

Congressional Events

Aug. 31, 2011 - Final

Commission on Wartime Contracting in Iraq and Afghanistan Holds News Briefing about its Final Report to Congress

THIBAULT:

Good morning. My name is Mike Thibault, and I am co-chair with my partner Chris Shays. He and I will handle the initial parts of this briefing, and then each commissioner will also participate.

But first, I'd like to introduce Senator Jim Webb, James Webb from the state of Virginia. Senator Webb is one of the two cosponsors. That really is why we're here today after three years of what we believe is hard work, but our report will judge that.

And so without any other introduction, we're grateful for Senator Webb's support. We're grateful that Senator Webb is here today to provide his comments. And I look forward to his comments as you do.

Thank you.

Senator Webb?

WEBB:

Thank you.

It's a pleasure to be able to come here today and to thank all the members on this commission for the work that they have done on this issue. This is the way that congressional commissions should work. It was bipartisan. It was high energy. It was comprised of highly qualified people who were brought in for a specific period of time.

This is a sun-setted commission—which is why you're having the out-briefing today—and who have and will continue to maintain very high-profile careers out in the community once this is over.

They've come up with specific recommendations. As a member of the United States Senate, and as one of the two cosponsors of this legislation, I can say today that they will be listened to. The recommendations will be listened to. The energy that went into this is greatly appreciated.

As someone who spent five years in the Pentagon, one as a Marine and four as a defense executive, it was very clear to me, and in discussions with a lot of people that I have worked with over the years, that in the period when the overseas infrastructure and security programs were being put into place in Iraq and Afghanistan after 9/11, there was something that was clearly wrong.

There were good companies, as this commission report has been careful to mention, who were doing a lot of good work. But there also were a series of structural and leadership deficiencies in

terms of how these contracts were being put into place, or a lot of them were being put into place.

You could look at the dynamic of what was going on, particularly in Iraq at the time. And it wasn't out of the question to be saying even then that there were billions of dollars of waste, fraud, and abuse taking place without a proper structure.

When I came to the Senate, one of the eye-openers for me as a member of the Senate Foreign Relations Committee was when we had testimony from the Department of State discussing \$32 billion of programs that were going into Iraq reconstruction.

And as someone who spent a good bit of time as a bean-counter in the Pentagon, I asked if they would provide us, on the Foreign Relations Committee, a list of the contracts that had been let, the amounts of the contracts, a description of what the contracts were supposed to do, and what the results were. And they could not provide us that list.

For months we asked them. And they were unable to come up with a list of the contracts that had been let.

So, after many discussions with Senator Claire McCaskill of Missouri, who had expressed similar concerns as a fellow member of the Armed Services Committee, we introduced this legislation in '07.

Like in all legislative proposals up here, we had to give on some areas that we believed in strongly, such as accountability, retroactive accountability for some of the abuses that had taken place. We didn't get that. We didn't get the ability to have a subpoena.

But what we did get was the structure that was put into place in this commission. And just as importantly, we got an agreement so this would be bipartisan and that it would be energetic. And it would come to us with the types of recommendations that could prevent these sorts of actions and abuses in the future.

This is what we are receiving formally today. I wanted to come down here and endorse the quality of the performance of all of these individuals. Christopher Shays and Michael Thibault, the co-chairs, come highly qualified. Christopher Shays spent 20 years in the United States Congress. Michael Thibault is former deputy director of the Defense Contract Audit Agency.

And the other members, alphabetically by the way, Clark Kent Ervin, former inspector general of the Department of State and Homeland Security; Grant Green, former undersecretary of state for management, and also a former assistant secretary of defense; Robert Henke, former assistant secretary for management, Department of Veterans Affairs; Katherine Schinasi, former managing director for acquisition and sourcing management in the GAO; Charles Tiefer, a professor of government contracts, contracts, and legislation, University of Baltimore School of Law; Dov Zakheim, former undersecretary of defense, comptroller, and chief financial officer of the Department of Defense.

Their credentials are much broader than what I just read, but it'll give you an idea of the quality of background and experience that went into this commission.

And with that, I'm going to turn it back over to Mr. Thibault, directly behind me, and again express my strong view that these recommendations will be listened to and, when appropriate, acted on by the United States Congress.

Thank you very much.

THIBAULT:

Good morning. Thank you, Senator Webb for your kind remarks about our work.

We appreciate all of you coming here this morning, especially Senator Webb, and grateful for his initiative in creating and supporting the commission.

Thank you, ladies and gentlemen of the press for attending this briefing on the final report to the Congress of the Commission on Wartime Contracting in Iraq and Afghanistan.

As I said before, I'm Mike Thibault. I'm the co-chair of this commission. With me is my partner, co-chairman Christopher Shays and fellow commissioners that were previously introduced by Senator Webb.

After these opening remarks, we'll be happy to take any questions that you have. We've provided a summary sheet on the report. At the end of the summary, you'll find all our names and prior affiliations, in case you want to quote anyone. The commissioners will be staying here for a while after the close of the question period if you want to pursue specific topics one-on-one.

We're here today because the commission has now filed its final report with the presiding officers of the U.S. House of Representative and the U.S. Senate. This report is titled, *Transforming Wartime Contracting: Controlling Costs and Reducing Risk*. Its 240 pages include extensive findings of fact and recommendations, plus 15 strategic recommendations for reform.

