

Senate Democratic Policy Committee Hearing

“An Oversight Hearing on Iraq Contracting Abuses”

September 10, 2004

Hearing Transcript

Witnesses:

Sheryl Tappan, Former Bechtel Proposals Manager

Marie deYoung, Former KBR Employee

Steve Schooner, Co-Director, Government Procurement Law Program, George Washington University Law School

Larry Allen, Executive Vice President, Coalition For Government Procurement

Danielle Brian, Executive Director, Project On Government Oversight

SEN. DORGAN: I'm going to call this hearing to order this morning. I'm Senator Dorgan, the chairman of the Democratic Policy Committee. I'm joined by Senator Lautenberg. And we will be joined as well by other members of Congress in a few moments, but I do want to begin the hearing.

Let me say, first of all, that I think there has been a pathetic record on the part of this Congress in dealing with oversight, that is especially oversight of contracting that has occurred in Iraq and in the region.

At least six of our colleagues here in the United States Senate alone have requested of their committees of jurisdiction to hold oversight hearings on these issues of contracting abuses, and yet there is silence from the committees. So if they will not hold oversight hearings, we will hold oversight hearings. This is a third in a series of those hearings.

This is not designed exclusively to talk about Halliburton, but you cannot avoid talking about Halliburton when you talk about contracting abuses. Why? Well, let me give you some headlines.

February 3rd, 2004, Houston Chronicle, headline: "Uncle Sam Looks into Meal Bills: Halliburton Refunds \$27 Million as a Result."

Most of you know this story: The taxpayers are being charged for 42,000 meals a day and Halliburton was serving only 14,000 meals a day.

Houston Chronicle, February 4th, the very next day, headline: "Halliburton Faces Criminal Investigation: Pentagon Proving Alleged Overcharges for Iraq Fuel."

February 13th, Los Angeles Times, "Ex-Halliburton Workers Allege Rampant Waste: They say the Firm Makes no Effort to Control Costs."

May 18th, headline: "U.S. Questions More Halliburton Meal Charges."

July 27th, "Millions in U.S. Property Lost in Iraq, Report Says; Halliburton Claims Figures Only Projections."

August 12th, Los Angeles Times, "Halliburton Unable to Prove \$1.8 Billion in Work, the Pentagon Says."

Again, my point is not just to focus on Halliburton. There are some other headlines, as well. But my point is to say that the contracting abuses that have now occurred and perhaps are occurring -- likely are occurring in Iraq and in that region are bilking the American taxpayers. And yet there's almost no oversight on the part of this Congress. Why?

This Congress has the responsibility to provide oversight into how the taxpayers' money is being spent. And I, for one, take a look at these headlines and at the testimony at the previous two hearings and wonder how those in Congress who refuse to hold hearings can justify that to the American taxpayers.

Now, let me quote a young congressman from Illinois who spoke in August of 1966 on the floor of the U.S. House of Representatives. His name was Donald Rumsfeld, the congressman from Illinois.

He delivered a passionate speech about a contract for the construction of airfields in South Vietnam. The work had been awarded largely to a company called Brown & Root amid charges of cronyism.

Here's what then-Congressman Rumsfeld had to say, quote: "The potential for waste and profiteering under such a contract is substantial," unquote. Quote, "It's beyond me why the contract has not been and is not now being adequately audited."

Look, the point is taxpayers deserve accountability. We're not getting it.

We've had testimony here about 50,000 pounds of nails laying on a ground because whoever ordered the nails ordered the wrong size, so two tons of nails just dumped on the ground.

These towels, price inflated, because the KBR wanted their initials on them -- the monogram on them. So American taxpayers paid more as a result for these towels.

And the list goes on and on and on.

SEN. DORGAN: Now, following the last hearing, the head of Halliburton wrote a piece for The Washington Post, which The Washington Post dutifully put on the op-ed page. And he said that this all could have been resolved with one call to the company just to clear up these misstatements.

So we've made that call to the company and asked him to be here today to explain this, he was concerned that he wasn't given the opportunity to respond. He's chosen not to be here today, but he was certainly invited, and I would have loved to have heard directly from him about the specific allegations.

With or without Mr. Lesar's testimony, we'll hear from witnesses today, some of whom have firsthand knowledge about contracting abuses in Iraq. And we'll also hear from experts who can try to put this into a broader context.

This is, in my judgment, about a profound waste of the taxpayer's money. Why? Because the way the contracting has occurred in many of these areas is with large sole-source contracts to companies whose employees have testified before this committee and said that their supervisor said,

"This isn't about saving money, this isn't about being efficient; whatever you spend will get covered by the U.S. taxpayers."

Profligate waste, that's what we're talking about here. Why is it that no committee in this Congress -- even after a request by half a dozen of my colleagues from oversight hearings, no committee here in the Senate has seen fit to hold an oversight hearing on these issues? They won't, so we will.

And we are pleased very much that the witnesses have joined us today.

Let me call on my colleague, Senator Lautenberg.

SEN. LAUTENBERG: Thank you very much, Mr. Chairman.

In this Senate, as you've appropriately described, it has been difficult, if not impossible, to get the committee's attention, at least the committee I sit on, the Government Affairs Committee, where I requested in writing three times a hearing on Halliburton's conduct and the relationship of Halliburton to no-bid, non-compete contracts.

SEN. LAUTENBERG: And we couldn't get a response even though we did a lot of work on diploma mills and credit card charges, excessive charges, but Halliburton didn't seem to be the subject, a subject that we could spend any time on.

So I commend you, Mr. Chairman, because the necessity is there to let the American people know what's been taking place.

Halliburton's multi-billion dollar contracts with the federal government for work in Iraq may go down in history as the most scandal-plagued on the records. It seems to me that maybe Halliburton's conduct was a precursor for some of the disgraceful corporate conduct that we've seen in the private sector. If you can beat the government, maybe you can beat the stockholders out of their share values and take advantage of the public.

But we are seeing an alliance here, cover-up, frankly, from this Congress. We here have been lax in our effort to get any attention to these scandalous results.

There have been so many outrageous events that I produced a report called "Ten Halliburton Scandals, \$10 Billion, Zero Senate Hearings." And my report is available at this hearing.

Today, we're going to hear about some of the outrageous abuses by Halliburton. Many involve what is known as LOGCAP contracts. LOGCAP is a cost-plus contract so that Halliburton gets reimbursed for their spending plus a calculated percentage of profit.

In my view, it's a sweetheart arrangement by the Bush-Cheney administration for Halliburton and it's a rip-off of the taxpayers.

SEN. LAUTENBERG: And here's one example, this can of Coca-Cola -- and you see there's an Arabic inscription on here. Cases of this soda are available for \$7 in markets in Kuwait, but KBR, the Halliburton subsidiary, was paying \$45 per case, \$1.50 a can. And the list of scandals goes on and on.

Overcharging taxpayers by \$27.4 million for meals for our troops. Overcharging the Army by \$61 million for gasoline delivered to Iraq. The no-bid contract issued to Halliburton, it ballooned from \$50 million for fire extinguishing to \$2.5 billion. Kickbacks to Halliburton employees for subcontracts in Kuwait, bribes to officials in Nigeria totaling \$180 million. Allegations of human

trafficking by Indian workers who say they were tricked by KBR into going to Iraq to work in unsanitary conditions.

Misleading accounting practices, under CEO Dick Cheney in 1998 they caused the SEC to recently fine Halliburton \$7.5 million.

And in my view, worst of all is that with all of this going on, Vice President Cheney maintains a continuing financial interest in Halliburton.

On September the 14, 2003, Dick Cheney was asked about his relationship with Halliburton and the no-bid contract that was on the program "Meet the Press," and I heard Dick Cheney tell Tim Russert that, and I quote him here, "I've severed all of my ties with the company, got rid of all my financial interests. I have no financial interest in Halliburton of any kind and haven't had now for over three years."

The problem with that statement is that Dick Cheney still holds 433,000 unexercised Halliburton stock options. And the majority of these options extend the exercise date to 2009, all through the period that whatever happens in this next election would have gone way past those dates.

Additionally, Vice President Cheney continues to receive deferred salary from Halliburton, including more than \$170,000 in the year 2003.

The vice president's actions are unethical, inappropriate, morally wrong and this Senate's approach of hear no evil, see no evil, speak no evil of Halliburton is, in my view, a shameful dereliction of duty.

And, Mr. Chairman, once again I commend you for calling us together to try to get this message out to the public at large.

SEN. DORGAN: Senator Lautenberg, thank you very much.

We've been joined by Senator Durbin.

Senator Durbin?

SEN. DURBIN: Thank you very much, Senator Dorgan, for your leadership in bringing us together.

My colleague Senator Lautenberg has been outspoken in his leadership on this issue, matched or surpassed only by our colleague Congressman Henry Waxman, who comes to us today. And I'm glad that he'll have a moment to join us in this hearing, because he's done extraordinary work in urging that we take a careful look at what has happened with Halliburton contracts in Iraq.

The war in Iraq has exposed flaws in the system of contracting and raised serious questions about cost-plus contracts. Halliburton's been the focus of much of this controversy, not because of some political vendetta, but because of the sheer size of \$11.4 billion in contracts one company has received for its work in Iraq and Afghanistan. It's the focus because of the sheer size of the allegations of waste, fraud and mismanagement.

Defense contract audit agency reports that 42 percent of the total proposed value of the Logistic Civil Augmentation Program, or LOGCAP, task orders given to KBR, a Halliburton subsidiary, were unsupported. That means that the auditing agency found that KBR has not provided support to justify \$1.8 billion of the \$4.3 billion tab that it's handed to the federal government.

We've heard about the \$45 cases of soft drinks; the \$27 million for meals that Halliburton charged the government, but never served our troops; the luxury hotels in Kuwait Halliburton employees stayed in, despite the Pentagon's request that they move to less plush accommodations; the \$61 million in overcharges for gasoline to the American government and American taxpayers.

Today we're going to hear about a process by which Halliburton secured some of these billion-dollar contracts, a process that seems deliberately designed to handicap other bidders and ensure Halliburton's success.

These charges certainly seem to make a convincing case that the government needs to be considering debarment or suspension of Halliburton for the egregious misuse of taxpayers' dollars and violations of taxpayers' and soldiers' trust.

This hearing is about more than just Halliburton, though. It's about the United States Congress. Where are we?

For God's sake. At this point, in this struggle, with so much money that has been wasted and misused, you have not heard the tiniest peep from the United States Congress even asking questions. We have abandoned oversight of this company and its contracts in Iraq and Afghanistan.

And why? For the obvious reason: because it would be an embarrassment to the former CEO of Halliburton, Dick Cheney. And that's why not one Republican leader on Capitol Hill will step forward and call for a bipartisan investigation of this terrible abuse and fraud.

