

FEDERAL OVERSIGHT OF BILLIONS IN SERVICES CONTRACTS

MONDAY, APRIL 19, 2010

Commission on Wartime Contracting

Washington, D.C.

The Committee met, pursuant to notice, at 9:30 a.m., in Room 106 Dirksen Senate Office Building, Michael Thibault, Co-Chairman of the Commission, presiding.

Present: Commissioners Thibault, Shays, Ervin, Green, Henke, Schinasi, Tiefer, Zakheim.

THIBAULT:

Good morning. My name is Michael Thibault, Co-Chairman of the Commission on Wartime Contracting in Iraq and Afghanistan. Welcome to all.

This hearing will probe the government's management and oversight of contracting for services to support contingency operations in Iraq and Afghanistan. The commission estimates that these contracts have consumed some \$80 billion of taxpayers' money over the past five years.

Most of the services contracts for tasks like logistical support, security, transportation, and maintenance are distinct from buying weapons or equipment as made by the U.S. Army.

I will say at the outset that we have serious concerns about the Army's management and oversight of these vast and costly arrangements. We will explore those concerns today.

This opening statement is made on behalf of Co-Chairman Christopher Shays, our fellow commissioners, and myself. The other commissioners at the dais today are Clark Kent Ervin, Grant Green, Robert Henke, Katherine Schinasi, Charles Tiefer and Dov Zakheim.

Observers of this hearing may wonder why its focus is on services contracting. After all, the commission has already heard extensive testimony of the largest of the services contracts, the LOGCAP [Logistics Civil Augmentation Program] contract for global logistic services, and on the many services to be managed in the drawdown of American forces in Iraq.

The answer is simple: Although services contracts account for more than 60 percent of the contract effort in the Southwest Asia theater and have cost about \$80 billion over the past five years, they continue to suffer from lack of commensurate focus, oversight, and program management by government officials. The result is often unnecessary risk of waste, fraud, abuse, and the undermining of our national objectives.

These concerns aren't new. Department of Defense [DOD] contract management has been on the Government Accountability Office's [GAO] high-risk list every year since 1992. If that designation were a person, that person would be old enough to vote now.

Numerous GAO reports over succeeding years have added much detail to the catalog of shortcomings, including one released last month under the title "Warfighter Support." DoD needs to improve its planning for using contractors to support future military operations. This is the subject, one of the many subjects that we're going to explore today.

In the past decade, Congress has weighed in nearly every year with new directives on contracting. For example, statutory mandates in fiscal 2002 and 2006 national defense authorization acts direct that the secretary of defense establish a management structure for the procurement of contract services.

The law calls for a designated official in each military department to exercise responsibility for managing its procurement services, for departments to dedicate full-time commodity managers to coordinate procurement of key services, and to conduct annual execution reviews.

The U.S. Army does not appear to have effectively responded to these requirements. For example, the law requires that the management of services contracts be comparable to that applied to weapon systems.

But progress is incomplete. Four very large, over \$1 billion-each services contracts in Southwest Asia received Department of Defense secretarial-level review both before and after they were awarded.

But commission staff have identified 38 large services contracts in the area ranging from \$50 million up to that \$1 billion level. Of those 38, 3 received only pre-award review at Army headquarters; the other 35 had only field reviews below headquarters level.

We're concerned that this situation represents a gap in contract oversight for many large contracts. Below the \$50 million level, incidentally, about 3,500 contracts in Iraq and Afghanistan have received only field reviews, even though they add up to very large sums of money.

We're very interested in hearing our government witnesses clarify what has been done to fulfill statutory mandates for better contract oversight.

The issue of the Army's commitment to aggressive and effective contract management shows up in other ways. After more than seven years of war in Southwest Asia—typically with a 1-to-1 ratio of contractor employees to warfighters—it is astonishing, but apparently true, that no one in DoD or the Army has either a department-wide or a theater-wide view of contracts, contracting activity, or the numbers and locations of contractors.

And with the massive drawdown operation underway in Iraq, it is also astonishing to hear a three-star Army general confirm at our last hearing that there is no single entity with the power to monitor operational needs and order appropriate adjustments in the scope of contracts.

The commission has other concerns that will be elaborated in the question period, including Army structure and staffing for effective program management, leadership interest and energy, and contracting that may impinge upon inherently governmental functions.

One other contract management subject that really interests us is the use of competition to motivate contractors to provide good service to the government and good value to the taxpayers.

One current issue under this heading is whether the multi-vendor competition for service-task orders now being used by LOGCAP IV in Afghanistan should be applied in Iraq, rather than the single-vendor LOGCAP III contract. We hope and expect that the Army is considering all relevant operational, competitive, and business issues, as well as the accuracy of any base-case assumptions in deciding how to provide for continued logistical support in Iraq.

None of our questions will be asked in a hostile spirit. And, however critical we may sound, none of us lack in absolute respect and appreciation for the service and sacrifices of our military forces. In fact, there are several former military officers on the dais. I guess when they wrote that, they didn't realize there was also one former PFC [private first class] on the dais, so the record's corrected.

But the more clearly we can identify weaknesses and devise countermeasures, the better prepared our nation will be for future contingency missions.

We have two panels of witnesses for today's hearing. Panel one comprises Mr. Shay Assad—thank you, Shay—director of defense procurement and acquisition policy, Department of Defense; Lieutenant General William Phillips—thank you, General—principal military deputy to the assistant secretary of the Army for acquisition, logistics and technology; and Mr. Edward Harrington, deputy assistant secretary of the Army for procurement.

Thank you, Mr. Harrington.

For panel two, we've invited three witnesses from the contracting community: Mr. Jay Ward, chief operating officer, AECOM Government Services; Ms. Kristi Clemens, president, AEGIS Defense Services; and Mr. Terry Raney, senior vice president and division group leader, CACI International.

For the benefit of our audience, let me note that each of the companies that were invited holds important federal contracts. AECOM performs work under the \$727 million global maintenance and support services, including maintenance of the mine-resistant MRAP [Mine Resistant Ambush Protected], or MRAP vehicles that protect our troops as they move in theater. That contract is with the Army Materiel Command.

AEGIS provides security services under a \$287 million contract with the Joint Contracting Command-Iraq/Afghanistan.

And CACI International provides contract management support to the Army under a \$30 million contract with the Joint Contracting Command-Iraq/Afghanistan, or what's referred to as JCC-I/A.

Like all the companies that provide contract support for our military in Southwest Asia, these organizations are providing vital services for American troops and American objectives in challenging and dangerous settings. The commission respects their role in contingency operations and their cooperation with our inquiries.

We have asked the company witnesses to be prepared to discuss the services they provide, their views on how government management of service contracts might be improved, how their firms address work that might approach performance of inherently governmental functions, and their policies and training on business ethics in conflicts of interest.

As I noted, the commission invited AEGIS, a security contractor, to provide a witness for our second panel. The company has declined to do so. Their stated reasons are due to time, resources, and contracting constraints. We are disappointed with the AEGIS decision.

This is a congressionally chartered federal commission. Congress instructed us to conduct investigations and hearings and to report our findings and recommendations. Our authorizing statute also specifically provides that we should report any difficulties in securing cooperation and information to Congress for possible action by the appropriate committees.

We take that mandate seriously and expect full and complete cooperation from government agencies and from government contractors to carry out our statutory duties.

All previously invited witnesses—and this is the eleventh hearing we've held—have time, resource,, and contracting constraints. They all have demanding workloads.

These witnesses have worked with this commission to balance that workload with their responsibility to testify at public hearings. Thus, our strong disappointment with AEGIS's inability to likewise appear, notwithstanding—and I think this is important—their prior history of dialogue and cooperation with the commission.

We needed to hear from AEGIS at this hearing. That was important. As required by this commission's authorizing statute, we will notify appropriate congressional committees. We will also request AEGIS's presence at a future commission hearing and expect them to comply.

Our witnesses have been asked to summarize their testimony in five to seven minutes in order to ensure adequate time for questions and answers. The full text of their written statements will be entered into the hearing record and posted on the commission's website.

We also ask that within 15 business days, witnesses respond to questions for the record and submit any additional information they may offer to provide.

We thank all of today's witnesses that participate in what we view as a very important hearing. After the swearing-in, we will begin the first panel's testimony, headed by Mr. Assad.

SHAYS:

Mr. Chairman, before swearing in our witnesses, I just want to emphasize the fact that every company that we have dealt with has not only cooperated privately, but also publicly, and AEGIS cooperating privately is one thing. Being able to stand before this committee and answer questions under the record and under oath is another.

And I just want to say you had a gentle way of describing our disappointment. It represents a very serious act on their part not to cooperate with this committee, and I certainly will be talking to my colleagues to let them know of their lack of cooperation.

THIBAULT:

Thank you, Mr. Commissioner.

Can I get the three witnesses to please stand and raise your right hand? Do you solemnly swear or affirm that the testimony you will give is the truth, the whole truth, and nothing but the truth?

Thank you. Let the record show that all three responded in the affirmative.

All right. Mr. Shay Assad, please, sir.

ASSAD:

Good morning, Chairman Thibault, Chairman Shays, and distinguished members of the commission. As Chairman Thibault mentioned, I request that my written testimony be entered into the record, and I will be very brief in my opening remarks in order to provide time for the commission to ask questions and for us to respond in a timely way.

As the commission recognized in its interim report, contractors have served an important role in support of military engagements. Contractors in the U.S. Central Command area of responsibility provide a broad range of capabilities, with the overwhelming majority of contracted support being in the logistics and support area.

As such, DPAP [Defense Procurement Acquisition Policy] plays, with the Army, an important role during peacetime and military operations in ensuring the effectiveness of the contracting process in the battlefield environment.

Our mission is to enable the service components and other defense agencies to effectively deliver equipment and services that meet the needs of the warfighter through effective policy and guidance while being good stewards of taxpayers' money.

My office works in partnership with other organizations within the Office of Secretary of Defense, the Joint Staff services, Defense Contract Management Agency, the Defense Contract Audit Agency, and other agencies to ensure contingency contracting needs across the world are met.

We are working as a team to develop efficient support and solutions for our deployed forces overseas, as well as those supporting humanitarian relief operations.

As our deployed acquisition workforce continues to serve in harm's way, we owe them the resources required to complete the task we have given them. My office and the Office of the Secretary of Defense that services the components are enhancing professional standards, tools and training to better serve this workforce.

We have made meaningful progress, but we have a long way to go with regard to improving our contracting support and the management of contracted services in contingency operations.

I greatly appreciate the work that the committee is doing, and I pledge my full cooperation and assistance in enabling you to assess our progress.

Again, I thank you for the opportunity to report to you today on many of the initiatives and the work that we are doing to support our warfighters, and I welcome any questions that you may have. Thank you.

THIBAUT:

Thank you, Mr. Assad.

General Phillips, please?

PHILLIPS:

Chairman Thibault, Chairman Shays, distinguished members of this commission, thank you for the opportunity to appear before this committee to discuss the use of services contracts in support of wartime operations and other contingencies.

I'm honored to be here today with Mr. Assad, whom I worked very closely with during my tenure as the commanding general of Joint Contract and Command Iraq and Afghanistan. And I'm also honored to serve here today with Mr. Ed Harrington, our deputy assistant secretary of the Army for procurement.

We are pleased to represent Army leadership, the nearly 43,000 members of the Army acquisition and contracting workforce, and the more than one million soldiers who have deployed to combat over the last eight years and have relied upon us for timely and efficient materiel, supplies, and services. We have a joint written statement that I respectfully request be made a part of the record for today's hearing.

It is often stated that people are our most important asset. As the Army's director of the acquisition management career management, I can assure you that we are working aggressively to reverse the years of decline in authorized strength levels.

We are also working to restore the skill level of our acquisition and contracting workforce to deal with the growing complexities of our business environment. We believe that additional training of the workforce will, over time, enhance the skills necessary to better support our warfighters.

We appreciate the support of members of Congress as we work to rebuild the acquisition and contracting workforce to handle the increased workload in managing our acquisition programs, as well as the number of contracting actions and contracted dollars, which in the last 15 years has increased by more than 500 percent along with over a 20 percent reduction in contracting personnel.

Our Army, under the guidance and direction of Secretary McHugh and General Casey, continue to work hard to reduce this trend, and we're on the right path. Within the next few years, we will in-source approximately 4,041 positions that were previously contracting to government. We expect to hire by 2015 over 1,885 personnel into Army acquisition, of which about 1,600 will be contracting. Within the last couple years we have hired over 600 acquisition interns, much of that as a result of Section 852 funding.

Along with the additional workforce personnel, we thank Congress for authorizing five additional general officers for acquisition. We have promoted three colonels to general officer since the Gansler Commission reported its findings. In addition, there are other general officers that are serving in key acquisition positions today.

Most recently, I served as the commanding general of Joint Contracting Command Iraq and Afghanistan. And currently in Iraq and Afghanistan today, we have Brigadier General Camille Nichols, another Army general. We have contracting generals again in key positions throughout our Army beyond those serving in strictly contracting positions today.

So, with superb support from Congress and from the Office of the Secretary of Defense, we are working aggressively to reverse the years of decline in authorized strength levels and restore the skill level of our acquisition and contracting workforce to deal with the growing complexities of the business environment. The Army is committed to excellence in all contracting activities.

We support a programmatic approach to operational contract support. We believe that service contracts are best managed at the lowest possible level, especially in expeditionary operations. We support the fundamental principle of federal contracting that the contracting officer makes the award decision.

The Army's process provides for decentralized execution and contract management at the point of execution within centralized oversight. We have established additional oversight and accountability for the contracting mission, which while maintaining our high standards of quality and efficiency in awarding contracts.

The Army acquisition of services strategy panel and peer review processes ensure that our senior acquisition leaders have the appropriate level of input for effective contract management. In addition, we have a very aggressive Army procurement management review process, both within the Army, and also within the Joint Contracting Command Iraq and Afghanistan.

It's also an honor to appear before you as a previous commander of the Joint Contracting Command Iraq and Afghanistan, where today, over 270 contracting warriors are serving on the front lines of freedom, doing extraordinary work, providing contractual support and services for our soldiers, sailors, airmen, Marines, and civilians.

During my time at JCC-I/A, I often referred to our contracting personnel as contracting warriors in reference to their professionalism and service alongside our uniformed warriors. Their support of our mission in both Iraq and Afghanistan is nothing short of incredible, as is their integrity, sacrifice and dedication to duty.

Chairman Thibault and Chairman Shays and distinguished members of this committee, thank you for allowing us to be here today. I look forward to your questions.

THIBAULT:

Thank you, General. And my understanding is your statement was both for you and Mr. Harrington.

Do you have any comments or statement you would like to make in advance of our questions?

HARRINGTON:

I'm prepared to make an oral statement, yes, sir.

THIBAULT:

Oh, I apologize then. Please do.

HARRINGTON:

All right, sir. Thank you, sir.

Chairman Thibault, Chairman Shays, distinguished members of the Commission on Wartime Contracting, thank you for the opportunity to discuss the Army's use of service contracts in support of wartime operations and contingencies. We're proud to represent our Army leadership and our selfless and highly dedicated acquisition and contracting professionals.

Our individual and collective focus is to provide our soldiers with cost-effective and timely materiel, supplies, and services. The Army is reversing the 15-year decline in its contracting workforce numbers and adding highly motivated members to the ranks of its contracting teams every day.

We thank Congress, your commission, and the Department of Defense for the continuing support for the resources to attract, train, and educate our professionals to develop, award, and manage Army contracts.

Our priorities are four-fold—workforce development, organizational structure, business tools and, training—to improve pre-award, award, and post-award contract oversight functions.

First, we're taking actions to more than double our military contracting workforce, including more than 175 noncommissioned officers, and we are also adding over 1,600 new civilian contracting specialists.

Second, the Army has implemented contracting units in its operational force structure to provide a more agile, modular expeditionary capability for rapid responses to operational contracting requirements worldwide.

Thirdly, we participate in a DoD-led joint business-systems team to design, develop, test, and field capabilities to improve the electronic linkage with user, funding, legal, and contracting stakeholders. These systems will enable improved requirements definition, prioritization, and timely contract award and contractor oversight.

Fourth, we're expanding our training to include non-contracting units. The Army G3 has issued an execution order [EXORD] requiring contracting officer representative training of as

many as 80 CORs [Contracting Officer Representative] per brigade before deploying to theater, enabling Army units to be better prepared for their contracting oversight responsibilities.

To achieve the objectives of the EXORD, the Army Contracting Command developed and implemented pre-deployment training that augments the 40-hour Defense Acquisition University online course. As a result, Army commanders have cut the transition time of outgoing to incoming CORs in theater from an average of two days to two hours.

Operational contract management is now presented at 16 different logistics officer and NCO courses. The Army Logistics University has implemented a two-week course on planning and managing contracted support.

Our combat training centers and the Army's battle-command training program have integrated operational contracting scenarios in training exercises as units prepare for their deployments.

Our objective is to enable our growing workforce to achieve the needed numbers and expert skills to develop, award, and oversee contracts that continually achieve more cost-effective schedule and performance outcomes. The Army is making steady, deliberate, forward progress.

With sustained senior leader support, Army contracting will regain and maintain its capability. Our soldiers are always at the center of our commitment.

This concludes my opening statement. Thank you again for inviting me and for your commitment to help us reconstitute our Army contracting capability. I look forward to your questions.

THIBAULT:

Thank you, Mr. Harrington.

The process we're going to use is, we're going to have two rounds of questions in an order that we've determined that'll become self-apparent. And then we'll have a second round and third round, depending on outcomes. In the order, we'll begin with myself.

At an outset—and I think some others here on the commission will explore it—but I do want to make a comment, that the Department of Defense (and this is the Department of Defense panel) has addressed many of the areas of concern that this panel has raised, and has put in place objectives and training and mechanisms, and has begun that process. And for that, we are appreciative, that essentially, in my words, you're laying a foundation, or stepping stones that need to be followed, in order to achieve what you've acknowledged are needed improvements.

So, for that, while we're going to watch the progress, we are much appreciative.

I want to talk in my first comments about competition. And I think we have the right group, because General Harrington, I believe that you are the competition advocate for the Army.

HARRINGTON:

Yes, sir, I am.

THIBAULT:

And both of you, Mr. Assad and General Phillips, while they were very short—I counted words, you know, and I read your testimony and found it very informative. But I found six words, General Phillips, in your testimony that talked to the importance of competition. And Mr. Assad, I found 11.

That doesn't mean in any way to underemphasize what I've heard you previously talk about the importance of competition. So, I guess, just initially, I'm looking for an affirmative statement, and then I'll sort of tee up what I've got.

Is there any question in anyone's mind that the first avenue—where it fits—is competition? Mr. Assad?

ASSAD:

Chairman Thibault, I'm actually the competition advocate for the department. That's my role. And in FY '09, we actually achieved the highest degree of competition in the history of the department.

Having said that, there's about 35 percent of the work and services that we do not compete, and we need to find more ways to compete. In fact, there's a meeting this afternoon at one o'clock of all of the competition advocates. I do that on a quarterly basis with all of them to go through what their goals are, what their achievements are, and whether or not we're stressing the organization to compete as much as we possibly can.

I think the figure over in Iraq and Afghanistan—and General Phillips can be more definitive on this—but it was around 97 or 98 percent of the actions that they actually compete.

THIBAULT:

OK.

ASSAD:

So . . .

THIBAULT:

I'm looking for an affirmative statement, and I appreciate . . .

ASSAD:

Oh, there's no doubt about it, we need to do more. The taxpayers get a better deal when we compete. There's no doubt about it.

THIBAULT:

General Phillips, do you agree with Mr. Assad's absolute support for competition?

PHILLIPS:

Sir, I absolutely do. And the number is correct. When I left, we were at about 98 percent for all our contracts, over 30,000 contracts last year that we did in competition.

One of the comments, sir—don't hold me to the date, but I believe it was 4 March of '09 when the president signed out his directive on competition. I actually took that directive in Iraq and had a discussion with the operational commander about how to emphasize contracting within our realm of Joint Contracting Command Iraq and Afghanistan, and a lot of the goodness that we were doing—firm believer in competition.

THIBAULT:

So, the emphasis, your point, is clearly on, both directed from the presidential level down through all organizations.

General Harrington . . .

HARRINGTON:

Sir, absolutely . . .

THIBAULT:

Support what they say, and we can move on, then?

HARRINGTON:

Yes, sir, I do.

THIBAULT:

All right. Thank you, Mr. Harrington.

HARRINGTON:

Yes, sir.

THIBAULT:

I want to talk about a couple of procurements that may not be going the direction of competition that are a little mystifying in light of everything we've said.

The first one is that the largest contract in Iraq is being competed and has been competed presently. That is to say that, again, without getting into acronyms as far as logistics, KBR was awarded what was referred to as the CTP (Corps Logistics Support Services, Transportation, and Postal mission) task order for reportedly and verified \$2.3 billion to provide logistical support.

The other half of that contracting action, life support, is ongoing with the latest phase of proposals that were due until last week, the 19th, or today, and now we've been informed it's the 30th of April, the long and many-times-adjusted procedure to affect a LOGCAP for procurement.

Now, I guess my question, and Mr. Harrington, you may be in the ideal position to answer this: previously we had testimony on March 29th that notwithstanding that longstanding competition, that the Army had done a BCA, a business-case analysis, and was considering options or alternatives to competition. And I think that's accurate.

And the commission asked for attendance on last Thursday night. We were invited to a meeting last Friday—Friday past a week ago, you know. And on Thursday night late, that invitation was withdrawn, saying—and you don't need to restate this—that Department of

Defense wanted to vet it before vetting it with us and that some time in the future we can get a hand in it.

And our sensitivity was—my own personal sensitivity was, back when we were invited, I was talking to very senior acquisition officials involved in that that put the slides together, and they informed me that the presentation where they were asking for concurrence was not to do competition in LOGCAP IV, but to award a continuation of LOGCAP III for what was explained to me as essentially a financial push on savings, but operational needs.

Now, my question is, you know, that's disturbing as I heard it because you had three companies, including the incumbent, that would stand to benefit from LOGCAP III that had exhaustedly put together bid proposals that were due and then were due on the 19th, a later date, and then are now due on April 30th, that this commission previously asked, "Well, why wouldn't you analyze that? Why wouldn't you look for operational efficiency?"

And my point is on that first procurement. if you look at the data that's out there, the \$2.3 billion procurement—and I'd be glad to talk about that also—the data shows that there was—and this is to the Army's congratulations—a 46 percent potential savings as a result of competition used going from LOGCAP III to LOGCAP IV on the \$2.3 billion procurement awarded on CTP.

That is to say the spend rate was right at a billion dollars a year, and the spend rate went down to about \$540 million as a result of the competition, as a result of fine tuning, and the potential savings annually approaches \$460 million; commendation to the Army. Those are pretty big bucks.

And this direction it was going was to say, there must be some way to do it without competition. And as we've shown, if there hadn't have been competition on LOGCAP III, what gets contracted for on cost-type contracts gets spent. So it's not just about fee. People want to argue, well, it's just fee because it's dollar-for-dollar cost-type, but history does not bear that out.

So it is troubling that with those kinds of savings and the success in Afghanistan where there's a war going on, where the operational pace is frankly probably substantially greater than the operational pace, and the drawdown in Iraq that's a safer environment, everything the Army tells us is absolute success in the transition from the incumbent contractor to two other contractors.

So everything I've laid out flies in the face of why. At the same time you're doing a procurement, you're putting a business-case analysis together and potentially avoiding competition.

Mr. Harrington, would you like to share your perspectives in understanding and clarify anything you can about the value of competition in going from LOGCAP III to IV and the potential maybe for similar savings—40 plus percent?

HARRINGTON:

Yes, sir. I agree with all you have stated, sir, about the advantages of competition and what we've realized with respect to competing in LOGCAP IV. LOGCAP III was a single-vendor compete contract back when it was originally awarded. I can tell you, sir, that that whole process, the business case, the decision matrix, if you will, to determine whether or not it's appropriate to stay with LOGCAP III as opposed to transition to LOGCAP IV is in process right now with the Army leadership.

THIBAUT:

Would be fair then, Mr. Harrington, to say that the individual that participated in putting the slides together—a very high level; I don't want to put his name on the table. Maybe someone here would say, "Put it on the table," but it was a discussion I personally had with him that there was going to be recommendation they continue with LOGCAP III, that that's being rethought as presentation?

HARRINGTON:

Sir, it is being assessed right now. The Army leadership wants to be able to see the full range of the information to be able to make a call on what the appropriate course of action is. It depends upon the, you know, the operational commander's intent with respect to the drawdown actions.

THIBAUT:

OK. My time is up and I may explore this more later on. But the point I make is I absolutely commend General Phillips—the push, and you led that—of getting the contractual actions moved towards competition.

I commend that. That was a strong, forceful action that had leadership and execution, and that's the type of thing we look to see. But all it takes is one single action like this where—I'm not trying to be a media person, but what's the headline? Incumbent receives lifetime contract for Iraq without competition? It just doesn't pass the test.

And so I share that with appreciation. You know, I sensed that the reason that the award wasn't cancelled and it was moved to April 30th was that it was being rethought, and I appreciate that confirmation. Do you have any brief comments, General Phillips?

PHILLIPS:

No, sir, just well, yes, sir, just to express I strongly believe in competition as we've all just discussed and the merits of that you've adequately defined. Anything that we present on LOGCAP III to IV today will be pre-decisional, as the Army is still looking at the process, looking at the business-case analysis as well as the operational need.

THIBAULT:

Thank you.

PHILLIPS:

And sir, all of that will come together soon.

THIBAULT:

Thank you. And I have to say that General Odierno himself has been an absolute advocate of competition, and it's his drawdown that's being impacted. And in the first competition, the incumbent can be our winner. But it's half the cost, 46 percent. The incumbent may win it again. It doesn't matter who wins it. What matters [is] the contracting strategy.

I've spent my time, and I don't apologize.

Commissioner Schinasi, please?

SCHINASI:

Thank you and thank you, gentlemen, for being here this morning.

I'm going to start, Mr. Assad, with just making a comment on your opening statement about making progress. And I think I would agree that there are many areas under your leadership that your office has made a lot of progress. I will talk about the changes and the award-state process that you've put in place, the peer reviews that you have for services.

But I want to focus a little bit more on the other statement, which is a long way to go. You can do only so much as a policy office, and my position has always been that process is good, but outcomes are better. And in order to get different outcomes, we're going to need to talk about resources.

So I'm going to turn to you, General Phillips, to say that I'm pleased that the Army has put in place someone with your understanding and background of contracts and managing contractors to a position where you do have some resources that you can reapportion here for some of the things that we're talking about which are so important.