We believe that implementing our reform proposals will save great amounts of money and even more importantly, human lives, while improving the diplomatic, military, and development outcomes in Iraq and Afghanistan.

Equally important, our reforms will do the same for future contingencies, whether they take the form of hostilities or humanitarian interventions overseas or domestic responses to declared emergencies.

Let me also note that when I said we believe, we, I really meant "we." Our report has no dissenting views. Every finding and every recommendation reflects a bipartisan consensus.

As my partner Congressman Shays has often stated, you would be truly hard-pressed to tell during our meetings which commissioners were Democrat appointees and which were Republican appointees. For almost three years, this has been a collegial and bipartisan effort to serve our country.

Here's some quick background on that effort.

The commission was established by Congress in the National Defense Authorization Act of 2008. We're an independent bipartisan body with eight appointed commissioners plus supporting staff.

We've conducted 25 public hearings, participated in more than 1,000 meetings and briefings, maintained field offices in Kabul and Baghdad, made 20 trips into theater and to dozens of other destinations, and issued two interim and five special reports to Congress.

I'll mention a few highlights then turn the lectern over to Congressman Shays for comments on their significance and our recommendations.

Some key points. Total spending on contracts and grants in Iraq and Afghanistan from fiscal years 2002 projected to the end of this fiscal year 2011 amounts to \$206 billion. We estimate that \$31 billion to \$60 billion of that total has been or is being lost to waste and fraud. We estimate that waste amounts to 10 to 20 percent of total contract and grant spending, and that fraud runs between 5 and 9 percent of the total.

We base these ranges on hearing testimony, our own commission research, and non-public government documents on fraud research that were performed in theater. We believe as much or more waste may develop as U.S.-funded programs and projects turn out to be unsustainable by the Iraqi and Afghanistan governments. Both government and contractors have contributed to this waste.

As to that point, I want to be clear that this report is not about criticizing contractors. It is about criticizing bad contracting, whether that involves poor planning and management by federal officials or poor performance and misconduct by companies.

Even if you take the upper range of our waste and fraud estimates, a significant amount of money spent on contracts and grants in theater appears to have been spent effectively. That point is important.

The troops certainly feel that way. During our extensive travels in theater, we heard emphatic appreciation, constantly at all levels, for the quality and effectiveness of contractor support for the U.S. military effort.

Our focus on problems derives from our concern that the cost of contract support has been unnecessarily high and that government has not effectively managed contracts to promote competition, reward good performance, and impose accountability for poor performance and misconduct by both government and contractor personnel.

Having said this, I yield to the gentleman from Connecticut, co-chairman Christopher Shays.

Thank you.

SHAYS:

You saw Mike with his auditor's face. He's usually a lot more upbeat than that.

But good morning.

To follow up what Mike was saying, despite some progress, the government remains unable to provide effective large-scale contract management and oversight. That fact is troubling because U.S. doctrine has held for more than 20 years that contractors are part of the total force that would be deployed in contingencies.

Yet the government was not prepared to go into Afghanistan in 2001 or Iraq in 2003 using large numbers of contractors. We were not prepared to use contractors and we are still not adequately prepared to use contractors to the scale required.

This is even more troubling given that the senior defense officials have testified that the United States cannot go to war without large-scale contracting support. That fact applies to other contingencies as well, such as response to a major natural disaster or a mass-casualty terror attack.

Our report begins with a chapter describing the ways in which the government has become over-reliant on contractors. By "over-reliant" we mean they've become the default option. Contractors have performed some tasks reserved for federal personnel; tasks that the law or policy or regulations require be reserved for federal personnel. And even those that are legally permitted, contracting out some tasks may be inappropriate and unacceptably risky to U.S. interests.

We are deeply concerned that excessive contracting undermines agencies' ability to perform core missions. And the scope of contracting has outstripped federal ability to manage and oversee it.

The titles of succeeding chapters describe the problems that the commission has identified in contingency contracting:

Inherently government rules do not guide appropriate use of contractors in contingencies. Inattention to contingency contracting leads to massive waste, fraud, and abuse. Looming sustainment costs risk massive new waste. Agencies have not institutionalized contracting as a core function. Agency structures and authorities prevent effective coordination. Contract competition management and enforcement are ineffective.

Now, our final chapter explains that the way forward demands reform. We offer 15 strategic recommendations for major reforms to address these problems. The discussions and details appear in various chapters of the report. And appendix A of the report lists these and the other recommendations we have made.

Now this is our report. We had a second interim report which had a numerous number of recommendations, but they're all compiled in our final document.

All of our reports, by the way, can be viewed and downloaded at the commission website, www.wartimecontracting.gov.

Now, here are a few of the recommendations from the final report filed today.

Our third recommendation: phase out use of private security contractors for certain functions.

Recommendation seven: elevate and expand the authority of military officials responsible for contingency contracting on the joint staff, the combatant commander staff, and in the military services.

Recommendation eight: establish a new dual-hatted senior position at the Office of Management and Budget, OMB, and the National Security Council—the NSC staff to provide oversight and strategic direction.

Recommendation nine: create a permanent Office of Inspector General for contingency operations.

Recommendation 15: Congress should enact legislation requiring regular assessment and reporting of agencies' progress in implementing reform recommendations.

This last recommendation must not be overlooked. The commission sunsets on September 30th, but the problems in contingency contracting do not. There is still time to make a difference in Iraq and Afghanistan, and there will be new contingencies.