But in the past, things have been different. If you look back to the World War II situation, a Senate special committee was modeled after the highly successful Truman committee. Senator Harry Truman, then a Democrat from Missouri with oversight of a Democratic administration, Franklin Roosevelt's administration, decided it was time to take a look at the contracting for World War II.

Here's what he said on the floor of the Senate in 1941: "I'm calling the attention of the Senate to these things because I believe most sincerely they need looking into. I consider public funds to be sacred funds," Harry Truman said. "And I think they ought to have every safeguard possible to prevent their being misused or mishandled."

He continued: "I think the Senate ought to create a special committee with authority to examine every contract that has been let."

Let me remind you, this is a Democratic senator, Harry Truman, speaking of a Democratic administration, Franklin Roosevelt.

SEN. DURBIN: He went on to say: "This committee should have the authority to find out if the rumors rife in this city have any foundation in fact. I have had considerable experience in letting public contracts and I have never yet found a contractor who, if not watched, would not leave the government holding the bag. We are not doing him a favor if we don't watch him."

I will be introducing legislation later this week to create a new Truman committee, a special Senate committee to oversee contracting relating to the wars in Afghanistan, in Iraq and the war on terrorism. I sincerely hope that one Republican senator, just one, will step forward to co-sponsor this legislation so that we can truly have a bipartisan investigation of these terrible abuses.

But today we'll make progress because of the great witnesses who've joined us and I thank Senator Dorgan for convening this meeting.

SEN. DORGAN: Senator Durbin, thank you very much.

And Congressman Waxman has done groundbreaking work on these issues in the U.S. House of Representatives.

All of us have watched your work, Congressman, with administration. We're pleased that you've joined us today.

REP. WAXMAN: Thank you very much, Senator Dorgan, for allowing me to join with you. And Senator Durbin and Lautenberg, all three of you have been very assiduous in your insistence that Congress do its job of oversight on the reconstruction efforts in Iraq and how our troops are being supplied to fight these wars.

And we need to do more congressional oversight. And Senator Durbin's absolutely correct: We do the administration no favor when they're own party members who control the Congress fail to do the oversight work. Because it is only through the airing of these issues that an administration is kept from making so many errors, as this administration has done over and over again because they insist on operating in secrecy, without the opportunity for Congress to exercise oversight or the American people to know what they're doing.

As we look at reconstruction in Iraq, we end up focusing on Halliburton and it is not because Halliburton was once chaired, as CEO, by Dick Cheney. It's because Halliburton has the two largest contracts for reconstruction in Iraq. They have a \$2.5 billion contract to restore Iraq's oil infrastructure and a \$6.5 billion work under LOGCAP contract to provide our troops with dining facilities, housing, laundry and other services. So there's no way you can understand what has gone wrong in the reconstruction of Iraq without examining Halliburton.

And there are two major questions on people's minds when Halliburton is raised, and that is has the administration given Halliburton special treatment and has Halliburton taken advantage of the war to overcharge the American taxpayers? That's what this hearing is seeking to explore.

The White House says that there has been no special treatment of Halliburton, but consider the facts. Last month, the career government auditors responsible for overseeing the Halliburton contract advised the Army to start withholding payments sought by Halliburton because the company could not justify its inflated prices.

Yet the administration refuses to act. Despite the recommendations of its own auditors, it has not yet withheld any payments. That's special treatment for Halliburton and a rotten deal for the taxpayers.

For over a year, the administration claim that the decision to choose Halliburton for a \$7 billion sole-source, no-bid contract for oil infrastructure work was made by career procurement officials.

REP. WAXMAN: We now know this simply wasn't true. A political appointee chose Halliburton, kept the vice president's chief of staff informed, and decided not to allow other companies to even submit a bid.

In fact, we will learn today that it was Bechtel, not Halliburton, that had the relevant experience. After the first Gulf War, Bechtel put out hundreds of oil well fires in Kuwait. Halliburton put out zero. Yet the Bush administration gave the contract to Halliburton, and didn't even allow Bechtel or other companies to compete.

Halliburton has taken full advantage of this special treatment. Over the past nine months, Pentagon auditors, the General Accounting Office and the Coalition Provisional Authority inspector general have repeatedly and consistently criticized multiple aspects of Halliburton's activities in Iraq.

These government audits have found widespread, systemic problems with almost every aspect of Halliburton's work, from cost estimation and billing systems to cost control and subcontract management.

Congressional testimony by former Halliburton employees, including Marie DeYoung, provides additional on-the-ground evidence of inflated and unjustified charges by Halliburton.

The findings of auditors and experiences of whistleblowers are now too numerous and compelling to be ignored. But that's what Congress is trying to do. Aside from these hearings called by Senator Dorgan, there have been no Senate hearings examining these issues. And the House has obstructed efforts to investigate the full extent of the vice president's role.

This is profoundly wrong. Inflated costs and a lack of competition don't just harm the taxpayer, they also threaten the morale, readiness and security of the men and women now serving in Iraq.

REP. WAXMAN: For the sake of the taxpayers, our troops and the future of Iraq, we need fundamental changes in our policies.

I'm pleased to join you for this hearing. And this is a very distinguished panel that has a lot to tell us about what's been going with Halliburton in the reconstruction efforts.

SEN. DORGAN: Congressman Waxman, thank you very much.

We have a very distinguished panel of witnesses today. And we will begin hearing them. We will begin with Sheryl Tappan.

Sheryl Tappan is a former Bechtel proposal manager. She's an independent consultant with 12 years of experience managing and writing proposals for U.S. government contracts, including nearly six years for Bechtel.

In early 2003, she was responsible for the proposal that won Bechtel the Iraq civil infrastructure reconstruction contract from USAID.

In the summer of 2003, she led Bechtel's proposal team in the Sons of RIO competition conducted by the Army Corps of Engineers, the competition the Pentagon had promised in order to give other contractors a chance at the billions of dollars of Restore Iraq Oil work secretly awarded to Halliburton's Kellogg Brown & Root subsidiary.

In April of 2004, Sheryl Tappan published her account of the Sons of RIO competition in a book, "Shock and Awe in Fort Worth: How the U.S. Army Rigged the 'Free and Open Competition' to Replace Halliburton's Sole-Source Oil Field Contract in Iraq."

Ms. Tappan has a B.A. from the University of California at Berkeley and an M.A. from San Francisco State University.

Sheryl Tappan, thank you very much for joining us. And you may proceed.

TAPPAN: Well, thank you for inviting me, Chairman Dorgan, members of the committee. Good morning.

As Senator Dorgan explained, I worked for Bechtel for nearly six years doing federal contracts, proposals that won billions of dollars of government work with the Defense Department, DOE and other federal agencies. And in the summer last year, I was leading the Bechtel proposal team in the competition, as Senator Dorgan said, for two new contracts to replace the big sole-source one, the Restore Iraqi Oil, or RIO, contract awarded that March.

In early August, I discovered that competition was, in a word, a sham, and Bechtel withdrew. But I've continued to follow the story very closely in the past year.

In my 12 years doing government proposals, I had never seen anything as arrogant, as egregious as the ways in which Pentagon officials, in particular Corps of Engineers contracting staff at the Fort Worth district, treated the bidders, how they ignored our federal laws and regulations and the procedures that I still believe normally ensure fair play.

I know the accusations I've made in my book and that I will make today are very serious. But they're based on hard evidence in official procurement documents, posted on the Web, by the Engineers' Fort Worth district, for the bidders and, in fact, the entire world to see.

I'll describe some of the evidence today which forced me to conclude that the Sons of RIO competition was a farce. I believe the only reason it was conducted was to keep the Pentagon's critics off its back. But first, I was asked to comment on what preceded the Sons of RIO competition.

As you know, like dominoes, three very lucrative assignments fell secretly into Halliburton's hands, the two LOGCAP task orders, the \$2 million for the planning of the firefighting and oil field work, \$65 million in February of last year for deploying firefighting equipment and personnel, both of these were out of scope. And then the \$7 billion sole-source RIO award.

TAPPAN: The Pentagon claimed Halliburton was best qualified because it extinguished 320 oil well fires in Kuwait, but, as pointed out, it was Bechtel, not Halliburton, who managed the entire 650 oil well firefighting efforts and the total oil field reconstruction program. And they did it in half the time experts said they would, which was widely reported.

The Pentagon could have had Bechtel services just as quickly as KBR's, because Bechtel had at least two federal contracts that could have been used just as easily as LOGCAP. Plus their scopes would have accommodated the work.

The Pentagon could have avoided any (inaudible) whatsoever for the Iraq oil work by simply having its own Defense Threat Reduction Agency compete the oil work, like the agency had done the planning and disposition for the WMD they expected to find in Iraq.

The agency competed that work among its five cooperative threat-reduction contractors, which included -- still include, Halliburton, Bechtel and Parsons.

I worked on that proposal in McLean at Bechtel's office. We had only one week to do that proposal, and the two winners were selected only a week or two later.

After the sole-source contract was revealed, the Pentagon promised to compete the non-emergency RIO work, and have new contractors in place by August of last year. In letters, General Flowers, head of the entire Corps, promised Representative Waxman, quote, "ample opportunity for competition of the overall requirements to support the restoration of Iraq's oil infrastructure."

But the evidence in these documents shows that what actually happened was quite different and quite improper in three basic ways.

First, the Corps led bidders to believe it was what we call a recompetete, for contracts to completely replace the sole-source ones. But the overall restoration was committed to KBR, not just in that sole-source RIO contract, but in a document signed by the Corps, the CPA and the Iraqis as well. And it was their oil field.

The work advertised as available to others was not.

TAPPAN: And that fact was confirmed by a Corps of Engineers spokesman on August 13th last year, the day before the bidders' proposals were due.

Second, despite the fact that the Sons of RIO contracts were, in essence, fictitious, the competition for them was unfair. The evidence from the document shows Corps personnel broke federal laws, both civil and criminal, including conspiracy to defraud the United States and false statements. It shows how they repeatedly violated the basic standards of conduct underlying the federal acquisition regulation and numerous of its provisions.

Third, there were plenty of opportunities for the Corps to do the right thing, but they did not. Instead, they misled bidders, delayed the awards for one flimsy reason after another.

Meanwhile, KBR was becoming more and more entrenched with the Iraqi ministry of oil and its operating companies for the long term.

By all reports, today, the Corps has transferred none of the RIO work from the sole-source to the Sons of RIO contracts, which they finally awarded this past January: the larger one to Halliburton for an additional \$1.2 billion for work in the southern oil fields, and \$800 million to a Parsons Worley team for work in the northern fields.

The smoking gun in this story is the document called "The Restoration of Iraqi Oil Infrastructure Final Work Plan," the document I referred to earlier, in which the U.S. and Iraqi government agreed that all U.S. support in the oil fields would be through KBR.

The plan was developed by Corps and KBR personnel months before the Corps issued its request for proposal, RFP, on July 7th last year to start this Sons of RIO competition.

