority to the Secretary of State
19 to be able to cut off a contract of ours where it is
20 determined that money is going to terrorists, I totally and
21 completely support that.

22 I cannot add, since a year ago because of parallel
23 legislation coming, that came in one of our appropriations
24 bills and in one of the titles on that, we have been running
25 pilot vetting programs of this nature both in five countries

1 and a separate program in Afghanistan.

2 So, we are on this, but as you say, the ability to cut
3 off a contract immediately, if you gave me that authority I
4 would gladly take it.

5 Senator Ayotte. And, would you also like to comment
6 with regard to USAID what their position is? I do not
7 remember the individual I met with but when I met with Major
8 General Longo in Afghanistan in January there was also a
9 representative of USAID there, and I apologize for not
10 having his name right now but he said to me that this was
11 just as much an issue for USAID, particularly of making sure
12 that taxpayer dollars did not get in the wrong hands.

13 Mr. Djahanbani. Thank you, Senator. USAID agrees that
14 preventing funds from going to terrorists is, of course, the
15 highest priority for us, and that is the reason we have such
16 a robust vetting system in Afghanistan.

17 The Administration is still reviewing your legislation
18 and does not have a formal position on it yet.

19 We believe that we do have strong authorities in place
20 currently and we would like to examine that legislation more
21 to be able to understand the differences between the
22 authorities that we currently have. However, we are looking
23 forward to working with your staff on the legislation,
24 Senator Ayotte.

25 Senator Ayotte. Well, do you vet existing contractors

1 and existing subcontractors, USAID?

2 Mr. Djahanbani. We do in Afghanistan.

3 Senator Ayotte. And do you compare it to known
4 intelligence with insurgents?

5 Mr. Djahanbani. There is a very rigorous process,
6 Senator, that we go through.

7 Senator Ayotte. Well, if it is so rigorous and you
8 think you have the authorities you have now, then why did
9 the Commission on Wartime Contracting find that Afghan
10 subcontractors on a USAID community development program in
11 Kunar province were paying up to 20 percent of the total
12 subcontract value to the insurgents for, quote, protection
13 and that USAID Inspector General estimated that over \$5
14 million of program funding was at risk for falling into the
15 insurgents hands.

16 In fact, one of the recommendations that comes from the
17 Wartime Commission on Contracting is that there be greater
18 authorities given not only that DOD has requested but this
19 also apply across the State Department and USAID.

20 So, I find it hard to believe that you have the
21 authorities you need right now to address this problem.

22 Mr. Djahanbani. Senator, we would like to know
23 particularly what kind of impact this will have on what we
24 are currently doing; and if it is and additional tools that
25 we will be able to use and we do not have those authorities,

1 we would gladly go along with it. But we would like to look
2 at the differences between the authorities right now.

3 Senator Ayotte. I just want to correct. It was the
4 SIGAR who said that not the Commission on Wartime
5 Contracting but the principle is the same.

6 Mr. Djahanbani. Yes.

7 Senator Ayotte. There seems to be a real urgency. I
8 know my time is up but the fact that you come to this
9 hearing and not be able to have reviewed this legislation
10 which has already been incorporated and defense
11 authorization has been pending for a while, we have been
12 communicating with your staff about, you know, this very
13 much concerns me that you would not want the authority to
14 cut off funds to our enemies.

15 So, I just feel like to not come to this hearing and
16 have an answer for me that you have a viewpoint on this it
17 really bothers me. So, I will be following up on this and I
18 expect an answer. I will be submitting a question for the
19 record and I would be shocked if you did not want this
20 authority.

21 Mr. Djahanbani. Senator, I would like to say again
22 that we do have a wide variety of authorities at our
23 disposal right now. We have been using them quite
24 considerably for many, many years and we may want this in
25 our toolbox. It is just that we are looking at it and we

1 will work with your staff.

2 Thank you very much.

3 Senator McCaskill. Senator Coburn.

4 Senator Coburn. Thank you for having this hearing.

5 Mr. Ginman, explain to me how we got in the problems
6 with Camp Leatherneck. Would you kind of walk me through
7 how we built a base that the Marines did not want; and they,
8 three years prior to its completion, had communicated that
9 and yet we continue to do it. I want to be taught please so
10 I can understand what happened.

11 Mr. Ginman. So, Senator, as I said before, I do not
12 know all of the details. I do know that an investigation
13 has started at least as the SIGAR letter to the Defense
14 Department reads.

15 Certainly in 2010, a Marine general said I do not need
16 this building. As Senator McCaskill said in our opening
17 remarks, construction started in 2011. I believe it was
18 completed in 2012.

19 At least on the face of it, I have no ability to sit
20 here and give you an answer on how that occurred or why it
21 occurred. I do know that I need to let the investigation
22 run its course and understand all of the details, you know,
23 so that we can determine, as Senator Johnson said, who, in
24 fact, made the decision and why did it occur. At least from
25 my perspective at the moment it defies logic.

1 Senator Coburn. Okay. One of my observations, having
2 done this for a number of years now, is we get hung up on
3 process which is important but we do not look at outcomes.

4 Do people in the Pentagon or at USAID or at the State
5 Department, is there someone in any of those three
6 organizations when something is obviously going in the wrong
7 direction that has the authority to say stop? Maybe not a
8 permanent stop but stop. Let us stop. Where is that in the
9 Pentagon? Where is that in the Department of State and
10 where is that at USAID?

11 Mr. Ginman. I will at least take a shot from a DOD
12 prospective.

13 Senator Coburn. Thank you.

14 Mr. Ginman. I would like to think that from the chain
15 of command that anybody who is in that particular chain of
16 command and any decisions made if they think it is wrong has
17 the ability to say stop, do not do that.

18 I can tell you at least from a contracting perspective
19 in the areas for which I am expressly responsible or the
20 person who held my job before Mr. Assad and who is now the
21 director of defense pricing, when we find it contracts that
22 clearly are inappropriate, we do say stop.

23 I believe Mr. Kendall in his role as AT and L, the
24 Under Secretary of Defense for AT and L has said stop on a
25 variety of occasions.

