

THE COMMISSION ON WARTIME CONTRACTING IN IRAQ & AFGHANISTAN
HOLDS A HEARING ON ACCOUNTABILITY ISSUES IN IRAQ AND
AFGHANISTAN, PANEL 3

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[*] THIBAUT: Well, thank you. We're at part three of a three-part series today on contractor accountability, and trying to find out where they are and where they're working.

And welcome to this panel, which simply said, is a panel feedback on a request we had to talk about the ongoing coordination between DCMA and DCAA.

And I'm pleased to welcome our witnesses, who will go in the order that I welcome them: Mr. Shay Assad, who is the director of Defense Procurement Acquisition Policy Office, or DPAP, as it's known in the Pentagon and throughout the land in the Department of Defense; Mr. Charlie Williams, the director of the Defense Contract Management Agency (sic); and Ms. April Stephenson, the director of the Defense Contract Management Agency.

Can I get the three of you to please stand up?

WILLIAMS: Audit agency.

THIBAULT: What did I call you?

WILLIAMS: (OFF-MIKE)

THIBAULT: How soon we forget. Well, I only worked at the Defense Contract Audit Agency. So, let's get that record straightened out right now.

Would you please raise your hands? Now, I'm humbled.

Do you solemnly swear or affirm that the testimony you will give before this commission is the truth, the whole truth and nothing but the truth? OK. Note for the record, please, that all witnesses have responded in the affirmative.

Thank you.

Mr. Assad, please.

ASSAD: Chairman Thibault, Chairman Shays, members of the commission.

My name is Shay Assad. And as Mr. Thibault said, I'm the director of Defense Procurement and Acquisition Policy within AT&L.

I want to thank you for the opportunity to appear before you and to participate in today's discussion of actions taken, and those planned to be taken, to address concerns about defense contractor business systems and the relationship between DCAA and DCMA.

It is essential to the department and the taxpayer that our defense contractors business systems yield reliable data to enable our contracting officers to negotiate contracts with confidence. These business systems, which include estimating, purchasing, material management, cost accounting standards and accounting systems, among others, are critical in ensuring the department is paying a fair and reasonable price when it procures supplies and services for the warfighter. It is crucial that the department's agencies, agents, DCMA and DCAA, provide and maintain effective oversight of these business systems.

As a result of the August 11th hearing conducted by the commission on wartime contracting in Iraq and Afghanistan, late in August, I directed that a new interdepartmental subcommittee be formed under the Panel on Contracting Integrity. The Panel on Contracting Integrity has proven to be a very effective forum for making progress in eliminating vulnerabilities that lead to fraud, waste and abuse.

I believe the new subcommittee on business systems, which will be chaired by my director of Cost, Price and Finance, will be very effective in addressing the entire range of issues related to contractor business systems. Members will

include the director of DCAA and the executive director of DCMA, as well as senior representatives from all of the services.

These members are the key stakeholders, who are responsible for ensuring the adequacy of contractor business systems. The subcommittee will also include other senior individuals from across the department.

They will have a broad mandate to explore issues related to contractor business systems and the roles and responsibilities of DCAA and DCMA in determining and correcting deficiencies in contractor business systems. They are, of course, informed by the commission's "Special Report on Contractor Business Systems."

The subcommittee held its first full meeting on October 23rd, for the purpose of prioritizing goals and establishing working groups. We cannot and should not tolerate deficient contractor business systems that yield unreliable data for both the contractor, as well as the government.

In the meantime, the department's contracting officers have at their disposal ways to mitigate that risk. In addition to withholds, contracting officers can obtain cost and pricing data below the standard threshold, or request additional audits at the subcontract level.

When contracting officers have reason to lack confidence in a contractor's estimating and purchasing system, we are encouraging them to utilize fixed-price incentive contracts rather than what might have been traditionally used - firm fixed-price contracts -- even for requirements that previously were procured under firm-fixed-price contracts.

In our peer reviews, we have made a special point of emphasis to address these issues. And in the course of those reviews, I am personally imploring contracting officers not to close negotiations until they are satisfied that they have been given accurate information from which to make a determination about the reasonableness of price.

It is neither expected nor necessary that the contracting officer and the contracting auditor agree on every issue. They have different roles in this process. The contracting officer is responsible for ensuring the performance of all necessary actions for effective contracting to safeguard the interests of the United States, while the auditor, who is also -- to support the interests of the United States -- is responsible for addressing key accounting aspects of contracting.

However, it is expected that the auditor and the contracting officer will work together to achieve the best result for the taxpayers and for the warfighters.

The subcommittee that we have established will also focus on the type of input the DCMA contracting officer needs from DCAA in order to make decisions regarding adequacy of business systems.

We know for certain that DCMA contracting officers need to know the specific deficiencies in contractor business systems and the significance of those deficiencies.

One approach that is under consideration is having DCAA report on the materiality of the deficiency it finds, instead of opining on the overall system. That would enable DCMA contracting officers to use audit reports to determine what needs to be corrected and the degree to which the deficiency is imposed upon the government. And the DCMA contracting officer will be held accountable for those decisions.

Finally, I would like to briefly address the underlying issue of DCAA and DCMA resources. As a result of the secretary of defense's Acquisition Workforce Initiative, we are presently adding 700 DCAA auditors, and over 2,700 oversight personnel to DCMA. This is not a quick fix. It's going to take time. Our plan is a five-year plan. Most of DCAA auditors will be on board in the first three years.

With respect to the staffing shortfalls, I believe we're on the right track. And I'm sure that this new subcommittee will bring the appropriate focus to the problems that have been identified by the commission.

Thank you.

THIBAULT: Thank you, Mr. Assad.

Mr. Williams? Director Williams, please.

WILLIAMS: Good afternoon, Chairman Thibault, Chairman Shays and commissioners.

Thank you for the opportunity to come before you and follow up to the August 11th hearing regarding contractor business systems, to discuss actions to improve cooperation between the Defense Contract Audit Agency and DCMA that will enable a more effective oversight program, especially in the area of contractor deficiency.

First, let me rearticulate to you what I wrote in my August 21 letter following the last hearing. I take very seriously our responsibility to oversee and hold industry accountable to maintain compliant and adequate business systems.

I, too, am very concerned with the current state of contractor business systems, and am extremely interested in identifying and acting on opportunities to correct these problems.

As we drive industry improvements, we must ensure contracting officers have the right set of contractual tools necessary to take effective action to obtain healthy contractor business systems. I fully support guidance and regulatory changes in this area, and believe the entire DOD procurement community needs to work together and send a clear message of compliance and accountability to contractors.

To that end, we have embarked upon a number of initiatives that I believe will deliver the needed results.

Shortly after the August hearing, the DCAA director, Ms. Stephenson, and I met with Mr. Assad, to seek his assistance to work key issues regarding contractor business systems. During the meeting, DCMA delivered a presentation focused on the regulatory coverage and contract clauses governing the determination of systems adequacy and the remedies available when deficiencies are identified.