The Corps didn't provide the plan to other bidders until August 1st, 13 days before proposals were do, in violation of the FAR (ph), which requires the government, contracting staff to, quote, "promptly provide all bidders with any information known to one bidder if the lack of such information would be prejudicial to the uninformed bidders." And it certainly was.

The FAR (ph) requires the information be provided no later than the next general release of information. And there were 10 information releases between the time the plan was developed and August 1st when they finally provided it to the bidders.

Yet not a single one of those releases mentioned the plan or any of its contents, because the only work not committed to KBR, was a small percentage committed directly to the oil ministry itself.

TAPPAN: Nearly 200 people attended the bidders' meeting conducted by the Corps in Dallas on July 14th, but the Corps still failed to mention the plan or the three-day workshop held in Baghdad just the week before the bidders' meeting, where 128 Corps, KBR, CPA, CENTCOM, ministry of

oil personnel met for three days to discuss the 220 individual projects that constituted that final work plan.

Of note, the plan required that all subcontracts and purchases of equipment, materials for all of those 220 projects, including the ones to be executed by oil ministry personnel, all of that procurement had to go through KBR's procurement and accounting systems. Well, this means Halliburton would get a fee, including profit, on every single project in the Iraq oil fields.

Bidders repeatedly asked the Corps to clarify the Sons of RIO scope of work, which was missing from the RFP. The most important section, the Corps' attempt to clarify or hide the scope, were totally confusing. One day they would say it's the final work plan. The next day they would say it wasn't.

If you read the official transcript of my testimony here or the account in my book, you'll see how little respect the Corps had for both the bidders and the law. And I'm running out of time here.

Let me just end by saying that the day before proposals were due on August 13th, a Corps spokesman finally admitted the competition was a sham when he told the press there might not be enough emergency repair work to merit additional contracts. The main reason the Corps was accepting bids was the possibility of more looting and sabotage. So they never intended to replace the sole-source contract. We'd all been misled.

Thank you for letting me be here today.

SEN. DORGAN: Ms. Tappan, thank you very much. That is almost unbelievable testimony, but believable in the circumstances of what we know about what's happening there. Thank you for contributing to the discussion about what is happening.

Next we will hear from Marie DeYoung. Marie DeYoung has worked for Halliburton, KBR in Kosovo and in Kuwait in the areas of administration, logistics and subcontracts.

She was a captain in the United States Army, where she served as a brigade and deputy command chaplain. She earned the 2nd Infantry Division's Commanding General's Excellence Award from General Tommy Franks.

She's the author of "This Woman's Army" and also "Women in Combat." After graduating with distinction from the University of Missouri, she completed the Army officer candidate program, completed her doctoral course work in education leadership and public policy analysis to the University of Missouri, Columbia.

That's an impressive background. We thank you for joining us. Why don't you proceed?

DEYOUNG: Thank you, Senators and Congressman Waxman.

As a veteran Army officer and American citizen who had grave concerns about the safety and wellbeing of our troops in Iraq, I brought my concerns about wasteful spending in Halliburton logistics contracts to Congressman Waxman's office.

His attention to the matter of wasteful spending has already borne fruit. American soldiers, their families and the taxpayers and conscientious contractors should all be grateful for his persistent demands for prudent contract management and appropriate allocation of Department of Defense resources.

DEYOUNG: Today, I am grateful for this committee's invitation to share my personal perspectives on logistics contracting. I would like to describe how poorly planned contracts not only waste funds, but also how poorly planned contracts can compromise military readiness and operational security. It is a personal story based on my military experience and my experience with Halliburton in Kosovo and Kuwait.

I do not pretend to have all of the solutions to our current predicament, but I do hope to offer suggestions for consideration as you develop your policy about contracts and support of military operations on the battlefield.

I served two tours of duty in the Army. In the early 1980s, Army doctrine stated that every person who served on the battlefield was a vulnerable target. Hence the moral imperative required that all military personnel received defensive combat training with the expectation that every one on the battlefield except chaplains would carry and use weapons.

Military leadership enforces doctrine as an operational principle to give every person who supported the Army the best chance of survival in the event of attack.

The second moral imperative: We would train as we fight. Every unit that I served had operational standards that included maintenance of equipment, property accountability and regular inspection of our war-fighting equipment and supplies to ensure deployment readiness.

The third moral imperative: Every soldier who wore the uniform owed loyalty to the Constitution. All were trained, regardless of rank or position, to abide by the law of land warfare and the Geneva Conventions.

I started my second tour of duty in the early 1990s, when transformation of military operations was well under way. Military leadership perceived the need to respond to regional or global threats with light, agile rapid deployment forces. From '93 to '95, I was fortunate enough to serve the 2nd Armored Cavalry (ph) Regiment when it stood up as a rapid-deployment force.

I trained with troopers who provided total logistic support on the battlefield, ranging from basic needs, such as food preparation, water purification and medical care, to management and provision of transportation supplies: fuel, ammunition and weapons.

DEYOUNG: As far back as '94, we had the capability to deploy anywhere in the world on two hours' notice.

Our materiel management center was automated. Maintenance contact teams repaired damage to equipment using a superior, automated spare parts inventory management program that made it possible to return broken vehicles to the battlefield within hours.

Our soldiers could survive hardship conditions, move about the battlefield and provide sustenance, ranging from meals-ready-to-eat to fresh salads, burgers and even steak and lobster as an occasional reward for hard training.

I served under Tommy Franks when he presided over war-fighting experiments in the 2nd Infantry Division in Korea, and under General Paul Kern when he tested new battle strategies in the 4th Infantry Division. And, of course, all of these units have been serving in Iraq for the last year or so.

The principle that guided all of our training, all personnel who served as logisticians and support personnel were trained combatants. As such, they would not only deliver goods and services to troops, but would be force multipliers and this is a very important security concept.

I would like to repeat this theme. As far back as 1994, Army commanders effectively transformed fighting units to be flexibly- packaged to respond to war-fighting missions around the world. These agile units served admirably for more than a decade in the Balkans, in Haiti and most recently in Operation Iraqi Freedom.

Throughout our careers, my colleagues, who are now on the battlefield, and I have appreciated many contributions that contractors have made to the United States military. We have been supplied with equipment and technology, fresh food, rear operations, construction and renovation services, training and research and development.

There is no question in our minds that soldiers benefit when the military buys off-the-shelf products, such as American-made trucks and SUVs. And they talk about this and I get e-mails every day about this subject. Our economy could have benefited if the procurement for this war was done for LOGCAP, if it was done prior to the war with an emphasis on wholesale purchase of manufactured goods made in American factories.

When soldiers work with off-the-shelf products like CAT generators or John Deere forklifts and commercial Internet satellites, they do their war-fighting mission with confidence, especially when the equipment is delivered to them with spare parts and maintenance manuals.

DEYOUNG: When reservists and National Guard personnel from states like Michigan and Wisconsin watch companies like Halliburton lease poorly maintained forklifts and trucks in the Middle East from Middle Eastern companies, they are demoralized, especially when the equipment is leased at four times the price that would have been paid if that equipment had been purchased from their hometown factories.

The United States Army has always outsourced manufacturing and services. But by outsourcing the entire wartime logistics mission, however, I believe we harmed the army for the following reasons.

First, we compromise security by conducting commercial procurement operations in the war theater by personnel who are not familiar with military principles and information security.

From day one of the Halliburton contracts, for example, bids for trucking operations and all internal logistics functions were put out on the street to vendors without any precautions taken to vet the company's ability to comply with Army security concerns.

A major transportation subcontract, which grew in value from \$9.9 million to \$134 million in one year's time, for example -- it's a contract where we paid not only four to nine times what we should have paid, but it's a contract where Halliburton hired staff to do the job and then subcontracted out to a company that had two or three layers of subcontractors doing the work. We, essentially, lost control of the project and paid between four to nine times what we needed to fund that project.

Second, we compromised security by subcontracting and hiring thousands of third-country nationals to perform military-essential tasks, such as organizing truck convoys, wholesale management of the airfield construction operations.

It is simply not true that Halliburton served 400,000 meals per day in Iraq. All of the dining operations were run by subcontractors. The workers who were brought in from many other countries were paid wages that were not only significantly lower than Halliburton employees, but also much lower than wages that were earned by American soldiers.

Their living conditions were inferior, creating potential for shift in loyalties. There had been numerous media accounts of attacks on U.S. soldiers, even in Kuwait, by third-country national employees who obviously were not screened as security risks.

Third, we compromised security by allowing contractors to lease most of our trucks and equipment without appropriate maintenance plans.

I drove in a brand new Humvee that wasn't maintained -- not a Humvee, but an SUV -- and I sat with truck drivers whose trucks were destroyed because they were not properly maintained.

Fourth, we compromised security by hiring thousands of truckers and civilians to drive and work in the line of fire, without the capacity or the legal right to defend themselves in the face of insurgents and underemployed Iraqis, who routinely attacked contractors on logistics bases and in convoys.

Fifth, we compromised security by allowing civilian contractors in Kuwait and Iraq to live extravagant, high-profile lifestyles on the economy. More than once, to include my in-processing personnel briefing, we were told the CIA had complained to Halliburton officials that employees discussed troop movements in the downtown upscale restaurants when they went into town at night.

Sixth, we compromised security by taking corporations like Halliburton at their word when they set up umbrella prime contracts and we allowed these corporations total control of the logistics mission.

DEYOUNG: Most of the subcontractors were from the Middle East. These subcontractors have provided all of the trucks, equipment, staff, food to do logistics operations. All Halliburton had to do was to negotiate reasonable prices and then pay its subcontractors for services rendered. But many of these vendors were not paid for months or a year at a time.

They continue to provide -- that is the subcontractors -- direct support to the military, but under threat of bankruptcy, and these subcontractors often complain that they would have to stop their operations.

Because Halliburton had a virtual monopoly on the prime logistics contract, I believe that Army commanders were at the mercy of Halliburton for the first year of the war. If the military had planned for organic command and control of the logistics, planning would have included ongoing verification of equipment and personnel readiness.

By contrast, when Halliburton acquired its multi-billion dollar contract, it did not have warehouses full of equipment and supplies, fuel, trucks or an automated enterprise system to manage its operations. It did not use its own capital to set up the LOGCAP mission. The company used subcontractors, which not only entailed a transfer of financial risk to the subcontractors, it entailed major delays in the start of most operations, security concerns because the procurement cycle for subcontracts is longer than the decision-making timeline inside of contingency operations.

This summary is written down. I believe I am over my time. I can just stop here and we can proceed to hear the other testimony, and you can ask me questions...

SEN. DORGAN: Ms. DeYoung, thank you very much for your testimony. Its compelling and we appreciate you being here.

Next we will hear from Larry Allen, from the Coalition for Government Procurement. He's the executive vice president of the coalition, a non-profit association representing 330 companies selling commercial solutions to the federal government.