Congress has a vital role to make sure that we are better prepared for new contingencies overseas or domestic than we were for Iraq and Afghanistan. And it has also a vital role to avoid unnecessary new strains on the federal budget.

Now unfortunately, the current stress on the budget may discourage members of Congress from supporting the investments that some of our recommendations would require. Now, having served 21 years in Congress, I appreciate the difficulty of proposing new spending in a time of revenue constraint. But some of the reforms require no new spending. And some can be made by simply reallocating existing resources. Yet even for reforms that would involve new costs, holding back would be really false economy.

With tens of billions of dollars already wasted, with the prospect of more to follow, and with the risk of recreating these problems the next time America faces a contingency, denial and delay are not good options. They shouldn't even be an option.

The recommendations in the commission's final report will repay themselves many times over in terms of money and mission outcomes. The challenge of implementing contingency contracting reform will continue for years. We have presented our blueprint. Now we can only encourage others to turn our blueprint into solid, constructive outcomes.

Now, finally, on behalf of all the commissioners and staff alike, I want to express our appreciation to the many officials in government, military, academia, and industry who cooperated in the commission's research, our hearings, meetings, and travel.

In particular, we are grateful for the longstanding interest and support of U.S. Senators Jim Webb, Claire McCaskill, Susan Collins, and Joe Lieberman, and U.S. Representatives Darrell Issa and John Tierney.

We also appreciate the many members of the media who have followed our work and described it for the public.

And just one final point that the commissioners wanted to make sure we express. We are in awe of our men and women who serve in the military. We pay incredible respect to their sacrifice, those that have been injured, the families that have lost loved ones.

But we also want to include in that list equally the contractors who have lost their lives and the contractors who have been wounded. There have been thousands who have lost their lives. And the sad thing is it's almost like they have been expendable. They haven't gotten the kind of attention that their deaths require.

So we just want to say a thank you to the men and women who serve overseas, both in our government, in the military, and as well as contractors for our government.

We're going to have one-minute comments from the six commissioners behind me. We were all equal partners. There was really no first among equals. I think Bob Dickson can affirm that he got gray hair just having to deal with eight commissioners who had strong opinions about things.

We're going to start out with Katherine Schinasi. Then we're going to go to Dov Zakheim and then Charles Tiefer. And then we'll go to Bob Henke, and then we'll go to Grant Green. And then we'll end up with Clark Ervin.

SCHINASI:

Thanks, Chris.

I just want to re-state the website is [www.wartimecontracting dot gov](http://www.wartimecontracting.gov).

Thank you, and thanks for your remarks.

I thought about what in this two-year stint that I've had surprised me. And in many ways, there were very few surprises. The outcomes that we found were expected. There are a number of causes that have been around for a long time. Many people know what they are. They still aren't getting fixed.

But the one thing that did surprise me is the fact that the numbers we're talking about just are not resonating. So \$30 to \$60 billion doesn't sound like much when you say it every day. But in the report, we've broken that down to \$12 million a day. We're wasting up to \$12 million a day. Maybe that will make a little bit of difference in the attention that people pay to this.

The second thing is as we go through the next couple of years looking at how the government is spending its money, my hope is that we do it smartly. Part of the reason we're in the position we're in is because of the meat-axe that was taken to the acquisition workforce in the '80s. We decimated the government workforce at the same time that we were calling more and more on contractors to do the work of the government.

So as we go through this, I would hope that we look at reallocating resources, not just cutting resources.

A contingency environment offers a perfect opportunity to show how the different departments of the government can work together. And as you will see in one of our recommendations, we believe that those decisions, the allocation of resources, missions, and responsibilities, has gotten very much out of whack between the military and the civilian sides of our government. And we have put in place a recommendation that we hope will rebalance those efforts.

Thank you.

SHAYS:

Mr. Zakheim?

ZAKHEIM:

Thanks very much. I also want to reiterate our appreciation, both for the military, the civilians who go out to the region. We were out there. This is not an easy place to work if you're a civilian and certainly not if you're wearing the uniform, but also the contractors.

As you heard, we didn't look at this in a partisan way at all. Because we just looked at it as what is best for the United States of America. And we're convinced that wasting \$30 to \$60 billion—and my personal view is we're closer to the \$60 billion—is not in the interest of the United States of America.

We are going to have more contingencies in the future. If we keep saying we'll deal with that contingency when it arises, we will never fix the problems that clearly have arisen over the past decade. And there are some problems that we don't even think about that are inherent in the way we started to do business.

For example, we have policies, which make an awful lot of sense, to give local nationals priority in getting contracts. Afghan First, Iraq First: makes a lot of sense, unless you stop and think about the fact that we have limited oversight over these folks. And when we have limited oversight that means that money can get wasted. We have to do something about that.

We also have to think about projects that we start, but are not sure can be finished or sustained. Our report talks about that as well. What is the point of spending hundreds of millions of dollars on projects that will then fall into disuse? And then we'll have a Hobson's choice: either to let it fall into disuse and write it off as a waste, or to keep spending our taxpayer money for God knows how long in order to keep the projects going. We need to avoid those sorts of things.

\$206 billion is a lot of money on contracting, but so is \$60 billion in waste of which a considerable amount, maybe as much as \$18 billion is pure fraud. We've got to do something about that. We need to do it for our troops, for our civilians, for our contractors, and for the American people.

TIEFER:

I took a particular interest in what is now chapter three of our report, which is the over 40 particular, significant instances of waste in Iraq and Afghanistan. I think that in some respects, we will have produced the authoritative listing to date of big items of waste.

