

DEPARTMENT OF STATE CONTRACTING: CWC'S 2ND INTERIM REPORT, THE QDDR ,
AND IRAQ TRANSITION

MONDAY, JUNE 6, 2011

Commission on Wartime Contracting

Washington, D.C.

The Committee met, pursuant to notice, at 9:00 a.m., in Room 216, 216 Senate Office Building, Hon. Christopher Shays, Co-Chairman of the Commission, presiding.

Present: Commissioners Thibault, Ervin, Henke, Schinasi, Tiefer, Zakheim

SHAYS:

Good morning. I'm Christopher Shays, co-chairman of the Commission on Wartime Contracting in Iraq and Afghanistan.

The other commissioners at the dais are my fellow co-chair Mike Thibault, and Commissioners Clark Kent Ervin, Robert Henke, Katherine Schinasi, Charles Tiefer, and Dov Zakheim.

Today's hearing focuses on Department of State contracting in U.S. contingency operations, like those in Iraq and Afghanistan. The commission is interested in three major topics: first, the Department of State's response to the commission's second interim report to Congress; second, the treatment of contingency contracting in the most recent Quadrennial Diplomacy Development review (QDDR); and third and final, transition issues in Iraq and Afghanistan.

The commissioners may of course raise additional issues as the question period unfolds. Our sole witness today is a very distinguished official of the Department of State, Ambassador Patrick F. Kennedy. His current position as undersecretary of state for management puts him squarely at the center of the action in many issues that concern this commission.

We appreciate the informed and helpful testimony he has provided in other appearances before this panel, and welcome him back. And we also appreciate his informal responses to our work as well.

Before we hear Ambassador Kennedy's testimony, I will comment briefly on our three main areas of interest.

First, it's the State Department's response to our request for comment on recommendations in our February 2011 second interim report to Congress. That report, called "At What Risk? Correcting

over- reliance on contractors in contingency operations," made 32 recommendations for statutory, policy, or administrative changes.

At our request, the Department of State provided responses to the items that would affect it. We appreciate that.

To be candid, however, we thought some of the responses were cursory, while others struck us as logically dubious. For example, we think the department's resistance to our recommendation for a permanent government-wide inspector general for contingency operations did not pay due regard to the interagency dimensions of these operations or to the drawbacks of setting up special IG shops after boots have already hit the ground.

As experience in Iraq and Afghanistan has shown, a great deal of waste, fraud, and abuse can happen if oversight isn't deployed along with the troops, diplomats, and reconstruction officials.

State also disagreed with our recommendation that suspension-and-debarment officials document the rationale for not taking action against the contractor official recommended for suspension and debarment. State's response said that would be a burden.

A burden? That response approaches the borderline of government negligence to us.

If cognizant oversight officials have recommended that a contractor be suspended or debarred from receiving taxpayers' money, it is perfectly reasonable and potentially important to insist that other officials write a few sentences of explanation if they decide to do nothing and ignore that recommendation.

Our second main topic is the treatment of contingency contracting in the State Department's Quadrennial Diplomacy and Development Review, which includes operations of the U.S. Agency for International Development.

To its credit, the department notes in the QDDR that contracting has real benefits for the government, but has often been the default option, a term that we also use, to work around agency staffing and budget constraints.

The QDDR calls for rebuilding core capabilities in critical areas, creating more competition in contracting, and strengthening contract oversight and accountability. These are all truly excellent points.

We might also note that the Department of State has given contracting much more thought in public print, at least, than the Department of Defense displayed in their most recent quadrennial defense review, the QDR.

Nonetheless we hope to continue an early discussion on the QDDR to judge whether it gives appropriate weight to the importance of contracting to mission success and to the need for good stewardship of taxpayer dollars.

That thought leads to our third main topic, the Defense-to-State transition in Iraq and Afghanistan. Concerns about the planning, timeliness, resources, and risks of those transitions have figured in previous commission hearings and in two special reports to Congress.

Unfortunately, our concerns remain very much alive and they are reinforced by the Department of State inspector general's report released just last week.

On October 1st of this year, State will take over responsibility for the U.S. presence in Iraq, as U.S. troop strength there draws down to essentially zero by December 31st, 2011.

We have noted that this transition requires that State take on or contract for hundreds of functions, ranging from medical care and air transport to construction and pest control, all of which expand its presence to posts outside of Baghdad.

Much of this work involves contracting, including contracting for thousands of new private security employees. The department's new IG report, however, tells us that, quote, "Several key decisions have not been made. Some plans cannot be finalized, and progress is slipping in a number of areas," end of quote.

The IG also notes quote, "A lack of senior-level department participation dedicated to the transition process," and I think the key word is "dedicated," which may be helped by the new Office of Iraq Transition coordinator.

The State Department IG also says "5,405 projects valued at \$15 billion have been transferred to Iraq, but with security concerns and poor contract performance being major hindrances to project completion." Those are quotes from that report.

The IG report underscores a concern featured in this commission's special report on sustainability risk that we released Friday morning. Quoting the IG, quote, "Ambassador officials noted the challenge of getting local and provincial governments and the government of Iraq ministries to readily assume responsibility for some transferred projects," end of quote.

As we have said repeatedly, even the best U.S.-funded projects can turn into waste if the host government doesn't have the money, supplies, trained staff, or will to sustain it. So we will certainly talk about these issues with Ambassador Kennedy.

We are also interested in and will explore planned and ongoing contract awards and related oversight. These awards are at the core of the commission's responsibilities.

Lest our questions be misconstrued as lack of appreciation for the State Department, let me note that the department is operating in an unprecedented set of circumstances. We know of no other time in our history when we have asked State to conduct extensive diplomatic development and reconstruction operations in-country where host government cannot provide effective customary security.

There are no front lines, and large terrorist organizations are trying to kill our people, and anyone who works for them or cooperates with them.

We truly appreciate the dedication and courage of State Department people who have served in Iraq and Afghanistan, and have nothing but the highest respect for them.

We want to ensure that the contingency contracting vital to their work is being conducted in ways that supports State's mission while economizing the use of taxpayers' money.

We have asked Ambassador Kennedy to offer a 10-minute summary of his testimony before we move on to questions from the commissioners. The full text of the ambassador's written statement will be entered into the hearing record and posted on the commission's website.

We also ask that the ambassador provide within 15 business days responses to any questions for the record and any additional information he may offer to share.

Ambassador, now if you'd rise and we swear you in, as we swear in all our witness.

Raising your right hand, do you solemnly swear or affirm that the testimony you will give before this commission will be the truth, the whole truth and nothing but the truth?

SHAYS:

Thank you.

We'll note for the record that the ambassador has responded in the affirmative.

And ambassador, all the commissioner members welcome you today.

KENNEDY:

Thank you very much, Mr. Chairman, Chairman Thibault, fellow members of the commission. Your timing is propitious, as the department has been planning for and implementing a robust civilian presence in Iraq for over two years.

Much activity has occurred since September 2009 when I last appeared before you. I will focus on the current status of our contracting efforts in Iraq, as your invitation requested, but our lessons learned also apply to Afghanistan.

As you noted, we have submitted a written response to each of your 32 recommendations and your second interim report regarding use of contractors. As the military draws down in Iraq and State increases our civilian presence, we are relying on contractors for certain functions which are not inherently governmental. We use contractors for both routine and contingency operations when it makes sense and is cost-effective, as opposed to building up permanent U.S. government direct-hire staff.

Our Iraq contracting strategy addresses life support, security, transportation, facilities. As security improves we will transition to a more traditional mode of operation. We have already begun this effort, as in Irbil, where 62 percent of our static guards are local nationals.

The department experiences continuous contingencies in our daily operations under challenging conditions worldwide. As needed, we create task forces and working groups.

We continue to centralize procurement operations in the Bureau of Administration. This model is most effective in supporting contingency situations during natural disasters, like Haiti and Japan, as well as ongoing stabilization and reconstruction, as in Iraq and Afghanistan.

Based on our experience, State does not see a need for a separate contingency-contracting office. We deploy our experienced contracting resources as necessary, and our working-capital fund allows us to surge and dedicate resources to specific contingency operations as required.

We agree with the commission's observation that State's program offices need to plan effectively for contracting officer representatives. State also agrees that contracting officers should consistently enter contractor past-performance information into the federal databases, which will prevent awards to firms that have not performed well.

However, we do not believe that certifying database use is necessary. Timely input and candid performance assessments for all contractors will suffice.

Your interim report noted that training is not standardized across agencies for contingency-acquisitions workforce, and the Defense Acquisition University (DAU) recently developed some contingency-related contracting courses. State's Foreign Service Institute and our procurement executives are offering DAU-developed course mission-support planning as a pilot to see if the content is useful to the department. FSI routinely offers several other courses, both on campus and via distance learning, on contracting.

Mindful of the valuable insights we have received from the commission and other entities, we have taken additional measures to ensure proper U.S. government management over the increased number of contractors.

For Iraq, our primary contracting team is located in Washington, drawing on headquarters expertise. In Iraq, there are multiple levels of technical oversight, depending upon the contracting complexity.

Since we charge bureaus a 1 percent fee for all contracting services, we have the resources to surge and have hired 102 additional staff. The private security contractors who protect our diplomats in high-risk environments perform an essential, legitimate function that enables American diplomacy to be conducted where it is most needed. As undersecretary, I have worked to enhance State's oversight of PSCs.

Diplomatic Security (DS) has further developed its plan for oversight and operational control of PSC personal. For the DS worldwide protective-services contract, DS has increased staffing to more than 200 direct-hire personnel to ensure contract compliance of approximately 5,000 contractors.

The key elements of DS plans are outlined in my written testimony so I will only note briefly that, from the lessons learned, we believe it enhances professionalism and operational control, provides for greater cultural sensitivity, and achieves greater contract efficiencies.

State has also been working on improving legal accountability. We strongly support enacting a civilian extraterritorial jurisdiction act to expand extraterritorial jurisdiction over federal employees and contractors operating overseas as well as the Montreux Document and the International Code of Conduct for Private Security Service Providers.

In December 2010, Secretary Clinton issued the inaugural QDDR providing a blueprint for elevating American civilian power to advance our national security and to better partner with the U.S. military. The QDDR sets out four key outcomes for State and USAID. One of these is working smarter to deliver results for the American people.

Using the QDDR blueprint we have begun hands-on implementation. In early 2011 we issued department notices reminding staff of work elements for CORs (Contracting Officer's Representatives) and GTMs (Government Technical Monitors). An April notice provided guidance on critical work elements for supervisors to include in those employees performance plans.

We launched a skills-based COR class in May 2011. The department has also adopted the Federal Acquisition Certification Contracting Officer Representative Requirements for initial and continuous training in contract administration.

As part of this process we instituted a requirement the assistant secretary of any bureau with a service contracting exceeding \$25 million per year certify that adequate contract-administration resources have been identified to manage the contract.

Our Iraq funding was reduced below our request in 2011, but we have been able to meet the critical operational needs by delaying selected contract awards and through the judicious use of carry-forward funds from prior years. Funding for Afghanistan is also reduced. Because the civilian platform there is relatively stable, the current funding levels will be sufficient to cover operations through year's end.

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

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

I am pleased to give you a status report on our progress. This is difficult, as you have noted, but in spite of the difficulty we believe that we are on track.

Security: All U.S. personnel and contractors in Iraq will be under chief-of-mission authority and security arrangements have been worked out between State and DoD. On September 29th, 2010, State announced the award of a base contract for worldwide protective services to eight companies. Task orders are being competed among base-contract awardees and awarded on a best-value basis thanks to the assistance of this commission.

Awarding to multiple companies allows for increased competition for each task order, thereby controlling costs and providing for increased capacity to perform crucial security services in contingency environments. It also gives the U.S. government timely options in the event of a company failing to perform.

Several task orders for static and movement security have already been awarded, including separate static guard and movement security task orders for Embassy Baghdad, a task order for static and movement security in Basra, and movement security at Embassy Kabul.

To the maximum extent possible we are repurposing existing DoD infrastructure and property for each of our sites. We have let numerous facilities contracts in Iraq. The status of those efforts is outlined in my written testimony.

A medical contract was awarded for Iraq on May 15th. We are leveraging DoD resources in theater, where DoD has superior capabilities. An example is LOGCAP IV, which is a tested,

proven support mechanism. Use of LOGCAP on an interim basis is giving State time to solicit its own life-support contract. Another example is our use of the Defense Logistics Agency food and fuels contracts.

Also for LOGCAP, we are supplementing our oversight with subject-matter experts from DoD and are discussing a deployed contingency staff with the Defense Contract Management Agency (DCMA).

