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HEARING ON WASTE, FRAUD, AND ABUSE
AT K-TOWN: HOW MISMANAGEMENT HAS
DERAILED DOD'S LARGEST SINGLE
FACILITY CONSTRUCTION PROJECT

Thursday, June 28, 2007

House of Representatives,
Committee on Oversight and
Government Reform,
Washington, D.C.

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Committee Hearings

of the

U.S. HOUSE OF REPRESENTATIVES



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9 Committee on Oversight and

10 Government Reform,

11 Washington, D.C.

12 The committee met, pursuant to call, at 10:00 a.m. in
13 room 2154, Rayburn House Office Building, the Honorable Henry
14 A. Waxman [chairman of the committee] presiding.

15 Present: Representatives Waxman, Cummings, Davis of
16 Illinois, Tierney, Watson, Higgins, Davis of Virginia, Shays,
17 Platts, Duncan, Issa, and Sali.

18 Staff Present: Phil Schiliro, Chief of Staff; Phil
19 Barnett, Staff Director and Chief Counsel; Karen Lightfoot,
20 Communications Director and Senior Policy Advisor; David

21 | Rapallo, Chief Investigative Counsel; John Williams, Deputy
22 | Chief Investigative Counsel; Margaret Daum, Counsel; Suzanne
23 | Renaud, Counsel; Molly Gulland, Assistant Communications
24 | Director; Earley Green, Chief Clerk; Teresa Coufal, Deputy
25 | Clerk; Caren Auchman, Press Assistant; Zhongrui ``JR`` Deng,
26 | Chief Information Officer; Leneal Scott, Information Systems
27 | Manager; Sam Buffone, Staff Assistant; David Marin, Minority
28 | Staff Director; Larry Halloran, Minority Deputy Staff
29 | Director; Jennifer Safavian, Minority Chief Counsel for
30 | Oversight and Investigations; John Brosnan, Minority Senior
31 | Procurement Counsel; Emile Monette, Minority Counsel; Patrick
32 | Lyden, Minority Parliamentarian and Member Services
33 | Coordinator; Brian McNicoll, Minority Communications
34 | Director; and Benjamin Chance, Minority Clerk.

35 Chairman WAXMAN. The meeting of the Committee will
36 please come to order.

37 I would like to ask unanimous consent that the Chairman
38 and the Ranking Member or his designee each have ten minutes
39 of time for questioning when we begin this morning.

40 Today's hearing will be the seventh hearing the
41 Oversight Committee has held this year on waste, fraud, and
42 abuse in the Federal Government. We are holding this hearing
43 to examine what has gone wrong at the K-Town Mall, a \$200
44 million Defense Department construction project.

45 On September 28, 2006, this Committee held a hearing on
46 the Baghdad Police College. This was a U.S. project to build
47 new barracks and classrooms to educate and train Iraqi police
48 forces. As we learned at that hearing, the project was in
49 shambles. I have some pictures of that project which I would
50 like to show.

51 At the hearing we heard testimony from the Special
52 Inspector General for Iraq Reconstruction that construction
53 was so deficient that toilets were draining through the
54 reinforced concrete floors and literally raining on the
55 cadets. Auditors told us about light fixtures so full of
56 urine and feces that they would not operate.

57 The excuse from the Defense Department was that this was
58 a war zone.

59 Today we consider a different construction project.

60 | This project is not in a war zone. It is not in Iraq or
61 | Afghanistan. This project is being built on a United States
62 | military base in Germany. U.S. project officials live and
63 | work every day next to the facility. It is called the
64 | Kaiserslautern Military Community Center, also referred to as
65 | the K-Town Mall. Yet, it is also over budget, behind
66 | schedule, and falling apart.

67 | The K-Town Mall is the Pentagon's largest single
68 | facility construction project in the world. It will have a
69 | hotel, sports bar, slot machines, and over 800,000 square
70 | feet of retail space. But, just like the Baghdad Police
71 | College, the construction has been deficient, and U.S.
72 | oversight has been wholly inadequate.

73 | I have some pictures of this project, and the
74 | similarities are striking. Here is one showing how the roof
75 | is leaking continually and is causing damage to the finished
76 | construction underneath. This will cost millions of dollars
77 | to replace. Here are some additional pictures of the faulty
78 | construction, and here is another picture showing how
79 | flammable sealant was used in kitchen exhaust ducts.

80 | How could this have happened? How could construction of
81 | a modern-day facility in a western country on a U.S. military
82 | base resemble the shoddy and makeshift practices of a war
83 | zone? That is what we are here to find out.

84 | Certainly there are problems with the contractor on this

85 project, which is a German government-controlled entity
86 called LBB, and we will hear about some of these deficiencies
87 today. But the bottom line is that this is a U.S. Government
88 project. We are spending over \$200 million in U.S. funds to
89 build the K-Town Mall, yet the Air Force has failed in its
90 responsibilities to conduct proper planning and oversight.
91 The project is millions of dollars over budget, has no
92 validated cost estimate. The project was supposed to be done
93 last year, but now there is no working completion date in
94 sight.

95 I want to introduce for the record an audit issued by
96 the Air Force Audit Agency just last week on June 22nd. This
97 audit report is the European Area Audit Office, 22nd of June,
98 2007. This report details literally dozens of oversight
99 defects by the U.S. Government in the K-Town Mall project.
100 Let me just read a few from it.

101 ''The Air Force did not provide adequate oversight of
102 the planning procedures. The Air Force did not establish a
103 process for the contractors to provide contractor
104 qualification for U.S. review. The Air Force did not
105 establish procedures directing project managers to review and
106 validate cost estimates and did not properly monitor and
107 approve contractor payments. The U.S. Air Force paid for
108 materials in excess of approved contract quantities and did
109 not properly appoint certifying and accountable officials.''

110 This is a long report, over 100 pages, so I asked my
111 staff to prepare a short fact sheet with the key auditor
112 findings, and that fact sheet is available to Members, and I
113 ask unanimous consent it be included in the record. Without
114 objection.

115 [The referenced information follows:]

116 ***** COMMITTEE INSERT *****

117 Chairman WAXMAN. GAO investigators also visited the
118 K-Town Mall. We are fortunate that they can be here today to
119 tell us what they learned. As we will hear, they saw
120 irresponsible management, shoddy work, and millions of
121 dollars in waste.

122 The Federal Government spent a record amount, over \$400
123 billion, on Federal contracts last year. Over 40 cents of
124 every discretionary Federal dollar now goes to a private
125 company, but far too much of this spending is being
126 squandered.

127 The report I released yesterday identified 187 contracts
128 worth over \$1 trillion that had been plagued by waste, fraud,
129 abuse, or mismanagement since 2000. The same pattern happens
130 over and over again. The contractors get rich, the work
131 doesn't get done, and the taxpayers get soaked.

132 As the main oversight committee in the House we have an
133 essential job to do. We need to examine what went wrong so
134 we can hold officials accountable and enact reforms, and that
135 is what I hope we can begin to do today by holding this
136 important hearing.

137 [Prepared statement of Mr. Waxman report follows:]

138 ***** INSERT *****

139 Chairman WAXMAN. I want to recognize Representative
140 Shays, who will deliver the opening statement on behalf of
141 Congressman Tom Davis, the Ranking Member.

142 Mr. SHAYS. Thank you, Mr. Waxman. This is, in fact,
143 Representative Tom Davis' statement.

144 Good morning. Let me first commend Chairman Waxman for
145 holding a hearing on acquisition issues that does not involve
146 Halliburton. We hope today's broader perspective marks the
147 beginning of a trend.

148 As the Chairman said, we need today to discuss the
149 challenges facing the Department of Defense's largest ongoing
150 facilities construction project, the Kaiserslautern Military
151 Community Center at Ramstein Air Base in Germany. The
152 facility was designed as a massive, multi-use complex
153 featuring retail, hotel, and entertainment space to service
154 American personnel stationed in Germany and for others passing
155 through Ramstein, but today the project stands unfinished
156 after chronic delays, lax management and oversight, huge cost
157 overruns, dangerous design flaws, vandalism, and allegations
158 of corruption.

159 According to the Government Accountability Office, which
160 brought this matter to the Committee's attention, these
161 problems go well beyond the risks inherent in foreign
162 construction projects. This acquisition effort seems to have
163 collapsed under the combined weight of several daunting but

164 | not altogether unique complications.

165 | First, the project is supported by four different
166 | funding sources, each with different spending rules,
167 | currently valued at over \$170 million. The acquisition
168 | requires coordination of expenditures from Air Force working
169 | capital funds, other non-appropriated accounts, and \$21
170 | million in appropriated military construction funding.

171 | Second, the facility is being built under a riskier fast
172 | track design/build process.

173 | Third, the project must be constructed in accordance
174 | with a NATO status of force agreement which requires the
175 | German government to manage construction using German
176 | contractors to perform the work.

177 | Fourth, the Air Force decided not to use the U.S. Army
178 | Corps of Engineers, the Defense Department's resident
179 | construction management experts, to oversee the project.

180 | And, finally, to top it all off, the Air Force Project
181 | Management Office was under-staffed. The result was a
182 | high-risk, high-visibility project managed by too few people.

183 | Any one of these factors presents significant management
184 | challenges. Together, they spell disaster in the form of
185 | inadequate and unfocused high-level leadership, poor
186 | planning, poor design requirements, and an inadequate number
187 | of trained personnel overseeing the project.

188 | The Air Force recognizes the project has serious

189 | problems in management and oversight, and it is in the
190 | process of taking steps to get control of the situation.
191 | Some of the identified challenges have been mitigated; others
192 | remain works in progress.

193 | There is still a great deal of money committed to the
194 | project and substantial funding remains in the pipelines in
195 | Germany for other construction endeavors. We need to be sure
196 | this project is completed properly and that the future
197 | projects do not fall prey to the same oversight mistakes that
198 | steered this project into a cost and scheduling ditch.

