

STATEMENT OF STUART W. BOWEN, JR.
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BEFORE THE
U.S. HOUSE COMMITTEE ON GOVERNMENTAL REFORM
OVERSIGHT HEARING ON: RECONSTRUCTION CONTRACTING IN IRAQ
SEPTEMBER 28, 2006
WASHINGTON, D.C.

Chairman Davis, Ranking Member Waxman, and members of the Committee—thank you for this opportunity to address you today on important matters regarding the United States’ role in the reconstruction of Iraq.

The Congress has tasked my office, the Special Inspector General for Iraq Reconstruction (SIGIR), to provide oversight of this substantial and challenging endeavor. I am here today to provide you with the most current reporting on SIGIR’s oversight efforts in Iraq. I hope for a productive exchange of views and ideas in this hearing regarding Iraq reconstruction.

I was appointed as the Inspector General of the Coalition Provisional Authority in January 2004 and began oversight of the CPA programs and operations with about a dozen staff in Baghdad in March of that year. Our work began only a few months before the June 28 disestablishment of the CPA.

The Office of the Special Inspector General was created in October 2004, only two months before the scheduled termination of the CPA Inspector General. This renewed and extended our mandate to promote economy, efficiency and effectiveness, and to prevent and detect waste, fraud and abuse in the administration of programs and operations supported by the Iraq Relief and Reconstruction Fund (IRRF).

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SIGIR reports jointly to the Secretaries of State and Defense to keep them fully informed about problems and deficiencies in IRRF programs and operations, as well as the need for corrective action. Our reports are provided directly to the Congress and made available to the public.

In addition to the ten Quarterly Reports we have provided to Congress since our initial report in March 2004, we have issued 125 audit and project assessment reports. Today, SIGIR criminal investigators have 89 open cases. They have referred 25 cases to the Department of Justice, four of which have resulted in convictions.

I feel strongly that the oversight we have provided to the reconstruction of Iraq has enhanced the value of this investment of the American taxpayer. The establishment of the office of SIGIR was the right thing to do. As the Special Inspector General, I thank you for giving us the opportunity to make this important contribution. And, as an American, I thank you for ensuring that there is an independent government watchdog to oversee Iraq reconstruction.

Significant problems have been uncovered by SIGIR auditors, inspectors and investigators, and we have worked with reconstruction managers to address solutions. We have uncovered waste, abuse and fraud. We have helped to improve efficiency and effectiveness, and those who have committed fraud are being brought to justice.

Our reports have documented many disappointing and disturbing matters, and these have been given public attention. However, most of our reports also document conditions where we uncovered problems, made recommendations for corrective actions that were accepted and these recommendations implemented by reconstruction managers.

SIGIR inspectors, who travel frequently outside the Baghdad “Green Zone” to assess on-site the progress of reconstruction projects often find that contract expectations have been met. Our inspectors have reported on projects that represent more than \$308 million in contract value. Of this total, almost \$250 million, or about 80 percent, have met contract specifications. Moreover, this figure understates the dollar value of projects meeting contract expectations because some of the projects selected for assessments are requested by reconstruction management and staff because of known or suspected problems

While these figures are not statistically significant, we take encouragement from the evidence that much of the work has met contract expectations. Considering the high level of danger in areas of the Iraq war zone, which threatens those who are at construction sites, building, managing and inspecting the projects, it is all the more important to recognize the progress that has been achieved.

As I have stated, despite the progress, there have been significant problems with projects many documented by the work of SIGIR auditors, inspectors and investigators. The Chairman’s invitation to testify at this oversight hearing asked me to address root causes of these difficulties, and specifically the problems with construction of the Primary Healthcare Centers and the Basrah Children’s Hospital project.

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The Primary Healthcare Centers project began with a March 2004 contract for 150 centers in Iraq, at a definitized contract cost of about \$243 million. Over the next two years, little progress was made, despite the expenditure of about \$186 million. By March 2006, because of the lack of progress, the number of centers to be built had been reduced by eight, to 142. Of these, 135 centers were only partially constructed, one was placed under a different contract, and only six were accepted as completed by the U.S. Army Corps of Engineers. The government then issued a “termination for convenience” for 121 of the 135 partially completed centers, leaving a requirement for the contractor to deliver 20 completed centers, including the six already completed.

The additional cost to separately complete the other 121 centers is estimated to be about \$36 million, and the U.S. Army Corps of Engineers this month announced the award of contracts for the centers.

We found that both contractor performance and U.S. Government management actions were factors in the failure to complete the Public Healthcare Centers project as planned. We were told by the U.S. Army Corps of Engineers that the contractor:

- Lacked qualified engineering staff to supervise its design work;
- Failed to check the capacity of its subcontractors to perform the required work;
- Failed to properly supervise the work of its subcontractors; and,
- Failed to enforce quality assurance and quality control activities.