1 Again, it is a leadership issue. Do we make mistakes,
2 oh, certainly.

3 Senator Coburn. I am not critical of mistakes being
4 made. Everybody does that.

5 Mr. Ginman. Well, some of them you have to wonder.

6 It is much like fraud. We have the recent newspaper
7 articles where we just sentenced the individual to 20 years.
8 At the end of the day, we attempt to have separation of
9 powers so the person who has got the requirement, the person
10 who places the contract, the person who oversees the
11 contract, and the person who pays it are, in fact, separate.

12 You know, from time to time in any number of areas that
13 we wind up collapsing those and it increases the risk when
14 we do so. You know, when people do not follow an ethical
15 compass, bad things are going to happen, and hopefully we
16 catch it.

17 I think the IG, the SIGAR, the DOD IG certainly have
18 helped us find those; and when they do, I do think we take
19 action. But, from my standpoint, sir, it is a question of
20 leadership and the people that are in those positions when
21 they find the things, if they had the power to say stop or
22 at least take a pause and say that I believe that we, in
23 fact, do that.

24 Senator Coburn. Any comments from you?

25 Mr. Kennedy. If I could, Senator, we also have

1 multiple points in the State Department. If you look at our
2 command structure overseas, an ambassador, a deputy chief of
3 mission, the management officer which is the senior
4 operating officer, if any of them see something that is
5 going wrong, they certainly have the authority to pause the
6 situation and then refer it and refer it to Washington and
7 in Washington there is the executive director, the Chief
8 Administrative Officer, the Bureau Deputy Assistant and
9 Assistant Secretary and me.

10 We get all the time material that comes in from an
11 ambassador saying we were going on a direction, the
12 situation has changed politically, economically,
13 structurally, we need to not do something that is proposed.
14 And, they send in a justification and unless there is some
15 overarching argument that they are not aware of, we stop
16 them. We make changes in our program plans all the time
17 when the circumstances that hopefully said that this is the
18 right decision in the first place then we make changes, sir.

19 Mr. Djahanbani. Sir, I am very, very passionate about
20 this. When I was in Pakistan the two years that I was
21 posted there, the Inspector General came to me and they
22 mentioned they had a situation. All I did was I looked at
23 in the information and there was no doubt in my mind that
24 that project had to be ended and I ended it right there. I
25 went to the mission director. I told him the reasoning

1 behind it and it was terminated.

2 That is how serious we take this situation, sir.

3 Senator Coburn. Let me follow up. We have built a
4 couple hospitals in Afghanistan through USAID and the whole
5 goal is so that they will be able to sustain them. But, the
6 cost to run these hospitals is about four or five times what
7 the cause is to run what they are replacing.

8 How does that fit with the model of sustainment when
9 they are not going to have the funds to continue to run
10 those hospitals?

11 Mr. Djahanbani. Dr. Coburn, regarding these two
12 hospitals, I have been briefed on them and my understanding
13 is that the Ministry of Health has, in writing, have told us
14 that they are going to fund these two hospitals for them to
15 be sustainable. That is the information that we have.

16 Senator Coburn. All right. So, let us assume that is
17 right. The question I would have in terms of health care
18 for Afghans is, you know, not making the same mistakes we
19 make in our country. And so, if we add sophistication, one
20 of the things that Dr. Shah has been so great at is
21 downgrading requirements so that we meet needs but we do not
22 necessarily meet them the same way we meet them here,
23 whether it is resuscitating babies or whatever it is.

24 So, we have designed infrastructure for the Afghanis at
25 a level that kind of goes against what he talked about in

1 terms of philosophy there. So, we are building two new
2 institutions there that from somewhere in the Afghani
3 government they are going to be stealing the money from
4 somewhere else to maintain a hospital at our level of
5 expertise rather than at the level of expertise that they
6 need.

7 How did we get so crosswise with what Dr. Shah wants to
8 do in terms of meeting needs but not doing it under the
9 level of sophistication that we do?

10 [Pause.]

11 Mr. Djahanbani. Dr. Coburn--

12 Senator Coburn. I mean, that is the reason why these
13 are going to cost that much.

14 Mr. Djahanbani. Sure, sure. Again, our project design
15 process that we go through is rigorous and we make sure that
16 all of the criterias necessary in the project designs are
17 incorporated from sustainability to cost effectiveness, and
18 all of our projects go through that process.

19 So, I will be glad to look into this matter and get you
20 more information for the record. But, I would stand by the
21 project design process we go through which is very, very
22 robust and incorporates all the necessities like
23 sustainability and risk assessments and all that is being
24 done throughout that process.

25 Senator Coburn. I know I am over time and I apologize,

1 but there is a problem in terms of sustaining these two
2 hospitals, is there not? There is going to be a problem.
3 Even though they may have committed to pay for it for the
4 first year or two, the fact is there is going to be a
5 problem.

6 So, if we have a rigorous standard in terms of
7 sustainability and yet there is a problem with
8 sustainability, either there is not a problem with
9 sustainability or there is not a rigorous standard, and that
10 is my point because I think one of the great things Dr. Shah
11 brings to the USAID is practical common sense on trying to
12 accomplish outcomes rather than get tied up in the mess of
13 requirements, let us treat people's illness and prevent
14 disease rather than transfer our cost structure to them.

15 So, I yield back.

16 Mr. Djahanbani. Dr. Coburn, in fact, just to follow up
17 on what you mention about Dr. Shah, what we implemented just
18 last week is an accountability policy whereby all assistant
19 administrators have to review all requirements that go above
20 \$25 million to make sure that the seven qualifying factors
21 which sustainability is one major part of it is included in
22 those requirements.

23 And, Dr. Shah himself will be reviewing anything above
24 the \$75 million. As you said, this is very important to us.

25 Thank you, sir.

1 Senator McCaskill. I am going to try to go through
2 hopefully in a fairly quick fashion, and I will take another
3 round if I need to on various sections of the war
4 contracting reforms that have enacted into law and asked
5 some questions about them.

6 I will start with Section 844. All of you are using
7 the SPOT database, and I try to always not speak in acronyms
8 but bear with me when I talk about that acronym. We have
9 done hearings on SPOT and the other, I forget acronym, it is
10 five letters and ends with next-generation. What is it?

