Testimony of Dina Rasor and Robert Bauman

Committee on Homeland Security and Governmental Affairs

Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security

Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia

Management and Oversight of Contingency Contracting in Hostile Zones

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Mr. Chairmen and members of the subcommittees,

Thank you for asking us to testify today. My name is Dina Rasor and this is my co-author, Robert Bauman. Last year, because of the concern we had for the troops, we authored a book entitled, *Betraying Our Troops: The Destructive Results of Privatizing War.* We felt compelled to write this book because of the many horror stories we were hearing from soldiers and contractor employees in Iraq and those who have returned from Iraq. Our book follows the experiences of eleven individuals, some soldiers and some contractor employees, through the buildup to the war, the war and now the occupation.

Robert Bauman and I have been investigating defense procurement fraud and waste for most of our careers. Mr. Bauman was a career investigator for the DOD Defense Criminal Investigative Service (DCIS), a Vietnam veteran, and is a Certified Fraud Examiner (CFE). I founded and directed the Project on Military Procurement for ten years. It is now known as the Project on Government Oversight (POGO) and I serve on the Board of Directors as Treasurer. We run a small project called the Follow the Money Project (www.followthemoneyproject.org) that is dedicated to investigating where the money appropriated for the Iraq and Afghanistan wars is going -- especially money that should be going to the troops. We also are partners in the Bauman & Rasor Group, a consulting firm with an emphasis on qui tam False Claims Act lawsuits.

We are here today to look at the consequences of contracting so much of the Iraq war effort out to contractors, problems we have seen, how it has affected the troops. We have some suggestions to prevent such massive problems from happening in the future. Today, I will speak about some fundamental problems of using contractors in a war zone and its effects on the troops and Mr. Bauman will speak about problems due to the lack of oversight on the contractors. We also have some recommendations for the subcommittees based on our experience in this area.

We would like to emphasize that we are not against service contractors in the DOD, but we are concerned about placing them in unfortified hostile areas

**The Achilles' Heel of Contractors in a Hostile Zone**

Before the war started, the DOD was on a course of contracting out work at a higher rate than seen in the past. This caused alarm in some of the oversight organizations, such as the Government Accountability Office (GAO) and the DOD Inspector General. Both of these organizations wrote reports about their concerns of using contractors in hostile areas. The Army was warned about the dangers of using contractors in a hostile area.

A 1991 DOD Inspector General[1] Report warned about the problems that the services could have if the contractors would leave or not work in emergency situations. This report says that the problem was exposed in a 1988 DOD Inspector General report but firm plans had not been established. The report also warned that a DOD instruction written in 1990 (updated in 1996) was not being followed.[2] Section 4.4 of that instruction states:

*For situations where the cognizant DoD Component Commander has a reasonable doubt about the continuation of essential services during crisis situations by the incumbent contractor, the Commander shall prepare a contingency plan for obtaining the essential service from alternate sources (military, DOD civilian, host-nation, other contractor(s)).*

At the beginning of the war, in June 2003, the Government Accountability Office warned in a report that the commanders did not have back up plans, as required in the instruction above, on what to do if the contractors did not stay in a hostile area.[3]

One of the soldiers that we profiled in our book is Perry Jefferies, who is sitting at this panel today. I would urge you to listen carefully to his story and read his full testimony. Here was an experienced military man who was in charge of logistics for 1800+ men in the desert during and after the war and his story graphically illustrates what happens to our troops when the contractor is unwilling to go "beyond the wire" to serve troops.

According to KBR's LOGCAP Statement of Work (SOW), CJTF-7, 14 Nov 2004, the company was supposed to go within 100 kilometers of a base to supply the troops. According to another LOGCAP SOW, DAAA09-02-D-0007, Task Order 89.00, 10 APR 2005, water and other supplies were to be distributed as far as 250 kilometer to 400 kilometers from designed bases. Yet we have received many emails and letters from troops letting us know how much trouble they had getting even the most basic supplies during this period. Our book is full of examples where the contractor would not take the

[1] http://www.dodig.mil/audit2/91-105.pdf
[2] http://www.dtic.mil/whs/directives/corres/pdf/302037p.pdf
[3] http://www.gao.gov/new.items/d03695.pdf

risk and leave the bases. We call it the "just say no" problem of using contractors for vital supplies on the battlefield. .