And I just want to see if I can get you on the record a little bit as to how you're going to do that, but let me start by talking about some of the problems that we're seeing.

In your statement, I think it was on page six and in your oral statement, you talked about the review that the Army has done to identify positions that contractors are holding which are really for inherently governmental purposes, which is a good thing. But you've put a five-year time horizon around bringing into the government those things which the contractors should not be doing. Not cannot but should not be doing, all right?

And so I'm a little disturbed that you're talking about 2015 because I think we have 7,162 positions coming in fiscal year '10, but 11,000 more, plus what you've identified that also need to come in. And the Army doesn't seem to be able to do that before 2015. So that is a timeline that I think is too long.

In addition to the inherently governmental position, there are a lot of things that the Army has asked contractors to do which are in that other realm of closely associated or critical, and I would just point out a report that the GAO issued last week that talks about the number of contractors that are supporting contract administration in Iraq and Afghanistan—again, a job that probably is better done by government officials.

The Army has used contractors to be contracting officer representatives in the past. Do you know what the situation is with that now? Are you still using contractors as CORs?

PHILLIPS:

Ma'am—a lot of questions in your statement. In Iraq today, and Afghanistan, we have a contract with CACI that was competed off of a GSA schedule, and that contract allows for up to 40 CACI employees to serve alongside Joint Contracting Command personnel as well as to serve with units and brigades primarily within their supply shops and also a division headquarters.

In Afghanistan, it allows for up to 35 to do essentially the same thing. They are not doing inherently government functions. They are doing work that involves developing a statement of work—that is, work through the war-fighting units through their requirements and resourcing process. And once it gets to JCC-I/A [Joint Contracting Command Iraq and Afghanistan], there are some CACI employees that are serving alongside our contracting officers, both in Iraq and Afghanistan, that are supporting the pre-award process, putting the requirements together, developing the solicitation.

They are not signing any contracts, they are not negotiating, they are not doing any of that kind of work which would be termed inherently government. They have also signed the OCI [Organizational Conflict of Interest] in terms of conflict of interest. So there is no inherently conflict of interest with CACI performing that work. And that . . .

SCHINASI:

I'm sorry, sir.

PHILLIPS:

Go ahead.

SCHINASI:

I was referring to your statement where you talked about the contractor positions and you've identified inherently governmental functions of 7,162 that you plan to bring in FY '10, and 11,084 that you're going to take another five years to bring in.

PHILLIPS:

Yes, ma'am. If we could do that all very quickly, we would certainly want to do that. Part of that is a process for the Army's budgeting process through 2015. So the numbers that I had in my opening statement are not just contracting, that's for the Army. If you look at the number of contracting jobs that might be transitioning under that, I think it's less than 150. I'll have to go back and look at the number to give you the firm number on that.

But of that 7,000 that was in the statement for the record, only about 150 of those directly relate to contracting. For Army acquisition as a whole, it was 4,041 is the number that we want to transition, ma'am.

SCHINASI:

But we're talking about related things here, but they are different. And my question is, why can't you bring in the inherently governmental positions now? And I understand the Army's budgeting process, and I understand also that people can control that process and make decisions in that process, but the process doesn't control the individuals or shouldn't control the individuals. There have been a number of supplementals.

I assume there will be a number of more supplementals that have worked totally outside of the traditional budgeting process that it seems to me you could influence to change that situation.

PHILLIPS:

Yes, ma'am, that's a great question.

SCHINASI:

And will you do that? Will you do that?

PHILLIPS:

Yes, ma'am. I've been on the job about 80 days. So I'm 80 days into the effort, but you make a great question and obviously we'll take that back and continue to work it. It's a part of a business-case analysis to bring those folks in as early as possible—the budgeting process.

But let me add one other metric that also is important. It's how quickly you can recruit the right kind of talent that you want to come in to be a contracting person or an acquisition person. So that's part of our strategy as well. As quickly as we can, with the help of Congress through 852 funding [National Defense Authorization Act FY08, Section 852, Defense Acquisition Workforce Development], is to recruit the right kind of talent inside Army acquisition to include contracting.

SCHINASI:

I would just make the point that the contractors apparently aren't having trouble recruiting talent, so I'll come back to this issue during the next round. Thank you.

PHILLIPS:

Yes, ma'am.

THIBAUT:

Thank you, Commissioner.

Commissioner Zakheim, please?

ZAKHEIM:

Well, thank you. I'd like to continue the line of questioning that my colleague has opened.

General Phillips and Mr. Harrington, did you say that it's about a two-week COR course that you provide to potential CORs?

HARRINGTON:

Sir, the Defense Acquisition University offers a 40-hour online course. The Army Contracting Command supplements that with additional training.

ZAKHEIM:

How much?

HARRINGTON:

Sir, I don't know exactly.

ZAKHEIM:

Is it a month? Is it a year?

HARRINGTON:

Sure, it's anywhere from two to four days in those cases.

ZAKHEIM:

Two or four days. So two weeks is about right.

HARRINGTON:

Yes, sir.

ZAKHEIM:

So you take somebody who knows nothing about contracting, and in two weeks they'll be a COR, correct, more or less?

HARRINGTON:

Yes, sir.

ZAKHEIM:

All right. General Phillips, in that case why can't you find people to do it? Ms. Schinasi was just talking about two weeks of training. That's all they need?

PHILLIPS:

Sir, a COR is not a contracting officer.

ZAKHEIM:

No, no, no—COR, contracting officer's representative. We don't have them. We have contractors who are now acting in that position. You talked about, what, 75, give or take? Whatever the number is doesn't matter. It could be a thousand. Two weeks, and you've trained a thousand people. The Army doesn't have enough people for that?

PHILLIPS:

Sir, those folks that are working with CACI, working alongside us, really are seasoned contracting officers, and they're not trained as CORs. They're . . .

ZAKHEIM:

Is CACI providing CORs?

PHILLIPS:

Sir, I'm not aware of CACI providing CORs.

ZAKHEIM:

Mr. Harrington, does CACI provide, does any contractor provide CORs anymore? You were asked that, actually.

HARRINGTON:

Sir, in some cases we do have contractors.

ZAKHEIM:

OK. How many?

HARRINGTON:

I don't know the answer, sir.

ZAKHEIM:

Whatever the number, why aren't you replacing them with people who can train in two weeks?

HARRINGTON:

Well, sir, again, as General Phillips described, these are contracting officer's representatives. They have not . . .

ZAKHEIM:

That's the CORs, correct?

HARRINGTON:

Yes, sir.

ZAKHEIM:

OK. And it takes two weeks to train a COR?

HARRINGTON:

Yes, sir.

ZAKHEIM:

Then why can't you replace contractors, who are acting as CORs, with people who are trained in two weeks?

HARRINGTON:

We're doing that, sir.

ZAKHEIM:

No, why hasn't it been done yet?

HARRINGTON:

Sir, it's just in process.

ZAKHEIM:

When will it be completed?

HARRINGTON:

Well, sir, we . . .

ZAKHEIM:

Give me a date—six months, five months, a year, two years, five years?

HARRINGTON:

Sir, it's an ongoing effort to ensure.

ZAKHEIM:

To train somebody for two weeks?

HARRINGTON:

Well, sir, sometimes types of contracts finish in their performance . . .

ZAKHEIM:

OK. I want for the record, Mr. Harrington. I want to know the number of the COR billets that are currently filled by contractors. I want to know how many people that is.

THIBAUT:

Commissioner, might I add for the record the breakout by company, by country, if you would? As long as we're going to do it, we might as well do it all the way.

ZAKHEIM:

Yes, right.

HARRINGTON:

Yes, sir.

ZAKHEIM:

Thank you.

General Phillips or Mr. Harrington, do you know how many contractors there are in Afghanistan right now?

HARRINGTON:

Sir, 107,000 contractor personnel.

ZAKHEIM:

You track the personnel.

HARRINGTON:

Yes, sir.

ZAKHEIM:

And you have oversight over all of them? You know when they come in, when they go out.

HARRINGTON:

Yes, sir.

ZAKHEIM:

OK. Fine. Do we know the number of contracts over \$50 million right now?

HARRINGTON:

Sir, we can get that information for you, yes.

ZAKHEIM:

I understand the Army doesn't have that, so I'd very much appreciate that information.

I have another question for both of you. General Phillips, I think it was, who said that one of the things contractors do is develop statements of work, SOWs, correct?

PHILLIPS:

Yes, sir.

ZAKHEIM:

I've been in the contracting business about 20 years when I wasn't in the government, which was about 15. And an SOW can clearly determine who wins a contract. How you write an SOW can very much determine who wins a contract, and so asking contractors to write SOWs means that you are putting a tremendous burden on them to absolutely not in any way throw a contract in one direction or another.

Do you track whether any SOW that's being written out by a contractor is likely to be bid on by not that contractor, but perhaps another company with which that contractor has a relationship—say, a subcontracting relationship elsewhere? How do you track that?

PHILLIPS:

Sir, I would answer that in this way. With CACI providing the up to 75 personnel that we mentioned—by the way, there's only 12 in Afghanistan today and there are 40 in Iraq—but we have an agreement with CACI for the organization conflict of interest to make sure that is addressed.

In my time in Iraq, I'm not aware of any incident where a relationship between CACI and another contractor resulted in that contractor getting the award. I may also add that the requirements-generation process that we have in theater and the development of those statements of work is where we absolutely need help—our warfighters, our division commanders and our brigades—so that they get the right statement of work pieced together, so we are buying the right supplies and services.

That's a conflict of interest, or a conflict that often occurs between the requiring activity, the unit, the warfighters, and contracting. CACI in their role in support of that has helped us tremendously to make sure that we're buying the right things, and we get great benefit from that, sir.

ZAKHEIM:

By the way, I want to go on the record and say this is not a knock against CACI at all. I think the problem is more with the government than with the contractors for a very simple reason: that the contractors, if they are told by a government boss to do X, find themselves in an impossible position. And then they have to go and they report, and that could cost them the contract.

It gets very, very sticky, so really the onus is on the government, which leads me to perhaps my final round of questions. First of all, is there such a thing as program management in Afghanistan? Are there program management officers per se? Could anybody answer that? Is there such a thing as a program management office of service contracts in Afghanistan?

ASSAD:

Sir, AMC [Army Materiel Command], through their field-support brigades, actually provide some oversight of program management and some . . .

ZAKHEIM:

What does "some" mean, sir?

ASSAD:

We have in Army acquisition as a whole, in terms of what we provide for warfighters in Iraq and Afghanistan, we have numerous PEOs, program executive officers, and program managers that are doing work in Iraq and Afghanistan. And we teamed very effectively with the Army Materiel Command and their forward support brigades that support warfighters and sit with them.

And we manage that through a synchronized, integrated effort with Army Materiel Command and Army acquisition working together in support of warfighters under various contracts.

ZAKHEIM:

OK. So the ones who are forward, how often do they turn over?

ASSAD:

Contractors or the teams themselves?

ZAKHEIM:

The program management, the people who are fulfilling the equivalent of program management functions.

ASSAD:

Sir, the . . .

ZAKHEIM:

. . . that are forward in Afghanistan and Iraq. How often do they turn over?

ASSAD:

Sir, it's my understanding under the AFSB [Army Field Support Brigade] concept in AMC that's about a year timeframe, the commanders over there, and they turn over.

ZAKHEIM:

OK.

ASSAD:

Under Acquisition, we assign many of our senior leaders—that start at the colonel level down through majors—for a year, some six months, but primarily a year.

ZAKHEIM:

OK. So it's six months to a year. Now, in general, would you say that the contractors supporting these people are there much longer than six months to a year? I mean, my experience, when I went out there, is clearly that they were, but I was just asking you. Do you think they turn over every year as well?

ASSAD:

Sir, depends on the contractor, but I think your statement is valid. Some of them stay much longer.

ZAKHEIM:

OK. So if you have an experienced contractor and you have a new person coming in who isn't experienced, isn't it natural they'll turn to the experienced contractor for advice?

ASSAD:

Sir, that's a fair statement. But let me. . .

ZAKHEIM:

Well, my point is simply this. That's why I say the onus is on the government. You're putting contractors in an impossible situation. It's not doing them any good, and it's not doing the troops any good, because we simply are not getting the kind of oversight we need.

My time is up, and I'll turn to my colleagues to follow up on that. Thank you.

THIBAULT:

Thank you, Commissioner Zakheim. Commissioner Ervin, please?

ERVIN:

Thank you, Mr. Chairman.

Thanks to all of you for being here.

I want to start with you, Mr. Harrington. It was unclear to me from your bio the answer to this question, but I heard you say before we began that you've been in your position for about 16 months now. Is that right?

HARRINGTON:

Yes, sir. That's correct.

ERVIN:

And I want to talk a little about the Air Force PEO [program executive officer] model for more centralized oversight of service contracts, with which I'm sure you're familiar.

HARRINGTON:

Yes, sir.

ERVIN:

And I would presume that you've been familiar with that for some time, at least for 16 months and presumably longer, since, as I understand it, that model's been around since 2002. Is that right?

HARRINGTON:

Yes, sir.

ERVIN:

And yet my understanding is that you said to our staff that you plan to look into that model to see whether at least features of it might be replicated for the Army. Is that right, you're going to look into it?

HARRINGTON:

Actually, we've begun to look into it, sir.

ERVIN:

You've begun.

HARRINGTON:

Yes.

ERVIN:

And when did that process begin?

HARRINGTON:

A couple of months ago, sir. We talked with Mr. Byland [phonetic], the first PEO for the services, and one of his former staff members on that. We've more work to do on that.

ERVIN:

Right. So 14 months, then, into your tenure, even though you've known about it before that 14 months, you've begun to have some discussions about it, right?

HARRINGTON:

Well, sir, we have had some discussions also with respect to one group of services contracts in our AOR by [inaudible] that we started discussing about, sir.

ERVIN:

Sure. I guess the point I'm making, and it's a theme that's already begun to emerge in this hearing, is now I sense, and I gather my colleagues do too, that there is a lack of urgency, it seems to me, on the part of the three of you to make further progress, progress that you could make with regard to more centralized oversight of the contracts. To me your answer to this question really underscores that.

Now, part of the issue, surely, and we've already touched on this and I think each of you talked about it in your statements, it's a lack of resources, the lack of manpower. Obviously, this is manpower-driven to some degree.

But also to you, Mr. Harrington, I understand that you have a concept plan that has been submitted to higher authorities that calls for a plus-up that would get a plus-up for your office of 140 positions with 70 of those being available next year. Is that right?

HARRINGTON:

Well, sir, we want to start hiring next year. All 70 won't be filled next year, but that's what our intent is, yes, sir.

ERVIN:

Right. And you, as I understand it, said that you are optimistic that that's going to happen, that you'll get all 140.

HARRINGTON:

Yes, sir. Right.

ERVIN:

How long has, you know, generally speaking, manpower been an issue here? Has it been a problem for quite a long time? Have there been concerted pushes over time to get the increase in manpower that's necessary in order to make progress on service contracts?

HARRINGTON:

Well, sir, as I said in my opening statement, the decline we've experience has been well over 15 years, where we were required to take people out of our acquisition and contracting workforce. So we've identified collectively at the Army leadership level to restore that, and we've had some very good help from Congress and the Department of Defense to identify the funding resources and expand the training to be able to put people back into our ranks.

We've got an awful lot of work going on to bring what we call interns in, entry-level personnel in. Our biggest gap that we've experienced over the last 15 years is we took the mid-level and senior managers out of the workforce with incentives to leave. We've experienced that gap in terms of having good senior mentorship over these people that are entry-level individuals. So that's our challenge right now: to get the training, experience and skills so we can grow this capability back.

ERVIN:

Thank you, sir.

General Phillips, to talk to you for a minute, in your statement you laud the benefits of decentralized contract administration, contract management. The decisions are best made at the field level, as you put it in your statement. Is that right, sir?

PHILLIPS:

Yes, sir.

ERVIN:

I would argue—and I'd like your thoughts on this—there is a distinction to be drawn between contract administration, contract management, and contract oversight. Would you agree with that?

PHILLIPS:

Yes, sir.

ERVIN:

And would you say that you value the notion of centralized oversight of contracts, that there is some value in DoD as a whole, the Army as a whole, as the executive agent for DoD, in having some oversight with regard to at least major contracts in the war theater?

PHILLIPS:

Sir, I would. And I would answer that that was my experience with the Defense Contract Management Agency both in Iraq and over my many years of service in Army contracting. They provide us a great valuable service in terms of contract oversight from a holistic strategic point all the way down to the tactical level.

ERVIN:

Right. With that as a predicate, then, let me ask you about the distinction that as a practical matter is being made in the treatment of LOGCAP, where there is decentralized, as I understand it, program management, program administration at the field level, but centralized oversight here in the United States and the position of that's taken with regard to other services contracts. Is there a good reason for that practical distinction?

PHILLIPS:

Sir, I think the Army was very deliberate in how they set up the LOGCAP program-management construct under Army Materiel Command, with Lee Thompson leading the program-management effort for LOGCAP, which got us to where we are today with fast improvements in how we manage LOGCAP.

So I think the Army made the right decisions to also centralize but at the same time execute that decentralized strategy for LOGCAP in theater tied with Defense Contract Management Agency, all under the leadership of Lee Thompson coordinating with the right people to make sure we're integrated and synchronized.

ERVIN:

And my question is, given that model, which you applaud, and I do, too, shouldn't that same model be applied with regard to other service contracts that have tremendous value dollar-wise and certainly have tremendous consequences in the field in terms of the warfighter's capability to get the job done?

PHILLIPS:

Sir, I'd just echo what Mr. Harrington says. We need to certainly take a look and review that more holistically and strategically and make sure that we're making the right decisions in coordination with DOD as well.

Sir, may I just add one other comment to an earlier question?

ERVIN:

Sure.

PHILLIPS:

We have gotten tremendous support from Congress and from this commission and also from General Casey and Secretary McHugh in terms of our strategy to bring on new workforce within the Army for Army contracting. We would all like to move faster, and we're going to try to do that as quickly as we can. It is a challenge because it takes time to develop a very seasoned contracting officer. It won't happen overnight or this year. It will take years to put that into place, but we're getting great support.

Thank you.

ERVIN:

Thank you, General.

Let me, Mr. Assad and Mr. Harrington, just ask this question. Speaking of LOGCAP and apropos of the discussion earlier about the business-case analysis that's now being reviewed by the department with regard to whether to transition to LOGCAP IV in Iraq, can you tell us what your recommendations, your respective recommendations, are with regard to that issue?

ASSAD:

I have not yet. The Army has not yet come to me with the details of what it is that they're proposing, but I'll tell you how I feel about it in general. In general, unless there is some type of operational reason to do otherwise, we ought to compete whenever we can, end of story. I mean, that's the way it ought to be.

ERVIN:

And just to follow up on that, do you know of any operational reason—I know that you are not an operational official, but do you know of now any operational reason that would argue against competition?

ASSAD:

I do not, but I'm sure that the Army will be coming forward with all the details, and I'll take a look at it.

ERVIN:

Thank you, sir.

Mr. Harrington?

HARRINGTON:

Yes, sir. I absolutely agree with Mr. Assad's statement regarding we seek competition at every opportunity. My recommendation has been to my bosses that we ensure we validate all of the rationale for the business case, as well as for the operational requirement. There is an operational need raised by the commander in theater, and that's being addressed right now, with respect to the business case.

ERVIN:

You say there is an operational need that's been raised by the commander?

HARRINGTON:

Yes, sir.

ERVIN:

And what is that operational case, as you understand it?

HARRINGTON:

As I understand, sir, it's the drawdown and the complexity of the drawdown.

ERVIN:

Thank you.

THIBAUT:

Might I build on what you have?

Thank you, Commissioner.

One of the reasons or one of the outcomes, one of the benefits of going to LOGCAP IV is this simple little thing called an inventory of equipment. There's billions of dollars of equipment, billions. The decision has to be made: do we send them to Afghanistan? Do we give them to the government? Do we send them back home? Do we destroy them? And so on.

One of the plus-ups, even at the reduced price, is there's a requirement, whether the incumbent wins it or whether a competitor wins it, of taking an inventory of this equipment.

One of the prior couple of times, Charlie Williams, the director of Defense Contract Management Agency, said probably his number-one shortage in support of the mission there is property administrators. And that rhymes with—you know, consistent with the dialogue here, no one's looking at—because of the lack of staffing, other than the contractor, at whether inventory is being accounted for properly.

Historically, on those kinds of situations, you hear after-the-fact stories—in this case, it might be tens of millions of dollars of inventory that's unaccounted for over the years that we lost track of. That's another great benefit.

So operational: again, Mr. Assad, I look forward to your analysis of that, because operationally what they can do in Afghanistan while they're building up and fighting a war versus downsizing seemed to have worked quite well for the Army, so I think that needs to be challenged.

Commissioner, do you have anything else?

ERVIN:

No. Thank you, Mr. Chairman.

THIBAUT:

All right. Thank you.

Commissioner Green, please.

GREEN:

Thank you. And I thank the three of you for dealing with some issues that I'm sure many days seem unfixable.

I'd like to switch gears just a little bit and talk about a concern that I have that goes to many of the issues that we're discussing today: lack of people, lack of oversight, training in personnel, and so forth.

Jacques Gansler said that he felt there was a lack of leadership in the contracting profession and did some things, made some recommendations to attempt to fix that. I'm not sure that it is restricted to a lack of leadership or focus or sense of urgency within the contracting community, but may go further than that.

We've heard today about the shortage of contracting officers, the decrease over the last 15 years, and the simultaneous increase in the number of contracts and the value of contracts.

We've been fooling around now in Southwest Asia for—pick a year; seven years, more, depending on where you want to start. And it seems to me that we're just beginning to get our act together on a lot of these things.

We're just beginning to take CORs seriously. We're beginning to take training, not of just contracting and acquisition personnel, but our operational commanders seriously. We're just beginning to add people. We're beginning to talk about in-sourcing.

And I think all these things are great. I think you would probably all agree that we have never—at least in my memory, and I've been fiddling around in this government in different departments for a long time—we've probably never seen the emphasis on service contracting like you are seeing today.

And why is that? Well, it's, to me, obvious. We've got a war going on, number one. You've got folks like us that continue to pressure you and ask difficult questions. You've got IGs [inspector generals]. You've got SIGIR. You've got SIGAR. These are your incentives today.

My question to you is what happens when these incentives go away? What happens when the war ends and we're no longer in business and SIGAR and SIGIR are no longer in business? How do we change the culture? How do we institutionalize these things that we've been talking about and will continue to talk about so that we don't regress into the same situation that we've lived with for years?

I'd just like each of you to give me your opinion. How do we institutionalize this? Because I think that is what's important.

ASSAD:

Let me just address the workforce and the changes, the remarkable change that's going on within the department, as it relates to the acquisition workforce, both uniformed and civilian. That process has been going on for almost three years. This is not something that we woke up to yesterday.

One of the things that the GAO made very clear to us early on was that we didn't have a deliberative process to go through and look at our workforce. Well, we've spent time doing that. We have 127,000 people in that workforce, soon to be 147,000. It is a five-year plan. It has been fully supported by the secretary of defense and the deputy secretary and Dr. [Ash] Carter, as well as the service chiefs. People recognize what it is that we need to do.

I can assure you that we have benefited from Dr. Gansler's commission, this commission, and many of the other oversight committees that continue to look at what we do every day.

I don't think that they will all go away. I do think that we will, we can, and should have continuous oversight by commissions and committees, as well as the GAO. But I want to assure you, Mr. Green, that we are absolutely committed to this. It is institutionalized. There is no doubt within the Department of Defense that we are moving forward with significant change in not just how we do contracting, but our acquisition workforce in general.

It's going to take some time, but we are making significant improvement, and we are meeting our goals. We met it in '09. We're meeting our hiring goals in '10. We are ever vigilant to ensure that we maintain the quality of the people that we're hiring. Dr. Carter has been repeatedly emphasizing that to me; this is just not about numbers.

But your point's well taken. But I can assure you that, if you look at the leadership development program that the Army, I think, has done a very good job of putting into play on how they want to train not just their contractor . . .

GREEN:

I would agree with you, Mr. Assad, but what I'm talking about is institutionalizing it. I agree, OSD [Office of the Secretary of Defense], the Army, they've done some great things. But when the incentive goes away—I've seen it happen time and time again—General Harrington is not going to get those people that he so desperately needs.

ASSAD:

Well, I can assure you that the PB23s [forms for planning acquisition workforce], our five-year plan for our acquisition workforce, is in place. That's institutionalized. And now, it does take—you're absolutely right—year-to-year continued reinforcement, and continued leadership to ensure that we in fact carry through on what we've committed to.

GREEN:

Why has it taken years to finally get to the point that we're paying attention to CORs and CORs training?

ASSAD:

I think that, in the case of CORs, again, I think it's a recognition of the importance of executing our proper oversight function, not that it wasn't one.

GREEN:

It's taken us seven years to do that.

ASSAD:

Well, you know, it's a question of resources and bringing it to bear. When you get the vice chief of staff of the Army coming forward and saying, “you will, in fact, have trained CORs,” that's a very powerful message.

GREEN:

Agree, but it's taken us years to get to that point.

ASSAD:

I agree it took us some time to get there, but, you know, I'm looking forward and moving forward. I agree with you that we had shortcomings in the past, but I think that there's been a significant recognition of those shortcomings.

GREEN:

General Phillips, General Harrington, any quick comment on how we institutionalize this?

PHILLIPS:

Sir, just a couple of comments. I absolutely agree with Mr. Assad and all that he has said. Our Army, I think, has done extraordinary work in the last couple of years to bring on the right kind of workforce. Not there yet. Still have a lot of work to do. But it's important that we institutionalize the lessons learned.

And I'll refer to a meeting that I had with the operational commander in Iraq on the 16th of February, '09, where I outlined 10 things that I wanted to achieve during my year in Iraq. He said there's one thing that's missing on your top 10 that I added at the bottom as a banner. He said, "I want you to work hard on applying lessons learned from Iraq and Kuwait into Afghanistan."

And the first thing that we started working on was contracting officer representatives, because it was literally broken, and General Dunwoody from Army Materiel Command and Mr. Popp as the Army acquisition executive, met me in Bagram, Afghanistan, on the 28th of February, and we outlined a strategy to start to work on this.

It's taken some time, but we have the execution order issued on the 2nd of December. Sir, that's just one example of how we need to go after fixing it. There are many more.

We have the Center for Army Lessons Learned that is working right beside my acquisition, logistics and technology teams capturing lessons learned coming out of Kuwait, Iraq, and now Afghanistan. We have to apply them, because we owe that to you, we owe it to Congress, and we owe it to the American people.

GREEN:

Ed, my time is up, but unless you've got a real nugget . . .

