

Senate Democratic Policy Committee Hearing
Monday, November 3, 2003
562 Dirksen Senate Office Building
1:30 p.m. to 3:00 p.m.

“Contracting Abuses in Iraq”

HEARING TRANSCRIPT

DORGAN: We will call the hearing to order. This is a hearing of the Democratic Policy Committee. And we will be joined by a number of colleagues shortly, but I want to give a brief opening statement. Let me welcome my colleagues Congressman Sherman and Delegate Norton. We decided to hold this hearing because we are concerned about the issue of accountability with respect to the contracting that is happening in Iraq. There is a significant effort under way by this country to provide for the reconstruction of the country of Iraq. We had a very substantial disagreement here in the Senate about exactly how that reconstruction should occur. I offered the amendment in the Senate that said it should not be paid for with U.S. taxpayers' funds. We did not destroy the infrastructure of Iraq. In fact, we deliberately did not target the infrastructure of Iraq with our shock and awe campaign. Our military campaign was conducted without the impact of destroying Iraq's infrastructure. Iraq's infrastructure really does need a substantial amount of money. And the reconstruction that is under way will now be done with U.S. taxpayer funds. I have proposed that Iraq oil be used for the payment of the reconstruction of Iraq, because Iraq, as many of us know, has the second-largest oil reserves in the world. Ambassador Bremer told us that on July of next year, Iraq would be producing 3 million barrels of oil a day. And that 3 million barrels of oil a day would produce \$16 billion a year of net export value. That's \$160 billion of export revenue from the sale of Iraq oil over 10 years. It is, easily, enough to provide the funds for the reconstruction of the country of Iraq. Regrettably, my amendment failed in the Senate. We now have before the Senate today a provision that provides for both military and reconstruction assistance. And it is an amount of money that will pass the Senate today--the conference report will pass, will be signed by the president, I assume this week. Having said all that, if there is now \$18.6 billion that's going to be sent to Iraq from the American taxpayer for the purpose of reconstructing Iraq, the question this Congress needs to ask is, can and will that money be used effectively, for its intended purpose, or will this be a circumstance where we are throwing billions and billions and billions of dollars at a problem with very little accountability on how that money is being spent? I read the other day about an Iraqi contractor who describes one of the 140 contracts out there subbed to an Iraqi firm. This is from an Iraqi engineer, he says, "The original tender for a school called for air conditioners in every classroom. Once the subcontractor got it, it was air coolers. Once we got it, it was ceiling fans for \$11 apiece." You know, the question is, whether it's \$1.59 a gallon for the importing of gasoline that Iraqis say can be imported for \$.98 a gallon; whether it's sole source contracts that started originally with Halliburton and Bechtel, that had the potential to grow into billions and billions of dollars; whether it's any number of questions about waste, fraud and abuse, including Newsweek magazine's illuminating report last week, cover story, titled "Waste, Fraud and Abuse," with respect to the reconstruction, I think because the conference report is going to be passed by the

Congress--the House last week, the Senate today, and go to the president for signature--I think it's incumbent on this Congress to take a hard, hard look about accountability.

How is this money going to be spent? And do the American taxpayers have the ability to expect that this will not be a product of waste, fraud and abuse? And I think at least, speaking for myself, there's very little here that gives me confidence that this money's going to be spent effectively. This is going to be like the sound of hogs in a corn crib. When you see billions and billions and billions of dollars available for contracts and it's Katy bar the door on accountability, and companies are going to want to get their mitts into this, and move over to Iraq and get money through their hands. And I think that the taxpayers have the capability and the very likelihood of being fleeced here if we're not careful in Congress about establishing accountability, strict accountability, about how these monies are going to be used. So, we're going to have four witnesses today. I very much appreciate those who have come to give us their perspective on this. And let me, before we begin, call on my colleagues for any comments they might have. We are joined by Senator Durbin from the state of Illinois. Senator, would you proceed?

DURBIN: Thank you very much, Senator Dorgan. Your meeting today couldn't be more timely. As we meet in this room, we are considering on the floor the \$87 billion supplemental appropriation. I'm sure that there will be a festive atmosphere on K Street tonight after this is enacted by the Senate. We already have heard about lobbying firms that have been created and those that have advertised that they are the inside people to contact if you need to make certain that you get a piece of the action in Iraq. That is a sad commentary, because this was sold to the American people as an absolute necessity for the security and safety of the people of Iraq and for the security and safety of American troops. And I hope that, ultimately, that's what it turns out to be. But it's not off to a very positive start. I asked Secretary Rumsfeld a couple weeks ago, at a hearing, whether he was in the room when someone suggested that they were going to give a multi-billion dollar contract to Halliburton, the firm that Vice President Cheney once worked with. And he said he recalled some conversations. I said, "Did anybody in that room raise the question of an appearance of impropriety, that this firm, connected to the vice president, would be doing all of this work, frankly, under a contract which, though it might have been bid in its original form, ended up being a no-bid contract for actual services. And he said no. Well, I think that tells us a lot about the sensitivities of this administration. I hope they change. But, unfortunately, we're not going to help them much with this bill. I joined with Senator Pat Leahy and Senator Feinstein in putting a profiteering amendment in this bill. It was tough. It basically said if you're caught profiteering on the war in Iraq, you're going to face criminal penalties, and they'll be tough. Well, unfortunately, that provision was deleted in conference.

That's a sad commentary because I think the American people, as troubled as they are by this \$87 billion sticker shock, are troubled even more at the prospect that this is going to go to the friends of the administration or to some chummy arrangement or, frankly, be wasted in the deserts of Iraq when it might have been spent for the good of the people of that country. So I'm anxious to hear this panel and their comments on what we can do to make certain that the money is well spent and that Congress lives up to its responsibility. Thank you.

DORGAN: Congressman Sherman?

SHERMAN: Thank you. Thank you for holding these hearings. I hope that we have more bicameral hearings when, as happens all too often, the bipartisan and regular committees of the House and Senate fail to fully investigate that which should be investigated. The Senator is wise to bring up the issue of why it is that we're extending this almost \$20 billion as a grant to a country that has the second-largest oil reserves. The reason is, they also have a lot of debts. And it seems very important to the administration that these debts be paid. Now, the folks that lent money to Adolf Hitler, they didn't get repaid. But it seems critically important to this administration that the folks who lent money to Saddam Hussein get repaid. And who is owed that money: Saudi Arabia, Kuwait and the United Arab Emirates are the chief creditors. And so, American dollars will be spent, with whatever degree of efficiency is provided, to rebuild the Iraqi oil fields so that Iraq can generate money to give to Saudi Arabia and Kuwait who apparently don't have enough oil or enough money of their own. In addition to the loans made to Saddam, there are the ideas that reparations should be paid. So first come the creditors, then come the reparations. And the American taxpayer which, after all, is putting in the \$20 billion that rebuilds the oil wells that are going to generate the revenue, is not even in line at all--peculiar sense of priorities. The other issue, and one that grips us all, is why we're not getting more international help, because we would save lives, American lives, if this was viewed as an international rebuilding of Iraq and a occupation or security arrangement for Iraq. We would get more money from abroad, we would get troops from abroad. We'd get an imprimatur from abroad. But for some reason the administration is clinging to control of what goes on with Iraqi rebuilding. And my greatest fear is their reason for doing that is that our international allies, the United Nations, would not award no-bid contracts to people the administration wants to give no-bid contracts to. And I would hate to think that Americans are dying unnecessarily so that we can retain control over contracts that otherwise would be administered internationally through a more transparent process. Now, I think as has already been mentioned, Halliburton already has a \$1.4 billion no-bid contract in Iraq, and there appear to be others. So I authored an amendment on the House side.

And it was an extreme amendment. It was not drafted the way I wanted to, because, you know, on the House side, we've got House rules that basically tie your hands. It's hard to write a sophisticated amendment with your hands tied. And what it provided was that there would be no no-bid contracts, no departure from regular order in awarding contracts--no matter what--in the oil patch in Iraq. Now, it shouldn't surprise you that I would author such an amendment. It wouldn't surprise you that every Democrat in the House voted for it. What is surprising is that 47 Republicans in the House voted for that amendment, even when Chairman Kolbe was able to question me and say, "What if there's an emergency? What if there's an oil fire?" And my response had to be, "I fear the results of giving this administration flexibility over oil contracts more than I fear tying their hands," that the traditional exceptions to government contract rules that applied to the Clinton administration for eight years shouldn't apply when this administration is giving oil contracts. Forty-seven Republicans agreed with that. Even when Chairman Kolbe could say, "What if there's an oil fire?" and I had to say, "Well, it's more important that we stop no-bid contracts, especially in this area." And, so, I want to commend those 47 Republicans--none of which are here today--for realizing just how untrustworthy this administration is when it comes to no-bid contracts dealing with oil companies. And I want to thank you for the time that you've allotted.

DORGAN: Congressman Sherman, thank you very much. And next, Delegate Norton.