Shortly thereafter, Mr. Assad chartered a business system review subcommittee under the Panel on Contracting Integrity, to address the adequacy of the DCAA and DCMA oversight of contractor business systems. The subcommittee will also review current policy and procedures within DOD regarding the department's audit administration of contractors' business systems. The subcommittee is expressly tasked to evaluate three important areas highlighted during the August hearing: first, the need for a common list of contractor business systems; second, additional contract clauses or regulations for each system, to include remedies such as withholds and guidelines for audit frequency; and third, define expectations or criteria for each system to determine adequacy.

Quarterly meetings -- and I hope, more often as needed -- will be held with membership that includes senior leaders from Army, Navy, Air Force, DCAA and DCMA. Two DCMA senior executives are active members. The subcommittee's work results should address most of the commission's recommendations for improvement.

I would also add that I believe it is critically important to both DOD contracting officers and industry, that the subcommittee offers recommendations on how to better define the regulatory swim lanes between DCAA's audit responsibilities and the responsibility of DCMA to approve a contractor's business system.

Internally to DCMA, a team of contracting and legal personnel are reviewing the remedies currently available to the government under the Federal Acquisition Regulations, and the DOD FAR Supplement.

That team is also working to propose regulatory changes for possible new remedies, including clear authority for a suspension of cost or withholds, as it has been termed, something that does not presently exist for all business system deficiencies.

Other efforts are also in progress. Ms. Stephenson and I met to discuss differences of opinion on purchasing system deficiencies. As a result, we agree that, as part of DCAA's ongoing follow-up review at KBR, DCAA would conduct a review of those same contracts and present the DCAA findings at a subsequent meeting. This will allow us to precisely compare and contrast the results, with the goal of understanding the differences, and take appropriate action to harmonize our reviews.

While we look forward to the results of the business systems subcommittee, I expect to continue dialogue with DCAA leadership in these areas.

I, along with the DCAA staff, am keenly aware and understand that we have internal agency challenges as well, and have significant work to do. Let me share some of the actions underway to improve our entire enterprise.

First, with regards to purchasing system reviews, we plan to expand the DCMA Contractor Purchasing System Review Center, and over the next two years, triple the size of the organization. This planned expansion is to increase our ability to accomplish our reviews more frequently, and not because the ongoing reviews have not been adequate. Further, when we are aware of the issues with a certain contractor, this will provide us the capacity to expand the scope of our reviews.

Second, we are continuing a complete review of all contract administration policies within the agency.

Third, we are implementing a stronger set of internal controls with a border review process. Complementing this is an OSE policy currently being coordinated, that provides a process for resolving contracting officer disagreements with DCAA audit findings.

Fourth, we are developing a quality assurance plan for the resolution and disposition of reportable audit findings. This plan will also ensure employee and contract leadership accountability.

Fifth, in support of Mr. Assad's initiative to improve cost and pricing capability across the entire acquisition enterprise, we're establishing a Cost and Pricing

Center primarily responsible for forward pricing and indirect cost issues and proposal data analysis.

Sixth, to emphasize the importance and urgency regarding our agency responsibilities, and specifically those of our contracting officers, I held a contract leadership summit with all of the agencies' contracting leadership in attendance.

Lastly, we are recruiting and training a workforce that needs to handle the complexities of today's contracting challenges. I made it a personal priority upon my arrival to pursue the resources the agency needs to effectively operate. However, we do not turn agencies like DCMA or DCAA around overnight.

In closing, I thank the commission for helping us to identify opportunities for improvement. DCMA and DCAA employees put forth herculean efforts daily to provide our nation's warfighters quality products and services, on time and at fair prices. Improving our partnership through clarification of our roles and responsibilities will further strengthen our unwavering commitment to the military departments, civilian agencies and contractors.

Again, thank you for the opportunity to appear before you, and I look forward to your questions.

THIBAULT: Thank you, Mr. Williams.

Director Stephenson?

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

Through fiscal year 2009, DCAA has issued over 3,000 reports in support of in-theater contracts, reporting exceptions of \$16.3 billion. DCAA has issued over 140 Forms 1 under the LOGCAP III program, suspending or disapproving over \$655 million. Of this amount, \$439 million has been resolved. In addition to an update on the business systems, I will provide an update on two issues: disapproved private security costs and ineffective drawdown of KBR in Iraq.

In May of 2009, I briefed the commission that KBR incurred private security costs that were prohibited under the LOGCAP III contract. In February 2007, DCAA suspended \$19.7 million of private security costs and recouped the money from KBR.

In April 2008, KBR filed a claim with the Armed Services Board of Contract Appeals. Although the board has not yet made a decision, we determined that

KBR has previously been paid in excess of the \$19.7 million, and has not yet repaid the government.

As a result, in August 2009, we issued a Form 1 disapproving \$103 million in hopes of recouping previously paid private security costs while we await a decision by the board.

As mentioned during commission hearings in August, in light of the military drawdown in Iraq, DCAA had initiated several audits of KBR's labor operations in Iraq. Last week, we issued a report concluding that KBR's drawdown was ineffective, and KBR could save the government at least \$193 million by improving the staff management and aligning their labor drawdown with the military drawdown.

When the military reduced its troop levels from 160,000 to 130,000, a 19 percent reduction, KBR's staffing levels remained constant. At the time of our report, KBR did not have a detailed written plan reducing staff levels commensurate with the military drawdown. We estimate that without significant action, KBR would have one employee for every 3.6 military troops by August 2010.

This \$193 million represents excessive costs to be paid by the government, if KBR does not take immediate action to reduce its staffing levels.

As an update to the contractor business systems, we have determined that we have a revamped approach to the business system approach in which, rather than expressing an opinion on an entire business system, we will be issuing reports on system deficiencies. We believe that this is a much better approach to getting the issues out to the contracting officers quickly, and would eliminate the concerns with the pass-fail rating, as was discussed in August.

As both Mr. Assad and Mr. Williams said, the DCAA director is participating in the subcommittee that has been set up to assess contractor business system processes.

In closing, this is my last appearance before the commission as the director of DCAA. Although DCAA has had some institutional issues with audit quality, as was pointed out by the GAO, over my 22 years as a career civil servant I have been involved with many DCAA audits that have resulted in major reforms and acquisition regulations.

In early 2000, while I was the branch manager in Detroit, Michigan, I was involved with the audit of the anthrax vaccine manufacturer, and, Commissioner Shays, I appeared at one of your hearings on this subject. I look back on that with fondness, as that was my first appearance to Congress.

I was personally involved with audits of the linguist contractor, as discussed at the commission hearings in August. The linguist contractor was the first war-related contractor that had a withhold on billings due to system deficiencies. You may recall that over \$40 million was withheld at one time. And as INSCOM testified, DCAA and INSCOM was highly effective in its teaming efforts of holding the contractor accountable to correcting system deficiencies.

As a regional director, and most recently as director, I have made audits of war-related contractors a top priority for the organization, and DCAA auditors have delivered, finding numerous over- charges and other exceptions totaling \$16 billion to-date.

I am very proud of all of their efforts. And I'm also proud of the report that was issued last week, looking forward on potential savings with the drawdown in Iraq. I anticipate that there will be future reports on drawdown matters with even greater cost savings that could probably be the subject of future commission hearings.