Diplomatic Security has funded a vetting-surge capability which provides a temporary increase in polygraph operators, investigative assistants, and interpreters. This will aid in more rapid vetting of the life-support contractors required for the transition.

With regard to State and Defense's cooperation on equipment, the joint DoD-State equipping board has identified more than 3,769 individual pieces of equipment worth approximately \$209 million, to be given as excess, sold, or loaned to State, including medical, sense-and-warn, IT, aerial port, and fuel support, biometric input, as well as 60 MRAPs.

DoD is loaning State biometric-input equipment that will allow biometric confirmation of identity through a DoD database. State Department security officers can thus verify employee identity and vet prospective employees.

Sustainment for much of this DoD equipment will be provided through a contract managed by the Army Sustainment Command at Rock Island.

State is using the many valuable insights gained during the Iraq-transition planning in our Afghanistan planning. Experienced Foreign Service personnel who have worked in Washington on Iraq and Afghanistan planning will be in Afghanistan on their next assignment and will be able to implement many of the lessons learned.

In conclusion, the department has implemented many improvements in its contract oversight and management, and will continue to do so as we execute the QDDR initiatives. We have continued working with DoD on our Iraq transition plans. We have awarded the worldwide protective services contract.

The department has taken very seriously the recommendations of this commission and other oversight organizations to increase our contract-oversight staff and elevate this function to the status it deserves, and we will continue those efforts.

The department has further strengthened our oversight of contractors, particularly PSCs. We fully understand that we will have challenges ahead.

As we carry out our diplomatic missions in Iraq, Afghanistan, and other locations, we will rely on contingency contracting, but we have instituted a sound foundation to carry us forward.

Thank you for providing me this opportunity to testify and for your ongoing support for the Department of State. I would be pleased to take any questions you might have. Thank you.

SHAYS:

Thank you very much, Ambassador.

Ambassador, we will have you out of here at 11:00. We appreciate your spending the time with us. And we're going to begin questions. We're going to start with eight-minute questions. We'll start with my co-chair, Mr. Thibault.

THIBAULT:

Thank you, Commissioner Shays.

Thank you, Ambassador Kennedy. Thanks for coming up here.

I want to make a statement. I don't think it's going to conflict with some of the questions I'm going to ask, but I want to make a statement that your department has been exceptionally responsive.

You know, it's not a perfect world, and, you know, we follow up on different things. But I think, for the record, every time that we really needed some information, you've been responsive, at least from my perspective. And I thank you for that.

I'm going to bounce around a bit. I'm the contracting guy so I'm going to be interested mostly in contracting, and I found part of your statement very interesting, and that was you state that you're going to have an assistant secretary certify that adequate resources are available and provided for contract oversight, and to get the job done.

When are you going to implement that?

KENNEDY:

That has been implemented.

THIBAULT:

So it starts in FY . . . the end of '11, start of '12? What is your . . .

KENNEDY:

End of '11.

THIBAULT:

OK. Here's my point, and maybe you intend to do it, or maybe it's something you ought to think about. You know, the critical part here to me is staff, plan, and execute. The staff need to be in place, you need to plan how you're going to utilize the staff, and then you need to execute to make sure that it was effective in getting the job done.

Because you can have an assistant secretary say that I've found the resources, and from my take, maybe that assistant secretary at the end of the period also ought to put his reputation on the line, saying "I've got an adequate plan for it and I certify that, and it's been executed effectively, or it hasn't been executed effectively."

Is that something you intend to do or do you just certify in resources?

KENNEDY:

It is our intention to add this to the annual certification that every assistant secretary of state submits to the secretary as part of our process of certifying to the inspector general on oversight and administration.

THIBAULT:

So it's accurate then that you intend to include the plan and execute effectively part of that also, and not just "I found the \$4.2 million budget figure" or something like that?

KENNEDY:

No, absolutely.

THIBAULT:

OK.

KENNEDY:

Our intention is to ensure that this is a soup-to-nuts process.

THIBAULT:

OK. OK. I'd like to talk briefly about, what do we call it? Sense-and-warn, the early-alert system. What was the contractor that you awarded for the sense-and-warn?

KENNEDY:

I'll have to get you that. I don't have that off the top of my head.

THIBAULT:

All right. Well, I don't think it was in the statement.

KENNEDY:

It's a DoD contract that we are we riding, Mr. Chairman.

THIBAULT:

OK. OK. So . . .

KENNEDY:

So we thought since DoD has the expertise in sense-and-warn, and they are loaning the equipment to us for our use after they leave, they have a contract that they executed, and we thought it made perfect sense for us to ride their . . .

THIBAULT:

So you're going to work with the contractor on that contract and you're going to transition with them in traditional contracting methods?

KENNEDY:

Yes, sir.

THIBAULT:

And, you know, when we were recently in Afghanistan, some of the sense-and-warn, and this was not a sizable base, but, you know, it certainly might fit your consulates, they kind of look like on very large tracts, very large equipment, kind of like a square tennis racket with an end on it. It would stand up. It's probably 30 feet by 18 feet. And that's what allowed—and we actually had a couple episodes at that base where they have a protocol for when something's coming in.

But one round came in, and you ask them, "Do you ever get more than one round?" And they say, "No, because our counter battery is on 'em like the dickens."

And I know when we were up here before with various State people there was a question about the counter battery. And at that time, it was that maybe you didn't see it in your mission. And I'm looking for clarification: Is there a counter-battery process envisioned?

KENNEDY:

No, sir. The State Department does not envision itself as firing 155-millimeter howitzers back at targets.

THIBAULT:

OK, well . . .

KENNEDY:

We have established tight relationships, which we continue to expand, with the Iraqi police service and the Iraqi army. And we . . .

THIBAULT:

All right. Did you . . .

KENNEDY:

. . . our intent is to have them . . .

THIBAULT:

You've said that before, but your statement says, that on October 1 you assume full responsibility, and then the United States military is scheduled to be out of there totally, other than FMS, Foreign Military Sales, by the 31st of December.

I'll just tell you, I continue to find it troublesome, because every instance when I've talked to the military that run this very effectively, the United States military, principally the Army, they have stated that the reason they only get one round is because the bad guys know that there's going to be a magnitude of force on their head immediately. And they have visual after visual of how they do that.

So I'm just making a statement. I need to move on.

I want to get into the arcane world of auditing. Have you staffed, in your mind adequately, the support that you need from contract admin, and specifically contract audit? Is that something that you're comfortable with, the level that it's presently scheduled and planned for?

KENNEDY:

We are in discussions with the Defense Contract Audit Agency (DCAA) for deploying a unit of their personnel forward. We use Defense Contract Agency audit-agency personnel extensively. The answer to that is, I believe it is true, but everything comes into the . . .

THIBAULT:

OK, OK. I want to lay that groundwork out because . . .

KENNEDY:

If I might, we have \$10 million committed this year, this fiscal year, to DCAA for their assistance.

THIBAULT:

And obviously, obviously . . .

KENNEDY:

If that is not enough . .

THIBAULT:

You're chewing up my time. I'm in pretty good shape, Ambassador. Because my point that I'm trying to make here is, are you aware that DCAA, the last year, you know, all of the costs that are going to flow through you now, and do flow through you, are audited by DCAA.

And it's critical on two things. Do they get an adequate submission, and do they do the audits timely?

And are you aware that in the case of DynCorp, and I picked three because I picked three, the last year that DCAA completed an audit was 2004? Are you aware that at KBR, LOGCAP, the last year they completed an audit was 2003? Are you aware, Triple Canopy, that they have yet, to use their words, to complete a year of incurred cost?

Now, yes or no?

KENNEDY:

I am certainly aware that DCAA has not executed every request on a timely basis.

THIBAUT:

OK. OK. OK. You know, I know you're working with them. You said that.

But then I would say, are you aware that, picking those same three contractors, I picked DynCorp first, that DynCorp has submitted, so, you know, they've done their part, according to DCAA, adequate submissions that had been accepted by DCAA for those years that are open?

You know, we're talking '05, '06, '07, '08, '09, '10, a lot of open years, with billions and billions of dollars that historically there have been audit results. But I would say, then, are you aware that KBR recently they had their certifications on hand and they were on paper, or on DCAA's view, adequate submissions. But they've withdrawn 2006, 2007, 2008, 2009, because, in their words, they want to "re-look at build expenses and cost-accounting practices," but in their quote, the company's quote to DCAA, they "need to amend previous expense allowability and allocability assumptions."

Now, those are a lot of words, but to an auditor, they mean that they are concerned that they have unallocable and unallowable costs within their claims. They've pulled them back because the certification is by a senior executive in the company and they don't want to be responsible for it.

Now, we can explore that some more, but my concern is in the case of Triple Canopy a similar case exists where they didn't submit adequate submissions and they're feverishly working on it. The entire point on that is it's of the highest risks possible. And in my second round, I'll be exploring some more of that.

SHAYS:

Mr. Tiefer? Excuse me.

Charles Tiefer?

TIEFER:

Thank you, Mr Chairman.

Thank you, Mr. Ambassador.

I start by noting how much I respect Chairman Thibault's leadership in creating the commission research-and-investigative machinery. Excuse my nostalgia, but I would not have believed when we held our first hearing, which included a good deal of State Department content, what has

come true, which is that we've had over 20 successful, major public and televised hearings. And that is his—he built the machinery.

Mr. Ambassador, I have heard that the State Department's Bureau of Resource Management is demanding repayment of a large sum from DynCorp. Let me state the background.

DynCorp has been conducting police training on a State Department contract in Iraq from the years from 2004. SIGAR went back and conducted last year this audit, which showed the lack of proper support documentation. The sum I have heard for which repayment is being demanded is \$518 million, but I would defer. I just would say it has been many years you've been waiting. Has State finally demanded repayment of a sum certain from DynCorp for Iraq police training?

KENNEDY:

Let me give you a two-part answer to that, Mr. Tiefer.

We also picked up from Bloomberg News Service on Friday this \$518 million figure supposedly cited to the Bureau of Resource Management at the State Department. We have queried every senior official that we can find in the Bureau of Resource Management. We have no idea where that figure has come from, none whatsoever.

So we're continuing to pursue that. That's the first point. I have no idea what that figure means.

TIEFER:

All right.

KENNEDY:

The second thing is that INL has been conducting 100 percent reconciliation of all INL-funded (Bureau of International Narcotics and Law Enforcement Affairs) Iraq-related invoices going back prior to 2006. INL has collected over \$40 million, actually \$40.8 million, related to Iraq and Afghanistan invoices, and has [~~an~~ – ~~deleted~~] outstanding requests to [~~DynCorp~~ – ~~deleted~~] **all of our contractors in Iraq and Afghanistan** for another \$37.9 million. *Note: words and phrases in boldface in the previous sentence represent corrections to the official transcript made by the State Department.*

And also, INL's rigorous review of Afghan and Iraq contractor-support services has resulted in over \$109 million in reduced billings.

So this goes, I believe, to the point you're making, and also to Mr. Thibault's point as well.

TIEFER:

Can I just make sure I understand the figures you just gave.

KENNEDY:

Yes.

TIEFER:

You've already gotten \$40.8 million. You have a demand now for \$37.9 million and there's a separate \$109 million reduced billing?

KENNEDY:

Yes.

TIEFER:

OK.

KENNEDY:

And we are actively engaged. The State Department IG, as I think some on this commission would know, does not have a large audit staff and we use entities such as DCAA extensively. We will continue to use them . . .

TIEFER:

All right, let me go on. I don't blame Bloomberg for running that report. What I count is that there's close to \$200 million, which either Dyn is being told not to bill or is in the process; \$200

million is not as much as one hoped out of a questioned \$2.5 billion set of billings, but it is what it is—\$200 million.

Let me ask a question about another sum, and this one is a sum certain. My question is, and then I'll explain the background. Will you commit to publicly announcing this month a demand for recovery from First Kuwaiti of \$132 million?

I think we both know the background. In 2009, the State Department inspector general issued an audit report about the flawed construction of the new embassy compound in Baghdad. State IG said to recover precisely, this was their figure, \$132 million from First Kuwaiti. I have not seen the public announcement of one step to recover \$1 million.

But what I have seen is that State continues to hand out contracts to First Kuwaiti. And just a couple of weeks ago—and this has barely even been detected in the blogosphere, it's not been in any print newspaper—about the \$122 million consulate in Saudi Arabia. First Kuwaiti was given this contract and their partner, their American partner blew the whistle on them in detail; told a lot of things about their lack of competence and reminded—this is a quote from Aurora's statement, their partner's statement—"there are also U.S. taxpayers who feel they were bilked out of \$132 million."

So my question is, will you commit to publicly announcing concrete steps to recover the \$132 million?

