

RECORD VERSION

STATEMENT BY

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BEFORE THE

**SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT
COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE**

**ON URGENT REFORM REQUIRED: ARMY EXPEDITIONARY
CONTRACTING, THE REPORT OF THE COMMISSION ON
ARMY ACQUISITION AND PROGRAM MANAGEMENT
IN EXPEDITIONARY OPERATIONS**

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Introduction

Chairman Akaka, Senator Thune, 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 candid and comprehensive report, by Dr. Jacques Gansler and the Members of his Commission on Army Acquisition and Program Management in Expeditionary Operations on the U.S. Army's acquisition and contracting system, has given us insights for the way ahead. The Commission made four overarching recommendations to ensure the success of future expeditionary operations:

- (1) Increase the stature, quantity, and career development of military and civilian contracting personnel, particularly for expeditionary operations;
- (2) Restructure organization and restore responsibility to facilitate contracting and contract management;
- (3) Provide training and tools for overall contracting activities in expeditionary operations; and
- (4) Obtain legislative, regulatory, and policy assistance to enable contracting effectiveness in expeditionary operations.

The Commission's four key recommendations for improvement are consistent with the issues identified by the Army Contracting Study completed in 2005 and the Army Contracting Task Force, which was Co-Chaired by Lieutenant General N. Ross Thompson III and Ms. Kathryn A. Condon, the Executive Deputy to the Commanding General at the U.S. Army Materiel Command. The Army is aggressively addressing the structural weaknesses and shortcomings identified in order to improve current and future expeditionary contracting activities. Our actions stretch across the Army and include an ongoing, comprehensive review of doctrine, organization, training, materiel, leader development, personnel and facilities.

It is important to emphasize that Dr. Gansler's Commission was chartered to look at the long-term, strategic view of the Army's acquisition and contracting system in support of expeditionary operations. To complement the Commission's strategic review, the Army Contracting Task Force was formed to review current contracting operations and take immediate action where appropriate. The Secretary of the Army has directed the Commanding General of the Army Materiel Command, General Benjamin Griffin, to report to him, through the Acting Under Secretary of the Army, Nelson M. Ford, to implement specific recommendations of both the Gansler Commission and the Army Contracting Task Force as expeditiously as possible. For example, the Army is accelerating plans to set-up the military structure recommended by the Commission.

The Army has approved a two star-level Army Contracting Command organization under Army Materiel Command, including two subordinate commands; a one-star expeditionary contracting command and a restructured one-star level installation contracting organization. The Army is in the process of identifying the individuals by name to lead these organizations. We plan to grow our military contracting structure in the Active force in line with the Commission recommendations by approximately 400 Soldiers and our civilian contracting workforce by an additional 1,000 members.

U.S. Army Actions

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 defined contingency contracting structure to support expeditionary operations or support a modular Army. We recently established a contingency contracting structure that consists of contracting support brigades, contingency contracting battalions, and four-person contingency contracting teams. Each contracting support brigade is 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 battalions and 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. As a result of the work of the Gansler Commission and the Army Contracting Task Force, we are planning to increase the number of brigades, battalions, and teams to better posture the Army to support contingency operations.

As the scope and scale of contracting in Southwest Asia evolved, the Army recognized the need to assess its contract management capacity. The Army conducted audits and investigations into the oversight, execution, and management of contracting in the theater of operations, and these audits and investigations are 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 discovered cases of potential fraud in contracting operations with the worst cases originating in Kuwait. Currently, there are 80 ongoing criminal investigations involving contract fraud committed against the U.S. military in the Iraq, Afghanistan, and Kuwait theater of operations. The Army acted decisively to correct deficiencies specifically identified in Kuwait 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 Contracting Agency; 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 and auditors 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 further action to correct deficiencies, including an assessment of contracting activities throughout Central Command and implementation of a Corrective Action Plan to address issues.

As a result, in March 2007, a senior Contracting Operations Review Team was deployed 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 Army published the following guidance designed to improve management of service acquisitions and to strengthen oversight, surveillance and documentation of contractor's performance.

- (1) The Army's Source Selection Manual was revised and incorporated into our acquisition supplement. It is a comprehensive source selection tool designed to provide flexibility in the source selection process while enabling Army contracting officers to design and execute their source selection plans and Requests for Proposal (RFPs) to provide optimum solutions to meet their customers needs. Source selection training is now required for every source selection team member to ensure they understand their roles and responsibilities.
- (2) In response to Section 812 of the FY 06 National Defense Authorization Act, we adjusted our management framework for review and approval of service contracts at both the strategic and tactical levels. Since 2003, the Deputy Assistant Secretary of the Army for Policy and Procurement, along with other key senior Army leaders, has reviewed and approved service strategies with a combined total value greater than \$231B.
- (3) Contracting officers have been directed to appoint a trained contracting officer's representative (COR) for every service contract awarded with an estimated value greater than \$2,500. To ensure that systematic quality assurance methods are used during contract administration, quality assurance surveillance plans must also be prepared and implemented.