SIGIR auditors identified:

- A lack of complete government response to contractor requests for equitable adjustments and excusable delays based on unplanned site conditions, design or scope changes, or delays based on site access restrictions or security;
- High government personnel turnover and organizational turbulence;
- Failure to follow required procedures for making contract changes;
- Poor cost controls;
- Poor cost-to-complete reporting;
- Failure to properly execute its administrative responsibilities; and,
- Failure to establish an adequate quality assurance program.

While we did not dispute the U.S. Army Corps of Engineers’ list of contractor problems, the Federal Acquisition Regulations, if they are followed, provide sufficient controls to ensure the government receives the goods or services it seeks at a fair and equitable price. Thus, our Audit report focused on the government’s contract administration.

The SIGIR audit report concluded that the overall management of the projects could have been better executed, noting the unfortunate result that 121 centers were not completed. We provided recommendations for the project, as well as additional “lessons learned” for contract oversight. Some responses we received from the three government organizations involved in the management of this project indicated that no one office had taken responsibility. Moreover, despite the reported shortcomings of the contractor, it is the government’s responsibility to

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oversee the contract. Given that the government was aware of problems with the project for some time, we believe that effective government contract oversight was not provided.

[The SIGIR audit report on this matter is submitted for the record: Audit Report on Management of the Primary Healthcare Centers Construction Projects (SIGIR-06-011), April 29, 2006, at: <http://www.sigir.mil/reports/pdf/audits/06-011.pdf>]

A SIGIR audit also found effective program management and oversight lacking for the Basrah Children's Hospital Project. The U.S. Agency for International Development (USAID) was tasked with construction of a modern, 50-bed pediatric facility in Basrah in southern Iraq, intended to improve the quality of care for both women and children. Congress authorized \$50 million for the project. Under a memorandum of understanding with USAID, Project HOPE would provide a significant portion of the hospital equipment and have responsibility for training staff.

Instead of the 50-bed facility with referral-level pediatric care, with an emphasis on pediatric oncology, as requested by the Iraqi Ministry of Health, the initial design presented was for a 100-bed facility, encompassing over 25,000 square meters of space. The scope was subsequently modified to a 94-bed facility with oncology services and radio therapy facilities. These modifications did not result in any request for additional funding or extension of the project schedule.

The job order issued by USAID in August 2004 to Bechtel National, Inc. required that the hospital be completed by December 2005. Over the next year, completion of the project slipped several times and by March 2006, it was projected as July 31, 2007. Additionally, project delays and a revision in the allocation of indirect costs, had resulted in an increase of the estimated cost-at-completion to approximately \$98 million.

While the project status reports provided to USAID regularly identified slippages in the project, SIGIR auditors found that the information was not effectively analyzed. Moreover, this information was not included in reports to Congress required under Section 2207 of P.L. 108-106 or Project Assessment Reports.

Although USAID is responsible for the construction of the hospital, it did not include the installation of medical equipment in the project schedule or costs. The USAID Mission Director-Iraq told SIGIR that they did not believe they were required to track or report on the medical equipment. However, USAID is responsible for keeping the Congress and the Chief of Mission accurately apprised of the hospital's status. The Deputy Chief of Mission told SIGIR that he was unaware that the completion date reported by USAID did not reflect the delivery of a turnkey operation that would include medical equipment.

SIGIR found the USAID accounting systems and processes to be inadequate; they failed to accurately identify and report project costs to the Chief of Mission and Congress. The April Section 2207 Report to the Congress stated the hospital cost-at-completion as \$50 million, even though Bechtel had determined it would be at least \$98 million. USAID told SIGIR that it

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believed it did not have to include an estimated \$48 million in contractor indirect costs in its reports.

The SIGIR audit report stated our belief that under the current management and contracting structure, the actual turnkey cost for the project will be about \$149.5 million to \$169 million. We also believe that the project will require an additional \$69.5 million to \$89.5 million of additional funds to complete.

Oversight and management of the Basrah Children's Hospital Project schedule and cost have been hampered by the lack of effective program management and oversight by the Department of State and USAID. The Chief of Mission, responsible for the supervision and direction of all U.S. assistance programs, did not establish a management structure for carrying out that responsibility.

Similarly, USAID did not establish an appropriate program management structure. To oversee its entire \$1.4 billion construction program under the Iraq Relief and Reconstruction Fund (IRRF), comprising approximately 20 projects across eight infrastructure sectors, USAID relied on one administrative contracting officer and one cognizant technical officer. No appointment was made of a program manager with sole responsibility for the hospital project, nor was a hospital program management office established.

In May and June 2006, the Deputy Chief of Mission and the director of the Iraq Reconstruction Management Office (IRMO) took a number of actions to get control of the contract. A "Stop work" order was issued, followed by another about a month later. The Deputy Chief of Mission directed USAID and IRMO to provide specific information on the project.