11 Mr. Ginman. FPDSN.

12 Senator McCaskill. There you go. I knew you could
13 speak the language. It is required of you at the Pentagon.

14 You know, when we have looked at this, the SPOT has
15 really been underutilized and very inaccurate. So, let me
16 ask all of you some very quick questions.

17 Do you believe you have the capability now to collect
18 and report on personnel and contracts on any given date?

19 Mr. Ginman.

20 Mr. Ginman. Yes.

21 Senator McCaskill. Mr. Kennedy?

22 Mr. Kennedy. Yes.

23 Mr. Djahanbani. Yes.

24 Senator McCaskill. What is the total number of
25 contracts you have entered into.

1 Mr. Ginman.

2 Mr. Ginman. So, from October 12 through May 13, we
3 have done 207.1 thousand actions in Afghanistan and Iraq to
4 a total of \$7 billion. It was 1,000,293 transactions in
5 fiscal year 2012 to a total of 18.2 billion.

6 Senator McCaskill. I would like to have that document.
7 It looks like you got it laminated for me. Thank you.

8 Mr. Ginman. I am happy to share it with you.

9 Senator McCaskill. So, you can also give me the value
10 of those contracts. Can you give me the total number of
11 contractor personnel you have right now?

12 Mr. Ginman. I think the actual personnel I have was
13 through April.

14 Senator McCaskill. What is that number right now?

15 Mr. Ginman. Today in Afghanistan, this is through
16 April, 107,796.

17 Senator McCaskill. Do you have total number of
18 security personnel?

19 Mr. Ginman. 17,993.

20 Senator McCaskill. How about contractor casualties?

21 Mr. Ginman. I do not have that on this list. We have,
22 in fact, modified spots so that it can count for casualties,
23 both wounded and killed. That particular part of the
24 database is probably the area that we still need the most,
25 you know, the most work to get its quality and its state of

1 capability up.

2 Senator McCaskill. I do not think anybody realizes
3 that your testimony just now in my world, balloons should
4 have dropped from the ceiling, because when I started in
5 this, no one knew, no one knew any of that. So, that is a
6 really good sign.

7 Now, what we do with that becomes even more important.
8 Once we get reliable data, then all the excuses about
9 failure to oversee kind of become even more lame.

10 Secretary Kennedy, do you have the same kind of data
11 available to you?

12 Mr. Kennedy. I brought our fiscal year 2011 and fiscal
13 year 2012 totals with me, Senator.

14 Senator McCaskill. Okay.

15 Mr. Kennedy. I can easily gin up an fiscal year 2013
16 to date and send you but I did not bring a snapshot today.
17 We can hit the machine and make it talk to us but I can give
18 you fiscal year 2011 and fiscal year 2012--

19 Senator McCaskill. Broken out by security personnel
20 versus contractors?

21 Mr. Kennedy. For example, in fiscal year 2012, the
22 total number of contractor personnel for the Department of
23 State in Afghanistan was 1878, and 809 were performing
24 security functions. I also have those for Iraq.

25 Senator McCaskill. And AID?

1 Mr. Djahanbani. Madam Chair, the Global Acquisition
2 Assistance System, this is how we award all of our
3 requirements in the agency. 80 percent of all the funding
4 goes through this mechanism and it has direct interface with
5 FPDSNG and the FADS. The FADS collect all the assistance
6 data.

7 Madam Chair, we will be glad to provide you all those
8 numbers including the number of personnel, for the record.

9 Senator McCaskill. Section 846. This is the
10 requirement you do risk assessments and risk mitigation for
11 contractor support including those functions closely
12 associated with inherently governmental functions.

13 Even though it is not required at this time, have you
14 perform risk assessments for Afghanistan?

15 Mr. Ginman.

16 Mr. Ginman. So, at least as you asked that question, I
17 do not think we can tell you we have done a risk assessment.
18 We do routine risk assessments with the plans on going
19 forward when people are looking at do I do this through
20 contract, do I do it with civil servants, or do I with
21 military. As those plans are being put together in theater,
22 yes, they review for risk.

23 Senator McCaskill. And, are you all in the process of
24 preparing for Section 846 where you will have that risk
25 assessment?

1 Mr. Ginman. The two sections of 846, at least as I
2 understand them, the first piece is as we are doing planning
3 to consider risk and we do that today--I cannot do this off
4 the top of my head.

5 It is covered in, the CJCSM 4301 is an instruction that
6 talks to how we do planning and put in those plans. In it,
7 risk assessment is covered.

8 The second half is when we go in--so, that is one just
9 in the plan. The other is when we go into a agency
10 operation within the 60 days to have done a risk assessment,
11 and we will do that as well.

12 Senator McCaskill. You know, and this is really a
13 kissing cousin to Senator Ayotte's legislation and language
14 that we have tried to adopt in the NDAA this year moving
15 forward based off your legislation because if you do the
16 right risk assessment, you do not end up having to pay off
17 the bad guys because you make a determination that we are
18 going to be, in fact, enhancing our enemy if we tried to do
19 this particular project in this security environment.

20 I mean time after time if you look at the failures, it
21 has been because they have, and by the way the can-do
22 attitude of the military and AID and the State Department is
23 something that we are all proud of as Americans. There is
24 nothing that we, quote-unquote, can not do.

25 On the other hand if we think we can build a highway

1 through the middle of the territory where everything is
2 controlled by the bad guys and we think we are going to do
3 that without getting contractors shot, without paying off
4 the Taliban, that is a dumb mistake, and we have done that
5 with a highway in Afghanistan.

6 So let me ask you, Secretary Kennedy. What about the
7 risk assessment from your perspective? I think that
8 highway, I cannot remember if that is Defense or State.
9 Which one is it? It is State.

10 Mr. Kennedy. I will have to go back and check.

11 Senator McCaskill. AID. Not you; it is him.

12 [Laughter.]