I want to mention some specific things about this. You hear the figure of \$30 billion to \$60 billion. And you might wonder where do we get confidence in this figure apart from basic derivation. And the answer is if you start looking at the individual items, if you start looking at, for example, the lack of competition in the awarding of contracts in Iraq for task orders in Iraq for 10 years to KBR, we calculated that \$3.3 billion was lost on that alone.

One other thing I want to say about the list. There's a tendency of some people, I don't think that much either the press who cover us or the people who watch the commission hearings, who I talk to, but the broader public to think that the problems with waste were primarily a problem of the Iraq war. That's when some of the names of companies like Halliburton were household names. Now there aren't household names. Eventually we do hope to draw down our troops in Afghanistan. Maybe the problem is behind us.

And I say, if you look at the roll of shame in chapter three, you will see that we start with some incidents in Iraq, but we have many current instances in Afghanistan—power plants, even instances that have just come out this year as to logistics contractors. The waste goes on. That's why we've come up with these proposals that my colleagues are talking about.

HENKE:

Good morning. We were asked a couple of very specific questions in our legislation and that is to determine the extent of reliance on contractors. Our conclusion is that there is tremendous over-reliance.

We were asked to look at and establish the amount of waste. Our conclusion is that there was massive waste. But this is so much more than a contracting story. This is, at the end of the day, about the success and the ability of our defense, diplomacy, and development efforts. At its essence, it's truly a national security story.

We have been told time and time again by senior defense officials, military and civilian, and senior State Department officials that we will not go to war, we will not go to war without contractors. So just as important as procuring weapon systems, the training and readiness of our troops, the effectiveness and deployability of our diplomats, we have to take taking contractors to war seriously.

It's a national security imperative. And we cannot afford to fight the next war the way we fought the war in Iraq and Afghanistan. It's a national security issue of the highest importance and demands reform.

Thank you.

GREEN:

Thank you. I'm going to re-hash some things that you've already heard, but which are certainly important to me.

We've heard many times—I think all of you recognize we're going to go to contingencies with contractors. You've heard it this morning over and over and over. And it's just not in a combat environment, but natural disasters, humanitarian disaster.

Where we lack a capability is that the departments and the agencies that we looked at, and I would venture that it probably extends across the government, don't take contracting seriously as a core function.

They may do OK buying stuff, but when it comes to contingency contracting, particularly for services, they don't take it seriously and they don't have the mechanisms in place like they do with procurement of systems.

What our recommendations do, I think, to a great degree, is they attempt to institutionalize—taken together within the departments and USAID—institutionalize processes and procedures which will help eliminate some of the problems that we lay out in the report.

What we need to do is change the culture and that can't be done overnight. It won't be done overnight. It's been mentioned the budget dilemma that this country faces and we recognize that, but as others this morning have said, not all of our recommendations cost something.

There are many of them that just require a change in processes and procedures and regulations, which leads me to—I think, in my mind at least—one of the most important aspects of our work and that is the follow-through.

All of you have seen many, many reports and unfortunately many end up in the dust bin. What our concern is that when these wars in Afghanistan and Iraq end, we no longer see the casualty lists; we go away at the end of this month; at some point SIGAR and SIGIR will go away. Where is the forcing function so that we don't fall back into the same bad habits?

That's why I think the last two recommendations that we've made, strategic recommendations that we've made in the report, 14 and 15 are so important.

Despite the budget dilemma that we face, Congress has got to look at these recommendations and if need be do a cost-benefit analysis. What does it cost? Is it worth it to do recommendation "X" or recommendation "Y"? And then they've got to demand from the departments and the agencies regular reports on their progress, and they may not be able to do some of these things, but let's at least acknowledge that.

Otherwise, if we don't have that forcing function, if we don't have oversight over those recommendations and over those departments, we will fall back into the same bad habits at the next contingency.

ERVIN

Thank you.

I would like to emphasize two points made by others today, as you might imagine, and then to end with one final additional thought.

First of all, as a number of us have said, we are not naive. We fully recognize that this is a time of severe budget constraints. There are some recommendations that if implemented would require additional resources. We would argue that notwithstanding that and perhaps even because of that, it is urgent that these recommendations be implemented.

It is clear, as a number of us have said, that we will continue, given the limitations on the federal workforce to rely on contractors. It is also clear that the nation will continue to engage in contingencies.

The present Libyan contingency in which we are engaged is one that could not have been anticipated three years ago at the inception of the commission's work. There is ongoing activity presently in Yemen and Somalia, to name but two countries which may yet burgeon into full-fledged conflicts. That's the first point.

The second one is that, as you've heard, we were conceived of in a bipartisan fashion with the principal support of Senators Webb and McCaskill and Senator Collins. We operated, I would argue, not just in a bipartisan fashion over the course of these last three years, but in a nonpartisan fashion.

And now it is largely up to the Congress, working with this White House and subsequent ones, to implement our recommendations and it is our hope that likewise our government will work in a bipartisan, nonpartisan fashion to implement those recommendations.

And finally, key to implementing those recommendations is not just government action, but also the support of the news media in calling the Congress' attention, the White House's attention, and the public's attention to these issues on an ongoing basis.

As Commissioner Henke emphasized, these issues that we're talking about are not just issues of dollars and cents, as important as that is in a time of budget constraint, but it's really a question of national security. It's a question of the lives of American men and women. It's a question of the safety and security of the American people.

