

RECORD VERSION

STATEMENT BY

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BEFORE THE

COMMITTEE ON ARMED SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

**ON ACCOUNTABILITY DURING CONTINGENCY OPERATIONS:
PREVENTING AND FIGHTING CORRUPTION IN CONTRACTING AND
ESTABLISHING AND MAINTAINING APPROPRIATE
CONTROLS ON MATERIEL**

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Introduction

Chairman Skelton, Congressman Hunter and distinguished members of the Armed Services Committee: we thank you for the opportunity to report to you on the U.S. Army's comprehensive, ongoing efforts to ensure policies and procedures are in place for all joint, expeditionary contracting operations in Iraq, Afghanistan, and Kuwait and to better prepare the Army for acquisition and logistical support of combat operations in the future.

The Army has deployed more than 550,000 Soldiers through Kuwait. We went from supporting one Kuwait base camp in 2002 to supporting eight in 2007. This activity required increased capacity in billeting, feeding, and general support. In Kuwait alone, the annual value of support contracts increased from \$150 million in 2002 to nearly \$1 billion in 2006. These contracts provided a wide array of logistical services and enabled the Army to support our warfighters. Other contracts were, and continue to be, critical to the reconstruction of Iraqi infrastructure and the restoration of basic service to support the transition to Iraqi control.

As the scope and scale of contracting in Southwest Asia has evolved, the Army has recognized the need to assess its contract management capacity. We are positioning ourselves to support the projected increase in activity resulting from recommendations of the Army Contracting Task Force, including the review

of past contract actions, along with the ongoing requirements of troop support operations.

The Army has conducted audits and investigations into the oversight, execution, and management of contracting in the theater of operations. Some of these audits and investigations are still ongoing. While the vast majority of our military and civilian contracting personnel who award and manage these contracts perform well in extreme conditions, auditors and investigators have discovered cases of potential fraud in contracting operations with the worst cases originating in Kuwait. As of September 12, 2007, there are 78 ongoing criminal investigations involving contract fraud committed against the U.S. military in the Iraq, Afghanistan, and Kuwait theater of operations. The Army has acted decisively to correct deficiencies with the following agencies involved in corrective actions: the U.S. Army Audit Agency (AAA); the U.S. Army Criminal Investigation Command (CID); the U.S. Army Materiel Command (AMC); and the U.S. Army Sustainment Command, all working in cooperation with the Defense Contract Management Agency.

In 2005, the Army began audits and CID increased investigative activity into allegations of corrupt contracting in Southwest Asia. Deployed commanders also expressed their concerns and requested the Army to send in additional CID Special Agents, auditors, and contract specialists from AAA and from CID. In 2005, CID established the Iraq Fraud Detachment and in 2006, CID established the Kuwait Fraud Office – both staffed with specially trained CID Special Agents.

Throughout these investigations, the Army has updated Congress and taken corrective actions as warranted.

In February 2007, after then-Secretary of the Army Dr. Francis Harvey was briefed on the matter, he directed action to correct deficiencies. Dr. Harvey tasked the Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASA(ALT)), Claude M. Bolton, Jr., to assess contracting activities throughout Central Command and to implement a Contracting Action Plan to address issues.

As a result, in March 2007, Army officials deployed a senior Contracting Operations Review Team to review all contract operations in theater. In April 2007, the Army began implementing a Contracting Action Plan that reorganized the Kuwait Contracting Office, installed new leadership, established a Joint Logistics Procurement Support Board, increased staffing, deployed senior contracting professionals and attorneys to Kuwait, and provided additional ethics training and assigned legal support.

In addition, the following guidance was emphasized Army-wide to improve performance in the areas of oversight, surveillance, and documentation of contractor performance on service and construction contracts.

- (1) Contract oversight and surveillance are the collective responsibility of the requiring and contracting activities. We are all responsible for ensuring that the contractor (service provider) satisfies contract cost, schedule, and performance requirements. If a contractor delivers substandard products or

services, we must pursue all appropriate contractual remedies. Documenting the contractor's deficient performance gives the Federal Government pertinent information for future source selections.

- (2) Surveillance begins from the date the contract is awarded. It is the contracting officer's responsibility to appoint a trained Contracting Officer's Representative (COR), knowledgeable of the technical requirements, to oversee contract performance. It is a command and requiring activity responsibility to ensure that the COR adequately performs all delegated surveillance functions, including a written surveillance plan. This plan must define the work requiring oversight and the appropriate method of surveillance. It must be tied to performance standards to ensure that contractors deliver products and services that meet contract requirements at the dollar value agreed upon.
- (3) Performance reports must be prepared, entered, and maintained in the appropriate contractor performance assessment system. Performance information will be used in deliberations and evaluations for future contract awards. A performance assessment report will be prepared for all service and construction contracts and major subcontracts in accordance with Army Federal Acquisition Regulation

Supplement Subpart 5142.15. Poor performers cannot be rewarded with more work.

- (4) Commanders, managers, CORs, and contracting officers share a collective responsibility to ensure that contractor performance is adequately documented, that products and services failing to meet contract requirements are not accepted, and that contractors are held accountable for deficient performance.

