



United States Government Accountability Office  
Washington, DC 20548

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August 1, 2012

The Honorable Claire McCaskill  
Chairman  
The Honorable Kelly Ayotte  
Ranking Member  
Subcommittee on Readiness and Management Support  
Committee on Armed Services  
United States Senate

The Honorable Jim Webb  
United States Senate

Subject: *Contingency Contracting: Agency Actions to Address Recommendations by the Commission on Wartime Contracting in Iraq and Afghanistan*

Over the past decade, the Department of Defense (DOD), Department of State (State), and U.S. Agency for International Development (USAID) have relied extensively on contractors to help carry out their missions in Iraq and Afghanistan. Between fiscal year 2002 and fiscal year 2011, these agencies reported combined obligations of approximately \$159 billion for contracts with a principal place of performance in either country. Contractor personnel have provided a range of services related to supporting troops and civilian personnel and to overseeing and carrying out reconstruction efforts, such as interpretation, security, weapon systems maintenance, intelligence analysis, facility operations support, advice to Iraqi and Afghan ministries, and road and infrastructure construction. The use of contractors in contingency operations such as these is not new, but the number of contractors and the type of work they are performing in Iraq and Afghanistan represent an increased reliance on contractors to support agency missions.

Congress established the Commission on Wartime Contracting in Iraq and Afghanistan (CWC) in 2008 to assess contracting in Iraq and Afghanistan and provide recommendations to Congress to improve the contracting process.<sup>1</sup> The CWC was directed by Congress to assess contracting in Iraq and Afghanistan for reconstruction, logistics, and security functions; examine the extent of waste, fraud, and abuse; and provide recommendations to Congress to improve various aspects of contingency contracting, including defining requirements and identifying, addressing, and providing accountability for waste, fraud, and abuse.

Led by six commissioners appointed by congressional leadership and two commissioners appointed by the president, the CWC conducted its work between 2008 and 2011.<sup>2</sup> In a series of interim and special reports and in a culminating final report, the CWC made multiple

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<sup>1</sup>National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 841.

<sup>2</sup>The CWC ceased operations on September 30, 2011, 30 days after issuing its final report.

recommendations about contracting practices in current and future contingency environments.<sup>3</sup> The recommendations in the final report were organized into 15 strategic areas related to improvements in contingency contracting. Some recommendations were made specifically to DOD, State, USAID; others were made to Congress; and the remaining recommendations were not made to a specific entity. Only one recommendation from the final report included a date by which implementation should be completed, with the CWC noting that some reforms will take many years for agencies to fully implement because of the complexity of the issues involved.

DOD, State, and USAID have taken different management approaches for addressing the CWC's recommendations. For example, at DOD, the Under Secretary of Defense (Acquisition, Technology, and Logistics) established a senior-level board that used a formal process for determining which recommendations DOD would address and assigning responsibility for addressing them to specific DOD offices. The board also monitors the status of efforts to implement the recommendations. At State, officials told us that the Office of the Under Secretary for Management has general responsibility for coordinating the department's efforts to address the CWC's recommendations. These officials explained that when the CWC's final report was issued, the Office of the Under Secretary for Management assigned responsibility to bureaus and offices with related portfolios for determining and reporting on how the department was addressing the recommendations at a strategic level. They explained, however, that State does not have a formal process for assigning responsibility for or monitoring the implementation of the specific recommendations. USAID has taken a decentralized approach to the CWC recommendations. The agency does not have an office designated for addressing or monitoring the efforts to address the CWC's recommendations. According to a senior USAID official, the Office of Acquisition and Assistance is responsible for addressing recommendations related to agencywide procurement policy. However, USAID officials explained that efforts to respond to other CWC recommendations are more appropriately addressed at the individual mission level, as each country has specific needs and circumstances.

In response to your request, we determined whether DOD, State, and USAID have taken or planned actions that directly align with recommendations the CWC made in its final and last two special reports—including those recommendations directed to one or more of the agencies and those recommendations not directed to a specific entity but that one or more of the agencies considered applicable to them. We also described agency positions on recommendations the CWC made to Congress when the agencies provided their positions to us.

For our review, we analyzed the CWC's final report and last two special reports to identify the total number of recommendations made. That total comprises the (1) 48 recommendations that the CWC made in the August 2011 final report, some of which were based on recommendations the CWC made in its interim and special reports and (2) 3 recommendations that the CWC made in Special Report 4 (issued in March 2011) that related to the transition to a civilian-led

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<sup>3</sup>Commission on Wartime Contracting in Iraq and Afghanistan, *Interim Report—At What Cost? Contingency Contracting in Iraq and Afghanistan* (June 10, 2009); *Interim Report 2—At What Risk? Correcting Over-Reliance on Contractors in Contingency Operations* (Feb. 24, 2011); *Special Report 1: Defense Agencies Must Improve Their Oversight of Contractor Business Systems to Reduce Waste, Fraud, and Abuse* (Sept. 21, 2009); *Special Report 2: Lowest-Priced Security Not Good Enough for War-Zone Embassies* (Oct. 1, 2009); *Special Report 3: Better Planning for Defense-to-State Transition in Iraq Needed to Avoid Mistakes and Waste* (July 12, 2010); *Special Report 4: Iraq—A Forgotten Mission?* (Mar. 1, 2011); *Special Report 5: Sustainability: Hidden Costs Risk New Waste* (June 3, 2011); and *Transforming Wartime Contracting: Controlling Costs, Reducing Risks*, Final Report to Congress (Aug. 31, 2011).

presence in Iraq.<sup>4</sup> Of these 51 total recommendations, 19 were directed to DOD, State, and/or USAID; 15 were directed to Congress; and 17 were not directed to a specific entity. For the recommendations not directed to a specific entity, we relied on each agency to identify which recommendations were applicable to it. In total, 30 recommendations were identified as applicable to DOD; 27 as applicable to State; and 25 as applicable to USAID. We did not evaluate the CWC's recommendations; our focus was on the actions the agencies took related to the recommendations. Specifically, we categorized the agencies' respective efforts to address each applicable recommendation as either (1) "actions taken or planned that directly align with the specific recommendation" or (2) "no actions taken or planned that directly align with the specific recommendation." To determine whether each agency had taken or planned actions that directly aligned with each applicable recommendation, we collected the agencies' self-reported information using a data collection template; corroborated reported actions with related documentation, when available; and conducted structured interviews with knowledgeable agency officials to clarify responses. We categorized the agencies' efforts as "actions taken or planned that directly align with the specific recommendation" even when the agencies' actions (1) were started or completed before the issuance of the CWC's final or last two special reports or (2) only partially addressed the recommendation, such as when an agency took an action that directly aligned with the recommendation in either Iraq or Afghanistan but not agencywide, or when an agency took an action that directly aligned with a portion of a recommendation but did not address another portion of the recommendation. For instances in which agencies reported not having taken or planned actions that directly align with a specific recommendation, we documented the rationale for this course of action and reviewed available documentation. However, we did not assess the appropriateness or sufficiency of any actions taken or planned by the agencies. Finally, we did not assess the agencies' positions on the CWC's recommendations to Congress, although we included the agencies' positions on those recommendations when the agencies provided them to us.

We conducted this performance audit from February 2012 to August 2012 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In summary, DOD reported having taken or planned actions that directly align with about half of the CWC recommendations applicable to it, and State and USAID each reported having taken or planned actions that directly align with about one-third of the recommendations applicable to each of them. Officials from the three agencies explained that for the remaining recommendations no actions were taken or planned that directly aligned with the specific recommendation. This was because, for example, the agencies had determined that existing policies or practices already meet the intent of the recommendations or had disagreed with the recommendations. The following are examples of actions that DOD, State, and USAID have taken or planned that directly align with specific CWC recommendations:

- DOD issued a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) in February 2012 to improve the oversight of contractor business systems, including the ability to withhold a percentage of payments on certain covered contracts when a contractor's business systems contain significant deficiencies. This action aligns with the

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<sup>4</sup>The recommendations from the CWC's Special Report 5 were incorporated into the final report. Therefore, we have not counted recommendations from Special Report 5 separately.