HARRINGTON:

Sir, I'll pass, sir. And I just agree with the two gentlemen to my right very strongly. It's a matter of leadership emphasis at every level.

GREEN:

Thank you.

THIBAULT:

Thank you, Commissioner.

Commissioner Tiefer, please.

TIEFER:

Thank you, Mr. Chairman. I just want to comment, in light of the extensive attention that you gave this issue, that LOGCAP IV's competition for Iraq base-life support services may be stopped, I want to mention that I respect your longstanding leadership, hard-won expertise on the problem of LOGCAP III and its virtual soul-sourcing status for the last decade.

Back when there was just a lonely group of government officials trying to do something about LOGCAP III, there were a number of others besides you, but you were one of them.

All right. Mr. Harrington, you're a competition advocate, yes? Do I have your title correct?

HARRINGTON:

Yes, sir, I am.

TIEFER:

You carried out President Obama's call in March 2009 for more competition. And your own 2009 competition report speaks of, quote, "increased efforts by DASA (P) [deputy assistant secretary of the Army for procurement] to scrutinize high-dollar-value sole-source procurements."

Now, here's my question. We've been listening to these great statistics—97 percent competitive, 98 percent competitive, 99 percent competitive—and I hear off in the room somewhere there's an 800-pound gorilla. How do you manage, with this single-award LOGCAP III contract, which went to \$30 billion, to reach these high figures, and to reach up to task-order 161 on that contract?

Am I right that you were viewing in what you call competitive LOGCAP III, although there hasn't been a contract on LOGCAP III since before 9/11?

HARRINGTON:

Sir, I'm not sure of your question. Could you help me?

TIEFER:

Are you counting LOGCAP III as when you say that 97 percent and 99 percent of your contracting is competitive? Are you counting LOGCAP III as competitive?

HARRINGTON:

Yes, sir. Yes, sir. That's within the figures. Yes, sir.

TIEFER:

Thank you. OK. Now, following up, Mr. Harrington, we've heard about the fact that we were invited to . . .

SHAYS:

Would the gentleman yield a sec, just to clarify this? What it sounds like, though, is you're counting it as one, and not in terms of the dollar amounts. You couldn't be counting it in terms of the dollar amounts.

HARRINGTON:

No, the 97 percent figure, Mr. Shays, is for contracting being done by the Joint Contracting Command in Iraq. It wouldn't include LOGCAP.

THIBAULT:

And it's for contract actions, as the count?

HARRINGTON:

That's correct.

SHAYS:

Contract what?

THIBAUT:

Actions, each contract.

SHAYS:

OK, you're taking each contract separately.

HARRINGTON:

Yes, sir, and I was speaking of the Army as a whole.

PHILLIPS:

And, sir, if I could just add this, the dollars are about the same as well, so we did over 30,000 actions last year in Iraq and Afghanistan.

TIEFER:

If I can reclaim my time, I honor you and JCC-I/A, but LOGCAP is LOGCAP. Is it counted as competitive or not?

PHILLIPS:

Sir, not in the JCC-I/A.

TIEFER:

I'm talking—Mr. Harrington does cover it, does cover it.

HARRINGTON:

Sir, it's counted as part of the Army whole for contracting. The Army as a whole competed 67 percent of its contract actions in dollars.

TIEFER:

Is it counted as a competitive thing?

HARRINGTON:

Yes, sir.

TIEFER:

That's what I thought. It's counted as competitive. OK. You know, yes, it's not part of JCC-I/A. All right. Did you attend the April 12th briefing that we were initially invited to and subsequently were disinvited to? I'm not asking you to talk about the content, just whether you were invited to it.

HARRINGTON:

Yes, sir, I was.

TIEFER:

The briefing on . . . ?

HARRINGTON:

Yes, I was.

TIEFER:

OK. Anyone else on the panel who attended it?

PHILLIPS:

No, sir.

ASSAD:

No, sir.

TIEFER:

OK. Now, Chairman Thibault said the thrust of the analysis he'd heard from the person who gave the briefing, who is unnamed, was for not competing Iraq base-life support services on LOGCAP IV. Do you want to warn me that we're on a false trail or—you're not telling me that's wrong, are you?

HARRINGTON:

Sir, what I can tell you right now, sir, is that in holistic terms it is being assessed by the Army leadership.

TIEFER:

Well, I want to you warn me if I'm wrong, if that wasn't the thrust of the briefing, I don't want to be wasting my time and the commission's time on this. Do you want to warn me of that? Are we wrong?

HARRINGTON:

That the thrust of the briefing was that it would not be competed?

TIEFER:

Yes.

HARRINGTON:

Sir, that was one of the topics discussed, yes.

TIEFER:

All right.

To go to the issue of conflicts of interest, which is very important for us on service contracts, Mr. Assad, let's talk about procurement-support contractors and conflicts of interest. This is a big subject for my class in government contracting at the University of Baltimore Law School, so I'm glad we get a chance to discuss it here.

You implemented the key congressional provision on this, and I want to ask: Why, why was there concern by Congress in the 2009 Defense Authorization Act when it passed that provision, by the GAO when its key report led up to that provision, by the Armed Services Committees when they looked at the situation and framed that provision about procurement support companies, like CACI, in regard to conflicts of interest? Why is that, were they worried about that?

ASSAD:

Well, I think it goes beyond procurement-support contracts.

TIEFER:

Was that the focus of the conflict of interest provision, procurement support?

ASSAD:

No. No.

TIEFER:

It wasn't? Let me ask you...

ASSAD:

No, the focus is much broader.

TIEFER:

Well, let me ask you...

ASSAD:

In terms of . . .

TIEFER:

Let me ask you. Doesn't it use the phrase "closely associated with inherently governmental actors"?

ASSAD:

Sure.

TIEFER:

And isn't a key part of who's closely associated with inherently governmental, procurement support contracts like CACI?

ASSAD:

Yes, but my point is . . .

TIEFER:

OK, there are others. I'm sure there are others. Are the concerns covered by that provision increased in the Iraq and Afghanistan situation, where you have a culture of corruption, a culture which takes conflicts of interest for granted in procurement officers, to put it mildly, and where the supervising acquisition officers are stretched to the limit, are rapidly turned over? Is it a more worrisome situation in theater?

ASSAD:

Well, let me go on record. There is no culture of corruption within the Joint Contracting Command.

TIEFER:

I didn't say that.

ASSAD:

There is no culture of corruption.

TIEFER:

I did not say that.

ASSAD:

. . . as it relates to procurement support contracts.

TIEFER:

My question was Iraq and Afghanistan, meaning the local cultures. The cases that are prosecuted, kickback cases and so forth, are because of a local culture. I'm not saying anything about the commands. You want to tell me that there's no local culture of corruption in Afghanistan?

ASSAD:

No, what I'm going to tell you, is that when we find cases of corruption, we're going to pursue them, and we will take every action that we can against anyone that we find related with corruption. But what I am saying, though, is . . .

TIEFER:

OK, if I can reclaim my time, because apparently I'm not going to get an answer to...

ASSAD:

Well, no, I'm making the point, Mr. Tiefer . . .

TIEFER:

About Iraq and Afghanistan, would you answer about whether there's a local culture of corruption?

ASSAD:

. . . that the contractors that are serving us—in this particular case, CACI—in general do an outstanding job in doing what they do.

TIEFER:

I didn't dispute that. That's not my question. This is not a trick question. I just filled out my annual financial disclosure form. Lots of federal officials do so, a detailed disclosure form. It's a nuisance for me. I assume both the civilian senior officials, like I did, like all the commissioners did, just filled out a financial disclosure form.

I'm not trying to catch you out. Mr. Harrington? Is that right, Mr. Assad?

OK, the current rules do not require a detailed financial disclosure form like the standard federal disclosure form to be filled out by contractors like CACI, am I right? I know they have to do their own thing. I'm asking about that particular, detailed financial disclosure list.

ASSAD:

Let me say that the Commission on Contracting Integrity, the panel on contracting integrity, has recommended—and, in fact, we are putting into play—a requirement for all contractors to identify personal conflicts of interest. It's a serious . . .

TIEFER:

I thank you, but could I ask you to specifically answer my question, not a general thing like certifications. Do they have a requirement to make a detailed financial disclosure statement, like the one I filled out, Mr. Harrington filled out, you filled out, a statement, not a certification? Is there such a requirement for CACI now?

ASSAD:

In the past, there was not.

TIEFER:

Thank you.

ASSAD:

As we go forward, there will be.

TIEFER:

My time has expired. Thank you.

THIBAULT:

Thank you, Commissioner.

Commissioner Henke, please.

Oh, excuse me. Commissioner Zakheim, please.

ZAKHEIM:

Just a very quick point. I think all members of the panel will agree that, if you issue a directive, the contractors always salute smartly. This is not a contractor problem; this is a government problem. Will anybody disagree with me on that?

ASSAD:

No, I agree, Commissioner. And I can tell you that we are in process, and I'll be happy to share with the commission the details of the panel on contracting integrity findings and what we're doing to address this very important issue.

THIBAULT:

Thank you. And we'll take you up on that. Appreciate it.

HARRINGTON:

I agree, also, sir.

THIBAULT:

All right.

Commissioner Henke, please.

HENKE:

Thank you, Mr. Chairman.

I'd like to take a case study, if I could, on a particular recent contract. And before I do that, I'll just set this up this way. It seems to me that the crux of the matter here is that the Army believes

it has a fully sufficient, vibrant way of overseeing services contracts and that there would be not much opportunity to improve that.

Would that be fair, that you have a sufficient mechanism to oversee services contracts?

PHILLIPS:

Sir, we believe our system is adequate that we have in place now. However, I agree with you that we should take an opportunity to look at how other services might do. . .

HENKE:

Right.

PHILLIPS:

. . . their services contracts, and where we can take advantage of that or maybe do something a little bit different, enhance.

HENKE:

Right.

PHILLIPS:

We should always be a learning organization.

HENKE:

Right, OK.

PHILLIPS:

And do things better.

HENKE:

That's a fair point. Let me just briefly go over the recent example of the ANP, the Afghan National Police training contract and get your reaction to that case study of what happened.

Here it is, I think, in a nutshell. Would you be hard-pressed to find three or four or five more important, more critical, more visible services contracts in the Army? Just a brief yes or no: Would the effort to train Afghan national police—it's a presidential priority, it's a national priority; the sooner we stand up a sufficient security force in Afghanistan, the sooner we can stand down?

PHILLIPS:

Sir, critically important to the warfighter and to our nation, I agree.

HENKE:

Roger. What does a command in Afghanistan—and you know it, General, CSTC-A, Combined Security Transition Command, Afghanistan—Mr. Harrington, you and I and others traveled there in December, among other places. But a brief question: Who provides contracting support for General Caldwell at CSTC-A?

PHILLIPS:

I'll answer the first and then refer to Mr. Harrington. Part of that is through Joint Contracting Command-Iraq/Afghanistan.

There's an office in Kabul who used to report to me through the PARC [Principal Assistant Responsible for Contracting] with about—now I think it's over 30 people. When I was there, it was about 25. They provide some of the basic services and support. They did \$1.2 billion last year.

HENKE:

Right.

PHILLIPS:

There's other services backing continental U.S., Rock Island and others, that do some other services.

HENKE:

Right. That's the nut of it I want to get at. We met with the RCC [Rock Island Contracting Center] folks in Afghanistan. I think they're fantastic and doing great work. I'm amazed they can, you can, put together an organization that can do a billion dollars in contracting fairly quickly like that.

What I'm getting at, though, is for the larger contracts General Caldwell goes stateside a lot. He goes to your command in Orlando for a contract. He goes to your command in, I think it's New Jersey, the Research and Development Command.

PHILLIPS:

RDECOM, yes, sir.

HENKE:

RDECOM. He finds convenient contracting commands to cut task orders for him. My question on this Afghan national police effort—it was a State contract. DoD wanted to take it in-house so they would have the mission, the money, and the contract. Is that it, in a nutshell?

PHILLIPS:

Sir, as I understand, yes.

HENKE:

Right. And when we were there, we asked, are you dissatisfied with the current contractor, the performance of the current contractor? Nobody said they were dissatisfied, so they were very satisfied with the incumbent, DynCorp, the performance of duty.

Maybe you can tear it apart from an oversight standpoint or a contract-administration standpoint, as the IGs have, but for contract performance, the customer was generally satisfied.

So my question is, how does General Caldwell decide to take this contract and bring it to a Navy office in Virginia, Counter-Narco Terrorism program office, and have them serve a program-management function and wind up with an acquisition strategy that has the Army Space and Missile Defense Command in Alabama working a contract action for him? Can you comment on that?

PHILLIPS:

Sir, I'll take part of that, and then I'll refer to Mr. Harrington to answer the specifics of the contract going to other organizations.

But at CSTC-A [Combined Security Transition Command-Afghanistan] under General Caldwell, we have a team that supports him. I just mentioned Kabul. You've seen them serve extraordinary work, I agree.

We also assigned one of our acquisition colonels, Colonel Ole Knudson, who sits as a part of General Caldwell's staff, who helps him articulate the strategy, the acquisition strategy for the billions of dollars that he has to execute this year.

And I think—don't hold me to the numbers, but I think it's somewhere around \$8 billion. So RCC [Regional Contracting Center] Kabul, about \$1.2 billion, \$1.5 billion, I think this year; others will be done by other organizations. So we have people inside his organization that are helping developing the acquisition strategy.

Ed?

HARRINGTON:

With respect to the Space and Missile Defense Command, sir, that requirement came to the contracting officer there from the Counter-Narco Terrorism program office, and it was an intent on the part of those two officers to expedite an action because of the expanding requirements for Afghan national police training, as I understand it. So that was the rationale for how that ended up at SMDC [Army Space and Missile Defense Command].

HENKE:

This contract was—I've seen reports of it just under \$1 billion and \$1.6 billion, so it's a big contract. I mean, it trips all the bells, right, Mr. Assad? This is a Category 1 services contract under your . . .

ASSAD:

That's correct.

HENKE:

. . . \$250 million and above?

ASSAD:

That's correct.

HENKE:

So the long and short of what happened was, shortly after we were there in December, the incumbent protested the action in December. And in March, GAO said "Foul." They didn't say, "Well, it was close. It was a 51/49." It was a clear case of this thing is a foul, it's out of scope. The Navy office—the SMDC office—are set aside.

So my question to you is this. If this thing went through all the oversight mechanisms you have? It went through your peer-review process. It went through your process, Mr. Harrington. My question is what broke? On something this important, what broke?

THIBAULT:

Commissioner Henke? I want one clarification, though, Mr. Assad, because you and I had a discussion when this was breaking.

ASSAD:

Yes, I was going to talk about that.

THIBAULT:

And you didn't know anything about it.

ASSAD:

That's correct.

THIBAULT:

So, you went with the assumption, it went through his trap line?

ASSAD:

OK, well, no.,

THIBAULT:

Somehow it didn't get to you.

ASSAD:

Well, let me give you a little bit of the background.

What happened was, I actually received a call from Mr. Thibault, who had asked me, had I heard about this particular procurement yet, and the concerns that the commission had. I told him I hadn't, but that I would look into it.

We, in fact, did have a peer . . .

HENKE:

You heard about the contract action from us.

ASSAD:

Oh, sure, yes. Yes.

HENKE:

OK.

ASSAD:

Well, it was early on in the process. It had not yet been decided exactly who was going to contract and what the Army's plan was.

We did, in fact, have a peer review. I had my senior SES [Senior Executive Service], who does peer reviews, intimately involved in it. And there was a legitimate question as to whether or not this was the appropriate mechanism to use.

OSD [Office of the Secretary of Defense], frankly, did not necessarily concur with the Army's view. The Army. . .

HENKE:

Were you concerned about scope?

ASSAD:

Yeah. We were concerned about the scope, and whether it should be full-and-open competition, or did, in fact, this scope of work fit under the existing delivery-order contract. There was an honest disagreement amongst several very respected people as to whether or not this was the appropriate way to go.

At the end of the day, the Army felt that the position that they had taken was a reasoned one. They had a reasonable justification for it. We did not concur necessarily. But the Army was the executive agent, and we deferred to them.

It turned out when, in fact, there was a protest it turned out the GAO kind of saw it the way we thought it might go.

So, I don't want you to think that there was a—quote-unquote, it was broken. There was an honest disagreement of opinion. The Army felt that what it was doing—and it had a number of people I very much respect—thought they were doing the right thing.

HENKE:

OK.

ASSAD:

I can assure you that the process that we're now presenting is full-and-open competition.

HENKE:

But you made a judgment call that let the Army proceed with it. And while we don't, we can't .

..

ASSAD:

It's not a question of us allowing them to proceed. You know, we make a recommendation. We give them our view. But they're the executive agent. They need to make the ultimate decision.

HENKE:

So, it's not binding on the Army.

ASSAD:

No. But I will tell you that what has come out is . . .

HENKE:

Could you have told the Army not to proceed? Do you have that authority?

ASSAD:

Not really. But I will tell you where we are going.

THIBAULT:

Let me interrupt here, just for clarification. And I think the world of your organization in terms of trying to provide some order in this whole process and some direction.

You provide the regulation, the interpretation of the regulations, and in large-dollar cases the professional advice founded on decades of history in this area to the services. And in this very important case, the advice and, you said, and the regulations tipped on the side of full and open competition. And you have to turn to the Army that said, well, thanks, no thanks, we've got a better case.

And you're being very professional by saying there was an honest difference of opinion. I'm not disputing that. But they basically saw no need to follow your guidance.

Commissioner, do you want to...

ZAKHEIM:

Yes.

THIBAUT:

Go ahead.

ZAKHEIM:

Yes. Sort of along the same lines, I'd like to know whether, you know, when there's a disagreement between OSD, and OSD has the policy oversight, you're the ones who are meant to be politically sensitive. You, Mr. Assad, are terrific at that. I'd say that for the record.

So, my question is, the Army's going down a route that you felt is going to get the department in trouble. Did this issue go further up to Dr. Carter? Did it go further up to Mr. Lynn? Don't you think it should have?

ASSAD:

No, I don't think . . .

ZAKHEIM:

I'm puzzled here.

ASSAD:

. . . it was a question of getting them in trouble. I think it was a—you know, the general counsel weighed in. I think there were a lot of folks who looked at this and said, no, the Army's approach is reasonable and you know, there is support for it.

I will tell you what we have learned as a result, and we are learning in this peer review process. Now, we've done about 65 or 70 of these.

In the four cases where the teams have not followed what the peer-review organizations have recommended to them, they've in fact been protested, and we've lost all four.

So, I think that where we're headed—and we were going to discuss this at the procurement conference in another couple of weeks—is to get the SES community together, to basically say that the peer recommendations are no longer recommendations. Just go ahead and implement them, because we do have a lot of very seasoned professionals looking at this stuff.

And it turned out, in this particular case the view was probably the right course of action. But it was a tough call.

ZAKHEIM:

Well . . .

HENKE:

Have you had four that have been over \$1 billion where there's been a disagreement? Or these are all lower level?

ASSAD:

No, no. There have been four that . . .

HENKE:

But . . .

ASSAD:

. . . it was not a disagreement...

HENKE:

Your office [has] done a billion and above, right?

ASSAD:

. . . yes, it was not a disagreement.

HENKE:

OK.

ASSAD:

We go through a very detailed peer review process.

HENKE:

Right.

ASSAD:

And it was a case where we found things that we recommended needed to be done. In fact, they weren't quite instituted the way we recommended it. At the end of the day, those matters were protested, and at the end of the day we lost.

So, it goes to show that this process is working. What we need to do is make it more determinative and more prescriptive.

HENKE:

Right. More binding?

ASSAD:

Yes.

ZAKHEIM:

Thanks, Bob.

I really do respect your judgment tremendously, and you've just proved it again. You had misgivings about this, and you turned out to be right.

So, if that's the case, why can't Dr. Carter say right now, when there is this kind of disagreement, it's going to go up to his level. And that way, OSD will have the final word.

My concern is that you seem to have been four for four. Each time you let it go by, each time you had misgivings, each time you were right. And the protest was upheld.

And that doesn't have to be a DoD instruction or something that has to take forever. It can be done immediately. Why can't that be done?

I really respect your views, and I have tremendous respect for Dr. Carter.

ASSAD:

I think you can pretty well count on it's going to get done. I just think that the way we have done these things is to bring the entire community together of senior leaders—all the SES and general officers together—and make sure that we have a complete alignment. If someone has a particular view that needs to be heard, we hear it.

But pretty much in the middle of May, I think you'll see that policy come out.

ZAKHEIM:

Mr. Chairman, could I have two or three more minutes just to wrap it up?

THIBAUT:

Is it on this topic?

ZAKHEIM:

Yes, it is.

THIBAUT:

Because I have a question on this topic.

ZAKHEIM:

Yes. Yes, it is.

THIBAUT:

And the only thing I'll add, and then you can finish up and take as long as you want. You know, I was going to use this in my second round, so you've saved me some time. So, thank you.

ZAKHEIM:

You're welcome.

THIBAULT:

But under the strategy that was recommended in spite of your inputs, there was this contractor that is certainly renowned for international police training, Erik—not [reference to Erik Prince, founder of Blackwater USA]. There were three very large contractors that are great contractors, suppliers: Lockheed Martin, Northrop Grumman and Raytheon [that] don't have a lot of history in training international police.

And then there was one that did—Xe, or Blackwater—that does have a history.

So, by the time they would have sorted through this, technically, there was one that could put it together. The others could have worked with subcontractors or Blackwater themselves, or Xe.

Now, the sensitivity is, is there are a number, including the incumbent, that were excluded through this strategy. So, you very rightfully said, this is wrong. And it wasn't significant enough.

Go ahead.

ASSAD:

Well, I think, Mike—excuse me, Chairman Thibault—you know, the fact is that we are taking a very hard look at a number of these delivery order-type contracts where we have just a limited number of competitors.

The answer is that, you know, unless there's a very unique expertise, we need to open up the marketplace to as many contractors . . .

THIBAULT:

I agree.

ASSAD:

. . . as we possibly can, whenever we can.

THIBAULT:

I agree. I agree.

Commissioner, I'm sorry.

HENKE:

Mr. Assad, I'm very interested to learn that you have done four peer reviews that have been differences of opinion passed back. In each case, the OSD peer reviews worked.

What I meant when I said it broke, or what broke, I meant that there's the command in Afghanistan that doesn't have their contract yet. That's all. That they don't have their requirement filled.

So, your team looked at it and passed it back to the Army with a "we don't think this is going to work, but good luck guys," so back to the Army.

So, then, take me inside the Army's analysis or views of this, Mr. Harrington or General Phillips. General Phillips, you may not have been there yet.

HARRINGTON:

Sir, it came down to, you know, an evaluation of what the requirement was against what was available for services on the contract.

And the Army felt that there was a nexus between the Counter Narco-Terrorism Program Office's focus on training Afghan border patrol and a similar level of training requirements for the Afghan National Police. And since the counter-narco-terrorism kind of drug interdiction, those types of activities, was found to be the primary reason for shutting off funding going to the Taliban . . .

HENKE:

Right.

HARRINGTON:

. . . their primary source of funding. That was the nexus.

HENKE:

Because it was an existing contract—in other words, an IDIQ [indefinite delivery/indefinite quantity] contract—was speed sought by the Army?

HARRINGTON:

Yes, sir. There was a sense of urgency behind this whole requirement, because of the mandate to raise the amount of training—you know increase the training requirement.

HENKE:

And you must have evaluated, as an acquisition strategy, full and open or limited competition and discounted them, because it would have taken too long. Is that accurate?

HARRINGTON:

No, sir, it's not. It went from the Counter Narco-Terrorism Program Office to the Space and Missile Defense Command Contracting Office, you know, with the request, look, can you do this for us as expeditiously as you can within the scope of the contract that you have.

HENKE:

OK. So, you didn't evaluate full-and-open as an option or limited competition as an option.

ASSAD:

If I could just . . .

HENKE:

Yes, sure.

ASSAD:

. . . Mr. Henke, if I could just add. What the Army came back and said was, hey, we believe we're right in utilizing the delivery order contract to go forward. We will do that in the near term, and we will conduct a full and open competition over the long term.

So, that was the solution the Army came back to the department with.

HENKE:

OK.

HARRINGTON:

Right, sir. Exactly.

HENKE:

I have nothing further. Thank you.

THIBAUT:

Thank you, Commissioner.

Commissioner Shays, please?

SHAYS:

Thank you. I really like going last, because I really appreciate the questions from my colleagues. And I think there's tremendous irony in what we're doing here.

The Army has terrific people. And I just want to say to you, Shay Assad, and to Lieutenant General Phillips, and to Mr. Harrington, you get a 10 from me in terms of quality, thoughtfulness, cooperation with the commission, and so on.

Now, having said that about the people in the military—the bureaucracy of the Army is scary. And what we're wrestling with is the fact that we could come and go, and we're not sure that the change will take place. You could come and go, and we're not sure the change will be institutionalized. That's what's scary.

And there are a few things. And the other part is, given my respect for all of you, then I want to ask questions that may not sound as friendly.

I think it's absurd to call LOGCAP III a competitive grant. LOGCAP III is a logistic contract augmentation program. We had I, we had II, we had III. LOGCAP III turned out to be a 10-year program. We kept renewing it every year.

When it was bid out, the contractor thought they would get hundreds of millions of dollars of business. They're getting \$35 billion dollars of business.

Do you think that when we bid that out, if all the other contractors knew they were going to get \$35 billion of business, do you think it's possible that maybe it would have been a little more competitive? And I think the answer is "yes," hugely.

So, the first thing I'm putting on the table is, I don't buy that it is a competitive contract. I do buy that LOGCAP IV can be, because now people know how lucrative it can be. And now we have three, so we can have the three compete with each other.

What do you disagree with what I just said?

Mr. Harrington?

HARRINGTON:

Sir, I'd just comment that LOGCAP IV was conceived in the 2006 timeframe, recognizing that LOGCAP III was growing regularly with the war effort.

SHAYS:

But doesn't that just emphasize the bureaucracy? 2006, you said?

HARRINGTON:

Yes, sir.

SHAYS:

And it's 2010 now?

HARRINGTON:

Well, sir, LOGCAP IV was awarded in 2007.

SHAYS:

I know. But it was conceived way back. And it's taken so long. And the reason is, is the commanders on the field like what they got. But they don't have to worry about cost. They don't have a concept of opportunity cost. And you end up with the absurdity of our last hearing, where we have a contractor who is basically providing services, maintenance services, at 7 to 10 to 15 percent capacity utilization, average 10 percent.

