

**STATEMENT BY
Patrick F. Kennedy
Department of State, Under Secretary for Management**

BEFORE THE
Commission on Wartime Contracting
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Good Morning Chairman Thibault, Chairman Shays, and Commission members. Thank you for your invitation to appear here today.

The timing of this hearing is propitious, as the Department has been planning for and implementing a robust civilian presence in Iraq and Afghanistan over the past 2 years. Many contracting activities have occurred since September 2009, when I last appeared before the Commission. I will focus today on the current status of our contracting efforts, particularly in Iraq, as requested in your invitation.

1. DOS responses to the applicable Commission recommendations contained in its Interim Report to Congress, “At What Risk?” dated February 24, 2011

First I would like to address the Department’s response to the Commission’s second Interim Report to Congress, issued February 24, 2011, entitled “At What Risk? Correcting Overreliance on Contractors in Contingency Operations.”

On May 22, we transmitted to you the Department’s response to each of the 32 recommendations outlined in the Interim Report.

As the military draws down, and the Department’s plans are implemented to increase the civilian presence in Iraq, the Department is relying on the use of contractors for certain functions which are not inherently governmental. We use contractors in contingency operations when it makes sense and is cost-efficient, as opposed to building up permanent, U.S. direct-hire staff. In Iraq, we have developed a contracting strategy that takes into account life support, security, transportation, communications, and facilities.

However, as the security environment improves, we will transition to a more traditional mode of operation. We have already begun this effort where we can. For example, in Erbil, Iraq, 62 percent of our static guard force is made up of local nationals.

The Department experiences continuous contingencies in our daily operations around the world under challenging conditions. As needed, the Department creates task forces and working groups to deal with these situations. The Department continues to centralize procurement operations in the Bureau of Administration’s Office of Logistics Management (A/LM), and its branches, the Regional Procurement Support Offices (RPSO), and we have found this model to

be most effective in supporting contingency situations during natural disasters such as the Haiti and Japan earthquakes, as well as during ongoing stabilization and reconstruction as in Afghanistan and Iraq.

The Department does not see a separate contingency contracting acquisition cadre as an efficient or necessary model based on our experience. The Department deploys contracting resources as necessary and dedicates resources to specific contingency operations when required. Our Working Capital Fund allows us to increase surge capacity as resources are dedicated to specific contingency operations.

We agree with the Commission's observation that the Department's program offices need to plan effectively for Contracting Officer Representative (COR) support. International Narcotics and Law Enforcement (INL) and the Bureau of Diplomatic Security (DS), the two bureaus most heavily involved in overseas contingency contracting, are both significantly increasing resources to support contract administration.

The Department also agrees that Contracting Officers should rigorously and comprehensively enter contractor past performance information into the federal past performance database. This effort will be a key element to prevent award of contracts to those firms who have not performed well. However, we disagree that certifying the use of the database is necessary; accurate and timely input on all contractors and candid performance assessments will make the database a useful tool.

The CWC Interim Report noted that training is not standardized across agencies for the contingency acquisition workforce. The Department's Foreign Service Institute (FSI) offers a number of courses on basic contract administration principles, including COR training, simplified acquisition procedures, creating effective contracts, and procurement integrity. Some of these courses are offered both at the FSI campus and through distance learning. The Interim Report also mentions that the Defense Acquisition University (DAU) recently developed some contingency-related contracting courses. FSI and State's Office of Procurement Executive are offering a DAU-developed course, "Mission Support Planning," as a pilot to assess whether the content is useful to the Department.

Contracting and Contract Oversight: Mindful of the valuable insights we have received from the Commission and other entities, we have taken a number of

additional measures to ensure proper U.S. Government management and oversight over the increased number of contractors.

For Iraq, our primary Contracting Team is located in Washington, DC, where it can draw on headquarters expertise. In Iraq, there are multiple levels of technical oversight, depending upon the complexity of each contract. As a fee-for-service organization, charging bureaus a one percent fee on all State Department procurements, we have the resources to surge and have hired 102 additional staff for contract administration.

The private security contractors (PSCs) who protect our diplomats in high-risk environments perform an essential and legitimate function that enables the conduct of American diplomacy in the places where it is needed the most. As Under Secretary for Management, I take our contract oversight responsibilities seriously, and I have worked to enhance oversight of PSCs. I testified about some of these enhancements before the Commission in September 2009.

DS has further developed its plan for management, oversight, and operational control of PSC personnel. For the DS Worldwide Protective Services (WPS) contract, DS has increased staffing to more than 200 direct-hire personnel to administer the contract and its task orders to ensure contract compliance of approximately 5,100 contractor employees.