Although the Army was already on its way toward contracting out its logistics, we learned, in the course of researching our book, that the lead up to the war made the problem much worse. For our book, we interviewed two generals, Lieutenant General Paul Kern, commanding general of the Army Materiel Command (AMC) from 2001-2004 and Major General Wade "Hamp" McManus, Jr., commanding general for the U.S Army Field Support Group from 2000-2004. Both men were responsible for the planning of the logistics in the rapid push to war. Although we interviewed each man separately, they had a common perspective of the problems of the war.

General Kern emphasized that because there was a cap on all troops, not just combat troops, the logistics arm also did not have enough troops for their mission. In desperation for logistics personnel in the run up to the war, the Army took the LOGCAP III contract that they had with Halliburton/KBR to supply troops around the world in areas such as the Balkans, and exploded it to replace the people and supplies that they did not have in the Army because of the troop cap. To place this in perspective, the LOGCAP III contract was around $60 million a year. To date, the LOGCAP III contact is estimated to have cost the Army $26 billion. Using the contract in this way led to many of the problems that we are seeing today. Both generals believe that some contracting out of logistics is here to stay but after some prodding admitted that they would have wanted their own personnel delivering the logistics on the battlefield and in hostile areas.

General McManus said in his interview that "the question one has to ask is have we asked our companies to do things we shouldn't have? Are we pushing them too far to deliver?" He also would have preferred to have logistic troops in a battlefield situation..."that's why we have an army." General Kern concurred by stating that he "would have preferred using military over contractors. More control. You train them and know what you have. You haven't recruited, trained, and equipped contractors. You don't have NCOs with them all the time. You don't know their families."

In the course of our research, we have come to the conclusion that the Army and the DOD have to draw a "line in the sand" and decide what is inherently governmental (IG) for logistics in a war or hostile zone. It is crucial that this be done because of the fog of war and because failure to know this line puts our troops at risk. Recently, the DOD published a revised DOD Instruction NUMBER 1100.22, Guidance for Determining Workforce Mix, September 7, 2006. This instruction is to try to guide the DOD and military commanders on what should be IG and what could be contracted out. This section lays out scenarios that resemble the DOD's situation in Iraq:

*E2.2.1. Exemption for Military CS and CSS* [Contract Support and Contract Service Support]

*E2.2.1.1. Manpower authorities shall designate commercial CS or CSS functions in*

*operating forces (DoD Functions M415-M810 of Reference (n)) for military performance and code the manpower B if, in the commander's judgment, a military capability is not normally required for proper performance of the duties, but performance of the function by DoD civilians or contractors or total reliance on DoD civilians or contractors would constitute an unacceptable risk.*

*E2.2.1.2. This includes situations where there is a significant risk that:*

*E2.2.1.2.1. The threat level could increase and military personnel would be needed on short notice to provide or augment a military capability.26*

*E2.2.1.2.2. There would be an unsafe number of personnel in hostile areas who are not combatants.*

*E2.2.1.2.3. DoD civilians or private sector contractors will not 27 or cannot continue to perform their work.28*

*E2.2.1.2.4. Security provided by private sector contractors could prove inadequate due to inferior weapons, operational security (OPSEC), communications, or training. This always includes security for nuclear weapons, as required by DoD 5210.41-M (Reference (u)) ,and could include security for captured chemical, biological, radiological, and high explosive weapons and Conventional Arms, Ammunitions, and Explosives.*

*E2.2.1.3. This manpower is exempt from private sector performance. It provides a ready and controlled source of technical competence (core capability) necessary to ensure an effective and timely response to an emergency or national defense contingency in the event military*

*25 Section 118(b) of Reference (g) requires the Department to identify the resources needed "to execute successfully the full range of missions called for in the national defense strategy at a low to moderate level of risk."*

*26 Section 113(i) of Reference (g) requires the Department to address "the means by which the DoD will maintain the capability to reconstitute or expand the defense capabilities and programs of the Armed Forces of the United States on short notice to meet a resurgent or increased threat to the national security of the United States."*

