

Senator Jim Webb
Subcommittee on Contracting Oversight
Senate Committee on Homeland Security and Government Affairs
April 17, 2012

Madam Chairman, Ranking Member Portman, and members of the Subcommittee. Thank you for inviting me to appear before you today to discuss my views on the Comprehensive Contingency Contracting Reform Act of 2012. Following careful consideration and revision of an earlier draft of this bill, I was pleased to join Senator McCaskill as an original cosponsor in early March.

I wish to acknowledge and compliment my good friend and colleague Claire McCaskill for the diligence and resolute determination that she and her Subcommittee staff displayed in taking the lead to draft this bill over the past six months. She can be justifiably proud of this achievement.

The Congress faces a compelling requirement to respond affirmatively to the work and recommendations of the Commission on Wartime Contracting. It is my sincere hope that today's hearing will allow us to take the Comprehensive Contingency Contracting Reform Act of 2012 to the next level by identifying any needed modifications and developing broad-based bipartisan support for its passage this year—replicating our initial experience in 2007 that led to the creation of the Commission.

As the members of this Subcommittee know well, we cannot continue to tolerate the waste of billions of dollars in any future overseas military contingency operation.

As I noted earlier this year, this comprehensive legislation affirms the important work that has been done by the great majority of our wartime-support contractors. At the same time, however, it recognizes the necessity to improve government oversight, management, and accountability in the contracting processes that resulted in totally unacceptable costs, excessive waste, and substandard performance in far too many areas.

This comprehensive bill represents five years of collaboration with Senator McCaskill since we first introduced the legislation that led to the establishment of the independent and bipartisan

Commission on Wartime Contracting. Our goals at that time were straightforward. In seeking to create a modern-day equivalent of Senator Harry Truman's special oversight committee of the 1940s, we saw a necessity to eliminate the many systemic deficiencies in wartime-support contracting ... to root out waste, fraud, and abuse ... and to hold accountable those found to be responsible.

The bill we have introduced is responsive to the findings and recommendations of the Commission's final report that was issued last year. We owe Commission Co-Chairs Michael Thibault and Christopher Shays, their fellow commissioners, and their professional staff our thanks for their exemplary three-year effort. They surpassed my challenge to them in 2009 to be aggressive in satisfying their ambitious statutory mandate. As I have said more than once, the Commission demonstrated the way congressional committee should work—bipartisan, independent, thorough, and totally committed to its task.

In addition to finding that at least \$31 billion, and possibly as much as \$60 billion, has been lost to contract waste and fraud during contingency operations in Iraq and Afghanistan, the Commission illuminated the additional costs of a number of major projects that can't be sustained, which will ultimately drive costs even higher. One of the Commission's principal findings is particularly telling. It concluded that poor planning, management, and oversight of contracts ... damaged our defense, diplomatic, and development objectives.

Senator McCaskill and I brought varied backgrounds to the challenge of assessing such findings and others documented in the Commission's 240-page final report, its two interim reports and 25 public hearings. She drew extensively on her service as a state auditor. I relied on my years of experience in senior executive positions in the Pentagon to try to ensure the bill describes what federal agencies must do ... not how ... to correct such deficiencies as poor planning, vague contracting requirements, substandard contract management and oversight, weak interagency coordination, and substandard performance.

It was not always possible to adhere to this principle while writing this bill, however. Not all agencies have been equally diligent or responsive in addressing the Commission's past

recommendations contained in its interim reports. I believe the Department of State and the U.S. Agency for International Development, for example, each require additional structural improvements to establish clear lines of authority and responsibility if they are to manage more effectively their contracts for services in support of overseas contingency operations. For this reason, several of the bill's provisions for multi-agency matters are more prescriptive than other sections.

The bill we introduced is, admittedly, complex and multifaceted, but it is framed to address not only the Commission's numerous recommendations, but other contracting deficiencies revealed during hearings conducted by full committee and subcommittees of both the Senate Armed Services Committee and the Homeland Security and Government Affairs Committee.

I believe the Congress is at a pivotal moment in our need to reassert good governance and improve our stewardship of taxpayer dollars. For this reason, major sections of the bill would strengthen contracting practices and improve accountability by:

- Elevating oversight responsibility, improving management structures, expanding planning requirements, and reforming contracting practices during overseas military contingencies. In this, the bill is carefully framed to be consistent with the definition of the term "contingency operation" stipulated in Title 10—an operation designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of our country or against an opposing military force.
- The bill will also require the federal government to identify how it will pay for military operations overseas. The President will be required to ensure that any request to Congress for funds in support of contingency operations includes information on all requested amounts by appropriation account, program, project, and authority. Specific information must also be provided on the proposed means to finance such operations, either by increases in revenues, decreases in other programs or activities, borrowing by the federal government, or other means. In the future, Congress must exercise its "power of the purse" more diligently to prevent such fiscally irresponsible practices as using large, so-called "emergency

supplemental appropriations” to fund operations—as we did year after year in Iraq and Afghanistan.

- A number of provisions in the bill aim to improve contracting processes through greater transparency, competition, and professional education.
- Other provisions will institute additional measures to improve contractor accountability.

In developing this legislation, we sought to avoid imposing requirements that would lead to the creation of large, new bureaucratic organizations. The Commission, for example, recommended such measures as the development of deployable cadres for acquisition management and contractor oversight, creating a new directorate on the Joint Staff for contingency contracting, and creating a permanent office of inspector general for contingency operations.

While we appreciate the import of the findings that led the Commission to make such recommendations, we do not believe that creating larger bureaucracies is necessary. Inspectors general perform critical roles overseeing agency performance, for example, but we believe it is sufficient to build on the existing structure of the Council of Inspectors General on Integrity and Efficiency to strengthen IG functions during overseas contingency operations. Insofar as possible, we sought to avoid legislating burdensome provisions that would add more people to the ranks of the federal bureaucracy.

During the weeks since Senator McCaskill and I introduced our bill, our staffs have met jointly with a number of important stakeholders associated with overseas contingency contracting, including senior executives from defense companies and professional associations representing the interests of the contracting community. A number of provision in the bill, notably those relating to the evaluation of contractor performance and others tied to suspension and debarment, understandably raised a number of questions and some concerns in their minds.

Their feedback and constructive recommendations will be helpful to us as we continue to refine this complex bill. Similarly, witnesses at today's hearing will provide important insights into the steps agencies have taken to date to implement the Commission's recommendations and what additional measures might be needed to address fully the Commission's substantial body of work. We also will benefit later this spring by the work of the Government Accountability Office when it completes its report for our consideration on the degree to which the Department of Defense, the Department of State, and US AID have or have not adopted the recommendations contained in the Commission's final report.

Again, thank you for inviting me to appear before you today.