On Friday, I closed the chapter on my DCAA career and start a second career with new challenges and adventures. I hope to work for an organization where I can make a difference, both in its work and in its people. However, I will never forget my DCAA family. I will be forever grateful for their support and hard work.

Thank you for the opportunity to appear before you one last time. I will be pleased to take your questions.

THIBAULT: Thank you, Director Stephenson. Thank you, all of you.

I'm going to start this off. I guess I'll work my way down, Mr. Assad, and Director Williams. It's really both of you.

You outline that you're working to put a mechanism in place to resolve future conflicts, DCAA, DCMA. And I'd like to explore that, because when we met in August, we said that that's what we recommended. And we recommended a process be established where these could be evaluated, a mechanism put in place. Where is that at right now?

In other words, are issues in the process, or maybe they've already been brought forward, in terms of either DCMA is not pleased with an outcome that DCAA recommended -- or has a different opinion. You know, it could be a technical difference, or vice versa.

And so, yes, a mechanism. And then, where's it at as far as filling the process with -- we heard a lot about issues, issues that still remain.

Mr. Assad?

ASSAD: Yes, chairman, a couple of things are going on. We actually have a draft procedure in place. We've had discussions amongst Undersecretary Hale, Undersecretary Carter and myself, about the appropriate way to resolve I'll call it significant differences of opinion that need senior management attention.

And we basically had that structure written down on a piece of paper, and it's in coordination right now. And effectively, what it will do is, to the degree that the -- where you really want to get these things resolved is at the regional director and the head of the contracting activity where the issue is. If that can't happen, then it will come to the director of DCAA and myself for resolution. If, for whatever reason, we cannot resolve it, it will then go on to Secretary Hale and Undersecretary Carter for resolution.

I don't anticipate that that's going to happen very often. I think that we'll be able to resolve whatever the issues are at hand.

But one of the proactive things that we're doing is, you know, right now the requirement is to provide post-clearances, document in a post-clearance, how you resolve DCAA issues.

Well, the problem with that is that the negotiation is long over and done, the auditor is on to a number of other issues, and this is just a past memory. And you really don't get the kind of feedback that you need to make a difference.

So, where we're headed is, when contracting negotiators write their pre-clearance -- in other words, before they enter into negotiations -- we're going to provide the auditor a copy of that pre-clearance, so that they'll have immediate feedback on what the contracting officer is thinking about in terms of their findings. And what that will result in is more communication between the on-site auditor and the contracting officer to resolve those differences.

There are always going to be differences of opinion. But I think that that will go a long way to giving the auditor feedback on an immediate basis that says, this is what we're doing with your findings.

On the matters of, you know, if it requires any kind of an ethical breach, that will immediately go to the I.G. I mean, that's not an issue. What we're talking about is honest differences of opinion between an auditor and a contract negotiator.

So, we think that's going to go a long way to resolving those differences.

We need to make sure -- we want and need independent audit view. That's what we want. And then we'll audit from there.

THIBAULT: Thank you.

Director Williams, building on that, there were numerous examples at our prior hearing, where you had a rep, where there were differences. And so, I guess, sort of building onto what Director -- not to ask you whether you support it, because I think you're all working together -- but to talk about those issues that are out there in the inventory.

What are you two directors doing to find out what needs to be done, if anything, in working with companies to say, cut it out, here are some penalties, withhold their appropriations or anything.

Can you talk about the current inventory?

WILLIAMS: Yes, let me, first of all, support what Mr. Assad said. But also let me say that, what we've instituted in DCMA is a board of review process, because our desire is to try to hold and resolve these issues in-house.

One example is the KBR purchasing system that came up the last time. And as I mentioned in my testimony, we met with Ms. Stephenson, and we sat down and put on the table the kinds of things that reflect the difference between us.

And that's why we agreed that DCAA would go back in its ongoing audit process and look very specifically at the things that we identified, so we can understand, what are the issues that caused the differences? What is it that they look at that's different than what we've looked at to come to a different conclusion?

And we want to take that information forward to help us figure out how do we then, first of all, rectify any policy or regulations that we need, so that we can be a little bit more consistent in our application of our reviews. So, that's, I think, a start to what we want to do.

With respect to ongoing -- there are some examples of ongoing differences, where now, the contractor has actually filed in court for some of those things that were differences at the last hearing.

So, there are several things in the works. But I think most specifically, our working together in terms of KBR and just understanding where our differences lie, and letting that sort of establish the path forward, along with what Mr. Assad said in the particular committee that -- or work that he's doing.

THIBAULT: OK. Director Stephenson, how's it working from your angle, or your perspective?

STEPHENSON: We're pushing it hard.

As far as inventory, we are working various issues right now with the board of reviews. We are encouraging our people to bring those issues to our attention. And I would say there's probably a half- dozen issues that we're working right now. They're not all war- related. There are various contractors. But we're working on them right now.

I've also been a frequent visitor to Mr. Assad's office, in which I will bring to his attention anything which I believe needs to be addressed from a department level.

THIBAULT: All right. Well, thank you. I've got a bit of time here, so I'll open the dialogue. But I'll try to -- I'll just keep it with you, Mr. Assad. I'm sure we'll explore it some more, this -- it's been referred to -- it was discussed in a prior panel, because of the LOGCAP nature, that the DCAA draw down \$193 million report, to shorten it.

Where are you at in terms of addressing that?

ASSAD: I read the report. And we're meeting, I think tomorrow.

You know, my first reaction to these things is to always look in the mirror. We need to. And having a bit of an industrial background, and having run a company of a major size that did a lot of international business, things aren't always as they seem with regard to, I'm supporting a particular situation, and there's a ratio of that level of support, and should that be in a direct ratio or not.

So, the first thing I want to know is, from the Army's perspective, from DCMA's perspective, what did we do from a proactive point of view to look forward with regard to the drawdown?

And make no mistake about it -- and I think you mentioned it; I was listening to part of the comments you had at the previous hearing -- that contractors have an affirmative responsibility to act in an efficient way. There's no doubt about that. And so, we want to make sure that that, in fact, is happening.

But we also want to make sure, at least from my perspective, that we're doing what we need to do, because this is going to require both the work of a contractor and the government to ensure the appropriate drawdown takes place, and that we save as much money as possible, while ensuring that we get effective support for our warfighters.

THIBAULT: My time is up. I'll cover it later.

Commissioner Shays?

SHAYS: Thank you. The only reason why we have this hearing was what I thought was the outrageous fact that two departments could not resolve their differences.

And with Ms. Stephenson, we felt that, rather than black and white, there needed to be at DCAA a degree of when a contractor -- not a pass-fail, but was it a D, an F or a C-minus -- to give guidance to DCMA as to how serious this issue was.

Mr. Williams, you weren't here. And Mr. Ricky (ph) had to stand in your place. I think it had to have been one of the most unpleasant jobs for him, because he had to take an indefensible position on behalf of DCMA.

It is simply outrageous that DCMA did not respond to DCAA's findings and have any withholds. And it was unfortunate that DCAA did not have a way to see that resolved.

Now, Mr. Assad, I was listening carefully, but I'm not quite sure if I have an answer. If we have an answer, then you don't need to come back, if we have an answer. If we don't have an answer, then you're going to keep coming back...