*27 Except during a declared war, DoD civilian and private sector contract employees have the discretionary option of quitting their jobs and not performing their duties without being subject to criminal prosecution under the UCMJ.*

*28 This includes situations where the commander has concerns that the contractor can no longer fulfill the terms of the contract because the threat level, duration of hostilities, or factors specified in the contract have changed significantly, or because U.S. law, international law, HN law, or international or HN support agreements (e.g.,SOFAs) have*

*changed in a manner that affects contract arrangements, or because of political or social situations.*

We see this as the Achilles' heel in using contractors in a hostile zone. The contractors can refuse to do some or all of the work in a task order and the commander does not have immediate ways to solve the problem, only protracted civil administrative and legal remedies. A contractor employee has the right to quit on the spot, even on the battlefield, and go home. Both of these actions, especially when the contractor is in charge of vital logistics, can greatly put the troops and mission in danger. In other words, the contractor and his employee can just say no.

These contractors and their employees have replaced troops who did not have that option. The Uniform Code of Military Justice (UCMJ) was designed to prevent troops from quitting the battlefield or hostile areas. No matter how patriotic our troops and commanders may be, we are asking them to do something that is directly against their self interest. When they take an oath to the Armed Services, they place themselves under the UCMJ and give up some rights. This is needed on the battlefield. If a soldier refuses to do a job under a lawful order, he can be jailed and court-martialed. If a soldier decides that he doesn't want any more of the war and leaves, he can be jailed and charged with desertion. If a commander is not doing his job or refuses to do some of his job, he can immediately be relieved of command and court-martialed. This is the type of action that you need on the battlefield or hostile areas because the troops' lives depend on it. It doesn't work when you put civilian contractors in the same role in hostile areas and you don't have the same law to make them do the work.

Recently, the House of Representatives had hearings on the problems of civilian and legal issues in Iraq. One of the people who testified was Scott Horton, an attorney who has a background in military law and is writing a book about the legal problems in Iraq. He told me that while the Congress is looking at MEJA (Military Extraterritorial Jurisdiction Act) and the UCMJ for legal remedies for contractors, but that this was only for crime and serious offense. He believes that the Army could not use the UCMJ or other legal remedies against contractors or contractor employees for refusing do work or quitting because it would not pass a constitutional test. So while HR 2740 will address problems of contractor crime in Iraq, we will still have the problem of contractors quitting on the battlefield with little recourse for the commander who is counting on them.

See footnote 27 in the DOD Instructions above that notes: *Except during a declared war, DoD civilian and private sector contract employees have the discretionary option of quitting their jobs and not performing their duties without being subject to criminal prosecution under the UCMJ.*

This note was left in the newly revised DOD Statement despite some language that the Congress has recently inserted about the UCMJ.

Furthermore, the Army does not have a contingency plan to deal with contractors leaving or not doing the full job because the Army has allowed their own logistics arm to atrophy. They don't have the manpower, the plans or the resources to do the job themselves while they have contracted out some of their most vital logistics, food, water, supplies and running the truck convoys that bring in all the supplies that they need to fight in a war or occupation.

In the introduction of our book, we tell a disturbing story of a manager for KBR, who was contracted to provide food, water, supply transportation and other services to our troops in Iraq. He told a general at his Iraq base that unless KBR was paid for their submitted invoices, his workers would stay in their housing containers and do nothing until the money was paid. In other words, KBR was threatening a work stoppage in a war zone.

This was not an isolated incident. Later in the book, we verified that this was happening across Iraq at various bases as KBR approached or exceeded their "not-to exceed" costs. Since the Army had contracted with KBR to provide these services which had been traditionally done by the Army, they had no back up plan and paid the bills. These generals had to process these questionable billing demands up through the ranks of the general officer corps and the civilian managers to the high level in the Army, and they released the money to be paid.

Ironically, according to peacetime procurement law, KBR has the legal right to stop work on any contract once they reached a threshold on spending money. Known as the Limitation of Government's Obligation (LOGO) clause (DFAR Supplement §252.232-7007), it states "the contractor will not be obligated to continue work…beyond that point." "That Point" occurs when the DOD runs out of appropriated funds for a given period of time and must wait for additional funding. The military cannot spend money beyond the amount appropriated. These peacetime rules don't work in war and illustrate another problem of using contractors in hostile areas without thinking through the problems.

