



PROFESSIONAL SERVICES COUNCIL

The Unified Voice of the Government Services Industry

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STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON NATIONAL SECURITY AND
FOREIGN AFFAIRS
COMMITTEE ON OVERSIGHT AND GOVERNMENT
REFORM
U.S. HOUSE OF REPRESENTATIVES

JUNE 10, 2009

Mr. Chairman, Ranking Member Flake, and members of the subcommittee, thank you for your invitation to appear before the subcommittee today to discuss the work and the interim report of the congressionally-established, bipartisan, Commission on Wartime Contracting, created by Section 841 of the Fiscal Year 2008 National Defense Authorization Act.

Introduction

The Professional Services Council (PSC) is the leading national trade association of the government professional and technical services industry. PSC's more than 330 member companies represent small, medium and large businesses that provide federal agencies with services of all kinds, including information technology, engineering, logistics, facilities management, operations and maintenance, consulting, international development, scientific, social and environmental services, and more. Together, the association's members employ hundreds of thousands of Americans in all fifty states.

Our members also employ thousands of Americans and other nationals supporting the missions of the U.S. government around the globe. Many of our member companies were, or remain, active in Iraq and Afghanistan, supporting the work not only of the Defense and State Departments, but also the Agency for International Development, Environmental Protection Agency, Justice Department and others.

PSC Has Been Actively Engaged on Wartime Contracting Issues

We have been actively engaged in the policy issues relating to the federal government's contracting in Iraq since the first days of "shock and awe." Beyond the innumerable internal member company meetings and discussions with federal officials, we testified before the Senate and before this committee on three separate occasions during the past four years—twice at hearings which were chaired by the distinguished Vice Chairman of the Commission, Mr. Shays, when he was in the House of Representatives. We submitted comments on relevant legislation, participated extensively in the comprehensive "lessons learned" projects conducted by the Special Inspector General for Iraq Reconstruction (SIGIR) and the Government Accountability Office, and, in 2005, conducted a formal joint "lessons learned" review with the Commanding General of the Army Materiel Command. We have submitted extensive comments on numerous proposed and interim government-wide Federal Acquisition Regulations and specific agency acquisition regulation supplements issued by the Defense Department, the State Department, and the Agency for International Development. Occasionally, we have filed amicus briefs in the federal courts on important legal policy matters relating to the role of contractors supporting deployed operations. PSC has also met with some of the commissioners on this commission and with its staff over the past several months.

Mr. Chairman, PSC did not support the early initiatives to create the commission because the legislation and the statements of some of the key sponsors left us with the clear impression that the role of the commission was primarily to continue some of the "contractor bashing" that had been the hallmark of several congressional hearings and reviews. Fortunately, the final version of the legislation that passed the Congress and was signed by the president established a broader mission for a comprehensive review of federal agency contracting for reconstruction, logistical support of coalition forces and security functions in Iraq and Afghanistan. The law also directs the commission to assess seven specific topics within these three general tasks.

The statute also directs the commission to submit an interim report on its actions within one year of its formation and to issue a final report within two years of its formation.

We know the commissioners appointed to conduct this review and have had the opportunity to work professionally with many of them in the past. Similarly, we have worked professionally with many of the senior commission staff. Each and every individual brings an expertise and perspective to these significant tasks.

We have also had the opportunity to work professionally with many of the key federal agencies involved in developing the requirements for Iraq and in awarding and monitoring the contracts. We have worked with the oversight activities, including the SIGIR. We appreciate the challenges they have faced and the commitments they have shown to fulfill the government's mission.

We have also been privileged to work with dozens of companies and hundreds of executives from across our membership and industry that put their companies and their employees "on the line" every day to further the U.S. government's missions and objectives. Regrettably, too many members of the military, government civilian employees, and contractor employees—both U.S. citizens as well as third country nationals—have given their lives in that support.