KENNEDY:

You've asked me two questions. Let me take the second one first. We have no contracts with First Kuwaiti in Saudi Arabia or in Indonesia. We have contracts with a licensed and certified American firm, Aurora, which acquired those contracts when it acquired the business of Grunley-Walsh International, which sold those contracts to the American company.

It is correct that First Kuwaiti is a sub, a subcontractor of Aurora, but we have no contracts with First Kuwaiti. That is simply factually incorrect. Our contract is with an American company.

The contract in Indonesia is at about the . . .

TIEFER:

I didn't mention anything on Indonesia. How about the \$132 million?

KENNEDY:

Can I finish my answer to your question, sir?

So we have no contracts with them.

On the \$132 million, we have asked the Office of the Inspector General on several occasions to provide us with a line-by-line breakdown of how they arrived at that \$132 million figure. We cannot proceed against a contractor without specific details. The case would be thrown out in any court that I can imagine. We cannot just send them a letter saying, "send me a check for \$132 million."

We have to have the details. We have asked for them. I can promise you that we will continue to ask for them.

TIEFER:

This question may well have to go over to my second round, but I want to ask about a challenge to SIGIR's (Special Inspector General for Iraq Reconstruction) jurisdiction. *The Washington Times* covering Ambassador Haslach's testimony at House Foreign Affairs last week headlined on page-one your notion that SIGIR lacks jurisdiction to oversee Congress' funds for getting Iraq on its feet, like police training; like what we were just discussing, which I'm glad to hear you're going to go after or have already gone after \$200 million worth.

But it also includes rule-of-law services, private security for all of these, et cetera, et cetera—a whole lot of money that's not brick and mortar.

And my question is, do you have or will you seek a written legal opinion, written, from the Office of Legal Adviser to back up what you're claiming?

KENNEDY:

I have not had an opportunity to read the transcript of that testimony, but I was asked a very similar question by the House Government Affairs Committee. And let me tell you my answer to that question.

That is that the legislation underpinning SIGIR is very, very specific. It relates to reconstruction efforts. We have been fully cooperating over the years with SIGIR. SIGIR's latest request, as I understand it, it was a request that was forwarded to me in this regard, and I do not know how it was phrased to the Ambassador Haslach, as I said—is that they wish not only to inspect the

reconstruction efforts, contracts awarded for reconstruction, they wish to inspect the State Department administration of the platform.

They wish to inspect and audit diplomatic security or the medical contract, our award of a contract for construction.

We believe that that is outside, and the State Department's legal adviser has so advised me that is incorrect. Those activities of the State Department operating the platform, not the contracts for reconstruction or police training, but the base contract, the base-platform contract are within the jurisdiction of the General Accountability Office, House Surveys and Investigation Committee and the State Department inspector general.

The legislation divides the workload between the reconstruction activities and the State Department platform, and I believe that's the way it should be.

SHAYS:

Thank you very much, Ambassador.

We're going to go to Robert Henke, and we're going to do a nine-minute question-and-answer.

HENKE:

Ambassador Kennedy, good morning, and thank you again for being here.

I've got a question for you related to I guess it's an organizational or a structural issue.

One of the recommendations in our report was to create an office of contingency contracting, and I understand that the department does not concur with that idea, as laid out in your response.

The issue we're trying to get at there is the organizational placement of a function in the agency and the fact that acquisition is critically important to State's mission.

Just by way of context, State does about \$7.7 billion a year in contracting, 26,000 actions. It's up a big bit over fiscal '09. In fiscal '09, you did \$6.8 billion and 27,000 different actions.

So I want to explore with you this idea of the culture of State and the organizational placement for the acquisition function and whether or not it's at the table.

I want to set aside our recommendation for an office of contingency contracting and explore with you this idea of the current organization of your office of what is referred to as M at State. As I

understand it, the office that handles acquisition reports to the assistant secretary for administration.

KENNEDY:

That is correct, sir.

HENKE:

And it's led by Mr. Moser, who's here today. And I . . .

KENNEDY:

Yes. Mr. Moser is the acting assistant secretary, yes, sir.

HENKE:

Oh, as well as the permanent deputy assistant secretary?

KENNEDY:

He's been nominated by the president for an ambassadorship and will be departing shortly. The new assistant secretary for administration nominee has also been announced by the president.

HENKE:

OK. You may know that the Congress passed a law in 2003, the Services Acquisition Reform Act, that creates the title of chief acquisition officer at an agency.

We've had chief financial officers for 20 years, chief information officers for probably 15 years or so, and recently, as recently as '03, chief acquisition officers.

The law directs that this person must be a non-career employee as the chief acquisition officer and must have as their primary duty acquisition.

Are you currently structured that way, that your chief acquisition officer has as his primary duty acquisition?

KENNEDY:

If one defines primary as the preponderance, I think so. The assistant secretary for administration is an executive-level presidential appointee that supervises three units, but I think acquisitions and part of our logistics operation is a significant part of that, and I would guess, yes, sir, it would meet preponderance primary.

HENKE:

Well, I'm not sure I agree. When I look at the list of functions handled by the assistant secretary for administration, I see a whole lot of different functions and activities—real property, facilities, supply, transportation, mail services, diplomatic pouches, library services, FOIA, Privacy Act, printing, a whole bundle of different duties.

It's hard for me to see there where the assistant secretary for acquisition, who's designated as your chief acquisition officer, can have as his primary duty the management of a \$7 billion acquisition program.

Can you respond to that?

KENNEDY:

Yes, sir. I think that if you had asked me that question in a previous life, I might have said you're correct.

I think, though, that it is really a question of can the officer involved, the assistant secretary for administration, count on a professional staff that is sufficient to handle \$7 billion to \$8 billion of material as you said.

In 2007, shortly after I came back to the State Department, I reviewed this matter and decided that we were not doing a sufficiently good job because we did not have the number of personnel assigned to the acquisition office to keep up with the volume. We'd gone from about \$2 billion of contracting to almost \$8 billion . . .

HENKE:

OK.

KENNEDY:

. . . with nearly no staff. I changed the operating procedures in the department and placed our acquisitions operation under our working-capital fund.

HENKE:

Right. Right.

KENNEDY:

That generates a volume of resources available to the office which is directly proportional to the workload they have. And by doing this, we have been able to fund an additional 102 personnel in the acquisitions office.

And so I believe now we have an adequate acquisition, a corps of professionals, which we continue to develop.

HENKE:

Uh-huh.

KENNEDY:

And that corps can provide the assistant secretary, the chief acquisitions officer, with the support they need and to allow them to do their job.

HENKE:

In my mind that makes perfect sense, because when a program office, INL or DS, comes in with a multibillion-dollar requirement, you can scale up to do it. Right?

You can then—Mr. Moser and his subordinates can hire staff to run it, to execute or rather to award that contract.

The problem comes when other bureaus may not have the resources to manage the contract, and that's what you're trying to get at with program managers and CORS, but they don't operate under a working-capital fund. Right?

KENNEDY:

They . . .

HENKE:

Program bureaus.

KENNEDY:

They don't, Mr. Henke. But, however, it is appropriate for them to oversee those activities. The chief acquisitions officer is not responsible for that portion of program administration.

HENKE:

Right.

KENNEDY:

Contract, certain elements that are also described as contract management, contract oversight, contract closeout, we now have the resources to make sure that we can do that as well as the auditing question that both co-chairman Thibault and Mr. Tiefer referred to.

HENKE:

One of the things we've seen time and time again is resources, when agencies put precious billets, slots, against a function, whether they're general-officer slots or-senior executive slots, it's an indicator of what the agency and the entity values.

Just a rundown on your numbers, Ambassador Kennedy. In M, you have approximately 9,400 people, Civil service, Foreign Service, roughly?

KENNEDY:

I believe that's a little high, but . . .

HENKE:

How many people work for you, roughly?

KENNEDY:

Well, counting all the consular officers overseas and the passport . . .

HENKE:

OK. So you . . .

KENNEDY:

. . . passport—it would come to 9,400, yes, sir.

HENKE:

OK. And you have approximately 206 senior-executive positions?

KENNEDY:

At the State Department?

HENKE:

No, in your office. In M. I'm told it's 206 senior executive and senior Foreign Service.

My question, though, to you is how many senior executives do you have working in acquisition?

KENNEDY:

We have two.

HENKE:

Two. That does not include Mr. Moser? Because he has other duties.

KENNEDY:

That's right. You're asking for direct, and I'm saying two.

HENKE:

I know both of them. They've both testified before us.

KENNEDY:

Yes. Correct, sir.

HENKE:

So is that the right number? If you have in M 206 senior-executive positions, is two the right number?

KENNEDY:

I believe that with the performance and the quality of the personnel in the acquisition office the leadership is there. The leadership, though, needs to be supported by an adequately trained and adequately funded work force.

And because of the implementation of the working-capital fund, we have moved in that regard, yes, sir.

So I believe that two is a good number. Could it be three, could it be four? I think it could equally be three or four.

But I believe that with the package of support—there are other entities that support that acquisitions office, which is when you look at another agency, one that has a stand-alone acquisition office, that has to do their own space planning, their own management, their own legal, there is an officer in the bureau, there is a Senior Executive Service lawyer in the office of the legal adviser who supports that office.

We at the State Department put all of our lawyers in one legal shop and then divide them up under assistant legal advisers at the Senior Executive Service level, and there is one who supports the acquisitions function. So we run a matrixed organization at the State Department, and I believe it works for us, sir.

HENKE:

OK. Thank you very much.

SHAYS:

Thank you, Mr. Henke.

Katherine Schinasi?

SCHINASI:

Thank you, Mr. Chairman.

Welcome, Ambassador Kennedy, and thank you for your time this morning.

I wanted to start by saying that I was really very encouraged to see the secretary put together the quadrennial development and diplomacy review plan. I think it's long overdue. I know it was a really painful process, but I think it will bear fruit.

But I'm wondering what already has been done as a result of that. We've had the U.S. Agency for International Development before us, and they have started taking action on some of the things,

on procurement reform, that were in that QDDR. They are very much interested in continuous improvement. And goodness knows, they have problems with their contracting. But they're looking at the need for change.

You know, in contrast, when I look at your statement and I look at the State Department's responses to our recommendation, there doesn't seem to be any recognition that things in Iraq and Afghanistan are any different. You know, in fact, comparing the model that you have as the most effective and efficient, because it operates well in places like Haiti and Japan, just strikes me as a little different than what the State Department and the U.S., in fact, is facing in Iraq and Afghanistan.

So for F.Y. '12 the State Department has requested over \$3 billion for diplomatic and consular programs in Iraq. Is there anything comparable to that anywhere else in the world that you're operating? No.

KENNEDY:

(OFF-MIKE) Afghanistan.

SCHINASI:

OK.

KENNEDY:

Only Afghanistan comes close.

SCHINASI:

OK. And we're going to have 4,500 to 5,000 security contractors in Iraq. Again, putting aside Afghanistan, anything comparable to that?

KENNEDY:

Only in Afghanistan.

SCHINASI:

Going from 8,000 to 17,000 civilians in, you know, a couple of years, anything comparable to that?

KENNEDY:

Well, that's double counting, ma'am. The contractor . . .

SCHINASI:

Because there's different ways to come at what I think . . .

KENNEDY:

But the 17,000 represents the aggregate . . .

SCHINASI:

Yes, I understand that.

KENNEDY:

. . . of some of the numbers you've already used.

SCHINASI:

I understand that. But more than doubling is what that was supposed to get to.

So, you know, those things, a \$61 billion reconstruction program in Iraq, those numbers seem to me to be very different than anything else the State Department is doing, putting aside Afghanistan for a moment.

So, you know, when I look at the things that you are trying to hold on to, they've worked in the past. I don't understand why the difference isn't more significant than the similarities to you.

KENNEDY:

If I . . .

SCHINASI:

So I wanted to ask you just a couple of questions about, from your statement, the contracts that you have let for the transition in Iraq. The consulate in Basra is the first—these are some construction contracts . . .

KENNEDY:

Right.

SCHINASI:

. . . contract in Basra.

Is there a contracting officer's representative assigned to that contract?

KENNEDY:

Yes, ma'am.

SCHINASI:

And where are they located?

KENNEDY:

Basra.

SCHINASI:

So they are forward-located then.

KENNEDY:

All of our CORs are forwardly located.

SCHINASI:

And do you know what their training is?

KENNEDY:

They take a course at the Foreign Service Institute, and they are professional architects or engineers.

SCHINASI:

This COR in particular has had that training?

KENNEDY:

I will confirm that in writing to you.

SCHINASI:

I would appreciate that.

KENNEDY:

I believe that is part of our requirement for foreign service.