ASSAD: Let me...

SHAYS: ... and we're going to ratchet up, because you talked about so many other things.

Can you tell us, does this committee ultimately resolve this, that's setting up an still in process? Or do you have in place, right now, a mechanism that, whoever now is the new director of DCAA will be able to resolve it when DCMA is ignoring it?

I want to know if there is a process in place at this moment in time.

ASSAD: There is not a process in place at this moment in time. The process that's in place is to get it resolved between DCMA and DCAA.

But let me say what we are doing.

As we go forward, one of the fundamental tenets that this subcommittee will be looking at is, when you hear contractors...

SHAYS: Sir, I'm just going to interrupt you a second. I'm going to let you do your part, but let me just.

When will it be resolved?

ASSAD: I would say...

SHAYS: We had a long chart here that took two years before we saw...

(CROSSTALK)

ASSAD: I'd say about...

SHAYS: Is it going to be done in a week, two weeks, a month?

ASSAD: About 30...

SHAYS: Two months? When?

ASSAD: I think about 30 days.

SHAYS: OK.

ASSAD: Yes. I think so.

The fundamental structure we already have. We just need to -- one of the problems we have, commissioner, is that the regulations are not consistent. We need to come forward with regulatory recommendations on how we make our regulations consistent, so that -- let me tell you where we are going. We need to be simple and straightforward about this. If a contractor's system, whether it be a business -- any type of business system -- is inadequate, that's a serious matter. We're going to give them an opportunity to submit a corrective action plan. If they're late, we're going to withhold.

Included in the corrective action plan will be things that they're supposed to do, if they don't...

SHAYS: We're not just talking about systems. We're talking about any problem that DCAA finds, where they think the contractor does not deserve their money.

ASSAD: Well, let me...

SHAYS: And a withhold is a withhold. It doesn't mean they don't eventually get it. But correct it first, and then you get your money.

Are you telling us right now, that we do not have in place the ability to withhold money?

ASSAD: No. I'm saying, in some cases we do, and in some cases we don't. Yes, I am saying that.

But what I'm trying to tell you is that, a finding of a DCAA auditor is their view of a factual situation.

SHAYS: True.

ASSAD: There's always another story from that, as you can probably imagine, from the contractor's perspective.

The contracting officer's responsibility is to that factual information from DCAA, take the information they have from the contractor, and make a determination that is fair and reasonable for the taxpayer.

SHAYS: But Mr. Assad, we're talking more than that. We're talking about even the courtesy of a response by DCMA as to why they ignore DCAA's findings.

ASSAD: Well, I...

SHAYS: What's the point of having someone do their work, if DCMA is going to act like the report never took place?

ASSAD: Well, that's why I -- commissioner, perhaps it was subtle on my part. By including that in our pre-clearances, before we ever go to the table with the contractor, DCAA will now be informed, there's a difference of opinion that needs to be resolved.

SHAYS: And that's part of your job.

ASSAD: Yes. That's where we're headed.

SHAYS: No, not headed. Is it resolved or headed? ASSAD: No, because we've got to put it in policy. I've got to institutionalize it.

I'm telling you that, fundamentally, that's what we're going to do.

SHAYS: OK.

ASSAD: But it needs to be institutionalize.

SHAYS: I don't mean to be rude. I don't -- you know, I just am -- I don't understand why it takes so freaking long for a department to resolve something so important.

Tell me why it takes so long? Why did this committee just meet on the 23rd?

We had a hearing April 11th. So, you could have -- I mean, August 11th -- you could have met in August.

ASSAD: I did meet in August. I met with.

SHAYS: You have -- this committee could have met in September.

ASSAD: Well...

SHAYS: And they met in October.

You know what the irony is? We said we'd have you back in 60 days. That was even after the 60 days.

So, I almost feel like you're not even paying attention to what we're saying, much less Ms. Stephenson.

ASSAD: No, that's not the case.

I met, I think, the day after this commission met, with both DCMA and DCAA, and talked about the issues and how we were going to go forward and resolve them.

And what I need to do in order to ensure that I get it institutionalized throughout the organization, is I do need to bring the senior procurement executives together. I do need to inform them. I do need to seek their judgment and their view, which is what we did.

And the conclusion was, the right way to go about this was under the contracting panel -- or the integrity panel and contractor...

SHAYS: OK. Then just tell me this -- and then I'll yield back my time -- not when you're going to do something, but when it will be resolved, when finally we can say there is a process in place.

I'm not asking that you be within the week, but I'd at least like to know you'd be within three or four weeks of being accurate.

When do you think that would happen? ASSAD: Within 30 days.

SHAYS: OK. Thank you.

THIBAUT: Commissioner Zakheim?

ZAKHEIM: I'd like to deal with a subset of Chairman Shays' concerns. I would like to know, Mr. Williams, we basically got two somewhat conflicting views of DCMA's attitudes to withholds.

Mr. Isgrigg testified essentially that, if a corrective action plan has been submitted, that's good enough, in effect, and conveyed the impression that it was exceedingly difficult to implement withholds. DCAA had a very different view.

But even your own lawyer indicated on August 7th, in a letter to the commission, that suspensions could be supported based on the risk -- and I'm quoting here -- that claim costs may not be allowable, allocable or reasonable. So, it seems to me that your own lawyer supports withholds.

There obviously was a lot of ambiguity on August 11th. Can you clarify that for us? Have you changed your position on withholds? Or is it still something that essentially is a mountain too hard to climb except unless the mountain is about four feet high?

WILLIAMS: Well, I don't think it's a mountain too hard to climb. And I think that where we're headed is to be very -- and I think the reason you get those varying views -- if they are varying, and I'd have to look at the specifics again -- but I think the reason for some of this is because there's unclarity and inconsistency in the regulations, as Mr. Assad just mentioned.

I think, dependent on how you read them, and who reads them, and what attorneys read them, people will draw different conclusions. There are clauses that specifically speak to certain remedies that you would take if a system is determined inadequate or unapproved. There are other clauses that don't speak to a specific remedy.

So, the question of what is the remedy, what is the appropriate remedy, I think is not clear. And that's what we want to make sure is very clear, because as we try to deal with this with industry, they're going to hold us accountable for dealing with them.

We have been successful in the past with withholds in varying cases, some of them because the contractor agreed to voluntary withholds. I know of a very specific case where we sought a voluntary withhold regarding an earned value management system, and it was very effective. I know in another case where we were working towards a withhold, and the contractor's legal team came back and argued very vehemently that the contract doesn't provide for that.

So, what I want to make sure of moving forward is that, if withholds are the right answer, or whatever other remedies are the right answer, that we have that supported by the regulations and supported by contract law, so that we

can go hold contractors accountable and do what we need to make sure the system has become compliant.

ZAKHEIM: Mr. Assad, are you comfortable with that? I mean, I wasn't DCAA. I was quoting DCMA's own lawyer.

And so, I am thoroughly confused on several counts. The first is, this obviously is not a new issue. So, we've been at war for eight years in Afghanistan, long enough for me to actually start forgetting about what it was like at the beginning when I was there.

Eight years in Afghanistan, and we haven't resolved something like this, which I would have thought is absolutely critical. That's point one.