199 | I hope this hearing will focus on what needs to be done
200 | to get this project back on track and what should be done to
201 | protect the integrity of future projects built under the
202 | existing status of force agreement in Germany. We need to
203 | know what has gotten better, what is still being fixed, and
204 | what is still broken, and we need to refine our understanding
205 | of the difference between interim findings that may make this
206 | complex process look bad now, and the real problems that will
207 | actually affect the cost to taxpayers in the end.

208 | I do need to sound a note of caution, however. The GAO
209 | audit findings being presented today are only preliminary.
210 | Criminal and administrative investigations of the project are
211 | still underway. Without the final results of those efforts,
212 | we are not in a position to get the full story in this
213 | hearing. It might have been wiser to wait, but as we proceed

214 | today we should take care not to jeopardize the hard work of
215 | the Department of Justice and the Air Force in pursuing
216 | serious allegations of civil and criminal violations in
217 | connection with this project.

218 | Investigators from the GAO are here today to provide
219 | their initial views on these issues, and we commend them for
220 | their hard work. We also value the experience and the
221 | perspectives our Air Force witnesses bring to this discussion
222 | of the critical challenges faced by this construction
223 | project.

224 | Much is at stake in terms of U.S. tax dollars and in
225 | terms of ensuring our troops get the best possible services
226 | and accommodations while deployed overseas.

227 | We look forward to the testimony of all the witnesses
228 | and to a frank, constructive discussion.

229 | That is the end of his statement.

230 | [Prepared statement of Mr. Davis of Virginia follows:]

231 | ***** INSERT *****

232 Chairman WAXMAN. Thank you very much.

233 I want to welcome now our witnesses for this hearing,
234 Greg Kutz, who is joined by Bruce Causseaux and Terrell Dorn
235 from the Government Accountability Office, who will present
236 the interim results of their investigation into deficiencies
237 at the K-Town Mall.

238 We also want to welcome Brigadier General Danny Gardner,
239 who is the Director of Installations and Mission Support for
240 the United States Air Forces in Europe.

241 Hopefully we will get an explanation of what has been
242 happening at the K-Town Mall.

243 I thank you all very much for being here. It is the
244 practice of this Committee to ask all witnesses to take an
245 oath before they testify.

246 [Witnesses sworn.]

247 Chairman WAXMAN. The record will indicate that each of
248 the witnesses answered in the affirmative.

249 Your prepared statements are going to be in the record
250 in their entirety. We would like to ask you to proceed in
251 any way you wish in your oral presentation to us.

252 Mr. Kutz?

253 | STATEMENTS OF GREGORY D. KUTZ, MANAGING DIRECTOR, FORENSIC
254 | AUDITS AND SPECIAL INVESTIGATIONS, GOVERNMENT ACCOUNTABILITY
255 | OFFICE; TERRELL G. DORN, DIRECTOR, PHYSICAL INFRASTRUCTURE,
256 | GOVERNMENT ACCOUNTABILITY OFFICE; BRUCE A. CAUSSEUX, SENIOR
257 | LEVEL CONTRACT AND PROCUREMENT FRAUD SPECIALIST, FORENSIC
258 | AUDITS AND SPECIAL INVESTIGATIONS, GOVERNMENT ACCOUNTABILITY
259 | OFFICE; BRIGADIER GENERAL DANNY K. GARDNER, DIRECTOR OF
260 | INSTALLATIONS AND MISSION SUPPORT, UNITED STATES AIR FORCES
261 | IN EUROPE

262 | STATEMENT OF GREGORY D. KUTZ

263 | Mr. KUTZ. Mr. Chairman and members of the Committee,
264 | thank you for the opportunity to discuss our initial findings
265 | relating to the KMCC project. The bottom line of our
266 | testimony today is that the KMCC project is in serious
267 | trouble. Ineffective management and oversight have resulted
268 | in a situation with no good solutions.

269 | Our testimony has three parts: first, the current
270 | problems; second, the causes of these problems; and, third,
271 | the effects of the problems and implications for future
272 | projects in Germany.

273 | First, it was initially estimated that the KMCC would
274 | cost about \$150 million and be completed in early 2006.

275 Today neither the Air Force nor the German construction
276 agency, LBB, have a reliable cost estimate or completion
277 date.

278 KMCC currently faces a multitude of problems that
279 threaten the completion of this important project. For
280 example, German contractors are leaving the construction site
281 in part because they aren't getting paid. The number of
282 workers has dwindled from hundreds to what we understand to
283 be about 50 today. Construction flaws include significant
284 water leaks, as you mentioned, related to the roof, which
285 will require millions of dollars to fix.

286 Examples of other problems include vandalism in over 200
287 of the hotel rooms, turnover in key LBB personnel, and the
288 firing of a company that LBB hired to manage the project, and
289 ongoing fraud investigations.

290 Under the causes of the problems, from the beginning
291 KMCC was a high-risk overseas project. Key risk factors,
292 which are also shown on the monitor, include an accelerated
293 schedule due to the need for the 350 hotel rooms; LBB having
294 control over contracting and management; in effect, a
295 cost-plus percentage of cost agreement; scheduling and
296 coordination of over 30 German trade contractors; currency
297 exposure due to a Euro-denominated contract; and financial
298 risks borne by the Air Force and its funding partners.

299 However, rather than beef up financial contract and

300 construction oversight, the Air Force provided minimal
301 oversight. For example, it appears that millions of dollars
302 of invoices and alleged change orders were paid for by the
303 Air Force with little or no supporting documentation. We
304 refer to this as a pay-and-chase process, which is highly
305 vulnerable to fraud, waste, and abuse.

306 Unfortunately, LBB failed to effectively design the
307 project and oversee the work of the trade contractors.
308 Ironically, LBB will receive a 5.6 percent fee on top of
309 every dollar of construction cost overruns for this project.

310 Let me now turn to Terry Dorn, who will discuss the
311 effects of the problems and implications for future projects
312 in Germany.

313 STATEMENT OF TERRELL G. DORN

314 Mr. DORN. Mr. Chairman, failure of the Air Force and LBB
315 to meet the project's construction schedule affects all of
316 the funding partners. For example, Air Force estimates it is
317 losing \$10,000 per day because the hotel rooms being built by
318 this project are not available, requiring many transiting
319 service members from places such as Iraq and Afghanistan to
320 stay off base in higher-cost German hotels.

321 AAFES, which uses non-appropriated funds, bears the
322 heaviest burden. Not only is their proportional share of
323 both current and future construction and possible delay costs
324 the largest, but because they are a retail operation they
325 also suffer from lost profits and lost opportunities. Their
326 ability to plan future operations also suffers without a firm
327 opening date, because they don't know when to stock the
328 shelves and they don't know when to hire new employees.

329 Additionally, AAFES is returned a portion of those
330 profits as dividends, which are used to support morale and
331 welfare activities for our service members and their
332 families. Because of the double hit of increased construction
333 cost from this project and lost sales, AAFES will not be able
334 to return as much money to morale and welfare activities as
335 they had planned. They may also have to delay construction

336 | of two shopping centers on other military bases and delay
337 | renovation of other facilities.

338 | Air Force officials estimate that there is at least \$400
339 | million in additional military construction and operations
340 | and maintenance projects slated for Germany over the next
341 | five years. Absent better controls, these projects face the
342 | same type of heightened risks associated with the
343 | Kaiserslautern construction project.

344 | In summary, the Kaiserslautern Military Community Center
345 | project is in serious trouble and needs serious attention by
346 | Air Force and LBB to mitigate the risks. While both
347 | recognize some of the issues and are taking some steps to
348 | address them, due to inadequate internal controls and mounds
349 | of unprocessed change requests, there is an increased risk of
350 | fraud and waste.

351 | Due to reported design issues, the lack of a
352 | construction schedule, shoddy construction work requiring
353 | rework, work stoppages, and the large backlog of unprocessed
354 | change requests, the project's schedule and consequently its
355 | budget are at risk of large increases.

356 | The largest share of those budget increases will be
357 | passed along by Air Force to AAFES, affecting their available
358 | capital for new projects and reducing the amount of dividends
359 | they can provide for the morale and welfare funds for our
360 | service members and their families serving overseas.

361 | Mr. Chairman. that concludes our opening statement this
362 | morning. We are prepared to answer any questions for the
363 | Committee.

364 | [Prepared statement of the Government Accountability
365 | Office follows:]

366 | ***** INSERT *****

367 Chairman WAXMAN. Mr. Causseaux, you are here to answer
368 questions?

369 Mr. CAUSSEAU. Yes, sir.

370 Chairman WAXMAN. Okay. Thank you.

371 General Gardner?

372 STATEMENT OF BRIGADIER GENERAL DANNY K. GARDNER

373 General GARDNER. Good morning, Chairman Waxman and
374 distinguished members of the Committee. It is an honor for
375 me to be here today.

376 Mr. Chairman, I have a brief opening statement, but my
377 written statement presents the facts of this situation to the
378 best of my knowledge.

379 In opening, I would like to state that the
380 Kaiserslautern Military Community Center project, known as
381 the KMCC, remains a cornerstone requirement for U.S. Enduring
382 Presence in the European Theater. It will help provide
383 quality of life transit capability to America's finest going
384 to, coming from, or supporting any UCOMM or CINTCOMM area of
385 responsibility.

386 This project is governed by the ABG-75 administrative
387 agreement, a bilateral agreement between the U.S. and the
388 Federal Republic of Germany. This agreement details the

389 | roles, responsibilities, and procedures of all parties in the
390 | acquisition of U.S. facilities projects in Germany.

391 | As you are all aware, this project is experiencing
392 | management, technical, and fiscal issues which are
393 | significantly delaying its completion.