SCHINASI:

Right. I'm trying to get to whether or not practice is actually reflecting policy here. Is there a quality-assurance plan for that contract?

KENNEDY:

There is that, yes, ma'am.

SCHINASI:

OK. And same thing for Basra aviation hub?

KENNEDY:

Yes.

SCHINASI:

Is there a COR? What kind of training have they had?

KENNEDY:

I believe the COR for the Basra aviation hub is the same. The Basra aviation hub and the Basra activity are about less than a kilometer apart. It is two contracts because of the different nature of the work. But there is one project supervisor on scene to do both.

SCHINASI:

OK. What I would like, rather than going through all of that, what I would like, if you would supply that for the record, is whether or not each of these construction projects has a contracting officer representative, whether or not they have received the required training, where they're

located, and whether or not there's a quality-assurance plan. Those are all requirements for CORs that I know you're working toward.

KENNEDY:

If I might . . .

SCHINASI:

. . . seeing how many are already assigned.

KENNEDY:

You opened by talking about the QDDR and about need for change, and can I respond to that question as well?

SCHINASI:

Let me get through the rest of my questions, and then I will, if I have some time

SHAYS:

Ambassador, let me say something. If you're willing to stay beyond 11 o'clock, we'd be happy to . . .

KENNEDY:

I'll stay beyond 11 o'clock.

SHAYS:

Yeah. And we won't take that off your time. Let him respond now.

SCHINASI:

OK.

SHAYS:

Yeah, so.

SCHINASI:

You could convince my chairman of something I'm not sure I could convince him of.

SHAYS:

Well, he wanted to do it.

SCHINASI:

Yeah.

SHAYS:

The point is, it won't be off your time, and he will stay later.

KENNEDY:

I see the 4:16 has been frozen on my clock, ma'am.

SCHINASI:

Yes. Thank you.

KENNEDY:

The secretary is very, very concerned and interested in the question of contract administration. And I think you know, if one looked at all the issues that the secretary of state faces in the world, to devote 10 pages out of a 200-page document to contracting and contracting administration I think sets the tone.

SCHINASI:

As do I. That was why I made that comment at the start, yes.

KENNEDY:

Right. Then second thing, though, and you asked what have we done since the secretary's statement? We have, as I said, we have elevated the status of contract-oversight personnel, we have linked oversight duties specifically to the performance evaluation of those officers, we have expanded training, and we have elevated the accountability for the planning and oversight of large contracts. And I could go a long period of time into there, but I believe there's much more detail in my full statement.

The second thing you said is that we're trying in effect to hold onto the past, and I'd like to just take a second of time with the commission acquiescence.

When you have a worldwide effort such as the State Department must engage in, we believe that the way to do that is to take and award master contracts in Washington that can be fully and openly competed and then have their task orders available.

I mean, the best example is the worldwide protective services contract. We could go and have a contingency contract awarded in Xanadu for security there or a contingency contract awarded in Shangri-La. I don't think that makes good economic sense, I don't think it makes good management sense, and I don't think it is good for the American taxpayer.

The award of a master contract, the worldwide protective security contract being the example I'm using here, with task orders under it, which are then competed among the eight qualifying firms, I think allows us to move quickly, expeditiously, efficiently, and economically to meet exactly what this commission intends in the terms of contingencies.

I could also say that the State Department, in effect, is one contingency rolling out every day. Every day. As Chairman Shays knows from his former position, every day the world changes and requires us to act differently.

If I had to award a contract for each individual act that took place in the world, I don't think I would ever be able to be responsive. But by awarding master contracts, having a centralized and professional office, staffed adequately now thanks to the working-capital fund additional funding, we can respond urgently to any crisis that we have in the world.

Is Iraq and Afghanistan different, as you rightly laid out? Absolutely, positively. Do I need to do a better job on contracting officer representatives, as the commission has well noted? Absolutely, positively.

But I don't submit that we are frozen in the past. I believe use of these master contracts that we've done for in many fields is exactly what we need to do to respond to urgent and continued operations.

SCHINASI:

Yes? OK.

SHAYS:

You have five minutes.

SCHINASI:

Five minutes.

SHAYS:

Give you an extra minute there.

SCHINASI:

Thank you.

And it's not the worldwide contract on which to award task orders that I'm talking about. I'm much more interested in how are you setting requirements, how responsive is a centralized

bureaucracy, not just theoretically, but how responsive has a AQM (Office of Acquisition Management) been to the embassy in Baghdad?

And my information from interviews and direct discussions is not responsive enough. All right? So obviously, there's going to be a difference of opinion there, but that AQM is really not aware of the urgency. And you are operating in contingencies around the world, but there is not— Chairman Thibault mentioned the sense-and-warn, you know, the sense-and-warn. Well, maybe we can get the Department of Defense to look at it.

The LOGCAP contract that DoD has asked for, I believe it's 20 CORs to manage that contract. And the department has gone back and said, "We can provide six." And the Department of Defense is now saying, "Well, with six we're not going to let you take LOGCAP because it needs a lot more oversight than that."

You mentioned the MRAP—that Rock Island is going to sustain that. Who's setting the requirements for MRAP? You don't just buy them. You need to have drivers. You need to sustain them. You need to maintain them; that the State Department is not focused on a lot of the details because it does have that worldwide look and it does have that sort of old-time approach to how contracting gets done.

KENNEDY:

Well, ma'am, I guess I have to just respectfully disagree. You've given a couple of examples. Let me just for the sake of time pick the first and the last one.

SCHINASI:

OK.

KENNEDY:

On sense-and-warn, we've gone to DoD. They are loaning us the equipment and we are riding their contract for the operations and maintenance of that equipment. I think that shows excellent contingency operations. I don't see that it serves the American taxpayer one whit to spend a lot of money to go out and compete a contract which DoD has already competed to run that same equipment.

SCHINASI:

I'm not talking about re-competing the contract. I'm talking about how do you oversee the contractors? How do you manage it? You know, how do you get the support for it? The State Department has to be involved in that.

KENNEDY:

That is the responsibility of the Diplomatic Security Service professionals that are on scene to oversee the operations of the contractors. Those personnel are on scene.

On the MRAPs, we have been loaned 60 MRAPs by the Department of Defense. The Diplomatic Security Service will oversee their operation. It will oversee the maintenance of those vehicles. We are riding, again, a contract through Rock Island Arsenal because the Department of Defense has a contract for the maintenance of those. They have specifications for exactly what you need to do per engine hour or per time in order to keep that equipment operating and available for use.

And so we believe that we have the personnel and that when you're talking about contracting, there's the contracting and then there is obviously the administration of the contract. And so I believe that we have both items in a tight focus. We have meetings every week to discuss . . .

SCHINASI:

I'm talking as much about the requirements, too, Ambassador Kennedy.

KENNEDY:

Well, the requirements . . .

SCHINASI:

Because the contracting is just kind of the end of the process.

THIBAUT:

Well, Commissioner, can I add a little bit to that.

SCHINASI:

Yes.

THIBAUT:

Part of the context of what Commissioner Schinasi is laying out is we're talking about road security and a big part of the MRAP purpose, you know, moving individuals. The military mission with road security before wasn't—the contractors helped with the maintenance, thank goodness. But 100 percent of the drivers and then those individuals, we call them a squad in the military, six, seven people in the back, because when you are doing road security, you come under fire sometimes and you have to suppress that fire.

That's all United States Army. They didn't have contractors. So when you assume that portion of the mission, and they all go home, you know, you have a different requirements planning contracting.

And the reason I bring that up, Ambassador, is you talked about operations and maintenance. I'm not sure you're spot-on on the operations. I know you're spot-on on the maintenance.

KENNEDY:

All right. Let me address that portion of it, Mr. Chairman, Commissioner.

Using the MRAP as an example, we have built into the contract a training unit, meaning an MRAP that behaves as a simulator. We have a model there. The model is being upgraded. Every security person who is going to be involved in the operation and use of those MRAPs will be run through that simulator to ensure that they know how to operate it.

Your point about suppression of fire, you're right. The U.S. military is the greatest military in the world. But I don't have that option available to me after December 31st. That is why we are using . . .

THIBAUT:

So you're going to use contractors for suppression of fire?

KENNEDY:

No, sir.

THIBAULT:

You can't run if you're under fire.

KENNEDY:

No, that is exactly what we're going to do, and that was the point I was going to exactly make, Mr. Chairman. There is a difference between the mission of the U.S. military and the mission of the State Department. The mission of the United States military is to engage the enemy. The mission . . .

SCHINASI:

Ambassador Kennedy, but Chairman Thibault is taking my time and that was his question. So I'm going to stop you right there and you can come back on his second round and give him the answer to that question, if you don't mind.

I just wanted to go back to the business-as-usual idea. Again in your statement, you talk about, you know, on an ad hoc basis being able to pull together the resources you need. I was reading the State IG report from October, 2009 about the new embassy compound last night. And clearly, the Emergency Project Coordination Office that was set up would fit into your model set-up quickly. And they point to that organization, the way that that project was organized and that ad hoc office as responsible for a lot of the problems in the Baghdad embassy.

KENNEDY:

That was a one-off model set up by the then-existing director of OBO (Overseas Building Operations). That is not a model that had ever been used for. It was implemented along military lines and that model is no longer used in the State Department. It was used once on the Baghdad project and it was discarded by me when I became undersecretary.

SCHINASI:

Right, but I worry a little bit when I hear you talk about the ability, you know, keep what you have and then we'll just put something together when the need arises. This is what happens when you just put something together when the need arises. I worry about that happening again without institutionalizing some stronger, you know, workforce procedures, rules, and regulations on how to handle it.

KENNEDY:

I think what you're missing, ma'am, is the experience and the value of a centralized contracting authority that has worldwide expertise and that is appropriately staffed in order to get the job done.

SCHINASI:

But the expertise that we need in Iraq and Afghanistan, as you agreed with my statistics, is a little different than what the State Department has encountered elsewhere in its operations.

KENNEDY:

But I disagreed, though.

SCHINASI:

That's the end of my time.

KENNEDY:

I disagreed on the contract. I agreed on the operational requirements. I disagreed, respectfully, on the contracting structure that I believe with the master contracts that we've set up, we are responsive.

SHAYS:

You know, there will be more discussion about this because I think we do have some major disagreements here.

KENNEDY:

Certainly.

SHAYS:

And so let us move forward with Dov Zakheim, Dr. Zakheim.

ZAKHEIM:

Thank you very much. Good to see you again, Mr. Ambassador. You've been doing a terrific job since we worked together quite a few years ago.

KENNEDY:

Thank you, sir.

ZAKHEIM:

You're showing the scars and you're still in there, which is great; good for the country.

I want to ask you about a couple of State Department responses to some of our recommendations, specifically 26(a) and 26(b). These involve foreign prime contractors and subcontractors. And we recommended that these folks consent to U.S. jurisdiction as a condition of award of a contract or subcontract; 26(b) is less relevant to my question.

Your answer was, or State's answer, was this requirement will add cost to foreign contracts without offsetting benefits. I don't know if you want to expand on that or if you want me to go on with my line of questioning.

KENNEDY:

I'd be glad to go into that, or I can, given the time, I could also submit additional material for the record. It's your choice.

ZAKHEIM:

OK. Well, all right, let me pursue this and then maybe you can wrap it all together.

Your testimony says that for the LOGCAP contract, you're essentially on an interim basis using DoD's LOGCAP, and that will give you some time to basically get your act together, which is fine.

I want to get a sense of what State's going to do, and particularly what you're going to do, to avoid the kind of thing that has been written up in *The New Yorker*. You may have seen this article, things that we've heard about, that I've heard about for some time, but it's pretty shocking.

The article says that, of course, the vast majority, for instance more than 60 percent of our contractors in Iraq aren't, as the article says, "hired guns, but hired hands." And these are workers from primarily South Asia and Africa. They live in barbed-wire compounds on U.S. bases. They're employed by fly-by-night subcontractors who are financed by American taxpayers, who often—the con-subs—operate outside the law.

They're called third-country nationals, or TCNs. Many talk about having been robbed of wages, injured without compensation, subjected to sexual assault, held in conditions resembling indentured servitude by the subcontractor bosses. There have even been food riots over this.

You're going to be taking over LOGCAP. Your response to something that drove part of our recommendation, which is we cannot as a country uphold our own values if we're allowing this to go on, and we want the oversight and the commitment by subcontractors, by foreign contractors and subcontractors, that they're not going to do this kind of stuff. And State's answer was, "Well, it's going to add costs without offsetting benefits."

To me, at least, it's a huge benefit if the world sees we've cleaned up our act.

So could you talk to me a little bit about this, what maybe you intend to do something differently? This is a major scandal for the United States.