Point two is, we know that, in fact, there have been withholds. In fact, Director Stephenson was just talking about another one.

Are you comfortable with this situation, number one? And number two, do you really believe that you've got to change the federal regs as opposed to simply issue clarifications?

ASSAD: No, I'm not comfortable. Yes, I do believe we need to change the regulations.

But more importantly, I think I've articulated where the department is headed. It's going to be simple and straightforward.

If there is a deficient system, business system, and we find it to be inadequate, we will provide the contractor an opportunity to submit a corrective action plan. If they're untimely in the submission, we will withhold. If they don't meet the actions identified in the contractor's action plan, we will withhold.

Now, it will be commensurate with what we think the system is, and we need to resolve that. Should it be the same for every system? I'm not sure. And that's one of the things we need to talk through.

But no, sir, I'm not comfortable with it. It does need to change. And yes, we do need to change the regulation.

ZAKHEIM: Mr. Assad, on page seven of your statement you say, "I'm personally imploring contracting officers not to close negotiations until they're satisfied they've been given accurate information from which to make the determination about the reasonableness of price."

I was struck by the word "imploring." People who beg in the Pentagon don't get very far. People who order get very, very far.

My question to you, sir, is, why don't you simply issue a directive to that effect, telling them that they cannot close negotiations until they're satisfied, et cetera, et cetera?

ASSAD: Well, perhaps "imploring" was a precipitous use of the English language. I make it very straightforward, that I expect them to get a fair deal for the taxpayers. There's no doubt about it. There's no misunderstanding. I personally participate in every peer review on a sole source contract over \$1 billion. I've started that about a month ago, every sole source negotiation. I make it very straightforward to contracting officers, there's no misunderstanding where I'm coming from on this issue.

ZAKHEIM: OK. And the last question, you answered Chairman Shays that in about 30 days you're going to have -- you're going to go from a draft to a final on that process.

Can you give us a more general sense? You're setting up - you're doing some other things with a working group. What kind of timetable do you have? I mean, is this all going to be in place by January, March, whatever?

ASSAD: I think 90 days is what they had set up as...

ZAKHEIM: For everything.

ASSAD: Yes. For the things that they thought they could get into play, they thought 90 days was the right way to go about it.

And the reason why we're using the Contracting Integrity Panel, is because we will be held accountable to Congress. We have to report on that. Once we make an action within the Contracting Integrity Panel, it becomes actionable to Congress.

ZAKHEIM: Well, thank you. And I'm really glad you're doing what you're doing.

I yield the rest of my time.

THIBAULT: Thank you, commissioner.

Commissioner Ervin, please?

ERVIN: Thank you, Mr. Chairman. I'll be very brief, but first a couple of preparatory remarks.

I wanted to at least mention your comments about your tenure, Ms. Stephenson. I want to applaud the work you've done as far as contingency contracts are concerned. And it's the only context I've worked with you in. And

I applaud you for what you've done. I think you've been a big help to the commission in that regard.

And I recall your saying in your statement that you want to work somewhere to make a difference, and I applaud that. And I think you have made a difference as far as contingency contracting is concerned.

Mr. Assad, I was pleased to hear what you had to say about increasing rather dramatically -- I don't have the numbers in front of me -- but increasing rather dramatically the numbers at DCMA and DCAA. I think we're moving in the right direction.

Just quickly, what's the timeframe for that? And then I have some substantive questions I want to get into. ASSAD: Well, the timeframe for DCAA is, I think all 700 auditors were within the first three years. I think that's what we plan on doing.

DCMA, the principal of the 2,700 or so -- actually, I think it's 2,733 -- I think those will be, for the most part, done in the first four years.

ERVIN: Great. Thank you.

Now, I may be the only Southerner on this panel. And there was an expression -- I'm from Texas originally -- we grew up with, which was the bane of grammarians. And that was I'm "fixing" to do something.

Have you eaten your dinner? Well, I'm fixing to do it. Have you completed your homework? I'm fixing to do it. Meaning, you haven't done it, but you're beginning the process of doing it.

And I'm just building on the questions of Commissioner Shays and Zakheim. I'm concerned that that's what we essentially have here, and I want to talk about that specifically.

With regard to this one issue of whether a business, a corrective action plan is accepted once submitted, or accepted once it's implemented and validated, can't you make a determination right now, irrespective of this committee, that a corrective action plan won't be accepted until it's implemented and validated?

ASSAD: Well, I guess the submission of -- in my mind, the submission of a corrective action plan is, in fact, an acceptable corrective action plan to us. If it's not acceptable to us, then that's when the withholdings will begin.

ERVIN: I'm not sure I understand that. Did you just say the submission of a corrective action plan...

ASSAD: Yes, in other words...

ERVIN: ... in and of itself, is sufficient?

ASSAD: No. That's just the beginning of a clock that says, when they submit a corrective action plan to us, it will say this is what -- these are the actions that we're going to take, and this is how long it's going to take us to do it. We're going to provide them between 30 and 45 days to do that.

If they don't submit an acceptable plan within timeframes of accomplishment that we think are reasonable in that timeframe, then we'll commence withholdings.

ERVIN: Submit or implement?

ASSAD: Well, it can't -- it may take them nine months to do a full implementation. Then we're going to need to look at what's the severity of the inadequacies, how near term are they correcting those things that are most deficient, and what should we withhold as a result of that.

So, it'll be based on how aggressive they are in establishing that plan to get these things resolved, whether or not we agree with that. If we don't agree with it, then we won't accept the plan.

ERVIN: Mr. Williams, I want to ask you about...

SHAYS: Could I just...

ERVIN: Sure.

SHAYS: The reason I don't find your answer very comforting is, it implies that if they have a plan you like, you give them the money.

ASSAD: No, I didn't say that.

SHAYS: Well, that's the implication.

ASSAD: No.

SHAYS: The issue I want to know is, will we withhold the money until the plan is accepted, implemented and shown to work?

ASSAD: No. We will withhold the money if an acceptable plan isn't delivered. We will withhold money if we do not believe that the corrective actions that they have planned are aggressive enough for us to be comfortable with in terms of how they're solving the problem.

SHAYS: But the issue is, don't they have to be implemented before you give them the money? I mean, to accept a plan that hasn't yet been implemented...

ASSAD: Well, let me give you an example. Let's say that they have an automated billing system. And what they've said is, in order for us to correct this automated billing system, we need 45 days to correct it. But we're going to set up a manual billing system to demonstrate to your DCAA auditors that every bill that we submit within that 45 days will be acceptable.

That's not an unreasonable thing for someone to do. What would be unreasonable about it is if somebody said, well, we're going to get to this within 270 days, and without an action being taken immediately to rectify the immediate problem.

SHAYS: I'll just make this point. I would think you would at least keep the money for the 35 or 45 days until you saw it working.

Thank you.

ERVIN: Mr. Williams...

ASSAD: Well, I think there's a misunderstanding, commissioner, if I just might. What I said was, if we don't believe that that is aggressive enough, we will withhold. So, it's going to be a judgmental thing. We're going to have to examine what are the circumstances of being done. And if we don't believe that there -- or if we do believe there is a very serious problem that's not being addressed, we're going to withhold.