And, frankly, our government witnesses weren't all that troubled because the bureaucracy liked what they were doing, but hugely wasteful. I mean, your job and our job, it seems to me, is, how do we get these absurd costs, when people thought it was only a few hundred million and now it's tens of billions, how do we get people to think, "You're not going to make the kind of money you used to make"?

And part of the way we convince them, it seems to me, is with our contracting officers, the five-year talent that it takes to become a contract officer, and then the people on the ground, the contracting officer representative, when my colleague here rightfully points out it takes two weeks to train them, and we know that that's minimal training.

But so maybe you could answer this second question that may seem a little unfriendly, but how can someone tell us—how can any of you tell us we're at 90 percent capacity for CORs, contracting officer representatives? How do you arrive at that figure that we're at 90 percent to start with?

ASSAD:

We actually count the number of contracting officer representatives that we think we need to have on the ground. DCMA gives us a weekly report of—it's their professional opinion how many CORs are needed to execute a . . .

SHAYS:

So we're at 90 percent capacity?

ASSAD:

We're at about 90 percent staffing—91 percent in Iraq, and 92 percent in Afghanistan.

SHAYS:

Let me go back to Mr. Zakheim's—Dov Zakheim's—question. You know, and I think of him as he's asking this question, he's a former comptroller of DoD. Why should we not be at 100 percent, since it only takes two weeks?

And the reason is, even if they aren't well-trained, they're still our eyes and ears on the ground. They're still able. And without eyes and ears on the ground, you've got contractors potentially running amok, because you don't have anybody watching them.

So why shouldn't we be at 100 percent? Why isn't that the easiest part of your job?

And let me just give you time to think about: given my concern about the bureaucracy, if we can't even do that, why should I feel comfortable that we're going to do all the other heavy lifting that you, number 10 in talent and capability and integrity, are trying to do?

PHILLIPS:

Sir, I'll take on a part of that and then refer to others. I think your opening statement is incredibly important. We have to institutionalize the way that we do things; 33 percent a year ago in CORs unacceptable, 91 percent and 92 percent today, Iraq, Afghanistan, that's getting closer to the goal of 100 percent.

If we don't institutionalize this within our processes, then we'll never get to the end state, and we've made tremendous progress over the last year, sir, but still quite a ways to go.

For JCC-I/A, for the year that I was in command, sir, we did not issue a contract unless we had a contracting officer representative that was trained, had a certificate, and was assigned to the contract. So I think we took some great opportunities internal to the Army to focus on CORs to begin to work to institutionalize it.

SHAYS:

Yes, but, you know, with all due respect, General—and I like the fact you're a three-star, because that says the military is starting to get the importance of your work. It's nice you're not a colonel. It's nice you're not a one-star. It's nice you're not a two-star. It says something. That's a start, but it doesn't answer the question.

Why shouldn't we have 100 percent CORs right away, given it's a two-week training period? And candidly, we may say that CORs is a flawed system, but it's the only system we've got, because they have other responsibilities. So it's not like you don't have people in theater that you couldn't assign to it.

PHILLIPS:

Sir, one comment, and then again I'll refer to my teammates on the panel. With DCMA, where the gap exists, I just want to assure you and the team that there aren't contractors operating over there that do not have some level of oversight.

If that's not through a COR, then the contracting officer will take the appropriate action to make sure, with their fiduciary responsibility to Congress and the taxpayer, that they're looking at those contracts.

To get to 100 percent obviously takes time. And it also takes education of warfighters, because at the end of the day, it's warfighters, and sergeants, and captains, and lieutenants that are going to be the CORs that are providing the oversight for both DCMA and Joint Contracting Command.

SHAYS:

Could I try to have either Mr. Assad or Mr. Harrington respond to a question? General, I'm sorry. Were you done or?

PHILLIPS:

Yes, sir.

SHAYS:

I'm trying to . . .

ASSAD:

Yes, sir. I think there are two issues here. This is a dynamic process. Every day we're getting more contracts put into play. We have CORs on the ground who get transferred, who move to other places, so there's a that getting 100 percent, I'm not sure we can get to.

But your point, Mr. Commissioner, is absolutely right on target. The fact is, is that this work needs to be done by folks who are trained and who are competent and we need to have enough of them. It's about leadership.

And I mentioned General Chiarelli before. But the fact of the matter is, is that his guidance—there was a direct relationship between the increase in the number of CORs and the direct involvement that he got into, in terms of insisting that it happened—and so it's going to take that sustained leadership, and now it is part of every operating army unit to ensure that they have trained CORs going in.

So I suspect that we're going to have a participation in CORs where we're well over 90 percent—not well over, 91 percent, 92 percent in Iraq and Afghanistan right now. And I suspect that that will get a little higher and it will stay at that rate.

PHILLIPS:

Sir, if I could just add one other comment quickly.

SHAYS:

Sure.

PHILLIPS:

On the 5th of December, when the Xe award was assigned by the Army, the Army G3, within a week, I spoke to two division commanders who were asking questions of the JCC-I/A commander, me, how we get CORs trained.

So my message on that is that we have got the attention of warfighters that CORs are important and we need to identify probably around 80 CORs per brigade to perform the mission in theater so we can get to that 100 percent that you described, sir.

ZAKHEIM:

A quick question, please?

THIBAUT:

Sure. Please.

ZAKHEIM:

General, since we know some contractors are functioning as CORs, or, Mr. Assad, if I deducted the number of contractors serving as CORs, what's the percentage? Is it 80 percent, 70 percent?

ASSAD:

No, I think those 90 percent numbers are, in fact, government folks doing CORs. The principal area where I'm aware of where we have folks doing contract oversight are in what we call our Task Force Safe, and that's really electrical competence in overseeing electrical work being done in Iraq and Afghanistan.

We found that we just couldn't get enough trained folks within either DCMA or at the Corps of Engineers to sufficiently support that. So we have, in fact, contracted for an outside

organization to provide us capable and competent master electricians to assist in the oversight. That's the place where I'm aware of where we have contractors doing oversight.

SHAYS:

I'll just conclude by saying, what we know, the moment we joined this commission, was we were looking at the billions of dollars of cost of contractors, and was it being spent effectively? And the answer was no. And you all know that, and you're trying to change that.

But we're really looking at something else, and that's the issue of George Washington's times, 1 contractor, 10 military. Give or take now, 1 for 1. The contractors are an integral part of our war effort. They are not being integrated. They're not part of the QDR [Quadrennial Defense Review]. They're not part of the QDDR [Quadrennial Defense and Diplomacy Review] in State yet. We thought that they might be.

Until they are part of that, in my judgment, everything we're doing is a hope and a prayer—not everything, a lot.

Thank you.

THIBAULT:

Thank you, Mr. Co-Chair.

We're going to do a second round with—I'm smiling—shorter times allotted. We'll see how we do. I'll bet I do better, unless we get going here.

SHAYS:

OK.

THIBAULT:

Thank you. Thank you.

I want to open with a statement, again, of appreciation for you all to come up here and have this dialogue. Without this dialogue, we can't sharpen our skills, nor, hopefully, you can't sharpen yours.

And I do want to say that, you know, I spent 35 years with the Department of Defense, three of which with the United States Army, and I always—I don't joke. I say proudly that the best

year of my life, professional life, was spent as an 18-year-old PFC. I got promoted after that, so it wasn't the end of my three-year career.

But it's something that I look back on with absolute respect for the people that I worked for in the United States military, specifically the Army, and it's just real important to say it, because I feel the same way about what now I can call those kids that are over in theater that are serving our country. And it's with great pride that I say that.

Mr. Assad, I want to make an invitation. I do it a little tongue in cheek, since they didn't invite you ahead of time and you've done some yeoman work on this BCA [business-case analysis] briefing. They promised us one. They initially promised us the model, you know, by the numbers people, how the model worked, and we're going back and saying, "That's great." We're interested in the model, but we want to know the outputs and the decisions and who were involved in all that.

And I'd love to do it, because there are no secrets on this commission, ultimately, and I'd love to—I say it a little tongue in cheek—have your organization, that's so critical, as an advisory role, maybe we could do two for one and listen to the same people. I put that out there.

ASSAD:

I can assure you that we can have a discussion about that and what role we could play.

THIBAULT:

Great.

ASSAD:

But we're going to look at it under any condition.

THIBAULT:

Great. Well, thank you, Mr. Assad.

I'm, and I know Commissioner Zakheim is in tune with this, but I'm feeling a bit like a historian as I'm talking, General Harrington. But, you talked now about—and I think my numbers are right, kind of unimportant if I'm off by a couple. But you have 140 that you want to hire and 70 that have been targeted, and you've begun the hiring process.

Now, that's so critical, and you've said it's critical, and I want to go back to history, because this isn't something that's just on the cusp. And then that's part of why we're talking about it, maybe on a cusp for you. But a long time ago, in the early '90s, the DCAA, where I was the deputy, went from 7,300 to in the mid-3,000s under the direction of Bill Reed who, I was his deputy.

And it's interesting, because the same things we're talking about today we talked about back then. There were people in the Department of Defense, one of them by the name of Jacques Gansler, who we worked for, who said, well, you know, you don't really need government Department of Defense auditors. Why don't you look into hiring CPA firms?

And we built a requirement that had—you know, can they be awarded—you know, DCAA does Form 1s and multiple representation of contracting officers, so we worked it out where they wouldn't have to do that. And lo and behold—and the qualifications they'd have to have, which were directly next to the training that the DCAA had. Zero firms bid on that, and so we said thank you, we've gone through that exercise. Those are the challenges that have been out there.

Lastly, I really respect the fact, General Phillips—and that your predecessors and those behind realized—you had a very significant job to do and you didn't have the staff to do it. And the balancing act then became, we hired a contractor to get that work done. And we're going to talk a little bit about the firewalls and the controls and the things like that with the next panel.

But without it, your risk would have been much greater. With it, we're asking questions about are there proper firewalls and, you know, appropriate questions.

So, you know, that's kind of like, excuse me, you're damned if you do and damned if you don't sometimes in this process. So I want to share that.

And, last of all, I kind of made the analogy or whatever, Mr. Assad. You've laid out all the stepping stones, but you've got to have the resources and the people to follow that and execute that. And several here have said, why'd it take so long? And I guess we're at the point now, well, let's execute, and we can worry about why it took so long, because that's frustrating. So, thank you.

Commissioner Schinasi?

SCHINASI:

Thank you.

I want to broaden the problem a little bit—because I think if we don't define the problem appropriately, we're not going to hit all the solutions just by sharing some of the stories that we're hearing coming back, particularly from Afghanistan.

The flip side of the continuity of a contractor workforce is that the contractor workforce often also knows what it is they can get away with not doing. And we are hearing increasing stories about contractors pushing parts of their jobs that they don't want to do onto the military, coming into theater, you know, setting up pretty good accommodations for themselves and then pushing off what they don't want to do to the military.

SCHINASI:

The problem here is that the military that they're working with doesn't understand, you know, doesn't understand the general parameters of how do they manage this contract and certainly doesn't understand the specifics of any individual contract. So I just want to put that on the table. Even if we get CORs, you know, hundreds of miles away, you're still going to have to deal with the actual military who is working side by side with the contractors.

One specific example: there was a remote forward operating base in Afghanistan that didn't have any hot water, and it needed a part to fix this. And the contractor refused to go and get the part, and the commander didn't realize that he could tell the contractor, you have to go get the part.

Now I'll ask you, General Phillips, would someone in the military say, "No, I'm sorry, I'm not going to get that part?"

PHILLIPS:

Ma'am, the contractor needs to get the part if they're responsible for it. And I would just share this with you. The year that I was over there, I'm sure that situations like you just described have happened, but we worked hard through our contracting officers and through our CORs to hold our contractors accountable. And we owe nothing less to you, and we owe nothing less to the American people. That's our fiduciary responsibility back there to make sure that those contractors are delivering.

And if they do not deliver, we wrote a number of cure notices and other activities that were targeting contractors that may not be performing, to make sure that they were meeting the terms and conditions of the contract. Everyday, we worked hard to make sure that they were held accountable.

SCHINASI:

Well, it's still going on. That's my only point. And you know, it raises a question of at what point, if we cannot manage the contractors, should we not be using a contractor. So I'll just put that out on the table.

But I'd like to just go through a list again to try and help you make your case as to why more resources are needed here, you know? A dollar wasted is a dollar that's not available to meet warfighter needs.

So have we seen waste with undefinitized-letter contracts? And I'm just going to go through each of you.

Mr. Assad? And if you don't like me to—well, I'll let you . . .

ASSAD:

No. No, I think that General Phillips will second this, but I'm not aware of frankly if there was anybody who was avaricious in his pursuit of not using undefinitized contracts that was he. And so I think that in general, now, I'm talking about contracting, by the Joint Contracting Command. The use of undefinitized . . .

SCHINASI:

And I'd like to talk about service contracting more generally.

ASSAD:

Yes, the use of the use of contracts: we manage very, very closely the use of undefinitized contracts and, in fact, have expanded the definition of undefinitized contracts to include all instruments that don't have the specific terms and price set. We look at everything, not just what traditionally the DFARS [Defense Federal Acquisition Regulation Supplement] would call an undefinitized contract. We also examine not just our U.S. work, but all of our FMS [Foreign Military Sales] work now.

And there's been a significant improvement in terms of the use of undefinitized instruments, but frankly, you know, if we can avoid them across the board whenever we can, we want to do that and that's the policy of the department.

SCHINASI:

I think you've made my point that there is waste often in undefinitized-letter contracts. So . . .

ASSAD:

There's no doubt that it is not a tool that we want to use.

SCHINASI:

So having a work force, not just in our acquisition work force, but a requirement-community work force that is smart enough not to have to do that, it puts us in better shape?

ASSAD:

Absolutely.

SCHINASI:

How about extensive contract and task-order modifications without competition? We've also seen those. Is that something that we could—let me turn the question around. If you don't want to talk about waste, is it something that we could recover value from...

ASSAD:

I think the issue . . .

SCHINASI:

. . . if we managed that close?

ASSAD:

Well, the issue that comes out once you've got a contractor performing the work, it's very difficult while he's in the middle of actually doing the task to try and halt him and compete the balance of it. That's a challenge. So when we can in fact separately identify work under a multiple-order definitized contract, we want to compete it.

SCHINASI:

And I'm just going to let you, General Phillips, and you, Mr. Harrington, give me a yes or no answer, if you would.

PHILLIPS:

Ma'am, I completely agree with Mr. Assad. Even task orders that were under installation and security services, TWISS contracts, Theatre Wide Installation Security Services, we would have, I believe as I recall, up to five contractors that were on those task orders. We would compete them for various FOBs [Forward Operating Bases] throughout Iraq and doing the same in Afghanistan today.

So competition inside a task-order IDIQ contract is very important. I don't recall many UCAs [Un definitized Contract Actions]. There may be a handful of the 30,000 plus contracts we did last year, but if there were, they were few and far between, ma'am.

SCHINASI:

Mr. Harrington?

HARRINGTON:

Ma'am, echo everything that's been said. It just comes down to our ability to oversee and manage the occurrence of un definitized contract actions, and I absolutely agree with the focus on that. We've got to fix that over time.

SCHINASI:

How about contract closeouts that lag for years? Is there waste associated with those?

HARRINGTON:

Oh, yes, ma'am. We . . .

SCHINASI:

General Phillips, excuse me, but my time is short so I just want to say, yes, General Phillips?

PHILLIPS:

Yes. Yes, ma'am. We found over 90,000 . . .

SCHINASI:

Thank you.

PHILLIPS:

. . . contracts needed to close out.

SCHINASI:

Mr. Assad?

ASSAD:

There's no doubt.

SCHINASI:

OK. The last one will be the ability to monitor contract performance and provide input to fee-board determinations. If we can't do that, is there a sense of wasting money by paying contractors what they've haven't earned?

Mr. Assad?

ASSAD:

Yes, but our answer to that is frankly to eliminate award-fee contracts when we can.

SCHINASI:

General Phillips, monitoring contractor performance?

PHILLIPS:

Yes, ma'am. I would also add . . .

SCHINASI:

You would just pay what we get?

PHILLIPS:

We need to have a very disciplined process in place when we do use award-fee contracts. Yes, ma'am.

SCHINASI:

Mr. Harrington?

HARRINGTON:

Absolutely essential, ma'am.

SCHINASI:

OK. One last question for you, Mr. Assad, and my time is up. So I'm going to ask you to be short as well.

I've read through a number of the peer reviews, and I think it's pretty clear that there are some service contracts that are being done in Iraq and Afghanistan that look pretty good and that you've identified some best practices.

Do you have any visibility into the peer reviews that the services are doing? And what is your assessment of whether or not the services, the military departments, are doing as good a job as your office is?

ASSAD:

We have not yet started our peer review of the peer reviews. And so in general sense, we've left that to the departments, to the services, but I can tell you as the change is coming about with regard to peer review findings over a billion dollars, we're going to set into play a quarterly review of peer reviews just so we get a sample of what's going on.

SCHINASI:

I would hope that you have some kind of hammer associated with that. To echo the comments you've heard from the commissioners before, persuasion is nice and it's good if people want to

listen, but that's the tack we've taken and here we are eight years in and only getting started on solving some of these problems. Thank you.

PHILLIPS:

Ma'am, could I offer one comment just sir?

SCHINASI:

Please.

PHILLIPS:

We sought help at every opportunity we could on some of our more challenging contracts. I'll use the Theatre Wide Installation Security Services in Afghanistan, and we did a peer review. Initially, we weren't sure we wanted to do that, but we did a peer review internal to JCC-I/A taking the contract from Afghanistan with my staff.

We used Mr. Harrington, not used, this is the right word, but we had his talent look at it as well. And I believe we actually used some of Mr. Assad's talent to look at that contract where we got an IDIQ in place that was so good in my view that it withstood all protest that we had against that contract. So I'm a big believer in peer reviews and using the review process where it has great advantages.

THIBAULT:

OK. Thank you, General. Thank you, Commissioner.

I want to put on the record here before we ask Commissioner Zakheim to come up here that General Harrington, you were asked how many contractors are there and, I guess, pun intended you were spot on with Afghanistan with 107,000. But there are according to our [information] in addition to the 107, there was 100 in Iraq.

So the total number, and I think it's important for the record, is in those parts of theatre there are, based on the system you have, which is the best system out there, there are 207,000 approximately contractors that are supporting the military?

HARRINGTON:

Yes, sir.

THIBAUT:

Just for the record.

HARRINGTON:

Yes, sir, as of 31 March, we counted 95,461 contractors in Iraq and 107,292 in Afghanistan.

THIBAUT:

Yes, our version of SPOT [Synchronized Deployment and Operational Tracker] is pretty much
...

HARRINGTON:

Yes.

THIBAUT:

... a diversion give or take a fourth. . . Commissioner, please?

ZAKHEIM:

Thank you.

Mr. Assad, I just want to have you repeat for the record, you're committed by mid-May as I heard you say this, to ensure a higher level OSD review of contracts over a billion dollars?

ASSAD:

Yes, what . .

ZAKHEIM:

Basically to change the system and ensure that what happened with those four contracts to the best of that ability...

ASSAD:

That's right.

ZAKHEIM:

. . . will not happen again?

ASSAD:

Yes, that's right.

ZAKHEIM:

OK.

ASSAD:

Implement the peer-review process point.

ZAKHEIM:

Thank you. There's been a lot of talk about resources. I was involved a little bit in a resource allocation not all that long ago.

Mr. Assad, if you were approached by the Army to support them in their quest for additional resources to fund more billets in the acquisition and requirements-community work force, would you support that? Just yes or no.

ASSAD:

Yes.

ZAKHEIM:

OK. Have you been approached for that during the budget process?

ASSAD:

Yes, during the last round.

ZAKHEIM:

OK. And were these billets funded in the baseline budget or in the supplemental?

ASSAD:

No, I believe they were funded in the baseline, 852 funded.

ZAKHEIM:

OK. Now, I kept hearing from the Army that they need more and more resources. So have they approached you for even more?

ASSAD:

No.

ZAKHEIM:

They had not?

ASSAD:

No.

ZAKHEIM:

They never did? OK.

What normally happens—I don't want to give a comptroller 101 course, but I think General Phillips and Mr. Harrington, you've both been around long enough to know that if you don't think you've got as much as you want, first thing you do is you go to OSD. You've got a very powerful undersecretary, you've got a powerful advocate in Mr. Assad and you say, "Hey, look, we need more billets, and we need more money, help us." Why didn't you do that?

PHILLIPS:

Sir, part of the reason is—and we haven't. By the way, we have an ongoing dialogue with Mr. Assad and Dr. Carter and they give us tremendous support. So that having an upfront statement, we have within the base budget, as I described earlier, the funding in place and across the POM [Projects Objective Memorandum] through 2015 for the 1,885 . . .

ZAKHEIM:

I understand that, General, but . . .

PHILLIPS:

. . . personnel to bring them on-board.

ZAKHEIM:

Excuse me, General, but you've been asked by some of my colleagues up here why you didn't accelerate it. And so my question is you've got about. I think it was roughly 700 that you added on, why didn't you—you know, the out years are out years, and they're blue sky and we know that. Why didn't you ask for more money, for more billets in this fiscal year?

PHILLIPS:

Sir, we will be. Now, part of it is . . .

ZAKHEIM:

Not future, now. Why didn't you ask?

PHILLIPS:

Part of it is funding and the current budget that we have. And obviously we'll be glad to go to talk to Mr. Assad and Dr. Carter. And as a result of this session, we'll go back, and we'll have that dialogue.

ZAKHEIM:

Fair enough.

PHILLIPS:

When it's appropriate, we will.

ZAKHEIM:

Can you give me an explanation why didn't you ask for it in the fiscal '11 budget?

PHILLIPS:

Sir, we have in the president's budget funding therefore . . .

ZAKHEIM:

But not enough.

You both have said, "Not enough." Why didn't you ask for more?

PHILLIPS:

Sir...

ZAKHEIM:

(Inaudible) go to Bob Hale [Robert Hale, Department of Defense Comptroller] and ask for more? It used to happen to me all the time. Anytime a four-star wanted something, I'd get phone calls. Why didn't that happen?

PHILLIPS:

Sir, I would answer that in this way. The Army has documented the need for 1,885 contracting—I'm sorry, acquisition positions—of which the majority of those are contracting.

As we work our concept plans, as Mr. Harrington just described, we will come forward to OSD and to Congress and ask for the funding to support . . .

ZAKHEIM:

OK. I would just state for the record that I find that not entirely a satisfactory answer, sir, because to say as you will, as we will, you can do it. It's been done. It's done every year.

And if you really need these people, and we're not talking about billions of dollars to fund these billets, you could go this year and put it in your current POM for every single one of those outstanding whatever it is thousand billets. That just a point I want to make.

Let me ask you, Mr. Assad. The QDR, is there a chapter in the QDR about service contracting?

ASSAD:

No, there hasn't.

ZAKHEIM:

Was there a full page in the QDR about service contracting?

ASSAD:

No. No not to my knowledge. No.

ZAKHEIM:

How much was there in the QDR about service contracting?

ASSAD:

I think there were about six or seven references to service contracting.

ZAKHEIM:

Yes, there were about eight lines actually, maybe nine lines. My question is, the QDR is supposed to lay out priorities. It's supposed to drive budgetary resources. This is an important issue. The Secretary of Defense has talked about it. The Secretary of State has talked about it.

Why didn't the Quadrennial Defense Review, which lays out the future for the department over the next five years, devote more than eight lines?

And oh, by the way, those eight lines were mostly descriptive. There were no instructions at all. What happened? I'm sure you and Dr. Carter pushed for something more.

ASSAD:

I think in general it's just the nature of the recognition of what service contracting is all about. And it goes much broader than the QDR.

I mean, the reality of life is that service contracting or contracting for services in general—we now spend almost 50 percent if not more than 50 percent of our budgeted funds to do service contracting. And there's no doubt, you know, Mr. Ervin brought up the idea of having a centralized view of the acquisition of services [that] the Air Force has. Perhaps the Navy and the Army need to do that. I agree with that, you know, that we need to have a more integrated view.

It's just a recognition Mr. Commissioner, that the fact is that we've just got a lot of work to do in this area, and it's the recognition that this integrated work force, as you mentioned, there's no doubt as we go forward contractors will be on the battlefield.

ZAKHEIM:

Well, if that's the case, and that's not exactly news, then let me just stay for the record I am absolutely flabbergasted that something as important as this, and you just laid it all out, and I totally agree with you, Mr. Assad, something as important as this could not command a single instruction, a single directive, a single objective, a single goal, even, in the QDR.

SHAYS:

Would the gentleman yield?

ZAKHEIM:

Absolutely.

SHAYS:

Sometimes I think in order to be able to say what you need to say, we have to speak in tongues. What I think I heard you say was that you believe there should be major emphasis in the QDR about contracting, and it is not in there. Is that correct?

ASSAD:

No, that's not correct. What I believe is that there needs to be a more integrated recognition of the requirement for services. But I'm not responsible for developing the QDR, so I don't want to address that.

SHAYS:

No, no, but this is your baby, isn't it?

ASSAD:

Services is my responsibility, yes.

SHAYS:

Your answer concerns me more. I would rather you be fighting the battle and losing then not even fighting the battle at all.

ASSAD:

Well, it's not a question of fighting the battle.

SHAYS:

Why is that?

ASSAD:

I think that we've made, if we look at how the department viewed services three years ago, and what we're doing today is remarkably different.

SHAYS:

OK.

ASSAD:

It may not be sufficient . . .

SHAYS:

No, no, it . . .

ASSAD:

. . . but it is remarkably . . .

SHAYS:

It's just not. It is insufficient because half of our dollars, half of our personnel, is being ignored by basically the Quadrennial Defense Review. And it's a five-year plan, and it's not in the five-year plan.

So how should I feel comfortable or—I mean, and frankly, this has been, you know, Grant Green's point to us as well time and again. If it's not there, how can we think the military is taking it seriously, and how can we think that we are going to see the institutionalization that you want, if it's not there?

And then I'm just left with I would think you would be jumping up and down to make sure it was and be outraged that it wasn't. I mean that's kind of where, you know, I'm sorry to . . .

ZAKHEIM:

No, and I fully align myself with those comments.

And you know very well, Mr. Assad, how the QDR works. It's basically worked the same way under different guises, where there was the defense planning guidance, which I ran 25 years ago, or whatever.

Basically, every OSD office has input and raises issues. And your undersecretary, like all the undersecretaries, sits in the Defense Advisory Working Group, the DAWG, and can raise major issues. So what Co-Chairman Shays has just said is, essentially, you had the opportunity to surface those issues and for whatever reason did not, and that's what's troubling him, and I think that's what's troubling me.

GREEN:

Let me just add to that, since I brought this up some time ago after we heard the frustrations from some of the joint staff about recommendations that they had put forward to be included in the QDR with regard to contractors.