Other key elements include:

- Ensuring appropriate levels of professionalism and responsive operational responsibility through direct operational control and oversight of security contractor personnel:
 - DS Special Agents at each post serve as managers for the Static Guard and Personal Protective Security programs;
 - DS Special Agents at each post serve as Contracting Officer's Representatives (CORs) and Assistant CORs (ACORs) for the direct management and oversight of the WPS contract to assist the Contracting Officer;
 - DS personnel at each post are assigned as Government Technical Monitors (GTMs) to assist the COR and ACOR in the oversight of the WPS contract.
 - Direct-hire DS personnel (DS Special Agents or Security Protective Specialists) provide operational control of protective motorcades.

- Collocation of contractor life-support areas on Embassy, Consulate, or Embassy Branch Office compounds will enhance after-hours oversight of contractor personnel;
 - Revised mission firearms policies further strengthen post's rules on the use of force, and less-than-lethal equipment has been fielded as a means to minimize the need to employ deadly force;
 - Video recording and tracking systems are installed in each motorcade;
 - All incidents involving a weapons discharge or other serious incidents are thoroughly investigated by the Regional Security Officer (RSO); and
 - The Office of Acquisitions Management has a dedicated, qualified team of contracting officers and contract specialists assigned to administer PSC contracts. They will make regular field visits to each post to conduct reviews of PSC contracts.
- Improving the image of the security footprint through enhanced cultural sensitivity:
 - Mandatory country-specific cultural awareness training for all security contractors prior to deployment to Iraq;
 - Revised standards of conduct, including a ban on alcohol; and
 - Interpreter support provided for protective security details.
 - Achieving greater efficiencies through new contract terms:
 - One set of terms and conditions enhances the ability to provide uniform, appropriate, and consistent oversight;
 - Reduced acquisition timelines;
 - Larger number of qualified base-contract holders, thereby increasing competition for each task order while controlling costs;
 - Timely options in the event a company fails to perform;
 - More efficient program management compared to multiple, stand-alone contracts;
 - Computerized tracking of contractor personnel to aid in reviewing personnel rosters used to support labor invoices; and
 - Regional auditors from the Defense Contract Audit Agency (DCAA) will be assigned to each company receiving a WPS task order.

The Department of State strongly supports the legislative goal of passing a robust and comprehensive Civilian Extraterritorial Jurisdiction Act (CEJA) that provides clear and unambiguous jurisdiction to prosecute non-Department of Defense personnel for overseas misconduct. CEJA would serve as a valuable tool for ensuring that U.S. contractors accused of committing crimes abroad are held

accountable, both by avoiding some of the difficulties associated with applying the Military Extraterritorial Jurisdiction Act (MEJA) and by extending extraterritorial jurisdiction to fill current gaps. We look forward to working with Congress on CEJA legislation.

On the international level, the U.S. Government actively engaged in the development of the Montreux Document (2008), which sets out the existing international legal obligations of states and PSCs, and provides states with a set of good practices to promote compliance with international law. Although it is not itself a legally binding instrument, the Montreux Document is an important resource for the development of national regulation to promote accountability for PSCs.

The “International Code of Conduct for Private Security Service Providers” (the Code), a follow on to the Montreux Document, has the potential to improve compliance of PSCs with applicable law and provide additional tools for ensuring that PSCs are held accountable, including the establishment of governance and oversight mechanisms. The Department of State, along with other federal agencies including the Department of Defense, is actively engaged in ongoing efforts to establish the governance and oversight mechanism. The Code has been signed by more than one hundred companies, including many that contract with the Department of State in places like Iraq and Afghanistan. Innovative projects such as the Code offer the potential for making real progress in altering company practices and creating tools for holding wrongdoers accountable.

2. The QDDR and DOS contingency contracting reform

In December 2010, the Department issued its first ever Quadrennial Diplomacy and Development Review (QDDR), which provides a blueprint for elevating American "civilian power" to better advance our national interests and to be a better partner to the U.S. military. Leading through civilian power means directing and coordinating the resources of all America's civilian agencies to prevent and resolve conflicts; help countries lift themselves out of poverty into prosperous, stable, and democratic states; and build global coalitions to address global problems. Under the QDDR, a new bureau is being created to deal with reconstruction, which will assess needs for contingency resources.

The QDDR sets out four key outcomes for State and USAID, one of which is working smarter to deliver results for the American people, including managing contracting and procurement to achieve our mission effectively and efficiently.

We have begun implementing the QDDR, to improve contracting oversight; some specific examples are as follows:

Elevate the status of contract oversight personnel

As initial steps, this summer we plan to create a Contracting Officer Representative (COR) Award to highlight contract administration achievements by the COR, and publish an article in State Magazine highlighting the importance of contract administration and the valuable role of the COR.