- (4) A standard, minimum training requirement has been established for Army contracting officer representatives (CORs). They must complete the Defense Acquisition University on-line continuous learning module, "COR with a Mission Focus," prior to appointment. As of November 1, 2007, over 4500 Army personnel have completed this course.
- (5) Acquisition leadership reiterated the requirement for contractor performance to be adequately documented and performance reports prepared, entered and maintained in our performance assessment systems. We will not allow poor performers to be rewarded with more work.
- (6) A reminder was sent to the entire Army Acquisition workforce addressing their responsibilities as public servants and stewards of the taxpayer's investment and exhorting them to ensure that their actions remain above reproach, both in reality and appearance.

Written guidance is of no benefit, unless it is executed by a capable, trained workforce. Recognizing this need, the Army convened the first Army Procuring Contracting Officer (PCO) Training symposium. Over 500 PCOs were trained in critical areas now demanding increased proficiency. A wide range of topics were covered, including cost and pricing and source selection requirements as well as contracting integrity. The Army has also initiated training for our Heads of Contracting Activities to heighten their awareness of roles and

responsibilities associated with supporting the mission of their command in the contracting arena.

Upholding the highest ethical standards while discharging our duties is of paramount concern and while we have confidence in the talent and professionalism of the Army's acquisition workforce, we must remain vigilant to potential compromises of integrity. We are actively engaged in the DoD efforts to eliminate areas of vulnerability within Defense contracting. The ASA(ALT) staff is leading a subcommittee effort looking at Sustained Senior Leadership issues and other personnel from the organization are reviewing areas associated with proper contract surveillance. To obtain an Army-wide perspective on procurement operations we recently chartered a corresponding Army Contracting Integrity Panel. We've requested membership from each Army functional area involved with contracting. The panel will examine contracting integrity drivers that have the greatest impact on vulnerabilities relating to fraud, waste and abuse in our contracting system.

As previously mentioned, the Army Contracting Task Force mission was to examine current Army operations and future plans for providing contracting support to contingency or other military operations. The Task Force looked 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 Assistant Secretary position to the head of contracting activities in different organizations and commands within the Army. In addition, the Task Force studied actions of AAA and CID for both insight and lessons learned.

In the short-term, the Army augmented the staff in Kuwait with additional individuals to assist the warfighter in translating their requirements into statements of work and additional contract specialists and contracting officers to facilitate contract execution of those requirements. This augmentation is short-term, about 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 is 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.

The Acquisition Center at Rock Island established a dedicated team of nine contracting experts with the support of legal experts focused solely on large dollar contracts in support of Kuwait operations. This team is ensuring all past and future contract actions associated with these large dollar contracts are executed in accordance with all laws and regulations. The team is resolving a number of claim actions, definitizing unpriced actions, and issuing new solicitations for requirements such as non-tactical vehicles. We expect to keep this team in place for the duration of the conflict.

The Army is systematically reviewing all of the Kuwait contract files from Fiscal Year 2003 to Fiscal Year 2006 to identify any issues that haven't otherwise been addressed by an ongoing investigation by either AAA or CID. During this time period there were approximately 6,000 contracts awarded (totaling about

18,000 contract actions) by the Kuwait contracting office, so we are initially using a sampling technique to determine if there are any additional indications of fraudulent activity. So, this is quite an undertaking, but it is important to ensure we have reviewed the files thoroughly. The review of contract actions is taking place both in Kuwait where contracts under \$25,000 are being examined and at AMC's Acquisition Center in Warren, Michigan, where the review team is looking at contracts over \$25,000 with the assistance of U.S. Air Force and U.S. Navy contracting experts. We are also working with the AAA, CID, and the Assistant Secretary of the Army for Financial Management and Comptroller in reviewing financial data to determine if appropriate disbursement and accounting of payments have been made. Initial and ongoing review of all contracts and contract actions has revealed no additional fraudulent activities to date.

We are increasing Contracting Operation Reviews in both scope and frequency. 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.

A critically important issue 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 in the Army has increased by more than 80 percent. The U.S. Army

has never fought an extended conflict that required such reliance on contractor support. We are currently addressing the need to expand, train, structure, and empower our contracting personnel to support the full range of military operations. We have increased the number of contracting interns and are pursuing associated increases in training funds. We are partnering with the Defense Acquisition University and state and local universities to incorporate contracting courses into their curriculums. Our goal is to bring more qualified, trained individuals into the workforce at an accelerated pace and ultimately perform at the journeyman level in a shorter period. We are also initiating discussions with leaders of the contracting communities in the U.S. Navy, U.S. Air Force, and the Defense Logistics Agency to explore increased collaboration and workload distribution.

Conclusion

As stewards of the taxpayers' dollars, the Army 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.

Expeditionary military operations in Iraq and Afghanistan have placed extraordinary demands on the contracting system and our contracting support personnel. As stated before, 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.