CWC's recommendation to strengthen authority to withhold contract payments for inadequate business systems.<sup>5</sup>

- State issued guidance in October 2011 describing a process for drafting a determination memorandum each time the potential need to suspend or debar a contractor arises, including for those cases in which no action against the contractor is ultimately recommended. This guidance aligns with a CWC recommendation to strengthen enforcement tools by requiring a written rationale for not pursuing a proposed suspension and debarment.<sup>6</sup>
- USAID issued guidance in January 2012 that requires sustainability analysis for all projects and developed a tool that contains questions, issues, and examples to help USAID project design teams think through project sustainability objectives and maximize sustainable outcomes. This guidance aligns with a CWC recommendation related to project sustainability (i.e., ensuring that host nations will be able to operate and maintain U.S.-funded projects on their own).<sup>7</sup>

The following are examples of instances in which DOD, State, and USAID reported not having taken or planned actions that directly align with specific CWC recommendations:

- The three agencies generally have not and do not plan to elevate the positions and expand the authority of officials responsible for contingency contracting as recommended by the CWC. Officials from DOD, State, and USAID explained that they regard existing organizational structures as meeting the recommendations' intent. For example, DOD officials stated that the CWC's recommendation to create a new directorate for contingency contracting is not needed because DOD already has a significant amount of senior leadership involvement and support for operational contract support. Similarly, State officials stated that there were no plans to establish a separate bureau led by an Assistant Secretary for Acquisition as recommended by the CWC because their current organizational structure, in which contingency contracting is overseen by the Assistant Secretary for Administration in coordination with the Under Secretary for Management, is sufficient to meet the department's needs. USAID officials stated that there were no plans to make the chief acquisition officer position a non-career appointment as recommended because they believe that having a career foreign service officer in that role provides the necessary knowledge of the agency's unique mission and acquisition needs.
- None of the three agencies agree with the recommendation requiring performance incentives and performance assessments as tools for preventing human trafficking by contractors. Officials from each agency explained that contractors should not need incentives to comply with anti-trafficking laws and other ongoing initiatives, such as training for contract administration personnel, were better tools to help combat human trafficking.

In enclosure I, we list the 51 CWC recommendations and describe and categorize DOD's, State's, and USAID's specific efforts to address each applicable recommendation as either (1) "actions taken or planned that directly align with the specific recommendation" or (2) "no actions taken or planned that directly align with the specific recommendation." We also

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<sup>5</sup>DFARS; Business Systems-Definition and Administration (Case 2009-D038). 77 Fed. Reg. 11,355 (Feb. 24, 2012).

<sup>6</sup>Department of State Office of the Procurement Executive, Procurement Information Bulletin 2012-01, *Contractor Suspension and Debarment*, October 3, 2011.

<sup>7</sup>USAID Automated Directives System Section 200.3.1.5, *Policy Directives and Required Procedures, Build in Sustainability from the Start* (Feb. 10. 2012).

summarize the positions provided by the agency for these recommendations and for the recommendations to Congress for which the agencies provided positions.

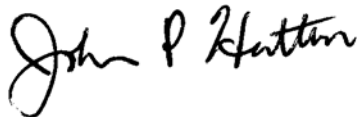
### Agency Comments

We requested comments on a draft of this report from DOD, State, and USAID. The three agencies informed us that they had no comments on the draft's findings and provided us with technical comments that we incorporated into the final report as appropriate.

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We are sending copies of this report to the Secretary of Defense, the Secretary of State, and the Administrator of the U.S. Agency for International Development, as well as interested congressional committees. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions, please contact us at (202) 512-4841 or [huttonj@gao.gov](mailto:huttonj@gao.gov) or (202) 512-5431 or [russellc@gao.gov](mailto:russellc@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in enclosure II.



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Enclosures—2

## Enclosure I: Summary of Agency Actions Related to Commission on Wartime Contracting Recommendations

Between March 2011 and August 2011 the Commission on Wartime Contracting in Iraq and Afghanistan (CWC) issued two special reports and a culminating final report to Congress, making multiple recommendations about contracting practices in current and future contingency environments.<sup>8</sup> In the March 2011 Special Report 4, the CWC addresses the transition to a civilian-led presence in Iraq and makes 3 recommendations. In August 2011, the CWC issued its final report in which it built on recommendations made in the interim and special reports it had issued since 2009, including recommendations made in Special Report 5, which it issued in June 2011.<sup>9</sup> In the final report, the CWC made 48 recommendations across 15 strategic areas. Of the 51 total recommendations that the CWC made in Special Report 4 and in the final report, 19 were directed to the Department of Defense (DOD), the Department of State (State), and/or the U.S. Agency for International Development (USAID); 15 were directed to Congress; and the remaining 17 were not directed to a specific entity. For the recommendations not directed to a specific entity, we relied on each agency to identify which recommendations were applicable to it. In total, 30 recommendations were identified as applicable to DOD; 27 as applicable to State; and 25 as applicable to USAID.

In this enclosure, we summarize the actions that DOD, State, and USAID took that are related to the CWC recommendations. We did not evaluate the CWC's recommendations; our focus was on the actions the agencies took related to the recommendations. Specifically, we categorize the agencies' efforts as either: (1) "actions taken or planned that directly align with the specific recommendation" or (2) "no actions taken or planned that directly align with the specific recommendation." To determine whether each agency had taken or planned actions that directly aligned with each applicable recommendation, we collected the agencies' self-reported information using a data collection template; corroborated reported actions with related documentation, when available; and conducted structured interviews with knowledgeable agency officials to clarify responses. We categorized the agencies' efforts as "actions taken or planned that directly align with the specific recommendation" even when the agencies' actions (1) were started or completed before the issuance of the CWC's final or last two special reports or (2) only partially addressed the recommendation, such as when an agency took an action that directly aligned with the recommendation in either Iraq or Afghanistan but not agencywide, or when an agency took an action that directly aligned with a portion of a recommendation but did not address another portion of the recommendation. For instances in which agencies reported not having taken or planned actions that directly align with a specific recommendation, we documented the rationale for this course of action and reviewed available documentation. However, we did not assess the appropriateness or sufficiency of any actions taken or planned by the agencies. We also summarize any agency positions on recommendations the CWC made to Congress if they were provided to us, but we did not assess these positions.

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<sup>8</sup>Commission on Wartime Contracting in Iraq and Afghanistan, *Special Report 4: Iraq—A Forgotten Mission?* (Mar. 1, 2011); *Special Report 5: Sustainability: Hidden Costs Risk New Waste* (June 3, 2011); and *Transforming Wartime Contracting: Controlling Costs, Reducing Risks*, Final Report to Congress (Aug. 31, 2011).

<sup>9</sup>Commission on Wartime Contracting in Iraq and Afghanistan, *Interim Report—At What Cost? Contingency Contracting in Iraq and Afghanistan* (June 10, 2009); *Interim Report 2—At What Risk? Correcting Over-Reliance on Contractors in Contingency Operations* (Feb. 24, 2011); *Special Report 1: Defense Agencies Must Improve Their Oversight of Contractor Business Systems to Reduce Waste, Fraud, and Abuse* (Sept. 21, 2009); *Special Report 2: Lowest-Priced Security Not Good Enough for War-Zone Embassies* (Oct. 1, 2009); *Special Report 3: Better Planning for Defense-to-State Transition in Iraq Needed to Avoid Mistakes and Waste* (July 12, 2010).

In tables 1 through 15, below, we:

- list the 48 recommendations the CWC made in its final report, grouped by the 15 strategic areas identified by the CWC;
- note the entity to which the recommendation is directed;
- indicate when a recommendation is not applicable to a particular agency, either because the recommendation was directed to Congress, the recommendation was specifically directed to another agency, or the agency reported the recommendation was not applicable to it; and
- summarize related information provided by the agencies.

