

STATEMENT BY

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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 before you today.

My name is Cathy Read and I am the Director of the Office of Acquisition Management at the Department of State. Before joining the Department of State, I worked with several government and private entities including the Department of the Navy and as Director of Contracts, US Arms Control and Disarmament Agency. At State, I am responsible for providing global acquisitions and logistics support for America's diplomacy. My office is responsible for over 98% of the operational acquisition dollars of the Department. This is comprised of most overseas construction, diplomatic security services including the Iraq and Afghanistan security programs, IT equipment and services, weapons abatement program, and civilian justice and police training programs. My office has over 220 acquisitions professionals in Washington, DC, and regional procurement centers in Frankfurt, Germany, and Ft. Lauderdale, Florida. Generally, our largest and most complex contracts are issued from my office and monitored by Contracting Officer Representatives (CORs) on the ground.

The subject of today's hearing, "Subcontracting: Who is minding the store?" is important to the Department of State as we ensure our fiduciary responsibility to the taxpayers and further Secretary Clinton's diplomatic goals of a stable and secure Iraq and Afghanistan in this critical year.

Scope of subcontracting

I've seen our contracting activity grow from \$1.8 billion in 2001 to over \$6 billion in 2009. Most of these additional dollars are for programs in Iraq and Afghanistan. The Department of State has stepped up to meet this workload under difficult circumstances. At this time, the Department has 12 significant service or construction contracts in Iraq or Afghanistan, with approximately 102 subcontracts. Our subcontracted services include food, maintenance and repair, janitorial services, construction, medical support, and logistics.

Our contracting officers take seriously the oversight of prime contracts and subcontracts. Generally, Department of State contracts require the prime contractors to obtain the contracting officer's written consent to subcontract prior to the award of a subcontract. We have no privity of contract with the subcontractors. Thus, we must rely on the prime contractor to manage its subcontractors. Federal Acquisition Regulation (FAR) 42.202(e)(2) clearly states that it is the prime contractor's responsibility to manage its subcontractors. If the prime contractor's business systems are inadequate, its subcontracting program may also be inadequate. For cost type contracts, construction contracts, or when a subcontracting plan is part of the basis for award, the contractor is required to obtain the contracting officer's consent to subcontract prior to the award of the subcontract. FAR subpart 44.2 lists a number of considerations to be made, but the principal consideration when consenting to a subcontract is whether the proposed subcontract is appropriate for the risks involved and consistent with current policy and sound business judgment.

The FAR also requires the flow-down of specific contract clauses to subcontractors, including those for audit, inspection, trafficking in persons, and socioeconomic requirements. We require that vendors include provisions for changes, termination and government property in their subcontracts. In any event, the prime contractor is responsible for contract performance in accordance with the terms of its FAR contract, whether or not part of contract performance has been subcontracted, and whether or not applicable FAR contract clauses have been flowed-down to its subcontracts.

Subcontract Management

We hold the prime contractors to the highest standards in the selection and performance of their subs. I want to give you a couple of examples from Iraq and Afghanistan. For example,

- For the **Bureau of Overseas Buildings Operations (OBO)**, there is significant scrutiny of both subcontractors as well as their employees. Contractors for the construction of new office and other buildings must name all subs at the time of proposals, and they are part of the proposal evaluation. When we construct buildings, foreign firms receive local checks for adverse information. Contractor and subcontractor employees going on to a construction site must have name and other records checks performed by the Regional Security Officer (RSO) in advance and in consultation with local officials. Each construction locale has specific processes – for Kabul, there is no equivalent to a police check and no country criminal database – the U.S. is presently working to build such a

database. Therefore for Afghan local workers, we collect biometric info – fingerprints, photos, retina scan and biographic information using HIIDE units – Hand-held Interagency Identity Detection Equipment. We transmit the data electronically to Washington where it is matched against a number of DoD, FBI, State, DHS and other databases. Results are usually received in a week or so. There is a similar process for third country nationals, but we also send a records check request to the RSO in their native country. The goal is to ensure that contractor and subcontractor employees are not a risk to public trust. Each approved construction contractor and subcontractor employee receives a badge that is turned in daily and undergoes retinal scan identification at high threat sites for entry.