NORTON: Thank you, Senator Dorgan. I want to thank you especially for calling this meeting to allow us to amplify some of the issues that actually we tried to bring forward on the floor of the House and you on the floor of the Senate. The fact that so many Republicans joined us in trying to make some of these contracts, and not grants says something about the amplification that took place and the changes that occurred then. There are tremendous weaknesses in the contracting system of the federal government. They have really been exposed by the Iraq contracting experience, thus far. And the administration has taken advantage of every single weakness and exacerbated those weaknesses. Even if we wanted to hold the administration accountable, they have made it so you can't, essentially, hold them accountable, because there is no mechanism for effective government oversight of the taxpayers' dollar once a contract is awarded, much less when it is out for a bid. The administration has reduced the staff, the so-called acquisition work force, by 35 percent and their budgets by 40 percent. My friends, there is nobody minding the store. There's nobody monitoring these contracts. There's nobody to see what happens from bid through the performance of the contract. There is no transparency and no oversight. And that's a very dangerous situation for the taxpayers' dollar. What we've had, thus far, is a feeding at the trough of secret sole source contracts. Most of the \$79 billion that has already gone for war expenses has gone for sole source contracts. Halliburton has a virtual monopoly on oil, as we speak. Bechtel has a virtual monopoly on construction. So anything that happens will be from hence forward, and they've already gotten much of what we are supposed to expend in Iraq on reconstruction. I am very concerned about the use of secrecy and national security. For example, AID used the secret contracting mechanism to award contracts for such normally non-secretive items as hospitals and public schools and the like. What's secret about that? Why do we need to put that under national security and negotiate in secret? Most of these contracts have been cost-plus contracts. We need to expose to the public what that means. I'm a member of the Government Reform Committee in the House. I'm a member of the Homeland Security Committee in the House. I mean, if we go this way, I hesitate to think what we're going to do when this whole flock of homeland security contracts come down. How secret are those going to have to be? Cost-plus contracts, of course, inspire or encourage a company to spend more because the more you spend, the more you get, and lots of what you spend, nobody can find out, at least the public can't find out, about profits and bonuses and fees and fringes and the like. There is no incentive to economize on these cost-plus contracts. Why have we been doing cost-plus contracts with the taxpayers' dollar? We had a rather notorious--when we did the hearings in the House, I asked about Iraqi businesses as well. We're supposed to be building their economy. They complain about the bidding process. And I recall an example that we asked the undersecretary of the army about where the Iraqis talked about a bidding process that opened and closed for the Iraqis within two days, with sketchy details of what the goods were to be provided. mean, there's a sham going on there, and it needs to be exposed. A quote from one large Iraqi contractor, who said, ``We built hospitals, mosques and palaces before the war. Since the war, we are unemployed. This is our country, and we want to be part of building it." So one of the great problems I have with the process we're using is that we're not even trying to rebuild the country by using their own contractors. The notorious example I was about to speak about came out in the hearing when our committee traced the price of gasoline, when you bring this gasoline from Kuwait to Baghdad. And apparently it costs 71 cents per gallon in Kuwait. And it costs 10

to 12 cents per gallon to transport it. Halliburton was charging one dollar per gallon to transport the same gasoline. And they complained about danger, and that these costs were added because it was so dangerous. Apparently, there is an Iraqi contractor, SOMO, who says they can transport the same gasoline for 50 cents per gallon. We've got to use these Iraqis sooner or later. And I think the time has come to use them. Finally, let me say a word about bundling, because I'm concerned about how small business, minority and women-owned businesses are nowhere near this process. There are huge, unmanageable contracts here, and they've been bundled together, even though many of these contracts include services that could be disaggregated for smaller businesses. And let me give you an example of some of the services that have been bundled into the Halliburton oil contract--management of military bases, delivering mail and producing hot meals. Sounds to me like classic small business stuff. And there ought to be a way to allow small business and minority and women-owned businesses to be a part of the rebuilding of Iraq, leave alone the people of Iraq themselves. Thank you very much, Senator Dorgan.

DORGAN: Delegate Norton, thank you very much. Let me also, as I introduce the panel, say this: Our holding a hearing on this subject is not an attempt to tarnish any effort by anybody to do that which is necessary to complete the job in the country of Iraq. But if, despite the concerns we have expressed, \$18.6 billion is now going to be made available, likely by the president's signature this week, and if we know, just from anecdotal evidence and from stories and other pieces of information, that a substantial amount of money is moving through the hands of unnamed people without much accountability, then we know what might happen with \$18.6 billion.

We want--and we demand--accountability. And so should the American taxpayer expect accountability. And that's why we hold this hearing, to try to determine how we structure something here in the Congress that requires and demands accountability on how this \$18.6 billion is used. Now, the first witness today is Timothy Mills. Timothy Mills is a partner in the Washington office of Patton Boggs, practicing in the firm's government contracts and litigation practice groups. He's also the principal senior partner in the firm's Iraq reconstruction practice, where he represents foreign and domestic companies that have been seeking contracting opportunities in Iraq. He also represents businesses doing business in Iraq. And in this capacity, he's spent significant amounts of time in Iraq during the past several months. He has served in the U.S. Army on both active duty and Army Reserve for over 25 years, including most recently as command judge advocate of the Army Reserve headquarters. Mr. Mills, thank you for joining us to give us your perspective, having been in Iraq a substantial amount of time in the recent months. Why don't you proceed with your statement. And what I would like to do, Mr. Mills, and to the other witnesses, is to take all four statements and then have the opportunity to ask questions. But would you now proceed?

MILLS: Thank you, Mr. Chairman. Mr. Chairman, honorable members, distinguished guests, as the chairman has said, my name is Timothy Mills. I appear before you here today in my individual capacity only. Strictly by way of background, I am the principal senior partner of the Iraq reconstruction practice at Patton Boggs. However, today I speak for myself and not for any client, firm or institution. I am honored to be invited to share with you here today some personal

perspectives about the realities of what it takes to do reconstruction business in Iraq. Most particularly, the dilemmas, discouragements and challenges encountered by struggling Iraq mid- and smaller-size businesses that have been left either capital depleted or capital flat, and, in largest part, because financing structures and facilities are not available following the collapse of the former regime and there has been no initiative taken to remedy this unfortunate situation. In my view, very serious policy and practical implications flow directly from this as yet unresolved but completely fixable set of facts. Let me share with you the basis of my observations and analysis. What I share with you here today is borne of substantial involvement with the post-Cold War reconstitution of the economies of Central and Eastern European states, as well as republics of the former Soviet Union, and the reconstruction of Bosnia, the Former Republic of Yugoslavia, Afghanistan and now Iraq. I've been involved in all those efforts. As to Iraq, I have been involved in the critical assessment and analysis of the legal system and the business economy of Iraq since 1997. And most recently, I have spent well the better part of the past three months on the ground "in country," as they say, and during that time have spoken daily with any number of senior Iraqi businesses, business representatives, CEOs, banking representatives, legal and professional and political leaders, perhaps, 300 Iraqis in all, about what is needed now to make the reconstruction a success. And then, having done that, I have critically examined what each had to say from practical economic, legal and above all, perhaps, political perspectives, internal Iraqi and external as well. I expect that this level of personal involvement in Iraqi reconstruction will continue for the foreseeable future. Now, if I may turn to the challenges faced by these businesses, these independent and small Iraqi businesses, that have been occasioned by some of the failures to provide such contracting finance vehicles as we routinely see in the United States. Well, under the present circumstances in Iraq, medium and small size independent Iraqi businesses are forced to turn to practically the only source of ready, willing and able financing of subcontracts. These are the subcontracts that are awarded by the Coalition Provisional Authority and the U.S. government through the prime contractors. These are funded by U.S. government funds and by Iraqi funds that are in the fund for the development of Iraq.

Now, the people that they turn to are the leaders of these family-owned enterprises, and who are these? These are the 12 families in Iraq, dating back to the Ottoman Empire, that have been dominant in the Iraqi business sector. And the leaders of these family-owned and operated entities are quite savvy, and they know how to extend an advantage. And, as you would expect, they do just that. These entities are well capitalized and well financed, perhaps even more so now that the former regime has passed. The family leaders have protected their assets over the course of the last 35 years by transferring money out of Iraq to money centers, such as Geneva, to hide it from the former regime. And this money and this capital is now available for their operations in Iraq, the large family business operations. And they are exquisitely knowledgeable about the Iraq private business sector. They understand how to maneuver in the Iraqi marketplace to gain advantage for their short-, medium- and long-term goals. And as would be expected, these large entities snap up opportunities when and where circumstances allow. Well, what does this mean in the realm of reconstruction contracting by the undercapitalized medium and small Iraqi firms? Simply this: With no place else to turn for financing, medium and small Iraqi firms must go to these family-dominated entities for financing, and on what we in the West would call onerous terms, terms that we would consider to be predatory. What is the typical deal that you would see in this circumstance? Well, first, a medium or small Iraqi firm that historically possesses the capability to perform the sort of work that the CPA and the American contractors wish, be it in

the power sector or be it in the construction sector, be it in the agricultural sector, they become qualified to bid on these subcontracts. They become sources for Halliburton, KBR, Bechtel, Fluor, Perini and others. And of course it's U.S. government money and Iraqi funds that'll pay for the subcontracted work. And in the aftermath of the war, number two, these quite technically capable medium and smaller Iraqi companies, because they cannot obtain financing, before they bid, they go to the sources of financing. And what do the sources of financing say? They say, "Wonderful. Glad to see you. Boy, do we have a deal for you. We understand what your business is like. We understand what your business capital needs are. And we can help you. We also understand that you don't have the capital to perform, but we're very pleased that you're qualified to bid, because we are not necessarily so." So in that particular instance, let's take, for example, what would happen with a \$1 million contract, which, under the Bechtel contracting scheme, would be considered to be a large subcontract. Well, the profit levels on a \$1 million contract ordinarily would range, because they're firm fixed price, would range in the realm of 10 to 15 percent, but not in Iraq, because the financing source says, "I want to have one-half of the profit, and my profit goal is about what you've just told me yours is. So please bump up your bid. Not only that, but I want you to know that I want a regular business relationship with you. This isn't just a matter of one transaction. You seem to be a fine company.

