Post-Hearing Questions for the Record
Submitted to the Richard "Dick" Ginman
From Senator Tom Coburn

"Implementation of Wartime Contracting Reforms"
July 16, 2013

1. Question. Most of our contracting reforms focus on improving contract management and coordination. What processes are in place to ensure we are getting the best value and outcomes for our efforts? What is the appropriate balance between "program management and outcome planning" and "contract management"?

Answer. Striking the appropriate balance between planning, program management, and contract management is a challenge for DoD and non-DoD agencies alike, particularly during contingencies. The Department has worked to more effectively integrate these distinctly different—and at times competing—functions to get the best value and results for our efforts. The DoD functional leaders for these areas work together on a permanent board to provide strategic guidance to the multiple stakeholders working to institutionalize operational contract support (OCS). The board includes all relevant stakeholders, including USD(AT&L) who is responsible for OCS policy and contingency contracting; Joint Staff, which is charged with joint OCS planning and formulating doctrine; and the Combatant and Service Component Commanders, who have the duty of OCS planning and selecting organizational options for theater and external contract management and OCS execution. The board measures progress against an action plan for FYs 2013 to 2016 that addresses 142 major actions to close the 10 highest-priority capability gaps, strengthen our ability to execute OCS, and support a Joint Force Commander. Through this concerted effort, we are ensuring a robust approach to OCS, since planning, program management, and contract management are all important to the success OCS.

Examples of the progress we have made with respect to OCS program management include: improved planning for contracted support; establishment of an OCS Integration / Drawdown Cell in Afghanistan to insure transition in USFOR-A is synchronized with operational requirements and retrograde activities; increased staffing for contract oversight to better prevent and detect fraud; better training programs for deployed military who oversee contractor personnel; improved accountability and visibility of contractors supporting contingency operations and, updated policy and doctrine to institutionalize OCS to enable a culture change for future operations. Specifically, Joint Publication 4-10, Operational Contract Support, establishes doctrine for planning, conducting, and assessing operational contract support integration and contractor management functions in support of joint operations; and DoD Directive 3020.49, Orchestrating, Synchronizing and Integrating Program Management of Contingency Acquisition Planning and Its Operational Execution, establishes policy and assigns responsibilities for program management for the preparation and execution of acquisitions for contingency operations.

USD(AT&L) has established a Services Acquisition (SA) directorate to oversee and improve services acquisitions, which constitute more than half of DoD's contacted obligations.

Planning, managing, and overseeing contractors performing service functions demands a different approach than that used to oversee contractors developing our weapon systems. The SA directorate is leading the improvement of DoD's tradecraft in acquisition of services, which is a key part of the Department's Better Buying Power (BBP) efficiencies initiative. To deliver better value to both the warfighter and the taxpayer while improving the way the Department does business, the Services Acquisition directorate is establishing a stand-alone DoD instruction solely for the acquisition of services; Functional Domain Experts to manage services portfolios; Service Requirement Review Boards and Tripwires to better manage and validate requirements; and appropriate metrics to actively manage services acquisitions. Additionally, DoD is working on strengthening services contract management outside of the normal acquisition chain (e.g. installations and commands) as well as developing processes to ensure non-Defense Acquisition Workforce Improvement Act individuals involved in services acquisitions are properly trained. This new management structure and training capabilities, coupled with changes in the way DoD analyzes and tracks services acquisitions, will allow the Department to continuously improve, from requirements definition to closeout, focusing on outcome-based capabilities.

2. Question. In the case of the Camp Leatherneck HQ facility, you testified that the project could have been stopped at any point during its construction. How does an acquisition professional or a military or civilian agency project manager stop a project that has already been started? Please provide a complete account of all DOD administered projects to date, in both Iraq and Afghanistan, for which funding and support (both service member and contractor) have been stopped, including the total project cost, the stage at which each project was stopped, the total amount expended at the time the project was stopped, and the total amount saved.

