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Chairman Davis, Congressman Waxman, and members of the Committee, I appreciate the invitation to speak before the Committee on the broader issues for the health of our procurement system that relate to the Committee's oversight on Iraqi contracting.

I believe that Congressman Waxman, by pursuing this issue, and Chairman Davis, by working in a bipartisan manner despite the special challenges of an election year, are doing taxpayers a service by conducting oversight on these issues. One of my heroes, Harry Truman, came to national attention with his oversight work, while a Senator, on contracting issues during World War II – work he undertook though that war was far less controversial than the Iraq War and though his own political party held the White House.

Let me note at the outset I have no special knowledge of the details of various Iraq military support or reconstruction contracts, and am therefore not in a position either to say anything or answer any questions about specifics of Iraq contracting.

I would make some very general observations. First, the kinds of support activities being contracted out under the LOGCAP contract – and I am here not referring to some other contracts, such as for interrogators – are very appropriate to contract out. A general view in the commercial sector is that one should keep one's core competencies inside one's organization, while contracting out non-core activities, so as to economize on management attention and hand over one's own non-core activities to organizations

that can make these their area of expertise. The LOGCAP contract meets that test. Serving meals, delivering letters to soldiers, and building base camps are not the core competency of the military. Another reason to contract out rather than providing a service in-house is that the organization's demand for a service is expected to experience wide swings. Under these circumstances, it doesn't make sense to staff one's organization based on the maximum expected demand, but rather to contract for surge needs, because it is less disruptive to an organization to avoid staffing itself for non-recurring peak demands and then need significantly to adjust the organization's size. Third, training soldiers is very expensive, and what costs so much money is training them to wage war. It generally does not make sense to use very expensively trained soldiers for tasks that could be performed by people with much less expensive training.

Second, under normal circumstances, one would wish and expect that many of the kinds of services the LOGCAP contract provides on a cost-reimbursable basis – such as serving meals – would be performed on a fixed-price or fixed-price per unit basis. Fixed-price contracts provide greater incentive for cost-control than cost-reimbursement ones. Unfortunately, it is often impossible to provide these services in a war zone on a fixed-priced basis, because of unknown security costs and other issues. This means that there is inherently less incentive for cost-control than in with fixed-price contracting. It should be noted, however, that, contrary to some press accounts, costs plus a percentage of cost contracts are illegal once a contract is definitized – a fixed fee is established based on the expected contract value, which may be supplemented by incentives that include cost-control performance. Thus, it is not the case that a contractor would make a higher profit, the higher their costs are. Indeed, in a cost plus fixed fee environment, the lower the

contractor's costs, the higher the profit as a percentage of sales and the higher the return on investment. Furthermore, were the operation performed in-house, it would also be on a cost basis with in-house employees, so there would be no greater incentive for cost control there either. However, as I understand it, the Defense Department has often been slow to definitize contracts, and until definitization occurs, contracts can take on a cost-plus-percentage-of-cost element. The Committee should therefore, in my view, encourage the Defense Department to move promptly to definitize cost-reimbursement contracts.

Third, there has been some discussion of whether more of the Iraq task order contracts should be multiple-award rather than single-award contracts. A statutory preference for multiple-award contracts when an agency awards task order contracts was established, with bipartisan support, in the Federal Acquisition Streamlining Act of 1994. That was an excellent provision, because it allows combining competition, quality, and timely service. I believe this principle should be applied to the maximum feasible extent in Iraq, but there is a difficulty that needs to be kept in mind. Say a multiple award contract is given to two large information technology companies in Washington. With many hundreds of employees and many local contracts active at any one moment, they can bid on new tasks based on people they expect to be available if they win the task, without taking them off other work. In Iraq, by contrast, the risk would be that employees of companies competing for tasks might not have other work to do when they don't win a task, and they might simply end up waiting around doing nothing. This would have a big impact on prices contractors would need to bid, and might vitiate the advantages of multiple award competitions.

I present these general remarks for the Committee's consideration. But the main topic I wish to talk about today is how the oversight being conducted on Iraqi contracting – including not just Halliburton but also, for example, out-of-scope task orders for interrogators awarded under GSA IT services schedules – should be conducted in the context of the ongoing efforts over the past decade to improve the ability of our procurement system to deliver the best value to agency missions and taxpayers.

I would like to present a number of vignettes, that members of the Committee might initially think have nothing to do with oversight of Iraqi contracting. I ask you to listen anyway, because in I believe there is an important connection.

Recently, I was teaching in an executive education program at the Kennedy School for GS-15 level (and uniformed equivalent) federal managers. During a class discussion of public-sector performance measurement, a woman from the Defense Logistics Agency spoke about how her organization had used performance measures as a tool in their effort to re-orient the agency towards a greater results-orientation and customer focus. Having listened to her account, another participant across the room raised his hand to identify himself as a customer of the Defense Department supply system. He had noticed the difference. The system was serving him better, he said.

The customer was a wing commander at Minot Air Force Base in North Dakota. He is not in acquisition or contracting. He flies planes (currently, B-52s to be precise).

I pursued the wing commander's in-class observation over lunch one day after class. "There has been a cultural change in the supply system that serves us," he told me. "People are more motivated to do the right thing and to make things happen. Before, we were stovepipes. It used to be that if we had a supply problem, we filled out a form.

Now, if we have a problem, a supply technician or supervisor can pick up the phone and reach a person at the Air Logistics Center who's responsible for us. When I pick up the phone, I don't feel like I'm bothering them. I feel they are there to solve the problem."