"Now I would like some equity in your company. As a matter of fact, I don't want to take the risk that my financing is going to be for naught. How about we control your business? How about we oversee your contract performance? How about we have this long-term relationship, where not only do I get one half of the profit, but I also get equity shares in proportion to what it is that I've just negotiated with you, because you need me more than I need you?" So, what does the Iraqi family-owned enterprise do? They strike an agreement. And they have these agreements in form. And what does the small business do--the medium-sized to small business? And I'm talking about businesses that, before the war, might have had sales of \$100 million, \$150 million, or below. Now, what they do is very simple. They say, "Thank you. Thank you very much for the opportunity to do business with you. I will submit the bid and I will include what you want in the bid, but we've got to make sure we're competitive"--meaning competitive against everybody else that is doing this. And so this, in effect, becomes a baseline for subcontract pricing, because everyone is doing this who is qualified who doesn't have capital. Now, all of this is going on under the surface, and these are private transactions between large family-owned enterprises and these smaller Iraqi business entities that need this help. We don't see it. The U.S. government doesn't see it. The CPA doesn't see it. All they see is the price. And the effect of this is really deleterious. Let's take a look at what the affects are. Well, in my estimation, the overall affect of the circumstance is that it impedes the ability of small-and medium-sized businesses to become the engine of job formation in Iraq. Why? Because they are not unfettered to do as they wish--to keep their profits, to use the profits in order to build their business. But, instead, the profits go to the larger companies. And it has historically been the case in Iraq that these smaller businesses--meaning \$150 and below million annually in sale--are the ones that generate the jobs. Keep in mind that the unemployment rate in Iraq right now hovers between 40 to 50 percent. And when the Iraq economy was booming and these small businesses had financing, it was nowhere near that. Now the small and medium Iraqi businesses who do not cave in to the financing demands of the large family enterprises simply do not get capitalized, and therefore, they can not compete

effectively for reconstruction contracts. And, thus, number one, they can't put employees back to work and, number two, they can't offer competition in the form of lower prices. Now, with fewer Iraqi companies independently operating because of these unsolved capitalization problems, you would expect the competition is somewhat less than what we want it to be. I think that that is, in fact, true. Let me give you one example that comes from the cement industry. And this is something that I know first hand, because I attempted to assist the Iraqi company who was involved in this--and unsuccessfully so. One example--in July and August the price of cement soared to almost \$100 per ton in Iraq--more than twice what it was on the world market. And this was because the Iraqi cement companies had not been capitalized to restart operations. There are plenty of cement companies in Iraq, some state-owned, some private. And if they were all operating, the price would not be what it was. Well, of course, at that price, cement from outside Iraq flooded the market. The price of cement in Iraq dropped to \$60 a ton, but that was still way above the world market price. And most of the capital-flat Iraqi cement companies remained without the capital to resume operations, simply because there was no financial institution source for legitimate borrowing to recapitalize these businesses, the financial sources being the families. Now this, of course, excepted those private sector companies that cut financing deals with family-owned enterprises along the model I just laid out. Now private sector capital, in this circumstance, is being unnecessarily concentrated in Iraq in the hands of well-capitalized family-owned entities. And this is something that in my estimation we ought to be concerned with. If history is a guide, the power that comes with such capital concentration likely will be used to further the market position and interest of a privileged few to the detriment of many Iraqi entrepreneurs who are willing, but presently are unable, to restart and expand existing businesses.

MILLS: Each of these deleterious effects in my estimation can be avoided by the U.S. and the U.S.-led CPA establishing the predicate for the emergence in Iraq of Iraqi private sector financial institutions dedicated to providing contract financing on non-onerous terms equivalent to what we see here. And what would that model be? Well, I've been in discussions with the governor of the Central Bank of Iraq and his staff. And these are discussions between the governor and myself as an individual and extensive discussions with senior executives of private banks, financing companies and others, not only in Iraq, but in the Arab world, United States and Europe. It would be possible to establish such operations. What would be needed? First, recognize that financial institutions are justifiably hesitant to put their own capital at risk. However, even so, senior executives of a fair number of financial institutions, mostly those that are regulated Iraqi private banks and Arab banks, are keen on establishing lending facilities for contract financing if the capital risk problem can be solved. And that capital risk problem can be solved. A fund created from Iraqi funds of about \$500 million would be more than enough to establish a revolving fund that would completely finance the forthcoming USAID \$1.5 billion Phase II infrastructure contract which has as its premise that that contract will be the vehicle by which Iraqi companies will be recapitalized. Ideally, this fund would be available to all financial institutions that are willing to provide contract financing in Iraq. Second, Iraqi private banks may need to acquire or be provided with the practical expertise to set up and conduct contract financing lending operations. Such expertise is present throughout the developed world. But infusing such expertise into lending institutions in Iraq may require technical assistance initiative. This can be accomplished in a rather straightforward matter, similar to what the

Coalition Provisional Authority did to start up the Iraq Trade Bank. And if that happens, you will create in Iraq a market for financing that will allow the emergence of Iraqi companies free of the dominance of Iraqi families, plus a lending facility and a lending industry in Iraq that will be not only modern but serve the interest of the independent growth of jobs and business. Thank you.

DORGAN: Mr. Mills, thank you very much. I let you continue through all of your statement. I didn't hold you to a five-minute rule, because you're introducing a new topic here for us, one, that seems to me to be abusive, obviously abusive to the American taxpayer, if that becomes the baseline bid for contract work that is done in Iraq. And I have not previously been familiar with that. It sounds like kickbacks to me. I'll ask you questions about that in a bit. But thank you very much for your complete statement and your testimony. And I think it's a very interesting subject for us to discuss. I'm going to introduce Melanie Sloan, Citizens for Responsibility and Ethics in Washington. But first, let me point out that Senator Clinton has joined us. And Senator Clinton, if you have anything in terms of an opening statement, why don't you proceed.

CLINTON: Thank you very much. And I so appreciate your holding this important hearing. And I appreciate the witnesses coming to testify before us. When we finish this hearing, we will be voting on the \$87 billion conference report. And today's vote has been complicated, for me at least, by the removal of several of the crucial provisions that were inserted into the bill in both the Senate and the House that have been removed in the conference.

These provisions, which I sponsored or co-sponsored, would have required greater oversight and accountability of the expenditures of taxpayer funds in Iraq. One would have required GAO audits of these opaque supplemental appropriations. Senator Byrd had another, which would have provided extensive government oversight through the GAO into how all of our tax dollars are being spent. Another that I co-sponsored, along with Senator Harkin, would require the GAO to examine the level of profits being made by U.S. contractors in Iraq. And a fourth amendment, that I co-sponsored with Senators Wyden and Collins, banned no-bid contracts unless Congress is provided with written notification and the justification documents. All of these were in the Senate bill and all of these have been stripped from the supplemental appropriations. You know, this is despite recent press reports indicating that now, more than ever, accountability and oversight is needed. According to the Wall Street Journal story in August, that I have yet to see refuted by anyone in the administration, the U.S. has improvised a money pipeline that runs from a New Jersey warehouse to a Maryland air base, down Baghdad's "Ambush Alley" and even, at times, underneath the black burqas of two middle-aged female accountants, until it ends up in the pockets of Iraqis. The story details how the United States is currently flying plane-fuls of cash to Baghdad. Last week--I'm sure you've already covered before I could get here--the long article in Newsweek, "The \$87 Billion Money Pit." And, of course, the Center for Public Integrity has reported that more than 70 American companies and individuals have won up to \$8 billion in contracts for work over the last two years and that these companies contributed more money to the presidential campaign of George W. Bush than to any other politician over the last dozen years, more than \$500,000. Now these stories raise a lot of questions, and we're on the cusp of sending another \$18 billion. And it looks as though the administration doesn't want either the public or the Congress to have any opportunity for oversight or accountability or transparency with respect to the spending of this money. And what they've done is to create this inspector

general, unlike any that's ever been created in our government, so far as we can determine, not appointed by the president, unaccountable to Congress, not confirmed and apparently to be the personal appointee of the secretary of defense. The conference report also provides the president with the power to nullify any report of the inspector general. It's just a fake IG. I mean, there's no doubt about it. So here we are with all of the provisions that we voted for out of the conference report, with this fake IG as somehow to be a fig leaf for the failure to have real accountability. And it's exactly contrary to what we hear from this administration when we try to spend any money on the needs of Americans. We have story after story of waste and cronyism in Iraq. We have very little response from the administration. There's obviously a double standard, where what we spend here at home on behalf of Americans is held to a much higher standard of accountability than what is being done in Iraq. Why is the administration fighting these accountability provisions? Why is it acting like it has something to hide? I think this lack of transparency not only undermines support here at home, but raises questions as to our motives, both with our allies and with the Iraqi people.

That is absolutely counter to what is needed at a time when so many of our foreign policy goals depend upon creating some level of trust. So I hope, Mr. Chairman, that we will be able to not only shed some light on these matters here at this hearing, but try to convince this administration that they are heading down a very dangerous path where, even if they are well motivated, even if they believe that what they're trying to achieve is in the long-term interests of the United States, of Iraq, of the region and the world, they are going to be undermining at every turn their capacity to deliver on what they believe to be their goals. So I would urge that--since these matters have been stripped out of the conference report--that we move quickly to act on several bills that would encourage accountability and transparency and eliminate the very strong smell of cronyism and corruption that is now starting to surround our efforts in Iraq.

DORGAN: Senator Clinton, thank you very much for your statement. Next we will hear from Melanie Sloan. She is the executive director of Citizens for Responsibility and Ethics in Washington, a nonpartisan government watchdog and legal action group working to ensure integrity among public officials. She previously served as an assistant United States attorney in the District of Columbia. Before becoming a prosecutor, Ms. Sloan served as minority counsel on the Judiciary Committee of the U.S. House of Representatives. Ms. Sloan, thank you for being with us, and why don't you proceed with your statement?