Thank you very much.

SHAYS:

Mike is just going to end with a comment and then we'll take your questions.

THIBAUT:

It's kind of like trying to get your one minute. The point I want to make is you've heard the commissioners, and we didn't get up here and say, "You'll say this, you'll say that." These are what they wanted to emphasize. And you see the balance that is evident. Chris: I take great pride in having worked with him. I take great pride in Chris' alleging that I have an auditor's mentality. I do. That's my history. And as an auditor, I'd be remiss not to cite three numbers and their page numbers for you in the report: 61, 111, and 162.

If someone says, "What are three of the areas that are most noteworthy," 61 is security, and it relates to both contracting with organizations like Host-nation trucking, and ending up subsidizing the Taliban or in protecting American troops; 111 is about sustainability, which was mentioned, and the \$30 billion that's going to be spent from 2014 to 2017 just to afford to buy food, guns, bullets, equipment, ammunition, and the like for the Afghan National Security Force; and 162 is about the auditor opportunity to have immediate cost savings of \$1.1 billion to \$2.1 billion through funding them in the austere environment that Commission Ervin brought out.

And I hope, in closing, that the three key departments—Defense, State and AID—have the will and the leadership to bring home and to address these recommendations.

SHAYS:

Mike's asked me to conduct the questioning part and if you do have questions first, thank you for your patience. And if you do have questions, the commissioners are happy to respond to them.

Do we have anyone who would like to ask? Yes, sir?

QUESTION:

Yes, I wonder if you could just put a little bit more (OFF-MIKE) if these recommendations aren't implemented. Everyone's talked about the importance of them and of Congress taking them seriously. But can you sort of describe what happens if no action's taken?

SHAYS:

So the question is what happens if these recommendations are not implemented? Who wants to start?

ZAKHEIM:

What happens is what happened before. As you heard, we didn't anticipate Libya. We also didn't anticipate Afghanistan or Iraq. We fight contingencies that we never expect. And then the size of them isn't just the actual fighting. It's the reconstruction.

For example, they're now talking about reconstructing Libya. Well, who's going to do a lot of that work? Contractors. Who's going to oversee the contractors? A very small federal acquisition workforce and a very small federal oversight work force.

So what you're doing is asking for more of the same, more waste, more fraud, more abuse. Can we estimate how big it'll be? No. But frankly, every dollar in this budget-constrained environment that goes to waste is a dollar that should be going somewhere else.

SCHINASI:

I'm just going to make another point on that.

Over the course of the life of the commission, we have actually seen improvements, more attention to these issues, more people being devoted to managing contractors and overseeing contracts. But what we are starting to see right now is those gains are at risk, if not being lost.

So a number of the commitments that the leaders have made to strengthen their acquisition functions, we are already seeing fall off. So I think that would be another point that would concern us greatly.

THIBAUT:

You know, again, to take the dark side, if these recommendations are not implemented, there ought to be a hall of shame mounted or developed by you folks out there in the media who can address that. And there ought to be accountability in that hall because as has been outlined, there's an opportunity at hand and that ought to be addressed.

SHAYS:

Yes, sir?

QUESTION:

(OFF-MIKE) Republicans: you talked about yesterday, you talked about (OFF-MIKE) compared to some of the other types of cuts and things they have to make this is still comparatively small in terms of entitlements. (OFF-MIKE) you feel that it's a failure of the super committee if they (OFF-MIKE)?

SHAYS:

So the question was: Would it be failure of the super committee if they didn't implement some of our recommendations in spite of the fact that our numbers don't come close to the trillions that they've got to reach. And the answer would be it would be a failure.

QUESTION:

One of the longstanding complaints of military commanders in the field is that they lack sufficient control over contractors within their area of operations and responsibility, can't be sure that they conform to the standards of discipline or policies that have been set out.

And some have gone so far as to recommend that the commander's JAG should be given authority to set policy and ensure that policy is followed.

How do you feel about such recommendations? What would you recommend if you see this as a valid problem, to give military commanders better control of the contractors?

SHAYS:

OK. Your question is basically saying that the commanders in the field have some significant concern that they don't have the kind of oversight over contractors they feel they may need, and even in some cases may be having them do what they should be doing.

I wonder if Grant might want to take this one first or Bob—someone in the military directly.

GREEN:

I have heard in our travels similar complaints, but in my mind most of those lead to the fact that a unit did not have the appropriate or an adequate number of contract-oversight representatives which are to be provided from that unit itself.

So we saw units getting ready to deploy to Iraq and Afghanistan early on in the process that had no idea how many contractors they would fall in on when they arrived in country. And so they were ill-prepared to oversee those contractors in many cases.

I must say that that's getting—at least in my experience—that is getting much better. And units now are deploying with, in some cases, a set number of CORs—contract officer representatives.

SHAYS:

And I would just also add that, you know we would expect that since nearly half the personnel overseas are contractors, equal to the size of the military, that there needs to be better integration by the Pentagon and that you would not see just a passing comment in the QDR (Quadrennial Review) about it. The State Department has done more in their QDDR (Quadrennial Diplomacy and Development Review) about contractors than DoD has, and yet DoD has the bulk of the contractors.

So this is a solvable problem, and frankly, we didn't want to inject ourselves too much in telling the military how to run their operation, but I think it's self-evident what they need to do.

Let's go on this side. Yes?

