

RECORD VERSION

STATEMENT BY

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BEFORE THE

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES**

**ON HOW CONVICTS AND CON ARTISTS RECEIVE
NEW FEDERAL CONTRACTS**

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Introduction

Chairman Towns, Congressman Issa, and distinguished members of the Committee on Oversight and Government Reform: Thank you for this opportunity to appear before you to discuss the report by the Government Accountability Office (GAO) on the Excluded Parties List System. It is my privilege to represent senior Army leadership, the military and civilian members of the Army acquisition workforce, and, most importantly, our warfighters who rely on us to provide them with weapon systems, equipment, training, and essential services to enable mission success.

Army contracting makes up some 40 percent of total Army budget expenditures. Since assuming my duties and responsibilities in December 2008, I have looked carefully at the size, structure, and training of the Army's contracting workforce. My concern is that the acquisition workforce, of which contracting officers are a critical part, has declined significantly in the last decade while the number of dollars that we are executing from a contract perspective has more than doubled. The number of large-dollar contracting actions in the Army has increased by more than 80 percent. The Army, with the help of Members of Congress and the Office of the Secretary of Defense, is making steady and significant forward progress to address these workforce/workload issues for "expeditionary" contracting operations, highlighted by a special commission chartered by Secretary of the Army Pete Geren in August 2007. These actions are based on recommendations contained in the report, *"Urgent Reform Required: Army*

Expeditionary Contracting,” dated October 31, 2007, by Dr. Jacques Gansler and Members of the Commission on Army Acquisition and Program Management in Expeditionary Operations.

While taking actions to improve contracting in “expeditionary” operations, the Army is also improving our “institutional” contracting functions. This holistic focus on Army contracting across the board is ensuring we attract and retain additional military and civilian contracting professionals, as well as provide them with career development opportunities and the proper training and tools required to meet the increasingly complex demands being placed on them. The appropriation of funds under Section 852 of the Fiscal Year 2008 National Defense Authorization Act has enabled the Army to begin hiring 260 additional contracting interns to foster improvements in contract execution and management, and we thank Congress for this action.

Excluded Parties List System

The Excluded Parties List System (EPLS) is an essential tool for our contracting teams. EPLS provides a single comprehensive list of individuals and firms excluded from receiving Federal contracts or federally approved subcontracts (and from certain types of Federal financial and nonfinancial assistance and benefits). The Federal Acquisition Regulation (FAR) requires contracting officers to review EPLS after the opening of bids or receipt of proposals and again immediately prior to award to ensure that no award is made to a listed contractor. As a result of the findings by GAO, I released a policy alert to contracting offices Army-wide that re-emphasizes the requirement to use EPLS.

Regarding Army usage of EPLS, it is clear that mistakes were made in the 2006-2007 period reviewed by the GAO. Contracting officers have awarded contracts or orders to a suspended or debarred firm because EPLS was not checked. Upon learning of these errors, the U.S. Army took immediate action to retrain these contracting officers and implement changes in local procedures. A recent Headquarters, Department of the Army-level Procurement Management Review – in which a random sample of contract files are examined for completeness and regulatory compliance – showed a significant improvement in Fiscal Year 2009 (96 percent) over a similar period in Fiscal Year 2008 (53 percent). We find this very encouraging yet will continue to assess compliance and emphasize the requirement to use EPLS. The Army is committed to continuously improving contracting practices in expeditionary operations and across the force.

The U.S. Army is concerned about the efficiency and effectiveness of EPLS. Our contracting professionals experience difficulty using EPLS; contracting officers cannot be completely confident that they have adequately searched for the people, firms, and subsidiaries to which they award contracts. With regard to automated purchasing and contract writing, we have no systems that interact with EPLS to prevent award of a contract to a suspended or debarred firm.

We have initiated a proposal for development of an automated function establishing connectivity between EPLS and the DoD's contract writing system – the Standard Procurement System (SPS). Additionally, in March 2010, the Central Contractor Registration (CCR) System will electronically interface with EPLS which will provide an added safeguard. Firms registered in CCR, a requirement for all DoD

contractors, will be flagged if listed in EPLS. Contracting specialists will see this flag in CCR without having to search ELPS for it.

Other improvements worthy of action include:

- (1) Expanded access to Dun and Bradstreet (D&B) financial reports, with web linkage in EPLS to a suspended firm's D&B financial reports and listing of all of a firm's subsidiaries and affiliates by the D&B Data Universal Numbering System (DUNS) numbers;
- (2) Better definition of and linkage between a firm's corporate structure, DUNS numbers, and Contractor and Government Entity (CAGE) codes with the CAGE codes being carefully maintained; and
- (3) Electronic linkage to the U.S. Department of Treasury's Office of Foreign Assets Control "Specially Designated Nationals" list and the U.S. Department of Commerce's Bureau of Industry and Security "entity list," with full integration in EPLS for access to both at a single web location.

Conclusion

Our Nation fields the best led, best trained, and best equipped Army in our history. Our Army will remain ever vigilant to meet the needs of our warfighters, with the urgency demanded by the life and death situations they face every day and around the clock. As they superbly execute the Global War on Terror, our Warfighters' success is linked directly to the success of our contracting workforce.

As stewards of the taxpayers' dollars, the Army is doing a better job of managing and documenting contractor performance. With contracts, whether in Iraq, Afghanistan,

the United States, or elsewhere in the world, representing an ever-increasing percentage of our overall contract dollars, greater emphasis is rightfully being placed on their management and oversight. This includes documenting the contractor's performance in accordance with policy.

I look forward to your questions and thank you for the opportunity to address the Members of this Committee.