And whether it's the QDR or any planning document, we can talk about active reserve components, our civilians and our contractors as a single force. But if we don't acknowledge in those planning documents, and we've talked here today about the QDR, if we don't acknowledge in those planning documents that we're going to go to war like this, whether it's one to one or point-seven to one or whatever, we're going to go to war with a lot of contractors. And unless we plan for it, Annex Ws aren't going to mean squat.

THIBAULT:

On that note, Commissioner Ervin, please?

ERVIN:

Thank you, Mr. Chairman.

Again, it seems to me that we're really talking about the theme of urgency. There's no question but that steps have been taken by each of you and others to move in the right direction, it seems to me, with regard to service contracts, but I still am worried that the issue isn't being taken up with the urgency that the importance of it requires.

So one specific example of that, and I guess this question should be addressed to you, Mr. Harrington, if not Mr. Assad, but our understanding is that the Army regulation on service contracts is still in draft form, but it's been held up in the Army headquarters publication office for nine months. Is that right?

HARRINGTON:

Close to that, yes, sir.

ERVIN:

And why is that? Why has it taken so long to get this regulation out? Do you have any idea?

HARRINGTON:

Sir, my only understanding is that there's just editorial aspects of it that need to be completed for publishing Army-wide.

ERVIN:

Do you periodically check on this? Have you done anything to move the process forward?

HARRINGTON:

Sir, we periodically check on it, absolutely, to determine what corrective actions that may be required to try to speed it along so it can get published.

ERVIN:

To you does this suggest a lack of urgency that it's still waiting to be published all these many months later?

HARRINGTON:

Sir, from my perspective, it goes to an immense amount of workload per person, not a sense of urgency. There is five times the amount of workload per person transaction basis, and that's what's staggering to individual work numbers across the Army right now.

ERVIN:

Do you agree, Mr. Assad, with that explanation?

ASSAD:

I do not agree that there isn't a sense of urgency. There's a tremendous sense of urgency as it relates to a recognition that we have to have a more integrated view in the acquisition of services.

ERVIN:

But on this issue, though, of this regulation, Mr. Harrington attributes that to a workload. Do you regard that as a workload issue a lack of sense of urgency, the specific, discrete issue out of this regulation?

ASSAD:

I can't address that, because I'm not aware with any of the particulars of it, so I really don't know.

ERVIN:

All right. Let me talk about another issue. And that is I understood you in response to either Mr. Zakheim or Mr. Shays, Mr. Assad, to say in response to, I think, my having raised the issue early on, that you believe that, speaking for yourself, that the Army needs to move toward a more centralized model of service contract management oversight. Is that right?

ASSAD:

Yes. I think that the process that the Air Force uses is a commendable one.

ERVIN:

Well, I think I'm very pleased to hear that. I think that moves the process along. I get the sense, strong sense—it's there in black and white—from your statement, General, that you don't have that view. You, as I said earlier, tout the value of decentralized contract management. Do you have that view with regard to oversight? Are you using those terms interchangeably?

PHILLIPS:

Sir, that's my view from my perspective of having commanded in contracting from a major, when I was chief of contracting, Joint Task Force Bravo all the way through JCC-I/A and every rank in between.

I've seen decent centralization being powerful at various levels. The more complex you get in terms of the services contract, then I think you need to move toward more centralization. Does it need to be a PEO [Program Executive Officer] services that's reflected within the Air Force? I don't know.

ERVIN:

All right. Let me use that as a predicate, then, to loop back to the CNTPO [Counter-Narcoterrorism Technology Program Office] discussion that we had a little earlier. Did I

understand you correctly, Mr. Assad, when I thought I heard you say that the first time you heard about problems with the CNTPO contract was from us, from the commission?

ASSAD:

No, Dick Ginman on my staff had talked to me briefly about it, but when Mike called me, Chairman Thibault called me about it, I knew it was coming up for review. I just hadn't seen it in detail, but gave me more detail that I had known at that point.

ERVIN:

So . . .

ASSAD:

There's a normal process that we use . . .

ERVIN:

Right. But just so I'm clear, the chairman of the external Commission on Wartime Contracting knew about this issue sooner than you personally did.

ASSAD:

That's correct.

ERVIN:

Is that troubling to you?

ASSAD:

No, because the fact of the matter is, is that, you know, we've got hundreds of reviews that I conduct on a quarterly basis, and this was just one of the reviews that had been scheduled. I would have gotten to it . . .

ERVIN:

But this is . . .

ASSAD:

. . . and did in fact get to it in sufficient time..

ERVIN:

Yes, but it's been established, and surely you wouldn't disagree, that the training of the Afghan police, the Afghan security forces, are critical to the war effort in Afghanistan.

ASSAD:

There's no doubt. And my principal deputy, Dick Ginman, was intimately involved in it and was looking at it long before I saw it myself.

ERVIN:

Yes, but . . .

ASSAD:

And he is my principal deputy.

ERVIN:

But you, who is Ginman's boss, learned about it from us, from the commission.

ASSAD:

No, Dick had briefed me on something coming up. Some of the details that Mike had talked to me about, I heard from Mike.

ERVIN:

All right. Let me ask a question about back to the LOGCAP III, LOGCAP IV transition. Also, I want to clarify something.

Mr. Harrington, Mr. Tiefer asked you what the thrust of the briefing was and by that he meant, clearly, what was the sense of the recommendation that was being made and was the sense of the recommendation being made that there wouldn't be a transition? And in response, my recollection is you said that was discussed—a little different from answering the question of what the thrust of the briefing was. What was the sense that you've got as to what the recommendation ultimately will be?

HARRINGTON:

Sir, I don't know what the recommendation will ultimately be. What went on in the meeting was essentially an analysis of the alternatives presented with respect to the business case as well as the operational requirement.

ERVIN:

What is your . . .

THIBAULT:

Let me—can I help?

ERVIN:

Sure.

THIBAULT:

Just for yes or no, it was explained to me that there was a recommendation and they went through alternatives; you're absolutely correct—but that there was a recommendation that what made the most sense that ought to go forward for approval is to cancel the competition and go with a continuation of LOGCAP III. That's what I was told.

It was in the slide and in the presentation that had been practiced before this high-level briefing, you know, did they change the presentation?

HARRINGTON:

No, sir. That was at that point going to be brought forward to the secretary of the Army and the chief of staff.

THIBAULT:

Right, right. OK. So the point is there was a recommendation to discontinue the competition. But the point that's been made over and over that I think is also valid is that, hopefully, more experienced, wiser eyes would ask the kinds of questions that are being asked now, and then the results will be what the results are.

ERVIN:

I want to hear that from you, Mr. Harrington. Are you agreeing with that? Are you now saying that the recommendation was made not to compete, not to transition?

HARRINGTON:

Well, sir, that was in the meeting. That's what was discussed as a recommendation going forward to the Chief of Staff and the Secretary.

ERVIN:

Right.

HARRINGTON:

But there was not a decision out of that.

ERVIN:

I understand that. That's not what I asked. But the recommendation was made. I understood earlier from you that you simply said that issue was discussed. Are you not agreeing with the chairman that a recommendation was made at that meeting . . .

HARRINGTON:

Yes, sir.

ERVIN:

. . . not to transition?

HARRINGTON:

That recommendation was discussed, sir, for AMC to come forward with that recommendation. That's all.

ERVIN:

And presumably, the contrary was discussed. But I mean, the point is in that briefing was a recommendation. Was the recommendation that there not be a transition. I mean, both sides were discussed, surely, right?

HARRINGTON:

Yes, sir.

ERVIN:

But was a recommendation made in that briefing not to transition?

HARRINGTON:

Sir, that was the position. The recommendation was the position that AMC decided to bring forward.

THIBAULT:

It was Army Materiel Command subject to approval by the SecArmy staff.

HARRINGTON:

So the next step was to go to the Army leadership with that recommendation.

ERVIN:

Right. Final question on this. What is your expectation as to what the final decision with regard to transition will be?

HARRINGTON:

Sir, I don't know right now. That's a matter for the Army leadership to decide.

ERVIN:

You don't have an expectation whatsoever.

HARRINGTON:

Right now, sir, I do not.

ERVIN:

Mr. Assad, do you have any expectation?

ASSAD:

I don't, but I hope if we can fall down on the side of competition, we should.

ERVIN:

Thank you.

ZAKHEIM:

Actually, could I jump in here for 30 seconds?

THIBAULT:

Please.

ZAKHEIM:

Mr. Harrington, you're not going in there with a preconceived sense that you would prefer competition? I mean, Mr. Assad has made it very clear that he does, and I'm totally in sympathy with him. But you sound like you're totally neutral on this. Is that really the case?

HARRINGTON:

Sir, that's a matter for the Army leadership to decide. We always side on pursuing competition every way we can, but the factors regarding this decision are still being assessed, and the Army leadership's got to decide upon that.

ZAKHEIM:

But presumably, you know, you're part of that Army leadership, I would have thought. You're senior enough. Aren't you going into this debate with at least an initial bias toward competition? Are you being so value-neutral that it may be not, I mean, that you're not initially biased?

I got the impression from Mr. Assad that he prefers competition and has to be shown otherwise why there should not be. And I think he is absolutely right. Are you prepared to say the same thing?

HARRINGTON:

I think he's absolutely right, too, sir.

ZAKHEIM:

And are you prepared to say that for yourself?

HARRINGTON:

Yes, sir. That's a part of the analysis of alternatives that are being presented.

THIBAUT:

OK. Thank you.

Commissioner Grant Green, please?

GREEN:

Thank you.

At the risk of beating a dead horse here, I come from the operational side of the force of the Army. And so I understand and I appreciate how force-structure decisions are made and how personnel are assigned. But I also from a past life understand the importance of support.

I'm not convinced by what I've heard today that the culture will change. I'm not convinced that we will in fact institutionalize these things we've talked about so that they continue well beyond your tenures, and certainly my tenures.

Sure, you know, we've bumped up the force structure. We'll see some additional spaces. We may see some additional faces. Five years from now, will those be filled? Will there be a different priority? We'll change regulations. We'll change policies. We'll even change laws. But will it really continue?

As I said earlier, we're going to go to war with a lot of contractors, and we're going to need a lot of folks to oversee them, to take care of them, either that or we're going to go to war in a much more austere way than we are going currently.

I know you guys understand it because you're in this business. You're in the business to provide support, contracting, acquisition. But how do we get the warfighter to appreciate it long term? And how do we get the leaders to say, "I want Ed Harrington to have 10 bodies tomorrow."

You folks may not be old enough—I certainly am—to remember the very early discussions of Goldwater-Nichols. And it was a tough slog. But I think it's fair to say that, to large degree, it has worked.

What I'd like you to think about—you don't have to answer it—but what I'd like you to think about, do we need a Goldwater- Nichols for the contracting-acquisition business? If you have comments right now, feel free. If you don't, we'll ask you for them later.

PHILLIPS:

Sir, a couple of comments: I can't answer your question. I don't know if we need a Goldwater-Nichols for contracting.

I think the Gansler report and what came out of Iraq and in particular Kuwait, in terms of what occurred with Army contracting, was an eye-opening experience for us. It was a significant emotional event, and we can never go back to those days.

So it's up to Ed Harrington and Bill Phillips and with the support of Shay Assad and many others in Congress to make sure that we never go back to those days. If we don't institutionalize this within our Army, we've missed an opportunity.

And for my three years or whatever my tenure is here, I will work hard on that, and I'll make sure that it doesn't fall off the ears of our Army leadership.

I'd also like to say that we are getting tremendous support from the Army leadership. General Chiarelli, as Mr. Assad has mentioned a couple of times, General Casey, Secretary McHugh, who has asked me and Ed Harrington and others, make sure that we go around and we talk contracting.

Another point: General Casey asked me to go and talk to the division commanders and assistant division commanders in North Carolina about three weeks after I came back from Iraq. I did that. We now have division commanders talking about contracting. I don't think we'd have had that four or five years ago.

Sir, your point is well taken. We cannot miss this opportunity to make sure that we push this forward and we continue to fix contracting and never go backwards. I will work hard on that during my tenure, sir.

GREEN:

I'm not worried about you folks. I'm not worried about General Casey or Secretary McHugh or any of the other folks sitting there today. What I'm worried about is, five years from now, seven years from now, ten years from now, when you've got a new cast of characters and they say, "Harrington," or your successor, "You're going to lose 50 spaces because I'm going to stand up a new Stryker brigade." That's what I'm worried about. And that's simplistic, but the concept.

So, thank you very much.

THIBAULT:

Thank you, Commissioner.

Commissioner Tiefer, please.

TIEFER:

Thank you, Mr. Chairman.

Mr. Harrington -- and I want to preface this by saying, it's our job here to ask hard questions. You have a reputation as a straight shooter. You were a straight shooter in all my experiences with you in the prehearing briefing, and I believe you've been a straight shooter today. So the fact that I ask hard questions doesn't change that in the slightest.

As to your procurement-management reviews, which look at Army contracting programs, I would put it as where the contractors may be getting away with too much, I want to take a particular example, which is the huge, \$5.5 billion linguists, translators.

Specifically, is it your thought, would you agree, that the contractor who we held a hearing on, GLS [Global Linguist Solutions], for lack of a PMR [procurement management review] on this, got away without a tough cure notice? They should have gotten a notice saying—as I explained cures to my University of Baltimore students—GLS, you screwed up, now fix it or you're out.

Might a PMR and a cure notice like this have reduced the millions, if not hundreds of millions of dollars of GLS waste sharply?

HARRINGTON:

Sir, our procurement-management review process has been building over the last two years. We have defended the necessary resources right now, but we're going after more resources to increase the number of procurement management reviews we conduct on a yearly basis.

TIEFER:

I'm not criticizing; I'm just asking.

HARRINGTON:

Yes, sir.

TIEFER:

Would a tough cure notice in the GLS case have saved millions of dollars?

HARRINGTON:

Very likely, sir, yes.

TIEFER:

Thanks.

Now, to return to our favorite question, although it's not our favorite aspect, that on the business-case analysis and our initial invitation to review it, General Pillsbury, when he told us

two weeks ago in public that we were invited to review it, which meant—turned out to mean attend a review—said that would be subject to Assistant Secretary O'Neill.

And I know you've still been involved in it. Obviously, a higher official than General Pillsbury had to be involved in radically changing his view of whether we should be invited, and I assume that's Assistant Secretary O'Neill You disagree?

HARRINGTON:

Sir, I don't know that. He's my boss, and I have no knowledge of that.

THIBAULT:

OK. You have no knowledge of anyone higher than him being involved, do you, Mr. Harrington?

HARRINGTON:

No, sir, I do not.

TIEFER:

OK. And the business-case analysis—and you've discussed it—as I, as we had very full talks when Commissioner Schinasi and I were in the theater talking to generals and officials about this.

Am I correct that the type of assumptions it has to work on necessarily are what the savings percentage would be if there's a competition and what the scale of contracting will be on this contract that would be competed, but otherwise will just go sole-source to KBR? I'll say that again: percentage of savings, scale of contracting.

HARRINGTON:

Sir, I have to say at this point, this is what the Army calls, what we call procurement-sensitive information. That's the reason this is going forth to the Army leadership. We're unable to comment on some of the specifics of it, because it is procurement-sensitive information right now.

TIEFER:

We haven't been disinvited because it's procurement-sensitive information, have we? Surely General Phillips—never mind, it was General Pillsbury's invitation . . .

THIBAULT:

Commissioner, can I ask one thing? Was past performance of the contractors or the contractor, was that a heavy consideration in the presentation and any corrective action plans and things like that?

HARRINGTON:

Sir, I do not recall that it was.

THIBAULT:

OK. Maybe for the record, can you answer that as best you can when you go back?

HARRINGTON:

Yes, sir. I will.

THIBAULT:

Thanks. Thanks.

TIEFER:

Mr. Chairman, you know where I was going. I was going to ask Mr. Harrington about past performance, but not on that. What I was going to ask was, you know there have been—as far as whether past performance is being faithfully recorded in the appropriate database by Army contracting officials, the Government Accountability Office and the IG of Defense Department have had reports on the inadequacy of the placement of the number of past-performance reports and their lack of the narrative that should be in there.

And very crucial is that these are not only done at the end of a contract but annually during it, because otherwise—I needn't say. But we are not finding these when we look for them, especially for KBR, for which you'd think there would be seven or eight annual reports in the database. We're still looking for any, any.

Now, would you like to be doing annual reviews of whether the contracting officers are making these past-performance reports? Is that something you'd aspire to if you had sufficient manpower?

HARRINGTON:

Yes, sir.

TIEFER:

What is the value that we're losing by not having those annual past-performance reviews, both in terms of discipline for the current big contractors like KBR, and in terms of informing future buys, like LOGCAP IV, which KBR got, despite its electrocutions?

HARRINGTON:

Sir, it's actually as you just described. We don't have the relevant diagnostic information in some cases to be able to evaluate potential offerers on future procurements. So we want to determine whether or not their performance, first of all, was relevant and then it was an appropriate level of performance that would make them a responsible, responsive offerer.

So absolutely agree with everything you say. We understand that. We've got work going on to improve it. The resources that we need will help enable us to improve that over time.

TIEFER:

In terms of Chairman Thibault's question, you'd remember if there were a mysterious appearance of years and years of KBR past-performance reports at this briefing, wouldn't you?

HARRINGTON:

Yes, sir, I would.

TIEFER:

OK. Do I have one more question please?

THIBAULT:

Please, one more question, sir.

TIEFER:

OK.

Mr. Phillips, General Phillips, this should be an easier one, because when I was in Iraq, you put four hours nonstop into educating me about the successful innovations there.

But one thing that hasn't been done is that LOGCAP and most big Army service contracts in theater tend to compete for one base year, sometimes two, but basically one, and then the rest are option years.

And our experience from talking to contracting officers is that they just reflexively OK the option years, meaning there won't be competition unless the contractor has screwed up horrendously.

We're now in our ninth rubberstamped option year for KBR. Will you in your post increase the competition levels for the option years? Would you support us in a recommendation of considering option non-renewal more serious than the current rubberstamping?

PHILLIPS:

Sir, I'd like to take a deeper look at that, but what I can promise you that we will do is we will work hard on competition across the board.

And many of the IDIQ contracts that we put into place for JCC-I/A, I'm not that familiar with LOGCAP, but were based upon the first year, as well as the option years being costed in that execution.

So even though you execute the option for that contract, the basis of that is through competition. And, depending on how the contractor performed during that first period, gives the government the right to either execute the option or to not and to see competition for the next follow-on.

TIEFER:

Can you name any big contract you non-renewed, that you didn't take option years on?

PHILLIPS:

Sir, can't recall any at this point, but the theater-wide installation security services is a form of an IDIQ that we did where I believe we had five contractors that competed with a base and option years on that, as well as every time that we went to execute an option, that option was competed, so there's various opportunities, I think, for us to look at the way we orchestrate IDIQ contracts to implement competition within.

TIEFER:

Thank you.

THIBAUT:

Thank you, Commissioner.

Commissioner Henke, please.

HENKE:

Thank you, Mr. Chairman.

Mr. Harrington and General Phillips, we had a discussion earlier about whether it's a sense of urgency or it's sheer workload. And I take your point, Mr. Harrington. I heard you loud and clear that sometimes it's just an immense amount of workload that you're trying to put across your staff.

I've been there. We've been there in different positions in the executive branch where you realize, "I don't have enough resources to get my day-to-day activities done, much less new innovative ahead of the problem."

Can you for the benefit of our understanding just elaborate on a couple of points in your joint testimony. Sir, Mr. Harrington, I believe you're the Army's senior procurement executive?

HARRINGTON:

Actually, sir, Dr. O'Neill is in that position at this moment, yes.

HENKE:

But you're his functional . . .

HARRINGTON:

Yes, sir, I am.

HENKE:

. . . lead in expertise?

HARRINGTON:

Yes, sir.

HENKE:

And you and the Army have delegated—in terms of that acquisition authority, that flows out to your different commands: the Army Corps of Engineers, TRADOC [Army Training and Doctrine Command], Forces Command too [phonetic], what are known as heads of contracting activities, or HCAs?

HARRINGTON:

Yes, sir.

HENKE:

How many HCAs do you have in your span of control?

HARRINGTON:

We have 17, sir.

HENKE:

And you referred to something in our prehearing briefing that are known as buying commands or buying activities? Excuse me.

HARRINGTON:

Yes, sir.

HENKE:

How many buying activities do you have? And what are they?

HARRINGTON:

We have three major ones, sir. TACOM, Tank Automotive and Armaments Command; Aviation and Missile Command; and Communication-Electronics Command. We've got the Research, Development and Engineering Command also that is a buy unit in and of itself for R&D services and some other slightly smaller activities.

But TACOM, AMCOM, and CECOM are our largest what we call our buying commands.

HENKE:

Through the largest three, but don't you have something like 200 buying offices or buying activities maybe they're referred to?

HARRINGTON:

Yes, sir, we have 272 sites that do Army contracting for us worldwide.

HENKE:

And those are all assigned to some of the HCAs. Is that . . .

HARRINGTON:

Yes, sir.

HENKE:

. . . correct? OK.

HARRINGTON:

Yes, sir.

HENKE:

So you have 272 places doing buying for the Army, different levels, different thresholds, of CORs [phonetic], services, and hardware.

HARRINGTON:

Yes, sir.

HENKE:

And you perform from a headquarters, from a policy-oversight standpoint, you perform what are called performance-management reviews?

HARRINGTON:

Yes, procurement-management reviews, sir.

HENKE:

Procurement management. If I think of it correctly, it's basically your staff, your senior staff, your expertise goes to a place and it's a command inspection.

HARRINGTON:

Yes, sir, it is. It's focused in two areas. It's an inspection. It's an evaluation of the health of that contracting activity and how it performs its functions. It's an assessment by us of the resources they need, of the policies, processes, tools they need. It's also an evaluation of, "do they have good best practices?" And can we take those best practices and proliferate them across the rest of the community, preclude others from having to spend their precious time by taking advantage of someone else's innovative ideas that they're actually working?

HENKE:

At the end of that review, do you actually certify them to continue to operate? Or what's the nature of the assessment?

HARRINGTON:

Sir, we review the findings.

HENKE:

Right.

HARRINGTON:

We do a risk-rating of those contracting activities. We provide our report to them. They provide—and it's a corrective action plan. They provide a corrective action plan back to us.

HENKE:

You were able to do about how many reviews a year?

HARRINGTON:

Right now, sir, we target 28. There are principal assistants responsible for contracting, PARCs, that work for the head of contracting activities. There are 27 of those. We target another one just on an ad hoc, random basis to go out to these activities and, again, just assess their health.

HENKE:

So you're able to get to all of the PARCs at least once a year?

HARRINGTON:

We're not, sir, no. We're able to do 14 at the most right now. We target—we want . . .

HENKE:

OK.

HARRINGTON:

Let me correct myself . . .

HENKE:

Sure.

HARRINGTON:

. . . a little bit, sir. We want to do 28, because we feel that's an important sampling of each PARC on a yearly basis. Right now, we have the resources to do 14.

HENKE:

OK. You'd like to do 28 of the 270? Is that a comparison?

HARRINGTON:

Well, sir, these 28 PARCs have numbers of those 272 under them, so we would go to the PARC office at different times. We'd actually go out to a contracting site—one of the 272—and actually look at their contracting files, look at their internal controls, look at their training, their qualifications, their certifications, things like that.

HENKE:

Right, right. So the point is, I think, what I'm taking away is you'd like to do 28 of them. You're able to do about 14 . . .

HARRINGTON:

Yes, sir.

HENKE:

. . . with your current resources?

HARRINGTON:

Yes, sir.

HENKE:

Obviously, that's risk that you're . . .

HARRINGTON:

Yes, sir.

HENKE:

. . . accepting, that the Army is accepting in its system.

HARRINGTON:

We don't want to accept it, sir, but right now, as we build our resources, we have to accept some of that.

HENKE:

Right, I understand. Your testimony, General Phillips—and Mr. Harrington mentions that the Army has, using Section 852 funds, the acquisition workforce-improvement funds, has hired 700 people, and about 500 of them are contracting officers. Did your office hire any of those?

HARRINGTON:

Sir, we have not in my office. Those are entry-level contracting personnel. We require senior-level contractors.

HENKE:

OK. So it wouldn't be appropriate to find . . .

HARRINGTON:

Right, sir.

HENKE:

We shouldn't be surprised that your office didn't because you require high-graded, more-skilled people.

HARRINGTON:

Right, sir. Yes, sir. We have been hiring, but the available pool for senior contracting experts is an immensely competitive pool, because many of our other —both Army, Department of Defense, and federal contracting activities—are pursuing the same level of mid- and upper-level expertise.

HENKE:

Thank you very much.

HARRINGTON:

Yes, sir.

ZAKHEIM:

Quick question, Mr. Harrington. You said you're not resourced enough to do 28 of these reviews. How many people would it take to be able to do 28 reviews? Are we talking about 5,000 more people?

HARRINGTON:

No, sir. We're talking 26 to 28 more.

ZAKEHIM:

So you can't find 26 to 28 people?

HARRINGTON:

Right now, sir, we're using people from the field. And, sir, you're exactly right. We can't find them. We have a tough time competing for the mid- and senior-level. These are senior-level contracting experts.

At one point, 12 years ago, we had 11 of them in my office. I've been able to hire one of those to come back as a rehired annuitant, and we've spoken with seven others, and they, frankly, refuse to come back. They just don't want to.

THIBAUT:

Thank you, Commissioner.

My Co-Chair?

SHAYS:

Thank you, Mr. Chairman and my colleagues.

And, again, thank you to our three witnesses. I'm struck by the fact, Mr. Assad, you were in the private sector, able to support your family in a lot different way than you are able to support them now, were head of Marine procurement in the job you're doing right now, and you do this at tremendous sacrifice, and we thank you.

And, General Phillips, you've made a career of the military, and you continue to proceed in a very important way.

Mr. Harrington, you were in the military. And rather than going in the private sector and being able to support your family in a much more significant way, you come back here. So we are incredibly grateful for that service.

And I mention that because I don't want this chart, which I wish we had done differently—it's so small—Mr. Assad, you basically have this job that you have right now from 2007, and, Mr. Harrington, 2009, but my understanding is that, General, you were involved in procurement before, but not necessarily in a position to have the impact you have now, and same for you, General Phillips, that your impact now is much greater.

So we're starting to see things happen that we didn't see earlier. And what didn't happen in '02 doesn't rest on your shoulders. But it's still part of the record that I want to establish.