Link Oversight Duties to Performance Evaluation

In January and April 2011, we issued Department notices reminding staff of work elements for CORs and Government Technical Monitors (GTMs). The April 2011 notice provided guidance on critical work elements for supervisors to include in COR and GTM performance appraisal plans (or Employee Evaluation Reports (EERs)).

Expand Training

Training has been expanded by launching a skills-based COR class in May 2011. The Department also adopted the Federal Acquisition Certification – Contracting Officer Representative (FAC-COR) requirements for initial and continuous training in the business and technical skills of contract administration.

Elevate Accountability for Planning and Oversight of Large Contracts

As part of the QDDR process, the Department of State instituted a requirement for the Assistant Secretary of a Bureau with a service contract with expenditures exceeding \$25 million per year to certify that adequate contract administration resources have been identified to manage the contract.

3. The impact of USG budget cuts on DOS and its contracting activities in Iraq and Afghanistan

As a result of the funding levels in the FY 2011 full year continuing resolution, the Diplomatic and Consular Programs (D&CP) budget for Iraq has been reduced below the President's request level. The Department has been able

to meet the most critical operational needs in FY 2011 by delaying selected contract awards and through the judicious use of funds carried forward from prior appropriations. The most direct impact of the reduced funding level on contracts is that the Department can only fund several contracts for a portion of their period of performance. We will be relying on funds requested in FY 2012 to meet the remainder of their period of performance.

Funding for our Afghanistan presence was also reduced from the request. Yet as the civilian platform is relatively stable for this year, the current funding level will be sufficient to cover D&CP operations thru the end of the year. The Diplomatic Security (DS) budget was cut in FY 2011, and based on the DS re-prioritization of funding, contract requirements to support Afghanistan (as well as Pakistan) are being met through realignment of base funding.

4. The status of transition in Iraq from DOD to State, major challenges and progress

Our military drawdown in Iraq is a critical part of our transition to reach the President's goal of supporting an Iraq that is sovereign, stable, and self-reliant. We are working to achieve sustained diplomacy in support of a strategic long-term partnership between the United States and Iraq.

The State Department and DoD have been collaborating at what are unprecedented levels for more than two years, both in Washington and in Iraq. We are making very good progress. The Department is contracting certain functions for which it is best suited, including security, facilities, medical, and aviation/transportation. DoD is providing contract support for parts of our life support platform.

I am pleased to give you a status report on our progress on contracting efforts for Iraq.

Security: All U.S. personnel and contractors in Iraq will be under Chief of Mission authority. However, security will be a shared responsibility, with the State Department's Bureau of Diplomatic Security (DS) responsible for all State Department sites and DoD responsible for the Office of Security Cooperation-Iraq (OSC-I) personnel. As such, DoD will be staffing and funding its security operations. At those locations where OSC-I is collocated with State, DS and DoD security will closely coordinate movement security, but DS will have sole responsibility for facilities security.

On September 29, 2010, the Department announced the award of a base contract for Worldwide Protective Services (WPS) to eight companies. Task orders under the WPS contract are being competed among base contract awardees and awarded on the basis of best value. Potential duration for these contracts is five years, including a base year plus four options years.

Awarding to multiple companies allows for increased competition for each task order, thereby controlling costs and providing for increased capacity to perform crucial security services in environments such as Iraq and Afghanistan if/as requirements expand. It also gives the USG timely options in the event a company fails to perform.

Several task orders for static and movement security have been awarded.

- For Embassy Baghdad, a Static Guard task order was awarded on September 29, 2010 to SOC for \$ 974 million for a five year period. A movement security task order was award on February 10, 2011 to Triple Canopy for \$1.5 billion for a five year period.
- For Consulate Basrah, a WPS task order for static and movement security was awarded March 1, 2011 to Global Strategies Group for \$401 million for a five year period.

I would like to note that for Afghanistan, the task order for static guards at Embassy Kabul was awarded to EODT in September 2010. Unfortunately, we soon found that we needed to avail ourselves of the new contract terms for timely options in the event a company fails to perform. Due to issues that arose during transition, the EODT task order was terminated in March 2011, prior to the commencement of performance. The static guard incumbent, ArmorGroup North America, will continue providing services until a new task order is awarded, expected to be the first week of July 2011.

On April 29 the Department notified Aegis Defense Services, LLC that it was selected for award for the task order for protective security services for movement security at Embassy Kabul.

Facilities: To the maximum extent possible, we are repurposing existing DoD infrastructure and property for each of the Consulates General and Embassy Branch Office sites. The status of contracts by location is:

Consulate Basrah

- Phase III construction contract for the unclassified work was awarded March 14, 2011 (with notice to proceed issued March 22) to Perini for \$107 million.