**Table 1: CWC Strategic Area 1—Use Risk Factors in Deciding whether to Contract in Contingencies**

Recommendation directed to agency heads involved in a contingency	DOD	State	USAID
<p>1a Issue and ensure implementation of policy guidance for using risk factors such as those listed above, as well as those described in the Office of Federal Procurement Policy (OFPP) draft policy letter of March 2010 and Department of Defense Instruction 1100.22 to provide guidance on what functions are appropriate to contract for in a contingency setting<sup>a</sup></p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b> DOD has issued guidance for operational contract support planning applicable to contingency settings, providing for risk assessments as part of the operational planning process. Specifically, considerations for contracting risks, such as proper vetting, are included in joint doctrine and DOD instructions.<sup>b</sup> DOD also established the Joint Contingency Acquisition Support Office in part to assist combatant commands in planning for and assessing risk of contracted support.</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b> State officials did not identify actions taken or planned that directly align with this recommendation but stated that existing guidance and practice meets the intent. State issued guidance in May 2012 on inherently governmental functions that the department considers applicable to both non-contingency and contingency contracting, although the guidance does not directly address the risk factors cited by the CWC.<sup>c</sup> Department officials further noted that measures have been incorporated into contract terms and operating procedures that address risk factors. For example, State officials noted that the department’s Worldwide Protective Services contract, awarded in September 2010, includes contract terms, such as standards of conduct and training, aimed at improving professionalism and lessening the risk of offending the sensibilities of the local population.</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b> USAID officials did not identify actions taken or planned that directly align with this recommendation. According to USAID officials, the agency is reviewing its policies on inherently governmental functions in light of the OFPP policy letter. However, USAID officials stated that they do not expect any changes to their policies will be specific to contingency settings.</p>

1b	<b>Actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>
Provide funding and direction for agencies involved in contingency operations to identify a trained, experienced, and deployable cadre for stabilization-and-reconstruction functions in areas of contingency operations so that the government has an alternative to contracting for performance of critical or sensitive functions	DOD officials stated that the department established a working group in February 2012 to address deployable cadre manpower requirements using civilians in support of contingency operations. The goal is for this civilian workforce to be pre-identified, trained, cleared, equipped, and ready to deploy to the extent practical in support of combat operations by the military; contingencies; emergency operations; humanitarian missions; disaster relief; restoration of order; drug interdiction; and stability operations. Implementation of this civilian program model is set to begin in fiscal year 2013.	State officials did not identify actions taken or planned that directly align with this recommendation but stated that the department's existing organizational structure meets the intent. State identified its establishment of the Bureau of Conflict and Stabilization Operations in November 2011 to focus on conflict prevention, crisis response, and stabilization activities as responsive to the recommendation, although officials noted that State does not plan to formally establish a deployable cadre as recommended by the CWC. State officials added that they do not believe that the department's contracting for support in Iraq or Afghanistan has resulted in a loss of organic capability.	USAID officials did not identify actions taken or planned that directly align with this recommendation but stated that the agency's existing organizational structure meets the intent. Specifically, a senior official noted that USAID's Bureau for Democracy and Humanitarian Assistance's Office of Civilian Response provides for reconstruction and stabilization support.



1c	<b>Actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>
Provide a strategic plan for deploying these cadres that includes provisions for mandatory deployability of civilian members, and is supported by a back-up capability for rapidly making temporary hires for large-scale or long-term contingency operations	DOD officials stated that the development of this strategic plan would be considered as part of the related effort identified above in 1b.	State officials did not identify actions taken or planned that directly align with this recommendation but stated that the department's existing practices meet the intent. State officials noted that while the department is not developing a specific strategic plan, all foreign service personnel can be deployed to contingency locations.	USAID officials did not identify actions taken or planned that directly align with this recommendation but stated that the agency's existing organizational structure meets the intent. Specifically, a senior official noted that USAID's Bureau for Democracy and Humanitarian Assistance's Office of Civilian Response provides for reconstruction and stabilization support.

Source: GAO analysis of agency documents and interviews with agency officials.

<sup>a</sup>In its final report, the CWC outlined characteristics of risk in contracting for a contingency, focusing on the broad areas of operational, political, and financial risk. According to the CWC, operational, political, and financial risk factors include risks to: (1) maintaining agencies' critical organic or core capabilities; (2) U.S. goals and objectives, such as from behavior that injures innocent members of the local population or outrages their sensibilities; (3) the government's ability to control costs, waste, fraud, abuse, and conflicts of interest, among others. In its final report, the CWC also outlined situational risks, which it described as factors that could affect risk assessment and should be considered by the government along with operational, political, and financial risks. Situational risks include: (1) operating in a combat zone or insurgent-threat area; (2) lack of effective federal oversight in the area of operations; and (3) inadequate accounting, financial, and business systems among contractors and subcontractors, among others. See also, OFPP Policy Letter 11-01: *Performance of Inherently Governmental and Critical Functions*, 76 Fed. Reg. 56,227 (Sept. 12, 2011). Department of Defense Instruction 1100.22, *Guidance for Determining Workforce Mix*, April 6, 2007.

<sup>b</sup>International Security Assistance Force Joint Command Operations in Afghanistan, *Construction Contracting Guidelines for Afghanistan* (Oct. 9, 2010); Chairman, Joint Chiefs of Staff, Joint Publication 4-10, *Operational Contract Support* (Washington, D.C.: Oct. 17, 2008); Chairman of the Joint Chiefs of Staff Notice 4130.01, *Guidance for Combatant Commander Employment of Operational Contract Support Enabler—Joint Contingency Acquisition Support Office* (Dec. 20, 2011).

<sup>c</sup>Department of State Office of the Procurement Executive, Procurement Information Bulletin No. 2012-11, *Preventing Contractor Performance of Inherently Governmental Functions*, May 9, 2012.

**Table 2: CWC Strategic Area 2—Develop Deployable Cadres for Acquisition Management and Contractor Oversight**

Recommendation directed to agency heads	DOD	State	USAID
<p>2a</p> <p>Provide funding and direction to establish a trained, experienced, and deployable cadre for acquisition-management and contractor-oversight functions in areas of contingency operations so that the government has an alternative to relying on contractors for acquisition management and oversight</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>DOD officials stated that resourcing and direction to establish a deployable cadre for acquisition-management and contractor-oversight functions is currently being considered as part of the related effort identified in 1b above and will be addressed in a comprehensive operational contract support action plan, scheduled for completion in September 2012, to guide capital planning and budget preparation.</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>State officials stated the department does not plan to implement this recommendation. A State official testified in September 2011 that the department does not see a separate contingency contracting acquisition cadre as an efficient or necessary model and the department's existing acquisition structure and working capital fund provide sufficient expertise and funding for contingency operations.</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>USAID officials did not identify actions taken or planned that directly align with this recommendation but stated that the agency's existing organizational structure meets the intent. USAID officials stated that the agency's contracting and agreement officers currently have the capability to be deployed and work in contingency environments. The Office of Acquisition and Assistance maintains a foreign operations unit responsible for supporting overseas contracting efforts, and USAID's preference is to strengthen this unit rather than direct resources elsewhere.</p>

Source: GAO analysis of agency documents and interviews with agency officials.

**Table 3: CWC Strategic Area 3—Phase out the Use of Private Security Contractors for Certain Functions**

Recommendation not directed to specific entity	DOD	State	USAID
<p>3a</p> <p>Phase out the use of host-nation private security contractors in Afghanistan for the convoys on high-volume roads that the insurgency controls or contests</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>Pursuant to Afghan government requirements, the department is in the process of transitioning selected private convoy security contracts to the Afghan Public Protection Force.<sup>a</sup> Additionally, DOD officials stated that U.S. Central Command and U.S. Forces-Afghanistan policies and guidance require consideration of the likelihood of private security contractors becoming involved in combat or situations likely to escalate into combat when determining the appropriateness of using contractors.</p>	<p><b>Not applicable</b></p> <p>State officials stated that this recommendation is not applicable because they interpreted it being directed towards DOD.</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>Officials from the Office of Acquisition and Assistance/Afghanistan reported that as of March 20, 2012, all USAID awardees are required to use the Afghan Public Protection Force for all security services.<sup>a</sup></p>

3b	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>Not applicable</b>	<b>Not applicable</b>
Evaluate each static-security site to assess the risk associated with the use of contractors. Where the military commander determines there is a high risk, use military forces. Where the commander determines the high risk is specifically the result of using local-national contractors, use military forces or third-country national private security contractors for security	DOD officials did not identify actions taken or planned that directly align with this recommendation. While DOD officials stated that the department expects contract static security guards to transition to the Afghan Public Protection Force in 2013 and that U.S. Forces-Afghanistan is monitoring the transition effort, officials did not identify specific efforts to evaluate each static security site to determine whether military forces should provide security at specific, high-risk sites.	State officials stated that this recommendation is not applicable because they interpreted it being directed towards DOD.	USAID officials stated that this recommendation is not applicable. They explained that the protection of USAID personnel and facilities is managed by State's Bureau of Diplomatic Security, and the agency does not directly contract for security services.

Source: GAO analysis of agency documents and interviews with agency officials.

<sup>a</sup>In August 2010, the President of Afghanistan issued Presidential Decree 62 (PD 62), which directed the dissolution of private security contractors. In the wake of the decree, a bridging strategy was developed to facilitate the transition away from private security contractors in Afghanistan to the Afghan Public Protection Force (APPF), which existed within the Ministry of Interior prior to PD 62. The APPF is a Ministry of Interior security force organized under the Deputy Minister and consists of a national headquarters and seven zone headquarters. As a fee-for-service government owned and operated security force, it secures international, governmental, and non-governmental operations, sites, and facilities.