Answer. The attached detailed list provides details of cancelled and de-scoped military construction (MilCon) projects in Afghanistan for Operation Enduring Freedom from 2011 forward; military construction projects in Iraq were concluded prior to the end of Operation New Dawn in late 2011, and therefore, were not included. The information provided includes the Component, project number, project title, military base, program, and total program amount (PA), in dollars (representing the amount Congress allocated for the program). US Forces – Afghanistan (USFOR-A) continues to collect and analyze the relevant data that will address the specifics concerning stage of completion for canceled/de-scoped projects. The amount of associated cost savings per project is comprised of numerous factors which transcend the actual cost of a project (e.g. sustainment); therefore, the attached list does not address cost savings/avoidance per project.

As shown in the attached list of cancelled and de-scoped military construction projects in Afghanistan, with respect to Military Construction (MilCon) projects since November 2011, DoD has conducted four rounds of project reviews in order to identify unneeded projects, resulting in the cancellation or de-scoping of 123 projects.

The first round of MilCon project reviews was conducted in November 2011. At the start of this round, a moratorium on the issuance of Notice to Proceed letters and on starting new construction was issued. In this round, 53 MilCon projects were canceled or de-scoped.The second round of MilCon project reviews was conducted in February 2012. In this round, 25 MilCon projects were canceled or de-scoped.

The third round of MilCon project reviews, conducted in July 2012, focused specifically on infrastructure at Bagram, Kandahar, Leatherneck, Dwyer, Shindand, Mazar-e-Sharif, and Shank, omitting Special Operations Force projects. In this round, 24 MilCon projects, were canceled or de-scoped.

The fourth round of MilCon project reviews was conducted in March 2013 and focused on all ongoing MilCon, with a particular emphasis on Bagram and Kandahar. In this round, all MilCon projects were assessed against future basing posture, including cost/benefit analysis. One goal of this round was to assess MilCon projects against infrastructure requirements for the enduring post-2014 mission. In this round, nine MilCon projects were canceled; and 12 projects were de-scoped.

A fifth round of MilCon reviews began in early July 2013 and is expected to be completed in late August 2013. This round is focusing on the remaining 40 MilCon projects in Afghanistan and will look to terminate or de-scope any project that does not have a current requirement. Cancellation/de-scoping decisions will be based on an analysis of the cost benefits of cancellation against the percentage of work already completed.

In addition to these aforementioned formal MilCon reviews, PDTs continually review project requirements in an effort to help ensure that ongoing and planned projects are necessary to meet current mission needs.

Attachment:
US Forces – Afghanistan MilCon Project Cancellation/Descope List (3 pages)

3. Question. In a SIGAR report released this May, auditors found that DOD, State and USAID had reimbursed contractors for what are likely illegitimate Afghan tax expenditures—the report specifically notes one contractor who reported being reimbursed by DOD more than $287,000 in tax assessments, and a total of $92,875,298 in assessments on DOD contractors. What is the total amount DOD has reimbursed to contractors for Afghan taxes paid? Of that total, how much was incorrectly reimbursed? How much has DOD recovered to date from funds that were incorrectly reimbursed to contractors for illegitimate tax expenditures?

Answer. The Department is working closely with the State Department and others regarding the broad tax exemption afforded to U.S. government contractors and subcontractors under the U.S.-Afghanistan Status of Forces Agreement. We do not require contractors to report the information that you requested; therefore, we are unable to provide a quantitative answer to the specific questions. To ensure compliance with the broad tax exemption afforded to U.S. government contractors and subcontractors, DoD has taken a systemic approach, providing clarification and templates. DoD policy issuances identify contractor responsibility to exclude Afghan taxes from contract price.

The Department concurred with, and is implementing, SIGAR's recommendations in

SIGAR Audit 13-8.[1] Specifically, U.S. Central Command (CENTCOM)'s Joint Theater Support Contracting Command (CJTSCC) issued a January 21, 2013, memorandum and information paper for heads of contracting activities. This issuance explains the tax exemptions for DoD contractors and subcontractors performing in Afghanistan, identifies key governing treaties and agreements,[2] and provides templates to assist contractors in obtaining the appropriate tax exemptions from the Government of Afghanistan. Additionally, an upcoming revised CJTSCC Acquisition Instruction will include foreign tax provisions for use in solicitations and contracts.