He has extensive experience with the GSA multiple awards schedules program, has represented the interests of association members with a stake in the program, has testified before many committees, worked with officials in and out of government to help the schedules program grow from \$5 billion a year procurement to a program with over \$27 billion in sales.

He's written many articles, he's the recipient of a good number of awards, has a B.A. in political science from Emory University and has conducted post-graduate studies at American University.

Mr. Allen, thank you for being with us.

ALLEN: Thank you, Senator.

Thank you all, Senators, Representative Waxman. It's a pleasure to be with you this morning.

ALLEN: As mentioned, the coalition is a nonprofit association of about 330 companies. Our members account for about half of the commercial goods and services purchased by the government each year. So as my previous panelist, Ms. DeYoung, said, it is primarily coalition members who are in the business of providing commercial solutions to the government.

When you talk about commercial off-the-shelf items, commercial off-the-shelf solutions, those are the things that are inside the coalition's ken. We have a lot of experience in that area.

And the multiple award schedule program is the single largest consolidated method through which the government accesses commercial services and products.

I will confine my remarks this morning to the suspension and debarment activities; that's what I've been asked to talk about. And so I will not get into anything that I don't have a specific experience with, but talk about suspension and debarment.

There's been a lot of confusion and misunderstanding about how these systems work, but at their core they're really about maintaining the integrity of government procurement.

The procedures in suspension and debarment are important parts of ensuring that the government does business with responsible firms, but they are just one part of ensuring an open and fair procurement system, and discussions of suspension and debarment must take place within this larger context.

I will emphasize that members of the coalition take their contract performance responsibility seriously. Our association routinely includes contract compliance training at our conferences and seminars, and frequently these presentations are conducted by suspension and debarment officials from various agencies.

Those officials with whom we have had contact are seasoned professionals who make serious decisions based on what is in the overall best interest of the government, and these decisions are not often easy to make.

When this country went to war in Iraq, government contracting officers were under tremendous pressure to meet multiple demands in a tightly compressed time frame. They turned to companies with which they had existing contracts and which had well-established reputations, and the need to serve the war-fighter was paramount.

If you all look at the full context of my submitted remarks, you'll see I go into a little bit more detail here.

Generally, we believe that these officials made mostly correct decisions. Obviously, there have been some exceptions that have been brought out this morning to that.

Fresh in the minds of contracting officers and others were headlines from the first Gulf War, however, that trumpeted the fact that the U.S. Army had to rely on the government of Japan to buy modern communication radios quickly. Our government acquisition rules were not in a way that allowed quick and flexible acquisition. They saw that, kind of, as a black mark, and they wanted to make sure that they didn't get into that trouble again.

ALLEN: Contractors, as well, want to meet customer demands. No company of which we are aware likes to disappoint a customer, especially when its need is critical. We do feel that most companies acted in good faith inside a highly-pressured and politicized crucible.

The varying complexities and demands of each task, however, resulted in constantly moving goals. Very few dedicated contractors we know, in fact no coalition member of which I am familiar, would recklessly endanger a good portion of their government business by gouging one customer on one project.

Another important factor in considering what leads to allegations of contractor wrongdoing are the still-complex government procurement rules. These rules can trip even the most determined to achieve compliance.

The best example that we can come up with is in pharmaceutical procurement. Pharmaceutical companies spend hundred of thousands of dollars on personnel, legal and even specially-constructed computer systems in order to keep in compliance with government regulations. Even the very best of these companies, however, get tripped up in a system that guarantees failure.

To those not familiar with the system, it appears that some firms are bad actors. In reality, it is the government's procurement rules that cause this situation. Suspending or debaring companies for failing to comply with the system that assures noncompliance is fundamentally unfair.

In short, it's both contractors and government contracting officials who bear responsibility for ensuring that the federal procurement system remains open and fair.

Another significant issue that is part of the suspension and debarment process is exactly what type of actions can trigger those proceedings.

Traditionally suspension and debarment penalties were only applied to a contractor in response to bad behavior related to performance on its government contract. We feel that that has an appropriate application. Suspension and debarment officials have been thoroughly trained on how to deal with contractors who fail to perform and these decisions are not always easy but they do fall within the scope of the officials' responsibility and experience.

In the past two years, however, pressure has been placed on these officials to suspend or disbar contractors based on issues not related to the company's government business.

The coalition believes that this is risky business. There are no rules that guide government officials on what type of behavior might trigger suspensions or debarments and as such all evaluations are inherently subjective. We believe that even if rules are devised, such factors expose the procurement process to politization and a slew of unintended consequences.

The procurement process, while not perfect at the federal level, is fundamentally open and fair. There is always room for improvement. We believe that the basics of the current system must stay intact.

Cost-plus contracting, for example, has been around for decades, been in use, as far as I know, for at least 50 years.

ALLEN: Generally speaking, it's an acceptable contracting method when properly used. That's the key, "when properly used."

Making decisions on which firms the government should do business with based on outside factors create a slippery slope that can quickly create an air of favoritism, political posturing and the aforementioned unintended consequences.

The cases of MCI and Enron are prime examples of how determining eligibility for government contracts based on outside factors can cause trouble. Generally speaking, those practices and policies, if they had been allowed to run their course under ordinary circumstances, would have ended up in the same place that those companies ended up. However, they weren't allowed to work properly and career government procurement officials were forced to make contracting decisions based on political factors.

There are other tools in the kit of contracting officials to assure responsibility in redress of legitimate claims, other than suspension and disbarment. All companies seeking a GSA schedule, for example, must submit contract information on as many as 20 previous customers. Background checks with these customers are conducted before a company is awarded a contracts. Similar tools are used in other government-wide acquisition methods.

Federal contractors in short, are already among the best-screened companies in the world. The decision on whether to suspend or debar a contractor can be inherently complex. The debarring official must consider not only the offenses of the company in question, but also the ramifications for the government if it is to be without this supplier.

The government simply must have businesses work with it in order to meet its mission. Suspending or debarring them may not always be a realistic option. This does not mean that that government is over a barrel, or that contractors may brazenly break the rules. Contracting officers may withhold payment, negotiate lower contract rates, shorten contract terms or even cancel a contract for convenience in order to punish companies that do not act in good faith.

I can assure you, in our experience, these tools do get companies' attention.

We believe the current suspension and debarment process generally works well; it is run by highly qualified and experienced contracting professionals. We do not recommend an overhaul of the system, but rather continued streamlining of complex procurement rules.

I believe my colleague, Dr. Schooner will talk about transparency, that's an issue that we have in common.

We appreciate this opportunity to share our views and we'll answer any questions you might have.

SEN. DORGAN: Mr. Allen, thank you very much for your testimony.

Next we welcome again Steve Schooner. Steve Schooner is with the George Washington University Law School and has been with us before.

Associate professor of law and co-director of the government procurement law program at George Washington University Law School, Mr. Schooner, before joining the faculty, was the associate administrator for procurement law and legislation at the Office of Management and Budget.

He has served as a trial and appellate attorney in the commercial litigation branch of the Department of Justice, also practiced with private firms. An active-duty Army judge advocate, served as commissioner at the Armed Services Board of Contract Appeals and has many other distinctions in his career.

He received his bachelor's degree from Rice University, juris doctorate from the College of William and Mary, and master of law is from George Washington.

Professor Schooner, thank you very much. You may proceed.

SCHOONER: Thank you.

Chairman Dorgan, members of the committee, I appreciate the opportunity to summarize my written testimony with you today.

In light of recent allegations that contractor personnel were involved in inappropriate and potentially illegal activities in Iraq, I'd like to address two matters.

First, the federal government must devote more resources to contract administration, management and oversight. This investment is urgent, given the 1990s acquisition workforce reductions combined with the Bush administration's relentless pressure to outsource.

Second, the proliferation of flexible, fee-based interagency contracts and the perverse incentives they create, require correction and constraint.

Now, it's not surprising to find contractor personnel involved in almost every aspect of our efforts in Iraq. Outsourcing, or its more palatable synonym, competitive sourcing, is a key initiative in the president's management agenda. While public and congressional pressure has slowed the administration's domestic outsourcing efforts, in Iraq, where there is less insight and oversight, the administration has aggressively contracted out functions including purely military functions.

For example, many reasonably object to the use of contractors to perform interrogations, assuming that interrogations is an inherently governmental function. On a less philosophical note, however, the widely circulate Fay report leaves no doubt that specific problems at Abu Ghraib can be traced to insufficient contractor oversight and management.

General Fay found that an important step in precluding the recurrence of these types of situations is to ensure that a properly trained contracting officer's representative, or COR, is on site.

True. If the government plans to rely heavily on contractors, it must maintain, invest in and apply appropriate acquisition professional resources.

SCHOONER: Unfortunately, insufficient contract management resources were applied in Iraq. And, in fact, in Iraq, the contracting officers representatives do well to keep up with their paperwork and simply have no time to monitor actual contractor performance.

As I suggested to this committee last year, the government lacked resources on the ground in Iraq to manage its contracts. Government-wide, we didn't have enough qualified contract professionals to meet our needs before September 11th.

But since then, despite increased procurement spending for homeland security and military operations in Iraq and Afghanistan, we have failed to aggressively recruit the staff necessary to manage the government's increased contracting burdens.

Now, second, the administration's competitive sourcing initiative leads to a rapid increase in service contracting. Service contracts are difficult to draft and they require a significant amount of resources to manage. Thus, the critical acquisition work force problems will continue to get worse before they get better.

An overtaxed acquisition corps has to adopt a triage-type focus on buying, so buyers face pressure to fill vacancies with bodies. As a result, agencies focus first on awarding the contracts, and less and less on administering the contracts once they're awarded.

The administration of contracts after they've been signed is the neglected stepchild of the 1990s acquisition reform movement. And this hides significant downstream costs and potential performance failures.

In addition, the administration's outsourcing agenda ignores the longstanding congressional prohibitions against personal services contracting. Increasingly common are what we call "body shop" or "employee augmentation" arrangements where the government merely hires contractor personnel to replace or work alongside civil servants or members of the military.

As a matter of practice and necessity, the federal government relies heavily on employee augmentation contracts in Iraq and at home. But the government workforce has never been trained on how to operate in such an environment.

Within Abu Ghraib, the parties involved lacked the sense of the appropriate relationship between contractor personnel, government civilian employees and military personnel. For example, contractor personnel were supervising government personnel and vice versa.

The officer actually in charge of interrogations received no parameters or guidance for the use of contractor personnel, was unfamiliar with the contract's terms and conditions, made no mention of a government contracting officers representative, and understood her primary point of contact to be the contractor's on-site manager.

Now, these problems are exacerbated by the proliferation of fee-based arrangements that permit government agencies to avoid common contracting constraints by offloading their procurement function to other agencies for a fee.