13 Mr. Kennedy. All right. I miss a lot of things. I
14 have not missed a highway recently.

15 Senator McCaskill. Neither has anyone else by the way.

16 Mr. Kennedy. Three points, ma'am. Vetting. We have
17 been engaged in a pilot program both in Afghanistan and in
18 five other countries in an extensive vetting operation so we
19 are piloting that right now. It has been in place about a
20 year now. We have an office that does vetting in six
21 countries including Afghanistan.

22 We have put into place a programmatic request for
23 contracting services, a template that people must do which I
24 think goes to your point, coupled with when the NDAA passed,
25 one of the working groups we did is set up a contracting

1 risk assessment organizational briefing structure, and we
2 are working through that right now.

3 So that should we be faced with the State Department
4 having to go into a contingency operation in Xanadu or
5 Shangri-La, we would use a structure like this. My plan is
6 to set up a small unit responsible for this.

7 Senator McCaskill. Mr. Djahanbani.

8 Mr. Djahanbani. In 2010, we basically had the A-3
9 initiative which was implemented in Afghanistan. It is
10 broken down into three different areas.

11 In terms of award mechanisms, we are utilizing awards
12 that provided the most visibility on project costs. For
13 example, cost reimbursable contracts and we are limiting the
14 subcontracting to two levels only.

15 We are conducting the partner vetting. We have a very
16 robust partner vetting system in Afghanistan. In addition
17 to that, regarding the financial controls which are very
18 important, we aim to audit 100 percent of all locally
19 incurred costs as extra measures to identify fraud, waste,
20 and abuse.

21 Senator McCaskill. I do not mean to cut you off
22 because I have gone over my time and I want to give my
23 colleagues a second round and we are going to have to start
24 votes here in 20 or 25 minutes. Here is what I would like
25 for all of you.

1 I do not quarrel that you all are beginning to put into
2 place the systems that would try to embrace what we are
3 trying to get at in the war contracting reforms. I get it
4 that we are doing councils and we are doing working groups
5 and we are doing regs and we are doing, you know, all of
6 that and, you know, I know it is important but sometimes it
7 feels blah blah blah blah blah.

8 And so, what I would like to hear from all of you is I
9 need you to try to find a project you have stopped because
10 of risk assessment. I need you to bring to me someplace
11 where somebody was going to build something or do something,
12 not because of sequestration, not because we cut your money,
13 but because based on a risk assessment you decide, you know,
14 we are going to have to pay off the bad guys to do this or
15 there is no way they can sustain this or this is a bad idea
16 because, you know, a water park in Iraq, you know, which is
17 now crumbling or the power grid in an area that is going to
18 get blown up, I need some success stories here.

19 I need you to tell me some places you have done that,
20 and I will promise you this. If you can bring me some
21 success stories where you have cut off projects because you
22 appropriately evaluated both risk and sustainability, I will
23 make you the stars of my website for as long as you want to
24 be up there. I will herald you. You know, I will actually
25 send balloon bouquets. They will not drop from the ceiling

1 but that is what we are looking for here.

2 We are looking for a sense that all of this work is
3 resulting in a change of culture; and if we do not get that
4 change of culture, I mean, I have got to tell you guys you
5 are going to be here every six months until Missourians kick
6 me out of this place or I decide I have had enough, and at
7 this point I am not sure which is going to come first.

8 So, I will now turn it over to Senator Johnson.

9 Senator Johnson. Thank you, Madam Chair. I would like
10 to go back to security contracting because I have to admit
11 particularly in war zones it has always really puzzled me
12 why we would not use the finest military force in the world
13 in those individuals.

14 So, both for Mr. Djahanbani and Secretary Kennedy, do
15 you have a metric in terms of what the cost is for using
16 U.S. military personnel versus contracting those security
17 forces. I mean cost per person, cost, you know, is there
18 some metric?

19 Mr. Ginman. I do not have that off the top of my head
20 to be able to say a cost per metric. You know, the
21 combatant commander makes his decisions on when do I want,
22 you know, do I want somebody, do I want to use a soldier,
23 sailor, airman, or marine standing in a post at gate that is
24 interior or do I want to do that with a contractor. But the
25 actual number is associated with that I do not know.

1 Senator Johnson. But would we not really take a look
2 at the cost of that though? I mean, from the Defense
3 Department standpoint in terms of us having to deal with all
4 these deficits and the cost of the things, would we not make
5 the decision based on, you know, this is costing us two or
6 three times to contract that service versus using the finest
7 among us, the U.S. military personnel? We do not even look
8 at that?

9 Mr. Ginman. Sir, I guess I do not honestly know the
10 answer to the question. I will have to get it for the
11 record.

12 Senator Johnson. Secretary Kennedy, how does the State
13 Department evaluate that?

14 Mr. Kennedy. Well, first of all, Senator, I did run
15 some numbers. These are, I will admit I am not going--

16 Senator Johnson. That is fine. I like ballparks.

17 Mr. Kennedy. They are ballparks. We are currently at
18 a number of the high threat posts that the State Department
19 has designated a principal concern, we are spending about
20 \$87 million on contracted security, and that includes
21 American and local staff.

22 If we replaced that \$87 million entirely with
23 contractors, it would be \$4.8 billion, if we went from a mix
24 of Americans and contractors, 4.8 billion.

25 If we used the military--and I have not had a chance,

1 this is data that is publicly available--the cost is either
2 \$3 billion or \$9 billion; and the distinction is the
3 military has a planning structure, and I defer to my
4 colleagues, that for every soldier who is engaged there is
5 also two other soldiers who are coming off of mission and
6 going into retraining or in prep to take the mission. So
7 that in effect you have three divisions, one just come out
8 of Iraq, one in Iraq, and one getting ready.

9 So, you can see the difference between \$86 million and
10 \$3 billion for the military is a serious fiscal
11 consideration.

12 Senator Johnson. I have to admit this does not make
13 much sense to me, and then both Dr. Coburn and I have an
14 accounting background. So we really, I would suggest we
15 really need a pretty detailed evaluation studying in terms
16 of the cost of contracting versus using military personnel.

17 Mr. Kennedy. Senator, could I add just one thing?
18 There is a General Accountability report on this matter
19 which I did not bring with me.