In the National Defense Authorization Act of '02, Congress said, establish service-contract management structure and increase competition. And our reading is, there is no structure, certainly not like the Air Force. You know, you have four people, Mr. Harrington. You don't have the 20-plus the Army has, and have a much more significant workload.

In '03, the National Defense Authorization Act said set performance goals for multiple-award service contracts, and we don't see any implementation of any metrics—regulations for metrics on that. So we're kind of seeing Congress early on saying do this and not seeing it happen.

In '04, the National Defense Authorization Act said establish a Center of Excellence in contracting for services. It really is going back to the request in '02 that was made. And we don't see that established.

In '06, implement and management structure reforms for services. And we see partial implementation, but not a yearly review.

In '08, Congress said provide annual inventory of DOD service contracts, and we're seeing this happen, but we're seeing you gather the data, but we're not sure the data is being used.

And, finally, in '10, it said require Defense Science Board to conduct independent review of improvements to service contracting, and we see that underway.

So we know that what happened way back is not on your shoulders, but would you agree basically—you know, would you take issue with anything that I just put on the record? Certainly not about my compliments about you, but, I mean, I'm talking about . . .

HARRINGTON:

Sir, I wouldn't take issue, except that we do have policies and processes in place to address service contracts, and, absolutely, we started maybe five months ago to take a look at how can we can manage larger service commodities in a more comprehensive fashion?

So, yes, we're looking at the Air Force PEO for services model. We're working to learn about what the pluses of that have been and what the experiences they've had that haven't been contributory to a really . . .

SHAYS:

How long do you think that would take?

HARRINGTON:

Sir, it's going to take us another year at least, with the group of people we have to be able to formulate that, but we do what we call acquisition of services strategy panels for services contracts between \$500 and \$1 billion dollars. We've done about 43 of them over the last seven years.

I conduct those. They're a very vigorous review akin to the peer review process that Department of Defense conducts. We require that at subordinate units. We require them to report to us.

We have those processes in place. It really comes down to having enough senior-level skill folks to be able to make sure we reliably do that on a regular basis, and that's...

SHAYS:

So I get the sense that some of those experienced people are in the private sector and not doing what you've done, candidly.

Let me conclude, then, by this comment. I guess when I say there's no urgency, we're really asking you to sprint. And maybe it's not humanly possible to sprint all the time, but in a way that's what we're asking, because I mean, we're transitioning in Iraq. We're moving forward in Afghanistan, and we don't know where that takes us.

So I don't see the sense of urgency, and I don't know how we do it. I don't see the integration of contracting yet into the military. And therefore, I don't see the institutionalization of it.

Ash Carter said we're all on the same page, you are and we are. And I agree with that. So we've got to find a way to see that institutionalization before we're no longer here a year from now.

And, gentlemen, you know, frankly, you will all be moving on.

And I am left with the conclusion that really was Grant Green's comment, and that is that if we don't see it in the QDR as an enthusiastic part, we haven't yet seen it. That's kind of where I'm at.

THIBAULT:

Thank you. There we go. I can't even push the buttons right.

This is the opportunity where I'd like to give each of you a couple of minutes if you have something you'd want to say to sort of wrap this panel. And then we can move on to our next panel.

ASSAD:

Thank you, Mr. Chairman. I very much appreciate the constructive criticism that we have received from your commission as we move forward. There's a lot of work to do here.

I do want, though, to re-emphasize, I'm particularly sensitive to Mr. Ervin's concerns about a sense of urgency. There is a great sense of urgency with regard to this. We now have insight into talks about the inventory of services. We now know how we're spending our services money in a

very, very detailed way by command, such that we can take action to make significant change so that we can save the taxpayers' money.

As I've put it forward to our leadership, if we figure out a way to save three percent to four percent in the world of services, we can buy a multi-years' worth of, you know, MRAPs every year. We can buy DDGs [naval vessel] every year at no cost to the taxpayers.

So the mandate that you've pressed upon us in terms of becoming more efficient and effective is absolutely taken with the utmost seriously. I can assure you that I look forward to reporting back to this commission on the progress that we're making.

THIBAUT:

Thank you, Mr. Assad.

General Phillips?

PHILLIPS:

Sir, thank you. And thanks to the distinguished members of the panel.

Just a couple of comments: I would like to go on record that Lieutenant Colonel and Colonel Bill Phillips worked for Colonel and Brigadier General Ed Harrington many years ago, so we've been in this business together for many, many years. And he's been so eloquent, Ed has, in answering the questions, but I am now his boss, and I am responsible for those actions associated with getting him more resources so that he can execute the mission that we have described here so eloquently over the last couple of hours.

So I can promise you that we will work hard on that. And we haven't pushed back on any of the concept plans that Mr. Harrington has pulled forward. As a matter of fact, we will push them forward.

And if it changes the 1,885 that I mentioned in my opening statement to over 2,000, then we'll push that over 2,000 and ask for Army and OSD and congressional support in doing so. You have my promise on that.

Sir, I'd just echo what Mr. Assad just said. There is a sense of urgency. And I would also argue that we are in integrating contracting inside in our warfighting units, and I hear division commanders talking about contracting in a way that they never have before, and all that's positive.

But, sir, you're right. If we don't get that inside our rules, our regs, and institutionalize it, and get it inculcated inside our thought processes and in QDR and other documents, then we will have missed an opportunity. So, sir, your point is well taken for that piece.

We are getting, sir—back to your comment, Dr. Zakheim—we are getting tremendous support from Army leadership on our funding. As much as we might have had that dialogue here, General Casey, Secretary McHugh, and the entire Army leadership has supported us to include—I can't go into detail—the POM [Program Objective Memorandum] process that we have now through 2017. Contracting acquisition workforce is a key discussion topic, and I expect it to be fully funded with our Army. So there's some good news there, as well.

I have seen many of you in Iraq come and visit us, so I want to thank you for what you have done to help our contracting mission and to also support our contracting warriors. It has been an honor for me to be here with Mr. Assad, Brigadier General, retired, Harrington, and to see all of you not in Iraq, but here in Washington, D.C.

Thank you for your service to our contracting warfighters.

THIBAULT:

Thank you, General.

General Harrington?

HARRINGTON:

Sir, thank you. And there's not much more I can add to what General Phillips and Mr. Assad said other than that the peer review OSD performs is in my view a model of where we need to go in the future.

To the institutionalization of this is a very valid point, but if you take a look at what we've done so far, we have Army organizations that are called Tables of Organizations and Equipment, that is the operational force of the Army in terms of how it structures itself.

We have contracting units that are TO&E units now embedded with our war fighting capabilities. We have a joint pub 4-10 that lays out the doctrine for this operational contracting function we perform. We have challenges of getting regulations, but those regulations are going to be in place, and they're going to govern us.

And with the resource support we get, and I enjoy a very good support for the resources, we're only going to continue to improve our ability to oversee what our contracting function does and then to ensure that the broader spectrum of requirements generators becomes more and more.

When you say the Army field commanders out there have reduced the COR transition time from two days to two hours, excuse me, that's a tremendous emphasis on the Army—by the Army chain of command. General Casey spoke at our Contracting Stand-Down Day. General Chiarelli has been briefed on our contract closeout. He's signed memos out.

I think it's indicative of the secretary and the under secretary's and the chief's commitment that they actually sit down and say, "We want to address the analysis of alternatives in this business case that represents do we compete or do we not and just exactly why do we do either function."

So those types of functions exactly: that senior leadership oversight—that senior leadership spotlight on this—it's just absolutely essential. We've got that effort started. The momentum has begun. And now, our obligation—my obligation and my boss General Phillips is to continue to do my role with our contracting work force. So sir, thank you very much.

I personally very much appreciate your involvement in this. I have spent time with you in Afghanistan. I think what you're doing is extremely constructive and very helpful to us. So we look forward to it. Hard questions or no, that's what we're here for. Thank you.

THIBAULT:

Thank you, gentlemen, much appreciate it.

We'll move on now to our second panel at about—it's 25 to 1:00—in terms of time, about 1 o'clock.

Thank you, gentlemen.

(RECESS)

THIBAULT:

Hey, we want to go ahead and get started on time. We really do appreciate the two of you. We're a little bit over, but I think this panel will take a little less time. What we're going to do on this panel is try to do one round, and then if folks have, if any of the commissioners have a question, we'll go ahead and do it, and that will facilitate our schedule, and, gentlemen, maybe yours also.

I would first like you to stand up, if you both might, Mr. Ward and Dr. Raney. Put your right hand up, please. Do you swear to the truth, the whole truth and nothing but the truth, so help you God?

All right. Please be seated.

Let the record show that both of them answered in the affirmative.

And I guess the order in which we're going to do this, we have Mr. Terry Raney and Mr. Jay Ward, the chief operating officer for—and you're going to tell me in a second whether you prefer AECOM or ACOM Government Services.

And Dr. Terry Raney, who is the—now I'm smiling again, because I know the answer. If you ask C-A-C-I whether it's C-A-C-I or CACI, they say you can call us either one. So we've been calling you both.

But welcome to both of you for the contractor representation portion of this.

And if we might go in order, Mr. Ward, please?

WARD:

Chairman Thibault, Chairman Shays and distinguished members of the commission, thank you for the opportunity to appear before you today.

My name is Jay Ward, and I am chief operating officer of AECOM Government Services. I have been involved with government contracting for nearly 40 years, beginning as an Air Force contracting officer in 1970. I'd like to present AECOM's view of the use of service contracts to support wartime contingencies.

AECOM has a long history of over 60 years providing service to our government through Premier projects and services. AECOM is a publicly traded Fortune 500 company with revenue in excess of \$6 billion, with approximately 25 percent of that coming from federal contracts.

AECOM's primary business is professional technical management support in key end markets, including facilities, transportation, environmental, energy and power. The company is aligned into three operating units, and the government's segment serves both the United States government and non-U.S. government clients.

The business unit that performs the service contracts under review by the commission is AECOM Government Services, AGS, which is headquartered in Fort Worth, Texas. AGS has annual revenue of approximately \$1 billion from all of its diverse operations and has performed contracts in Iraq and Afghanistan since 2005. Revenue from Iraq and Afghanistan in 2009 was approximately 30 percent of our company's revenue.

We currently manage approximately 27 people in the two AORs. Our business footprint in Iraq is markedly different than any of our competitors. Virtually all of our work has been awarded competitively. Like our competition, we have operated in Iraq on U.S. government

contracts, but the majority of our work has been primarily in support of the Iraqi people, resulting in capacity building on either Iraqi or civil facilities rather than on U.S. government installations. Or as they say, we operate outside the wire.

We consider much of our work as socioeconomic for the Iraqi people in that we predominantly utilized Iraqi citizens to perform traditional the logistics operations and maintenance, as well as institutional strengthening programs benefiting peacekeeping and quality of life within Iraq.

At our peak we managed over 2,000 people in Iraq. We are working our way out of a job and manage around 200 or 350 today. On our programs we have Shia, Sunni, and Kurds working peacefully together, because we give them economic opportunity in a safe working and living environment.

In Afghanistan, under competitively awarded contracts, we have provided fundamental logistics, maintenance, supply support capability to the Army's Sustainment Command since 2005, and currently support President Obama's surge as our footprint expands. We operate from main bases at Bagram airfield and hotspot of Kandahar in addition to being deployed at 27 forward operating bases.

On the humanitarian side at our projects, we have company volunteers teaching English as a second language to our TCN [third-country national] staff to help them build their verbal skills.

We acknowledge the commission's publicly released findings that contracting oversight has indeed been inadequate in the past. We believe that independent review of contractor operations is essential and is good in the long run for responsible service contractors.

While improvements are evident, there continues to be an issue that I speak with turning over of oversight personnel and the lack of continuity due to their frequent rotations, regardless of which agency they represent.

The reach-back division at the Rock Island Contracting Center is a noteworthy initiative to me, and it offers great potential as they become fully staffed and as that organization matures. The reach-back team has the promise of providing improved continuity for contract-administration award and management that simply cannot be achieved by deployed forces supporting contingency ops.

Inherently government operations, the other topic for today, are not a major issue to AECOM. The nature of our business demands that we avoid any conflict of interest or any contract requirements that could place us in a conflict of interest.

We reviewed these possibilities in our business processes to ensure that we are not conflicted out of future requirements or worse, new requirements that could place us in a conflict of interest on an existing contract.

In conclusion, AECOM takes great pride in its support for critical missions in contingency operations. Our operational and management philosophy is to learn from our mistakes. We hold ourselves accountable. We continuously improve our processes, and we strive for excellent support to the warfighter. Soldiers' lives are at stake because of what we do, and we take this responsibility quite seriously.

This concludes my oral statement and I look forward to the commission's questions. Thank you.

THIBAULT:

Thank you, Mr. Ward. And AECOM it is, sir.

Dr. Raney?

RANEY:

Thank you. Chairman Thibault, Chairman Shays and distinguished members of the committee.

SHAYS:

Adjust the mike. You need to point the mike down to you.

RANEY:

OK. Got it.

SHAYS:

Thank you, sir.

RANEY:

I need training.

Chairman Thibault, Chairman Shays and distinguished members of the Commission on Wartime Contracting, thank you for the opportunity to testify before the commission today.

My name is Terry Raney, and I'm a senior vice president at CACI International. I was the manager of the business group at CACI that provide acquisition support to be Joint Contracting Command Iraq Afghanistan, JCC-I/A.

This business group provides acquisition program management, scientific engineering and technical assistance, SETA, support to contracting, acquisition, and program offices in the Department of Defense and federal civilian agencies.

I'm a retired Air Force colonel and spent much of my 27-plus years in the contracting and acquisition workforce as a contracting officer and price analyst at their operational major systems-plant representative and secretariat levels. I was the Air Force policy member of the Defense Acquisition Regulations Council and also served as the acting associate deputy assistant secretary for contracting in the Air Force.

I was also department chair and course director of the advanced program management course at the Defense Acquisition University and was also the deputy department head of the Department of Economics at the Air Force Academy.

On behalf of CACI International, I look forward to answering your questions and assisting the commission in its important work, including identifying a few improvements to the contingency and expeditionary contracting and program management processes in a wartime environment.

CACI provides professional services and information technology solutions that our defense, intelligence, homeland security, and federal civilian government customers need. We're headquartered in Arlington, Virginia, with approximately 12,800 employees at 120 offices worldwide.

We support our customers through what we call our functional core competencies. These are concentrated areas of expertise and solutions, including command control and communications, computer surveillance, and reconnaissance service, information and knowledge management, integrated security and intelligence, and program management and SETA support.

CACI has a very small number of personnel providing support in Iraq and Afghanistan, less than two percent of our employee population.

Other than JCC-I/A contract for acquisition management services, which I will talk about later, CACI has approximately 185 employees providing various types of service to the Department of Defense in Iraq and Afghanistan, including technical support for reconnaissance-sensor and surveillance systems, operational support for improvised-explosive-devices targeting and defeat programs, and linguistics support for document exploitation.

None of the contracts this work is being performed under were solicited were awarded by the JCC-I/A. CACI has been supporting the JCC-I/A its predecessor organization since March 2004

with acquisition management support. We are currently on our third contract, having won a three in a full and open competition.

We have approximately 50 employees providing acquisition management support to JCC-I/A government contracting officers and managers. Our personnel provide advisory and assistance support, including helping conduct market research, assisting in the documentation of requirements in a format for solicitations so they are clear and understandable, documenting acquisition-strategy options, preparing solicitation documentation, and supporting contract administration and contract closeout.

We understand the need to ensure that our employees providing acquisition management support do not perform inherently governmental functions. Our employees supporting the JCC-I/A are trained that they must avoid even the appearance of being able to commit the government and that they have no authority to make requirements determination or obligate the government in any way and must also protect government and third-party proprietary and sensitive information at all times.

Our employees are directed to identify themselves and represent themselves as contractor employees at all times and in all communications, including e-mails and written correspondence. CACI personnel do not make contracting decisions and do not operate as pseudo-contracting officers or as contracting officer representatives.

We fully understand the importance of avoiding and preventing actual and potential conflicts of interest in the performance of acquisition management support. And in our contract supporting the JCC-I/A, we have committed to not bid on any solicitations issued by the JCC-I/A. In addition, the CACI business group supporting JCC-I/A is firewalled from other CACI operating groups.

The commission has specifically asked for our thoughts and observations on how the government can improve its management of contractors in support roles.

CACI provides advisory and assistance services and SETA-type support to many different government agencies. There are two key factors, keys to ensuring that contractor employees do not cross the line during performance into inherently governmental roles.

First, the contractor must have clear internal policies, frequent communications with its employees, concise recurring training for employees, constant management attention, and open communication with the government customer, including the contracting officer.

Second, we also believe that it is incumbent upon the government to have clear policies, processes, and understanding and training for government personnel in this area and to clearly communicate those requirements to the contractor.

CACI is very proud of the work we do supporting the troops in Iraq and Afghanistan and our warfighters. Our employees perform their responsibilities in dangerous and uncertain environment, and they are often at risk. We strive at CACI to provide them the best possible support to assist them in their support of their customer's mission.

Thank you again for this opportunity to provide and discuss with the commission our thoughts and observations on how contingency and expeditionary contracting systems and processes may be improved so that we can all better serve our nation's men and women in uniform. I look forward to answering your questions.

THIBAULT:

Thank you, Dr. Raney and Mr. Ward.

I'm going to start this process off.

Mr. Ward, on your largest contracts, you had mentioned that they were competitive. Is that correct—competitive awards? All of your significant awards are competitive awards?

WARD:

Yes, sir, that's true.

THIBAULT:

And can the type of contracts that the largest contracts are—what type of contract?

WARD:

Our contracts have been primarily cost-plus fixed-fee contracts.

THIBAULT:

OK. Cost-plus fixed-fee contracts competitively awarded. You say that you have about 2,300 Afghanistan employees.

WARD:

Yes, sir.

THIBAULT:

And out of that, about how many are subcontractors that are part of those contracts?

WARD:

It's a very, very small percentage. We're just starting a new contract that was subject to re-compete, and there's only 20 people of about the 2,300 authorized that are subcontracts.

THIBAULT:

OK. And the security that you have in place, you mentioned in there somewhere that you have 27 forward operating-base locations for the employees in Afghanistan. Who arranges the security?

WARD:

Sir, we work at the forward operating bases and the service and security is provided by the Army.

THIBAULT:

Completely reliant on the Army for both life-support and security?

WARD:

Yes, sir, in all cases.

THIBAULT:

Does the company in any case have to, for other purposes or other contracts, employ your own security?

WARD:

Yes, in Iraq we've had security subcontractors provide transportation primarily from, you know, Bagram or the Green Zone out to the different locations. And because we work on Iraqi

military installations as opposed to inside the wire at Taji, we'll have a security service provide perimeter security at the gate into our living compounds.

THIBAULT:

And that is, those are contractors that are awarded by those site security, are those JCC-I/A contracts or are they your own?

WARD:

They're subcontracts to us.

THIBAULT:

That are your own.

WARD:

Yes, sir.

THIBAULT:

OK. Now, you say you had 2,300 employees. About how many are what I say foreign nationals, non ex-pats, that are either local or don't speak English as a first language?

WARD:

In Afghanistan, I don't believe I've got all of the exact numbers to split out, but it's probably because of the nature of Afghanistan and how we're deployed that it's probably 60 percent expat and the remainder is 40 percent TCNs. Probably from India is our biggest population base.

THIBAULT:

OK. And then do you have an English-speaking requirement for those from India?

WARD:

Yes. Yes, sir.

THIBAUT:

So you don't have a situation where substantial numbers of linguists are required?

WARD:

No, sir. We don't have any interpreters at all on our contracts. There is a basic-English requirement in order to qualify for employment with us. And I think I mentioned in my opening statement that we have a volunteer group that teaches English as a second language to help them improve their verbal skills.

THIBAUT:

OK. And you said the types of your contracts are principally cost-type? How long have you been a contractor in Iraq and Afghanistan?

WARD:

Since 2005.

THIBAUT:

In Iraq? And . . .

WARD:

In . . .

THIBAUT:

. . . also in Afghanistan?

WARD:

. . . in Afghanistan as well. We started both contracts at nearly the same time.

THIBAULT:

Was this the concept of having business systems that would meet the requirements for things like incurred-cost submissions and billing systems and, you know, the like—accounting systems that meet the criteria for reimbursable cost type contracts? Was this a new experience for AECOM when you moved into that work?

WARD:

No, sir. We had systems that were adequate and compliant with the contracting requirements. It might spell out a little bit of further detail about the contracts that we have. They were awarded as part of a competitively awarded IDIQ . . .

THIBAULT:

Right.

WARD:

. . . and there were three contract holders for the IDIQ. And then each task order that was awarded under the contract certainly for our Afghanistan and our Iraq work, those were competed then between the three of us, much like LOGCAP IV is working now where you have to compete for the work. We happened to win Afghanistan, and we won some task orders in Iraq.

THIBAULT:

So without trying to get too arcane, I interpret all that to mean because of the competition that drives through most of your work, is it a case where you don't have cost-accounting standards coverage, but you do have everything else that goes with reimbursable-type contracts? Is that . . .

WARD:

We're quickly getting out of my . . .

THIBAULT:

Out of your own . . .

WARD:

. . . lane of accounting. I make it a policy to not do math or accounting in public. But in this case, I believe all of our contracts are subject to CAS [Cost Accounting Standards] . . .

THIBAUT:

OK.

WARD:

. . . and all those requirements. We do have one fixed price in our [inaudible] contracts.

THIBAUT:

All right. And so my question would be, asked in the simplest way, how do you get along with your local friendly Defense Contract Management Agency and Defense Contract Audit Agency? And when I say, "Get along," I mean do you have any outstanding issues that they believe are significant that they're continuing a dialogue with you on?

WARD:

We're in the process. We're not declared—I know you'll understand this terminology much better than myself even—we're not declared as a major in DCAA's terminology. And so we are asking and trying to position ourselves to get the kind of compliance reviews and the audits that are necessary to have all the systems deemed approved.

THIBAUT:

So you're trying to take a proactive approach so that . . .

WARD:

Oh, absolutely.

THIBAUT:

. . . you can go to customers and say, "We've got it together?"

WARD:

Absolutely.

THIBAULT:

OK. This is really for both of you. I guess I feel Terry—or Dr. Raney—they'll ask a lot of questions, others that I might like to ask. So I'm trying to spend time trying to understand the contracting environment.

But I have a question for both of you. Both of you talk about, and you just did, Mr. Ward, the importance of internal controls and business systems and demonstrating to the government that you know, that they could place reliance on both your aggressive action and oversight and the like.

And I'll start with you, Mr. Ward, as the chief operating officer, are you exposed to internal reviews, not the government's reviews, such as internal audits or other compliance audits that you use to specifically give you insight to and visibility on whether your systems are operating as intended? In other words, not just relying on the government's oversight: for example, your internal audit program, is it focused on government systems at AECOM?

WARD:

Yes, sir, AECOM has a very proactive approach. We have an outside independent audit agency as well as internal audit, and aggressive compliance programs that ensure that as a major government contractor, regardless of the DCAA standing, that we have complete compliance.

THIBAULT:

Well, yes, to pin you down since you are the chief operating officer you're certainly a key player. Are you willing, for example, commission staff, would you be willing to brief, demonstrate, share to the extent that we could get a real good understanding of what that internal control, internal and internal audit function is? Is that something you would entertain?

WARD:

Yes, sir.

THIBAULT:

OK. For example, just to be up front with this commission, we're working with a company where we went through the list of internal audits and downsized it to three very significant internal audits and put a request in. And after some back-and-forth, they said they'd provide it, but we're still going through some back-and-forth because there's a sensitivity in the like.

But this commission, you know, you pay a substantial amount of money for those kinds of controls, and we the government are interested in you having that.

Therefore, we pay, reimburse per the regulation for that. So I think us understanding that, not only goes to a customer's ability to place confidence in you, but also to demonstrating the use of those funds that are built on contracts or some kind of indirect cost.

WARD:

Yes, sir, that is not a problem.

THIBAULT:

Mr. Raney, you want to tee that one up as best you can recall all the words I put out there?

RANEY:

The answer is yes, sir.

THIBAULT:

OK.

So if we were to send staff out and say, "Explain that structure—what you do externally, internally, how you go about it," that's something that you stand ready to demonstrate to commission staff?

RANEY:

We're sharing work with our internal audit departments and meet with you all and explain exactly what we do, what they do with each of our programs.

THIBAULT:

How they plan? Where . . .

RANEY:

Everything.

THIBAULT:

. . . they put their emphasis that we auditors might call, which neither of you are, but you all understand risk, a risk assessment? OK. Great. Thank you, both of you.

Dr. Raney?

RANEY:

Terry, please. OK.

Our contract supporting JCC-I/A is a fixed-price contract. So you don't have the controls of the kinds of questions that would come around a cost-type contract—just make that one point. But—as far as meeting with our internal auditing and going into how we do timecard audits and compliance audits and training audits—absolutely. No problem.

THIBAULT:

All right. Thank you. That's an important clarification.

Commissioner Schinasi?

SCHINASI:

Thank you. Good afternoon.

I have a question for each of you about policy, a proposed policy letter that was issued by the Office of Management and Budget, OSPP [Office of Strategic Planning and Policy] office, and it deals with three parts of the government business relationship. One has to do with inherently governmental functions, but two, I think even more importantly, are those functions closely associated with inherently governmental and critical functions.

This is a policy letter for the government, but I just wanted to ask you, Mr. Ward, are you familiar with the proposed policy letter?

WARD:

Yes, in a broad sense. I don't study it intensely because of the nature of our business. It just doesn't put us in that position. It's more of a defensive posture for us.

SCHINASI:

So my question to you then, I can assume the answer, but it would be do you find that this might change the way you do business with the government in any way at either how you market your services or your operations?

WARD:

The change has been already partially effected. We put out a policy from the Federal Services Group last week or the week before to raise awareness internally to the company to people that do federal contracting about the new policy, that it's a proposed rules and things that are happening to make our company people aware of this so that, you know, as we evaluate new opportunities in our internal relationships with the government and operating that we don't cross the line. We understand where the line may be drawn in the future.

SCHINASI:

OK. Dr. Raney, the same question to you. Are you aware of the proposed policy letter?

RANEY:

Yes, ma'am, I'm quite aware of the policy and have reviewed it. As you know, we're a member company of the Professional Services Counsel and there will be a role there to be played in terms of the public input on it and the answer to, you know, the many questions they've asked in the proposed rule and, you know, we'll certainly play a role in that.

Having said that, you know, clearly what we do for the JCC-I/A falls in the category of the closely associated with inherently governmental functions. Without having to have you all ask me that question that accounts for a lot of the business that we do and the SETA support area, program-management support, other things. So we're closely looking at that.

