

Joint Statement of
The Commission on Wartime Contracting in Iraq and Afghanistan

Hearing:

**‘Transforming Wartime Contracting:
Recommendations of the Commission on
Wartime contracting’**

U.S. Senate Committee on Homeland Security and Governmental Affairs
Room 342, Dirksen Senate Office Building, Washington, DC
2:30 PM., Wednesday, Sept. 21, 2011

[As prepared for delivery.]

Chairman Lieberman, Ranking Member Collins, Members of the Committee, good morning. Thank you for inviting us to appear before you.

I am Katherine Schinasi, a member of the Commission on Wartime Contracting in Iraq and Afghanistan and a former managing director of the Government Accountability Office.

I am presenting this statement on behalf of all the Commissioners, including Co-Chairs Michael Thibault and Christopher Shays, and fellow Commissioners Clark Kent Ervin, Grant Green, Robert Henke, Charles Tiefer, and Dov Zakheim. With me at the witness table is Co-Chair Shays.

It is particularly fitting that the Committee on Homeland Security and Governmental Affairs should be the first committee of Congress to convene a hearing on the final report that the Commission filed on

August 31. Senate rules give this Committee the unique authority to inquire into “the efficiency, economy, and effectiveness of all agencies and departments of the Government,” including the organization of Congress and the Executive Branch.

If the final report of the Commission on Wartime Contracting demonstrated anything, it is that America needs a coordinated, whole-of-government approach to make contracting support of wartime and other contingency operations more efficient, economic, and effective. The effort is urgent for several reasons:

1. U.S. involvement in Iraq and Afghanistan will continue for years, and reforms can still save money, avoid unintended consequences, and improve outcomes there;
2. There *will* be new contingencies, whether they take the form of hostilities and humanitarian interventions overseas, or emergency responses to mass-casualty terror attacks or natural disasters like Hurricane Katrina here at home;
3. The U.S. government officially considers contractors to be part of the “total force” available for contingency operations and, more importantly, acknowledges that it cannot mount and sustain large operations without contract support;
4. The federal government nonetheless went into Afghanistan and Iraq unprepared to manage and oversee the thousands of contracts required, and despite some improvements over the

years, remains unable to provide fully effective interagency planning, coordination, management, and oversight of contingency contracting; finally,

5. The Commission estimates that at least \$31 billion, and possibly as much as \$60 billion, of the \$206 billion spent on contracts and grants in Iraq and Afghanistan has been wasted, and that many billions more may turn into waste if host governments cannot or will not sustain U.S.-funded programs and projects. Failure to enact powerful reforms will simply ensure that new cycles of waste and fraud will accompany the response to the next contingency.

The trend of our findings is surely no surprise to this Committee. Your 2006 report, "Hurricane Katrina: A Nation Still Unprepared," identified many problems with contractor support that we have seen in Iraq and Afghanistan, including poor planning, limited or no competition, weak management of performance, and insufficient recovery of over-billings or unsupported costs.

The main difference is that federal contracting for the Katrina response was about \$9 billion as opposed to the \$206 billion for Iraq and Afghanistan, and that the place of performance was domestic, so didn't involve complications like limited legal jurisdiction over foreign contractors, documentation in foreign languages if available at all, and limited deployability of federal-civilian oversight personnel to theater. But our two reports do make it clear that the need for reform in

government contracting is not confined to the Iraq and Afghan contingencies.

The wasteful contract outcomes in both Katrina and Iraq and Afghanistan demonstrate that the government's dependence on acquiring goods and services is just not thought to be important enough, by the agencies responsible, to plan for and effectively execute those acquisitions. The Commission has concluded that the problems are multi-faceted and need to be attacked on several levels. The first is holding contractors accountable. Federal statutes and regulations provide ways to protect the government against bad contractors and impose accountability on them including suspension and debarment from obtaining future contracts, as well as civil and criminal penalties for misconduct. Unfortunately, we found that these mechanisms are often not vigorously applied and enforced. And incentives to constrain waste are often not in place.

The Commission's research has shown, for example, that some contractors have been billing the government for years using inadequate business systems that create extra work for federal oversight personnel and auditors. Compelling cases for charging fraud may go unprosecuted because other, possibly more headline-grabbing, cases are given priority. Recommendations for suspension and debarment go unimplemented with no documentation for the decision. Data that would be important for past-performance reviews often go unrecorded. Staffing shortages have led to a Defense Contract Audit

Agency backlog of nearly \$600 billion, delaying recovery of possible overpayments.