Most Americans are surprised to learn that the military used the Department of the Interior to procure a contractor personnel to conduct interrogations in Iraq and at Guantanamo Bay.

Problems continue to arise under these immensely popular, highly flexible vehicles that we often call IDIQ contracts. While the vehicles do streamline the process, their misuse is neither new nor novel.

The Interior Department inspector general concluded that chasing fees distorts the moral compass that otherwise animates federal government procurement officials.

In fee-for-service operations, procurement personnel find shortcuts to federal procurement procedures and buy services for clients whose own agencies probably would not do so.

The traditional procurement arrangement bifurcates programmatic authority from procurement authority. In other words, the program manager relies upon a contracting officer to fulfill requirements. And we expect the contracting officer to be familiar with and follow the congressional mandate and government procurement policies.

But perverse incentives and fee-based vehicles turn the system on its head. A fee-based purchasing office that needs revenue to survive conducts an unfortunate race to the bottom.

Fee-based buying instrumentalities have no stake in the contracts that they awarded. They don't care about the outcome.

The program manager at the receiving agency will willingly pay a franchise fee to a servicing agency to avoid silly bureaucratic restraints like competition and the others things that might impede the program managers' in-house contracting officer. And then once the contract is awarded, the servicing agency has no interest in administering nor does it have the resources to manage that contract.

So in exchange for a fee, a program manager can choose a favorite contractor without competition and remain unfettered by typical contract administration. And the Abu Ghraib experience offers a startling illustration of this relationship.

Now, GSA recently unveiled its Get It Right plan. It's an initiative that is as well-intentioned as it is overdue. It's supposed to assess regulatory compliance and to call on GSA to proactively supervise the proper use of these vehicles. But more, much more, must be done to restore confidence and credibility to the interagency service procurement regime.

The Abu Ghraib experience, while atypical in terms of its brutality and the public outcry it spawned, is sadly typical of a much broader problem. To correct this problem, Congress must insist that these contracting actions take place in the open, be subject to competition and be subject to oversight and review.

If servicing agencies earn fees for facilitating these contracts, those agencies should be held strictly accountable for the contractual outcomes.

Thank you for the opportunity to share these thoughts with you. And I'd be pleased to answer any questions.

SEN. DORGAN: Professor Schooner, thank you very much for being here once again.

Next, we'll hear from Danielle Brian. She has been the executive director of the Project on Government Oversight since 1993. She frequently testifies before Congress about their investigations, and testifies as an expert on government accountability.

And before becoming executive director, she worked for the organization from 1986 to 1990 as a senior research associate; conducted numerous investigations. She also has worked as a producer for television documentaries, and then a policy analyst at the Arms Control and Foreign Policy Congressional Caucus.

She's earned her master's degree in international relations from the School of Advanced International Studies at Johns Hopkins, and received her bachelor's degree from Smith College.

Danielle, thank you very much for being with us. You may be proceed.

BRIAN: Thank you very much, Senator, for inviting me to speak here today.

POGO investigates, exposes and seeks to remedy systemic abuses of power, mismanagement and subservience by the federal government to powerful special interests.

Founded in 1981, POGO has paid special attention to government contracting problems.

I was asked today to focus my remarks on the suspension and debarment system, but I wanted to take a moment to wholeheartedly endorse Professor Schooner's call for the need for dramatically additional contract oversight.

One of our reports, "Federal Contractor Misconduct: The Failure of the Suspension and Debarment System," outlines the government's history of allowing major contractors to rip off the taxpayer, and not infrequently endanger national security in the process, without losing government contracts.

To support this report, we created a federal contractor misconduct database. It's available on our Web site. We limited the companies in the database to the biggest government contractors who violated laws and regulations. General Electric, Lockheed Martin and Boeing have headed this list. This year, Halliburton will join them.

Last year, Halliburton saw its defense contracts rise from \$468 million to \$3.92 billion, leaping from 37th in the Department of Defense's rankings of top contractors to 7th due to their multibillion dollar LOGCAP and Oil Restoration contract.

I'd just like to note that the fact we have over 600 entries in this database looking at only about 40 companies belies Mr. Allen's testimony that companies wouldn't want to rip off the government.

Halliburton's performance in Iraq has alerted the public to the ongoing mess known as federal contracting. It is important for the public to know that the government can protect the public's interest. The government can and should suspend the contractor from future government contracts when its conduct betrays the nation's confidence.

The problem is, unfortunately, the government rarely suspends large contractors, no matter how egregious their crimes are. For example, even when Boeing and Lockheed Martin repeatedly violated the Arms Export Control Act by selling military hardware and technology to restricted countries, or when those companies sold defective weapons to the Pentagon that resulted in American soldier's deaths, the government neither suspended nor debarred those companies.

No wonder the government has done nothing yet to protect the public from Halliburton's irresponsible behavior.

My message to you today is that POGO believes Halliburton should be suspended or even permanently debarred from receiving future government contracts.

On Tuesday, the Wall Street Journal published a story detailing Pentagon plans to competitively bid Halliburton's current LOGCAP contract. If Halliburton receives new federal contracts, we believe the American taxpayers will be placed in further jeopardy.

Why should this company be given contracting dollars without any evidence that they have fixed the inadequate internal controls that have caused the public, the Congress and government investigators so much concern?

We do not recommend suspending Halliburton lightly. Earlier this year there were such calls, yet POGO believes they were premature. At that time, it was unclear that Halliburton's business practices were so flawed as to take this dramatic step. That is no longer the case.

Last month, the Wall Street Journal broke the story that Halliburton could not adequately account for \$1.8 billion in Iraq and Kuwait. Once this was confirmed, POGO called for the government to suspend or debar Halliburton from receiving future government contracts.

Days later, Congressman Waxman released a memo from the Defense Contract Audit Agency, the DCAA, to the Army. That memo reaffirmed POGO's opinion.

The DCAA audit showed that Halliburton subsidiary, KBR, could not account for this money, which totaled for 42 percent of the total value of their work.

I'd like to quote a couple of lines from their memo. The government investigators said, "We have attempted to work with KBR. To date, KBR has not provided this basic supporting data for the significant task order proposals. Clearly, the contractor should have adequate supporting data by now. It is clear to us that KBR will not provide an adequate proposal until there is a consequence."

We agree that the government needs to hold Halliburton accountable for wasting, or essentially losing, \$2 billion in taxpayer dollars.

By law, the federal government cannot do future business with risky companies. While the suspension and debarment system is not intended to be used as a punishment for contractor misconduct, it is intended to protect the American taxpayer from contractors that are considered not currently responsible, a perfect description of Halliburton's conduct.

Halliburton is also being investigated for overcharging for fuel shipped from Kuwait and meals provided to our troops. Unfortunately, this overcharging is just the tip of the iceberg of Halliburton's misconduct rap sheet. Additional instances of alleged corporate misconduct include paying kickbacks, taking bribes, security law violations and even doing business with states that sponsor terrorism, specifically Iran and Libya.

POGO believes that if the government had a robust suspension and debarment system, many of the largest contractors would long ago have been temporarily suspended from new government contracts, and then might even have cleaned up their act as a result.

I disagree with the notion that the performance on nongovernment contracts should not be considered when the government is looking at giving new contracts. I think you should look at a company's entire package when you make a decision to suspend or debar or to continue giving new contracts.

BRIAN: But in the case of Halliburton, that's not really the question, because we are looking at their government contracts.

Halliburton has had over six months to account for its charges and it has not been able to do so. Suspension or debarment at this point is the government's best recourse in protecting the public.

There is no reasonable justification to continue entrusting this company with taxpayer dollars. Halliburton's irresponsible behavior presents the clearest case for suspension or debarment by the federal government that POGO has seen in years.

Again, I thank the committee for its continued oversight over Iraq contracts. And I would be happy to answer any questions.

SEN. DORGAN: Ms. Brian, thank you very much for being with us today.

We were joined by my colleague, Senator Harkin. And if it's permissible with my colleagues, let me call on Senator Harkin first for any statement and also questions.

And then we will go to Senator Lautenberg and my other colleagues.

SEN. HARKIN: Well, thank you very much, Mr. Chairman.

I apologize for being late.

I want our witnesses to know, however, I stayed up late last night reading all of the testimony and I really appreciate you being here today, and for the great work that you've done.

And, Mr. Chairman, I want to thank you for calling this very important hearing.

And I thank my colleague and my classmate -- Congressman Waxman and I came to the Congress the same year, in 1974, so we're classmates. I want to thank you, Henry, for your diligence in writing these letters and in keeping on top of this issue, and you should be commended for that.

Of course, that doesn't come as a surprise to me. I've known you for 30 years now. You've always been on top of these kind of issues, making sure that the taxpayers' dollars are well spent and to make sure that those that deal with the government do so in an open fashion.

So I want to thank you for that, Henry.

Again, Mr. Chairman, just off the top of my head, you know, it just seems to me that we've gotten to the point where if we want to question and criticize and look at these kinds of issues of questionable payments and stuff, it's almost like you're being disloyal.

However, I would remind people -- and maybe it has already been said before I got here that it was at the height of World War II that maybe someone mentioned about Harry Truman and what he had done in World War II. It was a Democratic Congress, a Democratic president, but it was a Democratic senator from Missouri leading a Senate committee that ferreted out a lot of the waste and abuse in the military and procurement and contracts at that time and literally saved the taxpayers billions and billions of dollars.

It seems to me that's the proper role for the Senate to play. And it doesn't matter which party is in Congress or which party is in the White House. I think it goes right to the very heart of our system of checks and balances.

So I do not in any way think that dissent or questioning or criticism has anything to do with disloyalty, and I don't think it hurts morale and undermines the troops.

I think some of the things that you have pointed out really hurts the morale of our troops more than anything else when they see all of this waste, when they see things being spent for things that don't really protect them and give them the kind of force security that they need.

I'll close with this, Mr. Chairman, a quote from Dwight Eisenhower. He said, "Here in America, we are descended in blood and in spirit from revolutionists and rebels, men and women who dared to dissent from accepted doctrine. As their heirs, may we never confuse honest dissent with disloyal subversion."

SEN. HARKIN: Well, President Eisenhower or then General Eisenhower had it right. There's nothing unpatriotic about real oversight, not even in war time.

As we found out, I think from the testimony here, some \$8.8 billion of money entrusted to the former Coalition Provisional Authority is unaccounted for. Where is it?

Where did it go? Surely someone, somewhere knows where this money went, and if not, they ought to be held accountable, and yet it seems as though we're just going to wash our hands and say, well, that's just the way it goes. Well, that's not just the way it goes.

And I just want to thank everyone here today and all the witnesses for your diligence and for your patriotism and for your loyalty to our country and our taxpayers.

We have a long struggle ahead of us against terrorism in the world and we're going to have to be diligent. We're going to have to be unified as a nation, and one of the things we're going to have to do is also be very protective of the taxpayers' dollars to make sure we're not throwing money away and make sure that every dollar is accounted for.