The U.S. Mission-Iraq concurred with all of the recommendations of the SIGIR audit, and provided information on actions underway. Notably, the Ambassador has created and chairs a Reconstruction Core Group which includes all agencies involved in reconstruction. This group has devised a plan to complete the project, transferring program and project management for the Basrah Children's Hospital from USAID to the U.S. Army Corps of Engineers.

The Ambassador has also issued an instruction to all agencies that implement assistance under his authority to provide IRMO with accurate and complete information on projects. He also directed USAID to work with IRMO to establish reporting systems that assure that information reflects the most accurate possible direct and indirect cost allocations by projects and programs.

We consider actions taken and planned by the U.S. Mission are fully responsive to our audit report.

[The SIGIR audit report on this matter is submitted for the record: Review of the U.S. Agency for International Development's Management of the Basrah Children's Hospital Project (SIGIR-06-026) July 31, 2006, at: <http://www.sigir.mil/reports/pdf/audits/06-026.pdf>]

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In our audits, project assessments and Quarterly Reports to Congress, SIGIR has expressed concern for management weaknesses similar to those cited in the Public Health Centers and Basrah Hospital reports. For example, beginning in 2004, when SIGIR was still the Coalition Provisional Authority Inspector General, we noted the difficulty with obtaining reliable estimates of the costs to complete projects, which are mandated by Congress. A year later, SIGIR raised the question: *Can the U.S. government agencies managing Iraq reconstruction projects produce reliable estimates of the costs of completing these projects (and thus avoid over-obligating funds)?* Moreover, a SIGIR audit found that the IRMO information systems failed to produce the required cost-to-complete data, and thus projections could not be made on the funds available for completion of the IRRF program.

The development of fully functional information management systems for Iraq reconstruction suffered many delays. SIGIR conducted a series of audits addressing the information technology and management systems, and we were able to report progress only this past April. The delays in establishing effective IT and management systems deprived the Iraq reconstruction management effort of essential visibility of its own operations. This has contributed to failures such as documented with the Public Health Centers and Basrah Children's Hospital projects.

In addition to our audits and inspections, SIGIR is taking a longer view of the Iraq reconstruction experience, to analyze the issues such as those that led to today's oversight hearing. We wanted to get at the "root causes" of failure and derive the lessons and provide guidance to policymakers with future challenges. This was the conception of the SIGIR Lessons Learned Initiative.

In February, we published our first such report, "Iraq Reconstruction: Lessons in Human Capital Management." In August we released our second report covering lessons in contracting and procurement. The third and final in this series, Lessons in Program and Project Management, will be published in the fall.

While these reports are not traditional work products of inspectors general, they should carry the authority you would expect of the work of an inspector general. I want to assure the committee that they have been produced through appropriately rigorous processes.

The most recent report on lessons learned in contracting tracks the evolution of reconstruction contracting and procurement processes from the summer of 2002, before the creation of the Office of Reconstruction and Humanitarian Assistance (ORHA), through to the present. For example, we present a detailed chronology of events and decisions related to contracting, including the expansion of the DOD LOGCAP program beyond its original purpose, the minimal role for the State Department in initial planning, and how security considerations limited the coordination of inter-agency planning.

We examine the creation, deployment and disestablishment of ORHA, and the creation of the CPA. The report discusses the use of the Development Fund for Iraq (DFI) for CPA contracts, the first U.S. appropriated reconstruction funds, and the development of requirements for much more appropriated support. We report on how the management of entire effort came down to the creation of a wholly new organization, which was denied adequate support for months, and had

to reach out to other government contracting offices for support. The creation of a strategy for acquisition management, which used a design-build approach giving contractors oversight over infrastructure sectors, is discussed in detail.

The report looks at the problems of the transition to State Department management after the summer 2004 termination of the CPA, how the contracting processes are slowed by security and information problems, and the continuing evolution of contracting methods. Special contracting programs, such as the Commanders Emergency Response Program (CERP) are examined, as well.

We distilled key lessons for contracting and procurement in Iraq to provide insight for policy and planning, as well as for policies and processes.

Strategy and Planning Key Lessons:

- **Include contracting and procurement personnel in all planning stages for post-conflict reconstruction operations.** The pre-deployment interagency working groups for Iraq reconstruction did not adequately include contracting and procurement personnel.
- **Clearly define, properly allocate, and effectively communicate essential contracting and procurement roles and responsibilities to all participating agencies.** The failure to define contracting and procurement roles and responsibilities at the outset resulted in a subsequently fragmented system, foreclosing opportunities for collaboration and coordination on contracting and procurement.
- **Emphasize contracting methods that support smaller projects in the early phases of a contingency reconstruction effort.** The Commander's Emergency Response Program (CERP) and similar initiatives in Iraq proved the value of relatively small, rapidly executable projects that meet immediate local needs.
- **Generally avoid using sole-source and limited-competition contracting actions.** These exceptional contracting actions should be used as necessary, but the emphasis must always be on full transparency in contracting and procurement. The use of sole-source and limited competition contracting in Iraq should have virtually ceased after hostilities ended (and previously sole-sourced limited competition contracts should have been promptly re-bid).