SLOAN: Thank you for having me. Today I am here to discuss the appearance of impropriety in the process of awarding government contracts to rebuild Iraq, including allegations of cronyism, questionable pricing practices and a lack of transparency. To many, both in the United States and abroad, the administration seems more concerned with the interests of large contractors such as Halliburton than it is with the burden on the American taxpayer or the benefit to the Iraqi people. The Congress, not to mention the American people, knows very little about how American tax dollars are actually being spent in Iraq. And, unfortunately, efforts to ferret out this information have been met with obfuscation. Just last week, as Senator Clinton mentioned, the Center for Public Integrity, a well-respected watchdog group, announced the completion of a six-month study which found that the contracting system in Iraq is beset by, quote, "almost incomprehensible confusion," and that federal officials have been either unwilling or unable to

provide the information about the contracts awarded. The most widely cited example of cronyism and lack of transparency involves contracts awarded to Halliburton. Not only was Vice President Cheney executive officer of Halliburton, but he continues to have a financial interest in the company. In a report issued in late September, the Congressional Research Service concluded that under federal ethics laws the annual deferred compensation checks and unexercised stock options that Mr. Cheney maintains in Halliburton constitute a continuing financial interest. Moreover, it's well-documented that Halliburton has made significant political contributions, the vast majority of which have gone to Republicans, including contributions to the Bush-Cheney reelection effort. Even if these political contributions have no bearing on the contracts being awarded to Halliburton, given the lack of an open bidding process there is a perception of impropriety that needs to be addressed. Despite the administration's insistence that there is nothing improper in the arrangement with Halliburton, the skepticism with which the administration's claims of impartiality have been met cast doubts on the integrity of the government contracting system, not only by the American people, but by our allies and the Iraqi people as well. These are doubts our nation can ill afford as we expect our troops and U.S. civilians to win the peace in Iraq. The fact that Halliburton is the biggest single government contractor in Iraq, followed by Bechtel and DynCorp, and that Halliburton in particular has been profited from nearly every phase of the conflict in Iraq, needs to be examined. Many find it particularly troubling that nearly a year before the war in Iraq began, in March 2002, Halliburton subsidiary Brown & Root began its first action relating to Operation Iraqi Freedom. The fact that Halliburton benefited from the military buildup before the war, the conduct of the war itself and the restoration of Iraq after the war has made many believe that Halliburton is unfairly benefiting from the war. Again, this appearance of impropriety undermines confidence in the contracting system.

We have also seen troubling developments with regard to Halliburton's performance of its contracts in Iraq. Most recently, for example, we have learned that Halliburton has charged an average price of \$2.65 per gallon of gasoline that is imported from Iraq into Kuwait. The Iraqi State Oil Company, on the other hand, is paying just 97 cents to import the exact same gas from Kuwait for which Halliburton is charging the United States government \$2.65. The Coalition Provisional Authority has confirmed that there is no difference between the gasoline that Halliburton and the Iraqis are importing and that both are delivering their gas to the same depots and the same distribution systems. Halliburton's CEO David Lesar has claimed that the company's prices are fair and competitive. But experts in the field argue that Halliburton appears to be price gouging. The administration has refused to explain this anomaly. It also appears that some of the funds to pay Halliburton have come from humanitarian funds transferred from the United Nations oil-for-food program. Under the terms of a U.N. Security Council resolution, the International Advisory and Monitoring Board was supposed to ensure that U.N. oil-for-food funds were spent for the benefit of the Iraqi people. Not only has this board not been created, it seems that at least \$600 million transferred from the program may have been squandered on inflated fuel costs charged by Halliburton. And, again, the administration has refused to explain. Because the U.S. has requested yet another \$900 million for the importation of petroleum products, if Halliburton's pricing practices are not stopped it has been estimated that between \$286 and \$339 million of this \$900 million could be wasted. But the administration has refused to provide an explanation. Similarly, the administration's request for an additional \$2.1 billion to repair Iraq's oil field infrastructure is more than 2.5 times larger than an estimate by the Coalition

Provisional Authority, the Army Corps of Engineers and Iraqi minister of oil. In addition to this unchecked overcharging, the administration has been less than open about its contracts with Halliburton. The sole-source oilfield contract with Halliburton subsidiary, Kellogg Brown & Root, is a good example. The Defense Department entered into a no-bid contract with KBR on March 8th, but did not disclose until April 8th that this contract had a potential value of up to \$7 billion. After repeatedly indicating that the contract was limited to fighting oil fires and carrying out related repairs, the Department of Defense later revealed that the contract extended to operating oil facilities and distributing fuel. There is no reason for this lack of transparency which, unsurprisingly, results in perceptions of cronyism and impropriety. If, as the administration claims, there is no impropriety, why not open up the contracts for inspection? If there are explanations for what appears to be excessive profit-taking, why not provide them? Why all the secrecy? It is time for the Congress and American people to demand answers from the administration. We deserve to know who is getting paid, what work they're being paid for, how much that work is costing and why the work costs so much. The lack of transparency in the government contracting process, the appearance of cronyism, the unexplained anomalies in pricing, the trickling out of information that the administration might perceive as damaging and the refusal to make relevant information public have undermined the integrity of the reconstruction process, and as a result have undermined our national security.

It is critical in the days ahead that the administration show the American public, our allies and the Iraqi people that it is not simply making deals for the benefit of those with close political ties to the administration, but that it is working to rebuild Iraq as quickly as possible and that it is administering the contracts to do that work as fairly as possible. Thank you for having me here today. And I'd be happy to answer any questions you might have.

DORGAN: Ms. Sloan, thank you very much. We should mention that we did invite Bechtel and Halliburton, or representatives of those two firms, to be present, as well, at this set of hearings, and they declined to do so. They have submitted written statements, however. Next, we will hear from Steven Schooner, who is the George Washington University Law School representative. He's an associate professor of law and he's co-director of the government procurement law program at George Washington University Law School. Before joining the faculty, Professor Schooner was the associate administrator for procurement law and legislation at the Office of Federal Procurement Policy at OMB, the Office of Management and Budget, here in Washington, D.C. Professor Schooner, thank you very much. And why don't you proceed.

SCHOONER: Senator Dorgan and members of the committee, thank you for this opportunity. Despite my extensive written statement, I will attempt to be brief. Three major government players dominate the scene in Iraq. There is the Agency for International Development, the Corps of Engineers, and now the nascent Coalition Provisional Authority. AID commanded much of the early attention by awarding 10 contracts between February and July of 2003. The corps' primary contract, as most of you know, is with Kellogg Brown & Root, which originally prepared the contingency plans under the Army Field Support Command's Logistic Civil Augmentation Program, or the LOGCAP contract. Of course, because KBR is a subsidiary of Halliburton, scrutiny has been intense. Now, although the LOGCAP contract was awarded competitively, LOGCAP is an IDIQ, or an indefinite delivery, indefinite quantity, contract, often described as an

umbrella contract. When the corps needed contingency plans to extinguish oil fires and assess the damage to the oil facilities, using the LOGCAP contract made sense. It saved time and effort. The corps subsequently issued a sole-source contract to KBR as a bridge to a competitive contract. The bridge contract is worth--as we heard--up to \$7 billion. And the corps plans to replace this with two competitively procured contracts. These two contracts, one for the northern area and one for the southern area, now encompass as much as \$2 billion. But the longer the corps waits to award these two contracts, the longer KBR continues to perform under a sole source contract. Now the CPA has yet to engage at the same type of large-scale contracting, but their transaction volume, at least at this state, appears to be far greater. The CPA's contracts are supposed to be funded by foreign assistance, and I must say they've early on earned high marks for the transparency in their efforts to publish their contracting rules and the contracting opportunities. Conversely, some concerns have been raised that their procedures do not permit the same due process rights typically enjoyed by contractors doing business with the United States. Now turning to my concerns. While there's plenty to criticize, I have seen no specific illegality or improper contract.

But having said that, with foresight and a commitment to an open, competitive procurement regime, any such suspicion could have been avoided. The process could have been more open and competitive. Although what USAID and the corps did was legal, neither institution demonstrated sufficient cognizance of the appearance of their actions and the potential harm to public trust. The government's ambition, exuberance and rapid expenditure rate appears to have exceeded its ability to develop realistic plans for specific results and to manage its contractors to achieve those outcomes. As we heard, USAID performed all of its original contractor selection in secret, rather than advertising its opportunities through the government's widely used Web site, fedbizopps.gov. It only posted information on these contracts after the proposal submission dates had passed. Other than speed, USAID offered insufficient explanation for the secrecy. Similarly, USAID only considered contractors authorized to handle classified information. Given the tasks involved, which are garden-variety public works, the need for such stealth appears unfounded. Both AID and the corps severely limited competition in awarding contracts. And, for example, the corps' explanation for the situation sounds reasonable. But it remains difficult to stomach as KBR's continued performance under a sole source contract goes on. Now, at the CPA, the primary complaints at this point have been that they've used extremely short periods for the submission of proposals, bids and quotations. But to echo some of the earlier comments, our ground rules not only attempt to ensure fair treatment and ethical behavior, they also seek to avoid the appearance of impropriety. When transparency and competition are compromised, the media and the public are quick to assume a corresponding absence of integrity, and that compromises the public trust. As Senator Clinton noted earlier, this trust depends upon meaningful oversight, and there are significant questions that remain regarding oversight. Too many of the Iraq reconstruction contracts reflect inadequate acquisition planning. Given the frenetic pace of spending, it's reasonable to ask whether the contracts reflect carefully wrought, realistic plans likely to achieve specific objectives. Looking ahead, there's every reason to fear that the government lacks adequate resources on the ground in Iraq to manage and administer these contracts. Some contractors may perform shoddy and inferior work, but more troubling is the concern that the government is wasting money by rushing to award contracts before good plans are in place. Now, unfortunately, this is not unique to Iraq. As Delegate Norton noted, there simply are not enough qualified acquisition professionals left in the federal government. Given

the administration's competitive sourcing initiative, the critical acquisition work force problems will get worse before they get better. The work force cuts lead to a triage-type focus on buying, which has severely limited the resources available for contract administration. And as I'm sure that Delegate Norton knows well, as we cut the acquisition work force, the impact on bundling is going to be dramatic as well. Finally, let me mention, outside the United States, reciprocity dominates the discussion of public procurement. I find it troubling that the government has yet to make a significant contract award to a non-U.S. firm. It not only frustrates non-U.S. companies, it angers foreign governments, and those are the same governments we hope will donate funds to rebuild Iraq.

When we close our markets to foreign firms, we empower foreign nations to exclude our firms from their public works projects, and, in other words, turnabout is fair play. That concludes my statement. Thank you for the opportunity to share these thoughts. And I'd be pleased to answer any questions.

