



# United States Senate

## Committee on Homeland Security and Governmental Affairs

Chairman Joseph I. Lieberman, ID-Conn.

Opening Statement of Chairman Joseph Lieberman  
Homeland Security and Governmental Affairs Committee Hearing  
“Is DHS Too Dependent on Contractors to Do the Government’s Work?”  
Washington, DC  
October 17, 2007

Today we will examine the extent to which the Department of Homeland Security relies on contractors to carry out its crucial mission to secure our home land from terrorism and natural disaster. Plainly put, we will ask who is in charge at the Department of Homeland Security – its public managers and workers, or its private contractors.

Today this Committee is releasing the Government Accountability Office’s report, which we requested, in which GAO calls on DHS to improve its oversight of contractors and to better manage the risks associated with relying on contractors. GAO examined 117 statements of work for DHS service contracts and found that over half of those contracts were for services that closely support inherently governmental functions. GAO then examined 9 of these contracts in detail.

While GAO did not make any conclusions on whether DHS improperly allowed contractors to perform inherently governmental work, it found that:

First, DHS has not revisited its original justification for relying on contractors – the need to stand up programs quickly – and has not conducted a comprehensive assessment of the appropriate mix of federal employees and contractors. Second, DHS did not assess the risk that its decisions may be influenced by, rather than independent from, contractors. Third, most of the contract officials and program managers interviewed by GAO were unaware that federal procurement policy requires heightened oversight when contractors perform these types of services. Fourth, 6 of the 9 contracts called for the contractor to perform a very broad range of services, or lacked detail. Without clearly specifying requirements for the contractor, DHS exposed itself to waste, fraud and abuse. Fifth, none of the oversight plans reviewed by GAO contained specific measures for assessing contractor performance. Let me read just few real life examples of the questionable use of contractors uncovered by GAO.

- The Coast Guard hired a contractor to help manage its competitive sourcing program, meaning that it hired a contractor to help determine whether existing DHS jobs should be contracted out.
- One \$42.4 million contract to support DHS’s Information Analysis and Infrastructure Protection Directorate was so broad that it covered 58 different and distinct tasks. This very large umbrella of a contract covered such disparate items as acquisition support, intelligence analysis, budget formulation, and information technology planning. And how many DHS employees were assigned to help the contracting officer provide technical oversight of this enormous job? Only one
- The contractor supporting TSA’s employee relations office provided advice to TSA managers on dealing with personnel issues, including what disciplinary actions to take – the very same function that TSA employees were already being paid to perform themselves in that very office.

GAO says that DHS’s reliance on contractors during the days when the Department was first being stood up post 9-11 was understandable. The Federal Acquisition Regulation, or FAR, which governs procurement for federal agencies, prohibits inherently governmental work from being performed by contractors. FAR allows contractors to perform work that “closely supports inherently governmental work” and the line between the two is hard to

draw. But the FAR says specifically that the government itself is supposed to determine agency policy, including regulations.

But the FAR says specifically that the government itself must make its own contract arrangements. But GAO's report leads us to question whether DHS is really in control of these activities, or whether the Department has been rubber-stamping too many decisions made by contractors. In fiscal year 2006, DHS spent \$15.7 billion on goods and services. Of this, \$5 billion, almost 1/3<sup>rd</sup>, went to contractors providing professional and management support – often sitting side by side with federal employees performing the same work. This heavy reliance on contractors seems to certainly suggest the requirements of the FAR, creating at least two problems the FAR sought to avoid.

First, it raises the risk that DHS is not creating the institutional knowledge needed to be able to judge whether contractors are performing as they should and could be vulnerable to overcharging. But second is the risk that DHS will lose control over its own decision making. There is a danger that the Department may become so dependent on contractors that it simply has no in-house ability to evaluate the solutions its contractors propose or to develop options on its own accord.

The Department may lose some of their critical ability to think and act on its own for the American people.