

Statement for the Record

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**Senate Homeland Security and Governmental Affairs Committee
February 13, 2014**

“The Intelligence Community: Keeping Watch Over its Contractor Workforce”

Introduction

Chairman Carper and Ranking Member Coburn, thank you for the invitation to testify today on the ODNI's oversight and monitoring of Intelligence Community (IC) core contract personnel and their role. I appreciate the Committee's interest in this issue. I trust the information provided to you today will strengthen your confidence in the efforts of the IC leadership to manage and oversee this critical component of our combined workforce.

In addition to addressing the specific questions in your invitation letter regarding the Government Accountability Office's (GAO) recent report on IC core contract personnel, I will provide the Committee with some background on why core contract personnel have been and are an important part of our workforce. Furthermore, I will address our broader strategic workforce planning efforts, which includes oversight of IC core contract personnel.

The Growth of Core Contract Personnel and Why We Use Them

The IC workforce is composed of three distinct elements: civilian United States Government (USG) personnel, members of the armed forces, and core

contract personnel. As a result of the Cold War peace dividend, the IC was significantly downsized throughout the 1990s. Limits on hiring resulted in reductions in the number of analysts, operators, scientists, and support personnel across the Community. There was a degradation of the Community's capabilities as older, more experienced employees retired and far fewer employees were hired to take their place. During these years the IC was encouraged to "outsource" as much as possible, especially in the area of information technology support.

The terrorist attacks of September 11, 2001 and ensuing conflicts caused an abrupt shift. Expertise was needed quickly to meet rapidly evolving mission demands. To meet these emerging requirements, the IC leveraged contract personnel to provide the requisite skills and experience. Congressionally-imposed civilian personnel ceilings and emergency supplemental funding also drove increased reliance on contract personnel. Given the unplanned and potentially fluctuating nature of Overseas Contingency Operations funding, contract personnel were better suited for many tasks. In addition, contract personnel brought unique skills in critical languages, terrorism analysis, cyber, and a host of other areas where there was inadequate expertise in our Community. We have, however, turned the corner and for the past several years have been reducing the number of core contract personnel across the IC, both in numbers and costs. Despite these reductions, core contract personnel have now become an integral part of the IC workforce. We could not perform our mission without them. At the same time that the IC's use of contract personnel was expanding during the last decade, the IC hired thousands of new government employees, and trained and deployed them as quickly as possible. I would like to stress this point: government civilians are the heart of our workforce. Contract personnel play an important role in our workforce (as do military personnel), and we need to identify, on a strategic level,

the activities and functions that they will perform. But this is secondary to performing a much more important strategic level evaluation of the size of the civilian workforce, the roles and activities that it performs, how it is trained and managed, and so forth. For example, I can make investments, in terms of training and career development, in my civilian and military workforces that I cannot make with the contract workforce. Contract personnel support and supplement the civilian and military workforce, but they do not perform our most important jobs and missions. Often they provide unique but perishable skills that would be costly to replicate in our government workforce.

The IC continues to proactively evaluate the role of contract personnel, taking into consideration the mission, expertise required, and cost. As a result, the IC has and continues to reduce core contract personnel in many areas and refine the balance with the other components of the IC workforce. This is a dynamic process that will continue.

Defining “Core Contract Personnel” and What They Do

Contract personnel provide a broad spectrum of services, as permitted by law and regulation. As a general matter, the use of contract personnel is governed primarily by the Federal Acquisition Regulation. The Office of Management and Budget (OMB) and the Federal Activities Inventory Reform Act also provide guidance regarding the performance of inherently governmental activities.

The IC defines “core contract personnel” as those who support government civilian and military members by providing direct technical and intellectual expertise, or administrative assistance. Core contract personnel typically work alongside of and are integrated with USG civilian and military personnel, and perform staff-like functions. They provide unique expertise, surge capacity, cost-

effective services and support, and services of limited duration. These attributes make contract personnel an extremely flexible part of our workforce. Core contract personnel serve side-by-side with our government civilians and military personnel, and in some cases have given their lives for this country alongside their government colleagues. Two IC contract personnel were among the nine people killed during a terrorist attack on a CIA facility located near the eastern Afghan city of Khost in December 2009, and two IC contract personnel lost their lives during the attack on US diplomatic facilities in Benghazi, Libya, in September 2012.

Core contract personnel do not produce specific commodities such as a satellite or information systems, nor do they provide ongoing operations and maintenance in support of that product. (Those are industrial contractors.) Core contract personnel also do not provide what are considered commercially available services such as food, facilities maintenance, or janitorial services as defined by OMB Circular A-76 (Revised 2003).

Core contract personnel hold clearances and have access to classified information in the performance of intelligence activities, including collection, analysis, information technology, training, and education. As such, they are required to follow the same laws, policies, and regulations as government employees and military personnel for access to and the handling of classified information.