394 | Mr. Chairman, if you will indulge me for a moment, I
395 | would like to explain the contractual relationships of the
396 | parties involved in construction in the Federal Republic of
397 | Germany in terms of a football team, something we can all
398 | relate to. This is not to suggest, Mr. Chairman, that this
399 | is a game, but the analogy will serve to better illustrate
400 | the roles and responsibilities of the various parties.

401 | In my analogy, the players are the contractors. The
402 | quarterback is the construction manager, JSK. The coach is
403 | our German construction agent, LBB Kaiserslautern. The
404 | owners and investors are the German and U.S. Government,
405 | respectively. Our quarterback, or our construction manager,
406 | is our key player. JSK is responsible for orchestrating the
407 | plays while working the field.

408 | Our coach, LBB Kaiserslautern, developed a strategy to
409 | be successful on the field and responsible for evaluating and
410 | adjusting performance of the quarterback and players. The
411 | owners and investors provide resources for the coach to hire
412 | players, develop strategy, and succeed in the field. The
413 | owners and investors can be somewhat involved in the pre-game

414 strategy, but in Germany once the game begins or contracts
415 are awarded the success of the team lies with the coach, the
416 quarterback, and the players.

417 In the case of KMCC, we have experienced several
418 weaknesses, and in some cases complete failure in our
419 quarterback, JSK, and our coach, LBB Kaiserslautern. These
420 weaknesses and failures have brought us to where we are
421 today. The owners and U.S. officials are working hand-in-hand
422 to determine solutions to the challenges our team is facing.

423 It is my belief that the challenges surrounding the KMCC
424 project are deeply rooted in an irreversible decision by our
425 German construction agent to use an acquisition methodology
426 known as trade lots. Although the decision was well
427 intended, it was ill fated. Simply defined, trade lots
428 dispense with the use of single general contractor normally
429 fiscally responsible for all aspects of single contract.
430 Instead, trade lots award numerous contracts to individual
431 trades, such as electrical, mechanical, and architectural, to
432 finish this.

433 This method was touted as offering two strategic
434 advantages. First, it would better serve the local economy
435 surrounding Ramstein Air Base by allowing smaller, local
436 firms to bid and perform on numerous smaller contracts.
437 Second, this method of contracting would afford the
438 opportunity to fast track construction.

439 Early trades such as site work, foundation, structural
440 work could therefore be designed and constructed while
441 subsequent trades continued with design efforts. Barring a
442 very costly full termination and re-solicitation, this
443 decision cannot be undone.

444 With few exceptions, most of the project challenges can
445 be linked to the weaknesses of our construction agent to
446 properly develop and manage the execution of this project.
447 One manifestation was an exceptional number of construction
448 change orders due to design errors and omissions. This led
449 to the agent's inability to orchestrate the schedule and
450 maintain quality control on more than 35 different contracts
451 across seven projects and four funding sources. Further,
452 they were not structured or resourced to process this large
453 number of change orders in a manner that would keep
454 construction on time and within budget.

455 The resulting haste in change order processing then led
456 to accountability issues. In December of 2005 I began to see
457 indications that the project was not going as smoothly as we
458 had hoped, specifically in regards to scheduling work. We
459 began engaging with our agent to find ways to influence
460 changes on the construction site.

461 In September of 2006 LBB replaced JSK and assumed the
462 role of a general contractor. Simultaneously, we ramped up
463 our oversight to a level not required by our ABG-75. Though

464 | some effective corrections have been made, there are still
465 | many challenges ahead.

466 | We have learned many lessons from this project that we
467 | have applied to other projects across USAFE.

468 | Returning to my football analogy, great effort has been
469 | exerted by USAFE and our German partners to turn this team
470 | around. Our commander and vice commander, as well as our
471 | embassy staff, have personally engaged with senior German
472 | officials to find solutions in order to complete this project
473 | as quickly as possible and within U.S. and German laws
474 | governing construction.

475 | These efforts have led to additional changes within the
476 | leadership of the project and promise to bring fresh game
477 | plan to the players on the field.

478 | It is my belief that our current strategy represents the
479 | most attractive course of action. We must continue
480 | construction to avoid extensive delay costs and to bring the
481 | facilities to a point where they can generate income and
482 | provide vital mission support.

483 | Mr. Chairman, we appreciate your genuine concern in this
484 | effort and I respectfully request the Committee's support as
485 | we work through the remaining challenges to complete this
486 | project as quickly as possible and bring this badly needed
487 | mission support facility online.

488 | Thank you. I look forward to your questions.

489 [Prepared statement of General Gardner follows:]

490 ***** INSERT *****

491 Chairman WAXMAN. Thank you very much for your testimony.
492 We are going to proceed now, without objection, with
493 questions in the regular order, five minutes each Member. I
494 am going to start.

495 General Gardner, on page three of your written statement
496 you say that the K-Town Mall project was put on a fast track.
497 I would like to ask you about this.

498 According to your testimony, the Air Force had a major
499 interest in completing the project by 2005. Why was this
500 project so important?

501 General GARDNER. Sir, we have a Rhein Main transition
502 program where we were closing our base in Frankfort, Rhein
503 Main Air Base, and the objective was to close that base,
504 transfer the missions from Rhein Main and duplicate those
505 missions to the extent that we could at Ramstein and at
506 Spangdahlem. The closure of that base was to happen in
507 December of 2005. It did happen in December of 2005. And
508 the opening of the facilities, the VQ area, the visiting
509 quarters area of that facility was to open simultaneously
510 with that.

511 But I also point out to you, Mr. Chairman, that the
512 December 2005 date was a desired date by USAFE for the
513 facilities. It was never a contractual date that was set up
514 by our contracting agent.

515 Chairman WAXMAN. The Air Force audit also referred to

516 | this pressure. On page three the audit states, ``The senior
517 | management emphasis was on expediting design and schedule,
518 | rather than ensuring personnel conducted appropriate design
519 | reviews.'' What I don't understand is how a project that was
520 | so important could go so off course.

521 | Mr. Kutz, how would you answer this question? How did
522 | we end up with a \$200 million white elephant when we were
523 | supposed to have an urgently needed facility for our troops?

524 | Mr. KUTZ. Well, our testimony talks about three parts to
525 | that. There are inherent risks involved with overseas
526 | contracting. There is the limitations based upon the
527 | agreement with the German government. You have got currency
528 | risks. Then, with respect to the actual German agency, LBB,
529 | they failed to provide effective oversight and management of
530 | the design and implementation. The third part of this is Air
531 | Force not having effective and proactive controls in place
532 | and oversight to identify and deal with the problems earlier,
533 | and we see it as all three being a combination of the perfect
534 | storm, if you will, creating this situation.

535 | Chairman WAXMAN. Was one of the factors the pressure to
536 | cut corners in order to get the job done quickly? If this
537 | were the case, this approach certainly produced the exact
538 | opposite result. What do you think about that?

539 | Mr. KUTZ. I do believe that a lot of the oversight was
540 | relaxed, in part because they wanted to get it done, and so

541 | there was a tendency to want to pay the bill, and, as we
542 | mentioned in our statement, even if there was no support for
543 | the invoices or change orders. That was because of the
544 | schedule-driven project.

545 | Chairman WAXMAN. General Gardner, did any official
546 | involved in this project ever object to the proceeding on
547 | this risky fast track approach?

548 | General GARDNER. There were some communications between
549 | the partners on the fast track approach, but in the end, in
550 | order to get the facility open in December of 2005, all
551 | parties agreed that the fast track was an acceptable manner,
552 | with some stipulations that were identified in the long run.

553 | Chairman WAXMAN. We have a memo. We will make it
554 | available to you. This was sent in September of 2004 to the
555 | civil engineer and the Director of Services for the United
556 | States Air Forces in Europe. This memo was sent by the two
557 | other key stakeholders in this project, the Army and Air
558 | Force Exchange Services and the Air Force Services Agency.
559 | In this memo they warn that the fast track process was
560 | eliminating ``the time needed to adequately review and
561 | resolve critical design issues.``

562 | Have you ever seen this memo before?

563 | General GARDNER. Yes, sir, I have seen it.

564 | Chairman WAXMAN. Let me read the next sentence. ``This
565 | accelerated process has contributed to critical design

566 | process omissions, design coordination problems, and schedule
567 | complications that may cause cost increases and project
568 | delays.''

569 | General, this memo was written in 2004, well before the
570 | majority of the construction had taken place. Can you tell
571 | us why the Air Force disregarded the objections of these key
572 | officials and proceeded with this approach, despite these
573 | warnings?

574 | General GARDNER. Yes, sir. This was before my time, but
575 | let me try to give you what I think happened based upon what
576 | I have been able to research.

577 | The individuals involved in this, we did actually go
578 | through a process of looking at it, analyzing it, and
579 | determined that the risk was--we knew that there was a risk
580 | involved. We would not have the idea it would be as risky as
581 | it has turned out, but we did know there would be a risk, and
582 | that all parties, again, involved agreed that the fast track
583 | method was an appropriate method to start this particular
584 | project.

585 | Chairman WAXMAN. Mr. Kutz, what is your view of the memo
586 | and the way it proceeded?

587 | Mr. KUTZ. My staff had seen this memo before, and,
588 | again, I think it just showed that, I guess, the incentive
589 | was to get it done quickly rather than to get it done with
590 | the all controls and additional caution. You know that

591 | high-pressure schedules are oftentimes a problem that causes
592 | failure in a project.

593 | Chairman WAXMAN. Thank you.

594 | Mr. Davis?

595 | Mr. DAVIS OF VIRGINIA. Thank you, Mr. Waxman, for
596 | holding this hearing. This is a kind of microcosm of what
597 | goes wrong in contracting.