QUESTION:

Can you compare in any way Iraq to Afghanistan in how they're different or how they're the same? Like, are the issues different in terms of the waste, fraud, and abuse?

SHAYS:

I think all of us could jump in on that one.

Do you want to start first, Charles?

TIEFER:

Sure. The problems of abuse in Iraq were sort of very crude because the war, the need for contractors, started very suddenly in 2003 and unexpectedly. And so large numbers of contracts were given out that were not definitized at all, were not detailed. And as a result, large amounts could be wasted under them.

In contrast, Afghanistan for our purposes, the large numbers in contracting dollars came after the two surges in 2009 and 2010. And by this point, some of the lessons from Iraq had been learned and the waste was done in the same crude way, but there was still a great deal in terms of, say, reconstruction projects which have been a big failure in Afghanistan because the area is not prepared. Or money that has gone siphoned off to the insurgency through Afghan security subcontractors.

So what we found was there was plenty of problems in Afghanistan even if they were sort of further down or different than the Iraq ones.

HENKE:

Let me also take a crack at that. What we've seen unfortunately is some of the good lessons learned in Iraq have not migrated to Afghanistan quickly or in some cases at all.

For example, two examples: In Iraq, they evolved into having a contractor operations cell to have visibility into where contractors were and what they were doing. In Afghanistan, they decided not to do that for reasons that frankly elude us.

Second issue: In Iraq, Defense and State after Nissur Square entered in a memorandum of agreement in how they're going to run private security contractors in the country—a good and reasonable step. They didn't decide to do that in Afghanistan, again, for reasons that are not apparent to us and we recommend that they do that.

So the hard lessons that were learned in Iraq have not migrated as quickly or as well as they could, we believe, to Afghanistan to solve problems and get ahead of it.

SHAYS:

Thanks, Bob.

Clark?

ERVIN:

I would just add one additional point just to underscore what Commissioner Henke said.

People tend to forget that the Afghan war predated the Iraq war, but notwithstanding that, America's focus on Afghanistan really began after just a few years ago, and notwithstanding that after all the lessons ought to have been learned from Iraq, in many cases, as was just elaborated, they were not applied in Afghanistan.

One further example that I would cite is that of SIGAR, the special inspector general for Afghan reconstruction. That inspector general was even slower to organize than SIGIR (Special Inspector General for Iraq Reconstruction). It is presently improving its performance, but I think all of this underscores the importance of one of our recommendations in particular, and that is having a permanent contingency inspector general so that the next time America goes to war or we engage in some major humanitarian activity, there is a standing cadre of auditors, investigators, and inspectors who are trained, who have adequate resources that can be scaled up or scaled down as needs dictate to ensure that the lessons learned in Iraq are now lessons learned in Afghanistan are applied the next time there is a disaster or a contingency.

SHAYS:

I would add one more thing, and that is I think that the commissioners would agree that however bad sustainability is, in other words, projects, activities in either country that cannot be sustained and therefore will end up being a very wasteful expenditure, are magnified in Afghanistan. Afghanistan, for obvious reasons, doesn't have the resources to carry on, in many cases.

So let me do another one here. Thank you.

QUESTION:

Even Congress has demonstrated inability to work effectively, for example, the raising of the U.S. debt limit, a very urgent issue. You've outlined that these are also urgent recommendations Congress needs to act on. What confidence do you have that there will be follow-through?

SHAYS:

Let me take that on since I served here. I admire the men and women who serve here and I always went back home and said, "I've met some of the finest people." When you see the collective outcome, you're not impressed. And then there are a few that can make everyone look bad. But I think both sides of the aisle know that we have a gigantic problem. We've postponed dealing with our spending issues for now decades.

And this is the year, this is the decade, of decisions. Decisions can't be put off. So I would like to think that they will be eager to implement our proposals because, in the end, you're going to save far more than you have to spend—far more. So that would be my answer to your question.

Yes, sir?

QUESTION:

One of the questions is, it's going to cost money to save money. Is there any recommendation structure in the existing contracting process that would impose a surcharge on those who bid on the contract that would pay for auditing, pay for (OFF-MIKE)?

THIBAULT:

The short answer is no. There are some agencies, Defense Contract Management Agency, that operate on a reimbursable basis. Therefore, if they can advocate and convince organizations that they can provide better contract administration, they'll refund it. There are other organizations, Defense Contract Audit Agency, that is funded as a line item and then that's why we make the point in the report those agencies have to be addressed. But the short answer is no.

Is it valid to continually look at methods to finance oversight organizations so that we can assure that when a contingency occurs they can hit the ground? Yes.

SHAYS:

Yes, sir?

QUESTION:

Yes—a question about how the waste numbers themselves were computed. Would you just give a little bit more (OFF-MIKE)?

SHAYS:

Sure. We'll have Dov start and maybe some other member wants to add.

ZAKHEIM:

Yes, the question was: How did we come up with the numbers we came up with? There's a general sense out there when you speak to people from SIGIR, the inspector general for Iraq, or SIGAR, the inspector general for Afghanistan, as well as a lot of academic studies, that waste is somewhere north of 10 percent.

We had our staff, and we met with people in the field, met with experts, and we got a lot of information, frankly, that people did not want to say officially, but gave to us.

And so we came up with what's called a "parametric estimate," which is to say you have \$206 billion that's been spent. If you take 10 to 20 percent of that, you're just north of \$40 billion.