It is very troublesome that these generals, who may have argued and jawboned KBR in meetings, were allowing contractors to control the logistics of their war. Since the early supplemental money for the war was what is called "colorless", i.e. could be allocated for whatever was needed, there are concerns that the contractor bills took precedence over other traditional Army needs such as body armor, night vision goggles, and other critical combat equipment. The Congress has been voting more and more money to be sure that the troops have what they need and yet the Army has barely been able to supply the demand for this equipment. This is exactly the type of situation that the DOD Instruction above was trying to prevent. But this instruction is written in the usually byzantine DOD procurement speak. The commanders of war do not have the time to read and try to understand the loopholes and murky provisions in this statement and they certainly do not have the time to understand complicated contract language and shifting task orders with the contractors.

The Iraq Parliament is considering lifting the immunity from prosecution exemption that was granted to the contractors by the Coalition Provisional Authority. If Iraq does eliminate immunity and a contactor employee does get thrown in Iraqi jail, there could be a crippling flight of employee personnel out of the country in rapid order. The companies will tell you that they can get foreign nationals to stay and do the work. There are a larger number of them than Americans in many of these jobs. But the supervisory management people, who are mostly American, could leave and the logistics and security of the U.S. forces could be put a great risk and could embolden the insurgency to take advantage of this potentially vulnerable hit on the logistics supply chain and private security details.

The DOD and the Army need to draw this line in the sand where no contractor can serve in a vital mission in a hostile zone. The DOD Instruction above is inadequate and too hard to understand for the commander in the midst of a war. If the DOD is not willing or able to make this line very clear, the Congress needs to step in and draw that line. We would suggest that the newly passed Wartime Contracting Commission be tasked with studying this problem and coming up with legislation that would make it illegal to put contractors in situations that are risky for the troops, the contractors and the mission.

Our suggestion would be that contractors should not serve in vital logistic or security roles in hostile areas. In Iraq, this would mean that contractors should be limited to Kuwait, the Green Zone and fortified military bases. Contractors, especially, should not be in charge and driving truck convoys carrying vital supplies and logistics for the troops. Our book has numerous examples of how the logistics system failed the troops and we don't want to see this in future conflicts. Our troops deserve better.

The subcommittee will be hearing from Mr. Jack Bell the Deputy Under Secretary for Logistics and Materiel Readiness in the next panel. We interviewed Jack Bell for our book.

We worked long and hard to get an interview with Mr.Bell to get his civilian take on the problems of contractors in this war on the logistics and supplies. He made a puzzling comment that "soldiers complaining on the battlefield is actually a sign of good morale as far as we are concerned." He then made a rote statement that was clearly given to him by the Army:

*"To our knowledge, none of the warfighters suffered long-term adverse consequences due to failure to provide them the equipment or supplies they needed to conduct the war fight."* [Chapter 24, p.227]

We were stunned at the absolutism of his statement because the lack of body armor stories were in the media and the un-armored Humvee controversy was also getting attention. I would suggest that you ask Perry Jefferies today if he agrees with that statement and did not suffer "long-term adverse consequences" by not having enough food, water, fuel, supplies and parts while sitting in the desert and trying to accomplish

his mission. We suggest that you ask about his statements in light that he is one of the top people in DOD responsible for logistics and material. Maybe he could bring the Army people that gave him that statement and let them explain the body armor problems and the myriad of contractor logistics and supply problems that plague this war and occupation.

**Acquisition Management and Oversight**

According to an excellent report recently published by the Center for Public Integrity, "U.S. government contracts for work in Iraq and Afghanistan have grown more than 50 percent annually, from $11 billion in 2004 to almost $17 billion in 2005 and more than $25 billion in 2006."[4]

Has the amount of troops in Iraq grown 50 percent in each of those years? Has the mission grown 50 percent each of those years? Has the construction grown 50 percent in each of those years? No, but the billings have. It is the oldest defense scam on the books...run up the costs on the first contract or task order, that becomes the new normal and then the next contract or task order will have those inflated billings and more. It is especially easy to do this during a war when the Army is counting on you for supplies and security and those few pesky DOD auditors are way behind the lines without access to the necessary books. It also helps to have chaotic book keeping so the commander just has to take your word on how much things are costing.