Most recently, on July 17, 2013, the Director of Defense Procurement and Acquisition Policy (DPAP) rolled out policy clarification to all contracting officers, via a regulatory deviation (Class Deviation 2013-O0016, Taxes—Foreign Contracts in Afghanistan). The deviation includes related clauses to be added to all solicitations and contracts to be performed in Afghanistan and is accessible on http://www.acq.osd.mil/dpap/dars/class_deviations.html.

4. Question. If our goal is to eventually leave Afghanistan a stable country, capable of its own governance to the greatest extent possible, how does paying taxes for Afghans help accomplish that goal? Does it work counterproductive to our need to establish a culture of rule of law when we don't hold Afghan companies accountable for basic responsibilities, such as paying taxes? Was this point ever discussed during the deliberations over whether or not these taxes could or should be reimbursed?

Answer. The Department of Defense (DoD) does not pay Afghan taxes on behalf of Afghan companies. DoD does pursue a worldwide policy of tax exemptions for DoD contracts and DoD-related purchases abroad, typically through bilateral international agreements. There are two agreements currently in place with the Afghan Government that provide exemptions from Afghan taxes for DoD-related contracts and purchases. These are the bilateral status of forces agreement concluded by an exchange of diplomatic notes in 2003, and the NATO International Security Assistance Force (ISAF) Military Technical Agreement of April 2002. Under these agreements, Department of Defense military and civilian personnel, DoD contractors, and, in certain instances, DoD contractor employees, including local Afghan vendors, are not liable to pay any tax or similar charge assessed by the Afghan Government on their activities relating to DoD contracts and purchases.

The Department is aware of specific cases where taxes have been assessed inappropriately on activities that were tax-exempt under these agreements. The U.S. Embassy, U.S. Forces Afghanistan, and ISAF work closely to try to resolve instances of improper taxation. As indicated in the May 14, 2013 SIGAR Audit 13-8, "Taxes: Afghan Government Has Levied Nearly a Billion Dollars in Business Taxes on Contractors Supporting U.S. Government Efforts in Afghanistan," on contractor taxation, only seven percent of the tax assessments under dispute have actually been paid

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[1] SIGAR Audit 13-8 recommended that the Department of State, U.S. Agency for International Development, U.S. Army Corps of Engineers, and U.S. Central Command (CENTCOM)'s Joint Theater Support Contracting Command (CJTSCC): (1) develop procedures for contractors to obtain appropriate documentation of tax-exempt status with the Afghan government, (2) issue guidance to properly identify taxes in contracts and invoices, and (3) take steps to prevent the improper reimbursement of taxes to contractors.

[2] Key governing materials include the State Department's Diplomatic Note 202 of May 2003, the Military Technical Agreement of April 2002, the Exchange of Notes between NATO and Afghanistan of 2004, and the Letter of Interpretation issued by the Commander, ISAF, in March 2011.

to the Afghan government. In addition to advocating on behalf of individual companies that have received erroneous tax assessments from the Afghan Government, the U.S. Embassy in Kabul is also engaging the Ministry of Finance regarding its taxation of foreign contractors generally, urging the Ministry to re-examine the issue of linking tax payments to the renewal of business licenses and visas.