Army Contracting Commission and Task Force

To broaden the Army's ongoing efforts, the Secretary of the Army recently announced the establishment of a Special Commission on Army Contracting that is led by the former Under Secretary of Defense for Acquisition, Technology and Logistics, Dr. Jacques Gansler. This Commission will examine the "big picture" to ensure that current and future contracting and logistics actions are more effective, efficient, and transparent. A second, complementary effort is an internal Army Contracting Task Force to reinforce and immediately address existing contracting issues and aggressively implement fixes as problems are identified. We are serving as the Co-Chairs of this Army Contracting Task Force.

Our mission as leaders of the Army Contracting Task Force is to examine current Army operations and future plans for providing contracting support to contingency or other military operations. We will look at contracting activities across the Army. There is contract authority in many of the commands in the Army, and that contract authority is delegated from the position of the ASA(ALT)

to the head of contracting activities in different organizations and commands within the Army. In addition, we will study actions of AAA and CID for both insight and lessons learned. We expect this information to be useful in writing our final recommendations.

In the short-term, we will augment the staff in Kuwait with additional individuals who will assist the warfighter in translating their requirements into statements of work and contract specialists and contract officers who will facilitate contract execution of those requirements. Currently, there are 56 people manning the Kuwait Contracting Office. This augmentation will last for a period of 90 days and is designed to make sure that the commander there has the resources needed to deal with the present workload. Part of that additional workload will be the orderly transfer of existing and any future major contract actions to the acquisition center at Rock Island, Illinois, that supports the Army Sustainment Command under AMC. By the end of the 90-day period, we expect the staff level to number around 50 people manning the contracting office in Kuwait.

We also plan to systematically review all of the Kuwait contract files from Fiscal Year 2003 to Fiscal Year 2007 to identify any issues that haven't otherwise been addressed by an ongoing investigation by either AAA or CID. There have been about 18,000 contract actions. So, this is quite an undertaking, but it is important to ensure we have reviewed the files thoroughly. The review of the contract actions will occur both in Kuwait and at the acquisition center in Warren, Michigan, under AMC. Most of the file review will occur in Michigan.

As a result of the ongoing operations in Southwest Asia, the Army has increased the focus on contingency contracting. Up until just a year ago, we did not have a contingency contracting brigade. We recently established four such brigades in the Army force structure, each commanded by a colonel, who assists the Army Service Component Commander (ASCC), a three star commander, in his contracting support – planning and coordinating contracting operations in a theater of operations. The brigades oversee contingency contracting teams – Active, Reserve, and National Guard – in executing the ASCC's contracting support plan. The Contracting Support Brigades' battalions and teams are just now being activated, and they will coordinate and integrate their plans with Army Field Support Brigades. These two new brigade designs are designed to support the Army modular force by developing a single, seamless, fully integrated planning cell to provide quick response and command and control of acquisition, logistics, and technology capabilities across the spectrum of conflict.

Another part of the action plan for the Army Contracting Task Force will be to increase both the scope and the frequency of Contracting Operation Reviews. The Army periodically conducts Contract Operations Reviews looking at contracting organizations to make sure that contracting activities are following the regulations and procedures and appropriately addressing emerging issues. These reviews are part of the routine examination of contracting activities along with internal review audits by the AAA and the Army and Department of Defense Inspectors General.

Another important issue that we will examine carefully is the size, structure, and training of the contracting workforce – both military and civilian. The acquisition workforce has declined significantly in the last decade while the number of dollars that we are executing from a contract perspective and the number of large dollar contracting actions in the Army has increased by more than 80 percent. This is an issue of some urgency that we hope will lead to improvements to our Army programs – current and future.

Lastly, we look forward to working closely with Dr. Gansler and the Special Commission on Army Contracting. Our separate efforts will look at some of the same issues so we intend to share information and lessons learned. We also look forward to working closely with the Office of the Secretary of Defense and the Department of Defense Inspector General as we move forward, in support of the many initiatives ongoing in the DoD to improve contracting.

Conclusion

As stewards of the taxpayers' dollars, we must do a better job of managing and documenting contractor performance. Service and construction contracts, whether in Iraq, Afghanistan, the United States, or elsewhere in the world, represent an ever-increasing percentage of our overall contract dollars – now surpassing the dollars awarded under major weapon systems programs. Greater emphasis must be placed on the management and oversight of all types of service and construction contracts. This includes documenting the contractor's performance in accordance with policy.

As we mentioned previously, the vast majority of our military and civilian contracting personnel perform well in tough, austere conditions. Their customers are the warfighters – the men and women who depend on them to do their jobs. In the end, the success of our warfighters is linked directly to the success of the contracting workforce. We are working hard to ensure that policies and procedures are in place for all joint, expeditionary contracting operations in Iraq, Afghanistan, and Kuwait or anywhere else we deploy. The objective is to better prepare the Army for acquisition and logistical support of combat operations in the future.

We look forward to your questions and thank you for the opportunity to address the members of the committee.