**Table 4: CWC Strategic Area 4—Improve Interagency Coordination and Guidance for Using Security Contractors in Contingency Operations**

<b>Recommendation directed to entity specified</b>	<b>DOD</b>	<b>State</b>	<b>USAID</b>
4a Hold the ambassador, USAID mission director, and military commanders responsible for making, publicizing, and revising their determinations of security-contracting appropriateness as conditions change, giving particular consideration to the geographic, temporal, and organizational proximity to armed conflict	<b>Actions taken or planned that directly align with the specific recommendation</b>  In July 2009, DOD published guidance for all U.S. government private security contractors working in contingency operations. The guidance, updated in August 2011, requires Geographic Combatant Commanders in contingency environments to issue guidance and procedures for the selection, training, accountability, and equipping of private security personnel. <sup>a</sup>	<b>No actions taken or planned that directly align with the specific recommendation</b>  State officials stated the department does not plan to implement this recommendation. Department officials explained that contracting decisions are made with input from across the department, including the ambassador and the Bureau of Diplomatic Security.	<b>No actions taken or planned that directly align with the specific recommendation</b>  USAID officials did not identify actions taken or planned that directly align with this recommendation. Officials explained that security issues at the mission level are the responsibility of State's Bureau of Diplomatic Security.

<p>4b</p> <p>When private security or other contractors are to be armed, they should be overseen by government employees and tracked in a centralized system, as is done in Iraq</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>In 2007, DOD designated the Synchronized Predeployment and Operational Tracker system as its primary system for collecting data on contractor personnel deployed with U.S. forces. Currently, DOD requires the use of the system for all personnel performing private security functions in Iraq or Afghanistan. Additionally, DOD policies generally discuss the oversight of private security and other contractors by military or DOD civilian personnel.</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>Under State policy, all applicable contracts for private security in Iraq and Afghanistan are required to include a clause requiring personnel to be entered into the Synchronized Predeployment and Operational Tracker system.<sup>b</sup> State contract oversight planning documents also call for these contractors to be operationally supervised by direct hire government personnel.</p>	<p><b>Not applicable</b></p> <p>USAID officials stated that this recommendation is not applicable because the agency does not directly contract for security services.</p>
<p>4c</p> <p>Reliance on private security contractors should be accompanied by greater use and emphasis on vetting, training, authorizing arms, and weapons control; post-convoy debriefing, locational tracking, and video monitoring; and more thorough and comprehensive management</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>DOD has issued and updated DOD Instruction 3020.50, which provides instructions to geographic combatant commanders on their requirements to address some of the issues specified in the recommendation.<sup>a</sup> Additionally, DOD directed use of a new quality management standard for private security contractor operations that includes specific measurable elements for vetting, training, and procurement and management of weapons. Further, in June 2012, DOD finalized a regulation that establishes minimum processes and requirements for the selection, accountability, training, equipping and conduct of personnel performing private security functions under DOD contracts.<sup>c</sup></p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>Officials from State's Bureau of Diplomatic Security stated that all of State's private security contractor personnel working under its Worldwide Protective Services contract are vetted and must be trained in accordance with the terms of the contract. According to the department, operational control and monitoring exceeds the CWC recommendation.</p>	<p><b>Not applicable</b></p> <p>USAID officials stated that this recommendation is not applicable because the agency does not directly contract for security services.</p>

<p>4d Execute an interagency agreement to provide guidance on security contracting</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>
	<p>DOD officials did not identify actions taken or planned that directly align with this recommendation. However, DOD officials stated that the recommendation has been addressed through Section 159 of Title 32 of the Code of Federal Regulations, which requires coordination between DOD and State to establish processes for the selection, training, equipping, and conduct of private security personnel in combat operations or other significant military operations.<sup>d</sup> These provisions are applicable to all future areas of operations that require enhanced coordination of private security contractor personnel.</p>	<p>State officials stated the department does not plan to implement this recommendation. Officials explained that State does not concur that an interagency agreement is necessary to provide guidance on security contracting. Department officials stated that the Overseas Security Policy Board, which State chairs and of which both DOD and USAID are members, was a more appropriate forum for addressing the use of security contractors in future contingencies.</p>	<p>USAID officials did not identify actions taken or planned that directly align with this recommendation.</p>
<p>4e DOD, State, and USAID should develop and enter into a standing interagency memorandum of agreement, incorporating lessons and best practices learned in Iraq and Afghanistan, to provide guidance in use of private security contractors in future contingencies</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>
	<p>DOD officials did not identify actions taken or planned that directly align with this recommendation. However, DOD officials stated that the recommendation has been addressed through Section 159 of Title 32 of the Code of Federal Regulations, which requires coordination between DOD and State to establish processes for the selection, training, equipping, and conduct of private security personnel in combat operations or other significant military operations.<sup>d</sup> These provisions are applicable to all future areas of operations that require enhanced coordination of private security contractor personnel.</p>	<p>State officials stated the department does not plan to implement this recommendation. According to officials, a specific memorandum of agreement is not necessary to share best practices, lessons learned, or other information between agencies colocated overseas. The department stated that existing mechanisms, such as the Overseas Security Policy Board, and standing working groups integral to overseas missions, such as the Country Team and Emergency Action Committees, provide effective forums for the sharing of information, best practices, and lessons learned.</p>	<p>USAID officials did not identify actions taken or planned that directly align with this recommendation.</p>

4f	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>
This standing memorandum of agreement should be modified within 90 days of a declared combat operation or other contingency to specifically address the needs and circumstances of that operation	DOD officials did not identify actions taken or planned that directly align with this recommendation. However, DOD officials stated that the recommendation has been addressed through Section 159 of Title 32 of the Code of Federal Regulations, which requires coordination between DOD and State to establish processes for the selection, training, equipping, and conduct of private security personnel in combat operations or other significant military operations. <sup>d</sup> These provisions are applicable to all future areas of operations that require enhanced coordination of private security contactor personnel.	State officials stated the department does not plan to implement this recommendation. As noted above, department officials stated that a specific memorandum of agreement is not necessary to share best practices, lessons learned, or other information between agencies colocated overseas and that existing mechanisms for sharing of information, best practices, and lessons learned are sufficient.	USAID officials did not identify actions taken or planned that directly align with this recommendation.

Source: GAO analysis of agency documents and interviews with agency officials.

<sup>a</sup>DOD Instruction 3020.50, *Private Security Contractors (PSCs) Operating in Contingency Operations, Humanitarian or Peace Operations, or Other Military Operations or Exercises*, July 22, 2009. The regulation was updated in August 2011 to incorporate changes made in the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, § 853 (2008) and the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, § 832.

<sup>b</sup>Department of State Office of the Procurement Executive, Procurement Information Bulletin No. 2008-15, *Use of Synchronized Predeployment and Operational Tracker (SPOT) for Contractors Supporting and Diplomatic or Consular Mission Outside the United States*, March 25, 2008.

<sup>c</sup>Defense Federal Acquisition Regulation Supplement (DFARS); Contractors Performing Private Security Functions (Case 2011-D023). Final Rule, 77 Fed. Reg. 35,883 (June 15, 2012).

<sup>d</sup>32 C.F.R. § 159.

**Table 5: CWC Strategic Area 5—Take Actions to Mitigate the Threat of Additional Waste from Unsustainability**

<b>Recommendation directed to officials at DOD, State, and USAID</b>	<b>DOD</b>	<b>State</b>	<b>USAID</b>
<p>5a Examine both completed and current projects for risk of sustainment failure and take appropriate action to cancel or redesign programs and projects that have no credible prospect of being sustained</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>DOD officials did not identify actions taken or planned that directly align with this recommendation but stated that existing policies meet the intent. For example, while it has not examined completed or current projects, DOD has addressed sustainability considerations in joint doctrine published between 2009 and 2011 on stability operations, counterinsurgency, and foreign humanitarian assistance.<sup>a</sup></p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>Although State did not identify any departmentwide efforts that directly align with this recommendation, the Embassy in Kabul has taken such actions. Specifically, the Embassy has taken steps to identify projects that need to be sustained in order to position itself to make decisions about which projects will be sustained and how they will be sustained going forward. Department officials stated that State does not generally have large construction or infrastructure projects that would lend themselves to an analysis of sustainability.</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>According to a senior development official at the Embassy in Kabul, in response to Afghan-specific sustainability guidance issued in June 2011, USAID conducted an analysis of 67 different projects for sustainability in Afghanistan, which should be finalized by the summer of 2012.<sup>b</sup> For this sustainability analysis, officials from USAID’s Office of Afghanistan and Pakistan Affairs reported that the agency identified operating and maintenance costs, prospects for sustainability by the Afghan government, and options for cost recovery. These officials stated that if projects did not appear sustainable, USAID considered options to cancel or provide additional assistance. Officials from the Office of Iraq and Arabian Peninsula Affairs reported on a recent analysis the Iraq Mission completed for Congress that highlights Government of Iraq contributions to ongoing USAID projects.</p>