598 | Mr. Kutz, your statement here weaves a pretty woeful
599 | tale. You say the German government entity charged with
600 | managing the project performed poorly, as did many of the
601 | German contractors. You don't spare the Department of
602 | Defense, either, stated that the Air Force oversight was
603 | grossly inadequate for such a large, high-risk program. Did
604 | anyone or any entity perform well here?

605 | Mr. KUTZ. I suppose some of trade contractors did
606 | because, again, I understand German trade contractors do good
607 | work generally and there is more of a history with German
608 | construction that I am not as well aware of, but certainly I
609 | am sure some of them did good work. I think it was more the
610 | oversight, the fast track, the design had flaws, and, of
611 | course, Air Force did not provide any oversight.

612 | Mr. DAVIS OF VIRGINIA. Is this a problem throughout the
613 | Air Force in the way they oversee these, or is this just one
614 | isolated case where the contracting officer, or whoever was
615 | responsible, just fell asleep?

616 Mr. KUTZ. I can't speak beyond this.

617 Mr. CAUSSEAU. No. We have no indication that this is
618 indicative of systemic problems, but, again, we only looked
619 at this project so we can only speak for this particular one
620 at this time.

621 Mr. DAVIS OF VIRGINIA. How much do you think American
622 taxpayers are out on this? How much did we lose?

623 Mr. KUTZ. Only a fraction of this is coming from the
624 MILCON appropriations. Most of this is not appropriated
625 money.

626 Mr. DAVIS OF VIRGINIA. Coming from where?

627 Mr. KUTZ. Soldier morale programs at the end of the day.

628 Mr. DAVIS OF VIRGINIA. So how much was lost when you put
629 all that through?

630 Mr. KUTZ. At the end of the day I don't think anybody
631 knows. I mean, there is no estimate of the cost of the
632 project right now, and the original estimate, Mr. Davis, was
633 \$150 million. There is no estimate today.

634 Mr. DAVIS OF VIRGINIA. Let me ask you this: did anybody
635 get fired over this?

636 Mr. KUTZ. I would defer to Air Force on that.

637 Mr. DAVIS OF VIRGINIA. Anybody fired?

638 General GARDNER. No, sir. Not to my knowledge anyone
639 has been fired. But I would like to say, if I could--

640 Mr. DAVIS OF VIRGINIA. Anybody promoted?

641 General GARDNER. Sir, could I set the record straight on
642 the money?

643 Mr. DAVIS OF VIRGINIA. Sure.

644 General GARDNER. We are within our budget authority on
645 this project. We still have \$55 million that we haven't
646 spent on this project. The prognosis, even with the repairs
647 of the roof, which is substantial, even with the prognosis we
648 will be under our project program amount.

649 Mr. DAVIS OF VIRGINIA. But you admit this wasn't very
650 well handled, don't you? Or are you going to defend it?

651 General GARDNER. I am not defending our contracting
652 agent. No, sir, I am not.

653 The other thing, though, I will tell you--

654 Mr. DAVIS OF VIRGINIA. Did the contracting agent do
655 their job in this case or did they fall down?

656 General GARDNER. The contracting agency obviously fell
657 in this case.

658 Mr. DAVIS OF VIRGINIA. Was anybody reprimanded for this?

659 General GARDNER. Sir, they have been--

660 Mr. DAVIS OF VIRGINIA. Was anybody demoted or fired?

661 General GARDNER. Sir, there have been people. I am
662 sorry. I thought you were talking about the U.S. side being
663 fired. No one on the U.S. side has been fired that I am
664 aware of. On the contracting agent's side, yes, sir. JSK,
665 which was a contracting agent for the LBB, was totally

666 removed from the project. Four individuals have also been
667 fired. Senior management on site have been removed from the
668 site, as well, per my assistants.

669 Mr. DAVIS OF VIRGINIA. But from the government side, the
670 people overseeing it, no heads rolled? Nothing?

671 General GARDNER. The individual, the contracting agent
672 is a German organization, so yes, government organizations
673 have--

674 Mr. DAVIS OF VIRGINIA. On the German side.

675 General GARDNER. Yes.

676 Mr. DAVIS OF VIRGINIA. But I am saying--

677 General GARDNER. Not on the U.S. side.

678 Mr. DAVIS OF VIRGINIA. Right.

679 Mr. Kutz, you point out that the Air Force provided
680 minimal oversight, and in some cases actually circumvented
681 payment processes. A major reason behind this seems to have
682 been a Air Force's desire to complete the project on
683 schedule; is that correct?

684 Mr. KUTZ. Yes.

685 Mr. DAVIS OF VIRGINIA. Was the key element behind this
686 mess an unreasonably ambitious schedule for project
687 completion?

688 Mr. KUTZ. That was certainly one of the key elements.
689 Again, I think there were a multitude of factors that
690 contributed to this, including some that aren't under the

691 control, like the currency exchange. The Euro dollar has
692 gone up by 30 percent since the beginning of the project, so
693 that is outside of anyone's control.

694 Mr. DAVIS OF VIRGINIA. Right, and probably you could
695 argue that wasn't even foreseeable.

696 To your knowledge, nobody on the American side of this
697 thing, though, was reprimanded, demoted?

698 Mr. KUTZ. No, none that we were aware of. I think the
699 Air Force would know better, but we are not aware of any.

700 Mr. DAVIS OF VIRGINIA. Do you think the problems were
701 caused by the complexity of the various funding streams,
702 which included both, as we noted, appropriated and
703 non-appropriated funds, as well as some money from the German
704 government?

705 Mr. KUTZ. Yes, that contributed.

706 Mr. DAVIS OF VIRGINIA. Do you think the fact that a
707 majority of the funds here were not DOD appropriated funds
708 was a cause of some of the lax oversight?

709 Mr. KUTZ. That was one of the reasons they didn't engage
710 the Corps of Engineers. Apparently, in most projects like
711 this the Corps of Engineers would be engaged to provide
712 oversight, at least certain elements of financial and
713 construction oversight. Because it was not appropriated, in
714 part, that was not done in this case.

715 Mr. DAVIS OF VIRGINIA. My time is up. Thanks.

716 Chairman WAXMAN. Thank you, Mr. Davis.

717 Mr. Cummings?

718 Mr. CUMMINGS. I am confused. Mr. Kutz, you said from
719 the very beginning there was no good solutions to this
720 problem. General Gardner tells us that apparently he has got
721 a plan that this thing is going to come in under budget. I
722 mean, do you agree with that?

723 Mr. KUTZ. No. Not at all.

724 Mr. CUMMINGS. Why not?

725 Mr. KUTZ. The project is already 18 months behind
726 schedule and there is no estimate for cost and schedule. I
727 am not sure how you can say you are going to be under budget.
728 There is going to be significant litigation, claims
729 responding. There is re-work, and there are replacement of
730 the roof, not just to fix the leaks. They are going to have
731 to tear out the roof, put a new roof in. I think it is very
732 ambitious to say this is going to be within any budget at
733 this point.

734 Mr. CUMMINGS. General, I am under the impression from
735 your testimony that you believe the German agency and the
736 German contractors are to blame for the problems with the
737 project. I don't see one sentence in this testimony that
738 acknowledges any fault on the part of the Air Force. Is that
739 correct? You don't believe the Air Force did anything wrong
740 here? I understand nobody has been demoted or dismissed.

741 General GARDNER. Sir, with the advantage of 20/20
742 hindsight, there are things that we could have done better or
743 would do differently, and those things are what we call
744 lessons learned that we have already instituted across USAFE
745 in project management.

746 But overall, again, we have trust in our contracting
747 agent, which is LBB in this case, in accordance with
748 international agreements, and in accordance with
749 international agreements they are authorized or expected to
750 build these facilities with their own right and under their
751 own responsibilities, so we follow. We sit on the sideline
752 once the game gets started, as I was pointing to earlier.

753 Mr. CUMMINGS. But--there is a big but here--we hold the
754 money; is that right?

755 General GARDNER. That is correct.

756 Mr. CUMMINGS. We hold the money.

757 General GARDNER. That is correct, sir.

758 Mr. CUMMINGS. And so, because we hold the money, I
759 assume there are certain controls that we should have; is
760 that correct?

761 General GARDNER. We have that, sir. The oversight that
762 was alluded to earlier, we have a program management office
763 on site. The program management office is the ones that
764 identified the leak problems, for example, on the roof, and
765 they are the ones that have identified the kitchen duct

766 | problem.

767 | Mr. CUMMINGS. Are you telling this Committee this
768 | morning that it is adequate, this oversight is adequate or
769 | has been adequate?

770 | General GARDNER. The oversight, again in hindsight, we
771 | could have maybe have increased the number of people in the
772 | program office, but--

773 | Mr. CUMMINGS. Let's talk about it. You don't seem to
774 | want to admit that there are some major problems here with
775 | the Air Force, but I would like to ask about when the Air
776 | Force first became aware of the problems with construction
777 | and finances and the scheduling. On page three of your
778 | written testimony you state that the project indicators, both
779 | financial and schedule, began slipping in September of 2006;
780 | is that correct?

781 | General GARDNER. No. The schedule had already started
782 | skipping [sic] before September of 2006.

783 | Mr. CUMMINGS. I am sorry. And is--

784 | General GARDNER. But that is when we began to realize
785 | that there were more issues than just schedule slippage,
786 | because that is when we realized that we had a--well,
787 | actually it was before that when we had a number of change
788 | orders that our contracting agent had approved.

789 | Mr. CUMMINGS. I would hope so, Brigadier General,
790 | because the hotel was supposed to be done by December of

791 | 2005; is that correct?

792 | General GARDNER. That is right. Yes, sir.

793 | Mr. CUMMINGS. Yet you seem to be asserting that the Air
794 | Force had no idea there was anything wrong until after the
795 | date this project was supposed to be 100 percent complete.
796 | Can you explain that statement?