We recognize that there are bad actors in every field, and there are some in federal procurement. Today, dozens of government employees and military personnel are either under indictment or investigation. Likewise, there are contractor employees who have also committed illegal acts. In any set of missions like this, regardless of the presence or lack of contractor personnel, where the needs are urgent and the dollars both massive and rapidly flowing, there will regrettably be abuses. There is no excuse for anyone, be they a member of the military, a government employee, a contractor or a political leader, to intentionally abuse the system; they are responsible for their behaviors and should be held fully accountable for their actions. But overall, there is no question, as evidenced by the several objective reviews, that the vast majority of contractors, government and military personnel have not only acted honorably, but courageously in the execution of this difficult and dangerous missions. And overall, there is no question that our industry, working in partnership with our government customers, is playing an important and positive role in helping government agencies meet their international and domestic missions, while bringing quality jobs to our nation's workforce. That's a "win-win" scenario but one that doesn't often make it into press releases or news stories.

Iraq "Realities"

Mr. Chairman, Congress has appropriated over \$800 billion to fund activities in Iraq and Afghanistan. I can say without fear of contradiction that the issues in Iraq and Afghanistan contracting are among the most complex ever experienced and are interrelated and interdependent among numerous (and often changing) government-directed missions, activities and priorities. While it is possible—and certainly easier—to be selective in the issues chosen for review, the value of any analysis of the current or past government or contractor activities, in Iraq in particular, must take into account several sets of "realities."

First, Iraq contracting is not one activity. It must be segmented into three very different subsets: (1) the support of the military and military-related activities; (2) the reconstruction of Iraq; and (3) the economic and developmental assistance provided in Iraq and Afghanistan.

Second, we must look at various timeframes for our nation's efforts in Iraq. The initial military actions through the fall of the Saddam regime presented a very different set of on-the-ground actions from the work undertaken by the Coalition Provisional Authority, and different still from the more recent, rapidly changing, physical security environment and new sets of contracting directives and policies, some initiated by Congress, but undertaken individually by the Defense Department, the State Department, CENTCOM and the Joint Contracting Command (JCC-I/A).

The final set of realities is what I refer to as "situational contracting." To truly understand the nature of the contracting activities in Iraq, it is essential to understand the differences between emergency contracting during heightened military action; "contingency" contracting during heightened physical security challenges; and the longer-term "sustainment" contracting that could characterize the situation today. It would be a mistake to select any subset of acquisition regulations that are written for "normal" contracting and expect procedural perfection when they are applied in a wartime environment.

To the extent that fraud occurred; some government and contractor employees have been successfully prosecuted for that fraud as others are found to have broken the law, they should be prosecuted to the fullest extent of the law. Unquestionably there have been resources—including precious U.S. funds—wasted on projects that were never completed or supplies or services ordered but never used as mission needs have changed.

Known Limitations

We have known from almost the outset of the conflict that there were too few trained government acquisition professionals assigned to support the rapidly escalating U.S. operations in Iraq, the significant growth in the number of contracts, and the number of contractor employees deployed into the theater. We have known from almost the outset of the conflict that many of the contractors that were awarded business in that theater of operation were overwhelmed by the rapidly changing magnitude of the work and the pressures put on their "standard" business operations while responding to wartime requirements.

It comes as no surprise to many of us in the private sector, or in the government, who have been watching and commenting on these activities for some time—and I would hope it would not be a surprise to anyone in government who had any responsibility for any part of these activities—that the lack of contracting officers deployed into the theater, the lack of qualified contracting officer representatives assigned to supervise contractors, the lack of State Department diplomatic security billets to provide oversight of non-military security, or the lack of government program management or technical skills, diminished the government's ability to manage and oversee capabilities.

Commission's Interim Report

The June 8 *Associated Press* story reporting on the commission's interim report cited a few examples that have occurred in the past twelve months. On the one hand, it is regrettable that

some of the concerns that have existed for years continue to plague the on-going efforts in Iraq and Afghanistan. Other examples cited relate to issues that have been known for some time, but there is no indication whether these activities are continuing or have been (or will be) addressed through government actions taken since the issues were first highlighted.