5b	Actions taken or planned that directly align with the specific recommendation	Actions taken or planned that directly align with the specific recommendation	Actions taken or planned that directly align with the specific recommendation
Ensure that any new requirements and acquisition strategies for projects or services to be handed over to a host nation include a detailed assessment of long-term costs and of host nations' ability and willingness to meet those costs	DOD officials stated that by early 2013 the department plans to establish clarifying policy and guidance for setting acquisition strategies that must include long-term project sustainability for the host nation. Additionally, DOD officials stated that the department follows International Security Assistance Force Contracting Guidelines issued in October 2010 that require Afghan National Security Forces facilities to be sustainable in accordance with Afghan construction and maintenance capabilities.	Although State did not identify any departmentwide efforts that directly align with this recommendation, the department has taken such actions in Iraq. Specifically, guidance was implemented in Iraq in 2009 that generally required cost-sharing with the Government of Iraq for new projects. The guidance also generally required the development of advance agreements with the Government of Iraq to ensure the host nation is able and willing to contribute financially to projects and to establish plans for transitioning responsibility for projects to the Government of Iraq or other Iraqi entities. Embassy officials in Afghanistan stated that they do not have such guidance.	USAID updated its agencywide project design guidance in January 2012 to require sustainability analysis for all projects. <sup>c</sup> It also developed a tool that contains questions, issues, and examples to help USAID project design teams think through project sustainability objectives and maximize sustainable outcomes.
5c	No actions taken or planned that directly align with the specific recommendation	No actions taken or planned that directly align with the specific recommendation	Actions taken or planned that directly align with the specific recommendation
Report to Congress by December 31, 2011, and annually thereafter, on analysis and proposed actions for mitigating sustainability risks	DOD officials stated the department does not plan to implement this recommendation unless directed to do so by Congress, citing concern over the number of existing reporting requirements and congressional inquiries.	State officials stated the department does not plan to implement this recommendation unless directed to do so by Congress. Department officials stated that State does not generally have large construction or infrastructure projects that would lend themselves to an analysis of sustainability.	USAID is currently required to certify to the Committees on Appropriations before certain funds appropriated in the Consolidated Appropriations Act, 2012 may be obligated for assistance to Afghanistan. <sup>d</sup> Also, according to officials, USAID briefed its committees of jurisdiction on analysis and proposed actions for mitigating sustainability risks in its Afghanistan programs in 2011 and in its Iraq programs in May 2012.

Source: GAO analysis of agency documents and interviews with agency officials.

Note: The CWC's Special Report 5, *Sustainability: Hidden Costs Risk New Waste* included the same recommendations. Therefore, we have not listed recommendations from Special Report 5 separately.

<sup>a</sup>Chairman, Joint Chiefs of Staff, Joint Publication 3-07, *Stability Operations* (Washington, D.C.: Sept. 29, 2011); Joint Publication 3-24, *Counter-insurgency Operations* (Washington, D.C.: Oct. 5, 2009); Joint Publication 3-29, *Foreign Humanitarian Assistance* (Washington, D.C.: Mar. 17, 2009).

<sup>b</sup>USAID, *Administrator's Sustainability Guidance for USAID in Afghanistan* (June 2011).

<sup>c</sup>USAID Automated Directives System Section 200.3.1.5, *Policy Directives and Required Procedures, Build in Sustainability from the Start* (Feb. 10, 2012).

<sup>d</sup>Consolidated Appropriations Act, 2012, Pub. L. No. 112-74 § 7046 (2011).



**Table 6: CWC Strategic Area 6—Elevate the Positions and Expand the Authority of Civilian Officials Responsible for Contingency Contracting at DOD, State, and USAID**

Recommendation directed to entities as specified below	DOD	State	USAID
<p>6a</p> <p>The CWC endorsed the House version of the National Defense Authorization Act for Fiscal Year 2012, which would have amended section 138(b) of Title 10 U.S.C, in part by (1) establishing an Assistant Secretary of Defense for Contingency Contracting; and (2) establishing an Office for Contingency Contracting headed by the Assistant Secretary of Defense for Contingency Contracting</p>	<p><b>Not applicable</b></p>	<p><b>Not applicable</b></p>	<p><b>Not applicable</b></p>
	<p>While this recommendation relates to a congressional action, DOD officials stated they do not believe that consolidation of operational contract support responsibility in an Office for Contingency Contracting or an Assistant Secretary of Defense for Contingency Contracting is necessary because each DOD organization brings unique subject matter expertise to the oversight of contingency contracting. Additionally, DOD officials stated that senior leadership acknowledge the importance of operational contract support and are taking steps to communicate that message throughout the organization, with the Undersecretary of Defense (Acquisition, Technology, and Logistics) monitoring progress.</p>		
<p>6b</p> <p>State should:</p> <p>(1) establish a separate Bureau of Acquisition led by an assistant secretary for acquisition who has a background as a qualified acquisition professional and who would be designated as the agency's chief acquisition officer, (2) ensure that the new bureau would have acquisition as its singular focus and primary mission, and (3) establish additional Senior Executive Service positions to support the bureau's work.</p>	<p><b>Not applicable</b></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>Not applicable</b></p>
		<p>State officials stated the department does not plan to implement this recommendation. Officials explained that the department's current structure, in which contingency contracting is overseen by the Assistant Secretary for Administration in coordination with the Under Secretary for Management, is sufficient to meet the department's needs.</p>	

<p>6c The chief acquisition officer within USAID should be a non-career appointment at an organizational level so as to facilitate advising and assisting the agency head</p>	<p><b>Not applicable</b></p>	<p><b>Not applicable</b></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>USAID officials stated the agency does not plan to implement this recommendation. The USAID chief acquisition officer is a career appointment, and officials reported on no plans to change this arrangement, citing the institutional expertise, overseas experience, and organizational continuity provided by a senior foreign service career designation.</p>
<p>6d Congress should amend 41 USC 1702 to provide that the chief acquisition officer's duties include managing policy and monitoring contingency contracting</p>	<p><b>Not applicable</b></p>	<p><b>Not applicable</b></p>	<p><b>Not applicable</b></p> <p>While this recommendation is directed to Congress, USAID officials noted that the chief acquisition officer currently manages policy and monitors contingency contracting in practice. A senior USAID official disagreed with codifying the acquisition organization of USAID in statute, explaining that doing so would reduce the agency's flexibility to make future adjustments.</p>
<p>6e To elevate the role of contingency contracting within USAID, the chief acquisition officer should be identified as a "direct adviser" to the Administrator, a similar position to that of the chief financial officer and the chief information officer</p>	<p><b>Not applicable</b></p>	<p><b>Not applicable</b></p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>According to officials, USAID plans to update its organizational chart to formally reflect the "dotted line" reporting relationship in which the chief acquisition officer is a direct advisor to the USAID Administrator, similar to the reporting relationships for the chief financial officer and chief information officer. Officials noted, however, that the chief acquisition officer will continue to formally report to the Assistant Administrator for Management.</p>

Source: GAO analysis of agency documents and interviews with agency officials.

**Table 7: CWC Strategic Area 7—Elevate and Expand the Authority of Military Officials Responsible for Contingency Contracting on the Joint Staff, the Combatant Commanders’ Staffs, and in the Military Services**

<b>Recommendation directed to DOD</b>	<b>DOD</b>	<b>State</b>	<b>USAID</b>
7a Extract operational contract support and other contract-support duties and responsibilities from J4 (Logistics) and create a J10 Directorate of Contingency Contracting at the Joint Staff in order to better support contracting in other directorates and missions such as intelligence, communications, linguistic support, and security	<b>No actions taken or planned that directly align with the specific recommendation</b>  DOD officials did not identify actions taken or planned that directly align with this recommendation but stated that the department’s existing organizational structure meets the intent. The department stated it does not believe additional staff structure is needed due to already having a significant amount of senior leadership involvement and support for operational contract support. According to DOD, this leadership and support has resulted in guidance on operational planning, doctrine, policy, and resources being applied to institutionalization of operational contract support.	<b>Not applicable</b>	<b>Not applicable</b>
7b Create functional alignment by establishing similar J10 organizations at the combatant commands and in the four military services	<b>No actions taken or planned that directly align with the specific recommendation</b>  DOD officials stated the department does not plan to implement this recommendation.	<b>Not applicable</b>	<b>Not applicable</b>

Source: GAO analysis of agency documents and interviews with agency officials.