The government has also been remiss in promoting one of the most effective of all disciplines: competition. It is perfectly reasonable to say that exigent circumstances may require sole-source or limited-competition awards in the early phases of a contingency operation. It is not at all reasonable that a decade into an operation, multi-billion-dollar tasks orders are being written with no break-out or recompetition of the base contract.

We recommend not only better application of existing tools to ensure accountability, but also adding to them. Our report contains recommendations to bolster competition, improve recording and use of past-performance data, expand U.S. civil jurisdiction as part of contract awards, require official approval of significant subcontracting overseas, and provide incentives for contractors to take active steps against human trafficking by subcontractors and labor brokers. These and other recommendations will go a long way toward reducing waste, fraud, and abuse among contractors.

The second level is holding the government itself more accountable for the decision to use contractors and the subsequent results. Part of the problem is resources. As you know, both the active military and the federal acquisition workforce were downsized during the “peace dividend” days of the 1990s. This reaction to the end of a 55-year Cold War was understandable. But it ensured that if a large and prolonged

contingency should develop, the military would greatly increase its reliance on contractors while its ability to manage and oversee contracts had shrunk.

Even when the government has sufficient policies in place, effective practices, ranging from planning and requirements definition, to providing adequate oversight of performance and coordinating interagency activities, are lacking. The principal agencies involved in contingency operations—Defense, State, and USAID—have all made improvements in these and other areas. But, opportunities for improvement exist and much work remains to be done.

We have recommended steps that would improve the government's handling of contingency contracting. They include developing deployable acquisition cadres, elevating the positions of agencies' senior acquisition officers, and creating a "J10" contingency-contracting directorate at the Pentagon's Joint Staff, where the broad range of contracting activities is treated as a subset of logistics.

Considering this Committee's broad and inter-departmental mandate, I would call special attention to two recommendations embodying a whole-of-government approach that will improve efficiency and effectiveness in contracting.

The first is to establish a dual-hatted position for an official who would serve at the Office of Management and Budget, and participate in National Security Council meetings. Such a dual-hatted position would

promote better visibility, coordination, budget guidance, and strategic direction for contingency contracting.

The second is to create a permanent inspector-general organization for use during contingencies and for providing standards and training between contingencies. Your inquiries into the work of the special inspectors general for Iraq and Afghanistan reconstruction have shown the drawbacks of creating organizations limited in functional authority, geographic location, and time. SIGIR and SIGAR have performed valuable service for the country, but they will go away, leaving the need to reinvent them and accept delays in deploying them when the next contingency emerges. A permanent contingency IG with a small but deployable and expandable staff can provide interdepartmental oversight from the outset of a contingency.

More details on these and other recommendations appear in our final report, *Transforming Wartime Contracting*. We have provided copies to Senators' office and to Committee staff, so I will not attempt a full summary here. We do ask, however, that the report be included in the record of this hearing.

Our Commission closes its doors in just nine days. Our organization will disappear, but the problems it has chronicled will not. Action and in some cases appropriations will be required to reform contingency contracting. Further, sustained attention during and after the reform process will be essential to ensure that compliance extends to institutionalizing reforms and changing organizational cultures. That is

why our recommendations include requiring periodic progress reports on the pace and the results of reform initiatives.

Contracting reform is an essential, not a luxury good. Perhaps we can avoid hostilities related to unfriendly regimes in east Asia, the Horn of Africa, the Mediterranean, the Balkans, and Latin America. Perhaps we will not be called upon to mount vast humanitarian interventions overseas. Still, we remain vulnerable to catastrophic floods, earthquakes, storms, fires, and mass-casualty terror attacks here at home.

Whatever form it takes, there *will* be a next contingency. The government would be foolish to ignore the lessons of the past decade and refuse to prepare for it. You, the members of the Senate Committee on Homeland Security and Governmental Affairs, are in a good position to prevent such a tragic sin of omission.

Chairman Lieberman, Ranking Member Collins, Members of the Committee, this concludes our formal statement. We appreciate this opportunity to speak with you, and will be happy to answer any questions you may have.

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