ZAKHEIM: I guess what's frustrating several of us is, they give you a plan, to use your example...

ASSAD: Right.

ZAKHEIM: ... and they're going to go manual, so that they can cover the 45 days. You don't withhold the money. The plan looks good, makes sense. And guess what. They don't do it. Or they don't do it when they said they would do it. Meanwhile, they've got the money.

I think that's what's troubling us.

Do you have some way of staggering the withholds, so that...

ASSAD: Sure.

ZAKHEIM: OK. That's what we want to...

ASSAD: I guess that's what I -- yes, that's what I'm talking about. And in most instances, what we're talking about is reimbursable or progress payments, so we will have effective means to withhold future monies.

I mean, if we're in a situation where we don't have a means to recoup on a future, we'll withhold it immediately. So, it's only if we have an ability to get the taxpayers' -- to get that money back will we do this.

ERVIN: So, in other words, Mr. Assad, you're going to provisionally accept these corrective action plans.

ASSAD: That's correct.

ERVIN: And you'll accept them finally, only once they're implemented and validated. Is that what you're saying?

ASSAD: That's correct.

ERVIN: All right.

Mr. Williams, to essentially follow the same line of question with you, I was certainly puzzled by -- and, I think, troubled by -- your testimony on page five where you say that the subcommittee offers recommendations of how to better define the swim lanes between DCAA's audit responsibility and the responsibility of DCMA to approve a contractor's business system.

This suggests that you regard it as DCMA's responsibility to approve a business system.

Isn't it also the responsibility of DCMA to disapprove it, if the circumstances warrant that?

I think that mindset, that predisposition to approve business systems, is really part of the heart of the problem here.

WILLIAMS: No, I agree, commissioner. It wasn't an intent on my part by putting those words in to say that we don't disapprove or approve. I think it's both. And we have done that, and we've done that very recently.

I think it's just important that we understand that part of trying to deconflict the issues here is to understand what DCMA's responsibility is with respect to making decisions of approval or disapproval. But it is both.

ERVIN: What I think troubles me is, it seems as though -- and certainly, Mr. Isgrigg's testimony in August suggests -- that whenever in DCMA's judgment there is ambiguity, the ambiguity is resolved in favor of the contractor. And

what you said a second ago suggests that the primary motivation for that is concern about litigation on the part of the contractor.

What I think all of us would like to see going forward is, if DCMA legitimately believes that there is ambiguity, we'd like the ambiguity resolved in the favor of the taxpayer.

Can you assure us going forward that, this process aside, that's going to be the mindset of DCMA going forward? And I'd like your comment on that, Mr. Assad, as the person to whom ultimately Mr. Williams reports.

ASSAD: I'll answer it, Charlie.

There's going to be no ambiguity. This needs to be simple, straightforward, so our contracting officers and our auditors understand it. You know, there should be...

ERVIN: But just to be clear, I'm talking about ambiguity in the regulations.

ASSAD: There's going to be no ambiguity. We're going to make it very simple and straightforward. And that's what I'm talking about within the next 90 days.

ERVIN: But earlier you said that there were certain changes...

ASSAD: There are right now...

ERVIN: ... in the regulations that need to take place...

ASSAD: That's correct.

ERVIN: ... because the regulations are ambiguous.

ASSAD: That's correct.

ERVIN: So, are you going to -- when are you going to clear up those ambiguities in regulations?

ASSAD: Those ambiguities will be resolved in the next 90 days. The policies -- the regulations will be changed. The ambiguities will be cleared up. There is going to be no doubt about how we're going to deal with businesses.

SHAYS: Could you just...

ERVIN: Sure.

SHAYS: So, just states, in 30 and 90 days, so I know what 30 days is and what 90 days is.

ASSAD: Thirty days...

SHAYS: What's going to be done in 30 days?

ASSAD: Thirty days is the adjudication process. If there's a difference in opinion between an auditor and, let's see, a pre-proposal negotiation...

SHAYS: OK. I got you. And 90 days?

ASSAD: The 90 days is, everything that we need to deal with in terms of how we're going to deal with business systems, regulations, policy memorandums, guidance to our contracting officers -- very straightforward.

SHAYS: Thank you.

ERVIN: I'd like to suggest that we have the panel back in 90 days.

Thank you.

THIBAULT: Commissioner Green?

GREEN: Mr. Assad, you've been around the building a long time. You've seen these two organizations work, not work, whatever. What's your personal assessment of the relationship? Not what it's going to be as a result of the panel, but what is it last week, the week before or last year?

ASSAD: I think there is a professional relationship, but the two agencies have not worked in concert with one another as they should.

GREEN: Are we the first ones to raise that?

What's OSD been doing for the last 10 years?

ASSAD: Well, I think that part of the issue, frankly, in the drawdown of the workforce was the drawdown of a number of folks that would have been working together at DCMA and DCAA. And it almost led to a myopic view of one's responsibility, rather than teams that would have been working together.

So, you know, I can't answer what people should have done 10 years ago. But I have been here for three years, so you can hold me accountable for that.

GREEN: What's the long pole in the tent -- legislative, regulatory, policy -- in getting these organizations on the same track?

ASSAD: There's no long pole. We'll get it done in 90 days.

GREEN: Are you prepared to come in, I assume with legislative changes, if that's required?

ASSAD: Yes.

GREEN: Ms. Stephenson, your access -- it's been indicated that your access to contractor records is insufficient. And I think you've made that a matter of record.

You've also gone in, I guess, with a legislative proposal to OSD, to expand your access and your subpoena authority.

STEPHENSON: Correct.

GREEN: What is the status of that?

STEPHENSON: To be honest, I don't know. We submitted it several months ago. And I have to be honest, I don't know what the status is.

Last I heard, it was being worked. And sir, I don't know what "being worked" meant.

GREEN: I don't know what "being worked" means, either.

Mr. Assad, do you know?

ASSAD: I'm not prepared to tell you what the administration's position is on that matter. I do know that we are preparing the legislation proposal to address that.

GREEN: OK. I have nothing further.

THIBAUT: Thank you, commissioner.

Commissioner Tiefer, please?

TIEFER: Thank you, Mr. Chairman.

Ms. Stephenson, your audit, as we've been discussing, says that KBR's drawdown planning was so ineffective that KBR could save the government at least \$193 million in KBR excessive costs by the time LOGCAP III ends in August of 2010.

And Lee Thompson has just said that, with appropriate qualifications, he is going to be taking action on this.

What I want to know is further than that. Your audit says, and I quote, that this is a very conservative estimate, the \$193 million. And that's an official statement. It's not -- it doesn't sound like just an offhand remark. And it goes on to say, through proper planning, the contractor could achieve significantly more savings.

By my own calculation -- which no one else has to vouch for -- given the rapid rate of troop drawdown going forward, I would say this could mean a minimum of \$100 million more over your estimate, 193. So, that may take it to a total of about \$300 million in savings.

Do you -- is DCAA done now? Or does it plan future reports on this issue?

STEPHENSON: Oh, no. We're planning many more reports. And that's one reason why it is a conservative estimate.