So again, I thank you for that.

I would hold my questions until after other people get a chance to question.

SEN. DORGAN: Senator Harkin, thank you very much.

Senator Lautenberg has indicated that he needs to go to the floor to offer an amendment, so I'm going to call on Senator Lautenberg to begin some questions at this point.

SEN. LAUTENBERG: Thank you very much.

And how illuminating was this testimony today, and we thank each one of you for your contribution.

It makes one's blood boil when you think about what's happening -- 1,000 casualties -- 1,000 deaths, far more casualties, and all of this since the mission supposedly was accomplished, and it's outrageous.

I served in a war a long time ago and even then as a young soldier in World War II, I knew very well that there was the occasional cheating going on. I resented it terribly, but now to look at it from this perspective and remember how derisive was the term profiteering -- it was like traitorous behavior.

And now, we can't get a hearing in the Government Affairs Committee that I sit on which has responsibility for oversight. Three times requested a hearing on Halliburton and was told that it would be a duplicative effort.

You know we never have duplication in the United States Senate.

(LAUGHTER)

So, I thank each one of you.

It was -- I could almost describe it as a stirring reminder of what we ought to be doing. And it's shameful that we have to convene in this kind of out-of-structure hearing so that we can get the message out there, and I hope the public hears it, because when Ms. Brian describes dangers to national security and when we talk about what's happened at Abu Ghraib.

SEN. LAUTENBERG: And I ask you, Ms. Tappan, the vice president has said that he had no role in the no-bid contract.

But on March 5th, 2003, e-mail uncovered by Time magazine, an indication -- and I ask you to look at the quote from the e-mail on that (inaudible) Feith, and we all know who he is. He's a deputy in the Department of Defense -- "Contingent on informing W.H. tomorrow, we anticipate no issues since action has been coordinated with V.P.'s office. Expect the P.A. press release and congressional coordination tomorrow a.m. and declass action to us early in the afternoon."

Now, Ms. Tappan, given this advice, can it be believed that Vice President Cheney's office had nothing to do or no influence on the no-bid contract?

TAPPAN: Well, I find it hard to believe that it didn't.

You know, if it were just that e-mail, which I think their response to was coordinated, didn't mean what the rest of us think it means, that they were just apprised of what was going to happen; if it were just that e-mail, just in isolation, we would have to give them the benefit of the doubt.

However, that's just one of the many examples of things that the Pentagon has told us over the past year or two to do with the Iraq contracting that are simply not true.

In isolation or based on what we knew at the time, their statements might have seemed reasonable. But when you really take everything now and put it all together and -- it's just too much to write off anymore.

As far as what I had hands-on involvement with during the Sons of RIO competition last summer, the official documents, not just an e-mail, but the official procurement documents are just filled with line after line of falsehoods, misleading statements.

So taken all together, I have to believe that the front-line contracting staff at the Fort Worth district, the contracting officer and his staff, director of contracting, even their legal counsel; statements in these documents that they made, they had to have been pressured by someone or some persons higher up in the chain of command in the Corps, the Pentagon, to do what they did, including violating federal laws and regulations.

TAPPAN: I mean, these were mostly career civil servants.

It's just unfathomable to me that what happened did.

As I said, in 12 years of doing contracts for Defense, DOE, et cetera, I had never seen anything like this. And this e-mail is just one very tiny example of what's in these documents.

SEN. LAUTENBERG: I'm inclined to agree with you. It is a little suspicious.

The fact of the matter is, I was in the corporate world for 30 years and helped develop a fairly significant-sized company. And I will tell you this, that if people came to the company to do business with that company and they mentioned Frank Lautenberg, who is chairman and founder, there would have been an understanding that perhaps, just perhaps, there might be a value to knowing Frank Lautenberg or something like that.

And perhaps some of the vice president's old friends might remember that he was there, especially those in the military.

And the incredible thing that's happened, that's just replete with evidence here, Halliburton's stock today is over \$30, up substantially from where it was just a few years ago. Revenues were up 80 percent for the company for the first quarter of 2003 to first quarter 2004. Eighty percent of the increase in revenues is an incredible increase in the revenue gain by Halliburton.

So, Ms. DeYoung, do you think it's possible that the shortage of military personnel has led to the atrocities that we've seen there, the capture of civilians, untrained to do the jobs; those driving trucks or perhaps even coordinating the behavior patterns at Abu Ghraib?

Do you think it's possible -- you know, we are short of an estimate that General Shinseki offered just before he no longer was able to serve.

Do you think that the shortage of military-trained personnel may have caused some of the outrageous attacks that we've seen on individuals?

DEYOUNG: Yes, Senator.

I think that -- I'm trying to make that point in my testimony.

I served in Kosovo with some of the men and women that I served in the Army with in rapid deployment forces, some of the guys I served with in Korea. In Kosovo, they were supposed to be there for six months, but because this war was rushed, they wound up having their deployment extended to nine months. They went home for three months, turned around back in Iraq for a year, boots on the ground.

Up to the ranks of general officers, our soldiers are suffering and I believe that the material command, the people who made the decision to subcontract this whole logistics mission, which should have been totally controlled by the Army, it was out of desperation because of the shortage of soldiers. It was an experiment.

If I did this kind of an experiment as a doctoral student, I'd never get my doctorate degree. But soldiers and these contract civilians were experimented on in the middle of a war and they were put at risk. If you're -- from day one when I sat in that hotel waiting to be hired, every driver who was hired knew that they would be driving in the line of fire.

As a soldier, we were trained. Everybody who's in that vehicle needs to be able to fight. And the entire insurgency movement, the Iraqi military operations insurgents, they knew what our weak points were. They went -- and it's our doctrine, go for the weak points.

SEN. LAUTENBERG: Thank you very much.

I'm on the board of the Columbia Business School, my alma mater, and I don't think that we had a course that said a wink of the eye is worth the signature on a piece of paper anytime.

And the fact that these contracts were so conveniently awarded without proper review, without proper specifications and so forth, tells me the eyes must've been blinking like the devil in the White House at a given time.

Thank you very much.

And thanks, Mr. Chairman, for conducting this hearing.

SEN. DORGAN: Well, Senator Lautenberg, thank you.

And as Senator Lautenberg indicated, he's a member of the Governmental Affairs Committee and, frankly, that's where a number of these oversight hearings should be held, I expect.

I believe I heard you say that you have asked for these oversight hearings and...

SEN. LAUTENBERG: But we've spent our time on defending (inaudible)

SEN. DORGAN: And you know, my hope would be that those committees of jurisdiction in this Congress that have a responsibility to do oversight hearings will begin to do them.

SEN. DORGAN: The only reason we're doing this is that there is virtually no oversight anywhere else on this Congress on issues that affect people's lives, our troops, issues that deal with billions and billions of dollars.

So, Senator Lautenberg, thanks for your work on this. I know you've been at it a long, long while. and I know you'll keep at it.

Let me call on our colleague from the House who I think has done just extraordinary work, Congressman Waxman. And I'm going to step away just for a few minutes. I'll be back. I have a series of questions. And I believe my colleague from Iowa has questions as well.

But let me ask Congressman Waxman to begin his questions.

REP. WAXMAN: Thank you very much, Mr. Chairman.

I want to thank all of the members of this panel for an excellent presentation.

I want to start off with Ms. DeYoung. I want to, again, compliment you for your courage and speaking out as someone who has had experience with Halliburton's LOGCAP subcontracts in Kuwait.

You previously testified before the House Government Reform Committee, and you gave us scores of documents to support your claims.

You testified that under one subcontractor Halliburton was paying \$100 per bag for laundry. On another one, it was paying an average of \$45 for a case of soda. You also revealed that Halliburton employees were living in that 5-star hotel at a cost of \$10,000 a day when they could have been living in tent camps, which our troops were using at a fraction of the cost.

In your written testimony today, you've given us some new examples. And I want to walk through those new examples with you.

I'd like to start with the \$134 million subcontract for transport that Halliburton gave to a Kuwaiti company called La Nouvelle.

Essentially the Army needed transport services and gave the work to Halliburton under the LOGCAP contract. That was support services for our troops, which Halliburton was providing in Iraq.

Instead of performing the work itself, Halliburton turned around and subcontracted the work to La Nouvelle and then subcontractors of La Nouvelle.

REP. WAXMAN: One piece of this transport subcontract was for fuel trucks. Under the terms of the contract, Halliburton was paying about \$1.1 million per month for these fuel trucks. Then in

March 2004, a subcontract administrator took the time to see if lower prices were available. Can you tell us what he discovered?

DEYOUNG: Yes, as a matter of fact, Congressman Waxman, he discovered that it was thoroughly possible to reduce the price of that contract -- the price was inflated by 500 percent. And on that line item he was able to break away from the middleman, which was La Nouvelle, and subcontract directly with the vendor who provided the service.

And that's a problem that runs throughout -- I looked at \$1.8 billion worth of subcontracts. It is extremely common to have layers of middlemen in between the Army, Halliburton, another general contractor who should have been a competitor, maybe one or two more layers down before you get to the actual vendor who provides the good or the service.

REP. WAXMAN: This contract reviewer wrote in a memo, quote "I realize that the price being paid for these leases was nowhere near the market value." Isn't that right?

DEYOUNG: That's correct.

REP. WAXMAN: And according to this document, he discovered that Halliburton could get the fuel trucks directly from that subcontractor that La Nouvelle had hired for less than \$200,000 a month. Is that right?

DEYOUNG: That's correct.

REP. WAXMAN: Are you aware of any effort made by Halliburton to recover these overcharges?

DEYOUNG: No. The Halliburton strategy was to close out these accounts, just close them out. They were under the misguided impression -- the staff there -- that if they closed it out, the account would not be subject to audit scrutiny.

REP. WAXMAN: So for over a year they were paying this very, very high cost. In essence, Halliburton's use of a middleman was costing the taxpayers of this country an extra \$900,000 a month and what should have cost the taxpayers just \$200,000 a month was actually being billed to the taxpayer at more than five times that amount.

As far as you know, Halliburton never sought to recover these overpayments, and that is simply, I think, an unacceptable waste of taxpayer dollars.

REP. WAXMAN: I'm going to go through another example you've given us that's new to this whole debate.

According to documents you provided, there was a subcontract to supply 13 ice factories to various locations in Iraq. What was an ice factory?

DEYOUNG: It was a set of equipment so that ice could be made on site.

In the old Army we used to purify our water right there with these bladders and soldiers now like ice water in the desert, so these portable ice factories can be used to manufacture ice. Soldiers pull up with their trucks and their ice chests and load up to keep the troops cool and comfortable.

REP. WAXMAN: So there was a competition for building these ice factories. Two bids were received. One was for \$3.4 million and one was for \$450,000. According to a memo from the

subcontract administrator, these companies were equally qualified, except for the price difference. Is that correct?