I actually think the policy letter is a really—I really like the way you start it off by recognizing the fundamental issue and much of what you all talked about this morning and this is a resource issue. This is about capital planning. This is having the right people and the right place to do the work that needs to be done.

And I recognize that there are inherently governmental functions, but it's based on the FAIR, the Federal Inventory Act, Commercial Inventory Activities definition which is a relatively narrow one recognizing that there are certainly plenty of things that just need to be done by government personnel. But there are plenty of reasons to use contractors as well, and that's in the area of closely associated with inherently governmental functions.

And, of course, there's another proposal out there on our personal conflicts of interest that's associated with that whole area. So, you know, very aware of that. I think the critical thing is this rule gets off by saying this is a resource issue and it's the capital planning, human capital planning issue, and I think that is absolutely true.

The second part of it is the critical functions. The critical functions to some degree were kicked around for the last year or so by a lot of different organizations, industry associations making input, recognizing the fact that the real issue here is not using contractors, but it's having government personnel in the position and in a place and with the understanding to manage those organizations and that really is the key there.

And so I think the policy letter takes a great step towards that. This is far from done, I think as we all know, because the public process is going to go on. But in terms of how we perhaps deal with our—the organizations that we deal with in providing this—as in my statement, I said, "We go out of our way to make sure our people do not cross that line."

And that's not just for the JCC-I/A. That's with any of our customers because we know the business we're in. Many of us are retired from the government and have been in that business and you have to be very careful.

But there is a way to do it, there is a way to manage, and it requires both the government and the industry to be prepared to do that, to take the measures that are necessary in terms of training, commitment, et cetera. So . . .

SCHINASI:

OK. Dr. Raney, thank you.

I think some of my colleagues will probably follow up on this, but in terms of whether you see this as changing the way you operate, a yes or no answer for now would be much appreciated.

RANEY:

It will change the way we operate perhaps with some of our customers with some, maybe some more, clear training and things that we'll provide, but not a fundamental change. No.

SCHINASI:

OK. I want to switch topics a minute to ask, Mr. Ward, you indicated that you have both commercial customers and government customers?

WARD:

Yes, ma'am.

SCHINASI:

Can I ask you to talk a little bit about, characterize how you see those customers, and I don't want you to talk about how the weaknesses necessarily, but, for example, what kind of contract type do you use with your commercial customers?

WARD:

I should clarify that the business unit that I'm in and most familiar with is AECOM Government Services. So virtually 99.9 percent, I think—I can't even think of a commercial contract that we have in my business unit. So all of our work is with the government.

And whether it's the State Department, obviously very Army-oriented, we've got contracts with the Department of Energy as well. So I focus primarily on U.S. government contracts. So I don't have a big commercial client base at all.

SCHINASI:

Like what does your customer do that gives you problems or conversely that makes your job easier?

WARD:

I think that I'll focus on the easy part. It's highly regulated. We understand the rules of engagement, and there's—like the FAR [Federal Acquisition Regulation] or not, it lays out everybody's roles and responsibilities, CAS standards. When it comes to payment, you know, the government, sometimes we have slow payment issues perhaps, but the government's good for it, and that's a big contrast to the commercial business.

SCHINASI:

Dr. Raney, I'll ask you, I assume that your customers are all government customers?

RANEY:

All our customers are government.

SCHINASI:

So the difference between those customers, what is it that . . .

RANEY:

Our customers are, at least in the business group that I manage, are all relatively similar. They're contracting or program-management organizations that are relying upon contractor support to do certain things. They don't have the staff, the capability, or whatever, for now.

So in many ways, their problems and their issues are pretty much the same. And so really when you say, "What's the difference," you'd almost be asking me, is there a difference between, say, for example, different agencies, or things like that. And there really isn't a whole lot of difference. I mean, they really all need about the same thing.

They have a mission to perform. They have issues around that in terms of doing that mission. And it's our job to assist them in doing that within the rules and regulations. So, not really that much of a difference.

SCHINASI:

OK. Thank you.

THIBAUT:

Thank you, Commissioner.

Commissioner Zakheim, please?

ZAKHEIM:

Yes, thank you. Well, first of all, I want to thank both of you for coming. And I want to re-emphasize what Co-Chairman Shays said at the very beginning of this hearing. There's an empty chair here. And I am very, very unhappy about it.

I could certainly understand if any individual could not fill the chair. But for an entire company not to fill the chair, we have taken notice, and we are not happy.

Having said that, Dr. Raney, what's the average tenure of CACI employees in theater?

RANEY:

By average tenure, you mean . . .

ZAKHEIM:

You know, how long are they out there—a given individual on average?

RANEY:

On average, it probably runs something like, maybe a year to a year and four or five months. We encourage them and incentivize them to stay for at least a year, because our customer doesn't need that turnover or that churn.

ZAKHEIM:

Right.

RANEY:

We have some, several, actually, who have worked for a year, a year-and-a-half, come back and gone fishing, whatever, done other jobs, put on other projects that we have, and then go back or so. And we've been there since 2004.

ZAKHEIM:

Right.

RANEY:

So, normally, it turns over about a year or so, and then they go do something else and kind of decompress. But that's about right, about a year and three or four months.

ZAKHEIM:

So, but is it safe to say that, by and large, your folks who are supporting the contract—the program management or contract management offices, the CORs, in effect—probably have more experience than the government folks they're working with?

RANEY:

They certainly have. Our contract requirement requires us to provide people with extensive experience.

ZAKHEIM:

Right.

RANEY:

They all have to be level two or three, with a minimum of five years' experience. That's in our performance work statement. We have a lot of retired military and civilians that have done that. Many have been deployed before.

So, as a general rule, they're a very experienced workforce, and we take pride in that.

ZAKHEIM:

OK. So, it would be natural, I guess, for some relatively fresh-faced COR to come in and turn to your people, and could, on occasion, perhaps, create a dilemma for your folks. Now, I see that you, you know, CACI was third in the ethics survey, so you kind of are up there in terms of ethics.

Have you had situations where your employees called back to headquarters and said, the client's asking me to do things I really shouldn't be doing?

RANEY:

I'm not aware of any situation that they've called back and asked either myself or our program manager here.

Certainly, the question you pose is a challenge in our environment. OK?

I will answer you in two ways. The first is we do have training. We reinforce that, and we try very hard to make sure that our people are aware of that. Many of our people are retired military or civilians who have been contracting officers. And they recognize that line, and they know where it is and not to blur it.

I would say there's one more aspect to this. And many of us that are retired or were contracting officers once, we take very seriously being a contracting officer and that contracting officer warrant. And I think that's true of the government people that are in theater today, whether they're military or civilian.

You don't get a contracting officer's warrant by just showing up. That's something that comes with experience and study and hard work. And I don't think they want to advocate that either.

So, they may come to recognize that some of our folks have some very good advice to give. But I don't think in any way that means that they just turn things over to them, if that's what you mean.

ZAKHEIM:

Thank you.

RANEY:

Thank you.

ZAKHEIM:

Mr. Ward, for AECOM, have you ever walked away from a bid because you perceived there was some kind of organizational conflict of interest? Have you ever had that situation at all?

WARD:

Yes, sir.

ZAKHEIM:

OK. Good. How often?

WARD:

Well, if you were to ask me which bid, I couldn't tell you. But . . .

ZAKHEIM:

I'm not asking which bid.

WARD:

But I can . . .

ZAKHEIM:

Just give me a sense.

WARD:

I can recall two that we said this could set us up for a conflict of interest.

ZAKHEIM:

OK.

Actually, both of you—what is your sense of the expertise of the CORs that your people have to deal with? I mean, do you feel that they need more training and more oversight from them? Do you feel generally that you're kind of left out there in the cold, and then something's going wrong, and you'll get dumped on?

I'd like to hear both of you on that.

WARD:

Since my mike's on, I guess I'll go first.

It's kind of an involved story, sir.

ZAKHEIM:

I expect that it would be.

WARD:

In 2005, when we started up both in Iraq and Afghanistan, CORs—you know, there wasn't a formal process to even appoint them. I mean, some people just kind of evolved into that.

It was a learning experience for me this morning to hear the Army tell about the initiatives that they've had since 2005, or before that, to . . .

ZAKHEIM:

Excuse me. What do you mean by learning experience? You mean you weren't aware?

WARD:

No, I was able to pick out, as they said, in 2007 they started doing this training. And I've been able to—anecdotally, perhaps—but I've been able to see the results of what the Army's done in the field to improve the level of CORs, not only the training of the CORs, but the sheer numbers of CORs.

ZAKHEIM:

Are you satisfied that you have, I mean, in a sense, having good government oversight protects you.

WARD:

Yes, absolutely.

ZAKHEIM:

I think anybody who's in the business knows that.

Do you feel you're sufficiently well protected right now?

WARD:

Yes, sir. I am, because of two things: one, what the Army's done, and then what we've done as a company.

ZAKHEIM:

OK.

Dr. Raney?

RANEY:

Well, we don't have a problem with our COR, because it's the deputy PARC at the JCC-I/A. So, we've had a very good contracting officer representative. And that's generally been the case that we've gone through. So, they understand what they're doing, and we have a great—yes, we feel protected from that standpoint and understand on a day-to-day basis how we're doing, which is the key thing there.

The challenge of contracting officer representatives, and the training of them, and avoiding too much of the churn that happens with the operational units, is a huge challenge overseas. And you hear that this morning in terms of all the folks here, as to how that, what that has to . . .

ZAKHEIM:

Well, I really wanted to get your sense, because you're on the receiving end.

RANEY:

Yes. Well, certainly in our case, we feel certainly protected. But I've not been aware of any situation where other CACI folks have had an issue there.

I think there's been a real emphasis on the area. And yes, I think we're fine.

ZAKHEIM:

OK. I just got a note, and I'll thank the staff for that, here I'm quoting. In the AOR, all contracting personnel get warrants. They're E4s [specialists] and up, and they get a warrant for showing up. No testing, et cetera.

So, maybe you've just been lucky with the CORs that you had.

(LAUGHTER)

Last point and this is for Mr. Ward. Your guys are brave. They're outside the wire. And you have some subcontractors.

One of the issues we have looked at over the past year-and-a-half or so is, how do we get accountability and control over subs? Tell us how you do it.

WARD:

Well, we deal with subcontractors that we know. We vet those subcontractors. Because our contracts are awarded on a competitive basis, we have to be competitive with our subcontractors, especially the larger the content of a subcontractor is. If they're not competitive, that just makes us less competitive, so we're very cognizant of that and work that.

Then, when we subcontract a large portion of our work, we look for the value added where we are, the prime contractor. When we take a—you know, where our systems come into effect, our management philosophy, our relationships with our contracting agencies, the kind of quality assurance that we provide to that subcontractor effort to make sure that it doesn't matter whether it's a subcontractor or an AECOM person doing that job, we're responsible as the prime contractor for execution in accordance with all the terms and conditions, all the regulations, FAR, CAS—you name it.

So, that's the control that we put into it from subcontract administration. It starts at the source-selection process all the way through execution and close-out.

ZAKHEIM:

Thank you very much.

THIBAUT:

Thank you, Commissioner.

Commissioner Ervin, please?

ERVIN:

Thank you, Mr. Chairman. I want, like my colleagues, I want to thank both of you for being here today. I applaud you for being here, and I applaud your companies for sending you here.

I also want to stress that I have heard it said by some that the commission is biased against contractors. That's not the case. And certainly, I'm not biased against contractors. And I am only too happy to give kudos to companies that I think have done exemplary work and that have gone to extraordinary lengths to make sure that you don't afoul of the various applicable laws and regulations. And so, I want to preface my questions with that statement.

That said, I want to delve, needless to say, into some details. And most of my questions are for you, Mr. Ward.

With regard to AECOM, one of the things that you talk about in the written statement that you submitted for the record on page 51 is the instance where there were over-billings on AECOM's part, and you quite rightly and appropriately and commendably brought those overbillings to the government's attention. You did line-by-line, as I understand it, audits. When SIGIR looked at it subsequently, they didn't find any more overbillings than you initially, proactively brought to the government's attention.

Could you—that's all commendable as I say—could you give us a sense of what the magnitude of these overbillings were, point one? And two, how these overbillings occurred in the first place? And then, three, whatever has been done, if anything, to ensure that such overbillings don't happen again with regard to AECOM contracts?

WARD:

OK. As traumatic an experience as the SIGIR was, it was a great success story as far as I'm concerned. And there are some lessons learned that came out of that.

I would, you know, first, I think SIGIR documented the \$4 million we as a company had identified the overbillings approximately two years before the SIGIR report. As you pointed out, and I appreciate it, we self-discovered those and self-reported those. Our customer in this case was the Rock Island Contracting Center in Rock Island.

It was a gruesome, detail-by-detail review. We provided to SIGIR almost 400,000 pages of documentation, 30 gigabytes. We rented storage space for all this stuff.

ERVIN:

But just in the interest of time, since we have limited time, how much money are we talking about?

WARD:

We credited back to the government in excess of \$2 million. And since that time, after SIGIR was settled down, we took the case, if you will, to the Army's procurement fraud group, to make sure that they were aware we had nothing to hide, and that if they wanted to come and follow up, you know, if they wanted to do it prior to the contract close-out—the contract hasn't been even closed out yet—that we would welcome that type of oversight, as well.

ERVIN:

Great. Thank you.

A couple of other questions.

Sorry.

Also on page 51, you say that you've developed proactively management performance metrics, such as production, health and safety, other management indicators.

Has DoD bought into those metrics? I'm sure you've shared them with DoD. And is DoD pleased with those metrics?

WARD:

I believe they are. Each one is developed specifically for the scope of work. We obviously have a different set of metrics that we track and monitor in Afghanistan than what we do in Iraq.

For Afghanistan, it's about first-time pass rates, production controls. There are a whole series of metrics that are driven out of Army regulations that relate to supply performance and things like that. We share those with the Army. And we continually develop those.

It's good for us. As the COO [chief operating officer] of our business, I felt very uncomfortable when we first started working on these contracts. I'd call our project manager and say, how are we doing, and he'd say "great." I needed to know how. I needed some metrics that could measure that.

And so, that was really one of the first initiatives that brought us into management by metrics, if you will. And the Army helped us develop those.

They were meaningful to the battalion or the brigade commander. We didn't want to have a bunch of metrics that were important to Jay Ward if they weren't important to the commander.

ERVIN:

Precisely.

And then, one final question for you, and then I'll get to you, Dr. Raney.

You say also that AECOM employees have to assist others in making sure that they don't violate the code, and they have to report any instances of violations.

How many reports have there been over the course of your time in Iraq and Afghanistan, just, you know, ballpark? And what action is taken on them, if there have been any such reports?

WARD:

We have a very open and robust hotline. It's monitored by an outside, independent agency—complete anonymity as to who's calling in, you know, if the caller wants that.

ERVIN:

But how many reports, approximately? I mean, are we talking a handful? Are we talking about 100?

WARD:

Since inception, between Iraq and Afghanistan, I'd have to guess 20 to 30. And they vary. Not from necessarily contract performance, but a supervisor's bad behavior, or another employee's bad behavior, or things that—occasionally we get a hotline about good events.

ERVIN:

All right.

Now, I want to move to a brief discussion of the inherently governmental issue that we've talked about before and were closely associated with. And I want to—my couple-of-questions are mostly for you, Dr. Raney. But let me start with you, Mr. Ward, because you said that you were only generally familiar with it. And Dr. Raney seems a bit more specifically familiar with it.

Let me just pick out two or three examples and you can tell me whether you think they're characterized presently in these guidelines as inherently governmental or closely associated. One is services that involve or relate to the evaluation of another contractor's performance.

Would you just guess that that is characterized as inherently governmental or closely associated?

WARD:

I'd break that down into two steps, the data collection and developing metrics and reports. I don't see that as inherently government. I would say that any action on that, feedback with a contractor about their performance, I would call that inherently government.

ERVIN:

And assistance in the development of statements of work?

WARD:

Again, not our line of business, but I don't see an inherently government function of drafting performance, work statements that are the result of—you know, I don't how that process even works, but some interviews and developing requirements and helping to qualify those. The drafting of the statement of work would not be inherently government, determining the government's requirements.

ERVIN:

And then, finally, evaluation of contract proposals?

WARD:

That's a little bit tougher for me to say yes or no. I think that is something that's better reserved for the government.

ERVIN:

OK.

So, Dr. Raney, to close this with you, one of the questions that this policy document that OMB has put out poses, as you know, is whether closely associated and inherently governmental ought to be conflated and there should be one standard, whether there's a practical difference between the two, more often than not.

What's your judgment about that? These are all listed presently, the ones I just mentioned, and there are others that make the point, it seems to me, as closely associated. I have great difficulty, particularly with regard to the last one, as you do, Mr. Ward, often in distinguishing between the two.

RANEY:

I think there can be a clear difference between the two that in many cases, if the government had the personnel, the capability—say, for example, evaluating proposals—all right. Many organizations depend upon evaluators in the technical areas, because that's where they can get the expertise, OK? And they provide the technical evaluation. And those are what's often used by many program officers, things like that.

As long as there are the controls around the conflict of interest, both personal and organizational conflicts of interest, protection of information, et cetera, I think that can still be maintained just as a separate capability. And I don't have a problem with it, obviously, because we do it.

And I think we do it and do it well. And for those places that we support, I'm not aware of any case where there's been a protest or anything that's ever been associated with the work where we've done that, because we have those controls in place, but you have to be willing to put those in place as a company.

ERVIN:

Thank you very much.

ZAKHEIM:

Can I ask a quick question, Mr. Chairman?

Dr. Raney, has there ever been a protest that involved your support of a contracting-office decision?

RANEY:

Of our support?

ZAKHEIM:

Well, you were just talking about that particular instance where, you know, where it's the technical review of the technical proposal. And you said there's never been a case.

RANEY:

In our . . .

ZAKHEIM:

Right, has there ever been a case in which you were involved in supporting, you know, proposal decisions, the decisions that were protested that you were involved in?

RANEY:

We have support organizations that have had protests of awards they've made . . .

ZAKHEIM:

Right.

RANEY:

. . . people have provided contract administration...

ZAKHEIM:

But your activity never came up in those protests?

RANEY:

No, sir.

ZAKHEIM:

OK, thank you.

THIBAUT:

All right. Thank you, Commissioner.

Commissioner Green, please?

GREEN:

Thank you.

Dr. Raney . . .

RANEY:

Can I clarify one point there?

GREEN:

Sure.

RANEY:

There was a protest one time when we bid on something and won, there was a protest of us winning, and the issue was whether we had a conflict of interest, where that mitigation plan was adequate.

And the government determined—the GAO did, that, in fact, the government adequately considered our mitigation plan, and the protest was denied. So I'd just want to make sure to clarify that.

GREEN:

OK.

Dr. Raney, let me follow up just very quickly on comments that Commissioner Zakheim had made or questions. Let me commend CACI, first of all, for what I think are some good plans, some good ethics, SOPs [Standard Operating Procedures], mitigation plans, internal audits, and so forth.

You have how many people, about 50 or so, providing support to JCC-I/A?

RANEY:

We have 40 in Iraq and 12 in Afghanistan.

GREEN:

And these people are providing acquisition-management services. They're providing program-management advice, acquisition advice to contracting officers and other managers, true?

RANEY:

Yes, sir.

GREEN:

You had mentioned in a response to Commissioner Zakheim's question, has anyone ever called and said, "I've got a problem. My boss is asking me something and it crosses the line"? And you said, no, they never had.

RANEY:

Not that I've received that call or I believe our . . .

GREEN:

I just find it hard to believe, human nature being what it is—and you acknowledge this initially—that your people are probably more experienced in the workings of JCC-I/A contracting than is the new civilian or military contracting officer walking in the door to a new assignment. It's just hard for me to believe since 2004 there has not been any discussion that crosses this line.

So I guess my question to you is what is your level of confidence in percentages that nothing like this has ever happened?

RANEY:

I'll come at your question from two ways. The first is, the requirement we have from the JCC-I/A from day one has been to bring very experienced people. That means people that are familiar with the acquisition processes and systems and recognize these things. And we talked about that before they go over, all right?

So I guess I would say that I'm sure, likely, that there have been conversations between some of our people that are very experienced with somebody that's not relative to, you know, this is the way that I see this, but it's your—you know, you're—I'm providing advice. That's what we were required to do. You have your responsibilities, as well, to do, and that's in awarding the contract, making those decisions.

So I suspect—and I would guess that we've some of more of our experienced people handle that on a person-to-person basis, and that's the way we would look to handle it, because that's what we expect of people with that kind of experience and expertise.

GREEN:

Well, the whole definition is so mushy anyway that—OK.

Dr. Raney, you mentioned that deputy PARC is your COR.

RANEY:

Yes, sir.

GREEN:

Mr. Ward, would you characterize the CORs that oversee your work—how many are assigned to your activities?

WARD:

We're a very blue-collar organization out in the field. We provide mechanics and supply guys, right?

So we have the same type of CORs, you know, PFC or a colonel or a lieutenant colonel or all-rank, depending on what it is. In Afghanistan, we have I think it's 35 CORs assigned to us on our contracts. They have day jobs, I'm sure. It is not just to watch us.

And that is an increase from prior years. As we've grown, so has the COR staff.

GREEN:

Are any of them contractor personnel?

WARD:

No.

GREEN:

Contracted?

WARD:

No, no. They're all either DACs (Department of Army civilians) or green suits.

GREEN:

How would you characterize their skill level to oversee whatever contracts they're overseeing?

WARD:

It's a bit of a mixed bag. Not every COR that is assigned is a superior Humvee mechanic or, as we've gone into, we're the largest repairer of MRAPs in theater in Afghanistan, so they're coming along. In the core functions, they have been trained in the inspection process. They also have a technical expertise that's required to allow them to do their job.

And so that you know, there's just a mixed story. By and large, as a COR, they also work for a branch or a supervisor that has that expertise or maturity in theater.

GREEN:

OK. There has been some initial concern expressed by DCAA that the internal-control activities related to your subcontractor billings were not adequate. It was further reported that AGSI was not able to manage the billing of its largest subcontractor, Anum [phonetic], and AGSI does not sufficiently review subcontractor billing records. Would you comment on those—albeit preliminary—observations?

WARD:

I believe you're referring to the SIGIR report. And I would say ground truth there. We took those lessons learned, and we have upped our game, in terms of monitoring subcontractor billings.

The way that—it's really important to understand how we got into the situation of over-billings in the first place, if you'd like to hear the Cliff Notes version of that story, because it really is important to what led to the corrective actions.

GREEN:

Well, I would just caution you or suggest, if I might, that this whole issue with subcontractor billing, with Fabrum [phonetic], Workforce International, the Panama law firm, and the mixture and relationships of some of your officers and directors of AGSI. I would just suggest that you make sure that the government understands that whole concept, because it's a tangled web, if what I read and probably only partially understand.

But at the end of the day, as AECOM is trying to build its reputation, I think it's terribly important that the government understand all of these nuances that have gone into some of these questions that SIGIR has raised.

WARD:

May I respond?

GREEN:

Please.

WARD:

You mentioned Fabrum Workforce [phonetic]. That was the company that was proposed as a subcontractor on a major bid, a series of major bids, actually. And in the evaluation process, when the government pushed back, if you will, asked the questions, it became clear that that was not a direction that the government wanted to go, and so we dropped that. We've never done business with Fabrum in that context.

GREEN:

OK.

WARD:

And we modified our whole method of execution in order to accommodate those concerns.

GREEN:

OK, thank you.

Nothing further.

THIBAUT:

Thank you, Commissioner. The process we're going to use here is that Commissioner Tiefer has a few extra questions, so he's going to be given 10 minutes to process his questions.

Commissioner, please.

TIEFER:

Thank you very much, Mr. Chairman. I appreciate the courtesy.

Dr. Raney, General Phillips said you got at least one of your contracts off of the GSA schedule. Is he wrong? Which one is that?

RANEY:

No, that's correct. That's correct. The current one is off the GSA schedule.

TIEFER:

OK. So when you took it, it wasn't put out for separate competitive proposals?

RANEY:

No, it was full and open competition.

TIEFER:

I'm sorry. Was it taken off the GSA schedule?

RANEY:

It was awarded under the GSA schedule . . .

TIEFER:

Thank you. And now my question is—listen carefully—I'm not interested in the technical definitions.

RANEY:

OK.

TIEFER:

The way the public views it, they'd like to know the answer. Was it put out for competitive proposals, what is put out for public bidding?

RANEY:

Yes, it was put out for competitive proposals.

TIEFER:

Separately from the GSA schedule?

RANEY:

No, under the GSA schedule.

TIEFER:

You did the GSA schedule process, right? That's separate from the competitive proposal process.

RANEY:

Anyone that held a MOBIS schedule [Mission Oriented Business Integrated Services] could have bid on that contract.

TIEFER:

Was it the same exact thing as the full and open competition process by which—I talk with this all the time to my students . . .

RANEY:

No, it was not. It was . . .

TIEFER:

Thank you. Thank you. It wasn't the same thing as full and open.

RANEY:

Right, you are correct.

TIEFER:

Thank you. Otherwise I'd have had to change the grades on a lot of exam answers, I think, of my students at the University of Baltimore.

[Note: C-SPAN video discontinued here in order to cover a Senate proceeding. Therefore the computer-generated transcript could not be compared with the actual hearing for the concluding segment.]

Now, I appreciate that we talked before the hearing and that you, let me review, that CACI requires its employees to fill out financial disclosure forms—the ones above the necessary ceiling—financial disclosure forms, including lists of gifts, right?

RANEY:

We have a contractual requirement under our contract with the JCC-I/A for any employees providing support to the JCC-I/A to fill out a financial disclosure form that's essentially the same as the Office of Government Ethics form. That's a contract requirement.

TIEFER:

Now, I want to ask—I've been looking at the description that the NCMA [National Contract Management Association] puts out on the current proposed rules that are on ethics in this area. And as for industry input on proposed rule, it says there is objection to inclusion of a list of violations and remedies in the cause.

Currently, you're not obliged, are you, to communicate in writing a list that the government would say of violations like Section 1001—False Statements Act?

RANEY:

Now, you're talking about under the proposed rule for personal conflicts of interest?

TIEFER:

Yes.

RANEY:

That's right. It means that the requirement we have is under . . .

TIEFER:

You don't communicate such a list, do you?

RANEY:

That's true.

TIEFER:

I can tell you as someone who was general counsel of the House of Representatives, that we try to make sure every representative knew that they were subject to 1001 prosecution for false statements in what they put on the disclosure forms, because they are it's a tougher—it's apparently you don't want to have that. We don't have the requirement for contractors like CACI now, and if you succeed, we won't have it put in the clause in the future.