Then you look at the fraud side. The fraud side is a little interesting because we came up with an estimate of between 5 and 9 percent. The Association of Certified Fraud Examiners says that 7 percent of all commercial contracts are lost through fraud, and we were at 5 to 9 percent.

So we think we're pretty much spot-on and that's how we came up with our estimate. It is an original commission estimate. We stand by it. We're very confident in it. And as I said earlier, I personally believe that the number is much, much closer to \$60 billion than to \$31 billion for all the reasons you've just heard from everyone else.

SHAYS:

And I might add, we're participating in two countries that have a different view of waste and fraud. What we would call fraud, they would call just, you know, the tax on doing business.

Yes, absolutely.

ZAKHEIM:

I'd like to add one other thing, and I don't have the page in front of me, but look for it.

One of the things we found, for example, that is hard to calculate is the amount of money that's being spent to buy off insurgents. We actually have a photocopy of a document that Chris and I were handed when we were in Afghanistan. It's a bill from I think it's called the Islamic Republic of East Afghanistan or something like that. It has a telephone number and it says—this is to a contractor—"You want to operate safely, here's the number to call."

We didn't put the number in, by the way, because we figured maybe there's somebody in this country who has that number and is all of a sudden is going to get a lot of calls.

The point is you're getting all kinds of money siphoned off that's just impossible to measure. The estimates are 10 percent. Who knows?

SHAYS:

On this page right here in chapter 3.

By the way, the chapter that Charles did a lot of work on, we had to kind of tone him down because it would've maybe added another 30 pages to our document. So we just took some of the key ones.

Let me go to this side. Yes, sir?

QUESTION:

I want to ask Dr. Zakheim, you've had an interesting perspective because you were there at the run-up of the war, Iraq war, as controller. Now, you're here on this side criticizing a lot of that work and you've got a book out called, *How the Bush Administration Mismanaged Reconstruction in Afghanistan*.

Looking back, how much was the rush for war and the poor planning—the document of poor planning for phase four—how much of that set the stage for the \$30 billion to \$60 billion you're estimating today?

SHAYS:

The question isn't accurate. We are not criticizing the war and I don't want anyone to think that we are.

No, I just need to clarify that. We are criticizing bad contracting in the war.

ZAKHEIM:

I don't know that I should really answer that, Tony, but you did advertise my book so I'll repeat the question. It's called, *A Vulcan's Tale: How the Bush Administration Mismanaged the Reconstruction of Afghanistan*. I want to get it right.

Look, we are a bipartisan commission. As you heard, we're really nonpartisan. And contributors to this matter were also bipartisan. You have to look back into the 90s and see how the acquisition workforce was cut back so the people who were doing the oversight, there just weren't as many of them.

Then you get into the Afghan war where you don't have in the first few years anything like the money that was spent in the last few years. To give you an example, we spent in the region of a billion or two in the first few years. In fact, I believe had we spent more then, we'd be in better shape now. That doesn't matter.

In Iraq, we immediately spent huge amounts of money, and as I think Mike Thibault pointed out, the contracts that were signed were signed so hurriedly that they didn't specify details, they're called, and for that reason you had huge amounts of spending and the contractors themselves did not have the acquisition systems to manage that amount of expenditure.

So you had a problem on top of a problem. You had a shortage of people doing the oversight because they'd been cut out in the 90s. Then you had this very, very rapid acquisition program. Contractors weren't ready for it. Stuff had to be done. And then when it started to be challenged, and oh, by the way, it was challenged by my office under the direction in part of Mike Thibault. We challenged some of these contracts.

It took a while to get that resolved, but as things were getting resolved, money was getting spent. Who's to blame? Everybody's to blame and that is the point of this commission. Let's not just look at the past and point fingers. Let's learn lessons and do something about it regardless of who's making the decisions in the White House, in the Pentagon, in the State Department, or in the Congress.

SHAYS:

Yes, sir.

QUESTION:

(OFF-MIKE) super committee (OFF-MIKE).

SHAYS:

I probably overstated. Let me make sure since clarity is important. Let me be really clear.

First off, we're just one small part of their mammoth task, but if they don't take a good look at it, it would be a failing, not a failure of the committee.

QUESTION:

(OFF-MIKE) primarily depends on (OFF-MIKE) recommendations?

SHAYS:

There is a whole issue that Mike could speak to just in terms of the backlog at DCAA, just as an example.

THIBAULT:

A couple of points. It's more than Defense. It's State and USAID, but the dollars are driven by Defense. There are opportunities out there for significant cost reduction and I think the point we make is that the committee can look at that and we've seen some indication that they're very keen on it.

I'll give the one example that I referenced on page 162. The Defense Contract Audit Agency has put in a request for 100 auditors. That's not a lot of cost in the billions of dollars we're working, for the next four years so they can reduce the backlog that goes back to 2005, 2006, 2007, and then forward.

If you're trying to be fair to contractors, and we are, try to be a contractor that's got to support a claim and they've submitted many of them six, seven years of claims, and has to support it.

So that's the challenge of the reduced backlog. Where the opportunity is is they have a backlog outlined in there presently of \$588 million that's going to go up to \$1 trillion. Those are unaudited costs.

If you use their actual historic return on their audits, right out now in the immediate backlog of \$588 million, we estimate \$1.1 billion to \$2.1 billion will be recovered. That's subject to getting funding for the auditors that they've requested.

You know, the funding process is going on right now. You can authorize the 100, which DoD did. If you don't fund them, they don't hire them or if you fund them late in the year, they hire them in September and we're already one year behind. Those kinds of things are occurring.