797 | General GARDNER. The project was scheduled to be
798 | completed, the hotel was completed contractually April 2006.
799 | I began to realize that we were having some major issues with
800 | schedules in--

801 | Mr. CUMMINGS. You just got slipped a note. I want to
802 | make sure we are accurate here. Why don't you read your
803 | note.

804 | General GARDNER. VQ was scheduled to open in April of
805 | 2006.

806 | Mr. CUMMINGS. Okay. Let me ask you this, then, General.
807 | There was a press story running in Bloomberg News yesterday
808 | in which you were quoted. In it you made this statement,
809 | ``There had been an environment of trust between the U.S.
810 | forces and LBB until about 18 months ago, when significant
811 | coordination and scheduling problems on LBB's part became
812 | apparent.'' Eighteen months ago was December, 2005, so
813 | according to your statement in Bloomberg yesterday, the Air
814 | Force became aware of the significant coordinating and
815 | scheduling problems in 2005, a year before the date you

816 | assert in your testimony today. Which statement is accurate?

817 | Did the Air Force become aware of these problems in

818 | September of 2006 or were there indicators in 2005?

819 | General GARDNER. As I stated in my verbal testimony, I
820 | became aware of significant problems with scheduling in
821 | December of 2005. In the beginning of January of 2006 is
822 | when I began to have a series of meetings with our
823 | contracting agent in order to determine what is the magnitude
824 | of these problems.

825 | Mr. CUMMINGS. And so why do you take action then?

826 | General GARDNER. We did take action.

827 | Mr. CUMMINGS. What did you do?

828 | General GARDNER. We worked with our contracting agent to
829 | determine why are we behind schedule and began to take action
830 | as to how we were going to get back on schedule.

831 | Chairman WAXMAN. The gentleman's time has expired.

832 | Mr. Shays?

833 | Mr. SHAYS. Thank you.

834 | General Gardner, I want to be fair to you, and I know
835 | this Committee does, as well. Sometimes when people testify
836 | they don't do as well as they should, but this is almost
837 | bizarre to me, and so I want you to stop and maybe explain to
838 | us. Maybe we are thinking of something different than you
839 | are thinking.

840 | When was this facility supposed to be complete?

841 General GARDNER. The VQ was scheduled to be completed in
842 April of 2004. That is when we were to get BOD.

843 Mr. SHAYS. April of--

844 General GARDNER. I am sorry, April of 2006.

845 Mr. SHAYS. Let me say something to you. You do not need
846 to speak quickly.

847 General GARDNER. April, 2006.

848 Mr. SHAYS. April, 2006. And what you are saying to us
849 is in December of 2005 you began to be aware that there were
850 some challenges in completing the project. It seems to me if
851 it is supposed to be done just five months later, for you to
852 be aware of it so late is stunning. Explain to me why you
853 would be aware so late that there were delays.

854 General GARDNER. Because we were being told by our
855 contracting agent that everything was on schedule.

856 Mr. SHAYS. Well, being told by your contractor and
857 having people there seeing that the contractor must be
858 smoking something--in other words, did you not have anyone
859 who was following this project and watching it and checking
860 out to make sure that at least the contractor was saying
861 things correctly?

862 General GARDNER. Sir, that is exactly what we were
863 doing. That is, again, the reason we had a series of
864 meetings with them.

865 Mr. SHAYS. No, you weren't doing it, because you should

866 | have known before December of 2005. Clearly you should have
867 | known.

868 | The other thing that just leaves me uncomfortable, and
869 | it is an impression that you wanted to leave with us but it
870 | doesn't make sense to me. I mean, when we read the document
871 | from GAO, this looks like a disaster of a project that is
872 | going to have significant cost overruns, and you are trying
873 | to give us the impression that you are under-budgeted. The
874 | way I think you are doing it is by not adding in the cost
875 | that will be needed just to get us up to a certain state of
876 | correction before you complete the project.

877 | For instance, the claims, what are the kinds of claims
878 | against this building right now? In other words, if you
879 | don't pay a contractor, you have money in the bank, but that
880 | is money that is allocated somewhere. I mean, are you trying
881 | to give us the impression that you have unallocated dollars
882 | that will make you feel comfortable and Air Force comfortable
883 | that you are going to be under budget?

884 | General GARDNER. Sir, our prognosis, based upon our
885 | contracting agent, as well as the other government officials
886 | that looked at this, we agree that at this particular point
887 | in time we are under the budget. That is to include the
888 | repairs that have been identified in this Committee this far.

889 | It does not include, however, the unknowns. We don't know
890 | what claims are out there yet as far as what the Germans

891 | would refer to as hindrance. We don't know what those may be
892 | and how that will account in here. But many of those claims
893 | costs, we are working with our German counterparts in order
894 | to recover some of those claims.

895 | Mr. SHAYS. Well, I became the general contractor of my
896 | house when my contractor left me a few years ago, and I would
897 | never feel comfortable saying that we are going to be under
898 | cost, because the fact is you have problems with your
899 | contractor because you are over cost. Rarely do you have
900 | problems with a contractor when you are under cost.

901 | Mr. Kutz, walk me through. And I want you to be candid
902 | on how you are reacting to General Gardner's response to us.

903 | Mr. KUTZ. It is just optimistic. I mean, I just don't
904 | see facts behind it from what we can see.

905 | Let me give you an example. There are tens of millions
906 | of dollars of change orders in the pipeline that have not
907 | been reviewed. There is no support for most of those, or
908 | many of those. Some of them have been paid for, some of them
909 | haven't, and that is based on our own--

910 | Mr. SHAYS. You have one change order, you have added
911 | cost and the change order they can charge you top dollar
912 | because it is a change order. How many change orders are
913 | there?

914 | Mr. KUTZ. I don't know today, but as of February there
915 | were 500 or 600 that were in the pipeline, according to their

916 consultant.

917 Mr. SHAYS. Five or six hundred change orders?

918 Mr. KUTZ. That is what we understand, yes.

919 Mr. SHAYS. Yes. Okay. Mr. Dorn?

920 Mr. DORN. I would like to comment first to add to what
921 Greg said. If you don't know the cost of the change orders
922 and the cost of the claims that still haven't come in yet,
923 there is no way you can know that you are going to be under
924 budget under your programmed amount. Being under the
925 programmed amount doesn't mean that there hasn't been any
926 waste; it just means that your programmed amount was a lot
927 higher than your initial contract.

928 Mr. SHAYS. Well, my time has run out, but basically two
929 issues right now. You are going to have claims and you are
930 going to have change orders and, thirdly, you are going to
931 have repairs. Those three things are going to increase your
932 cost, so you are going to have to find where did you save
933 money in your project.

934 At any rate, thank you, Mr. Chairman.

935 Chairman WAXMAN. Thank you very much.

936 Mr. Davis?

937 Mr. DAVIS OF ILLINOIS. Thank you very much, Mr.

938 Chairman. I want to thank you for calling this hearing.

939 Following up pretty much the same line of questioning,
940 Mr. Kutz, I want to try and understand exactly how much this

941 project is going to ultimately cost. I am looking at the Air
942 Force audit report, and it says that in 2003 the K-Town Mall
943 project would cost \$132 million. Is that correct?

944 Mr. KUTZ. That could be one of the early numbers. There
945 are a number of numbers of what it was going to originally
946 cost. Our best guess was 150, from what we could tell.

947 Mr. DAVIS OF ILLINOIS. Then by January of 2006 the audit
948 says that the cost of the project had risen to about \$180
949 million, and by September of 2006 the estimate was \$201.6
950 million. Now, I understand that some of that increase was
951 because of the change in the value of the Euro, but a lot of
952 that increase was for increased contractor cost; is that not
953 correct?

954 Mr. KUTZ. That could be rework and other types of
955 things, or just changes in quantity and other types of prices
956 of materials.

957 Mr. DAVIS OF ILLINOIS. General Gardner, do you agree
958 with the Air Force auditors that the latest estimate for the
959 cost of this project is approximately \$200 million?

960 General GARDNER. I am glad you asked me that question,
961 Mr. Congressman. If I could clear the record, the current
962 amount is the PA amount. The program amounts for this
963 project is \$181,997. The cost prognosis, including all the
964 repairs, all of the change orders, the 776 change orders,
965 including all those, we are looking at roughly \$174 million.

966 I will tell you, however, that does not include the
967 claims that we were referring to here. We have not gotten
968 around to the claims.

969 There is Article 18 of the ABG-75 says that the U.S. Air
970 Force or U.S. Government will not be held, cannot be held
971 responsible for faults caused by the German government or
972 their representatives that they hire. Article 40 of ABG-75
973 says those discrepancies and disputes will be handled at the
974 ministerial level. That is what we are in the process of
975 doing. We are trying to work those disputes that were
976 referred to, the claims that we are talking about, at the
977 ministerial level. We have no idea what those numbers are
978 going to be just yet.

979 But I just wanted to make sure that the record is
980 straight. These are prognoses from everybody who has looked
981 at this other than our GAO and audit agency, is \$174 million
982 is where we are at the present time based on our best
983 prognosis.

984 Mr. DAVIS OF ILLINOIS. Now, are you getting any money
985 for the project from the German government?

986 General GARDNER. There is a small amount. For the
987 claims, no, but there is a small portion of this, about \$11
988 million, that we get through a Rhein Main transition program
989 which is paid for by the partners. This money is used to pay
990 for 200 of the rooms in the VQ area, at least portions of the

991 VQ area.

992 Mr. DAVIS OF ILLINOIS. Mr. Kutz, in your testimony you
993 say that even \$200 million is an estimate that is too low.
994 Do you still--

995 Mr. KUTZ. We don't really have an estimate, but it is
996 hard to believe there could be a valid estimate when there is
997 no schedule completion date. I mean, no one has. Maybe the
998 General has a new schedule completion date that he would like
999 to go on record with, because I just don't know how you can
1000 make an estimate of cost when you don't know when it will be
1001 done.