It has been well documented by government agencies that the Army's management and oversight of its contingency contracts for services in Iraq and Afghanistan has been seriously deficient. Our book also discloses on-the-ground accounts of how poor acquisition management and oversight has affected our troops and the taxpayer. Deficient acquisition management and oversight seriously erodes the government's ability to maintain control and accountability of its contracts.

Such deficiencies should not have been a surprise for the Army. As far back as 1994 in Haiti, and 1996 in the Balkans, the Army's acquisition management was criticized by their own Army Audit Agency and the GAO for poor oversight, not having the ability to monitor the contractor's performance, and using contract management personnel who were inexperienced and lacked an understanding of the LOGCAP contract resulting in unnecessary costs. The GAO found the same problems continued to exist in the Balkans in 2000[5] and 2003[6].

Despite years of being aware of their contract management and oversight deficiencies, the Army took no substantive action to resolve those problems and was

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[4] http://www.publicintegrity.org/WOWII

[5] http://www.gao.gov/archive/2000/ns00225.pdf

[6] http://www.gao.gov/new.items/d03695.pdf

caught with their pants down when LOGCAP exploded after the start of the Iraq conflict in 2003. As of 2007, there continued to be no progress in upgrading this deficient, ineffective, and dysfunctional oversight and contract management process in order to determine cost reasonableness of a contract now worth more than $25 billion. There is no telling how many billions of dollars have been wasted as a result.

A startling example of just how dysfunctional and ineffective oversight has been on the ground in Iraq, for the LOGCAP contract, was revealed in a 2005 LOGCAP Team Detachment after-action report we obtained from a source who was part of that team. LOGCAP support personnel (called "Planners") were assigned to all the primary bases in Iraq between June 2004 and June 2005 and were required to submit comments and issues regarding their tour of duty. These submissions were rolled-up into the after action report submitted through the LOGCAP chain of command. A copy of this report has been provided to the Committee. These Planners were there to monitor the contract and provide advice, assistance and recommendations on LOGCAP issues to the Administrative Contracting Officer (ACO), military, and KBR. Unfortunately, they did not have authority over the contractor or the ACOs.

The report disclosed poor communications, no teamwork, and a lack of information sharing between the LOGCAP Detachment Headquarters in Baghdad and the Planners in the field. There was a lack of support by the Army Materiel Command and a failure to properly equip the Planners. Unbelievably, as a result, Planners were at the mercy of KBR for life support that was, on the whole, inadequate, untimely and unresponsive. They had to often work without the most basic issue items. One Planner was given a housing container by KBR which had only a mattress on the floor and was littered with empty urine water bottles, and assorted debris. His reaction was if they would do this to the Planner, what do they do to the soldier? The answer was the very same and less. Yet, KBR living standards for their employees were higher than soldiers.' They claim that they are suppose to live like the soldiers when they actually did not.

The report went on to say ACO's and Planners were not working together as a team. ACOs were not aware of the Planner's role and often failed to utilize knowledge and advice of Planners often deferring to KBR instead. Conflicts existed between Planners and other military, Defense Contract Management Agency (DCMA), Program Contracting Officer (PCO), and other DoD agency personnel. Chaotic lines of communication were common with no clear lines of responsibility or authority.

The report further disclosed that some Planners had a lack of knowledge of LOGCAP and how to turn on KBR to do work. This lack of knowledge created misinformation on the part of the military and KBR as to contract requirements. ACO's were not trained in LOGCAP and were confused as to Planner duties and many were very inexperienced in their roles. But, what was frustrating to the Planners in their efforts to curb waste and abuse was that the LOGCAP Program Manager acted as a cheerleader for KBR. Despite efforts by the Planners to put a stop to contractor money wasting boondoggles, the Program Manager was leading the charge in supporting those boondoggles for KBR.