US Forces - Afghanistan MilCon Project Cancellation/Descope List

ROUND 1 MilCon Review — **Nov-11**

Component	Project Number	Project Title	Base	Year/Program	Total PA ($000s)
ARCENT	67346	C-IED Road Qalat to Shinkay	Qalat	07 MCA Suppl	57,000
ARCENT	73195	Contingency Housing	Dwyer	09 OCO	3,800
ARCENT	73080	Avn Hangar/Maint Facilities	Sharana	09 OCO	11,200
ARCENT	73232	RW Ramps & Taxiway, Ph1/2	Sharana	09 OCO	39,000
ARCENT	73367	RW Ramps & Taxiway, Ph2/2	Sharana	09 OCO	29,000
ARCENT	73409	Fuel Distribution System	Tarin Kowt	09 OCO	8,000
ARCENT	AUTH 09-3039	CAS Ramp NDI Pad	Bagram	10 CCA	1,951
ARCENT	77437	Wastewater Treatment Facility	Delaram II	10 CCA	9,400
ARCENT	71493	Perimeter Fence/Guard Towers	Bagram	10 MCA	7,000
ARCENT	WACC 11-3220	Runway	Sharana	10 MCA 2808	35,000
ARCENT	76906	Waste Management Area	Delaram II	10 MCA Suppl	5,600
ARCENT	76950	Fuel Storage System	Dwyer	10 MCA Suppl	13,600
ARCENT	75509	TF Freedom	Bagram	10 OCO	18,000
ARCENT	74143	ECP 2	BLT	10 OCO	14,200
ARCENT	74147	Fuel System Ph 1/2	Dwyer	10 OCO	5,800
ARCENT	74206	RW Parking	Sharana	10 OCO	32,000
ARCENT	74207	Replace ASP	Sharana	10 OCO	14,000
ARCENT	74181	Waste Management Area	Tarin Kowt	10 OCO	6,800
ARCENT	74145	Fuel System Ph 2/2	Tarin Kowt	10 OCO	11,800
ARCENT	76964	Fire Station	Spin Boldak	10 UMMC	1,850
ARCENT	74158	Troop Housing, Ph8	Bagram	11 OCO	29,000
ARCENT	75199	Dining Facility	Dwyer	11 OCO	9,000
ARCENT	75203	RW Apron	Dwyer	11 OCO	44,000
ARCENT	75213	Wastewater Treatment Facility	Frontenac	11 OCO	4,200
ARCENT	74129	Replace JAF ASP	Jalalabad	11 OCO	35,000
ARCENT	75198	RW Parking & Taxiway, Ph 2	Tarin Kowt	11 OCO	24,000
ARCENT	74062	Entry Control Point	Bagram	12 MCA	20,000
ARCENT	74095	Replace Temp Guard Towers	Bagram	10 MCA	7,000
ARCENT	79423	Waste Management Area	Wilson	10 MCA	5,600
ARCENT	74126	CMU Barracks Ph 1-5	Kandahar	11 MCA 2808	29,000
ARCENT	80249	Waste Water Treatment Plant	Wilson	11 MCA 2808	4,200
ARCENT	77578	Dining Facility (2000PAX)	Shindand	11 MCA 2808	8,700
ARCENT	80024	Waste Water Treatment Facility	Kandahar	12 MCA 2808	6,900
ARCENT	77577	Dining Facility	Tarin Kowt	12 MCA 2808	6,000
ARCENT	77586	Dining Facility	Dwyer	12 MCA 2808	14,800
ARCENT	71609	Consolidated Motorpool	Bagram	14 MCA	12,000
ARCENT	UMMC	MSA Bomb Build Facility	Kandahar	UMMC	1,800
ARCENT	UMMC	3 Story Billeting Ph 1	Bagram	UMMC	1,750
ARCENT	UMMC	3 Story Billeting Ph 2	Bagram	UMMC	1,750
ARCENT	UMMC	3 Story Billeting Ph 3	Bagram	UMMC	1,750
ARCENT	UMMC	3 Story Billeting Ph 4	Bagram	UMMC	1,750
ARCENT	UMMC	3 Story Billeting Ph 5	Bagram	UMMC	1,750
ARCENT	UMMC	3 Story Billeting Ph 6	Bagram	UMMC	1,750
ARCENT	UMMC	3 Story Billeting Ph 7	Bagram	UMMC	1,750
ARCENT	UMMC	3 Story Billeting Ph 8	Bagram	UMMC	1,750
ARCENT	UMMC	South Park AAFES PX	Kandahar	UMMC	860
ARCENT	UMMC	Boardwalk Area and Ablution Sta.	Kandahar	UMMC	1,370