Basrah Aviation Hub

- Current design is at 35% and moving to 65%.
- Estimated completion is 200 days after ground breaking.

Consulate Erbil

- Phase III construction contract for the unclassified work for the Contingency Operating Site (COS) was awarded April 22, 2011 (with notice to proceed issued May 2) to PAE for \$ 57.8 million.

Erbil Aviation Hub

- Reviewing 65% design.
- Estimated completion date is 240 days after ground breaking.
- Negotiations are ongoing with the Kurdistan Regional Government (KRG) regarding temporary facilities at the old Airport Terminal, paving of roads and connection to City of Erbil power grid.

U.S. Embassy Heliport

- Current construction estimated completion date is July 2011.
- Required upgrades are programmed under the INL/A Aviation Support Services Contract at an estimated value of \$6.7 million. Work is expected to begin in September of 2011.

Police Development Program Hub – Shield

- The Phase III construction contract for Shield was awarded to Pernix on April 12, 2011 for \$92 million (with notice to proceed issued April 29) for design, long-lead procurement and mobilization. Full NTP pending resolution of land agreements.

Sather Aviation Hub

- We have reduced the foot print of the aviation hub and are in the process of re-working the scope of work. The award for the aviation operation/camp at Sather will follow discussions with the technically acceptable lowest cost bidder and is anticipated to be on or before June 8, 2011.

- Construction of the Kirby hangar that will house fixed-wing maintenance operations is complete.
- Expansion of the North Fingers aircraft ramp and moving the current Sprung hangar from the South Fingers to the North is 10% complete. Estimated completion by the end of July 2011.
- Final ramp extension, movement and erection of the Stryker office and logistics complex, and erection of required overhead cover. Estimated completion is February 2012.

Other contracts have also been awarded:

A medical contract was awarded to Medical Support Services – Iraq on May 15, 2011 for \$132 million for five years.

We are leveraging DoD resources in theater where DoD has superior capabilities. An example is the Logistics Civil Augmentation Program, or “LOGCAP,” which is a tested, proven support mechanism with strong, mandatory contract management requirements. Use of LOGCAP, on an interim basis, is giving the Department sufficient time to solicit for and award a life support contract of its own. Another example is use of the Defense Logistics Agency prime vendor contracts for food and fuel.

Additionally, for the LOGCAP contract, we are supplementing our oversight with subject matter experts from DoD and we are currently discussing our need for a deployed contingency staff with the Defense Contract Management Agency.

DS has funded a vetting surge capability which provides a temporary increase in polygraph operators, investigative assistants, and interpreters to the Regional Security Office. The capability will aid this office in more rapidly vetting the life support contractors required for the transition.

Equipment: With regard to equipment,

- The joint DoD Equipping Board has identified more than 3,769 individual pieces of equipment worth approximately \$209 million to be given as excess, sold from stock or loaned to State to include medical, sense and warn, IT, areal port and fuel support equipment, biometric input equipment (BATS/BISA) as well as 60 Mine-Resistant Ambush-Protected vehicles (MRAPs).

- DOD is loaning the State Department biometric input equipment (BATS) that will allow biometric confirmation of identity through a DOD database (BISA). This will allow State's Regional Security Officers (RSOs) to verify the identity of employees, and to provide a reliable data base in which to vet prospective employees.
- Sustainment for this DOD equipment will be provided through a contract managed by the Army Sustainment Command at Rock Island. This contract will provide maintenance for a large part of the Sense and Warn, BATS/BISA systems and the MRAPs.

I would also like to note that the Department has gained many valuable insights during its Iraq transition planning that we are using in our Afghanistan planning, as we face a U.S. military drawdown in that country. Several experienced Foreign Service personnel who have been assigned to Washington and have worked on Iraq and Afghanistan planning here, will be in Afghanistan on their next assignment, and will be able to implement many of the lessons we have learned.

In conclusion, since I testified in September 2009, the Department has implemented many improvements in its contract oversight and management, and will continue to do so as we execute the QDDR initiatives. We have continued working with DOD to implement our Iraq transition plans. We awarded the WPS contract for security services, as well as numerous facility contracts in Iraq. We issued the first-ever QDDR which contains an objective to improve our contracting efficiency. The Department has taken very seriously the recommendations of this Commission as well as other oversight organizations to increase our contract oversight staff and elevate this function to the status that it deserves. We will continue our efforts to improve our contracting administration and oversight. The Department has also strengthened our oversight of contractors, particularly PSCs and their employees. We fully understand that we still have challenges ahead as we carry out our diplomatic missions in Iraq, Afghanistan, and other locations where we rely on contingency contracting, but we believe we have instituted a sound foundation to carry us forward.

Thank you for providing me with this opportunity to appear before you and for your ongoing support for the Department of State.