Would you agree with the statement in the GAO report that underlay the personal conflict of interest safeguard requirement that—it's a statement—it's the report entitled "Additional Personal Conflict of Interest Safeguards Needed for Certain DOD Contractor Employees." And they were talking about the CACI category, yes?

RANEY:

Yes. We were one of the companies they talked to, to do that report.

TIEFER:

You're on their list, yes. An Army general counsel official told us that not acquiring financial disclosure statements from contractor employees poses the greatest risk to the integrity and impartiality of the work they perform under contract for the government.

You may be doing such statements. Is it your understanding that other companies in your category are not required to do so and may not?

RANEY:

Two things: Our contract—the requirement we have to collect that information for our contracts supporting the JCC-I/A is unique to the JCC-I/A contract, OK?

TIEFER:

Right. So others in your category are not required to do them now.

RANEY:

Unless they have a contract that requires it. We have other contracts besides the JCC-I/A contract that have asked us to obtain personal conflicts of interest information to . . .

TIEFER:

Which is certifications, not the full list, yes?

RANEY:

They vary. We all . . .

TIEFER:

OK. So at least some aren't required. Even CACI, let alone other contractors, are now required to make the single largest requirement for ethics enforcement.

RANEY:

That's correct.

TIEFER:

OK. Let me go on. I want to look—this is only going to be a brief outing. It's into Professor Steve Schooner, probably the single most accepted expert on government contracting law, certainly, this article is the most accepted in this field. Quote, "Contract atrocities at Abu Ghraib compromise accountability in a streamlined outsourced government."

And I want to ask you whether he's incorrect when he cites the Fay report—the two authoritative reports on Abu Ghraib that discuss CACI were the Fay report and the Taguba report—and he says, "Several other findings with regard to the CACI contract"—that's your contract—"merit attention. First"—I just mean it's your company's contract—"First, a CACI employee participated with the contracting officer's representative in writing the statement of work prior to the award of the contract."

I'm sure you have an explanation and exculpatory term, but just is he wrong when he said that?

RANEY:

First, let's . . .

TIEFER:

Is he wrong or is he right?

RANEY:

Well, again, I'm not familiar with that contract. That was not a contract that my group had. And in 2005, CACI submitted a response to a GAO report. . .

TIEFER:

But do you have any knowledge of whether it's right or wrong? Or you just don't have any knowledge?

RANEY:

I just don't have any knowledge as to whether he's right or wrong.

TIEFER:

All right, all right. I think he's right, and that it was an organizational conflict of interest.

Sorry. One other thing about the disclosure forms you file. When I file my financial disclosure forms and when everybody on this panel file theirs not only in their current jobs—I think we may all, at least almost all, have had to file them in our—previous federal jobs, and for that matter, when the first panel, which had top current government contracting officials, and I asked them about whether they did, we all file ours publicly.

And I can tell you as general counsel of the House that reporters pore over these reports and follow any leads. Now, reporters can't do that for top CACI officials who file such disclosure statements, can they?

RANEY:

They cannot.

TIEFER:

Right.

RANEY:

It's my understanding.

TIEFER:

They cannot.

RANEY:

Right.

TIEFER:

So we're really missing some safeguards here for people who are closely associated with inherently government work, which is your category.

All right. Let's go to AECOM.

And by the way, I echo the sentiments previously. We are dealing with the best contractors there. These are not the opposite of the best. This is a universal problem. This is not a problem of only yours, Dr. Raney. You're an industry leader.

AECOM: you've been describing the success story you had with SIGIR. That's your term, success story. OK. And you said they found \$4 million of what I would call, what they call potential overbillings. And then you self-reported and self-disclosed, and my fellow commissioner, Clark [Ervin], asked how much. And I think your answer—I think he asked, and I think I know your answer was \$2 million, right?

WARD:

I believe that was the credit to the . . .

TIEFER:

I know that you say you provided everything that they were questioning, that you had done it all and you'd provided it all. You documented it all two years before. Is that SIGIR's position after they reviewed your —did they say, "Thank you, you've provided everything?"

WARD:

There's been no follow-up since the SIGIR report.

TIEFER:

Did you read their report?

WARD:

Oh, yes, sir.

TIEFER:

Did they say in their report, "Thank you, you've provided everything?"

WARD:

I think they still questioned some costs. And we went back.

TIEFER:

Could I . . .

WARD:

Hold on.

TIEFER:

Could I say approximately \$4 million minus \$2.4 million, or \$1.6 million is the amount they question?

WARD:

Yes, sir.

TIEFER:

OK. And what their statement is under the heading "AECOM Comments" and this is, you know, this is fresh material. This is October 30th, 2009, report. And when we say "since then," we're talking about very fresh material, the ink not even being dry.

“AECOM's response to a draft of this report questioned the accuracy of our analysis and stated the company had reimbursed the government for the over-billings we are questioning, as you said. AECOM provided an invoice showing that about \$4 million in credits for a variety of parts.

However, we were only able to identify \$2.4 million of this credit that pertained to the over-billings found in our review. At the same time AECOM's invoice that included these credits also contained many of the same problems.”

This is report SIGIR 10-005. I found it by Googling SIGIR 10- 005. And I believe that the reason they found—well, let me say you've had communications with SIGIR since then, since they wrote the report.

WARD:

Not about that report. No, sir.

TIEFER:

You didn't provide them with any more material?

WARD:

Not after the report was issued.

TIEFER:

So you've left it that \$1.6 million isn't dealt with?

WARD:

We worked with the contracting agency, Rock Island, and by all indications they are satisfied with . . .

TIEFER:

I understand. We've seen many times that the auditors questioned something, but Rock Island, they're not boat-rockers over there. They won't—a sum of \$1.6 million would be a nice amount of money.

Are you prepared to show, wouldn't you like, have you shown that you didn't pay that \$1.6 million? Is that your position?

WARD:

We are completely prepared to have SIGIR come back, or any other audit agency, come back and review the records.

TIEFER:

But have you gone to SIGIR and tried to show it to them?

WARD:

No, sir. Our customer is Rock Island.

TIEFER:

OK. Well, that fits with what I heard. Tell me if I'm wrong in this. I called up Glenn Furbish, the head of audit over at SIGIR on Friday and I said, "Have you reached an understanding on this?" And he said, "No. No, it's where, you know, they provide stuff to us, but no, we haven't reached an understanding with them."

SHAYS:

Would the gentleman yield just for a quick intervention?

TIEFER:

Sure.

SHAYS:

I'm trying to think about what you mean by your customer is Rock Island. Are you saying that if there is a question about any activity you have, as long as the contract, your customer, doesn't care, then you don't care?

WARD:

No, sir.

SHAYS:

OK. What are you really saying, then?

WARD:

I'm saying that SIGIR did their review, issued their report. As follow-up to the report, we offered to work with Rock Island to bridge any gaps. There was no gap that we could find. We would welcome another SIGIR review of the invoicing process.

SHAYS:

Let me say it another way. Are you saying that as far as resolution of this issue, that your understanding is that Rock Island through whatever you've provided them believes that you have adequate—and have stated to you that you've adequately resolve this issue?

WARD:

Yes, sir.

SHAYS:

To the best of your knowledge.

WARD:

Yes, sir. And as I said, we also, after the SIGIR report, we went to the procurement fraud branch of the Army and made the same offer: that we have completely open records and would work through any issues that might be outstanding.

SHAYS:

OK. Thank you.

THIBAUT:

All right.

TIEFER:

Can I—one or two questions?

THIBAULT:

Well, I tell you, you should have been an auditor. I would have given you something less than an "A" too. We'll give you a question, Charles.

TIEFER:

OK.

Dr. Raney, I appreciate the briefings you gave. I say again you two are industry leaders. You're not subpar; you're above par. Let's suppose the government took a tougher stance and said it's not enough to put up the firewalls, and so forth, you put up. We should have our work, consulting work to procurement, done by independent companies, consultants who don't themselves do any procurement with the federal government.

What would happen? Would the government get what it needs if your company spun off your group into a separate outfit? What the government get its basic needs from that separate group?

RANEY:

If the assumption is that the government changes its policy and basically says that there can be no form of mitigation, that fundamentally if you're in a particular line of business, in this case I think probably captured by functions closely associated with the inherently governmental functions or acquisition functions closely associated with inherently governmental functions, which is the way it's phrased under the proposed rule under personal conflicts of interest, the answer is that certainly I believe, just like we have responded to a market need over the last few years and provided the kinds of services and people that the government needed, I think the free market would do the same thing. Companies would form. Things could be spun off. And there would in fact be that kind of service provided that the government needed, yes.

TIEFER:

I appreciate that, and I thank—allowing me one.

THIBAULT:

Thank you, Commissioner.

Commissioner Henke, please?

HENKE:

Thank you, Mr. Chairman.

Mr. Ward and Mr. Raney, I've got a couple of questions. I'll try to get them very quickly here in the interest of time.

Your statement, Mr. Ward, makes a very interesting observation about the Taji national maintenance depot. And for the benefit of our audience and maybe those who weren't at the briefing, your company was asked to stand up basically what was Iraq's single national-capital maintenance activity. Is that fair to say?

WARD:

Yes, sir. That's correct.

HENKE:

And you started there in '08. It's about a three-year contract?

WARD:

It is two, and it'll be two-and-a-half years by the time of its completion.

HENKE:

OK—\$213 million, plus or minus 600 employees. You are required to procure, install, and commission 6,000 pieces of industrial plant equipment, and you trained 700 people at the vocational institute there.

I wanted to set that scene, because in your statement you make a very candid observation. I thank you for being this candid with us.

On this contract, this Taji national maintenance depot contract, you had, in the span of two years, you had six contracting officers, six PCOs [Procuring Contracting Officer], six program management officers I presume is a PMO, five administrative contracting officers, probably from DCMA, I would imagine or suppose, and you had seven CORs, seven CORs. So in a span of two

years you had six PCOs, six PMOs—these are government people now, generally—five ACOs [Administrative Contracting Officer] and seven CORs.

What's it like working in that environment?

WARD:

Particularly on a fixed-price contract . . .

HENKE:

Right.

WARD:

It was very difficult. Especially from the contracting side, there were some complex contract issues. And it was a new contracting officer wants to dig in and dig in deep and understand, and so the difference of understandings would have to be discussed and at times negotiated about the contractor . . .

HENKE:

After award?

WARD:

Oh, yes, all of these were after award.

HENKE:

Yes.

WARD:

There were two PCOs prior to that did the acquisition awards.

HENKE:

OK.

WARD:

So we . . .

HENKE:

Go ahead. What's it like in that environment, where you're trying to figure out who's my customer. You're trying to satisfy the customer, and you get all these folks running around, all well intentioned, all coming through there for their tour. And this is not in 2003. This is not when we're [inaudible] rolling into Baghdad. This is five, six, seven years later when it's pretty much steady-state. I don't want to diminish it, but it is by that point steady-state.

So what's it like in that environment? You're trying to figure out who's the new person, who's coming through, what are they saying now, how are they evaluating me, how will it affect my profitability, my performance? What's that like? Who's your customer?

WARD:

Well, it's always clear. The person sitting in the chair is the customer. And the customer is the PMO, the project management officer that's virtually nearly in the same space as we do—a colonel or lieutenant colonel.

HENKE:

OK.

WARD:

And he's got his program-management staff that assists him in that.

And then the contracting officers were actually at JCCI [Joint Contracting Command-Iraq] in the Green Zone.

HENKE:

OK.

WARD:

And that was—you know—those people typically are on a six-month rotation. And if you catch somebody—we had somebody that was assigned at the end of a tour and they would, you know, 30 or 45 days assigned to our contract. So it just presents a challenge that we maintain very, very good documentation of any discussions, any changes, and any progress reports, anything that affects the contract performance.

HENKE:

A related topic: You, sir, you characterized your work as largely blue collar, maintenance depots, transitioning Humvees to the Iraqis. The question I want to get at is, and for both of you please, what is the contractor's obligation to save the government money?

You have a very, you called it blue-collar production line, centric operation. We've had contractors in here where IGs have written reports and said, look, you were providing a service, but it was only used 3 percent or 7 percent of the time, so grossly underutilized.

That means that the government is paying more than what it might otherwise. So what is your obligation if you have a better idea, say on this Taji Depot contract, you wanted to tell your client: "Look, there's a better way to do it. It would save the government money, but me the contractor, I might walk away with less." What's your obligation to bring forward that better idea or that cost-saving idea to the customer?

WARD:

I'll give you a couple of examples. The Taji National Depot, a fixed-price contract, it's, you know, the price is fixed, so the cost savings to the government aren't quite so obvious of things that could be changed.

I think we discussed at our pre-brief the whole concept of operations, that how we thought a better way to stand up that depot might be, but that was pre-award phase. You know, that was discussed, vetted, the RFP became, you know, the statement of work and that's what we bid to.

HENKE:

Right.

WARD:

In the context of cost reimbursement contracts, our company's got a very, very good record, I believe, and one that I'm proud of, how we can save the government money. A blue-collar

workforce is, you know, an American taxpayer and all of those that likes those kinds of efficiencies.

HENKE: Speak specifically to what is your obligation to bring forward those ideas.

WARD:

In our biggest project in Afghanistan, a cost-plus, fixed-fee contract, that our obligation is we have an affirmative obligation to improve our work processes so that, you know, whether it's Lean Six—we're a big subscriber to Lean Six, the Army's methodologies on how that is implemented—to improve efficiencies of our workforce through put-time. And we've documented \$11 million of cost avoidance or cost savings through the different processes.

THIBAULT:

Excuse me. Can I enter? Your documentation of the \$11 million, is that during contract life and not part of pre-award pricing? In other words . . .

WARD:

No, that's through the contract execution phase.

THIBAULT:

During the contract execution through whether you call it Lean or Six or whatever, that you have processes to identify where there are opportunities for improvement and you're documenting them. Are you also briefing your customer?

WARD:

Yes. We partner with, particularly in a dynamic environment as there is in Afghanistan.

THIBAULT:

Do you take that as an organizational responsibility versus a contractual responsibility? Because we've had hearings before where we've had organizations say, "Well, you know, that's all fine and dandy, but I do whatever my customer tells me to do, and if they say put 100 people at that maintenance site until I tell you different, I put them there even if they only need 30."

WARD:

It's a company ethic, I guess I would have to say the bottom line is. It's just the way we operate.

THIBAUT;

Dr. Raney, your thoughts on it?

RANEY:

I think it's incumbent on any government contractor, when they see an opportunity to save the taxpayer money, they should bring that forward. The issue becomes a challenge sometimes relative to the type of contract, the cost-type versus the fixed-price, T&M [Time and Material Contract] or whatever, and what the performance work statement is.

If the performance work statement locks you into certain things, then you have to raise it to certain levels to get that changed. It's not like you can just go in and knock on somebody's door and say, "Listen, we suggest you do the following three things," and the contract gets changed.

But I think it's a fundamental ethic that a company should operate that way and I believe we do. If we see something that we don't believe needs to be done, whether it's this customer or the other one, as a rule we would think that needs to be brought forward.

HENKE:

Have you ever had a case of that in your JCC contract, your 52 people, that you can think of?

RANEY:

No, not where they've said we can get by with less people because usually they're trying to get more.

HENKE:

OK. Thank you. My time is expired.

THIBAULT:

Thank you, Commissioner.

For the record, Mr. Ward, and I commend you for this, can you provide us the proverbial three-pager on the \$11 million on what types of actions you took and why you took them and how you communicated, and what impact it meant to savings for the government or the taxpayer or however you want to say that.

WARD:

Yes, sir, we will.

THIBAULT:

Thank you.

All right, Commissioner Shays, please.

SHAYS:

It's been a long day and I thank you for waiting and listening to the others.

And I thank my colleagues for their questions as well.

So I'm going to be less than eight minutes because I just would first like to thank you for being here. Thank you for your cooperation with the committee.

And as I hear you helping us try to sort this out in a public forum, I'm just struck by how incredible it is to me that Aegis, which is involved in security contracting, which we'd like to have had that mix, has deprived us of the interaction. I consider it, frankly, a bit selfish of them, and it alerts me to the need that we need to give them a really special look, both here and in theater.

So I just want to assure the both of you that they didn't put you in the center and escape that scrutiny. Trust me on that.

I'd like to just make this comment and have you respond to it. We know that service contracts make up an estimated 64 percent of all the Southwest Asia contracts. And it's estimated to be over \$80 billion in service contracts over the last five years in both Iraq and Afghanistan.

And Congress since 2000 has mandated a stronger, more comprehensive oversight of service contracts. My sense is we still are trying to get a handle on how we oversee service contracts, and that we do the oversight of service contracts—we do it—it's the area where we have our greatest weakness.

If you were to suggest one or two reforms or something that the government could speed up, what would it be to make the system work better for you, but better for the taxpayers as well?

Mr. Raney, you can go first.

RANEY:

You're right. The service contracts are the weak point, but it's because it's only been within the last 18 [phonetic] that the services contracts became really the majority of the money spent. And so much attention was put on the hardware contracts and the administration there, and was in a lot of that environment.

Really, first there needs to be a fundamental recognition that services contracts are different in terms of how you both have to define the requirement, award the contract, and then manage it, than a hardware contractor. First, that fundamental recognition I think is . . .

SHAYS:

Is the weakest link the process of procurement? Or is the weakest link the oversight?

RANEY:

I believe the weakest link generally is in the requirements definition.

SHAYS:

OK. Thank you.

Mr. Ward, how would you respond?

WARD:

The first element that needs improvement, and always will—you can never get where you need to be—is the definition of the requirement, the performance work statement: more outcome, more [inaudible] of what the expectation is. The expectation shouldn't be to provide 100

mechanics. It should be to provide mechanics that have a certain output. So I think that's a big improvement.

On the acquisitions side, in my opening statement I talked about the reach-back division of Rock Island, that the stability that that offers. My T&D [training and development] contract was a JCC-I program, and so the contracting officers rotated. They were supposed to rotate every six months.

The Rock Island Contracting Center has a much more stable footprint from that centralized control. Now, that doesn't provide, you know, the contract oversight in the field, so that's a little bit different issue. But I really think that that's a really great initiative, and as that organization matures, whether it's in Rock Island—it doesn't all have to be in Rock Island.

So I think that's something for service contracting that can really be improved in the system.

SHAYS:

Let me then just ask one other area quickly, not looking in depth, but the biggest challenge for us—excuse me, the biggest challenge for me that I wrestle with is the plethora of subcontractors that do the work. And we get it in—it's, you know, 200 years of contract law that says we go through the primes.

Do you have a challenge as a purchaser of a sub's services? Are you pretty able to get what you need from the sub, particularly if it happens to be an indigenous Iraqi or Afghan company?

WARD:

I'll go first since you went first on the first panel.

Getting good subcontractors to go to Iraq and Afghanistan, Afghanistan in particular, is difficult. We had some that say, sorry, I don't do that. And they're from industry partners and that's just not what they do. So we've had to work hard and we've developed some subcontractors that have that capability.

But the concern about subcontracting is we always look to put the best athletes on the field. If that means a subcontractor is the best expert in [garbled] and running an Army system, then so be it, if that's the best way to get the job done. So that's our first primary goal. Now, as they become [inaudible] the ground [phonetic] truth is, our preference is to self-perform as much as we can. It's more competitive.

SHAYS:

I know our folks are going to be looking forward to going out and seeing what you do in so many of the forward operating bases, and again we appreciate your assistance.

Mr. Raney, you can close it up, and then I think the chairman's going to ask you to make closing comments. But I want to beat my minute and 44 seconds that I have left.

RANEY:

Well, we don't have any subcontractors in our contract supporting the JCC-I.

SHAYS:

And that's an ethics issue or you don't need them, or a security issue, or what?

RANEY:

So far, we haven't needed them. We've been able to recruit those ourselves.

SHAYS:

OK.

RANEY:

But I would just draw a comparison between the more blue-collar world and the professional services-type environment that we deal in, whether it's in Iraq, Afghanistan or anywhere. The subcontractor relationships there are a little bit different in terms of the understanding that you have with the companies that provide those. And so they're usually able to manage those a little bit differently and you don't have quite the same challenges.

SHAYS:

OK. Gentlemen, thank you both for being here. I appreciate it a lot. And thank you again for your cooperation with our commission.

THIBAUT:

Thank you, gentlemen. A couple of our commissioners have indicated to me they might have one more question. I actually have one more area. It's an observation, but it includes a question

because Commissioner Green taught me an expression that I like because he's from Oregon and all the good people are from the Oregon area, and that is for fear or beating a dead horse.

Well, I'm going to do it one last time. And that is, Mr. Ward, your coming up here today, is your board of directors aware of this?

WARD:

I don't know if the board of directors is aware of this. I know that the president of the company is.

THIBAULT:

Who happens to probably run the board of directors?

WARD:

Well, I don't think he runs the board of directors.

THIBAULT:

But he's certainly a member.

WARD:

He's the one that received the invitation, so he's aware.

THIBAULT:

Thank you.

Dr. Raney?

RANEY:

Yes, sir, our board of directors is aware of it and received an announcement.

THIBAULT:

And so your very senior executive leadership, board of directors or member of board of directors, was supportive of even though you're busy and you have time constraints of coming up here and sharing your observations?

RANEY:

There was never a question.

THIBAULT:

Was there a question?

RANEY:

There was never a question.

THIBAULT:

All right, the reason I say that, this wasn't a trick question, but it was the board of directors on Aegis that directed that the time and the resources and the contracting constraints prevents such things. So I guess not all boards of directors are created equal. So when the two of you go back, please thank your board of directors.

Now, Mr. Ervin, Commissioner, did you have one quick one?

ERVIN:

Thank you. It's a very, very quick question. I meant to ask it of you earlier, Mr. Ward, and it just occurred to me, and I think it's important.

You were kind enough, and you mentioned this, to come over before the hearing and do a prehearing brief with our staff. And during the course of that briefing, you mentioned, apparently, that in the early stages of your maintenance and supply-support contract in Afghanistan that at some point you were—the company, AECOM—was getting direction from another contractor.

Could you tell us—but that's since stopped and now you get direction only from the government? Can you tell us, for the record, who that contractor is and what AECOM did, you reported it to whom, so that it doesn't happen now?

WARD:

I would prefer to get back with who the company was, because it would be dangerous if I said the wrong one.

The process was relatively straightforward. It took a while to get sorted out. But we first raised it at the local level and then we took it to the contracting officer in Rock Island who got it taken care of. And our concern was one of proprietary information and disclosing information that we just didn't feel comfortable with doing in addition to taking direction from a contractor.

ERVIN:

And you say it took a while to get it resolved. Can you give us a—you know . . .

WARD:

To me it was an urgent issue, and I wanted it taken care of today. And it took probably three to four weeks to get. . .

ERVIN:

OK. I think we'd all like to very much follow up with you and find out the details of that. Thank you.

WARD:

OK. Great.

THIBAUT:

And, Professor Tiefer, one last question, sir?

TIEFER:

I'm afraid I don't know the meaning of a short question, so I'll give . .

THIBAUT:

Thank you. We may have some longer questions for you at a point in time.

ZAKHEIM:

Very quick.

THIBAUT:

Please, Commissioner Zakheim?

ZAKHEIM:

Very quickly, Mr. Ward, you said that—and you said it also when you were speaking —your national maintenance of the Taji Depot: six PCOs, six PMOs, seven CORs, in less than two years. That works out to about one every three or four months. Correct?

It takes about what, a couple of weeks to get them up to speed?

WARD:

Longer.

ZAKHEIM:

On that contract . . .

WARD:

Probably a lot longer.

ZAKHEIM:

So basically you're getting, what, a month and a half out of them before they disappear again?

WARD:

I don't do math in public, but I think you've probably got that right.

ZAKHEIM:

OK. And that drove, would have driven me nuts. I assume it drove you nuts.

WARD:

You just get used to . . .

ZAKHEIM:

Being driven nuts.

WARD:

To that, too, but you get used to the contingency-contractor, people coming and . . .

ZAKHEIM:

OK, but this is not the way to do business, if you were doing business.

WARD:

No, sir.

ZAKHEIM:

OK, that's not your problem, it's the Army's. We'll take it up. Thank you.

THIBAULT:

Which is interesting, Commissioner, because if you look at that at any one point in time, they had one of these inexperienced CORs for 600 employees, different diverse responsibilities. So that PFC was overworked.

Gentlemen, thank you. You've shown great flexibility.

Thank you to the audience. You've shown great flexibility.

And, last of all, we're really wrong if we don't always thank our staff, because we wouldn't be up here if we didn't have them. So, thank you.

And this is the part I always like—I'm sorry. Oh, yes, I'm sorry, I missed one protocol which is if you have any final comments, fire away.

WARD:

OK, thank you. May I go first?

My mike's on.

AECOM is truly committed to serving the U.S. government in an open and transparent way. It's part of the reason why we came here.

We intend to leverage all of the lessons learned from SIGIR in all of our operations and to improve ourselves and the way that we can serve the U.S. government.

I personally take great pride in my company's core values and how we implement those in the field. It's not easy to put those core values out in front of a TCN workforce. But we work real hard at doing that.

I even take more pride in what we do and who we do it for—the U.S. soldiers. I've kind of been a reputation of being a little flippant at times, and people used to ask me, "What do you do or what does your company do?" And I'd say, "Oh, we fix trucks."

After a few trips to Afghanistan or Iraq, you get a little more sober about that flippant comment, because what we do is we save soldier's lives.

I've seen Humvees that have been destroyed by RPGs and soldiers walk away from those, and we get those stories back, and it's a moving experience for me.

And so, I take a lot of pride in this is what we do for our country.

THIBAULT:

Thank you, Mr. Ward.

Dr. Raney?

RANEY:

I echo that. We certainly appreciate the opportunity to have this exchange with you. And we take great pride in the support that we're providing in Iraq and Afghanistan.

I would make a couple other points.

First, you all are looking at contingency and expeditionary contracting here, but some of the issues you're looking at cut across the entire area of services contracting, and I would encourage you to look at that and engage with industry.

We do have a lot of inputs to make on it, things like questions that have come up about, well, should we become harder in a particular area that would require basically a restructuring of industry, those kind of things.

And I think those need to be considered very carefully.

I, for one, don't believe that you necessarily have to drive down a road where you ask industry to restructure itself. But that is for you all to determine, based on the information you get.

You're doing extraordinarily important work. I believe what you're going to do and what's going on now with the various things that are happening with proposed rules are going to influence the way business is done and the support that's provided to people—not to government offices not only in Iraq and Afghanistan, but throughout the federal government are going to be influenced it.

And I thank you for doing that, and I encourage you to get as much interchange as you can.

Thank you very much for your service.

THIBAULT:

Thank you, Dr. Raney.

And, as I said—this is the part I always like—we're adjourned.