Policy and Process Key Lessons:

- **Establish a single set of simple contracting regulations and procedures that provide uniform direction to all contracting personnel in contingency environments.** The contracting process in Iraq reconstruction suffered from the variety of regulations applied by diverse agencies, which caused inconsistencies and inefficiencies that inhibited management and oversight.

- **Develop deployable contracting and procurement systems before mobilizing for post-conflict efforts and test them to ensure that they can be effectively implemented in contingency situations.** Contracting entities in Iraq developed *ad hoc* operating systems and procedures, limiting efficiency and leading to inconsistent contracting documentation.
- **Designate a single unified contracting entity to coordinate all contracting activity in theater.** A unified contract review and approval point would help secure the maintenance of accurate information on all contracts, enhancing management and oversight.
- **Ensure sufficient data collection and integration before developing contract or task order requirements.** The lack of good requirements data slowed progress early in the reconstruction program.
- **Avoid using expensive design-build contracts to execute small scale projects.** While the use of large construction consortia may be appropriate for very extensive projects, most projects in Iraq were smaller and could have been executed through fixed-price direct contracting.
- **Use operational assessment teams and audit teams to evaluate and provide suggested improvements to post-conflict reconstruction contracting processes and systems.** Oversight entities should play a consultative role (along with their evaluative role), because the rapid pace of reconstruction contingency programs cannot easily accommodate the recommendations of long-term assessments or audits.

Our Study has resulted in six recommendations:

1. **Explore the creation of an enhanced Contingency Federal Acquisition Regulation (CFAR).** Although the existing FAR provides avenues for rapid contracting activity, the Iraq reconstruction experience suggests that the FAR lacks ease of use. Moreover, promoting greater uniformity through a single interagency CFAR could improve contracting and procurement practices in multi-agency contingency operations. An interagency working group led by DOD should explore developing a single set of simple and accessible contracting procedures for universal use in post-conflict reconstruction situations. Congress should take appropriate legislative action to implement the CFAR, once it is developed by the interagency working group.
2. **Pursue the institutionalization of special contracting programs.** In Iraq, smaller scale contracting programs, like the Commander's Emergency Response Program (CERP) and the Commanders Humanitarian Relief and Reconstruction Program (CHRRP), achieved great success. Congress should legislatively institutionalize such programs for easy implementation in future contingency operations.

3. **Include contracting staff at all phases of planning for contingency operations.** Contracting plays a central role in the execution of contingency operations, and thus it must be part of the pre-deployment planning process. Whether for stabilization or reconstruction operations, contracting officials help provide an accurate picture of the resources necessary to carry out the mission.
4. **Create a deployable reserve corps of contracting personnel who are trained to execute rapid relief and reconstruction contracting during contingency operations.** This contracting reserve corps could be coordinated by the DoS Office of the Coordinator for Reconstruction and Stabilization as part of its civilian ready reserve corps. An existing contingent of contracting professionals, trained in the use of the CFAR and other aspects of contingency contracting, could maximize contracting efficiency in a contingency environment.
5. **Develop and implement information systems for managing contracting and procurement in contingency operations.** The interagency working group that explores the CFAR should also review current contracting and procurement information systems and develop guidelines and processes for enhancing these existing systems or, if necessary, creating new ones to meet unique contingency operational needs.
6. **Pre-compete and pre-qualify a diverse pool of contractors with expertise in specialized reconstruction areas.** These contractors should receive initial reconstruction contracts during the start-up phase of a post-conflict reconstruction event.

Our report on lessons learned in program and project management will provide comparable insight and insight into these aspects of Iraq reconstruction, and provide guidance for the future.

In just over a month, SIGIR will submit to you our eleventh Quarterly Report to the U.S. Congress, reflecting our work and observations of Iraq reconstruction over the quarter that ends in two days.

My most recent tour in Iraq was longer than has been my practice; I spent 48 days, about two weeks longer than usual, as this is a critical period in the Iraq reconstruction. With expiration of the funds of IRRF2, and thus the need for all of these funds to be under contract when the fiscal year ends, I wanted to be present.

SIGIR remains committed to meeting the expectations of the U.S. Congress, the Secretaries of State and Defense, and the American public with timely and helpful information on U.S. progress and performance in Iraq reconstruction.

I look forward to your questions.