20 Senator Johnson. Okay.

21 Mr. Kennedy. But I will be glad to get to you--

22 Senator Johnson. I would appreciate that.

23 Mr. Kennedy. --and the committee staff the citation
24 for the General Accountability report.

25 Senator Johnson. Secretary Kennedy, have you seen this

1 January 2013 report from the project on Government oversight
2 on Kabul embassy security?

3 Mr. Kennedy. Sir, I have.

4 Senator Johnson. Were you disturbed by the report, as
5 disturbed as I was?

6 Mr. Kennedy. I am disturbed by anything that I read
7 and then I go and check the facts, and I am much less
8 disturbed than I was because the material that they reported
9 I find to be sensationalized, if I might use that word, and
10 I would be glad now or at your convenience or with your
11 staff to go through, in effect paragraph by paragraph--

12 Senator Johnson. Well, we do not have time here. I
13 would appreciate your coming on over to my office and I
14 would like to walk through because I ran operations
15 continuing shift and I am very sensitive to how you can work
16 individuals so they are effective.

17 And, in this report they are talking about the
18 contractor, their guards working 72 hours per week when the
19 State Department guidelines would be 36 to 42 hours per
20 week. Right there that concerns me if that is true. Would
21 you dispute that?

22 Mr. Kennedy. I absolutely dispute that. I absolutely
23 dispute that.

24 Senator Johnson. Okay.

25 Mr. Kennedy. And if I could add one just contextual

1 matter with your permission, Senator.

2 Senator Johnson. Sure.

3 Mr. Kennedy. Our embassy in Kabul, as you correctly
4 state, is under very high threat. There have been to direct
5 attacks on our embassy compound in Kabul during the tenure
6 of this current contractor. Both of those attacks were
7 rebuffed and the contractor, along with the diplomatic
8 security colleagues there performed superbly.

9 Senator Johnson. Okay.

10 Mr. Kennedy. And so part of it is the proof is in the
11 pudding. We were attacked and rewarded off those attacked
12 with no injuries to U.S. government personnel on our
13 compound.

14 Senator Johnson. Okay. Well, again I would appreciate
15 sitting down talking with you because this is very
16 disturbing, particularly in light of Benghazi.

17 By the way, I recognize you were not ready to talk
18 about those cables but just to correct the record all three
19 of those cables do mention specifically Benghazi. They are
20 not just about Tripoli. It is about the temporary duty
21 diplomatic security core.

22 Mr. Kennedy. I will be glad to come up and again,
23 Senator, go over those with you or your staff because the
24 cables have both Tripoli and Benghazi in them. Tripoli
25 asked for certain things. Benghazi asked for certain

1 things, and we met those requirements.

2 Senator Johnson. Who did make the decision to ramp
3 down security in Benghazi, though? Where did that decision,
4 where was that made?

5 Mr. Kennedy. There was no decision, Senator, to ramp
6 down security in Benghazi.

7 Senator Johnson. Certainly not to keep the SST, the
8 security support team that was withdrawn.

9 Mr. Kennedy. That was a Tripoli-based outfit that was
10 never assigned to Benghazi. Nor was it ever proposed to the
11 State Department or any one else that that unit be shifted
12 from Tripoli to Benghazi.

13 Senator Johnson. Who made the decision never to fully
14 ramp up the five requested temporary duty diplomatic
15 security personnel?

16 Mr. Kennedy. There was a request for five in Benghazi.
17 The request from the Department was give us your needs
18 assessment. What would those five individuals do?

19 The needs assessment came back. We would like three
20 diplomatic security special agents. We want one driver, and
21 we want one which is we called Cryptoguard. We sent, for
22 the Cryptoguard we sent out an information technology
23 professional and we got drivers.

24 So, what they wanted was three security officers plus
25 two others, and we had three security officers there to meet

1 their request, Senator.

2 Senator Johnson. Just one final question because I
3 have heard is rumored. Is it true that Secretary Clintons
4 certainly had a goal of setting up a permanent presence in
5 Benghazi, and that was one of the things she talked to
6 Ambassador Stevens about before giving him the job? Did you
7 ever talk to her about that?

8 Mr. Kennedy. I had one or more conversations with the
9 secretary and there was no decision, no decision had been
10 made. I saw that same report that you did, Senator.

11 Senator Johnson. Maybe not a decision but was there a
12 desire to do so?

13 Mr. Kennedy. No decision had been made but the point
14 is when Chris Stephens was there, the fiscal year was ending
15 in 19 days. There is no way in the bureaucracy both of the
16 State Department and our requirements for Congressional
17 notification when you establish a permanent post or
18 reprogram money, there was no way that was going to be done
19 in 19 days.

20 Senator Johnson. But again, no decision was made but
21 did you ever talk to Secretary Clinton about setting up a
22 permanent presence in Benghazi?

23 Mr. Kennedy. That was obviously an option but no
24 decision had been made.

25 Senator Johnson. Okay. But you did discuss that with

1 Secretary Clinton?

2 Mr. Kennedy. I had one discussion about this is
3 whether to continue the temporary operation there and we
4 continued the temporary operation. That was the decision
5 made at that time.

6 Senator Johnson. Okay. Thank you, Mr. Secretary.

7 Mr. Kennedy. Certainly.

8 Senator McCaskill. Senator Ayotte.

9 Senator Ayotte. Thank you, Madam Chair. I really
10 appreciate your passion for these issues of contracting in
11 Afghanistan and elsewhere, and I would be happy to post
12 things on my website as well praising them for stopping
13 projects.

14 I wanted to follow up, first of all, particularly with
15 Secretary Kennedy and Mr. Djahanbani. Can you pronounce it
16 for me? I apologize. I want to make sure I get it right.

17 Mr. Djahanbani. Mr. Djahanbani. Silent in "D".

18 Senator Ayotte. Thank you, Mr. Djahanbani.

19 General Dunford when he testified before the Senate
20 Armed Services Committee in April has said that he believes
21 it is critical that the State Department and USAID have the
22 same authorities to cancel contracts as the Department of
23 Defense, and he also said that expanding that authority
24 would include, to include non-DOD organizations makes a lot
25 of sense.