"Routine supply functions better than it used to. Our suppliers have worked hard to improve their processes and culture so they serve our Air Force better. Also, we get problems and issues resolved faster, both with the Air Logistics Center and with suppliers. When we're deployed, we have the same phone number to call. The last time I was deployed, we were able to maintain a higher number of mission-capable aircraft available than we used to."

Were there other ways the supply chain had become more responsive, I asked him? "Now we can update our planes with new technology much faster than previously. The Air Force recently added a new radio to the B-52 – we chose what we wanted; the Systems Program Office approved the contract modification and tested its compatibility quickly; then we used it in combat – well before it could have been fielded under the old system. We're currently integrating a new laser pod into the B-52's very quickly, in much the same way. This is important, because we have to have the ability to modify our systems faster to better enable us to dominate emerging threats."

Another vignette: I recently had breakfast with a long-time career information technology official in the Bureau of Labor Statistics, now working in the private sector. He asked me whether the procurement reforms he had experienced in the last years of his government career were still in place. I told him they were, but they were under challenge. "Too bad," he said, and then gave me a feel for his experience of the procurement system prior to the changes of the past decade.

“I was program manager for an IT contract in the late eighties, and the vendor was doing a terrible job. I went to the assistant commissioner and asked that we terminate the contract. ‘Don’t even try,’ I was told. ‘If we terminate this contractor, it will take two years for us to award a new contract, and then another six months for a bid protest. Just make do.’”

A recent study by two Kennedy School students of the satisfaction of the government customer with vendor performance on IT contracts shows an average satisfaction level of 9.4 on a 1-10 scale, compared with an average satisfaction level of 6.9 on the same scale in the late 1980’s that I had found in research I did then.

What’s the connection between these vignettes and oversight of Iraqi contracting?

The answer is that each of these vignettes illustrates how we are doing a better job than before focusing the procurement system on its primary goal – to deliver best-value products and services to our agencies and for the taxpayer. We have been engaged over the past decade, largely in a bipartisan way, to change the focus of the procurement system from simply avoiding doing bad things to trying to accomplish good things.

What’s the distinction? Let me illustrate with an example from the career of a member of Congress. Congress has established, and rightly so, a number of ethical standards governing the behavior of members. We expect members to abide by these standards, and we punish members who do not.

But imagine a member who spends a 20-year career in Congress and, having no legislative achievements to his or her credit, is able only to say: I have obeyed all the ethical rules of the House.

That member has done nothing wrong. But the member has failed to accomplish anything. Few of us would judge such a career to have been a success.

Similarly, we establish ethical standards for contractors and government officials in the procurement system. Contractors shouldn't cheat the government. Government officials should observe rules about awarding only work within a contract's scope.

But a contractor can have a spotless record of never having overbilled the government or cheated the government in any way – and still have performed poorly on the substantive work of the contract.

A government official can have a spotless record of never having violated the procurement rules – and still have awarded contracts that require the contractor to do silly things, or done a poor job giving contracts to contractors most likely to perform well, or failed to provide a good incentive structure to encourage good performance, or been so insensitive to mission needs that contracts have taken years to award.

Traditionally, our procurement system was far more oriented towards preventing contractors and government officials from doing the wrong thing than in encouraging them to do the right thing. Indeed, we did little to orient our contracting workforce to the need to be sensitive to program customers and mission needs at all.

The thrust of the efforts we have been making for the last decade to improve the procurement system has been to redirect procurement towards satisfying mission needs, and to get out the message that the job of government contracting officials is not done when they have complied with, and assured that others have complied with, the rules. Rather, we expect them to use their brains to think of innovative ways to serve agency missions and taxpayers.

I present this history because experienced contracting people remember the old days when their job consisted mostly of policing government program officials and contractors to make sure nobody did anything wrong. Given this history, it would be very easy for our procurement workforce to get the message from the headlines that we want them to go back to that focus.

I know that no member of this Committee has that intention. Conducting contracting oversight of such a high-visibility effort is a duty of this Committee. And I know that a number of members of this Committee are advocates of the federal workforce – including Chairman Davis and Congressman Waxman, who are co-chairs of the Congressional Public Service Caucus. But I wish to call the attention of members of the Committee to potentially unintended consequences of your efforts. I believe that the various headlines about Iraqi contracting have demoralized and even terrorized many in our government contracting workforce. Though you don't intend it, they are getting the message that you want them to spend all their time preventing every last ounce of wrongdoing, that there is no downside to saying "no" and to requesting another review, even if this significantly delays the ability to accomplish the mission. They are getting the message that you want them to go back to the old days.

What can you do to counteract this unintended message? I would make a number of suggestions. First, I would repeat over and over again to the contracting workforce -- and to contractors -- that you believe their responsibility is to provide best value for the government and to give program customers timely service, while obeying the rules. I would applaud the efforts to provide mission support and emphasize that we should learn

from honest mistakes made in an effort to support the mission, not execute those who have made them.

Second, I would urge this Committee to hold a hearing – perhaps working with the nonpartisan Council for Excellence in Government and the Partnership for Public Service -- on the topic of innovative business solutions in government contracting, focusing on and celebrating efforts to develop creative ways to get better value from contracting. Bring in some career civil servants who have come up with new ways to serve the public interest, and try through your hearing to help such innovative practices spread. I am not naïve enough to believe there will be any television cameras at such a hearing. But I would hope there would be significant attendance by members of this Committee, in the best tradition of this Committee's mandate to work for good government.

Thank you for your attention.