**Table 8: CWC Strategic Area 8—Establish a New, Dual-Hatted Senior Position at the Office of Management and Budget (OMB) and the National Security Council (NSC) Staff to Provide Oversight and Strategic Direction**

<b>Recommendation directed to Congress</b>	<b>DOD</b>	<b>State</b>	<b>USAID</b>
8a Congress should create a position in the Administration for a single dual-hatted official to serve at OMB and on the NSC staff	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>

8b	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>
<p>Congress should create a position in the Administration for a single dual-hatted official to ensure that each relevant agency has the necessary financial resources and policy oversight, as appropriate, to carry out its contingency-related mission, and that agencies' budgets are complementary rather than duplicative or conflicting. In OMB, this official should be a deputy director and thus a presidential appointee confirmed by the Senate</p>			
8c	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>
<p>Congress should create a position in the Administration for a single dual-hatted official to oversee and ensure coordination of interagency contingency operations, including contracting-related matters. At NSC, this senior official shall attend and participate in the meetings of the NSC as the principal advisor to the NSC on interagency contingency operations. This official should be a deputy national security adviser and deputy assistant to the President</p>			

Source: GAO analysis of agency documents and interviews with agency officials.

**Table 9: CWC Strategic Area 9—Create a Permanent Office of Inspector General for Contingency Operations**

<b>Recommendation directed to Congress</b>	<b>DOD</b>	<b>State</b>	<b>USAID</b>
9a Congress should establish and fund a permanent inspector general for contingency operations to operate with a small staff in collaboration with agency inspectors general to regularly assess the adequacy of agency planning and readiness for contingencies, to be ready to deploy at the outset of a new contingency, and to expand as necessary	<b>Not applicable</b>	<b>Not applicable</b> While this recommendation is directed to Congress, State officials reported that they have concerns about the establishment of a new inspector general with responsibilities that overlap existing oversight entities because the same functions can be performed more effectively and efficiently through the coordinated efforts of existing agency inspectors general.	<b>Not applicable</b> While this recommendation is directed to Congress, USAID officials stated that other agencies can provide the necessary oversight, and as such, a new inspector general office would serve a redundant function.
9b Congress should establish and fund a permanent inspector general for contingency operations to exercise audit and investigative authority over all functions (such as logistics, security, and reconstruction) and across DOD, State, USAID, and other agencies participating in contingency operations	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>
9c Congress should establish and fund a permanent inspector general for contingency operations to develop, plan, and, as appropriate, deliver investigative and oversight training targeted to contingency operations	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>

Source: GAO analysis of agency documents and interviews with agency officials.

**Table 10: CWC Strategic Area 10—Set and Meet Annual Increases in Competition Goals for Contingency Contracts**

Recommendation directed to agency heads	DOD	State	USAID
<p>10a</p> <p>Require competition reporting and goals for contingency contracts</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>In February 2012, DOD established the contingency competition goals as required by Section 844 of the National Defense Authorization Act for Fiscal Year 2012.<sup>a</sup> To facilitate the tracking of contingency contracts and ability to report on competition, DOD recently established a unique code in the Federal Procurement Data System-Next Generation for capturing contractual actions in support of DOD’s efforts in Afghanistan. According to DOD officials, the department also has an interagency memorandum of agreement that enables it to create other such unique codes for any future contingencies.</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>Pursuant to a requirement in Section 835 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, State reports jointly with DOD and USAID on the extent of competition for its Iraq and Afghanistan contracts.<sup>b</sup> State officials stated the department does not plan to implement the section of the recommendation that pertains to competition goals. Officials stated they have and track competition goals throughout the department but do not think a specific breakout for contingency contracts is necessary.</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>Pursuant to a requirement in Section 835 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, USAID reports jointly with DOD and State on the extent of competition for its Iraq and Afghanistan contracts.<sup>b</sup> USAID officials stated the agency does not have or plan to establish separate competition goals for contingency contracts since the agency’s existing policy on exceptions to competition applies across the majority of USAID’s operating environments, including Critical Priority Countries such as Iraq and Afghanistan, with limited exceptions.</p>
<p>10b</p> <p>Break out and compete major subcontract requirements from omnibus support contracts</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>In February 2012, DOD mandated a review of omnibus contingency contracts in support of Operation Enduring Freedom as required by Section 844 of the National Defense Authorization Act for Fiscal Year 2012.<sup>a</sup></p>	<p><b>Not applicable</b></p> <p>State officials stated that this recommendation is not applicable because the department does not have large omnibus support contracts. Department officials noted, however, that contingency operations require the flexibility to craft a contracting strategy that fits the existing environment rather than mandating a single solution such as “compete major subcontracts.”</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>USAID officials did not identify actions taken or planned that directly align with this recommendation but stated that the agency’s existing policies meet the intent. Officials reported that the agency’s current acquisition planning policies and practices are sufficient to guide decisions related to contract scope. Officials further explained that the agency does not regularly use omnibus support contracts in practice.</p>

<p>10c Limit contingency task-order performance periods</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>
	<p>DOD officials stated the department does not plan to implement this recommendation. Officials explained that a statutory limit of 10 years for task order contracts with defined exceptions already exists.<sup>c</sup></p>	<p>State officials stated the department does not plan to implement this recommendation. Officials explained that State awards task order contracts with option periods and determinations are made to exercise contract options based on the best interests of the government. According to department officials, mandating shorter periods than required would increase the amount of contracting effort in contingency operations when resources are most constrained, resulting in a continuous cycle of solicitation and award.</p>	<p>USAID officials stated the agency does not plan to implement this recommendation. USAID acquisition officials reported task order performance periods are generally determined on a case-by-case basis based on the conditions of the specific situation in conjunction with longer-term development goals.</p>
<p>10d Reduce one-offer competitions</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p>
	<p>DOD officials did not identify actions taken or planned that directly align with this recommendation. While DOD recently revised regulations to address acquisitions using competitive procedures in which only one offer is received, exemptions to this regulation include acquisitions in support of contingency operations.<sup>d</sup> Officials stated they plan to assess the impact that the revised regulatory coverage has on competition in fiscal year 2012 to determine if additional changes are needed for contingency operations or otherwise.</p>	<p>State officials did not identify actions taken or planned that directly align with this recommendation. According to State officials, State's Bureau of Administration is still discussing the best approach on this issue.</p>	<p>USAID developed a Vendor Communication Plan in 2012 that establishes greater outreach efforts to the partner community to, in part, increase the number of potential offerors and build in competition at the early stages of designing requirements and solicitations.<sup>e</sup></p>

10e	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>
Expand competitions when only one task-order offer is received	DOD officials did not identify actions taken or planned that directly align with this recommendation. While DOD recently revised regulations to address acquisitions using competitive procedures in which only one offer is received, exemptions to this regulation include acquisitions in support of contingency operations. <sup>d</sup> Officials stated they were unaware of any forthcoming guidance that would address contingencies.	State officials stated the department does not plan to implement this recommendation. State reported in its June 2011 response to the CWC's interim report that the determination to award a task order should be left to the contracting officer. The department noted that when all task order contract holders have been offered a fair opportunity to bid on a task order and only a single offer is received, re-solicitation of the task order is unlikely to result in additional offers.	USAID officials stated the agency does not plan to implement this recommendation. Officials reported that such a policy would be disruptive in a contingency environment and is unnecessary in fair and open competitions.

Source: GAO analysis of agency documents and interviews with agency officials.

<sup>a</sup>Pub. L. No. 112-81 (2011). Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) *Contingency Competition Goals and Competition Reviews of Certain Omnibus Contracts*, February 17, 2012.

<sup>b</sup>Pub. L. No. 111-383.

<sup>c</sup>10 U.S.C. § 2304a(f).

<sup>d</sup>DFARS; Only One Offer (Case 2011-D013). 77 Fed. Reg. 39,126 (June 29, 2012).

<sup>e</sup>USAID, *USAID Partner Community Outreach Plan*, September 2011 to September 2012.