1 So, word from the ground and I am hoping that you will
2 look at that very carefully. Also, I know Mr. Ginman has a
3 lot of opinions and experience with this issue. So, I hope
4 that we can have this consistency across agencies when we
5 are all working together, and it is obviously the three
6 agencies are working together on some of these projects in
7 Afghanistan that you have already been questioned about.

8 Mr. Kennedy. Senator, as I said, I like the Secretary
9 of State to have all the same authorities as the Secretary
10 of Defense.

11 Senator Ayotte. Great. Thank you very much; and by
12 the way, as Mr. Ginman talked about, this authority in its
13 initial inception as allowed the Department to stop
14 contracting with certain contractors and subcontractors.

15 So, while I think we can do a lot more, the initial run
16 of it has been effective and certainly there is more we can
17 do if we give you greater authority.

18 I wanted to follow-up, Secretary Kennedy, on some of
19 Senator Johnson's questions. Here is what is bothering me
20 about the attack on our consulate and the prior cable.

21 So, I also serve on the Senate Armed Services
22 Committee; and in February of this past year, General
23 Dempsey as well as Secretary Panetta testified about the
24 attack on the consulate in Benghazi before that committee;
25 and both of them testified that they were aware of the prior

1 cables, particularly the cable of August 16 coming from
2 Ambassador Stevens which described the concerns about the
3 adequacy of the security at the consulate in Benghazi. I
4 believe you have testified that you were familiar with that
5 cable, is that right?

6 Mr. Kennedy. That is correct.

7 Senator Ayotte. They say they receive that information
8 from a report from General Ham that went up to the Chairman
9 of the Joint Chiefs of Staff and then also went to the
10 Secretary of Defense as well; and as a result of that, in
11 fact, General Ham approached, according to the testimony
12 before the Armed Services Committee, actually approached the
13 State Department asking whether the site security team from
14 Tripoli should be extended in Benghazi; and according to the
15 testimony before the Armed Services Committee of General
16 Dempsey, he was told no.

17 Are you familiar with that testimony?

18 Mr. Kennedy. My recollection was, and I just read it I
19 believe, I thought it was that General Ham approached
20 Ambassador Stevens about whether the SST should be extended
21 in Tripoli. That is my recollection but I would need to
22 refresh myself by looking at the papers before--

23 Senator Ayotte. They had called the embassy. It is
24 not clear who they spoke to according to the testimony, and
25 they were told no. I guess the question according to the

1 testimony before the Armed Services Committee, it is not
2 clear who said no for the extension of the site security
3 team. Do you know that?

4 Mr. Kennedy. What I am aware of, Senator, is that
5 there were 16 people on SST. Eight security people, two
6 medical, two communications, two helicopter landing zone
7 people, two EOD, that is eight; and then eight security.

8 That latter eight had worked themselves out of a job
9 because the State Department had replaced them. The eight
10 who were security had been replaced by a combination of
11 State Department personnel and, if I may make clear, six of
12 those eight stayed on in Tripoli which is not report--

13 Senator Ayotte. Right. But my question just so I am
14 clear, I just want to understand.

15 Mr. Kennedy. Yes.

16 Senator Ayotte. General Ham knew about this. Reported
17 it up his chain of command.

18 Mr. Kennedy. Right.

19 Senator Ayotte. Do you know, he said that according to
20 Dempsey, Ham called the embassy and said, because of
21 obviously the cable receipt, and said do you want to expand
22 the site security team, were you aware of that and who made
23 the decision there?

24 Mr. Kennedy. No, I was not aware the General Ham had
25 contacted the embassy. I do not know who--

1 Senator Ayotte. Well, I will give you a copy of that
2 testimony because I will have a follow-up question, and here
3 is my question to you.

4 What troubled me was that if General Ham, the commander
5 of AFRICOM reported up his chain of command a cable from the
6 State Department about security, involving security and
7 other issues in Benghazi, and that went to the Chairman of
8 the Joint Chiefs of Staff, went to the Secretary of Defense,
9 how is it that you, with your responsibilities, given that
10 this was a State Department, obviously our ambassador and
11 the personnel that were State Department personnel here
12 would not have reported that up your chain of command?

13 Mr. Kennedy. Because we had replaced those individuals
14 with State Department personnel. Six of them had remained.

15 Senator Ayotte. It was important enough for the
16 AFRICOM general on the ground who it was not his area of
17 responsibility, it was not a DOD facility, that they thought
18 a Secretary of State, a State cable should be reported up to
19 the Chairman of the Joint Chiefs of Staff, reported up to
20 the Secretary of Defense, and even though State Department
21 personnel were involved, you did not report it to the
22 Secretary of State?

23 Mr. Kennedy. Because we had replaced those individuals
24 with--

25 Senator Ayotte. But that cable said that security was

1 not adequate there from your ambassador. You did not think
2 that was important enough to report to the Secretary of
3 State?

4 Mr. Kennedy. Because we were repairing or fixing the
5 shortfalls that were outlined. I--

6 Senator Ayotte. I just am shocked that the general--

7 Mr. Kennedy. Let me give you--

8 Senator Ayotte. --in AFRICOM thought it was important
9 enough to report it up his chain of command even though it
10 did not involve his personnel directly and you did not.

11 Mr. Kennedy. But again, Senator, two things. One, we
12 are talking about Tripoli, not Benghazi. The tragedy took
13 place in Benghazi. The SST was a Tripoli-based unit. So,
14 they are two separate things.

15 Senator Ayotte. Okay. My time is up, but the August
16 cable clearly involved in Benghazi not Tripoli.

17 Mr. Kennedy. No question. But there was no offer,
18 there was no offer or request from the post, request from
19 the post to keep the SST and shift them to Benghazi.

20 Senator Ayotte. But we are talking about reporting up
21 on a cable on the security of State Department personnel so
22 that is my issue with it, but my time is up and I appreciate
23 your being here.