We have planned at least 15 more audits in what I would call the forward-looking operations audits. Those are not only related to drawdown, which we will have some more audits related to drawdown. This was on labor. We'll be looking at material. We'll be looking at property. We'll be looking at a number of other drawdown issues.

We are also looking at ramp-up issues. As it transitions to LOGCAP IV, there are inefficiencies that could be built into that process that we need to look at on a forward-thinking basis right away. And that's why we have dedicated over 10,000 hours to just these operations audits in theater. We want to make sure that we are ahead of this before it becomes an issue.

TIEFER: I'm please, very pleased to hear this.

Let me ask about your job change, which has been announced as a reassignment, not a removal. You said, which to me sounded, quite candidly, that GAO has some institutional issues with DCAA audits. And perhaps it seems that the DCAA director post had to go to someone not caught up in those issues in the GAO report, in order to take the agency to the next level.

I want to ask you. I took reassignment as a more hopeful sign than the alternative would have been, because your wartime auditing accomplishments, which are known to all, have been respected by that.

Let me ask, did the \$16 billion you mentioned in question, unsupported costs in theater -- I can't keep up with the way these figures move. It was \$12 billion

-- it was \$10 billion in 2007. This commission first got the figure of \$13 billion. And it seems to have leaped another \$3 billion.

Can you tell us what you're doing there?

STEPHENSON: It's very similar to what we had done in the past, where -- and I'll talk in general terms, and then I have to enter into the record the specific audit reports with those findings. But they are some of the very general same ideas, where there were unsupported costs in bid proposals, where there were unallowable costs that were found during our incurred cost audits, keeping in mind our incurred cost audits at this point are open back to 2004, so we're still looking at some of the costs that were through what I would call the very difficult time with the ramp-up of the war.

But I would be happy to enter for the record the specific reports that led to the additional about \$3 billion that took place in 2009.

TIEFER: OK. Another subject that's been near and dear to our hearts has been the tough transition from LOGCAP III to LOGCAP IV -- LOGCAP III being a monopoly, KBR, and LOGCAP IV having KBR, DynCorp and Fluor -- which must have increased your work load.

Has it strained you and DCAA to handle that? And have you been able to keep that as a priority under all the pressures?

STEPHENSON: I'll first say, absolutely is a priority. As I said in my opening statement, I always have and, until Friday, I always will make the war-related audits a priority, even if that means we defer lower risk audits in other areas to future years, which we have done.

Yes, it has increased the work load. There are now three contractors. It's at least tripled the work. And when you factor in Serco, who is the program management, it's actually four times the work.

However, that does not mean that we're not doing the audits we need to do in theater. We will defer other audits stateside of the low-risk nature into 2010 -- I mean, to 2011 or 2012.

TIEFER: Thank you.

On a more personal point, you mentioned your 22 years in the civil service. How long is that in the senior executive service?

STEPHENSON: Seven years.

TIEFER: And is it, as typically in the civil service, that you had to be promoted on merit at each point? This is not a political thing, is it?

STEPHENSON: It was all merit.

TIEFER: All merit.

Well, I want to ask. Many of us kind of held your breath when the point came in your statement, when you talked about your second career.

Have you yourself decided that, as a first choice, you're going to go out what I will have to call the revolving door, and go work at what I am sure would be a lucrative job with some of the contractors you've audited?

STEPHENSON: My goal is to stay with the federal government. My goal is to stay within the audit arena of the federal government, where I can continue to put forward cost savings, especially if it's in the military -- a group of people who need all of our help.

So, that would be my first priority. It would be to stay within the federal government. TIEFER: So, you're not going -- we've seen a lot of talented, experienced managers go off to the greener pastures. You're not rushing there?

STEPHENSON: That's not a priority for me.

TIEFER: OK. I want to mention, since I seem to have the time, that I fully associate myself with Mr. Shays on the subject that, if we can't come to a clear enough conclusion about the process between DCAA and DCMA, that whatever oversight steps he and co-chairman Thibault want to take to keep our focus on that issue, I would fully support, fully support.

And I thank Mr. Ervin for also joining in that.

I'm just going to say that, for my part as to the auditing challenges in wartime contracting, that we have become familiar with that you have been tackling, I have found you indefatigable, impressive and indispensable. And I hope the government makes good use of your special talents for the challenges.

THIBAULT: All right. We're on our second round, to the extent that anyone has anything. And I only have one, and then a comment.

I've wrestled in my mind, Mr. Assad. I always think of, look for example, and using my own prior walk. And about systems and -- you know, I'm thinking about this corrective action plan, no corrective action plan, good corrective action plan, no-good grammar, no-good corrective action plan.

And I could see as I was thinking, all right, accounting system -- really important. They don't have a policy or documentation about retaining needed documentation; therefore, the accounting system is very cumbersome. But they found it all, so it's not likely the billing system is going to be overbilled, but it's a finding and a deficiency. But there isn't an immediate dollar impact.

OK. That's -- but it's a real -- and it would be considered a material issue, at least by me as an auditor. But it's a different kind, a kind of Chris Shays A, B, C, C-minus, D-plus. It may be a C minus, but who am I? But I could also say that part of an accounting system in our world -- yours and mine -- is accounting for expressly unallowable costs.

So, a lot of times you have a medium-sized firm, even some of the big firms with a new segment. They set it up, and they buy a firm, and they inherit an accounting system, and that's the way they do it. And they can't get anything right as far as that goes.

They're claiming first class airfare. It can be a lot of money if you're doing a lot of travel. They all travel. They're claiming things like entertainment that drug back and forth, alcohol, excessive per diem rates. They're staying at the great hotel, the Carlyle, but they could stay at the Hilton on a government rate for \$200 a night less. Sometimes lobbying costs -- and those kinds of things that we should not be paying for, and they've already paid for them. So, there's where I think, if you write up a system, I don't care if you call it a withhold, a decrement, or whatever it is, you go get the money now, because they don't deserve a nickel of that. Whereas, on the other one, I think you could make an argument, fix it, give you a reasonable period of time.

So, the contracting officers in DCAA do need to work really close together.

And Director Stephenson, I would say, shades of gray -- you know, you probably need some clarification on shades of gray sometimes. And I realize what brought you to the go, no-go, adequate, inadequate assessment.

But there's -- a quick observation?

ASSAD: No, I couldn't agree with you more, Chairman Thibault. The fact is, if we find outrageous charges, things of that nature, we're going to withhold it. There's not going to be any question about that.

But where we want to go is, we want DCAA to provide us their independent audit position, their statements of fact. And then, I intend to hold Mr. Williams accountable for the determination of whether or not he adequately resolved those business system statements of fact that DCAA came about, and whether or not they were sufficient enough to determine that a business system is inadequate.

If the business system is inadequate, the company is going to have a problem.

THIBAULT: You would agree with that.

OK, a live comment, since we're all making comments. I'm biased. I have about 100 years -- or 32, to be exact -- in the Defense Contract Audit Agency. I've worked with Ms. Stephenson a lot. You're a real pro. Your work ethic is the greatest I've seen from a GS-12 to a SES. I've never seen anyone else with the work ethic -- I never tried to imitate you. And so, and the quality of the horsepower you bring to something is exceptional.

So, I also wish you the very best, and thank you for your support of the commission.