KENNEDY:

Absolutely. Two points, sir. First of all, when I carefully couched, I believe, in my longer statement that we are using LOGCAP only for life support.

ZAKHEIM:

Right.

KENNEDY:

We have the LOGCAP III contract that was in use in Iraq included maintenance and other things. We have competitively awarded our own contracts. So . . .

ZAKHEIM:

But your next sentence says DLA (Defense Logistics Agency) for free food and fuel, so . . .

KENNEDY:

Well, that's just using—as you well know from your previous incarnation—taking advantage of the incredible buying power that the Defense Department has available.

If I'm buying frozen chicken, I can buy frozen chicken. If I can get the DoD price for frozen chicken or for a gallon of diesel, I'll take that any time because of the cost benefit there.

So setting those aside, because I believe those are appropriate, go to your very correct point on the question of how a contractor operates in the question of the treating of its staff.

Our contracts for life support, both the DoD contract and any contract we would award, would be only awarded to an American company. We would not award a contract of that nature to a foreign company.

ZAKHEIM:

Yeah, but what about subs?

KENNEDY:

We write into that contract, we do, and I believe DoD does as well, that adherence to, and lay-upon, and privity of contract requires it as well, as it should, that we lay the responsibility for the performance and for the treatment of employees on the American contractor.

I think that gives us the best choke hold on that to ensure that any employee working in support of U.S. government activities is treated appropriately.

We have looked into some of these acquisitions. The State Department inspector general has looked into them, the State Department medical officer on scene has looked into them, the regional security officer has looked into them.

And I testified before, I think, House Government Affairs on this as well. And I'd be glad to send you a copy of my testimony in that if you wish.

So we believe that we can enforce through those methods the situation that upholds the dignity and the standards that the United States holds dear.

By holding that on the primary, the prime contractor, who is an American company, and then looking over and across the operations on scene with the State Department's contracting officer's representatives, assisted by our medical staff, our logistics staff, or our security staff.

ZAKHEIM:

All I can say is that, obviously, it hasn't worked until now, by definition.

Because if, in fact, as we know, the Defense Department in particular has put the onus on the primes, and the primes then contract out to subs who may contract out to second-tier subs, and these things are happening, then, by definition, the system is failing. And that is why we made the recommendation we made.

And it seems to me, I don't want to get into a debate with you about this, but I would urge you to look at this again, because, clearly, it has not worked. If it had worked as you had described it, this would actually put the onus, choke the primes. Then these sorts of things would just not be happening.

KENNEDY:

I cannot address how DoD or any other government agency may be enforcing their contracts. But under the system that will take place as the State Department fully takes over in January of 2012,

these personnel will be living on our compound, using the same food service, using the same medical services, using the same security services that we ourselves use.

And I think that guarantees the dignity of life that, I think, everyone agrees we absolutely must uphold.

And if I might . . .

ZAKHEIM:

Yes.

KENNEDY:

Our maintenance is now done, as I mentioned earlier, not under LOGCAP, but by a different American prime subcontractor who does employ third-country nationals living on our compound and have been there for I believe over a year—same dining facility, medical, everything else.

And there are none of the problems that you have outlined when we're administering the contract on scene, as opposed to who is holding the master contract.

ZAKHEIM:

Well, I hope so, because, obviously, these things have gone on.

A quick question as well: We made a recommendation to dual-hat somebody at the NSC and OMB in order to foster and really enforce the interagency contingency process.

You said, you know, we don't have a dog in this fight in effect. This is nothing for us to respond to.

And I'm a little puzzled by that, because if we're talking about making the interagency process work and as you well know sometimes it does and sometimes it doesn't, we would have thought State would comment on this.

Is the no comment, does it mean you really just don't care or the system works fine? I mean, what does it mean?

KENNEDY:

It means, essentially, that the national security staff (NSS) does not consider itself an operational agency. It will not engage in this kind of oversight activity. It does not feel that it falls within its purview.

And I know that because there have been other discussions during my tenure of activities related to your principle, not the details. The NSS and to also a great extent the OMB will not engage in these. They do not feel that it is within their statutory mandate.

OMB, at most, will lay down predicates, audit standards, fiscal standards.

But neither of those agencies feel that it is within their mandate, the charter of an executive-office-of-the-president agency, to engage in these kind of operational matters and, therefore, we have to simply defer to NSS or OMB on that.

ZAKHEIM:

Thank you, sir.

THIBAULT:

Commissioner Ervin, please.

ERVIN:

Thank you very much.

Mr. Ambassador, Mr. Secretary, thank you very much for being here. Always a pleasure to see you.

I did not intend to start with the two or three questions I'm going to start with, but it seems to me there were a few issues that have been left hanging by various exchanges that you've had with my colleagues, and they probably will follow up themselves in their round, but it occurs to me that I have the opportunity to do it, so I will.

On this last exchange with Dr. Zakheim about this very disturbing *New Yorker* article, you said, that, if I understood you correctly, that the medical staff has looked into some of these

allegations, that the Office of Inspector General has done. I think you mentioned another office or two, perhaps, within the State Department that's done so.

To me the next question is, well, what's happened as a result of those allegations? Were these allegations or any of them substantiated by the inspector general or the medical staff?

KENNEDY:

We were unable to identify actions of these gross and horrifying natures taking place on units that were in direct support of the State Department.

I do not challenge that it might have happened elsewhere, but our investigations to date have not identified activities of this nature taking place against third-country nationals in entities that were directly supporting the Department of State, sir.

ERVIN:

All right. This is a very important issue, as Dr. Zakheim said, and we intend—I think I speak for the commission—certainly I intend to follow up on this in the time that remains to us as a commission. I think it's tremendously important, and I hope that at least as to the State Department there's nothing further to be reported here.

KENNEDY:

If I might . . .

ERVIN:

Please.

KENNEDY:

I fully agree that the question that Dr. Zakheim has posed of the requirement that the United States government promote human dignity is one of Secretary Clinton's highest predicates, and we would not ever countenance such kind of activities.

And if we ever did find it, we would dismiss personnel and, potentially, all the way up to demanding changes more than in just individual personnel who were engaged in that kind of conduct.

ZAKHEIM:

Can I ask just a quick one?

ERVIN:

Sure.

ZAKHEIM:

Would something like that be cause for revoking a contract?

KENNEDY:

If the contract was with an American company and we knew that the American company was suffering in permitting that, I would go to my lawyers and ask that. But I suspect it was poor management on the part of the American contractor, and I would first demand that the American contractor remove from any activity related to us their entire American management team.

ERVIN:

Thank you. With regard to this First Kuwaiti issue that came up in your colloquy with Mr. Tiefer, you said that you asked the Office of Inspector General to look into those allegations, \$132 million, as I understand it, in dispute, and you can't send a letter demanding payment of that, that's certainly reasonable.

But I'm surprised that the Office of Inspector General apparently hasn't responded to your request for detail. You've made that request and they're just refusing to provide that detail?

KENNEDY:

I wouldn't say they're refusing. I believe they have not completed whatever work there they're doing.

I intend to take the question back and pose it again to the Office of the Inspector General and say that this is a question I received from one of the commissioners on the Commission on Wartime Contracting, and I think it's a fair question for us to ask, and it's a fair question to know that there is information that backs up the \$132 million or it doesn't.

I mean, that building has now been in operation for multiple years, it is operating very, very well. There are no major issues. The compound has been rocketed a number of times, and the construction, including taking direct hits on those buildings, the construction has held, and none of our personnel have been injured.

ERVIN:

Right. And then third and finally, just follow-up questions, on this issue of SIGIR jurisdiction, would you be willing to submit, to join SIGIR in submitting to OLC (Office of Legal Counsel) a request for a definitive, impartial, third-party ruling on the extent of SIGIR's jurisdiction in this matter?

KENNEDY:

Sir, I am not an attorney. All I know is I have consulted with the State Department's legal adviser who assured me that the position that we have taken with regard to inspection of the platform, as opposed to inspection of the contracts for police training or military training or rehabilitation or developmental construction, our legal adviser's position is that those are not within the jurisdiction of . . .

ERVIN:

SIGIR?

KENNEDY:

SIGIR.

ERVIN:

OK.

KENNEDY:

They're within the jurisdiction of the State Department's inspector general, as specific in the Act, and, therefore, I simply must stand on what my legal adviser has told me.

ERVIN:

Right. That leads me to—as you would imagine, I'm particularly interested in those—that recommendation in our interim report that goes to a permanent inspector general. So I want to ask you about that.

I think we, the commission, would feel better about the State Department's position that no such new office, new officer is needed if we had a better sense of State support for the existing Office of Inspector General at the State Department and for SIGIR. And we've just talked about SIGIR as to the Office of the Inspector General at the State Department.

I don't expect you to have these figures at your fingertips, but for the record could you, for example, supply us with the State OIG's request, budget request for the past, say, three years or so since the inception of the Obama administration, and then the State Department's response to that request?

I'm trying to get a sense of how responsive the State Department in recent years has been of the Office of Inspector General in its attempt to have adequate resources to carry out its jurisdictional mandate. Can you just comment on that generally and then supply the information for the record?

KENNEDY:

We fully support the inspector general. We believe inspector generals perform a critical function of calling attention to and highlighting issues that must be dealt with, either, you know, warnings in advance or catching acts that should and must be dealt with summarily.

The request for the Inspector General's office for F.Y. '12 is \$65.154 million. We carry SIGAR and SIGIR in our totals, but I'm just giving you the State OIG's in the president's request is \$65.2

million. And their budget in F.Y. '11 in the full year's CR (continuing resolution) was \$56 million.

So we have supported a request that amounts to almost a 10 percent, 9 percent increase. So we'll get the information for prior fiscal years in. .

ERVIN:

All right . . .

KENNEDY:

The F.Y. '08, for example, actual was \$52 million. So they are going up because they have deployed now, they have a regional office in the Middle East whose major focus is working on Iraq and Afghanistan issues. And the department has supported their funding request and supported their request by allocating them very, very scarce office and sleeping accommodations in order that they would be close to the scene to do their jobs.

ERVIN:

Now, in the time that remains I want to talk about your response, the State Department's response to our recommendation about suspensions and debarment.

I think one can argue that there that reasonable minds can differ about a number of our recommendations, including the ones that we've just discussed, arguably. But the one, it seems to me, that one can't argue with, or at least for the grounds upon which the State Department argued it, is the notion that there should be written justifications on those occasions when a contracting officer recommends suspension and debarment and the management of the department issuing it refuses to carry out that recommendation.

And the rationale for opposing this recommendation by the State Department was requiring written justifications would be an administrative burden on most agency suspension-and-debarment programs which already have limited resources to carry out their existing missions.

To me, the sum and substance of that is it's too time consuming to hold contractors accountable to the American taxpayer and to ensure that our diplomats and our military personnel, our development officers get the support that they need. I was really shocked, I have to tell you, by that response.

KENNEDY:

I think the distinction, sir, is in who makes the final decision on a disbarment. It is not the State Department management. It is the procurement executive of the department, who is separate from the head of contracting.

So if the procurement executive decides that the individual contracting officer has not made his or her case in law and equity, then it is the procurement executive. It's not me, it's not the assistant secretary for administration, it's not the deputy assistant secretary for logistics management. It is the quasi-independent procurement executive.

ERVIN:

Right. But are you saying that it would be an unduly burdensome burden on the chief executive officer, chief acquisition officer to make that determination?

KENNEDY:

Because it's not the determination of the chief acquisitions officer, it is the determination of the quasi-independent procurement executive.

Every agency has a semi-independent procurement executive who does not issue contracts, who provides policy guidance and oversight to the contracting.

And so if he, and it happens to be a he at the State Department, makes that determination, it is a kind of independent interpretation. And, basically, I feel that is exactly what it should be. We must ensure that the American taxpayer spends a dollar and gets a dollar's worth of value.

SHAYS:

Ambassador, we know that. We do know that you got to do that.

Does the gentleman—oh, you're all set?

ERVIN:

I am.

SHAYS:

OK.

I want to pursue this, because I find this beyond silly. I find it outrageous that the Department of State can say that when a contracting officer recommends debarment or suspension, or even if DCAA or DCMA, somebody is recommending it, that there shouldn't be a justification for why, when it is ignored, it's ignored. It seems to me so basic.

So you and I and the department and this commission and the department have a huge disagreement that we will continue to pursue.

How many debarments recommendations have been made in the last year?

KENNEDY:

(OFF-MIKE)

SHAYS:

No, no, that's not acceptable.

SHAYS:

No, no. Your mike is not on.

KENNEDY:

I will have to . . .

SHAYS:

Let me just tell you why it's not acceptable. You'll have to get back, but what's not acceptable is you don't know it, and yet you're saying it's burdensome. How can it be burdensome if you don't know it?