24 Senator McCaskill. I am going to try to get back to
25 contracting.

1 Let us go to Section 853, past performance. I know
2 that OMB has set a 100 percent reporting all four 2015. As
3 you all know, this is a section that requires the FAR
4 Council, chaired by the Administrator of Federal
5 Procurements Policy, to have a strategy on past performance
6 indicators which has really been a problem in this area.

7 What is the current level of past performance reporting
8 for each of you? Let us start with AID. What is your
9 current level of past performing, at what percentage do you
10 that you are reaching right now and what is your goal for
11 this year and next year?

12 Mr. Djahanbani. Madam Chair, this is a number one
13 priority for myself. Back in 2010, the percentage was 7
14 percent. Since 2011, we put a very aggressive strategy in
15 place which has doubled the number to close to 30 percent.
16 We are about 27 percent right now. As the end of the fiscal
17 year comes to a close, a lot of those reports will be coming
18 in.

19 So, that percentage will go up and we do have, we have
20 set aside November for the past performance month and we
21 will have another standdown day to make sure we achieve the
22 65 percent well on our way to the 100 percent in calendar
23 year 2015.

24 Senator McCaskill. I appreciate the effort you are
25 making with your standdown days and it is going to take some

1 of that.

2 Mr. Ginman and Mr. Kennedy, are either one of you
3 scheduling the same kind of standdown days or using any
4 other techniques to get us up to snuff on past performance
5 reporting?

6 Mr. Kennedy. We are not. We are not using standdown
7 days. We are using directed orders to the people to get
8 this in. We have also started out, and I will fully admit
9 from a pathetic base, we have doubled that.

10 The last snapshot we took just is about 17 percent; but
11 just as my colleague from AID said, the data flows it at the
12 end of the fiscal year as you are closing out contracts.

13 We believe that we will be 45 or 50 percent at the end
14 of this fiscal year.

15 Senator McCaskill. Well, I hope that all of you can
16 get to 50 percent and you guys have better news, right? Mr.
17 Ginman.

18 Mr. Ginman. We are closer to 80 percent.

19 Senator McCaskill. I know. You are doing really well.

20 Mr. Ginman. Well, to get 100, that is still a
21 challenge.

22 Senator McCaskill. It is a challenge.

23 Mr. Ginman. I issue a quarterly letter to all of the
24 services and agencies that reported. We discussed it. Mr.
25 Kendall hosts about a once a month business SIG and we

1 report there as well.

2 Each of the Service Acquisition Executives, Mr.
3 Stackley, now Mr. LaPlante, and Ms. Chu, all understand
4 where they are at and to push it. I am embarrassed to say
5 that I discovered yesterday my own office is delinquent on
6 four CPARS reports.

7 Senator McCaskill. That is embarrassing.

8 Mr. Ginman. Well--

9 Senator McCaskill. Good for you for admitting it.
10 Points for that.

11 Let us go to noncompliance, Section 862. Mr. Ginman,
12 have you completed your report under 862 on implementing
13 uniform contract writing systems which was due earlier this
14 month.

15 Mr. Ginman. The report is written. I believe it was
16 released out of the building. I am just not certain.

17 Senator McCaskill. Okay. I want to make sure we get
18 that for the record for this hearing.

19 Let me ask about 802, pass-through contracts. This is
20 obviously a big problem. We all know it is a big problem.
21 And, you know, what basically we are trying to do is we are
22 trying to make sure that we do not have somebody who is
23 passing through more than 70 percent of the work they have
24 contracted to do. There is a pending FAR rule that the
25 agency will put forth.

1 Do any of you have anything you want to put in the
2 record about the pending rule and whether or not there are
3 problems with it and anything that you want to address on
4 pass-through contracts today?

5 Mr. Djahanbani. Madam Chair, if I may, I would like to
6 just mention that I have gone ahead and issued a new policy
7 directive to all of our contracting officers implementing
8 this right now. Once the rule is effective, we will rescind
9 that and, of course, follow the FAR rule.

10 Senator McCaskill. Okay. What about Section 843.
11 This requires the SECNAV to establish a chain of authority
12 for policy planning, execution of contract support. Part of
13 this is that when I began realizing how bad this was, there
14 was no way you could find somebody who was responsible, I
15 mean, it was so disparate and there were so many tentacles
16 of all of this based on, and I know we have CSTC-A now and
17 other things.

18 Do you feel like that you are getting at the
19 operational contract support, you know, do you think you are
20 getting there?

21 Mr. Ginman. Yes, ma'am. So, if I could just for your
22 last question, I am told it is still in coordination. So,
23 the report has not left the building.

24 Senator McCaskill. Okay. Well, we have 30 days so
25 that means somebody needs to just hurry up and review it and

1 get it done and get it out.

2 Mr. Ginman. Yes.

3 I refer to this, and I have heard you in earlier
4 hearings, I refer to this as the who is in charge question.

5 Senator McCaskill. Exactly.

6 Mr. Ginman. I believe, one, DOD Directive 3020.49,
7 this is a mouthful, orchestrating and synchronizing
8 integrating program management and contingency acquisition
9 plan in its operational execution lays out clearly who is in
10 charge and what each of the individual roles are and what it
11 is that they do.

12 Senator McCaskill. Who is in charge at the top? Who
13 is the person at the top?

14 Mr. Ginman. So, at the end of the day within the
15 Department, you know, the one person that everybody goes to
16 his Secretary Hagel.

17 Senator McCaskill. I know he is at the top.

18 Mr. Ginman. I understand. But you have the Under
19 Secretary of Personnel and Readiness who has very distinct
20 responsibilities when it comes to managing the force of
21 which contractors are a piece. Within the Under Secretary
22 of Defense for Acquisition, Technology, and Logistics, very
23 clear responsibilities.

24 Senator McCaskill. Kendall.

25 Mr. Ginman. Mr. Kendall.

1 When it comes expressly to those issues associated with
2 acquisition and contracting and the management of
3 contractors on the battlefield, we have got the Comptroller
4 who has buried clear responsibilities associated with the
5 money and funding and what are we doing with it. The Under
6 Secretary of Defense for Policy has very clear
7 responsibilities, again, with how we do this.

8 So, to the question with risk assessments analysis, we
9 are all engaged in the that. The joint staff plays a
10 significant role in how we do all of this.