ZAKHEIM: A couple of things. First a quick question to Mr. Assad.

The legislative proposals, how does that work relative to the 90 days? Is it going to take you 90 days to get the legislative proposals? Because, frankly, I worry, you know, having been in the building, any time you go in with a legislative proposal, you don't know what you're going to come out with. So, I'm hoping those are going to be held to a minimum, and that most of the changes will be made by you.

ASSAD: Yes. I left it open to legislative proposal that might be necessary. Frankly, everything we've seen to-date appears to me to be regulatory in nature.

ZAKHEIM: Excellent.

A quick question to Director Stephenson. One of the things we heard earlier was that, it would be really hard for KBR to have a drawdown plan, because there's no military drawdown plan yet. Do you buy that argument?

STEPHENSON: No, I do not. I think that it may not be perfect, and we wouldn't look for perfection. However, I think that there should have been something in writing, much better than what we saw. And I think that it is completely on KBR's responsibility to do that. They should not have to be prompted by anybody.

But we all were aware that there's a drawdown coming. And that should have been enough to get the contractor to put that plan together.

ZAKHEIM: Well, thank you. I want to thank all three of you for your service.

Mr. Assad, we're with you on this one. God speed and just get it done, because the country needs it very badly.

And Director Stephenson, since at one point I also looked after DCAA, I wish you the very, very best. And certainly, in supporting this commission and its work, you've been terrific. Thank you.

THIBAULT: All right. Commissioner Henke, I owe you an apology. You were at the end of the table, and I ignored you. Do you have any questions, Robert?

Just a brief one for Director Stephenson, if I could.

At our August hearing, we had a very productive discussion about your system of adequate and inadequate, the pass-fail. And you said you'd go back and look at that carefully.

I've read your answers to the questions for the record. They're very thoughtful, and thank you for that.

Can you just expand for us on the changes you're making? You bring them to the commission's attention on page five and six of your testimony.

As I understand it -- briefly, and then, please expand on it -- you're not going to issue an opinion on the overall adequacy of a system of controls, but rather subsystems that feed into that. And that way, that will address the issue of having a pass-fail.

Can you just talk us through your thinking behind those changes?

STEPHENSON: Yes. What we're starting with first is the billing system. And we're going system by system.

But the overall, general thought is that we don't need to give an opinion on an overall system. That is something that the contracting officer approves or disapproves. What we need to do is notify the contracting officer when there are material weaknesses and significant deficiencies. That's where we need to focus...

HENKE: In a subsystem?

STEPHENSON: Yes, a subsystem. What I mean by that is, the billing system, they may have issues with interim vouchers on cost-type contracts, but the progress payments on fixed-price, fixed-price incentive and other areas may be just fine. We would report that they have serious deficiencies in the process of putting together cost-type vouchers and what that means to the government -- on a real-time basis.

By not having to give an opinion overall on a system, it saves months and months of having to test parts of the system that are irrelevant. Instead, it lets

us focus on that part that is the most relevant with the biggest deficiencies. It gives real-time information to the contracting officer.

HENKE: So, and your statement makes the point where that focus is resources on risks. Is that...

STEPHENSON: Exactly.

HENKE: ... how you'd do that? Can you expand on that a little bit?

STEPHENSON: It is on the risk to the government, if there are overcharges. There are risks to the government, if that system or if that subsystem is not working properly. What is the risk to the government? And what are the mitigating factors?

As I said, we're starting with billing. Each one will have its own set of what those risks and those components may be.

HENKE: And that revised process will be effective, you hope, by the end of December?

STEPHENSON: For the billing system. This year we're focusing on two systems, billing and accounting, and we are not starting any of the other systems. I don't want to throw bad work after more bad work.

HENKE: OK.

STEPHENSON: We're starting with billing. We are testing it right now at a local, large contractor that has a lot of vouchers, a lot of payments to the government. As soon as that testing is done, we'll refine the process, announce it to the workforce. That should be the end of December.

We're already working on accounting. That should come in around March.

HENKE: And how will the contracting officer now be able to take a report on a billing system and see where the risk is in terms of material weaknesses or...

STEPHENSON: It'll be clearly outlined as to where those risks are, where the impact to the government is and what they are to do with that report from here.

HENKE: OK. Thank you very much.

THIBAUT: Commissioner Green, are you good to go?

GREEN: I just want to note that there'll be questions for the record for Ms. Stephenson.

THIBAUT: All right, questions for the record for Ms. Stephenson, and maybe for Mr. Williams or Mr. Assad.

You've all been great. I appreciate you taking the time.

And Dov just said we always certainly give the final comment to our panels. This is the way we do it. So, if each of you in the order you presented would like to have any closing thoughts, we'd like to hear them. Thank you.

Thanks, Dov.

ASSAD: Commissioner Thibault, Commissioner Shays, members of the commission, I want to assure you that we are taking very seriously the work of the commission, the findings of the commission, the recommendations of the commission.

I can assure you that I've committed to you, we'll get this done in 90 days. We will get it done. And you can hold me accountable to that.

THIBAUT: Director Williams?

WILLIAMS: Thank you. Let me echo what Mr. Assad said and say I agree with that. But also, let me add that I think this discussion about the differences between DCAA and DCMA is an important one here. And I would hope that April would agree, that she and I have attempted to work very closely on some of these issues.

I think some of the underlying bases for where there are differences in opinions get right into this discussion about some of the confusion in the regulations and what the regulations may provide, based on various interpretations. So, I think as we move down this road trying to clarify those things will certainly help us move forward in terms of how we try to resolve some of the various issues that we have to work together on.

But I would say that I would also echo the comments here about, since I've worked with Ms. Stephenson, her professionalism, the work that she does, her attention to detail is very much understood in our community. And we have appreciated the expertise that she brings to the table.

Thank you. THIBAUT: Director Stephenson?

STEPHENSON: I have to applaud the commission for the good work that you've done, while at the same time being fair and unbiased in listening to everyone that has come before you. This is my fourth time.

And I have to say, it's definitely the highlight of my week -- and not because of other things going on. But it is definitely the highlight of my week to always come before the commission, because I know you will listen, you'll take into consideration what is said by all parties, and you'll move forward in the best way that you can.

I look forward to hearing future outputs from the commission. Just because I'm leaving today, and leaving on Friday, doesn't mean I'll forget about this, because this is just too important a work to have done.

Contingency contracting in wartime effort will always be here. It will just be named to something else. And we need these lessons learned for the future.

Lastly, I have to give a very big thanks to the DCAA employees, who have work tirelessly, who live in tents, who live in conditions that, at this point, you would wonder how do they even get to where they're going with the contractor, let alone all the good findings they have. But they have outstanding findings, and have just given of themselves time and time again.

And I would be remiss if I didn't end my tenure at DCAA and give a very big thanks to all of those that gave and gave, and gave some more. So, thank you to the DCAA employees.

THIBAUT: All right. Thank you. Thank you to the audience -- you're pretty patient -- and again to staff for the great work you do for us.

And Commissioner Shays, I've always wanted to do this, that I could use the gavel.

(LAUGHTER)

But I don't abuse the gavel, I just use it. Thank you.

END

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