In addition to a lack of support by their own chain of command, the ACO was also not fully supportive of Planners especially when they requested cost data from KBR. KBR was often slow to comply or refuse to provide this important data. Planners could do little to compel KBR to provide data because they had no authority over their actions. When KBR issued situation reports to the ACO, they were useless. These reports often did not tell the truth and lacked important information. KBR management was reluctant to provide information because, they said, it could be used against them.

Planners revealed there were possible conflicts of interest and unethical or criminal activities between DCMA, the LOGCAP Program Manager, other unnamed government agencies, and KBR in monitoring the contract. There were allegations of collusion with KBR, acting as employees of KBR, overlooking violations of performance in the execution of the statement of work, getting favorable treatment over a regular soldier, and obtaining employment with KBR for friends, or themselves. Despite the important issues raised in this after-action report, there has been no evidence the Army has addressed any of them. The Army has shown it can not provide adequate oversight and management with their own personnel in Iraq. Moreover, recent revelations in Kuwait demonstrates that the Army can not control its own personnel awarding contracts in that country and had to shift its contracting office back to Rock Island, Illinois.

Although the Gansler Commission report was correct in recommending the need for more skilled acquisition and contract monitoring personnel – essential in ensuring cost control and contractor performance, that alone does not address the root problems for defense contracting in general. Those root problems are the significant weakening of contract laws and regulations over the last 13+ years, under the guise of "acquisition reform," that now permit many previously prohibited contracting practices, and the "Partnering" process, between DOD and contractors, used in such contracts as LOGCAP. Because of this weakening of contract laws and regulations, simply hiring more acquisition and oversight personnel will not provide meaningful opportunities to take preventative or remedial action to prevent contractor fraud, waste, and abuse.

During the 1990s, acquisition reform laws such as the Federal Acquisition Streamlining Act (FASA), enacted in 1994, and the Federal Acquisition Reform Act (FARA), enacted in 1996, had a significant impact on procurement laws and regulations. In 2004, the Services Acquisition Reform Act (SARA) was enacted that further weakened the DOD's negotiating position and oversight with respect to service type contracts. Generally, these Acts repealed and/or superseded various aspects of the statutory basis for government contracting such modifying the Competition in Contracting Act which mandated full and open competition and amending the Armed Services Procurement Act that included eliminating the need to submit cost or pricing data to support contract pricing.

In addition FASA and FARA substantially weakened the use of the Cost Accounting Standards (CAS) – the backbone of controlling contractor costs by setting accounting rules for contractors. Also, during FY 1996, A "Panel" was created to review

CAS. The net result of the Panel's report was to create more CAS exemptions, waivers and increased dollar threshold criteria which had the effect of eliminating many large contracts and contractors from CAS coverage. This Panel also derailed an important CAS Board initiative that would have prevented contractors from changing their accounting methodologies while performing a contract without also showing the government what the cost impact of the accounting change would be.

The "Partnering" process in DOD contracting is a concept that has been a disaster for government agencies and the taxpayer. It is based on a "mutual commitment between government and industry to work cooperatively as a team." It accepts the concept of mutual common interests among the parties to further the interests of the contract. It does not consider where those interests might be different especially when it comes to pricing of contracts, technical issues, etc. It also does not take into account the differences in manpower, skill, and experience. We believe that the Partnering process was initiated to mask the significant deterioration of acquisition and oversight personnel in the 1990s. Large contractors, in particular, have far more acquisition resources, skill, and experience than the DOD and therefore dominate the acquisition process under the Partnering process. With Partnering, a large contractor can insinuate itself into the acquisition process and dominate or influence acquisition management and oversight to its benefit. It is why we see LOGCAP officials relying on KBR, deferring to KBR on support for their oversight personnel, accepting contractor boondoggles, and accepting explanations on important cost issues, such as level of service, without question.

It seems the Army has decided the best way to remedy its deficiencies in acquisition management and oversight is to outsource those functions. For the LOGCAP IV contract, the Army has awarded a "support" contract to SERCO to provide "acquisition and life cycle management support for the program." That contract is now on hold because of contractor challenges and the old LOGCAP III contract still remains in effect with all its inflated costs and lack of oversight.