DORGAN: Professor Schooner, thank you very much. And, finally, we will hear from Chellie Pingree. She is president and CEO of Common Cause. Previously, Ms. Pingree served in the Maine State Senate and was the senate majority leader of the Maine State Senate in 1996. She's been involved in numerous international initiatives, including her work with Women in Politics and Business in Hungary, as an Eisenhower Fellow in 1997. She also served as a White House observer of the 1998 Bosnia elections and has done work in India with Global Peace Initiative. Ms. Pingree, thank you very much for being here to present testimony on behalf of Common Cause. You may proceed.

PINGREE: Thank you very much. Thank you, Senator Dorgan and members of the committee. I particularly appreciate you holding this hearing on a milestone day for the issue. And I also want to thank my fellow panelists for illuminating many of the things that have concerned us at Common Cause. I'd like to just talk briefly about the perspective of Common Cause on this issue and our 200,000 members, I must say, whose ranks are growing, partly because of issues such as this, which go to the core of what we've been concerned about for more than 30 years here in Washington and across the country--and that is the importance of government being conducted in the open; the importance of accountability and transparency in the decisions that are made; on lobbying Congress itself, to exercise appropriate oversight in issues as important as this; and in making sure that our citizens are well-informed and have the truth when we're undertaking such challenging decisions such as these. Now the skepticism seems to be growing about the costs around the war, the duration of this. And internationally, unfortunately, questions continue to be raised about our motives. And we consider this a problem that is pressing in its danger. And we're looking for ways to make sure that we can turn it around. We're not just talking about the contracts and a system that's no longer looking at cost effectiveness, but also the result of bad decisions, very poor planning, and what seems to be a lack of oversight and, most troubling, something that may be a reflection of what our motives were initially in embarking in this conflict. There's been some talk today--and I know many of you have been extremely well-informed by organizations such as ours and many others, as well as the press, who continues to look at the lack of accountability, the insider connections, cronyism, war profiteering, the big donors who seem to be accessing the contracts for the rebuilding of Iraq. And we've already

heard a tremendous amount about Halliburton. It's hard not to mention that that still is one of the looming worst examples of what's going on, not only for many of the things we've already heard, but for the fact that when Vice President Cheney was the secretary of defense many of the policies that we're now using to rebuild Iraq were changed in that administration. A lot of people think that the money is going to the Iraqi people, to our soldiers, and don't understand that one in 10 of the personnel on the ground over there works for a private company. We were originally told this would be tremendously cost effective when, in fact, with the cost-plus system and the tremendously rising costs of insurance, the lack of security over there for many of the private personnel working--unfortunately we just lost two yesterday--the costs are exploding, as you've heard many examples of today. These are also personnel who can leave at any time, where we don't have the accountability that we would with our military forces. And unfortunately there's very little Congressional oversight about the numbers of those personnel that are being used anymore. We've heard a lot of talk already about the lack of impact on the Iraqi economy and how important that is, that we're investing in it as we attempt to rebuild this democracy. And, again, we continue to think that is important. Now often, people will say to us, "Isn't this just business as usual in Washington?"

And many of the contractors have used the same argument--this is how business goes about, you're well-connected, you're also able to make money off of that. And we would argue that in relation to the rest of the world right now, and in the domestic opinion of people in America, it's more important now than ever that this is squeaky-clean and done so in an atmosphere of accountability and transparency, as all eyes are on us. I can tell you as a reflection of our members at Common Cause--we have 200,000 members and growing--we've recently been conducting a campaign we call "Eye on Iraq" over the Web and also through the media. One petition that we posted last week asking for greater oversight elicited 10,000 signatures in 24 hours and now is up over 30,000 signatures. We hear about this all the time--from our members, from activists around the country, but also from average American citizens who are increasingly concerned about the very questions you're asking today: Why were these not loans when we were told in the beginning that this would be very little cost to the American people and that the oil would be flowing quickly, and this is a country that would be able to pay? Why are the casualties continue to increase, and is that a direct result or related to the fact that we're unable to rebuild this country fast enough? Why are families having to send things to their soldiers over there? Why don't we know the number of injured every day? Why is it so difficult for service personnel to get home? Certainly, internationally this continues to raise questions about the motives: Why we went to war? Is America just concerned about the oil? Why did we choose to go it alone? Is that so we could maintain control? You know, it's been said that there was a limited window for the United States to actually rebuild this country and fight back terrorists. And with terrorists targeting the U.N., foreign aid, we may find ourselves, in a short period of time, virtually alone over there in a pitched guerrilla battle over which we have had very little success with rebuilding this country. This is a more and more difficult job for us to do. And we believe it's time that the American public has the truth, that there are high standards of our accountability, that we turn to our allies for support in this and no longer find ourselves squandering the tremendous goodwill we had that now is being lost to our country. Thank you very much for including me. I would be happy to ask any of your questions.

DORGAN: Ms. Pingree, thank you very much. We began planning this hearing long before the Newsweek magazine last week published the feature article about the reconstruction of Iraq-- where are billions really going?--question mark, it asks. And many of us have been asking the same question for some while. Let me ask a couple of questions, and then turn to my colleagues, as well. Mr. Mills, you've described the circumstance where because the capital that's available for Iraqi firms to bid on and do work on some of these contracts is available from a group of 10 or 12 very wealthy Iraqi families. And because access to that capital comes with those families saying, "Yes, we'll provide the funding you need, but we want a profit equivalent to that which you're getting, and therefore, up your bid, increase your bid, and we'll get a profit equal to yours and, perhaps, want part ownership of your business," and so on. All of this sounds to me like a kick-back scheme of sorts.

MILLS: Well, senator, actually it's not so much of a kick-back scheme as a very high rate of return on what the Iraqis would tell you is an investment in companies that they don't know how they're going to perform. I would argue, however, that what it really is, is it's equivalent to usury. It's equivalent to saying to someone, "You want to go back into business, you have only one way to do it, and we're going to take advantage of that, and you're never going to be able to do business the way you did before because you will permanently have a partner." Now the effect of that, of course, is that when this occurs, you have a concentration of control. And you, therefore, have a problem when you take a look at who's bidding and how they're bidding and what the price is they are bidding at, because there's undisclosed interlocking relationships.

DORGAN: But this dramatically inflates the cost of these projects, therefore the American people are paying much more money to complete these projects so that a few wealthy families in Iraq can become wealthier because they have the muscle to make that happen. Is that...

MILLS: It would inflate the price--I've scoped this out with respect to five to 10 different situations that I've become knowledgeable about--and it inflates the price of an Iraqi-awarded subcontract between 5 and 10 percent of the price of the contract.

DORGAN: You've spent time in Iraq in recent months. How much time?

MILLS: Oh, since July, I've been there half the time, and I will be there between half and three-quarters of the time on the ground for the foreseeable future.

DORGAN: Professor Schooner, you heard Ms. Sloan describe what others of us have talked about, and that is Halliburton having a contract to bring gasoline into Iraq. And \$2.65 a gallon--others have used other numbers--but your testimony, Ms. Sloan, is \$2.65 a gallon. And the Iraqi state oil company is importing the same gasoline for 97 cents a gallon. And they all admit that it's the same gasoline, same quality. Can you explain how that happens, why that happens? And I guess the reason we don't know all of the details here is, we're not able to see these contracts or

these contracts are shrouded? Explain that to us.

SCHOONER: I think the easier place for me to start is with the back part of your question. The obvious reason that we don't know is we don't have access to the material. I think the point that Senator Clinton made earlier and the point that a number of us have made today is we have inadequate contract management and oversight resources on the ground in Iraq, and it's a pervasive theme throughout the federal government now. The short answer is, I'm in no position whatsoever to explain what exactly Halliburton's spending that money on. But I don't think there's any question, as Delegate Norton mentioned earlier, this is a pervasive crisis facing the federal government. We have inadequate professional buyers to manage a \$250 billion procurement system. The demands are going up with the war in Iraq. The demands go up with the competitive sourcing initiative of the president. And the bottom line is, we don't have the horses to manage that kind of work and provide adequate oversight for the American public.

DORGAN: Tell us what an umbrella contract is.

SCHOONER: I guess the easiest way to think about it is, what the military has done with the LOGCAP contract is they've said to Brown & Root, "You support us, you support the military wherever we go, whatever we need." And so whenever we project military forces to a new place, someone just picks up the phone and calls Brown & Root--and they eventually reduce this to writing, but they say, "We need housing for these people. We need food for these people. We need laundry. We need transportation. Whatever these people need, you take care of it." So 20 years ago, the kind of things that we thought as KP in the military, all of that stuff has now been outsourced to private contractors. And as a general rule, KBR does a terrific job in the LOGCAP contract supporting the military. It's one of the reasons that we've been able to project our military successfully so many places around the world. But by the same token, it's a very profitable contract for them, and there are some concerns with regard to the pricing mechanism and, more importantly, the price control mechanism. But the short answer to your question is, what the LOGCAP contract asks Brown & Root to do is support our military wherever they go, whenever they go, in all kinds of ways. And because they were in the right place at the right time in Iraq, that's why they got the sole source bridge contract for the oil work which should eventually be replaced with the competitive contracts which aren't in place yet, now we're not going to see for at least another month.

DORGAN: Ms. Sloan, you raised the question about the price of gasoline. I mean, these are really important questions, because it's possible that the American taxpayers are being fleeced to the tune of \$300 million to \$400 million by overpriced gasoline and by price gouging. And yet none of us--you don't on that side of the table, we don't here in the Senate--have enough information or enough transparency to understand who's doing what to whom. And you started your statement talking about the perception that's created with respect with contracts, sweetheart contracts, and so on. And then you went on in your statement to talk about potential waste, or fleecing of the American taxpayers. Describe, if you could, the work you might have done, if any,

to try to penetrate these contracts. Have you asked questions of those who are letting the contracts...