**Table 11: CWC Strategic Area 11—Improve Contractor Performance-Data Recording and Use**

Recommendation for Congress to direct agency heads to	DOD	State	USAID
11a Allow contractors to respond to, but not appeal, agency performance assessments	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>
	While this recommendation is directed to Congress, DOD officials stated that a contractor should have some right of appeal to a past performance assessment at a level above the contracting officer, especially to protect against an erroneous assessment.	While this recommendation is directed to Congress, State officials noted that they agreed with the recommendation but suggested that any change to the performance assessment appeal process should be governmentwide.	While this recommendation is directed to Congress, USAID officials stated that they agreed with the recommendation but that implementation would require a governmentwide change.



11b	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>
Align past-performance assessments with contractor proposals	While this recommendation is directed to Congress, DOD officials stated they are concerned that the CWC's intent to limit the consideration of contractors' past-performance references to only those contracts that have been recorded in the government's past performance database would disadvantage certain groups of contractors, such as non-incumbent contractors, and prevent consideration of all relevant past performance information.	While this recommendation is directed to Congress, State officials noted that they were concerned that the CWC's intent to limit the consideration of contractors' past-performance references to only those contracts that have been recorded in the government's past performance database may prevent consideration of relevant past performance, such as work conducted by contractors for foreign governments.	While this recommendation is directed to Congress, USAID officials noted that they have concerns that implementation of this recommendation may negatively affect the ability of contractors without past performance on U.S. government contracts to compete for new contract awards.
11c	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>
Require agencies to certify use of past-performance database	While this recommendation is directed to Congress, DOD noted that it is unclear who would certify the use of this data or the value that certification would provide. However, officials agreed that contractor past performance data need substantial improvement and plan to measure compliance with existing past performance reporting requirements.	While this recommendation is directed to Congress, State officials noted that contractor past performance reporting must first be improved so the database is usable. State officials added that the department has taken steps to improve data inputs by centralizing its past performance reporting process.	While this recommendation is directed to Congress, USAID officials stated that they were not certain who would certify use of the past performance database or the benefits that certification would provide. They noted that overall, they agreed with the need to improve the past performance assessment process and data.

Source: GAO analysis of agency documents and interviews with agency officials.

**Table 12: CWC Strategic Area 12—Strengthen Enforcement Tools**

Recommendation not directed to specific entity	DOD	State	USAID
<p>12a (1) Revise regulations to lower procedural barriers to suspensions and debarments and (2) require a written rationale for not pursuing proposed suspensions and debarments</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>DOD officials stated the department does not plan to implement this recommendation. While DOD reported it supports strengthened enforcement tools, officials stated that they disagreed with the CWC’s specific recommendation. DOD officials noted that they have concerns about requiring a written rationale for not pursuing proposed suspension and debarments, stating this provision might have a negative effect on the suspension and debarment official’s discretion or result in de facto debarments, thereby potentially increasing the risk of litigation.</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>State issued guidance in October 2011 describing a process for drafting a determination memorandum each time the potential need to suspend or debar a contractor arises, including for those cases in which no action against the contractor is ultimately recommended.<sup>a</sup> State reported it disagrees that procedural barriers are an issue but suggested any related actions should be taken through the Interagency Suspension and Debarment Committee to ensure consistency across agencies.</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>Officials reported that in February 2011, USAID established the Compliance Division within its Office of Acquisition and Assistance to handle suspensions and debarments and work with USAID’s Inspector General to address procedural barriers the agency had identified related to evidence gathering for potential suspensions or debarments. Officials reported that USAID’s practice is to prepare a memo for all administrative actions, including for decisions not to pursue suspensions, proposed debarments, and debarments but did not cite a specific policy that required documenting such decisions.</p>
<p>12b Make consent to U.S. civil jurisdiction a condition of contract award</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>DOD officials stated that due to the complexity of the legal issues related to this recommendation, they have tasked a team to consider the recommendation. They also noted that Section 834 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 provided the Secretary of Defense authority to apply contract remedies in certain cases where contractors are not subject to U.S. jurisdiction.<sup>b</sup></p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>State has not taken or planned actions that directly align with this recommendation and officials stated a governmentwide change would be required. The officials added that they are not sure how this recommendation, which the CWC noted would allow for private parties to recover on certain claims arising out of conduct related to government contracts, would be enforced if implemented.</p>	<p><b>Not applicable</b></p> <p>USAID officials stated that they interpret this recommendation as being directed to Congress based on the direction of the same recommendation to Congress in the CWC’s second interim report. USAID officials added that, assuming the intent of the recommendation is to establish jurisdiction beyond what is currently in place for contractors and sub-contractors, implementing it will require governmentwide changes.</p>

12c	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>
Expand the power of inspectors general	DOD officials stated that this recommendation is not applicable because they interpret it as being directed to Congress.	State officials stated that this recommendation is not applicable because they interpret it as being directed to Congress.	USAID Office of Inspector General officials stated that this recommendation is not applicable because a formal expansion of the inspectors' general powers would require congressional action. They explained their office has engaged both USAID and congressional staff on issues related to suspension and debarment and trafficking in persons and proposed ways to enhance oversight by the inspector general when necessary.
12d	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>
Amend acquisition regulations to require contracting officer consent for the award of subcontracts valued at or above \$300,000 to foreign companies when performance will predominately be conducted overseas in support of contingency operations	DOD officials stated the department does not plan to implement this recommendation. Officials reported that DOD has considered the topic of subcontracting limits and concluded such limits would not be workable and have the potential to increase contracting actions, which could negatively impact the workload of the contracting and oversight workforce.	State has not taken or planned actions that directly align with this recommendation as State officials stated a governmentwide change would be required. The officials explained that they agree that contracting officers should require that a contractor obtain consent to subcontract under certain conditions and a change to the governmentwide Federal Acquisition Regulation should be made.	USAID officials did not identify actions taken or planned that directly align with this recommendation but stated that the agency's existing practices meet the intent. Officials reported the agency adheres to relevant Federal Acquisition Regulation provisions related to consent to subcontract. In addition, as part of the Accountable Assistance for Afghanistan initiative, contracting officers in Afghanistan may restrict implementing partners from having more than two subcontract tiers without USAID approval.

12e	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>	<b>No actions taken or planned that directly align with the specific recommendation</b>
Incentivize contingency contractors to end trafficking in persons by labor brokers and subcontractors by requiring prime contracts to include performance incentives and mandate that performance assessments include management of trafficking in persons	DOD officials stated the department does not plan to implement this recommendation. Officials stated that the department is committed to combating trafficking in persons and implementing the department's "zero tolerance" policy but does not intend to incentivize contractors to do so. DOD identified numerous initiatives underway in this area, including policy mandates and awareness initiatives. For example, in November 2011, DOD published additional contract administration duties to maintain surveillance over contractor compliance with trafficking in persons requirements for all DOD contracts. <sup>c</sup>	State officials stated the department does not plan to implement this recommendation. Officials stated that State does not agree that incentivizing contractors with additional payments is the best way to accomplish the goals of the recommendation. Instead, State issued additional guidance and took action to strengthen anti-trafficking efforts. For example, State issued detailed contract administration guidance and developed training for contracting officer representatives on how to monitor contractor compliance with countering trafficking in persons requirements. <sup>d</sup> State also collaborated on the development of governmentwide training on trafficking in persons prevention responsibilities for acquisition professionals. Further, State created and issued a new contract clause on recruitment and housing of non-professional third country nationals. <sup>e</sup> The clause requires recruitment plans, fair recruitment practices, and, as appropriate, a plan to provide adequate housing conditions for workers.	USAID officials stated the agency does not plan to implement this recommendation. Officials explained that while they would support assessing contractor performance as it pertains to management of trafficking in persons, there is no need to incentivize contractors to comply with the law. They explained that all USAID contracts and grants already contain the standard Federal Acquisition Regulation provisions related to human trafficking and that the agency has issued additional guidance and directives. Also, USAID established a working group for continued oversight of trafficking issues and enforcement, which is developing updated training for contracting officers and contracting officer representatives.

Source: GAO analysis of agency documents and interviews with agency officials.

<sup>a</sup>Department of State Office of the Procurement Executive, Procurement Information Bulletin 2012-01, *Contractor Suspension and Debarment*, October 3, 2011.

<sup>b</sup>Pub. L. No. 111-383.

<sup>c</sup>DFARS § 242.302.

<sup>d</sup>Department of State Office of the Procurement Executive, Procurement Information Bulletin 2011-09, *Combating Trafficking in Persons*, March 24, 2011.

<sup>e</sup>Department of State Office of the Procurement Executive, Procurement Information Bulletin 2012-10, *Contractor Recruitment of Third Country Nationals*, February 28, 2012.