Having a contractor involved in the acquisition, planning, and management support over a large contract usurps governments control over the management and oversight of that contract and compromises the checks and balances of the acquisition process. It also creates a conflict of interest concern since contractor objectives are to make a profit while the DOD's is to save money. It brings into question the support contractor's relationships with the three contractors on LOGCAP IV vis-à-vis the Army in providing its analysis and assessments of who wins task orders and at what cost on this type of contract. There is some precedence. Both DOD and State awarded more that $500 million in contracts to contractors to manage other contractors in Iraq mainly because the CPA did not have sufficient staff to manage or oversee those contracts or the support contractors. Given the current posture of insufficient acquisition and oversight staff, the Army runs the risk of ceding control and of the acquisition process and contractor accountability to the support contractors. Who is going to watch the watchers? Certainly not the Army. They don't have the resources to do that. Acquisition and oversight should be considered an inherently governmental function to maintain authority over contingency contracting. To have a contractor manage other contractors is

tantamount to having a fox guard the hen house. Congress should enact a law restricting or eliminating this process.

Another area that needs to be addressed is going after the money that has already been fraudulently taken in this war. The new Wartime Contracting Commission is one place to start. But, based on our experience, it will take a willing and tough Department of Justice to file False Claims suits against companies that have taken advantage of this situation. When Dina Rasor worked on reforming the military procurement problems of the 1980s, she heard from the then assistant DOD IG that he would refer cases for prosecution to the "black hole of Justice" never to be heard of again. The Congress and the DOD should not consider these ill gotten gains as water under the bridge and insist that this Department of Justice and the DOJ in the next administration take an aggressive and persistent action against any contactor that has defrauded the government whether it be in the criminal or civil realm. Based on our experience, there is an opportunity to recover perhaps billions of dollars and set the tone for the next conflict that there will be steep penalties to pay for taking advantage of our nation at war.

Without this pressure on the DOJ, the Wartime Contracting Commission may see its referrals die in the black hole of Justice.

We felt compelled to write this book for the public and to fund our Follow the Money Project so that troops like Perry Jefferies will never have to face these circumstances again during war. Congress and the DOD need to act to put contractors, this new War Service Industry, back where they belong – inside the wire and out of vital logistics and security in a hostile zone.

We recommend the following remedies:

-- Congress and the DOD need to distinctly define what is inherently governmental and military on the battlefield and in a hostile zone and strictly restrict contractor so that the troops do not have to face logistic, security and supply problems while risking their lives. In Iraq, we believe contractors should be restricted to Kuwait and other border countries, the Green Zone, and fortified bases. Contractors should be forbidden to run truck convoys or any other logistics transportation in hostile areas.

-- Incorporate remedies strongly recommended by GAO, SIGIR, and the Gansler Commission to grow the oversight and acquisition personnel who have been trained and are skilled in contingency contracting. Congress should require benchmarks and a time limit to implement these recommendations. This should include training for all LOGCAP, ASC, and AMC personnel to ensure appropriate support to field oversight and acquisition personnel.

--Repeal FASA, FARA and SARA laws as they effect government contracting and strengthen CAS to provide acquisition and oversight personnel with the tools to control costs.

-- Eliminate the "Partnering" process. Although the philosophy of Partnering was the replacement of the "us vs. them" mentality with a "win-win" mentality, the reality has been a win (contractor) – lose (DOD) result. DOD must regain control of the acquisition process in order to regain control of costs. It doesn't have to be an "us vs. them" mentality, but there needs to be a clear acquisition authority over the contractor and the process. This can be done with eliminating Partnering, increasing acquisition and oversight personnel who have been well trained and skilled in managing high cost, and strengthening procurement rules and regulations.

--Acquisition management and oversight should be an inherently government function. To have contractors manage contractors is like having the fox guard the hen house. Congress should enact a law restricting or eliminating this process.

-- Congress needs to let the Department of Justice know that they expect rigorous investigation and prosecution of war contractor fraud whether it be criminal prosecution or the False Claims Act. Without a strong and determined DOJ, the contractors will think that they can get away with this type of behavior in the chaos of a war situation