1002 Mr. DAVIS OF ILLINOIS. General, let me ask you, is there
1003 a time for reassessing the ultimate cost of the project where
1004 you can come in with an amount that probably would get agreed
1005 to by the GAO or auditors who would look at it?

1006 General GARDNER. We are constantly looking at funding
1007 because, contrary to what some might believe, we are good
1008 stewards of American dollars. We are constantly looking at
1009 our expenses, where do we need to make adjustments, and so
1010 forth.

1011 As we speak today, I can't predict what is going to
1012 happen into the future, but as we sit today the prognosis is
1013 just as I have just read it to you. That is where we are.
1014 And the \$200 million that you have seen floating around is a
1015 figure that we use when we take people around visiting, this

1016 | is a \$200 million project. It is not a \$200 million project.
1017 | It is really about a \$181 million project, but we have used
1018 | the \$200 million as a kind of a round figure for our
1019 | tourists.

1020 | Mr. DAVIS OF ILLINOIS. Could it be that you really don't
1021 | know what the cost of the project is going to be?

1022 | General GARDNER. Ultimately, including the claims and
1023 | the unknowns, no, we do not know.

1024 | Mr. DAVIS OF ILLINOIS. Thank you, Mr. Chairman.

1025 | Chairman WAXMAN. Thank you, Mr. Davis.

1026 | Mr. Issa?

1027 | Mr. ISSA. Thank you, Mr. Chairman. I want to thank you
1028 | for holding this hearing. It is always refreshing when we
1029 | can have a totally bipartisan hearing, one in which we are
1030 | looking at the kind of mistakes that are endemic in our large
1031 | bureaucracy.

1032 | I don't claim to be an expert on contracting. The
1033 | biggest building I ever built was 200,000 square feet. But
1034 | it will tell you that, given a budget of \$200 a square foot,
1035 | given the ability--General Gardner, let's start it off. Were
1036 | you there at the start of the project?

1037 | General GARDNER. No, sir, I was not.

1038 | Mr. ISSA. Okay. Where were you at the start of the
1039 | project?

1040 | General GARDNER. I was on another assignment in

1041 Brussels.

1042 Mr. ISSA. What were you doing?

1043 General GARDNER. I was the Deputy U.S. Military
1044 Representative to NATO.

1045 Mr. ISSA. Okay. So you weren't in contracting? It
1046 wasn't a skill set you brought here today except what you
1047 have learned on the job?

1048 General GARDNER. That is correct, sir.

1049 Mr. ISSA. Isn't that one of the problems of the U.S.
1050 military is, with the exception of the Corps of Engineers,
1051 for the most part putting on that uniform doesn't give you
1052 the qualifications, graduating from the Air Force Academy
1053 with an engineering degree in aeronautical engineering
1054 doesn't make you a general contractor? Isn't that generally
1055 one of the problems of men and women in uniform?

1056 General GARDNER. Sir, I can't comment to that.

1057 Mr. ISSA. Okay. We will take that as a yes.

1058 Did anyone ever consider doing a PPV type project, in
1059 fact, having a partnership? You know, Paris Hilton is in the
1060 news, but Baron Hilton built a lot of hotels with 350 rooms
1061 and he came in on time and under budget. Was this ever
1062 considered in the contracting?

1063 Mr. Kutz, did you see anything in the record that said
1064 that at the time the Germans and the Americans were figuring
1065 it out they considered the idea that they would go to

1066 | somebody skilled in producing hotels? Mr. Dorn? Anybody?
1067 | Because I will tell you I don't believe for a minute that you
1068 | are going to do better the next time unless you start off
1069 | with a different attitude on how we approach the project to
1070 | begin with.

1071 | Go ahead, sir.

1072 | Mr. CAUSSEAUX. The U.S. Forces are obliged, under the
1073 | ABG-75 agreement, to contract through using essentially an
1074 | indirect process where a German agent--in this case
1075 | LBB--represents the American interest. That does not
1076 | mitigate the U.S. obligation to provide general oversight of
1077 | that venture.

1078 | Mr. ISSA. So you get to be in the airplane, but you
1079 | don't get to touch the controls, but you get to complain
1080 | about the altitude and direction?

1081 | Mr. CAUSSEAUX. The German government--

1082 | Mr. ISSA. I am not a football guy. I am going to have
1083 | to do this in Air Force terms.

1084 | Mr. CAUSSEAUX. Well, in all deference to the General,
1085 | while--

1086 | Mr. ISSA. This is a fly-by wire with no connections.

1087 | [Laughter.]

1088 | Mr. CAUSSEAUX. With all respect to the General, I agree
1089 | with his analogy that this is not a game; what I don't agree
1090 | necessarily, however, is that the German government was an

1091 | owner. I believe the United States is the owner. It is our
1092 | money. We have a vested interest.

1093 | The fact that this was a fast track process, there was a
1094 | decision made not to engage a general contractor, driven, I
1095 | believe, primarily by the fact that it was a fast track. The
1096 | Air Force opted not to have the Corps of Engineers engaged.
1097 | There were designers. The design was incomplete. And there
1098 | were multiple funding sources collectively and, given the
1099 | size and order of magnitude of the project, made this a
1100 | high-risk project.

1101 | The Air Force needed to have adequate oversight and they
1102 | did not.

1103 | Mr. ISSA. Okay. You know, did any of you see anywhere
1104 | in the contract history somebody looking at what it would
1105 | cost to buy Euros at the front end of the project, since this
1106 | was clearly known as a Euro-denominated project? Does
1107 | anybody think for a minute that they simply write checks for
1108 | fuel around the world and they don't hedge it in any way,
1109 | shape, or form?

1110 | Mr. KUTZ. I don't believe the Federal Government hedges,
1111 | but any business would have hedged this kind of a project.
1112 | There is no question about that.

1113 | Mr. ISSA. You mean the Federal Government just calls up
1114 | every day and says what it is going to cost us for fuel?

1115 | Mr. KUTZ. I believe that is correct.

1116 Mr. ISSA. There is no contracting ahead, no forcing the
1117 vendor to hedge?

1118 Mr. KUTZ. I am pretty sure that that is the case.

1119 Mr. ISSA. Okay. So for this Committee, we should
1120 understand that all that talk about world class private
1121 sector type thinking is just bull; that, in fact, that is not
1122 going on; that what would normally go on--Southwest Airlines
1123 doesn't have a problem when they are dealing in buying fuel.
1124 They are going to have to buy at variable prices. They hedge
1125 it. They set a contract.

1126 You didn't do that. You didn't fix the contract cost or
1127 exposure, you didn't deal with the German government and say,
1128 Because we don't control this we are going to put a cap on
1129 meeting the performance. We will pay for change orders but
1130 we are not going to pay for the basic question of whether you
1131 build this right. Is that true that the basic contract the
1132 day it was signed was flawed and that the Air Force doesn't
1133 know how to write a contract that protects the interest of
1134 the American people? Is that true?

1135 Mr. CAUSSEAU. Again, this was not a contract--

1136 Mr. ISSA. Yes or no. I don't have much time. Please.

1137 Mr. CAUSSEAU. No.

1138 Mr. ISSA. Okay. Let's go through a couple more.

1139 I heard you say that you need more people, General
1140 Gardner. How much do those people cost and how are they

1141 | scored? You need more people to do oversight, but I
1142 | understand from the testimony that you don't really have
1143 | control, so you can look at it and you can complain, but you
1144 | can't get there. And don't answer that because I think it
1145 | answers itself.

1146 | I am looking at pictures from just a couple of weeks
1147 | ago. Now, again, I haven't done a project of this size, but
1148 | this is not within three months of completion today, even if
1149 | it wasn't damaged. So I ask you, General Gardner, tell me
1150 | why three months before the project was to be done was the
1151 | first time you knew it wasn't three months of completion,
1152 | because this is a recent picture. This means that today it
1153 | is not within three months. Could you answer that for us,
1154 | please, if the Chairman will allow?

1155 | General GARDNER. Yes. The picture you are looking at is
1156 | the mall portion of the complex. The VQ, itself, is in
1157 | January of--

1158 | Mr. ISSA. Wait a second. Just correct, if I can, this
1159 | section here, this is the hotel. This high-rise section is
1160 | not a mall.

1161 | Chairman WAXMAN. Your time has expired--

1162 | Mr. ISSA. Would the Ranking Member give me some of his
1163 | time?

1164 | Chairman WAXMAN.--but I want to give him the opportunity
1165 | to answer the question.

1166 General GARDNER. In December of 2005 the hotel was still
1167 on schedule for BOD at the end of April. The hotel is
1168 different from the mall complex there. The mall complex we
1169 knew would be about four to six months later.

1170 Chairman WAXMAN. Thank you very much, Mr. Issa.
1171 Mr. Tierney?

1172 Mr. TIERNEY. Thank you, Mr. Chairman.

1173 I am curious when the General indicates that nobody on
1174 the Air Force side has been held accountable and no one has
1175 been disciplined or fired on that. We talked about the
1176 extraordinary number of change orders, many of which the Air
1177 Force didn't even know about.

1178 Mr. Kutz, in your report you mentioned that there were
1179 only eight offices in the U.S. project management office,
1180 none of whom, I understand, were warranted contract officers;
1181 is that right?

1182 Mr. KUTZ. That is correct.

1183 Mr. TIERNEY. You then mentioned that the director of the
1184 office may have been responsible for some of the decisions
1185 that led to the situation today, correct?

1186 Mr. KUTZ. Correct.

1187 Mr. TIERNEY. And in retrospect, when they were offered
1188 the help of the Army Corps of Engineers, the people who have
1189 expertise on that, that was rejected?