**Table 13: CWC Strategic Area 13—Provide Adequate Staffing and Resources, and Establish Procedures to Protect the Government’s Interests**

Recommendation not directed to specific entity	DOD	State	USAID
<p>13a Strengthen authority to withhold contract payments for inadequate business systems</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>In February 2012, DOD issued a final rule to amend the DFARS to improve the oversight of contractor business systems, including the ability to withhold a percentage of payments on certain covered contracts when a contractor’s business systems contain significant deficiencies.<sup>a</sup> Additionally, DOD reported that Defense Contract Audit Agency business system audits have identified deficiencies that have been or are in the process of being corrected.</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>State has not taken or planned actions that directly align with this recommendation, and officials stated a governmentwide change would be required. According to State officials, consistent governmentwide rules are required in this area since, unlike DOD, other agencies lack specific authority to withhold payments for inadequate business systems.</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>USAID officials did not identify actions taken or planned that directly align with this recommendation. According to officials, they are reviewing USAID’s current authority to withhold contract payments for inadequate business systems.</p>
<p>13b Amend access-to-records authority to permit broader government access to contractor records</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p> <p>Section 842 of the National Defense Authorization Act for Fiscal Year 2012 provides a mechanism for the department to obtain access to certain contractor and subcontractor records in the U.S. Central Command’s theater of operations.<sup>b</sup> According to DOD officials, the department worked with Congress to obtain this statutory provision.</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>State has not taken or planned actions that directly align with this recommendation, and officials stated a governmentwide change would be required. Officials stated that the government should be consistent in this area, since standards need to be clear for agencies to deal with multiple layers of subcontractors in overseas environments.</p>	<p><b>No actions taken or planned that directly align with the specific recommendation</b></p> <p>USAID officials did not identify actions taken or planned that directly align with this recommendation. According to officials, they are reviewing specific limitations on USAID’s current authority to access contractors’ records.</p>

13c	<b>Actions taken or planned that directly align with the specific recommendation</b>	<b>Actions taken or planned that directly align with the specific recommendation</b>	<b>Actions taken or planned that directly align with the specific recommendation</b>
Increase agencies' staff and resources to enable adequate management of all aspects of contingency contracting: financial management, acquisition planning, business-system reviews, source selection, incurred-cost audits, performance management, property management, contract payment, and contract close-outs	DOD officials stated in February 2012 that the department was establishing a working group to address staffing and resource challenges related to contingency contracting. Officials noted that staffing and resourcing continue to be the department's biggest challenges and they are concerned that future budget cuts could affect progress made to date.	State is using resources from the Defense Contract Management Agency and the Defense Contract Audit Agency to augment its contract management and administration capabilities. Officials also stated that since its working capital fund was established in February 2008, in part to fund the hiring of contracting personnel, State has hired 66 direct-hire employees and was in the process of hiring another 19 government employees as of June 2012. <sup>c</sup>	USAID officials stated that the agency will have added 95 contracting officers by the summer of 2012, more than doubling the number of field contracting officers in the last 3 years under the Development Leadership Initiative program.

Source: GAO analysis of agency documents and interviews with agency officials.

<sup>a</sup>DFARS; Business Systems-Definition and Administration (Case 2009-D038). 77 Fed. Reg. 11,355 (Feb. 24, 2012).

<sup>b</sup>Pub. L. No. 112-81 (2011).

<sup>c</sup>22 U.S.C. § 2684.

**Table 14: CWC Strategic Area 14—Congress Should Provide or Reallocate Resources for Contingency Contracting Reform to Cure or Mitigate the Numerous Defects Described by the Commission**

<b>Recommendation directed to Congress</b>	<b>DOD</b>	<b>State</b>	<b>USAID</b>
14a Congress should provide or reallocate resources for contingency contracting reform to cure or mitigate the numerous defects described by the CWC	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>

Source: GAO analysis of agency documents and interviews with agency officials.

**Table 15: CWC Strategic Area 15—Congress Should Enact Legislation Requiring Regular Assessment and Reporting of Agencies’ Progress in Implementing Reform Recommendations**

<b>Recommendation directed to Congress</b>	<b>DOD</b>	<b>State</b>	<b>USAID</b>
<p>15a</p> <p>This legislation should require the Secretaries of Defense and State and the Administrator of USAID to submit reports detailing their plans for implementation of CWC recommendations, commencing 180 days from enactment of the legislation, with annual reporting thereafter</p>	<p><b>Not applicable</b></p> <p>While this recommendation is directed to Congress, DOD reported that it does not intend to submit a report to Congress but plans to integrate applicable recommendations into a comprehensive operational contract support action plan and continue to track implementation progress and have working groups and forums to further address contracting issues in current and future contingency operations.</p>	<p><b>Not applicable</b></p>	<p><b>Not applicable</b></p>
<p>15b</p> <p>This legislation should require that agencies' reports shall be submitted to congressional committees of jurisdiction; to the inspectors general of the Departments of Defense and State, and of USAID; and to the officials holding the proposed new positions at OMB/NSC and the permanent inspector general for contingency operations, all of whom would be required to review and validate the reports</p>	<p><b>Not applicable</b></p>	<p><b>Not applicable</b></p>	<p><b>Not applicable</b></p>

15c	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>
<p>This legislation should require reporting requirements that include: (1) actions taken or planned to implement recommendations, including an implementation schedule with milestones and assignments of responsibility; (2) explanations for non-implementation of recommendations, including counter-measures for barriers to implementation; and (3) evaluation within 120 days by the Comptroller General and agency inspectors general (and the permanent contingency IG when available) of the agencies' reports and their compliance with requirements</p>			

Source: GAO analysis of agency documents and interviews with agency officials.

In table 16, we list the recommendations that the CWC made to Congress, State, and DOD in Special Report 4, which related to the transition to a civilian-led presence in Iraq, and summarize agency positions on them if the agencies provided their position to us.

**Table 16: CWC's Recommendations in Special Report 4**

<b>Recommendation directed to entity specified</b>	<b>DOD</b>	<b>State</b>	<b>USAID</b>
1 Congress ensure adequate funding to sustain State operations in critical areas of Iraq, including its greatly increased needs for operational contract support	<b>Not applicable</b>	<b>Not applicable</b>	<b>Not applicable</b>



<p>2</p> <p>State expand its organic capability to meet heightened needs for acquisition personnel, contract management, and contractor oversight</p>	<p><b>Not applicable</b></p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>Not applicable</b></p>
		<p>In 2008, State began using a working capital fund to fund increases in the acquisition workforce.<sup>a</sup> Officials stated that since February 2008 when the fund was established, the department has hired 66 direct-hire employees, and was in the process of hiring another 19 government employees as of June 2012. The department also noted that its Bureaus of International Narcotics and Law Enforcement Affairs and Diplomatic Security, the two bureaus most heavily involved in overseas contingency contracting, have both significantly increased resources to support contract administration.</p>	
<p>3</p> <p>The Secretaries of State and Defense extend and intensify their collaborative planning for the transition, including executing an agreement to establish a single, senior-level coordinator and decision-maker to guide progress and promptly address major issues whose resolution may exceed the authorities of departmental working groups</p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>Actions taken or planned that directly align with the specific recommendation</b></p>	<p><b>Not applicable</b></p>
	<p>According to DOD officials, the Secretary of Defense appointed a senior-level Iraq Transition Coordinator and the Chairman, Joint Chiefs of Staff also appointed a senior military officer as his Iraq Transition Coordinator. For the Iraq transition effort, in September 2010 DOD and State established a Senior Executive Steering Group focused on coordinating the materiel and support aspects of the transition. According to DOD officials, this group reported to the Under Secretary of State for Management and the Acting Under Secretary of Defense (Acquisition, Technology, and Logistics) on a regular basis to ensure that milestones were met and address any issues that may impact the transition. The officials noted that this group also established working groups as necessary.</p>	<p>In February 2011, the Secretary of State appointed an Iraq Transition Coordinator. According to the department, the Iraq Transition Coordinator has been responsible for coordinating all State-related aspects of the U.S. transition from military to civilian operations in Iraq, working closely with the U.S. Ambassador to Iraq, the U.S. military, and other U.S. departments and agencies. DOD and State also established a Senior Executive Steering Group to focus on coordinating and synchronizing the materiel and support aspects of the transition.</p>	

Source: GAO analysis of agency documents and interviews with agency officials.

<sup>a</sup>22 U.S.C. § 2684.

## **Enclosure II: GAO Contacts and Staff Acknowledgments**

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