DEYOUNG: That's correct.

REP. WAXMAN: And who was awarded the subcontract?

DEYOUNG: The subcontractor who charged the higher amount, \$3.4 million. And if I may add, about \$900,000 was tacked on for shipment.

REP. WAXMAN: So, they chose for a subcontractor -- they had a bidding process -- one that was \$3 million higher, even though everything else was equal, except for the fact that one was \$3 million higher.

DEYOUNG: Correct, but it actually cost the taxpayers \$4 million higher because of the shipment charge.

REP. WAXMAN: And that was the Halliburton fee?

DEYOUNG: That was the subcontractor's fee for -- and that's a pervasive problem.

If I may say, I did an analysis of the contracts, ones that were well-planned, maybe two change orders over the course of a years, versus contracts that were very sloppily planned. On a well-planned contract, the average price at the beginning, the first iteration would be about \$900,000. It increased to about \$1.5 million. That's the average over all of those well-planned contracts.

For the badly-planned contracts, the price average would start at about \$2 million and then increase up to about \$6.5 million. So, you know, it stands to reason, last-minute, poor planning, they can charge whatever price they want because you need it yesterday.

REP. WAXMAN: So in the case of these ice machines, Halliburton had the taxpayers pay \$4.3 million to a company, while another company could have done it for about a tenth of that price.

DEYOUNG: Yes, sir.

REP. WAXMAN: I want to ask Ms. Tappan some questions about this decision in late 2002 to give Halliburton the task order to plan for the takeover of the Iraq oil fields.

Now, we were told -- when we started questioning this no-bid contract, we were told they had to give the contract to Halliburton, because they were experienced in putting out oil well fires, and therefore, without even asking for other companies to come in and bid, they went to Halliburton because of that specialization they had.

This was one of the justifications for giving Halliburton the contract. In fact, Halliburton put out a press release on March 24, 2003, that said, quote: "In 1991, Halliburton crews brought 320 wells in Kuwait under control. More than 190,000 work hours were incurred. Halliburton crews extinguished 90 percent of the blowouts within one year," end quote. That's what Halliburton had to say.

You've testified that Halliburton actually put out zero oil well fires in 1991. Is that correct?

TAPPAN: Yes, that's correct. The Bechtel executive now retired who was program manager in Kuwait after the Gulf War, a gentleman named Mike Farley (ph), was interviewed by Engineering News Record, which is one of the premier engineering-construction industry publications, shortly after this Halliburton press release claiming the 320 oil well fires appeared.

And in the next issue of Engineering News Record, Mike Farley (ph) said Halliburton, KBR put out zero well-fires in Kuwait.

REP. WAXMAN: So Halliburton's claim was false, is that correct?

TAPPAN: It was. Now, you know...

REP. WAXMAN: Before -- rather than elaborate, because I have a limited amount of time, I want to ask you some very specific questions, because I think there are some points that we really need to bring out.

We met with executives from Halliburton at a hearing on the House side. There were four executives there. I asked them about this. Not a single one of them knew that it was actually Bechtel that put out the oil fires, not Halliburton. None of them seemed to know anything, which was sort of surprising when you have executives.

This was the first time Halliburton was permitting them to testify. And, of course, we had invited them. And they never accepted. But they did accept. They came in. And none of them knew about this.

In your opinion, who was better to put out oil well fires between Halliburton and Bechtel?

TAPPAN: Well, clearly, I think Bechtel would have been. Now, understand...

REP. WAXMAN: Did you work for Bechtel?

TAPPAN: Yes, I was an employee for about a year or so. But I did their proposals for almost five years as a consultant.

TAPPAN: But I think the point is that in either case, it's not Halliburton, KBR or Bechtel personnel who go out and actually do the hands-on firefighting. I mean, they all use essentially the same Red Adair, the Boots & Coots.

But it was the management issue, but nevertheless, KBR, Halliburton, had nothing to do with those fires in Kuwait.

REP. WAXMAN: (OFF-MIKE) should have been a competition.

TAPPAN: Right.

REP. WAXMAN: (OFF-MIKE) Instead there was no competition. Halliburton was selected (OFF-MIKE) rationale that they had (inaudible).

One justification that we've heard is that there was already a contract in place for Halliburton under the Army LOGCAP. But you've testified there was already a contract in place with Bechtel as well, is that correct?

TAPPAN: Yes, in fact the CTR contracts, there are five of them, including Halliburton, Bechtel, Parsons who won one of the Sons of RIO contracts, and two other companies.

So it would have been so easy to compete it, like they did within a few weeks for the WMD disposition in Iraq, as I explained in my testimony.

REP. WAXMAN: If they both put in bids, would it have taken a long time to decide between the two bids?

TAPPAN: Well, again the Defense Threat Reduction Agency just took a week or two to decide between the proposals for the WMD. I mean, I know the justification document for the sole-source award, they said, well, they had to give it to Halliburton under LOGCAP because if they competed it, it would take four to nine months. That's just not true.

REP. WAXMAN: Essentially, what I see is that Halliburton is getting special treatment. They weren't being put up with others to compete for the same work, they were just being chosen without anybody else being considered.

Now, after Halliburton was given this contract, we were told it was for a short period of time, just to put out the oil well fires, then we found out it was really to deal with the whole oil infrastructure in Iraq. And then the Army was a bit embarrassed because we and the press and others were scrutinizing. Why is there a no-bid contract to a company that has no incentives to hold down their costs because they get a cost-plus on their work?

So the Army said they were going to contract out the work; there was going to be a follow-on contract, and this was going to be open to competition.

They didn't have time, because we were right getting into the war, they needed somebody right away.

REP. WAXMAN: But now that they had more time, they were going to have a follow-on bidding process. And they said it was going to be done in June and then it was July and then it was August.

As I understand your testimony, after all the delays, how much work was there to be done under these follow-on contracts?

TAPPAN: You know, that's an interesting question.

From what I read in the news, KBR is still doing work under the original sole-source contract, both in the north and the southern oil fields in Iraq, even though Parsons was given the new Sons of RIO contract for work in the north. But KBR is still working there under the sole-source contract.

What's very mysterious to me is as long ago as December even Vice President Cheney told the press that we had already returned oil production in Iraq to the prewar level. Subsequently, even at your hearing July 22nd, Stoney Fox (ph), who was Halliburton-KBR's RIO program manager in Iraq, confirmed Cheney's claim of success last December.

I know both General Flowers and General Crear, head of Task Force RIO...

REP. WAXMAN: Let me just interrupt you, just because I have to conclude my questioning.

But in effect you wrote a book about it, because you were involved in that follow-up competition. And your conclusion seems to be that while they said they were going to have a competitive bidding, it was a sham...

TAPPAN: Right...

REP. WAXMAN: ... that Halliburton's KBR got the contract to do what they'd already been doing, because Bechtel just withdrew because they saw it wasn't a fair deal. And there wasn't really a choice being made, it was a charade that was being played, just to pretend like they were having a bidding process.

Is that your conclusion?

TAPPAN: Right. And when they finally awarded the contracts January, why award them if they'd already restored the oil production? That's still a mystery to me.

REP. WAXMAN: Thank you very much.

Thank you, Mr. Chairman.

And thanks to all the witnesses.

SEN. DORGAN: Congressman Waxman, thank you very much.

Just on that point, and before I call on my colleague from Iowa, how much money do you think was at stake, had they proceeded and had real competition in that rebid?

TAPPAN: Well, according to that document I mentioned, the final work plan to restore the oil fields, that the U.S. and Iraqi governments on these 220 projects that would return the fields to the prewar production level, the total cost estimate in that document for those 220 projects is something like \$1.144 billion.

Now, the sole-source award was for a maximum of \$7 billion, and I think it's running -- I don't know exactly what now -- a couple of billion. Then there were the additional \$1.2 billion plus the \$800 million to the Parsons team, so right there I think there is probably \$3 billion, \$4 billion that is committed. And then the ceiling under the contracts is twice that.

TAPPAN: But it's a mystery, again, why give the new contracts for \$2 billion more when their estimate, a year and a half ago almost, was it would only take \$1.44 billion. And even if you add -- I think they wanted to add 40 percent contingency to that. Still, it's nowhere near what they've awarded.

SEN. DORGAN: Senator Harkin?

SEN. HARKIN: Mr. Chairman, again I thank all of you. I'll just limit myself basically to one question that, an issue that I've, kind of, come across -- my staff has come across. I want to direct this basically to Professor Schooner. And this has I think some ominous, kind of, portents for the future unless we get a handle on this.

This is a question I want to talk about. Last year, the General Services Administration turned over operation of the government's central database of information about federal contracts to a private contractor. Some contracting experts say the GSA effectively has exempted this government contract data from the public's reach by allowing a private contractor to control it.

Several big name defense contractors are now running job listings seeking analysts to work in a Department of Defense budget division for the purpose of preparing the president's defense budget, again amid scandals over contractors' involvement and abuses and war profiteering, all the things we're hearing.

We now have an interesting situation. It seems that we have another consequence of not holding the administration and its Defense Department accountable. And now we're going to embolden these private contractors so they can further expand the presence of defense contractors, at the same time hiding this from the public. And they're going to be involved in preparing the president's defense budget.

So here we have the central database of information about federal contracts controlled by a private contractor. Now, I don't know, again, some experts tell me that now that since it's in a private contractor's hands, we can't get at that data.

Now, big defense contractors are seeking analysts to work to prepare the president's defense budget. So you've got a situation where they prepare the defense budget, the database from which they draw this is beyond our reach because it's controlled by a private contractor. So how are we ever going to get to the bottom of whether or not we have the correct data and correct information on which the president is preparing his defense budget?

Now, I don't want to be over-alarmist about this, but I just -- this one little item turning over operation of the government's central database of information about federal contracts to a private contractor to me raises all kinds of issues about whether or not we can get the information we need for the public.

Do you know about this, Professor Schooner?

SCHOONER: Yes, let me first share your concern. This is a huge issue in terms of transparency in public procurement. And for many of us one of the concerns, particularly since the mid-'90s, has been the reduction in overall transparency in federal procurement.

Now what GSA appears to have done is entered into a contract with a private firm to operate what they're referring to as FPDSNG, the Federal Procurement Data Center Service Next Generation. At some level, at least what they've represented so far, is the same data should be available to everyone, the big question will be how you get that data and who has to pay for it and how much.

One of the pathologies that this discloses is once again, the problems of operating a government in a fee-based world. GSA, more than maybe any other agency in the government, is highly dependent on the generation of fees. And GSA believes that this new model is going to give better service because they're expecting individuals, members of the public will pay the contractor to buy the data that they might have otherwise have been able to get from the federal government.

SCHOONER: Personally, I think that, that has turned the whole process on its head.