Core contract personnel may not and do not perform inherently governmental functions. Decisions regarding priorities, strategic direction, or commitment of resources always remain with government officials. I believe the IC's use of core contract personnel, since 9/11 and before, is appropriate and justified, and we take oversight of the contract workforce seriously.

Strengthening the IC Workforce and Oversight of Core Contract Personnel

As I noted earlier, the IC has been focused on growing and strengthening its civilian workforce for more than a decade. Significant investments have been made to recruit, train, develop, and deploy Community personnel since 9/11. In many important areas, the IC needs people with special skills that cannot be readily acquired through hiring on the open market and that take many years to develop. Therefore, the IC is building its own hiring pipelines in areas such as cyber and cybersecurity; foreign language; and science, technology, engineering, and mathematics. Initiatives such as the National Security Agency/Department of Homeland Security Centers of Academic Excellence Program in Information Assurance, the National Security Education Program, and other similar programs have been designed to develop a pool of educated and capable individuals with mission critical skills. In addition, IC elements have strong internship and cooperative education programs in these areas which also continue to attract numbers of exceptional applicants and provide a pipeline to permanent employment.

The IC leadership closely monitors the results of the annual IC Employee Climate Survey to track employee satisfaction and retention. The survey, which has been administered annually since 2006, provides direct feedback on employee perceptions and perspectives. While the IC continues to experience relatively low attrition rates, the Director of National Intelligence (DNI) holds heads of IC elements accountable for taking action in areas where employees indicate valid concerns. The IC has been recognized by the Partnership for Public Service as one of the top five best places to work in the federal government for the last three years and in the top ten the two years prior. However, the last several years have

presented challenges, including furloughs, sequestration, and pay freezes, that may negatively affect our ability to hire and retain government personnel.

Strategic workforce planning is the foundation of all of our human capital initiatives, and core contract personnel are included in our planning. We must have the capability – as a community – to project future mission-critical skill requirements; compare current inventories of civilian, military and core contract personnel capabilities against those requirements; and develop effective plans to close critical skill gaps.

Achieving the right balance among government civilians, military, and core contract personnel is critical to our ability to meet the demands of our mission. To this end, we have:

- Integrated personnel planning into the budget process. Every National Intelligence Program Congressional Budget Justification Book includes a Workforce Overview and graphical displays showing the balance between government personnel (civilian and military) and contract support; and
- Required IC elements to brief their Human Capital Employment Plans to the IC Chief Human Capital Office. These strategic workforce plans address all three workforce components. They provide an overview and profile of each IC element's workforce, assessment of critical skills and workforce mix, and human capital priorities going forward.

During this time we have also taken a number of actions to improve our oversight and management of IC core contract personnel. In 2006, the ODNI conducted its first inventory of core contract personnel directly supporting the IC's mission. This year we will conduct our eighth inventory and will continue to refine and improve our methodology. Specifically, we will require each IC element to provide a written explanation of the methodology used to identify and

calculate the values for the data points. The IC elements will be asked to describe the methodology used to obtain, determine, and validate the value for the number of hours to determine a Full Time Equivalent. We also ask respondents to include any factors that may create variations in value, calculations, etc. ODNI reviews and analyzes each IC element's submissions, which is followed by a briefing to OMB that includes the results and ODNI's analysis of the inventory submissions. In addition, any changes or clarification to the definitions are coordinated with OMB to ensure we adhere to OMB guidance.

As GAO has noted, there have been challenges associated with conducting the inventory, which was one of the first of its kind in the Federal government. IC elements vary in their ability to capture core contract data in an efficient and timely manner. For example, some elements compile the data manually, and all elements depend on timely and accurate contractor invoice submittals. However, the IC continues to improve the capture and understanding of data on its core contract personnel. As a result, over the years we have highlighted to OMB and Congress major adjustments and revisions of inventory data that affected the count of previous years. We expect that further improvements in "data capture" will make our information more reliable.

The DNI approved Intelligence Community Directive (ICD) 612 on October 30, 2009 to guide the use of core contract personnel. Among its key provisions, this Directive:

- Reaffirms the prohibition on the use of core contract personnel to perform inherently governmental activities;
- Generally describes the circumstances in which core contract personnel may be employed to support IC missions and functions;

- Beginning in FY 2011, requires IC elements to determine, review, and evaluate the actual and projected number and uses of core contract personnel in support of their intelligence missions;
- Makes permanent the annual inventory of IC core contract personnel, first initiated in June 2006; and
- Provides a refined definition of core contract personnel to ensure that IC elements can accurately conduct that inventory.