1190 Mr. KUTZ. That was rejected. Yes.

1191 Mr. TIERNEY. Do you know if the director of the program
1192 management office played any role in recommending against
1193 seeking the additional contracting resources from the Army
1194 Corps of Engineers?

1195 Mr. KUTZ. I don't know.

1196 Mr. CAUSSEAU. My understanding was that the Air Force
1197 requested or decided not to engage the Army Corps of
1198 Engineers from a cost factor and because there had been
1199 indications that they had some difficulties dealing with the
1200 Corps of Engineers, and because this project is largely
1201 funded by non-appropriated funds versus MILCON or
1202 appropriated funds, it was not required that the Corps of
1203 Engineers be engaged. But they did have that option.

1204 Mr. TIERNEY. Okay. And do we know what role the
1205 director of the program management office played in all those
1206 decisions?

1207 Mr. CAUSSEAU. I do not.

1208 Mr. TIERNEY. I just want to explore the idea of this
1209 official that I would think that in that position that he had
1210 he had some responsibility in those decisions. When I look
1211 at page 11, Mr. Kutz, of your testimony, you say he left his
1212 position and left the Air Force in 2006; is that right?

1213 Mr. KUTZ. That is correct.

1214 Mr. TIERNEY. Do you know why he left and what the
1215 circumstances were around his departure?

1216 Mr. KUTZ. For another job with the contractor in Dubai,
1217 I believe.

1218 Mr. TIERNEY. I understand the Air Force is involved in a
1219 criminal investigation in this matter?

1220 Mr. KUTZ. Of this individual, yes.

1221 Mr. TIERNEY. So I think we have to be a little delicate
1222 how we discuss it, but your testimony says that the Air Force
1223 officers have been searched and documents have now been
1224 seized; is that correct?

1225 Mr. KUTZ. Correct.

1226 Mr. TIERNEY. General Gardner, do you know where this
1227 official is today?

1228 General GARDNER. I believe he is somewhere in the Middle
1229 East, sir.

1230 Mr. TIERNEY. Do you know where he is specifically in the
1231 Middle East?

1232 General GARDNER. I believe he is in Dubai, but I am not
1233 sure.

1234 Mr. TIERNEY. He is in Dubai? And I guess Committee
1235 staff had the opportunity to track him down. They were
1236 interested in having him here today to testify. Do you
1237 happen to know what company he is working for in Dubai,
1238 General?

1239 General GARDNER. I believe he is working with Jacobs.

1240 Mr. TIERNEY. And, in fact, isn't that the same company

1241 | that the Air Force hired to help oversee this project?

1242 | General GARDNER. We do have two employees from Jacobs
1243 | that work with our quality control assurance guys.

1244 | Mr. TIERNEY. Well, this is serious stuff and I think we
1245 | ought to let the Air Force and the investigators carry on
1246 | their own investigation on that, but we push fast track
1247 | schedule, we hire minimal oversight staff, reject the help of
1248 | experienced agencies. It just seems to me like a recipe for
1249 | disaster on that, and I would expect that somebody is going
1250 | to take responsibility. I don't see a lot of responsibility
1251 | acknowledged in your testimony, General.

1252 | But just on the point of missing change orders, the 427
1253 | change orders I think is something of a stunning number for a
1254 | project on this.

1255 | Mr. Kutz, just so we understand that process, the
1256 | Government has approved the overall scope of the work on the
1257 | project, and if the contractor thinks a change is needed it
1258 | submits a change order, then the United States Government has
1259 | to approve that change order before the work can be done, and
1260 | certainly before any bills are paid; is that right?

1261 | Mr. KUTZ. Actually, LBB would submit the change order.
1262 | They would work on those with the contractors that they had
1263 | effectively subcontracted with.

1264 | Mr. TIERNEY. Okay.

1265 | Mr. KUTZ. And then they would submit that to the Air

1266 Force.

1267 Mr. TIERNEY. And then the Air Force decides whether or
1268 not to approve it and to pay it?

1269 Mr. KUTZ. Correct, although in many cases they paid
1270 before they got the change order.

1271 Mr. TIERNEY. Well, if they did that, that is not normal
1272 course of business, right?

1273 Mr. KUTZ. No, not at all.

1274 Mr. TIERNEY. All right. I was going to say you caught
1275 me up there for a second. Because in general you submit it,
1276 it gets approved, only if it is approved it gets paid.

1277 Mr. KUTZ. Well, keep in mind some of the change orders
1278 really aren't change orders. They are like one line that
1279 says something was done. They are still waiting for hundreds
1280 of supporting change orders for work that was supposed to
1281 have been done.

1282 Mr. TIERNEY. So the documentation was supposed to
1283 accompany it; it never did show up or hasn't shown up to this
1284 date on it?

1285 Mr. KUTZ. Correct.

1286 Mr. TIERNEY. Okay. I am looking through your report
1287 here. You found in a lot of cases the Air Force didn't even
1288 know about some of these change orders before they were paid.

1289 Mr. KUTZ. That is correct.

1290 Mr. TIERNEY. At all.

1291 Mr. KUTZ. Yes, because a large number of them came in,
1292 we understand, in the summer of 2006. Some of those dated
1293 back into 2005.

1294 Mr. TIERNEY. Okay. Tell us a little bit about what kind
1295 of documentation would really usually accompany a change
1296 order request.

1297 General GARDNER. The change orders, they can vary in
1298 size, but they are normally about this size.

1299 Mr. TIERNEY. It is hard to believe that somebody would
1300 miss that or not realize that it hadn't shown up at some
1301 point.

1302 Chairman WAXMAN. The gentleman's time is up, but you may
1303 answer that question.

1304 Mr. TIERNEY. It really wasn't a question. Thank you,
1305 Mr. Chairman. I guess I am just so stunned that over 400 of
1306 these fairly significant items here were just missed
1307 somewhere along the line.

1308 I yield back. Thank you.

1309 Chairman WAXMAN. Mr. Duncan?

1310 Mr. DUNCAN. Thank you, Mr. Chairman.

1311 I just want to see if I can come a little closer to an
1312 understanding about the cost of all this, because I think Mr.
1313 Kutz said he couldn't give an estimate of what the cost would
1314 end up being.

1315 We have a fact sheet given to us by the Committee that

1316 | says, as a result of these deficiencies, that auditors
1317 | estimated that costs for the K-Town Mall have increased from
1318 | \$131.3 million to at least \$201.6 million. Although the
1319 | project was originally scheduled to be operational by the end
1320 | of 2005, the auditors reported it is only 65 percent finished
1321 | and has no determined completion date.

1322 | Is that all correct and accurate?

1323 | Mr. KUTZ. That is the Air Force Audit Agency's report, I
1324 | believe. We have not done sufficient work to have our own
1325 | estimate.

1326 | Mr. DUNCAN. And you said that only a small fraction, you
1327 | said, of the money was coming from the MILCON program?

1328 | Mr. KUTZ. That is correct.

1329 | Mr. DUNCAN. And I think I read someplace else where \$21
1330 | million had come from that program?

1331 | Mr. KUTZ. Something along those lines, yes. U.S.
1332 | dollars.

1333 | Mr. DUNCAN. But then you said some of the rest of it or
1334 | all of the rest of it or something was from soldier morale
1335 | programs? What was the term you used?

1336 | Mr. KUTZ. Army/Air Force Exchange was the largest
1337 | funding partner, and then Air Force Services is the second
1338 | largest. Between the two of them, it is 75 or 80 percent.
1339 | To the extent that there are issues with this program, it
1340 | will impact soldier morale programs.

1341 Mr. DUNCAN. So the largest funds were coming from the
1342 Army and Air Force Exchange Program, which is subsidized by
1343 the taxpayers?

1344 Mr. KUTZ. Most of that comes from profits from--

1345 Mr. CAUSSEAU. Revenue generated from the exchanges.

1346 Mr. KUTZ.--operating exchange programs.

1347 Mr. DUNCAN. Well, you know, I think what disturbs so
1348 many people is that when we hear about these cost overruns in
1349 almost every department of the Federal Government, but
1350 particularly in the Defense Department, nobody really seems
1351 to care because it is not coming out of their own pockets. I
1352 mean, you care when you are sitting here in front of the
1353 Congressional Committees and testifying because you don't
1354 like being here, but really, as several Members have pointed
1355 out, nothing seems to ever happen to anybody. As the term
1356 is, nobody seems to ever be held accountable and nobody seems
1357 embarrassed, nobody ever seems ashamed, nobody ever seems
1358 to--you know, we hold these hearings, but then we just have
1359 these things happen over and over and over again.

1360 And then what we hear, whenever we find a program in the
1361 Federal Government that is messed up, they always say one of
1362 two things or both. They always say they were under-funded,
1363 they need more people, or they need more money--you know,
1364 they need more money so they can lose even more--or their
1365 technology was out of date, their computers were out of date.

1366 | You hear that over and over again. Yet, the technology owned
1367 | by the Federal departments and agencies is far better and far
1368 | more expensive and far advanced over what the private sector
1369 | has. But when things like this happen in the private sector,
1370 | things happen.

1371 | Anyway, thank you. Thank you, Mr. Chairman.

1372 | Chairman WAXMAN. Thank you, Mr. Duncan.

1373 | Ms. Watson?

1374 | Ms. WATSON. I want to thank all of you gentlemen and the
1375 | Chairman for being here, but I think we are gagging at gnat
1376 | and swallowing an elephant. I have sat in this Committee and
1377 | I have heard and spoken of \$9 billion missing in Iraq and
1378 | monies that were to be used for contracts and to be handed
1379 | out to the workers and so on, and no one can explain. We
1380 | even had the ambassador who was there during that time said
1381 | it was only Iraqi money.