As we reviewed those elements of the interim report that did find their way into the public domain prior to today, we were struck by the fact that the examples cited did not, in fact, speak to abuse or fraud. Rather, they spoke to the structural challenges that are all too well known. For example, the building of a base at significant cost to the government, despite questions as to the need for that base, is not a case of contractor or government fraud or misconduct. As the commission notes, the base was completed and the work done well. It is only because the government customer failed to issue stop work orders when it became apparent that the requirement no longer existed that this construction is cited as a waste of funds. This is certainly regrettable, but it should not be lumped in with allegations of fraud and abuse. Similarly, as the commission continues its work, we hope that it will use its unique opportunity to set the public record straight on highly publicized—at times tragic—events and demystify the emotions and perceptions that at times overwhelm the facts.

Finally, the Wartime Contracting Commission held only two public hearings, and in both cases only government officials were invited to testify. There are, however, numerous other perspectives that must be heard from in order to ensure a balanced and objective review and report. The commission has identified several additional hearing topics they plan to examine and we hope that they will aggressively seek out a wide range of interests—from both government and the private sector—to present oral and written testimony to the commission. The Professional Services Council stands ready to contribute further to the commission in any way appropriate. In the meantime, the “interim report” should not be treated as a final or conclusive document. Indeed, the need for additional inputs and discussion for the final report is clear and is essential.

In addition, we would hope that the commission’s future hearings, and its final report, would address the root causes for these issues, explain the reasons and the implications for such activities, and develop action plans to minimize future occurrences. Any recommendations presented to and by the commission must be assessed against congressional or administration-directed priorities and actions, against the ability of the government and its contractors to realistically execute those recommendations, and whether a recommendation will result in systemic improvements to the acquisition system for both the current Iraq and Afghanistan operations and for future contingency operations.

Congress should expect no less. The men and women who have already served in Iraq and Afghanistan, and those who will serve there or elsewhere in the future supporting the United States government’s missions, deserve no less.

Thank you for the invitation to provide these views. I would be happy to answer any questions the subcommittee may have.

STATEMENT REQUIRED BY HOUSE RULES

In compliance with House Rules and the request of the committee, in the current fiscal year or in the two previous fiscal years, neither I nor the Professional Services Council, a non-profit 501(c)(6) corporation, has received any federal grant, sub-grant, contract or subcontract from any federal agency.

BIOGRAPHY

Alan Chvotkin is Executive Vice President and Counsel of the Professional Services Council, the principal national trade association representing the professional and technical services industry. PSC is known for its leadership in the full range of acquisition, procurement, outsourcing and privatization issues.

Mr. Chvotkin joined PSC in November 2001. He draws on his years of government and private sector procurement and business experience to facilitate congressional and executive branch knowledge of and interest in issues facing PSC's membership. Previously, he was the AT&T vice president, large procurements and state and local government markets, responsible for managing key AT&T programs and opportunities. Earlier at AT&T, he was vice president, business management, responsible for the government contracts, pricing, compliance and proposal development organizations. From 1986 to 1995, he was corporate director of government relations and senior counsel at Sundstrand Corporation. Mr. Chvotkin also was a founding member of industry's Acquisition Reform Working Group.

Before joining Sundstrand, Mr. Chvotkin spent more than a dozen years working for the U.S. Senate. He first served as professional staff to the Senate Budget Committee and to the Senate Governmental Affairs Committee. He became counsel and staff director to the Senate Small Business Committee and then counsel to the Senate Armed Services Committee.

He is a member of the Supreme Court, American and District of Columbia Bar Associations. He is also a member of the National Contract Management Association and serves on its national board of advisors and as a "Fellow" of the organization. Alan is also a two-time "Fed 100" winner. He has a law degree from The American University's Washington College of Law, a master's in public administration and a bachelor's in political science.