KENNEDY:

I will provide that information for the record.

And, given your statement, Mr. Chairman, I will review the issue.

SHAYS:

And let me just tell you why you should.

KENNEDY:

And I will also consult with other U.S. government agencies who are obviously impacted by this as well.

SHAYS:

Well, we know DoD has. And maybe it's burdensome for them because maybe they have so many.

KENNEDY:

Right.

SHAYS:

But if this is a cabal among the administration to kind of say we don't want to do it, and you're part of it, that would be a huge mistake.

So I'll calm down, because you're going to get back to us. But let me just put on the record the following: You don't know how many recommendations there are on debarment, and yet your department is recommending that our recommendation not be done because it's burdensome.

I would think either if we have so many that are ignored, that's a huge indication of a problem. And if we have too few, or a few that have been recommended, and the department is claiming it's burdensome, then we think it's a pretty outrageous response.

So I appreciate you looking at that.

When you testified before the Government Oversight Committee, you made the point that all the activities of State were inherently governmental.

Would you explain to me why you made in the transition from DoD to State that everything you are doing in Iraq, in the transfer, are not inherently governmental, therefore, you can use contractors?

So I misspoke in the beginning. Not inherently governmental. That is the claim. And in your statement you make it in your very first part of your statement. You jump right in and say, "The activities we're doing are is not inherently governmental."

Why? Why are you making that claim?

KENNEDY:

Because, Mr. Chairman, certain of our activities are inherently governmental—law enforcement, the activities of consular officers, political and economic reporting, executive management—those are inherently governmental.

There are other activities that I believe are not inherently governmental. Let's use security, because that one of your other commissioners had commented on that as well.

If you look at security, security is not considered inherently governmental in the United States. The United States government contracts for security personnel.

SHAYS:

There's security and then there's security, so it's a pretty broad term.

So let me just ask you this, if you have an IED and you need to get a medic to deal with the injuries that are outside the embassy and/or you are under fire and you have to shoot your way out to get back to safety—in either case, you have to get someone there to attend to the wounded and you have to aggressively use force or you have to aggressively use force to get out, why do you think that's not an inherently governmental function?

KENNEDY:

Because I believe even in those circumstances, security is not inherent in the government...

SHAYS:

I'm not talking security.

KENNEDY:

I regard that there is law enforcement, which is inherently governmental, and then there is security.

SHAYS:

Let me just ask you this, Ambassador, you use security that covers such a range. I really narrowed it down.

KENNEDY:

Right.

SHAYS:

So we have to fight our way in to get to people that have been injured. And we have to fight our way out to get away from it.

KENNEDY:

Right.

SHAYS:

We have to use an aggressive effort with guns, with weapons, to do that. Why is that not inherently governmental?

KENNEDY:

Because it does not meet the definitions of inherently governmental.

SHAYS:

And what is that definition?

KENNEDY:

The definition is something that only a governmental entity . . . and I realize that's a circular definition.

THIBAUT:

Can I—two and a half, a minute of time.

Let me take his example. You say, OK, it's not, and I can use a contractor. You know, I propose maybe you're using a contractor out of necessity because, otherwise, you know, there's a whole lot of combat medics both paying attention to this as well—Army combat, Navy corpsman, maybe there's some rolling around in their grave, saying "What's going on here" because the Army and the military have always made the decision that combat medics are done by a military person.

By default, that's inherently governmental. When they fly a chopper in, and Commissioner Shays talked about being under fire if you have an IED out there, call it what you want, it's under fire, they can't remove it, they have injured. No one leaves the injured. They have lifesaving. The United States Army doesn't use civilians, government or otherwise.

KENNEDY:

Well, the United States Army's primary mission is to project force in defense of the United States and its values.

THIBAUT:

All right. That's projecting force. We're talking about a rescue mission, and now you're picking up that has nothing to do with projecting force. It's lifesaving.

KENNEDY:

And I'm saying that is the distinction. Projecting force is inherently governmental. Lifesaving . . .

SHAYS:

Are you comfortable with that definition as you use it?

KENNEDY:

Let me tell you in response to the second part of Chairman Thibault's, I'm comfortable with this definition, yes, inherently I'm comfortable.

But secondly, there are 1,800 and some-odd State Department Diplomatic Security professionals in the entire world. I need, I believe, it's something when all is said and done, I'm going to need something maybe close to 7,500 static, just static guards for both Afghanistan . . .

SHAYS:

Ambassador, I know where you're going, and I'm going to agree with you.

The bottom line is necessity requires you to use contractors because you have such a huge need. That to me, and let me say, you are a very candid witness, so I appreciate the dialogue. But a more helpful response to this commission and the other and to Congress, would be, "Guess what? We have no choice. We have to use contractors."

What I fear is that you feel that if you have to use contractors and admit you're using them for inherently governmental, that you are then breaking the law. It's not a criminal law, but you're breaking the law.

I think one of the recommendations—and let me ask you this, one of our recommendations may need to be that there needs to be a recognition on the part of government that sometimes we have to use contractors, nongovernment people, in inherently governmental situations, because, as your report talks about in the QDDR, that sometimes contractors are the default mechanism. And maybe you need that default mechanism 'cause I think that's where you were going with your answer.

KENNEDY:

Essentially, I know that I have a mission that's been given to me.

SHAYS:

Right.

KENNEDY:

Lawyers that I have consulted with tell me that security as opposed to law enforcement as opposed to military force is not inherently governmental.

If the commission says the process of that analysis should be changed I mean, I'm not going to object to that.

I know what the basic number is. And I know that there is a sine curve here, that tomorrow, hopefully, some indefinite tomorrow, I am not going to need 7,500 U.S. government employees to provide static security. And managing and recruiting that process . . .

SHAYS:

We're hearing two things. And I'm going to agree with you. One is that it may not even be possible . . .

KENNEDY:

Right.

SHAYS:

. . . for you to have government people fulfill these functions.

And the second thing we're hearing, for the record, is that you would have to build up to a point and then would you be able to use these folks later on when the contingency draws down?

Those are two valid points.

KENNEDY:

Correct

SHAYS:

What our commission feels is it may be unfair to people like you to be put in a situation where you may have no choice but to use contractors, and then have to kind of claim that what they're doing is inherently governmental.

And I'll just put that on the record. OK?

We're going to start with Mr. Thibault.

Mr. Thibault, we're going to do four minutes, and I got to hold folks fairly accountable to that.

THIBAULT:

All right.

Have you started my time yet?

I haven't even said hello.

OK. We jealously guard our time. So, therefore, I'm going to make a couple observations.

I think you also have been candid, Ambassador, and I really respect the mission State has assumed, and I think parts of the mission you've been given, and that's all the summation of what we're seeing here, is wrong.

And that parts of the mission are those parts, and we've given plenty of examples where those situations that have historically been United States military, and they're the best in the world.

You've been asked—and I'm not looking for a comment, it's a fact—you've been asked to transition into accepting that, and the use of contractors is the only option. You don't have an option. In many of those functions, your normal DSS people, if they're at full staff, and I can't say enough for them, but they're not there.

My observation that I made, and I'll sum it up, is that in the year 2013, and we toss numbers around, but it's critical to get this on the record, the DCAA backlog for all those years by their own estimate is going to be over \$800 billion, \$800 billion of unaudited, and it would take me longer than I have to state what the return to the taxpayer that's not evident now.

I gave examples of contractors that have provided submissions timely, and it can't be audited because there's no resource. DynCorp, I gave an example where contractors pulled it back because they know there's questionable costs in there. KBR, and I gave an example where a contractor, new contractor conscientiously they've gotten 2006 back in, but they've struggled to get a good submission in. And that's an experience-based thing.

DCAA has asked for—and my whole point is I propose you ought to become a more visible champion for DoD, assuring that your DCAA, that you do on a reimbursable basis, is fully staffed. And they need 1,000 people so they can begin making a dent in that backlog by 2014.

And I'm not here to make excuses for companies, but if I'm in charge of that function in a company and I have seven or eight years, and that's what it will be, that haven't been audited, I'd be worried about what's the impact. I've got the claims in.

And so I believe that you can be a champion for that.

Probably the area with the biggest dollars we haven't spent much time on is LOGCAP. You're going to transition to LOGCAP, and you're going to use DoD support initially. That's in your statement. That's correct. So that's a yes.

KENNEDY:

For life support, not for maintenance, not for other . . .

THIBAUT:

Right. OK. OK. That's correct. Now is that transition going to be LOGCAP III or LOGCAP IV?

KENNEDY:

Our action under LOGCAP IV is supposed to be awarded on July 31st. So it will be LOGCAP IV.

THIBAULT:

So you are in fact going to use LOGCAP IV.

KENNEDY:

Yes, sir.

THIBAULT:

. . . where you've gone out and competed it consistent with the manner which we support.

KENNEDY:

Yes.

THIBAULT:

We kind of took too long, but we fully support Rock Island Army access. You're using that.

KENNEDY:

Yes, sir. We're using Rock Island Arsenal.

THIBAULT:

That's really important. And I would suggest that as you go through and evaluate that, I hope you're using past performance, current issues. You know, if you've got a company that's pulled all its claims out because of questionable costs, someone ought to come in and ask them the question: Why'd you pull those out? It's a fair question. What's in there that caused you when you

had whatever it is, a senior vice president, finance, that said, "I certify legally that all the costs are in accordance with rules and regs," and the lo and behold, they don't.

So I have a gazillion other questions. My time's up. I do want to thank you. I may summarize those questions and provide to you, Ambassador.

The last thing I want to say on the supportive side is you probably use or maybe you're fortunate. I've seen the best transition the four of you grand-slam folks over there in providing notes. I've seen that so often in our 20 hearings being in disarray. It's really nice to see people that know how to give notes to a witness. Thank you.

(LAUGHTER)

KENNEDY:

I am a great witness because I have a great team.

THIBAUT:

All right.

SHAYS:

Well, you're a good witness if you rely on your team, and that's a good thing to do.

Mr. Tiefer, Charles Tiefer, Dr. Tiefer?

TIEFER:

Thank you.

And Ambassador Kennedy, although occasionally these are combative questions, your longstanding expertise and experience is acknowledged.

I have three questions. I'm going to throw them all on the table because I'm short on time, and you can answer them.

One is I was pleased to hear that you're going to take another look at the \$132 million for the new embassy compound and First Kuwaiti. I thank Commissioner Ervin for piping up on that

because he is a former State Department inspector general, so he knows there's more in a report of theirs than other people might realize.

In that regard, I hope, to slightly adjust, that you'll not only ask again whether the State Department IG has more information, but more important because this report, "Audit of Design and Construction of the New Embassy Compound at Baghdad, Iraq," in 2009 was extremely detailed. I would hope one could go through it and find the parts of that \$132 million which are already justified, because they may just say, "We put what we had into the report." And that shouldn't be the end of the matter.

My second question is we went through that out of the police-training money that went to **all contractors in Iraq and Afghanistan, [DynCorp - deleted]** you have collected \$40 million. You're going to seek \$37 million back. *Note: phrase and word in boldface in previous sentence represent changes made to the official transcript by the State Department.*

And there's \$109 million in reduced billing. I hope to confirm that once again because that's what the public will be hearing.

I want to say about the figure that went out about the \$512 million that I was one of the people who thought that that was a credible figure. I mean, I don't want to be wondering, well, where could that have come from. And the reason was that the report, the SIGIR report of January 2010 on this subject said, and I quote, "As a result, INL has no confidence in the accuracy of over \$1 billion in charges."

So it's not so much I would like to find out. Suppose SIGIR wants to go and look and say, "Well, where did the rest of our \$1 billion—why did only \$200 million of that get into the final lap of the race?"

Would it be OK with you if SIGIR looked and followed up their previous audit and found out why INL took \$200 million out to follow up and not the rest of the billion?

My third and last question is . . .

SHAYS:

No, he doesn't have much time to answer, but why don't you go through it real quick.

TIEFER:

OK. On SIGIR, being limited in what they can review of yours going on, you said you've gotten an oral legal opinion, and at another point, you said, "I must stand on what my legal adviser has told me." That's oral. I'm a law professor at the University of Baltimore Law School. Your legal adviser is a professor at another law school. It's pretty good. It's not University of Baltimore, but . . .

SHAYS:

Charles, Charles, get to the question. Come on.

TIEFER:

We'd like a written legal opinion public, because this is a very important point.

Thank you.

KENNEDY:

Quickly, obviously, as I said, I will raise this again with the inspector general about First Kuwaiti.

On the DynCorp police training contract, SIGIR is perfectly free to audit any—they audited it once. If they want to audit it again, my point that I've made to this group, that I've made to the House Government Affairs group is that they're free to audit the reconstruction activities in Iraq. They are not free to audit the base element of the State Department. That is within the jurisdiction of three other entities.