Data that is available, that comes into the federal government by law, data that's demanded of the buying agencies, should be made available to everyone.

Now, the unfortunate thing, at this point is there's a tremendous amount of conjecture. At least to date, GSA has promised that the United States Congress, that members of the media and the like should be able to get access to the same macro or high-level data they were getting before.

The real concern is who is going to have to pay for the raw data and how much they are going to pay. Because it's the raw data, once it's manipulated, that really gives very, very useful information.

Now, if you'd indulge me for one minute, I'd like to just briefly follow up on two points Ms. DeYoung made.

First, her assessment that the outsourcing was an experiment or an act of desperation I think is incredibly charitable. I think it's important for us to keep in mind that the outsourcing initiative is the formative, high-priority policy of the administration.

And second, when she talked at length about the proliferation of the subcontractors that KBR is using and the fact that she's paying the middlemen, this is a direct result of the thinning or the reductions of the acquisition work force. The government has no choice at this point but to enter into larger, more complicated contracts, because they don't have enough people to manage the contracts.

So we're being penny wise and pound foolish by not staffing up our acquisition workforce.

I appreciate your indulgence.

SEN. HARKIN: Thank you, Professor Schooner.

We're just -- in another committee on which I serve, we're now going through a process -- and you've probably read about it in the papers -- the National Institute of Health putting data out to the public. And there's some contention on that and who pays for it and how we get that information out. And most of this research is being done by taxpayer-funded dollars anyway.

So now we come back to this situation, which is, sort of, analogous to that. I mean, taxpayers are paying for this. So why should then someone have to turn around and again have to pay to get at that data, or maybe not even be able to get the raw data? To me, this doesn't make sense.

SCHOONER: I completely agree with you. I think that one simple way to look at this is, there's really no reason why a contractor couldn't manage the data just as well as a government operation. I don't think there's anything inherently governmental about data manipulation.

But there's nothing about outsourcing the data function that should be changing the fee structure or the way the public gets access to information.

The Federal Procurement Data Center has in the past been a model of transparency, because anyone could sit down at a computer and log in and stick in the name of a firm and find out all of the contracts they've been awarded over the last few years, how much money. And, for example, POGO has made very good use of this type of data in the past.

But it's alarming that, for whatever reason, whether it's efficiency or fees or just the desire to outsource, there's no correlation between having a contractor manipulate the data and having more people in the public have to pay for it or have more difficulty getting access to it. And I think it's a legitimate concern.

BRIAN: Senator, if I might just add, there's one illustration to perhaps compound your concern. Every year that entity, the FPDS, would come out with a report, a general report on government's contracting practices.

And last year, which was the last year that government employees actually compiled that report, it was a 192-page report. This year, when the contractor compiled the report, it was eight pages. And they said it was smaller and shorter because they were more efficient in being able to do the work.

They have promised to come up with more reports later this year, but we haven't seen them yet.

SEN. HARKIN: Thank you.

Congressman Waxman, my colleague from the House side, I think this is something that maybe even cries out for some legislative -- not just oversight, but some legislative language, some bill

language to make sure that this kind of raw data is openly available and accessible to anyone in the public and that it is fully transparent.

I'm not smart enough or know all of this contracting stuff well enough to say whether it should be in a private contractor or not. I don't have any religion on that one.

But I would have religion on the fact that no matter who does it, it ought to be readily, openly, freely available to anyone in the general public. And if it's not, we have to do something legislatively about it.

Thank you very much, Mr. Chairman.

Thank you all for being here.

SEN. DORGAN: Senator Harkin, thank you very much.

Mr. Allen, you talked about the debarment or disbarment provisions.

SEN. DORGAN: We seldom see action to -- is it disbar or debar?

ALLEN: Both terms are used, Senator.

SEN. DORGAN: We seldom see aggressive action to disbar. I mean, what I have seen in other circumstances, a company that is guilty of, in some cases, criminal activity, they get a slap on the wrist, a pat on the back and a new contract.

Now, I described a series of headlines over a lengthy period of time with respect to the company called Halliburton. Although there's a lot of discussion about that company here at this hearing, the issue is wider than that in my judgment.

But is it not the case that we have company after company that has been found guilty of serious violations, in some cases criminal violations, and fraud and given new contracts; and then not debarred?

ALLEN: Senator, I'm not a suspension or debarment official, so I'm not at liberty to say exactly what circumstances have compelled certain companies to be or not be on the suspension or debarment list.

I will say generally, that if you look at the suspension or debarment list that's maintained by the government, mostly by GSA, it is a substantial list. There are a number of companies that are on there, and correctly so.

Those lists are also periodically reviewed to see if people who are on there have, maybe, earned a good credit discount, can come off; sometimes yes, sometimes no. It depends on the determination of the suspension or debarment official in charge.

That's a question probably best asked to those suspension or debarment officials.

SEN. DORGAN: That's a fair point, but you know the facts as I know the facts.

SEN. DORGAN: I mean, I read one day, some years ago in the paper, of a signing ceremony for a new contract with a company on the very same day the company was in criminal court for fraud with respect to activities in the Department of Defense.

So, I mean, I think all of these raise very serious questions about whether the so-called disbarment or suspension procedures are used in any active way. In fact, a fair number of those

companies on the list you described are small companies and the large ones, by and large, get by with activities that in most cases a smaller company would not.

ALLEN: Well, as I mentioned in my prepared remarks, that is an incredibly complex list of variables that debarment officials must take into account.

SEN. DORGAN: Congressman Waxman has done a lot of really excellent work over in the House of Representatives -- and I should say against the odds over there, because I think -- he can describe it better than I -- but I think other forces have attempted to block what he has done in many, many different ways.

But I know you have had whistleblowers come to you who say, "Look, here's what's happening," and you -- finally, I think you were able to get a hearing over there and had some of them testify.

Ms. Tappan and Ms. DeYoung, it is not easy to come forward and testify in an open hearing about these matters because I assume there's an enormous amount of pressure; pressure with respect to your careers, concern about what people will say, what people will write about you and so on. Do you feel that? Can you describe that? Have you experienced any of it?

TAPPAN: Well, needless to say, I'll probably never work for Bechtel or any other federal contractor again. The last thing I did for Bechtel was last fall; that was the USAID Iraq civil recompetete.

I did expect that during the winter for this story about what happened, the corruption and the recompetete to come out, and it never did and I realized that the bidders involved would never talk because they don't want to jeopardize their chances of future work.

And I was in a, kind of, unique position that I did know what happened and for a number of reasons decided that I'd had enough. So I put the story together and quickly issued my little book in April. And I know Bechtel is not very happy with me, but nevertheless, it was one of those turning points in ones life where this was so egregious I just could not sit by.

DEYOUNG: Senator, in my case, I was a chaplain in my second career in the Army, and I taught ethics. I worked under some great leaders, the late General John Stanford. General Kern is a great leader. And my responsibility was to teach ethics.

Soldiers and civilians alike in the government always fear that they'll never get another job if they do the right thing. And it has always been my argument, "If you're an officer, you won't make general, but you will retire. Because there are checks and balances in the system. This is one. And if you're a sergeant, you might not be sergeant major of the Army. You'll retire as a first sergeant."

I have no fear. I have always landed on my feet. I won't make general, but I've had several generals try to groom me for that. And I won't make sergeant major of the Army unless I go back to the Pennsylvania National Guard.

But I do believe that what Congress is doing, what officers in the Army are doing right now -- I know many retired officers who are working as contractors, who are passing around letters saying, "For the first time in my life, I'm not going to vote Republican because I cannot support what happened at Abu Ghraib." And there's a real belief that the civilians who are in the Pentagon are not upholding the core values that protect our nation and protect our soldiers, and cause our soldiers to do their absolute valiant best.

So, no, I'm not afraid. And if I may say so, I've had more than one job offer. I can go to Baghdad tomorrow. I don't know if I have the courage, although I want to be with my friends over there. All my friends are over there. So I'd like to go. And if I can't go in uniform, I'll probably go back as a contractor. But I'll check the background of the company before I go.

SEN. DORGAN: Well, thank you for your courage -- both of you.

And it is important to say, as two of my colleague indicated earlier, our interest is not to weaken our country.

SEN. DORGAN: Our interest is not, in any way, to ever undermine our soldiers.

Our interest is to protect the American taxpayer, to strengthen opportunities for our soldiers to protect themselves and to strengthen our country. But our country is not strengthened, it is weakened, when we have what appears to be, in my judgment, a substantial amount of fraud in contracting.

It looks to me like we have a situation in Iraq and in the region, where we're simply throwing money at things, just throwing money at things and there is tragic waste and also fraud and abuse. And there's very little interest here in the Congress to do much about it.

We had an aggressive debate here in the Senate on the request for \$20 billion for the reconstruction of Iraq. I happened to oppose that because Iraq has the second largest reserves of oil in the world and Iraq will be able to securitize their oil and easily achieve the funds for Iraq's reconstruction.

But, nonetheless, my view did not prevail and so we have this \$20 billion -- slightly more -- that's been appropriated in the aggregate now that's moving and you all have read the stories about it, not even part of the \$20 billion there's another \$8.8 billion of oil money for which there's no accountability, that went to the Iraqi ministries of the new government and the coalition government.

So there's so many questions to be asked and so much information to be gotten through hearings and I regret that we have to hold these hearings, but we will, especially when we're doing what we're doing now in this country. We must have oversight. And that oversight is necessary on behalf of American soldiers, on behalf of the security of our country and on behalf of the American taxpayers.

Let me thank all of you for being willing to come and testify. I, too, had an opportunity to read your statements prior to this hearing and I think this adds a body of knowledge to an important area of public debate that has been stimulated, especially by Congressman Waxman and many of my colleagues. And this debate, of course, will continue.

Congress Waxman, do you have anything to conclude?

REP. WAXMAN: Well, thank you for this opportunity. I think you've done a real service to the American people by holding this hearing and trying to air these issues.

Oversight is an important function of the Congress. It's part of our checks and balances to avoid concentration of power in any one branch. And right now we're seeing concentration of power to the executive branch when they're not held to public scrutiny and public accountability.

REP. WAXMAN: And that's not helping them any, because they're more likely to make serious mistakes, as I mentioned earlier.

But I want to thank the witnesses and particularly the two who have shown such great courage in coming forward.

To do the right thing is not always easy, but I hope you will serve as examples for others to come forward, because they owe it to their fellow Americans, and they really owe it to themselves to speak out and not let injustices go on, and not let money be abused and wasted when we are told we do not have enough money to give the body armor to our troops and we can't make sure that all the veterans that come back from this war with lost limbs get the medical care that they need and the help that they're going to need in the future.

So I thank everybody, and particularly you, Mr. Chairman, for holding this hearing.

SEN. DORGAN: Congressman Waxman, thank you for your work.

And thanks again to the witnesses.

This hearing is adjourned.

END