Overall, the ODNI has made great strides in overseeing the use of IC core contract personnel and will continue to refine our management of them, to include an assessment of the costs of these contracts. Generally we are finding that the rates on the new competitive contracts are substantially lower than we had been paying on the predecessor efforts. Because of the contraction in budgets, contractors are motivated to reduce costs. This is going on in both their indirect rates but even in the salaries being paid to the employees. In fact, some contractor employees are now being paid less than they were a few years back. As agencies cut Full-Time Equivalents (FTEs), the result is a larger supply of labor which drives down labor costs. We will continue to monitor this to ensure we do not go too far and lose the expertise we are paying for in exchange for these lower costs. Implementation of the Office of Federal Procurement Policy's (OFPP) Policy Letter 11-01, "Performance of Inherently Governmental and Critical Functions," creates a single definition for the term "inherently governmental function," reinforces the special management responsibilities that agencies use when relying on contract personnel to perform work that is closely associated with an inherently governmental function, establishes criteria to identify critical functions and positions that should only be performed by Federal employees, and provides

guidance to improve management of functions that are inherently governmental or critical.

Implementation of this policy letter is a shared responsibility across the IC acquisition, human capital, and financial management communities. Because the IC has been closely reviewing its core contract personnel workforce for several years, IC elements have conducted reviews of the functions and activities of their core contract workforces, and have taken steps to remedy situations where there was over-reliance on core contract personnel in tasks closely associated with inherently governmental functions.

The policy letter introduces a new category, “critical function,” to ensure agencies have sufficient internal capability to maintain control over functions that are core to their mission and operations. Contract personnel may perform critical functions as long as the government has the internal capacity to manage its work and that of its contract personnel. We believe our “core contract personnel” practices are responsive to the policy letter’s guidance, and we are reviewing the details carefully to consider where we may need to make additional refinements to our policies to best implement this policy letter across the IC.

GAO Recommendations

GAO recommended that the IC Chief Human Capital Office (CHCO) develop a plan to enhance internal controls for compiling annual Core Contract Personnel Inventory data, specify limitations of the data, and describe the methodologies used. The IC CHCO, in coordination with the IC Chief Financial Officer, added a new section to the FY 2015 Core Contract Personnel Inventory data call that supports this request. The new section requires each IC element to provide a written response on the methodology used to identify and calculate the values for

the data points submitted and describe the methodology used to obtain, determine, and populate the value for the number of contract personnel hours used to determine a FTE. IC agencies will now also identify limitations that influence variations in value, calculations, etc. These changes will bring greater transparency to the IC's data on core contract personnel.

GAO also recommended that the IC develop guidance to augment the findings of OFPP Policy Letter 11-01. As noted above, we are working closely across the IC to ensure we are in line with the policy letter. The IC CHCO has recently issued guidance in the new core contract personnel inventory data call that requests IC elements describe steps taken to ensure compliance with this Policy Letter.

GAO also recommended that ODNI examine and revise ICD 612 and adjust the provision governing strategic workforce planning to require the IC elements to identify their assessments of the appropriate mix of government and contract personnel. The revision of this ICD is the highest policy priority for the IC CHCO and will be initiated this year.

ODNI has directed the IC elements to continue to determine, review, and evaluate the actual and projected number and uses of core contract personnel in workforce planning. As I mentioned earlier, the appropriate workforce mix is not a static percentage, and may vary considerably across the IC elements and from year to year. The optimal mix of the workforce is determined based on an analysis of each IC element's mission needs. Funding, positions, critical skill needs, and mission requirements are all key determinants. Other factors to consider are the length of time involved in hiring the government employee, and whether the function is intended for the long-term. In addition, each IC element head has the responsibility to ensure the element has sufficient staff with trained government contract management personnel to oversee these core contract personnel.

GAO recommended that ODNI assess options for modifying the core contract personnel inventory to provide better insights into functions performed by core contract personnel if there are multiple services provided under a contract. While the IC CHCO is committed to providing more reliable and transparent data on core contract personnel, we assess that the effort to develop the capability to track this level of information on every individual contract would be time and cost prohibitive. It also would be of minimal value for workforce planning, since the inventory focuses solely on the previous year's contract data. However, as we update ICD 612, we will consider changes that would facilitate the generation of better data.

Another GAO recommendation is for each IC element to capture data on individual contracts, identifying the number of core contract personnel considered "critical" or "closely related." While there is no reporting requirement for these data in OFPP Policy Letter 11-01, we will assess the viability of capturing this level of information to include references to "critical" and "closely related" functions during the revision of ICD 612.

Moving Forward

To meet today's national security threats, we need a workforce that is second to none, and this workforce will include core contract personnel. We will continue to manage this segment of our workforce in a manner that is consistent with law, regulation, our budgetary restrictions, and our mission requirements to protect our country. I believe that the IC's use of core contract personnel has been consistent with these requirements and in the best interests of the taxpayers.

Thank you, I look forward to answering your questions.

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