And on the SIGIR review, I will talk to a certain former law professor and ask him what his opinion is on this matter.

SHAYS:

Thank you.

Mr. Henke, thank you. Commissioner Henke?

HENKE:

Ambassador Kennedy, the first recommendation in our interim report was to have the agencies do a comprehensive risk-based manpower assessment for what they need to operate in a contingency. Your response to us was along these lines. State's QDDR and the human capital planning process both identified the need to determine the organic resources. OK? That's a statement of identify the need to determine organic resources.

I'm looking at your QDDR in the section "balance our workforce and improve oversight and accountability." You just told us, I believe, that law enforcement is an inherently governmental function. OK?

KENNEDY:

Correct.

HENKE:

Then in page 179 of the QDDR, there's just a statement that, when you read it with your mind open, it's a little jaw-dropping. You say here, "build direct-hire capabilities in two specific State bureaus: International Narcotics and Law Enforcement, INL, and Information Resource Management (IRM)."

I guess those are the IT guys. And they both work for you, right, both of those bureaus?

KENNEDY:

INL works for the undersecretary for political affairs.

HENKE:

OK. IRM works for you, right?

KENNEDY:

Yes, sir.

HENKE:

So INL works for P, Political.

Here's the sentence that really floors you. This is about International Narcotics and Law Enforcement. And I applaud you for being candid, but we can't let this pass.

"Given the importance of security-sector assistance to State's mission and the fact that INL's current workforce comprises only 5 percent direct-hire State employees, rebalancing is necessary."

To me that's just one of those statements that's—you're telling me in the INL workforce it's law enforcement, it's 95 percent contractor?

KENNEDY:

The distinction . . .

HENKE:

That's what the QDDR said.

KENNEDY:

No. No, sir.

HENKE:

Is that what the QDDR says?

KENNEDY:

Yes, but . . .

HENKE :

Is that what the QDDR said? I just want to make sure we're on the same basis?

KENNEDY:

Yes, sir.

HENKE:

OK.

KENNEDY:

But there is a major distinction between law enforcement . . .

HENKE:

Right.

KENNEDY:

. . . the power to arrest an American citizen . . .

HENKE:

I understand.

KENNEDY:

. . . and training foreign law enforcement.

So I do not regard the training of foreign law enforcement as inherently governmental. We do training, takes many, many forms.

What the QDDR also talks about, and this is a specific request of the secretary's which we agree on, is we've been in numerous consultations with other U.S. government entities, the Department of Justice being a primary one.

HENKE:

Right.

KENNEDY:

. . . to find out that in lieu of contracting for training, do they have, could they put at our disposal, could State and local governments put at our disposal foreign officers.

HENKE:

Right. Generally . . .

KENNEDY:

. . . but still they wouldn't . . .

HENKE:

Generally their answer has been, "No, we don't have the capacity."

KENNEDY:

That is correct, yes.

HENKE:

So you're not built for it and they're not built for it, so therefore you have to hire contractors or personal-services contractors, right.

KENNEDY:

Correct.

HENKE:

. . . to oversee your INL contracts.

KENNEDY:

Correct.

HENKE:

Is that a fair statement?

KENNEDY:

Correct.

HENKE:

OK. So the part of the QDDR calls for an in-depth assessment and cost analysis of these two bureaus will be conducted to develop the appropriate workforce balance and expertise. Is that analysis complete?

KENNEDY:

No, sir. It is ongoing. The chief information officer is looking at what cost savings might be obtained by federalizing, in effect, part of her workforce.

HENKE:

Well, but, sir, cost-savings aren't relevant when it's inherently governmental? I mean, inherently governmental doesn't say it should be inherently governmental if it makes cost sense. It just says if it's inherently governmental we can have a discussion about that. It must be done by a fed?

KENNEDY:

The fulsome analysis of both of those is those are being looked at to determine if we have any activities that are inherently governmental now being done by contractors.

HENKE:

OK.

KENNEDY:

The examples of the cost savings, though, run the gamut of is it cheaper to bring it in-house, than to contract out for it.

HENKE:

Would you share with us at the appropriate time soon the results of those analyses?

KENNEDY:

I will be glad to. I'm not sure that they're going to be done within the commission's time frame, though.

HENKE:

OK.

KENNEDY:

These are very complex issues given our worldwide IT.

HENKE:

I've got one last question. I'll be brief.

At some point in Afghanistan, security at the embassy was provided by U.S. troops. Some point, '01, '02, at the very beginning.

KENNEDY:

At the very, very beginning, yes, sir.

HENKE:

Very beginning.

KENNEDY:

As it was in Iraq.

HENKE:

Right. I understand that DoD said, "Not our mission. Give it to State." At the point that that decision was taken, did State agree with that decision and embrace it and say, "Give it to us. We can do it. It's not inherently governmental."

KENNEDY:

I was not in a position that was involved in that. I'll be glad to check for the record.

However, it is the consistent opinion of the Department of Defense that they will provide, and we are deeply appreciative of it, emergency assistance. For example, in Sanaa, Yemen, with all the turmoil there . . .

HENKE:

So you'll take that?

KENNEDY:

. . . DoD has augmented our existing staff. But I'll get something for the record.

HENKE:

I'll take the details for the record on that decision.

KENNEDY:

Yes

HENKE:

OK.

SHAYS:

Thank you.

Katherine Schinasi? And no one is going to interrupt you in your four minutes.

SCHINASI:

Thank you, Mr. Chairman. I have a couple quick yes or nos.

In the request that I made earlier about the contracting officer representatives, I know in your response to our recommendations you make reference to waivers for COR certifications, which are available. That tells me maybe you've made use of waivers. So for that list of contracting

officer representatives for the projects that you have put out, would you include waivers in that listing as well?

Second thing is, as you know, OMB Circular A123 requires each agency, the chief acquisition officer to review and evaluate its acquisition function. So I'll ask you first, have you done that evaluation? And secondly, if so, is it possible for us, could you submit that for the record as well?

KENNEDY:

That is an internal document. Let me check with our lawyers because of the unique nature of the executive, legislative branch and this commission. I think I've given you everything that you've asked for up to date. I just have to check on that type of internal document with our counsel.

SCHINASI:

There's also the legislative requirement under the Services Acquisition Reform Act that you monitor your activity.

KENNEDY:

And we . . .

SCHINASI:

So that might be another way to . . .

KENNEDY:

. . . we do that.

SCHINASI:

. . . to get that.

DoD has already set up a cell, is my understanding, for transition in Afghanistan from DoD to State Department. Has the State Department set up that kind of a planning cell with contracting particularly in mind?

KENNEDY:

Yes, we have.

SCHINASI:

Yes, OK.

KENNEDY:

And we are actually dispatching as our chief administrative officer our chief management officer in Kabul and an officer who has been intimately involved in the same office working on the transition.

SCHINASI:

That's good. My understanding was that that had not been done yet. So I'm glad to hear that.

Secretary Gates sent to Secretary Clinton in December of '09 a memo looking at alternate ways to pool funds and resources for those missions that have become conflicted between the Department of Defense and Department of State, where there are overlapping missions and authorities.

Do you know if the State Department ever responded to that request from the secretary of defense for feedback on the proposal?

KENNEDY:

That activity has been worked out between the secretary of state and the secretary of defense and between the deputy secretary of state, the deputy secretary of defense and OMB.

SCHINASI:

Is there a formal or written memo?

KENNEDY:

No, it was essentially resolved in the F.Y. '12 budget request.

SCHINASI:

OK.

KENNEDY:

What you see in the F.Y. '12 budget request represents the collective administration position on that.

SCHINASI:

Is that part of putting everything in the OCO (Office of Contingency Operations) account? Is that how that was . . .

KENNEDY:

No, the OCO account is related but separate. The authorities which you'd vest in one agency or another are in the budget request. The OCO account at the State Department is simply how we request those sums either for our operations or for the results of the agreement between State and Defense.

SCHINASI:

OK. So the Section 1206, 1207 authority is already expired and now you have something in the F.Y. '12?

KENNEDY:

Yes it is.

SCHINASI:

OK. And then my last question. You make reference in your statement to the QDDR's blueprint for elevating American civilian power. I think that's one of the things that we certainly have been looking at on this commission, you know, what is that appropriate mix for the workforce with an eye toward some of the problems that agencies have had getting civilians overseas.

We had Ambassador Herbst before us over a year ago to talk about the S/CRS (Office of the Coordinator for Reconstruction and Stabilization), which has gone out of existence. Dare I say it's a failure. In the F.Y. '12 budget, you know, there's support for that, but I guess the request is for \$92 million, which is down significantly from the \$120 million.

What is your prognosis for being able to get civilian presence, not just the State Department but clearly the other civilian agencies, into Iraq.

KENNEDY:

One of the . . .

SCHINASI:

. . . or later into Afghanistan?

KENNEDY:

Well, the State Department has filled every State Department position in Iraq and Afghanistan. And the other agencies, AID, and I would like to specifically note the incredible assistance that have been provided us by the Department of Agriculture in deploying personnel from all their field units around this country. So we are filling those jobs.

The contingency question that you raise is one that is specifically called out in the QDDR. There is a task force at the State Department reviewing structure, function way ahead for the civilian stabilization. A new bureau is asked for, referred to.

SCHINASI:

I saw that. Right.

KENNEDY:

. . . called the Overseas Contingency Operations. So that is . . .

SCHINASI:

Right. So yes or no. Just I'll get a yes or no as a conclusion. Yes, you are confident, you have been able to get the civilian representation that you've wanted, yes or no?

KENNEDY:

Well . . .

SCHINASI:

Yes or no?

KENNEDY:

No.

SCHINASI:

No.

KENNEDY:

No. But I'm saying . . .

SCHINASI:

No. That's the conclusion. Thank you.

KENNEDY:

The conclusion has to be specified. Yes or no answers aren't always . . .

SHAYS:

Let me just say, you answered. I think we have a no, but if you want to qualify the no, it's kind of on your time now, because it's 11, so.

KENNEDY:

I'll keep going.

SHAYS:

OK. But, OK. Do you want to explain the . . .

SCHINASI:

I'm trying to draw out of your long answer sort of what the bottom line was.

KENNEDY:

Some agencies have had the resources to be able to provide personnel on detail to the State Department. Other agencies, because of their missions in the United States or elsewhere have not been able . . .

SCHINASI:

Have chosen not to provide.

KENNEDY:

Have not been able to provide staff for deployment to Iraq and Afghanistan.

SHAYS:

In some cases, they've chosen not to; in some cases, they haven't been able to.

Dr. Zakheim?

ZAKHEIM:

I can't let that pass. We were, commissioners, Chairman Shays and I were in Afghanistan, and were told, for instance, that the Agriculture Department had left approximately 40 percent of slots unfilled, and of those slots that were filled, many were from the Foreign Agricultural Service that had absolutely no capability, no knowledge, no ability to deal with the problems out in Afghanistan.

So with all due respect, Mr. Ambassador, I think what my fellow commissioner Katherine Schinasi, is saying is, no, it isn't exactly as you're putting it. And the agencies are not forthcoming. And they are still not fighting this war. And even when they send people, they send the wrong people, if they bother to send them at all.

And I insist on putting that in the record because that's what it's really like out there.

I'd like to ask you about one of our recommendations regarding certification. We noted in our report that agencies have conceded that they just don't give priority to recording past-performance assessments into the official databases.

We've said, therefore, that this ought to be certified, that a database has actually been used. The State Department says, "No, disagree with that because accurate and current input information, comprehensive coverage of contractors and candid assessment of performance will make the database a sought-after tool."

Sure, if it's done. Do you believe it's now being done?

KENNEDY:

Up until recently, there was a split between Defense agencies that used one tool and civilian agencies that used another tool. We are now all filling in the new DoD tool. And I know that State Department is populating that database. I can't address other agencies, sir.

ZAKHEIM:

But we're concerned about use and the certification, and we want to have certification that the database has been used.

Do you have any statistics at all to indicate that use has increased? That people are actually using the database?

You know, what do you have to base your, as it were, disagreement with us that such a certification is not necessary?

KENNEDY:

Well, all I can tell you, sir, is that the State Department checks all available information and before we award contracts.

ZAKHEIM:

Well, it would be nice to get some set of statistics. I don't know if you can come up with that.

I have another question in the minute or so that I have left to me. In your testimony, you talk about the fact that you're achieving greater efficiencies through new contract terms. You mentioned, for example, reduced acquisition timelines and timely options in the event the company fails to perform.

Could you give me a sense of the magnitude of the reduced acquisition timelines and what some of these timely options are, what do you mean by that?