SLOAN: I have sent out FOIAs, numerous Freedom of Information Act requests, to all of the different sections of the Department of Defense where you would get that information. They make it very difficult to obtain the information, because you can't just write to the Department of Defense and ask for it. You have to go to all the separate divisions of the Department of Defense. So you have to know exactly who you need to ask for something. And they are not exactly forthcoming, for the most part, in handing over information. So I've tried to get more information, but it hasn't been accessible to me. I'd just like to clarify one thing on the \$2.65 a gallon. Other people have used other numbers, because there previously had been an average being used, combining gas from Turkey and gas from Kuwait. When it was broken out, it was then determined that the gas from Kuwait was so much more expensive than the gas from Turkey, that it is \$2.65 a gallon. The question is then: Why aren't we just going and buying all the gas from Turkey, because if it's so much cheaper there, there's no reason for us to be spending this much money on gasoline.

DORGAN: Let me make one additional comment, and then I'm going to turn to my colleagues for questions. I was a conferee last week in the writing of this bill. And one of the statements made by one of the conferees was that the reconstruction effort is a function of the direction of the commander in chief, which seemed to suggest to me this was a military issue. It is not, of course. We have \$66 billion for military assistance, that which is needed by the Pentagon for the troops. Then you have \$18.6 billion for reconstruction. And one of the reasons we're holding this hearing is that reconstruction issue is not a military issue. And yet we don't have a series of hearings in the rest of the Congress to try to determine who's doing what? Who's signing contracts? On what basis are they signing contracts? Who's overcharging? What about a circumstance where they say, "We're going to put air conditioners in school classrooms," and by the time it gets through two levels of contracting, an air conditioner becomes an \$11 ceiling fan? And what were we charged for that? Do the American people get cheated and fleeced. I mean, I think the taxpayers have a right to have answers to these questions. And we--you know, let me say again, because I think it's important to say--asking these tough questions on behalf of the American taxpayers in no way undermines any of the other interests we have in making sure our troops are safe, have all of the latest weapons, the equipment they need to finish their job.

DORGAN: We want for them what all Americans want for them. We want them to be able to do their job, finish their job, and come back to their homes and families in this country. We want to leave Iraq with a government in Iraq. We want to leave Iraq with an infrastructure that is better than when we found it. I would have preferred that it would have been done with Iraqi oil, but we were outvoted. But the point is, as we do that, it is now clear that the majority here in the Congress wants to spend many, many, many billions of dollars in Iraq. We want to make sure--especially those of us--I chaired a hearing for some long while--a series of hearings on what happened in California and what happened with Enron and I see what happens if you have circumstances where billions and billions of dollars are available and at stake, and no one's

looking and there's no accountability. That can not happen here. That will undermine, in my judgment, the interest of the American people, the interests of the Iraqi people and especially and importantly, the interests of the American soldiers who are in Iraq at the request of this country. Let me call on my colleague, Senator Durbin.

DURBIN: Thank you, Senator Dorgan. It strikes me that we're dealing with twin outrages here--two outrages. First, that American taxpayers are borrowing money from the Social Security trust fund, going deeper into a deficit, in order to finance the construction of Iraq, sacrificing in our own country things that we might do for our schools, for health care, for our seniors--the list is pretty long and very important. The thought that we are being cheated in this process by these fat and sloppy good-old-boy contracts is enough of an outrage to hold this hearing. But what I heard from Professor Schooner and from Ms. Pingree is the second part of this. Because this self-dealing and good-old-boy network is so obvious to the rest of the world, there are many countries that could be donors to the Iraqi effort that say, "No thanks. I don't want part of this deal. This is such a sweetheart deal for the friends of this administration that it isn't on the square. And we're not going to get involved." Frankly, what comes out of that is a donors' conference, which, if you stretch it in every direction, might have come up with \$13 billion--might have, and few, if any, troops to replace ours in the field. These other countries, looking at this scene, say it's not on the square--it's not on the level. Professor Schooner, you and Ms. Pingree made that point. Would you, perhaps, give us a little more in terms of how this is greeted or welcomed by the rest of the world when they take a look at the details of what we're doing?

SCHOONER: It's an interesting question. I've had the opportunity over the last few years to attend a number of World Trade Organization events around the world. And it's fascinating that in most nations, they don't necessarily even begin thinking about public procurement the way we do, in terms of accountability and control. They see the single most important issue in public procurement being reciprocity, because the reason that they are trying to have a credible public procurement system is so that other nations believe that their contractors have a chance of competing for work, because their fear is if they don't let foreign firms compete for their work, their nation's firms won't have the opportunity to compete abroad. I think the most disturbing thing about this kind of jingoistic protectionist approach that we've taken by only permitting American firms to compete is we're cutting off our nose to spite our face. If you talk to the large construction firms, even your Bechtels and your Parsons, I think that every single one of them is going to tell you that in the next generation, the greatest opportunities for them to make profits are going to be in public works outside the United States. And every time we bar foreign firms from competing for this work, we basically potentially foreclose those opportunities abroad. And, as you said, it doesn't make any sense. When we acted unilaterally, the way you ameliorate those wounds is by rebuilding multilaterally.

You bring in the foreign firms, you let them have the contracts. And I think that what's happening with the oil contracts now is a perfect example. As the two pending contracts have grown to \$2 billion, why don't we break them down into small increments--small increments--\$500 million, \$250 million--and throw one to the British firms or throw one to the Russians, let them have something so they can participate and feel like they have something to gain by helping us rebuild Iraq.

DURBIN: Ms. Pingree, the point you make in a quotation here is, "While we're preaching transparency to the world, the world clearly sees that we're not practicing transparency when it comes to Iraq. And as a consequence, they say, 'We want no part of this.'" Is that the point that you were making in your statement?

PINGREE: Well, absolutely. And it's reinforced, one, I think because we find ourselves in a situation in Iraq where the danger seems to be growing by the day and we're giving more and more license to terrorists who argue with us about our motives. And second, I think, for all of us who have international interaction, we hear this every day. Unfortunately, it's not always printed on the front pages of the newspapers. But at Common Cause we frequently have international visitors, leaders in their own country who come to talk with us about transparency and accountability in government and many of the good things that we've done. And only recently a group of individuals from a variety of Spanish-speaking nations were here, and Celia Wexler (ph), who's sitting behind me, was telling me a story about how, when they got into conversations about transparency and accountability, one of them turned to her and said, "Well, what about your own country? You know, we know why you went to war. That was over oil." And most recently, I have a similar story. I was addressing a group of the Eisenhower fellows, of which I was one, and there were about 500 visitors from around the world meeting in Philadelphia for their 50th anniversary. These, too, are leaders of their countries in academics, in politics, in, you know, business, in all kinds of professions. And as I was talking to them about the transparency and accountability rules in our country, I got increasingly embarrassed thinking about exactly what was on the front pages of The New York Times that very week. And I want to say, this is a group that is very much pro-America. And they've all done fellowships here in this country, they're big believers in the advances we've made in our country and what they want to take back. One of them stood up and asked me a question afterwards and said, "You know, we love Americans. We are big supporters of American citizens. But we just want to ask you, do your fellow Americans understand how you're being viewed in the rest of the world today?" And I think that's one of our biggest problems.

DURBIN: I think it is, and I think it's manifest in Madrid when we have a donors' forum and so few people come forward to help us. They just don't think it's on the square. Professor Schooner, my last question is this. And when confronted, this administration says, "Well, we'd love to tell you what's really behind the Halliburton no-bid contract but national security, classified information. Just can't get into it." Frankly, I am on the Intelligence Committee, and we overclassify. And this administration classifies anything that might be embarrassing. And your experience with OMB and your statement here lead me to conclude that you may have some feelings on this.

SCHOONER: I have to say, I was extremely troubled by the original USAID contracts, the original eight contracts back in February, March and April. And the bottom line is, they took garden-variety public works and they said that you could only do this work if you could handle classified information.

The most dramatic example--and you want to talk about damaging public trust and transparency--

the stevedoring contract. At a facial level, it made absolutely good sense that the first contractor we were going to send in was the stevedoring contractor to set up that port at Umm Qasr after we captured it. That makes sense. And because we don't want to disclose military plans, this contractor would have to be able to handle classified information. But after the proposals were received, we learned that the contractor that actually got that contract didn't have the security clearance, and USAID gave him the contract anyway. This is the kind of stuff that makes us a laughingstock, particularly in the type of communities where people talk about transparency. And if you were, for example, to look at the Web page on Transparency International or an organization like that, you would see how damaging it is to us in the court of public opinion when we make these pennywise and poundfoolish decisions.

DURBIN: Well, I would just say, Mr. Chairman, that not only are American taxpayers being fleeced, but the likelihood that other countries will come join us in this effort is diminished by what we are dramatizing at this hearing. I had a tough weekend, because the pilot of the helicopter that was shot down was from my home state. We just learned that late last night. And we've talked about the costs of war. And certainly when it comes to human life, suffering and death, that's immeasurable. But when it comes to the costs of war in money terms, you would think there would be some integrity in the process. And sadly, there hasn't been enough. Thank you.

DORGAN: Senator Durbin, thank you very much. Congressman Sherman?

SHERMAN: In my opening statement, I described my amendment requiring competitive bidding on oil contracts. And it passed the House, which is a pretty pro-Bush organization, 248-179. What I failed to mention was the obvious, which is, it was stripped out in conference. Now some \$13 billion at most is coming in from the Madrid Donors' Conference. It's my understanding that all those foreign allies of ours, producing \$13 billion--depending upon how you count it--are not willing to trust the American administration with spending one penny. And so they've arranged to have that money spent through other avenues. Is anyone on the panel aware of any foreign country that's willing to put any of its taxpayer dollars into the reconstruction contracting machine that will be used for all the American tax dollars?

MILLS: Actually, there are several coalition countries that already have contributed money, and this is to the fund for the Iraqi future, the fund that's administered by the CPA. Of course, the UK has contributed a substantial amount of money. Poland has put some money into that. The Koreans have put some money into that, as I understand it. And certainly Spain, also.