11 Senator McCaskill. Well, this investigation is going
12 to be really interesting on this building in Leatherneck
13 because what is going to do is maybe it is going to answer
14 that question.

15 Mr. Ginman. It may in fact.

16 Senator McCaskill. Because it does not appear that, I
17 mean, I get what you are saying. I know you cannot just
18 say, okay, this is the contracting puba over here; and if
19 anything goes wrong, it is his head, or her head.

20 But I want to, you know, what I do not want to get to
21 is just a new bunch of jargon replacing the old jargon that
22 was very not much not clear so--

23 Mr. Ginman. So, if I could, I mentioned the action
24 plans, the OCS FCIB that was put together that is cochaired
25 by Mr. Motsek, who is the Assistant Secretary of Defense

1 L&MR Program Support, and by Brigadier General Crenshaw, who
2 is the Deputy J-4.

3 The 10 capability areas that are addressed, the first
4 one and from my standpoint the most important one, is the,
5 it is not the policy; it is the doctrine and getting it so
6 that the people, everybody understands what it is. When you
7 go back to the Gansler Commission in 2007, it is the
8 professional training. It is in the execution. It is the
9 exercises.

10 Senator McCaskill. And I know you have a joint
11 exercise scheduled for?

12 Mr. Ginman. January.

13 Senator McCaskill. January, and I know you have gone
14 from 48 people being trained for years ago to over 400
15 trained now. I mean, I am aware that we have really, and
16 the corps now, I mean, when I started this, the low man on
17 the totem pole was handed a clipboard and said it does not
18 really matter, just this is your job. I know we have done a
19 lot of good work on this.

20 Mr. Ginman. Yes. So, the magnitude and the size and
21 the number of personnel, both civilian and military, you
22 know, from second lieutenants and first lieutenants to
23 senior enlisted, all the way up through general officers,
24 getting that inculcated in, I mean, we are encouraged when
25 both General Petraeus and General Allen signed letters out

1 that say contracting is the commander's business.

2 I mean, for 100,000 people on the battlefield and who
3 is managing them and overseeing where this goes, it is the
4 getting that so that it is understood is by far and away the
5 largest gap that we have.

6 Senator McCaskill. Right.

7 Mr. Ginman. It is one that we are actively working,
8 but it is not one that we are going to solve today or
9 tomorrow. I mean, I think, as you say, I think we have made
10 significant strides. Ma'am, we have a long ways to go.

11 Senator McCaskill. Yes, you do and I will be here
12 making sure that we get it done and I am sure Senator
13 Johnson joins me in that.

14 I am way over time. I did not get a chance to get to,
15 and we are going to have to go to a vote here, and certainly
16 we can hold the panel for as long as you like it if you want
17 to do more questions.

18 I have some specific questions for you on your remote
19 monitoring project. I mean, this is all kinds of bells and
20 whistles going off. The notion that we are hiring
21 contractors to oversee the contractors is just always a
22 really dicey proposition, and I know it is a dangerous area.

23 But, I have got some specific questions about the fact
24 that MSI Worldwide is hiring people on this when the RFP has
25 not even been completed. That seems weird to me, and I need

1 to have some specific answers to that.

2 So, you know, if the RFP is not out and a contractor is
3 already hiring people under it, that means something is
4 rotten.

5 Senator Johnson.

6 Senator Johnson. I just have one quick question, maybe
7 not quick but it is just one. We are looking at the Afghan
8 special mission wing, some reports that. My concern is this
9 is going to be the aircraft version of the \$34 million
10 building.

11 We already spent \$122 million. I guess projected
12 spending in about \$772 million. It is looking like an
13 aircraft that Afghans are not going to be able to operate
14 effectively. Contracts being let out to a Russian
15 contractor who has been actually barred from providing that
16 but they were able to continue the contract because it was
17 2012 spending versus 2013.

18 Mr. Ginman, can you please address the Afghan special
19 mission wing?

20 Mr. Ginman. Well, it is allowed of my personal area,
21 but I believe, I believe that the that are that the Deputy
22 Secretary sent over, one, acknowledged the MI-17s were being
23 bought with 2012 money but also went on to say if they would
24 be bought with 2013 money, I would have signed the waiver.
25 I think that is what the Deputy Secretary said in his letter

1 that came over identifying it.

2 Senator Johnson. Is this being actively reviewed? Is
3 this project being actively reviewed and is there any chance
4 of stopping it? And who is actively reviewing it, under
5 whose command is this?

6 Mr. Ginman. Well, so the MI-17, the requirement for
7 MI-17s comes through the CSTC-A NTM-A from the theater to a
8 requirement. It has been thoroughly reviewed inside the
9 Department. The decision clearly was made and went up to
10 the Deputy Secretary and I think his letter articulates this
11 is exactly what I found and what I did. I mean, significant
12 time and effort was put into the decision associated with
13 MI-17s.

14 Senator Johnson. So, has the decision already been
15 made or does it continue to be reviewed?

16 Mr. Ginman. Well, I mean, I think we--

17 Senator Johnson. Are we going to spend \$717 million.

18 Mr. Ginman. So I mean they are continuing to review.
19 You know, the Department continues to spend significant time
20 ensuring that we will have an adequate throughput of pilots
21 to be able to fly the MI-17s, that we have got the skill
22 set. I mean, it gets reviewed regularly at the warfighter
23 SIG, you know, that is led by the Deputy Secretary.

24 Senator Johnson. Okay. Thank you. That is all I
25 have, Madam Chair.

1 Senator McCaskill. I thank all of you for being here.
2 I appreciate it very much. I know everyone is working hard
3 on this and that there is a difference in attitude about it.
4 I think everyone now recognizes that contracting has to be a
5 core competency for all of you because of the reliance we
6 have on them.

7 We will look forward to some of the specific answers we
8 have asked for. I will look forward to hearing those
9 projects that have been stopped based on sustainability and
10 risk, and congratulating you on my website once I get those
11 great stories of success.

12 Thank you, and this hearing is adjourned.

13 [Whereupon, at 11:13 a.m., the Subcommittee was
14 adjourned.]