KENNEDY:

Yes. Taking the second first. For example, when you have a master contract at which you have prequalified eight firms, and then you compete the specific task order.

If for some reason one of those contractors fails to mobilize or for some other occasion cannot perform, the fact that we have eight qualified and we have their individual bids on the task orders enable us to immediately go down that list, whereas before when we ordered we would offer one contract at a time, you'd have to go out and re-compete the contract.

So that allows us to—I don't want to say anything is instantaneous, but it certainly eliminates, you know, weeks, if not months of effort.

ZAKHEIM:

And reduced acquisition timeline?

KENNEDY:

I think the fact that we are awarding the contracts, such as the medical contract for Iraq, the medical contract, the security contract, I mean, this goes to a very inherent point in the inspector general's report.

The inspector general's report was a snapshot done in the third quarter of last year. And he was absolutely right, it is absolutely right, saying that on the date that picture was taken, we hadn't awarded the medical contract, we hadn't awarded the security contract.

As I outlined today and in my written statement, now, on the 6th of June, we have done this and this and this and this and this.

Snapshots are good to call things to our attention, but this is a continuum. This is not a sprint. This is a marathon until we hit midnight on December 31st, 2011.

And when you look across that timeline, and this is one of the most difficult things we've ever done, as the commission's noted, but we are making the hack marks as we go down the line.

ZAKHEIM:

Well, thanks. Obviously, we have issues with some of what State does, but you're a good witness, because you do a good job, and I thank you for that.

KENNEDY:

Thank you, sir.

SHAYS:

Mr. Ervin? Clark Kent Ervin?

ERVIN:

Thank you.

Ambassador, I want to go back to the suspension and debarment discussion we just had.

I went back in the interim time to look at your full response, the State Department's full response, and it's on page 27 and 28 of the department's response to our report.

And, basically, what you say there is there are two kinds of agencies with regard to suspension debarments. There are those where the recommendation, the evaluation and then the recommendation is made at a lower level, and then the determination of whether to suspend or debar is made within the agency.

There's somebody higher than the people making the recommendation who makes that determination. But the decision-maker is somebody within the management chain.

And then there are other agencies, like the State Department, where the person who makes the ultimate determination given a recommendation is somebody who's quasi-independent. And you call it, that person, the SDO, the suspension-and-debarment official.

And you're concerned, sounds like, reading the full response, by two things. One, the administrative burden; and two, with regard to the suspension-and-debarment official, compromising that person's independence by requiring the agency head to sign off on the determination of the SDO.

Because we say in our recommendation that there needs to be written justification for it, and that has to be approved by the agency head.

Now, we are happy to modify, I, for my part, am happy to modify that recommendation so that the concurrence of the agency head is not required.

That's not important to me, and I would argue that it shouldn't be important to the commission as a whole.

The issue here is whoever makes the determination to ignore a recommendation or to disagree with a recommendation to suspend and disbar, whoever makes that determination, that person, whether it's within the management chain or independent, ought to have a written justification for the file as to why that determination was made.

And to argue that it's an administrative burden, to me is nonsensical, and I'm surprised the State Department has that position, and I would urge you to rethink it.

KENNEDY:

As I promised the chairman, we will look at it again. As you rightly noted, we did have a very great concern about compromising the independence of the procurement executive who has a statutory responsibility.

Secondly, we also want to make sure that anyone, especially someone on the outside, can bring a charge. If charge is truly frivolous or very spurious, simply giving it the credibility of documenting its rebuttal, rather than simply dismissing it is . . .

ERVIN:

Right. Well, just to stop you there, we're not talking about somebody on the outside, we're talking about a recommendation made internally, within the agency, that is then overruled by either somebody within the management chain or this independent SDO.

And we're saying whoever that is who makes that determination to overrule a recommendation within the department by competent officials, presumably, to make that recommendation ought to be documented for the record.

KENNEDY:

We had read recommendation 23, against a contractor officially recommended for the State or debarment—that could be by anyone. And so with the qualification . . .

ERVIN:

Officially could be by anyone?

KENNEDY:

It could be from another agency from which, yes.

So we will take the chairman's notes, we will take these two, which I regard as clarifications, maybe we misunderstood. But you posited two clarifications that I did not read when I read this in what the intent of your recommendations were, that we would not have to put oversight on the procurement executive.

ERVIN:

Fair enough.

KENNEDY:

. . . or an external-internal question. We will take those into consideration as the chair correctly asked me to do.

ERVIN:

Thank you.

SHAYS:

Ambassador, I have just a few questions, then we're going to let you close with any comment you want to make without interruption.

Commissioner Henke was making reference to DoD kind of pulling the rug out from under you and the department, and saying you have to provide protection, security to your embassy in Kabul. And it ended up that you hired ArmorGroup.

During that dialogue we had in '09, in the middle of '09, we realized that saying you had to get the lowest-price contract instead of the best value, and so we jumped in to try to help you all deal with best value.

What's disconcerting is that the ArmorGroup is still there. Why is it disconcerting? It's disconcerting because they jeopardized, one, the security, in our judgment, of the embassy; secondly, they brought tremendous disrepute to our government because they, in a sense, were defending our government's embassy. And thirdly, the whistleblowers that stepped forward, their lives were threatened. They're still there.

Now, one of the reasons why we recommend that there be a cadre of people who can step in is so a contractor like this can't say, "Fine, find somebody else." And you can't find someone else, so you're stuck with them.

My sense is you're stuck with them. And I want to know why are you still using them? September, since, you know, the photos came out in July-August of '09. Our hearing was in September of '09 and they're still there. Why are they still there?

KENNEDY:

I think they're there for two reasons. One, we have just recently awarded the new worldwide protective security contract, and are competing the task orders. And this is one of the examples where the original low bidder for the specific task order did not mobilize in time, so that's why we're going to an additional replacement.

This goes back to Dr. Zakheim's question of us having the ability to have the worldwide protective-security contract cover both static and movement security, then allows us something to move to a replacement entity.

SHAYS:

We wonder why, though, there shouldn't be within your department, within DoD, a cadre of folks who can step in immediately to deal with a challenge like this. Because the contracting process takes too long and it is highly imperfect.

KENNEDY:

I think the issue, Mr. Chairman, is that by my notes, we have something like 4,900 static guards in Afghanistan. That is a very, very large number, and . . .

SHAYS:

When you travel . . .

KENNEDY:

. . . and to even that 4,900 number, you have to add about a 50 percent factor for training and movement. None of us are going to have in a SWAT team of that size. And so we do, really do have to work, and this goes back to the discussion we had earlier.

SHAYS:

Well, we're thinking that that may be foolish. It may endanger our embassies. It may endanger our goodwill. And we believe that the expense may be worth it to have a cadre that you can turn to quickly. Because the bottom line is you're stuck with them, and that shouldn't be.

Let me just make an argument for you to re-think your opposition to . . .

KENNEDY:

If I might, I just looked, I read my notes. It's 760; 4,981 is a grand total for all overseas, so it's 760. But even that, when you add rotation, it's over 1,000 personnel, and we simply are not funded or programmed to have that kind of a reserve force available for immediate deployment.

SHAYS:

You are not, and the question is should you be. And we would argue you should be.

Let me just make this last point for the record, and then let you make your final closing comment.

I find it difficult to understand the opposition to an independent special inspector general for contingencies. And that's based on my experience in Congress. Because frankly, as Republicans and Democrats both realize, we were not seeing the kind of oversight of contingency contracting. And when we then got SIGIR in there, we began to see that the other inspector general started to pay more attention. In fact, DoD wasn't even in theater. And so one of the values was, it kind of raised the attention for everyone.

Secondly, the very example that you are raising that SIGIR doesn't have the legal authority, because when they were assigned, they were given only a certain chunk of contingency. We believe that they should have the full breadth so they wouldn't encounter the very thing that your legal people are saying, that they don't have the authority.

We want a permanent inspector general that has the ability to cross different departments to do inter- and intra-agency activities. We want them to be able to look at State, DoD, USAID, one. And I just would suggest to you that we would like you to reexamine this in the light of the fact that huge savings could take place.

You have a final word to close up. You can take as much time as you want. It's your time, and I'll just say again we appreciate the candid dialogue that's taken place between us and we look forward to you getting back to some of the things you said you would.

KENNEDY:

Just before I sum up, let me just respond quickly, Mr. Chairman, to your question.

I think you're entirely correct that there was not a focus, the full focus, the full in-depth focus that should have been made in the very beginning. But I think the corrections that we have seen—DoD now deploying their personnel in theater; the State Department opening a regional office in the region to do both Iraq and Afghanistan—does address the question of focus.

Secondly, I think on your question about the breadth of the responsibilities of an inspector general, I certainly agree that we need full breadth. At the same time, when you are receiving a request such as I am from SIGIR to investigate not the activities . . .

SHAYS:

I'm not taking that issue. You've already addressed that honestly. I am suggesting that if they had been given the authority, you wouldn't have been even in this legal question.

KENNEDY:

Well, but I'm saying, sir, that I am opposed to having an independent, a third-party inspector general, so to speak, as opposed to a second-party, investigate the platform that the State Department is operating on. One has to understand that platform—the General Accountability

Office, the State Department inspector general, House Surveys investigations understand that platform. And there is what's riding on the platform. And I have no problem with that.

If it's open to any inspector general, there are some 15 different United States government agencies operating overseas. And if I have to have each one of them authorized to investigate my platform, I won't ever deliver any services under that platform. I will just be doing questions and answers. I think that is a detriment to the United States national interests abroad.

SHAYS:

Let me ask you, though, State IG has recently closed their MERO, their Middle East Regional Office.

KENNEDY:

No, sir, they have not.

SHAYS:

They have not?

KENNEDY:

No, sir, they have not.

SHAYS:

How many people do they have there?

KENNEDY:

I'll get that for the record, but they have not closed MERO. They have not closed their Middle East Regional Office, not that I'm aware of.

SHAYS:

OK.

KENNEDY:

They've in fact just done another report. I mean, it's the report that you cited that they did last fall and released..

SHAYS:

We're talking about people there, not here.

KENNEDY:

Well, they're there.

SHAYS:

You have the closing word now. Any comment you would like to make?

KENNEDY:

Commissioners, there is no doubt that the activity that the State Department is engaged in in Iraq and will be engaged in in Afghanistan when the timeline is fixed for the withdrawal of United States troops is unusual. It is beyond the scope of anything that we have ever done in the past. And that is acknowledged.

On the other hand, the State Department has historically stepped up to challenges. The fall of the Berlin Wall resulted in the opening of 24 new diplomatic and consular posts in the immediate aftermath of the fall of the wall, a number in a short period of time.

And then there was the tragic attacks on our embassies in Nairobi and Dar es Salaam, which caused additional funds to be appropriated to the State Department.

And now we have, I think, it is now 77 new embassies built in the past decade, 11 years.

We know how to mobilize for this activity. We have the competence, we have the personnel, and we absolutely, in this case, have the full and unerring support and partnership with the Department of Defense from every level from Secretary Gates and Chairman Mullen all the way down to, you know, to the E-6 expendable- and excess-property clerks that we are dealing with in Iraq now, that have provided us almost 4,000 pieces of equipment.

There is a lot of work to be done. It is entirely correct that when the inspector general took his snapshot last fall there was a lot more to be done.

But as I outlined in my oral testimony and in the longer written statement, many, many if not most of the issues raised by the inspector general—correctly in that moment, that snapshot in time—have now been resolved. And in the remaining six months we will resolve the remainder of them.

We have the contracting vehicles in place. We are in the process of awarding them, those we have not already awarded.

The Congress has provided us funds. Not all the funds we might have liked, but we have adjusted the mission—not the safety or security, but we've adjusted the mission to comport with the dollars available, which is what any executive branch office does in our democracy.

My last point is I want to thank the commission for calling attention to issues that we do have to address. Your assistance a year or so ago in allowing us to make contract awards on best value was incredibly helpful and is part of the new worldwide protective security contract that we have, that we have awarded the master to and we've already awarded several task orders under.

It is a long road; it is a marathon. I mean, I think we have already crested heartbreak hill, and we have only so far to go. The time remains is short. Anything can go wrong. And I am sure that something will go wrong.

But with the teams we have, the executive steering group, the team in Baghdad, teams at State, DoD, joint teams and the staff that I brought with me plus many more staff who are there, who have phone calls, I think it's three times a week at 8:00 in the morning with everyone in Baghdad, we will deliver on this mission because it is in the U.S. national interest that we do so.

Thank you very much, ladies and gentlemen.

SHAYS:

Ambassador, thank you very much and have a good afternoon. And with that, this hearing is closed.