- The **Bureau of Diplomatic Security (DS)** has had great success working closely, through the prime contractor, with a subcontractor providing logistics support to Camp Baghdad for Worldwide Protective Services (WPPS) activity. Taylor International provides overall logistics services including inventory control, facility maintenance, and life support to the camp and its 600 residents. The DS CORs worked with a new WPPS prime contractor to ensure the successful transition of this critical subcontracted support.
- The **Bureau of International Narcotics and Law Enforcement Affairs (INL)**, provides detailed oversight requirements to its prime contractors. INL requires all aspects of its contracts to be performed in accordance with these detailed terms and conditions. INL requires written notification when a prime contractor decides to fulfill any part of its contractual obligations by a subcontractor. If INL

determines there is a performance or non-compliance issue, they hold the prime contractor responsible. While the expectation is that the contractor will hold its subcontractor responsible, the prime contractor is ultimately responsible to the Government for contract performance and compliance. INL contractors comply with the SPOT registration requirements for all contractor and subcontractor personnel in Iraq and Afghanistan. SPOT stands for Synchronized Predeployment and Operational Tracker, which I will explain more fully later.

Contract Management in Conflict Zones

As many of you have experienced firsthand, conflict zones pose additional contract challenges because of the added costs of security, restrictions on free movement, challenges in local hiring, added outside scrutiny of operations, and limited communication capabilities. Rapidly changing conditions require the ability to quickly manage and adjust contractor performance. The Department's CORs are required to maintain special vigilance against trafficking in persons, and awareness of the practices of labor brokers and recruiters. CORs must brief contractor program management to be aware to avoid of trafficking in persons as well as other unethical conduct. Programs with a significant in-country contractor presence require COR review and documentation of the adequacy of contractor employee living conditions. For OBO construction projects, on-site camps for contractor and subcontractor personnel are expected to meet strict health and safety standards. When OBO Project Managers become aware of quality of life issues, on or off-site, they first notify the Site Security Manager (a trained DS specialist), then the RSO, who will then notify appropriate authorities. OBO ensures that emergency medical services are provided (by the embassy medical team if necessary) and that medical evacuations are handled appropriately.

Subcontract oversight often depends on specific reporting requirements in the contract. One of our newest tools, for which we are grateful, is the Synchronized Predeployment and Operational Tracker (SPOT). The Department of State began using DoD's SPOT in the fall of 2008 for tracking contractor, and certain subcontractor, personnel working in Afghanistan and Iraq. In January of 2010, Congress expanded the legislation to include personnel performing under grants and cooperative agreements. The Department of State currently has over 10,000

active deployments in SPOT. Even though some program offices were reluctant to implement it; as time goes on, they recognize the value of SPOT's contractor personnel counts. SPOT's strength lies in its ability to integrate and fuse data from DoD systems and the contracting community. As the system is expanded, it will integrate securely with other systems inside and outside the DoD domain, leveraging authoritative data sources to provide value added services. Its functionality is enhanced by integration with the Joint Asset Management Movement System (JAMMS), a system that scans contractor personnel's credentials at dining facilities and on military flights for inbound and outbound contractor personnel. Data collected from JAMMS and SPOT allows verification of a person's identity in theater, tracks his/her movements, and provides theater commanders up-to-date visibility into contractor assets and capabilities. Additionally, the ability to generate and digitally sign DoD Letters of Authorization has significantly increased SPOT's functionality.

Audit and Oversight

The Department of State has taken aggressive steps to improve audits and oversight of our contractors and subcontractors. Until our conversion to a fee for service fund operation in 2008, the Acquisitions office could not afford to fund audits or site trips; we depended on program offices to fund them. We now apply significant resources to initiate proper financial audits, and consider audits or reviews of the contractor's purchasing, property, accounting and management systems. Reviews of contractor purchasing systems include subcontractor management reviews. In addition, our current funding provides \$2.6 million for Defense Contract Audit Agency support.

In closing, I would like to note that the State Department has learned many valuable lessons regarding contract administration in conflict zones. We have learned from them and are using them to improve our current and future operations.

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