SHERMAN: So we're being asked to put in over, as I understand it, \$18 billion into that. How much has all those foreign countries put into that fund?

MILLS: I don't have the numbers at hand, but my impression is that the UK contribution is in the

billions and the others are in the realm of tens or hundreds of millions.

SHERMAN: The information that I've been given clashes with the information that you have-- which is detailed. I have served for seven years on the International Relations Committee, and I understand how important it is that we get international support for our efforts. And I've wondered why this administration is so reluctant to get us the troops, the imprimatur, perhaps, the credibility inside Iraq that would come from that. And I wonder if the United Nations was involved in overseeing the rebuilding effort, how would that affect the contracting practices that have been discussed here? Perhaps Ms. Sloan could address that?

SLOAN: I think that would help give accountability to the process. And both American taxpayers and people abroad and the Iraqi people could have more confidence in the system. I think at this point very few people have confidence in what the American system is doing and how our government contracting is going. Even if somehow everything is, you know, fine and aboveboard, that's not the perception. And somebody does need to step in and have some more oversight so that others can trust us.

SHERMAN: Ms. Pingree, if there was someone--let's say, you knew somebody in the White House who really wanted to make sure that, say, Halliburton got the most in contracts, would you suggest that U.N. oversight would be helpful in that effort? Would U.N. oversight and involvement in these contracts help Halliburton get more contracts?

SLOAN: Well, I think that had we had U.N. oversight here, there may be more transparency in the process, because we'd have more countries we were attempting to persuade to go along with us. And so, I think, if what you're saying is, has not being involved with the U.N. arouse even more suspicion about why the United States wanted to go it alone and was that really because we couldn't find friends and because there are political disagreement or was it part of our motivation--that we wanted, in the end, to have alone, the ability to rebuild this country and, perhaps, to have some influence over who owned the oil--I think it has raised those questions.

SHERMAN: So, if there was a benefit to going it alone on the reconstruction side, that benefit, as seen from some perspectives, would be the absence of U.N. oversight and an enhanced ability to provide the contract to those who the administration favored.

PINGREE: I do think that you're correct. And, I think, as Ms. Sloan has stated, while we often hear arguments about, for instance, Vice President Cheney no longer being connected with the company of Halliburton, the perception is there. And I believe, were this happening in another country, we would all be there, pointing our fingers, saying, "This doesn't smell right. There's something wrong with this deal."

SHERMAN: I would also point out that there's been considerable debate in both houses as to

whether to make loans to Iraq. And, clearly, the world would be much more insistent in a transparent process if the Iraqis were going to be forced to pay for their own reconstruction. Now, I have heard reports that some of the contracts have very short bidding processes--a contract's announced and a day or two later, your bid is required. Sometimes the requirements are kind of vague. And Professor Schooner, perhaps, are there circumstances where it appears that maybe a few individuals are able to start writing their bids before anyone else is aware of the contract?

SCHOONER: I think that in terms of the public perception, there's every reason to be concerned about that. But I guess, what I would say, in a two-part response to your question. There were a number of concerns raised early on about the amount of time provided when USAID was awarding the reasonably large contracts. In those situations, USAID went to a small, hand-picked number of firms. They all had the same amount of time. And while they truncated the amount of competition and transparency there, most people think within the rules they followed, what they did was legal. The more consistent criticism we're hearing now is with regard to the CPA. If you go to the CPA Web site, on any given day, they have dozens and dozens of potential solicitations that are open, and there have been a fair number of items on there with very, very short periods of time that we would not tolerate in the United States. I guess the only thing I can say in their defense--having looked at that pretty regularly--is many of the things with the very, very short time frame have been requests for quotations, where they're actually seeking information. But I do think that, over time, in order to maintain credibility, the CPA is going to have to try just a little bit harder to be patient in making sure that everyone has enough time to compete for their requirements.

SHERMAN: Now, we've been talking about this competitive bidding, focusing on the roughly \$18 billion that's going to be spent reconstructing or constructing Iraq, but there's also another \$66 billion that's going to be spent on the military.

SCHOONER: Professor, what portion of this \$66 billion on the military side will also be contracted out? When we voted for it or against it, our image was, well, this is to pay the troops' combat pay. We thought of money going to the troops. We didn't necessarily think of the \$66 billion also being money going to contractors. Roughly, how much of that \$66 billion is also available for these flawed bidding processes? I think the short answer is that I have no idea whatsoever. But the more important answer is the one thing that we haven't talked at all about. We've been talking about the Iraq reconstruction contracts. We haven't been talking about Halliburton's ongoing work under the LOGCAP contract, the supporting of the troops that's already over there. One of the concerns that a number of people have had as they read more and more about how the CPA is operating--and Mr. Mills has already mentioned the development fund for Iraq. It's fascinating to see how the money is moving around and being spent by the CPA. CPA's mandate says they won't be spending any appropriated funds. But there have also been some interesting board meetings where there have been reprogrammings of as much as \$700 million. So as I sit here today, I can't tell you exactly how the money is moving around over there. I believe that the CPA is bound and determined to not spend appropriated funds that were intended for another purpose. But it's very, very difficult to follow the money at this point.

SHERMAN: But the practices we're concerned about here may affect an awful lot more than just \$18 billion. It could be a significant part of the \$66 billion. It could be a significant portion of other and reprogrammed funds. I'll just make that as a comment and move on to one more question. And that is, what could Congress do to change the law to provide for a more competitive and transparent process? I know that Senator Durbin pointed out quite a number of provisions that were in this law that were stripped out in conference. Can you think of others that could be added to provide up with a better practice?

SCHOONER: In addition to a number of regulatory things, I think that one thing that really hasn't been done is, no one sat down and tried to figure out how much it would cost to put an appropriate number of contract managers, auditors, inspector generals and other, shall we say, responsible adults on the ground to track the money the way we'd like to see it tracked. I don't think that anyone's tried to make that calculation, but I think that that would be an important step in the right direction.

SHERMAN: Thank you.

DORGAN: Well, Congressman, thank you very much. I'm going to go back and forth, Senate and the House. Senator Clinton?

CLINTON: Thank you very much. I wanted to slightly modify something I said in my opening statement. It's actually a modicum of good news. And that is that the amendment that I worked on with Senators Collins and Wyden was not totally dropped from the conference, but it was incorporated into a new section of the conference report. However, it expanded exemptions to exclude certain contracts from the disclosure and notification requirements. So it's a little bit of a minor victory that at least there is some additional protection in there, but all of the other provisions, as I previously stated, were eliminated.

I wanted to go to Mr. Mills. In your written testimony, you have a very specific suggestion as to how to create a model for creating the preconditions for the emergence of an Iraqi private sector, and I really appreciate your bringing this point to our attention, because it's not something that we've really discussed before. But you're absolutely right in your assessment about the potential for helping to create a small and medium size business economy in Iraq through these dollars. I mean, it is certainly the first and foremost priority to get the work done, but along the way to be able to help capitalize a much larger business sector and to move away from the dominance of the 10 to 12 families who made their money largely because they were supplying goods and services to Saddam Hussein throughout the decades of his rule. Now, in your testimony, you have a recommendation about a loan fund that could serve as a contract financing mechanism. Is there any talk, as far as you're aware of, in the CPA or elsewhere, of creating such an investment fund? That seems to make a great deal of sense to me.

MILLS: Well, Senator Clinton, the fact of the matter is that there has been no such discussion to

date. I won't speculate on why there hasn't been, except I will say that there have been a couple of efforts to move toward, let's say, establishing financial institutions, such as the Trade Bank of Iraq, and USAID did in fact put out a tender to establish what they call a micro-lending program. But micro-lending under USAID terms is \$5,000 or less. I think that what you see at the CPA, if I might be candid, is that you have 500 and some people working on massive problems, and it's very difficult to even get ahead of yesterday, much less think about the future. And it's exacerbated in part by the fact that it's very difficult under the current force protection rules for CPA people to get out and talk to Iraqis. As you probably know from some of the congressional visits, you can't get outside the boundary line or the green zone unless you have two shooters. So the appreciation of the problem perhaps is not as great as it should be.

CLINTON: Do you know, Mr. Mills, if the extensive work done by the State Department in the process of their planning, which, unfortunately, was then later ignored by the Defense Department, included specific recommendations with respect to the economy along these lines?

MILLS: I'm familiar with most of that work. I've read most of that work. And it did include the notion that Iraqi businesses would have to be recapitalized, but it did not go into the specifics of how.

MILLS: My understanding from talking to some of the authors of that work is that they believed that the Rafidain Bank and the Al-Rasheed Bank would step in and provide this particular function. But, as we know, from looking at the both the Rafidain and the Al-Rasheed Bank, they themselves have significant problems just becoming modern financial institutions. So any assumption that they could do this, at this point, given the challenges that face them is an assumption that perhaps is not well grounded in--well, let's say the reality of execution.

CLINTON: Would it be possible to start with such funds or such efforts in the north and the south, because of the security challenges in and around Baghdad?

MILLS: Well, actually, this fund could be done without regard to whether there's a security challenge in the center, or not. By way of example, many Iraqi contractors could go to private banks to receive these funds. And, by the way, I would recommend that there be only such funds distributed or disbursed as are necessary for the performance of a contract, say, for example, in the next month, and thereby impose a management discipline on these Iraqi businesses that is so sorely needed. The banks, themselves, are secure. The private banks are secure. They're protected. I've been in any number of them to meet with their executives. And this is true throughout Iraq.

CLINTON: I think this is a very helpful insight that you bring to us, Mr. Mills. And I appreciate your raising it. Professor Schooner, in your testimony, you talk about how--at least it appears that some of the funds being used to pay Halliburton have come from humanitarian funds transferred

from the U.N. oil-for-food program, and that under the terms of the U.N. Security Council resolution--which resolution was that?

SCHOONER: You may be taking it from someone else's testimony. The point that I raised is that it's unclear in the CPA's expenditures, so far, where the expenditures are being made. So...