1382 | I am very, very familiar with this area of Germany. In
1383 | fact, I worked for the Air Force and I was in France and
1384 | spent my weekends over in Germany, so I am familiar with this
1385 | area and I think it is commendable that we are building this
1386 | mall. However, I am very, very upset about taxpayers' money
1387 | disappearing. This is not even a war zone, not even a war
1388 | zone, but I am talking about in theater, and taxpayers' money
1389 | disappearing without the oversight, without the management,
1390 | and so on.

1391 So, Mr. Kutz, I thank you for the work you do, but this
1392 is exemplary of a bigger, bigger problem that we are using
1393 this money without the proper management, oversight, and
1394 without people who have the expertise in place.

1395 You know, I don't have really any problem with this
1396 because, you know, we are trying to service the civilians and
1397 the military in a foreign country, and I am all for that, but
1398 what I have the problem with is the mismanagement of our
1399 monies and the fact that currently tax cuts, where are we
1400 going to get the pool of money to really provide the
1401 construction and the needs and whatever domestically and in
1402 theater and in other places?

1403 So none of you have to respond, but I am frustrated,
1404 because when we talk about real dollars on projects that
1405 really would be meaningful in terms of outcomes, we don't get
1406 the answers.

1407 I want you to continue to give your reports. I want you
1408 to give us strong recommendations as to how we can look at
1409 the overall system of management accountability.

1410 We are the Committee that looks at fraud, waste, and
1411 abuse, but we need to have some over-arching principles, and
1412 we need to have answers why they are not being followed.

1413 Thank you so very much. I give back my time, Mr.
1414 Chairman.

1415 Chairman WAXMAN. Thank you very much, Ms. Watson.

1416 Mr. Platts?

1417 Mr. PLATTS. Thank you, Mr. Chairman. I appreciate your
1418 holding this hearing. I appreciate our witnesses being here
1419 today. I apologize for coming in late from another
1420 commitment as this issue was addressed.

1421 When I look at the problems that are clearly identified
1422 with this project, it is kind of two-fold. One is the waste
1423 of those tax dollars and other dollars related to the
1424 operation of our facilities that support our men and women in
1425 uniform and their families, the exchanges and the projects
1426 that can be built, or in this case maybe not done because of
1427 the loss of money on this project.

1428 I see a double hit, that loss of money and the fact that
1429 the quality of life for our men and women who are
1430 courageously serving us along with their families and those
1431 who either pass through Germany or are there has not yet been
1432 improved because this project is far from completion.

1433 In my numerous visits overseas I have come through
1434 Ramstein a number of times and have seen this project
1435 underway, and the fact that we are now a year past when it
1436 was supposed to have been done, that is a year of lost
1437 quality of life improvements for our men and women in uniform
1438 and their families, and no date certain yet of when it will
1439 be done, so it is both a dollar issue and a quality of life.

1440 What I wanted to focus on specifically is my

1441 | understanding from the audit that was done that there are
1442 | recommendations, and specifically that--and, General, if you
1443 | could address this--that there were recommendations from the
1444 | auditors that would address internal controls relating to
1445 | some of the change orders, as well as to the process for
1446 | reviewing the invoices submitted and when the work was done,
1447 | that recommendations were made, but those in charge of the
1448 | project refused to accept those recommendations and act on
1449 | them and said, No, we think we are doing what we need to do,
1450 | even though the evidence tells us otherwise.

1451 | I guess it is two-fold. One is, to the best of your
1452 | knowledge, who made those decisions not to accept the
1453 | recommendations of the auditors? And any basis for why they
1454 | did not accept that, given the information we know today of
1455 | the wrongs that were being committed?

1456 | General GARDNER. We are in the process of trying to
1457 | figure out how do we get this project completed. We have
1458 | contractors that have walked off the site because we haven't
1459 | paid them. Our guys have refused to pay them because change
1460 | orders have not been completed. We know now that these
1461 | change orders that we are talking about, the work was done,
1462 | the work was needed, and we will eventually pay for those
1463 | change orders. We know that.

1464 | What we did was set up a process to try to get money to
1465 | the contractors to get them back to work so that we could

1466 finish up the project. For every day that these contractors
1467 are off the site they are actually charging us money, so we
1468 are incurring hindrance costs, delays, and all types of other
1469 types of costs as a result of contractors not being at work.

1470 So what we have done is tried to find ways within the
1471 law. This has all been coordinated with our legal staff,
1472 coordinated with our FM staff, and that was the process that
1473 we have used. So I feel comfortable with what we have done
1474 with that.

1475 Mr. PLATTS. You are addressing where change orders were
1476 reviewed and were accurately fulfilled and payment, but my
1477 understanding is there is significant evidence of improper
1478 oversight, of perhaps--I think one number is \$13 million that
1479 could not be accounted for, expenditures, and at least \$13.7
1480 million in construction change orders that the auditors
1481 reported that the Air Force was not able to validate. Is
1482 that an inaccurate statement?

1483 General GARDNER. I don't know the exact part that you
1484 are reading from, but it is true that in the summer time
1485 frame of last year we received a register of
1486 modifications--the number was 549--of change orders that our
1487 agent had approved or someone had approved that we were not
1488 aware of. There were 549 of them.

1489 We have since gone back out on the site and worked with
1490 our organization or the German contracting agent to verify

1491 that the work had been done on these.

1492 The process to do a change order, according to the
1493 ABG-75, should take 30 days. Some cases, because the way you
1494 go through the process of the change order, verifying,
1495 negotiating the prices, checking the prices and so forth,
1496 especially when you have got a change order this size--17,000
1497 line items in this document here--it takes a while. That is
1498 what has happened, is that we have been trying to figure out
1499 a way. We know the work has been done. We can verify that.
1500 But we do not have a means to pay the contractor, get them on
1501 site, so they are walking off. So we are in this catch-22.

1502 Mr. PLATTS. Mr. Chairman, could I do a follow-up here,
1503 if I may?

1504 Chairman WAXMAN. Yes.

1505 Mr. PLATTS. Thank you. I want to follow up quickly with
1506 our GAO officials.

1507 General, one, I appreciate your efforts and your staff
1508 in trying to get this project back and for your and your
1509 fellow men and women in uniform's service. We want you to be
1510 successful getting this project back and success for the
1511 benefit of the taxpayers and for the families and our men and
1512 women in uniform.

1513 General GARDNER. Thank you.

1514 Mr. PLATTS. I do want to follow up on that issue of the
1515 auditors' recommendation. In your review, are there still

1516 significant recommendations of the auditors to prevent
1517 further problems that are not yet being implemented and
1518 accepted and pursued by those overseeing the project?

1519 Mr. KUTZ. We don't know that. Our work is still
1520 ongoing.

1521 I would say this: this is the situation. There is no
1522 real good solution necessarily. Just as important as this
1523 project is really the hundreds of millions of additional
1524 projects that are going to be happening, and at the front
1525 end--now you are not the front end any more. You are now at
1526 the back end of this, trying to deal with a real kind of a
1527 mess. For the projects going forward, it would be more
1528 important to deal with the front end so we don't have these
1529 kinds of discussions.

1530 Granted, you could still have problems, but you have a
1531 better chance of preventing at the front end. Now you are
1532 really in a situation of having, in many cases, to pay,
1533 regardless of whether you are going to get the money back,
1534 for rework or other types of problems here.

1535 So the only thing I would just comment on is the General
1536 said that the work has been done, and I expect hopefully most
1537 of it has, but I am not sure how he can conclusively state
1538 that where there are change orders with--supposed change
1539 orders. I said alleged in my opening statement--with no
1540 support. Again, I trust that most of it has been done, but

1541 | also some of the people that are involved in this process are
1542 | under investigation for fraud. So to the extent of saying
1543 | that the work has been done, you don't know for sure.

1544 | General GARDNER. I beg to differ with you, but we do
1545 | know.

1546 | Mr. PLATTS. I think your point that the work not being
1547 | done up front. And, General, I understand that was prior to
1548 | your time--

1549 | General GARDNER. Right.

1550 | Mr. PLATTS.--in your position, this change order with
1551 | thousands of line items. If there had been a more thorough
1552 | vetting and oversight up front we probably wouldn't have that
1553 | type document. You are always going to have change orders,
1554 | but probably not to this degree maybe if it was better laid
1555 | out and overseen from the beginning. I think that is part of
1556 | your point.

1557 | Thank you, Mr. Chairman, for the time.

1558 | Chairman WAXMAN. Thank you, Mr. Platts.

1559 | As we conclude this hearing, General, I want to make it
1560 | very crystal clear why this Committee is so concerned with
1561 | the failure of the Air Force. It doesn't matter who the
1562 | contractor is, whether it is an Iraqi contractor or German
1563 | contractor or an American contractor. As I understand, there
1564 | are special rules for international agreements, but you are
1565 | the U.S. Government. You hold the money, and with it you

1566 | hold the responsibility to ensure that it is not wasted.

1567 | Your written testimony says you are the third line of
1568 | defense in protecting U.S. interests and resources. I
1569 | disagree. You write the checks. You are the first line of
1570 | defense for the American taxpayers. When you compare your
1571 | testimony here today with this 112-page audit, you get a
1572 | completely different picture. This Air Force audit report
1573 | details at least 30 critical failures, not by contractors but
1574 | by Air Force officials who were supposed to oversee this
1575 | project, and these are fundamental, core responsibilities
1576 | that have been disregarded.

1577 | I don't have any further questions for you, but I just
1578 | want you to take that back and understand that is why
1579 | Congress is concerned. It is not just for you to point
1580 | fingers; it is to make sure these kinds of things never
1581 | happen again.

1582 | Thank you very much. That concludes our hearing today.
1583 | We stand adjourned.

1584 | [Whereupon, at 11:30 a.m., the committee was adjourned.]

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