If you look at the trillion dollars and quantify it, it can run up close to \$4 billion, half of which is immediate savings and half of which, or 40 percent of which, will be cost-avoidance opportunity. You know, those are the kinds of immediate decisions that I would think the committee would be interested in.

SHAYS:

We'll just take a few more questions and then we'll stay for any individual question.

Yes, ma'am?

QUESTION:

(OFF-MIKE)

SHAYS:

Who wants to take that question?

OK, Dov?

ZAKHEIM:

The question was, if I heard you well: How involved are the governments of Afghanistan and Iraq in the corruption side of things or in the fixing of the corruption?

QUESTION:

Well, you can answer both.

ZAKHEIM:

I can answer both.

Clearly there's a lot of corruption in both countries. To point to any individual in the governments is extremely difficult and, frankly, sometimes people who are pointed to wind up getting killed. So we want to be very, very careful about whom we accuse.

In terms of the solutions, again, there are people in both countries who are working very hard for those solutions because they realize that if they want to have continued American involvement in the reconstruction of their countries, given the debt crisis we face, the American public might say, "enough." And if that's the case, they will lose out.

So I believe that there are many, many officials in Afghanistan and in Iraq who would be exceedingly sympathetic to what we've written.

TIEFER:

If I can mention a specific illustration that's somewhat known and that's the Kabul Bank, the failure of the \$900-million bank in Afghanistan, I think illustrates sort of the way our commission dealt with things.

Was it a problem of the government in Afghanistan? Of course. It had high officials in that government who were on the board of the bank and who were receiving loans that were not backed. And I'm not going to go on and on, but, of course it was a government problem in Afghanistan.

On the other hand, our particular interest was the contracting involved. There was an American contractor, Deloitte Touche, who Agency for International Development hired to be a consultant to the Central Bank of Afghanistan and to look at things like the Kabul Bank, which is 40 percent of the banking system in Afghanistan.

And Deloitte Touche, even though it was privy to many indications of fraud, many indications that this was a house of cards, a Ponzi scheme, did not tell the U.S. government what it knew. The U.S. government, as our report mentions, found out about the problem not from the contractor it paid, but from the *Washington Post*. So U.S. government contractors have their aspect and the Afghan government has its aspect.

SHAYS:

Just one more point in regards to this.

We met with officials in Afghanistan that—I can't give you the office because I don't want to endanger their lives—but basically provided tremendous information in their official capacity about fraud in the Afghan government. This is Afghan officials. And they submitted it and they did their job, but they were very fearful that it would become public.

In other words, they disclosed the corruption within the government, but they knew it would be kept quiet and if it wasn't kept quiet, then they feared for their lives, which is a real disincentive to pointing out fraud in your own government. And it was extensive and it was in large amounts of money and it was major government officials that were involved.

We're going to take just two questions. You and you, and we'll be done. Yes, sir?

QUESTION:

Have you talked to either Chairman Levin or Chairman McKeon about getting some of these recommendations involved when they conference over the Defense Authorization Bill in the next few months? And which of the recommendations could be implemented by the agencies without that input?

SHAYS:

It's a good list that we'll provide you.

And secondly, we've been in continual contact with staff. Our big achievement yesterday was to issue this report without the press getting it first and the staff reading about it, and we were determined that none of you would get this report and that staff got it first and we succeeded. So we're just trying to build a little credibility with the staff.

Yes, sir?

QUESTION:

War, by nature, is full of waste and fraud. So both Iraq and Afghanistan are not the first where this has happened. Vietnam, go back, contractors have been involved for a long time. What makes these two wars and the level of waste and fraud, I mean, what makes it so much different that sets it apart?

SHAYS:

Because it would be easy to prevent if we put the resources to prevent it. It would be easy to prevent—not all of it; the bulk of it.

I'm going to just have Mike close up and then we'll all be here for any individual questions.

THIBAULT:

Part of an answer to that is the run-up was so quick in both wars, the immediate run-up of troops, that the cost, you know, contractors were trying to be very supportive, but we were literally throwing contractors support out of necessity. And what happens is a good company tries to be responsive and sometimes their business systems lag.

The only closing comment I want to make is a commission like ours, you know, we're not going to put the good housekeeping seal of approval. That wasn't our job and that wasn't our mandate to say "here's eight companies that have done a pretty good job; here's eight government organizations that have done a pretty good job."

Our history, my history is when you put that housekeeping seal of approval up, something happens the next day and someone says, "Well, why did you do that?"—someone out in this audience. But with that said, we have seen numerous examples. And the one I want to cite, the Defense Contract Management Agency in 2008 in Afghanistan, we would say, "Who are the oversight officials for the tremendous buildup and run-up of contractor work?" And there really weren't any.

They couldn't give a list and the like. Within a year, they had that list. They had the assignments. Within two years, 2010, they had training mounted and it was clear in the military you had to provide these people, it was clear within the government oversight organizations that you had to test and evaluate it.

You know, could a person logically say, "Well, you should've had that at the outset"? Well, I would say part of our commission is in business to take these lessons learned and it's the same infrastructure that they're laying out that ought to be able to take that tremendous buildup that is the nature of contingencies, and more effectively deal with it and not waste so much money.

Last of all, I just have to thank everyone that's here because it was a collective effort.

SHAYS:

Thank you all very, very much. Appreciate it.