CLINTON: You're right. I'm taking it from Ms. Sloan's testimony. Ms. Sloan, with respect to that paragraph, do you know which U.N. security resolution that refers to?

SLOAN: I'm afraid I'm going to mix up my numbers, but I think it's either 438 or 483.

CLINTON: OK. And then the International Advisory and Monitoring Board was supposed to ensure that the U.N. oil-for-food fund was spent for the benefit of the Iraqi people, and the board has not yet been created. Is that correct?

SLOAN: That's correct. There is no board, so there's no monitoring.

CLINTON: And was that a U.N. or a U.S. responsibility, to create the board?

SLOAN: I think that was a U.S. responsibility.

CLINTON: Under the U.N. resolution?

SLOAN: Yes.

CLINTON: So, it's your estimate that a billion dollars has been transferred from the program and may have--may have--been squandered on the inflated fuel costs?

SLOAN: Up to that much money. And now I've found the number--and the resolution is 1483.

CLINTON: 1483. Thank you very much.

DURBIN: Delegate Norton?

NORTON: Thank you, Senator Durbin. The overarching theme of the post-Iraq war critique has

been, I think, borne out here. The theme, of course, has been that they planned to fight, but they didn't plan for the peace. And the loss of life, the guerrilla war is all about that. Now we're into the other aspect of non-planning, and that's the tremendous losses now that we see for the American taxpayer. I'd like to ask perhaps Mr. Schooner a question that might anticipate the administration's response. Now, given the fact that there was no planning, OK, that's there now, and you have to deal with that. And I'd like to have your response to this. They would then say, "We had to get on the ground very quickly." And everybody was saying, "You better get this over with and get the reconstruction on." You could see that the natives were restless, if you will forgive me. So that these sole source contracts for Halliburton and Bechtel and the rest were necessary, the haste was necessary, to quickly get reconstruction under way. My question to you is, do the procedures of our government allow for transparency, allow for competitive bidding, if, in fact, you have a situation where you have to get something done quickly?

SCHOONER: I think the short answer is, the default position, the way we always begin in federal government contracts, is that we have a transparent and competitive procurement regime. And so, for example, what we saw USAID do with the early contract--for example, the large capital construction contract--they used an exemption from the Competition and Contracting Act that permitted them to limit competition. So they went out and they picked a small number of firms and they proceeded. OK? So they had a statutory exemption. They were well within the law. What's interesting, however, is with regard to the transparency, but for their decision to determine that public works were classified contracts or that performing public works required contractors who could handle classified information, there was no reason whatsoever why USAID had to operate in secret at all. Now, USAID has already demonstrated that they're extremely knowledgeable and adept at posting on the Internet all of their solicitations and all of their contracts. But they didn't choose to do it until they'd already limited the field who they'd let play.

NORTON: So you can do it quickly, and you can do it openly.

SCHOONER: Absolutely.

NORTON: Mr. Mills, I have read that there's been a prohibition on doing business with former members of the old Baath Party and that many of the large families or many of the large contractors would have been associated with the party. What is your sense of, one, whether there's a prohibition? And, two, if there were, who in the world would they be doing business with over there?

MILLS: Well, Delegate Norton, in fact there is a prohibition. There is a CPA order that prohibits the awarding of contracts to those who were associated with the Baath Party, certainly at senior levels. It's what in Iraq the CPA terms a de-Baathification of Iraq. The difficulty with de-Baathification is, who was Baath and who was not? And the difficulty at the CPA is, there's no database and it's very difficult to say you won't do business with these people if you don't know

who it is that actually was, let's say, a repressive element within the Baath Party. Keep in mind that in order to get into college, you oftentimes had to be a Baath Party member in name, and that in order to advance in certain jobs, you had to be a member of the Baath Party. And the question is, how is that applied? Now, to speak specifically to the businesses, there is a saying in Iraq that businesses in Iraq have been apolitical, and that is to say, you have to fly close enough to the fire to stay warm, but far enough away so you don't get burned by the regime. And the fact of the matter is that it's very difficult to tell how close somebody flew to the flame, other than to look and say, we do have some intelligence on that. I'm not at all comfortable on being able to tell you that just because somebody has been awarded a CPA contract, that, in fact that person didn't have some very high-level dealings with the regime. As a matter of fact, I can't dignify rumor, but I can tell you that I've heard that some people who were very highly placed in their connections with the regime have, in fact, received contracts. Again, I cannot validate that.

NORTON: Some of it sounds a little bit like you had to be a member of the Communist Party in some countries in order to get anything done.

MILLS: If I might say, there are some real bad actors, some real bad characters, that were associated with the regime who I understand, again by rumor, have, in fact, benefited from the reconstruction.

NORTON: Well, that's certainly something that warrants investigation. Finally, Mr. Mills, may I ask you, the administration says it has a buy Iraqi policy. Did you see any signs of that when you were in Iraq?

MILLS: Absolutely.

NORTON: Could you describe it, please?

MILLS: Let me give you three examples. I was in the Baghdad business center, the Baghdad convention center, across from the Al Rasheed Hotel. It's a place where Iraqi businesses go to meet Bechtel, and they go to meet KBR and the like. And, very frankly, to the credit of USAID, I believe, both Bechtel and others have been told, if you're going to subcontract in Iraq, you're going to subcontract with Iraqi contractors, but you'll have to qualify them. So, Bechtel does in fact have a qualification process. And it's on paper, because most Iraqi businesses, for one reason or another, they don't have access to the Internet. It's hard to communicate. That's one. Number two, if you take a look at, now, where procurements are being done, for the most part under grants and under Iraqi funds, the Iraqi ministries themselves are beginning to become procurement agencies, for example for housing, for reconstruction and agriculture. And the rules of the Iraqi procurement agencies in the ministries are that preference will go to Iraqi contractors. And there was an elaborate scheme under the Iraqi procurement code as to who was qualified and at what level. Five levels of qualification with respect to constructors and engineers, for example.

So I've seen that. In addition, in the USAID tender that's out right now for the reconstruction recompetete, it expressly says that the purpose of this reconstruction infrastructure contract will be not only to rebuild Iraq and do the infrastructure work that's necessary, but also to recapitalize Iraqi businesses with a preference being to award subcontracts to Iraqi businesses by whoever has the prime. And the prime, in its qualifications for this, has to show that it will have the capability to do that, whatever that showing may be.

NORTON: Well, give them credit for putting it on paper. When you hear reports about Iraqi businessmen screaming about not getting contracts, you wonder when it's going to go from paper into reality. Thank you very much.

DORGAN: Senator Durbin, wish to make a comment?

DURBIN: I'd like to ask one question. When I asked Secretary Rumsfeld about the Halliburton contract, whether he was in the room when anyone raised the question of an appearance of impropriety, he said no. But then he went through his folder and came up quickly and said, but we want to make this announcement today that we're canceling all those contracts as of October 1st. We're going to rebid those contracts. Now, there have been some press releases. I'm trying to keep up with it here. It appears that they were soliciting bids for a contract in August and then come September decided that they would have to. I guess, delay the award of the contract for some period of time. Professor Schooner, are you familiar with what has happened now?

SCHOONER: The basic sequence is, KBR was on the ground performing LOGCAP work, supporting the military. The corps needed someone to do some work on contingency plans for the oil fires. So, since KBR was there, they gave them what we call the bridge contract, up to \$7 billion--again, this IDIQ umbrella contract. So whatever we need, up to \$7 billion, you're our contractor. But the corps said we will promptly replace this with a competitive contract. Then, they made the decision to split. They would say, OK, there'll be one contract for the north, one for the south. Originally, these two contracts were projected to be up to \$500 million each.

SCHOONER: There have been a number of delays. The most recent delay, just last week, was driven in part by the additional information. And they said there were issues of security and sabotage which have now driven those figures up to \$800 million and \$1.2 billion. So because they increased the amount of the contract, they went back to the contractors and said, "We need you to revise your proposals." This all seems very competitive. But let's keep in mind that the longer the process takes, KBR continues to perform under a sole source contract for all the work.

DURBIN: Thank you very much. Mr. Chairman, thank you for this hearing. I just wonder, wouldn't it be great if we had subpoena authority and could bring before this committee the people who could really answer some of these questions directly? Thank you.

DORGAN: Well, Senator Durbin, I think the questions that are raised today are questions that are not going to go away. I mean, we're going to continue to seek answers, this committee and other committees in Congress. The issue of accountability is what we started with today. You know, we all work in the vineyards here of appropriations for various things, much of which are very important issues for the American people. And we're worried about the wasting, or the expenditure, and the effectiveness of the expenditure of \$1 million, \$10 million, perhaps \$100 million, \$1 billion. We're always very concerned that when we appropriate this kind of money, that it is going to be used for the purpose that it was intended. But this is not \$500 million or \$1 billion. This is \$18.6 billion. And we have been told repeatedly in recent weeks that the expenditure of this money for the recovery of the country of Iraq is essential for the safety of our troops. That is the case that has been made. If that is, in fact, the case, it is very important that this money be spent wisely, this money be spent effectively. And I know from past experience, and I think everyone knows, you put this kind of money in a pot, \$18.6 billion, and say to companies out there, "Here it is, come and get it. And there's an urgency to get this done, so don't worry about what your bid might be," you've got the prospect of substantial, dramatic waste of the taxpayers' money. And as I indicated, the Newsweek article confirms what most of us have heard anecdotally--the \$87 billion money pit. Where are the billions really going--and then the stories inside. And I finish with, again, the story of the Iraqi contractor on the ground who is the last leg of a three-stage contract where you're going to put air conditioners in the school and then it goes to another entity, and then to the final subcontractor, and the air conditioners up here became \$11 ceiling fans down here. And the question is, what happened to the money? These are the things that I think are very worrisome to many of us, and the reason that this is the first of a series of steps that we must take to keep asking tough, hard questions, and demanding answers. We appreciate very much the testimony given by the four of you today. We thank you for being with us. And this hearing is closed.