BLT = Bastione, Leatherneck, Tombstone

US Forces - Afghanistan MilCon Project Cancellation/Descope List

Component	Project Number	Project Title	Base	Year/Program	Total PA ($000s)
ARCENT	UMMC	Retrograde Storage Area	Qalat	UMMC	1,300
ARCENT	UMMC	C130 Strip Repair	Qalat	UMMC	1,993
ARCENT	UMMC	Perimeter Expansion	Tarin Kowt	UMMC	1,450
ARCENT	UMMC	Guard Towers	Tarin Kowt	UMMC	1,700
ARCENT	UMMC	Sewer Collection System	Shindand	UMMC	1,250
ARCENT	UMMC	Hazmat Storage Area	Shindand	UMMC	2,000
				TOTAL:	612,124

ROUND 2 MilCon Review — Feb-12

Component	Project Number	Project Title	Base	Year/Program	Total PA ($000s)
ARCENT	75148	C-IED TF Compound	Bagram	11 OCO	24,000
ARCENT	77132	C-IED Lab	Bagram	11 OCO	13,800
ARCENT	77438	Entry Control Pt & Access Roads	Delaram II	11 OCO	4,400
ARCENT	73408	Fuel Distribution	Dwyer	11 OCO	8,000
ARCENT	75200	Waste Management Facility	Dwyer	11 OCO	16,000
ARCENT	74127	Contingency Hsng Ph5	Kandahar	11 OCO	20,000
ARCENT	74129	Contingency Hsng Ph6	Kandahar	11 OCO	20,000
ARCENT	77118	ASP	Shank	11 OCO	23,000
ARCENT	74462	Bulk Materials Transfer Station	Sharana	11 OCO	12,400
ARCENT	71612	AAFES Complex	Bagram	Unprogrammed	6,500
ARCENT	77570	Dining Facility	Bagram	11 2808	6,000
AFCENT	ATUH 15-0001	East Side Taxiway w/Arm/De-Arm	Bagram	Unprogrammed	40,000
AFCENT	ATUH 15-0002	Wing Consolidated Spt Complex	Bagram	Unprogrammed	8,000
AFCENT	ATUH 16-0002	Mission Support Gp Complex	Bagram	Unprogrammed	8,000
AFCENT	ATUH 17-0002	East Side Ops Gp Complex	Bagram	Unprogrammed	9,000
AFCENT	ATUH 17-0001	East Side Mx Gp Complex	Bagram	Unprogrammed	9,000
ARCENT	77585	Dining Facility	BLT	11 2808	17,500
ARCENT	80028	Washrack (50 pt)	BLT	Unprogrammed	17,000
ARCENT	UMMC	Cargo Handling	BLT	Unprogrammed	1,000
ARCENT	UMMC	Cargo Storage	BLT	Unprogrammed	1,200
ARCENT	UMMC	South Wash Station	BLT	Unprogrammed	1,800
ARCENT	79425	Waste Management Area	Dwyer	11 2808	5,600
ARCENT	80107	Washrack (24 pt)	Dwyer	Unprogrammed	14,800
ARCENT	UMMC	Air Traffic Control	Dwyer	Unprogrammed	1,000
ARCENT	UMMC	Hazmat Storage	Dwyer	Unprogrammed	2,000
				TOTAL:	290,000

ROUND 3 MilCon Review — Jul-12

Component	Project Number	Project Title	Base	Year/Program	Total PA ($000s)
ARCENT	74145	MedLog Warehouse	Bagram	10 OCO	4,500
ARCENT	74136	Medical C2 Facility	Bagram	10 OCO	3,500
ARCENT	BAGR 11-3009	AFOSI Facility	Bagram	11 OCO	1,670
ARCENT	71567	Eastside Utilities, Ph. 2	Bagram	11 UMMC	8,000
AFCENT	BAGR 14-0001	Construct Aircraft Hangar	Bagram	12 2808	49,000
AFCENT	BAGR 14-0002	Consolidated Comm Complex	Bagram	14 MCA	18,000
AFCENT	BAGR 16-0004	Tactical Ramp & Supp Facilities	Bagram	17 MCA	20,000

BLT = Bastione, Leatherneck, Tombstone

US Forces - Afghanistan MilCon Project Cancellation/Descope List

Component	Project Number	Project Title	Base	Year/Program	Total PA ($000s)
AFCENT	BAGR 17-0001	Consolidated Ops & Mx Group HQ	Bagram	18 MCA	9,000
ARCENT	77056	Vet Clinic & Kennel	Bagram	11 OCO	2,600
ARCENT	77055	Role 3 Hospital	Bagram	11 OCO	42,000
ARCENT	69404	Joint Defense Ops Center	Bagram	11 MCA	2,794
ARCENT	74157	Contingency Housing, Ph. 7	Bagram	11 OCO	29,000
ARCENT	80451	Ammunition Supply Point (ASP)	Bagram	12 2808	62,000
ARCENT	79424	Waste Management Area	BLT	12 2808	5,500
ARCENT	75204	DFAC (2000 PAX)	BLT	11 OCO	27,000
ARCENT	75206	Waste Water Treatment Facility	BLT	11 OCO	13,000
ARCENT	77440	Paved Roads	BLT	11 OCO	9,800
ARCENT	80943	Perimeter Fence	Dwyer	12 UMMC	1,650
ARCENT	77117	SOF Helicopter Apron	Herat	11 MCA	13,200
ARCENT	77100	SOF Joint Operations Center	Kandahar	11 OCO	9,200
ARCENT	80998	Gymnasium (K-span)	Kandahar	12 UMMC	1,450
ARCENT	81081	Solar Lights & Sidewalks	Kandahar	12 UMMC	1,650
ARCENT	78039	SOF Helo Apron	Kunduz	10 UMMC	1,950
ARCENT	77446	Waste Water Treatment Plant	Shank	11 OCO	7,700
				TOTAL:	**344,164**

ROUND 4 MilCon Review - Cancelled Projects — Mar-13

Component	Project Number	Project Title	Base	Year/Program	Total PA ($000s)
ARCENT	80938	SOF Planning Facility	Bagram	12 UMMC	2,000
ARCENT	72242	Army Aviation HQ Facility	Bagram	11 MCA	7,000
ARCENT	80901	CJSOTF HQ Facility	Bagram	Unprogrammed	20,000
ARCENT	81835	Sewer System	Kandahar	12 UMMC	1,300
ARCENT	80941	Billeting	Kandahar	12 UMMC	1,850
ARCENT	80942	Admin Building	Kandahar	12 UMMC	1,000
ARCENT	74171	Waste Mangement Area	Dwyer	10 OCO	10,000
ARCENT	AC10-3910	Cargo Handling	Dwyer	10 OCO	10,000
ARCENT	80893	Northern Region Logistics Hub	MeS	12 OCO	10,400
				TOTAL:	63,550

ROUND 4 MilCon Review - Descoped Projects — Mar-13

ARCENT	71605	Eastside Electrical Dist	Bagram	11 MCA	10,379
ARCENT	71568	Eastside Electrical Dist, Ph. 3	Bagram	12 MCA	16,100
ARCENT	71604	Eastside Utilities Infrastructure	Bagram	11 MCA	28,942
ARCENT	74084	CMU Barracks, Ph. 19-24	Bagram	12 MCA	19,300
ARCENT	71569	Westside Utilities Infrastructure	Bagram	12 MCA	18,000
ARCENT	Wests	Westside Electrical Infrastructure	Bagram	11 MCA	8,000
ARCENT	74067	Construct Drainage Sys, Ph. 4	Bagram	12 MCA	31,000
ARCENT	72477	USFOR-A HQ & Housing	Kabul	10 OCO	98,000
ARCENT	74172	Camp Phoenix Western Expansion	Kabul	10 OCO	39,000
ARCENT	74292	Warehouse (DLA)	Kandahar	10 OCO	20,000
ARCENT	74195	Water Distribution System	Shank	10 OCO	16,506
ARCENT	77119	Roads & Utilities, Ph. 1	Shank	12 OCO	
				TOTAL:	**305,227**

BLT = Bastione, Leatherneck, Tombstone