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Department of Defense Program for  
Planning, Managing, and Accounting for  
Contractor Services and Contractor Personnel  
during Contingency Operations

Report to the Congress of the United States

# Report Documentation Page

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## Executive Summary

Contractors supporting our military forces in contingency operations, both at home and deployed, are performing critical support functions that are integral to the success of military operations. The current Global War on Terrorism (GWOT) deployments of Department of Defense (DoD) military forces represent the first major contingency operations to reflect the full impact of the shift to reliance on contractor personnel for a significant part of critical support functions. Faced with the unprecedented scale of dependence on contractors, the DoD has confronted, head-on, major challenges associated with the visibility, integration, oversight, and management of a large contractor force working along side our deployed military personnel.

Based upon a host of lessons learned, independent studies, reports by the U.S. Government Accountability Office (GAO) and the Special Inspector General for Iraq Reconstruction (SIGIR), and at the direction of Congress, the DoD launched several major initiatives that are strengthening our management of contractors and contractor personnel accompanying our military forces.

Our interim report to Congress laid out a comprehensive DoD policy and program framework for planning, managing, and accounting for contractor services and contractor personnel during contingency operations. This framework consisted of six major program initiatives essential to achieving program objectives. We have made significant progress in each of these areas:

- **Governance.** The DoD continues to refine its program to establish and maintain a policy and program management framework to govern management of contractor personnel in forward areas. A number of DoD and joint governing documents that define standards for support to contractor personnel, contractor performance, and contractor accountability across all theaters of operation are being published, updated, and socialized. A revised version of DoD Instruction (DoDI) 3020.41, "Integrating Operational Contract Support into Contingency Operations," which includes substantial improvements to the existing instruction, is in coordination.

- **Joint Contingency Contract Support Office.** The U.S. Joint Forces Command (USJFCOM) is developing a concept for a Joint Contingency Contract Support Office (JCCSO) that will: develop doctrine and training; have a synchronizing effect for the contingency mission of the other acquisition support agencies; and, ensure that planning for the use of contractors in future contingencies is consistent throughout the Combatant Commands (COCOMs). The USJFCOM will conduct a pilot implementation of the concept during a major exercise in the U.S. European Command this spring. The Office of the Secretary of Defense (OSD) expects that approved personnel requirements for the standing organization will begin being filled by the end of fiscal year (FY) 2008 and that the JCCSO will begin initial standup by the end of the first quarter FY 2009.
- **Joint Operational Contract Support Planners.** We have awarded a contract for 14 Joint Operational Contract Support Planners (JOCSPs). These planners assist in ensuring that contingency plans include specific information on the use and roles of contractor support. Eleven of the fourteen planners have been distributed among the Geographic Combatant Commands, including U.S. Central Command, U.S. Africa Command, U.S. Northern Command, and U.S. Joint Forces Command.
- **Synchronized Predeployment and Operational Tracker.** The implementation of the Synchronized Predeployment and Operational Tracker (SPOT) in the U.S. Central Command (USCENTCOM) Area of Responsibility (AOR) is well underway. As of April 1, 2008, approximately 67,500 DoD contractors working in the USCENTCOM AOR and 830 companies were registered in SPOT. The USCENTCOM continues to monitor the progress of contractor registration in accordance with the guidance and a time-phased implementation plan for input of contractor data into SPOT. With great effort and emphasis by DoD on implementing this program, we have achieved close to 100% registration of DoD Private Security Contractors (PSCs).
- **Training and Education Programs.** The DoD is proceeding with making necessary improvements to our deployable contract management forces through expanded training and education programs. Together with the Joint Staff and

Military Departments, the OSD is developing career and leadership development plans and programs for all expeditionary contracting personnel. In addition, new programs of instruction, addressing the roles and responsibilities of planning and managing contracts and contractor personnel in forward areas, are being developed for non-acquisition Officers, Warrant Officers, and Non-commissioned Officers.

- **Lessons Learned Program.** The DoD understands that it is imperative to leverage experience and lessons learned in order to cultivate innovative solutions and improve performance. To that end, we continue to consolidate contingency contracting lessons learned submitted from acquisition specialists and operational military leaders in the field and integrate best practices into existing and new course material. We are also incorporating contractor scenarios into training exercises across the Geographic Combatant Commands in order to develop Master Scenario Event Lists (MSELs) and lessons learned that can be integrated into future plans, exercises and operations.

In addition to the progress made on the initiatives introduced in the interim report to Congress, the DoD has made significant improvements needed to strengthen the management of current DoD contractor management operations in Iraq. These include: 1) acceleration of implementation of Uniform Code of Military Justice (UCMJ) authority over DoD contractors; 2) a Memorandum of Agreement (MOA) between the DoD and the Department of State (DoS) to coordinate PSC operations in Iraq; 3) establishment of battle space commander control over contractor movements and convoy operations in the battle space; 4) expansion of the authority of the Joint Contracting Command for Iraq and Afghanistan (JCC-I/A); and 5) strengthening the Defense Contract Management Agency (DCMA) post-award contract administration and oversight support for contracting in Iraq and Afghanistan.

All of these efforts are being coordinated among the OSD, Military Departments, and defense agencies and have input from other affected U.S. Government (USG) agencies to ensure that we are progressing toward a common view of the future of operational contract support, and that efforts to strengthen contract oversight and program management capabilities are synchronized. Of particular note, the Assistant

Deputy Under Secretary of Defense (Program Support) (ADUSD (PS)), in partnership with the Director for Logistics, Joint Staff J-4, is sponsoring the development of an Operational Contract Support Concept of Operations (CONOPS), which will illustrate how operational contract support will take place during future military operations from FY 2009 – FY 2016. Finally, the OSD, in collaboration with all the Military Departments, is developing recommendations for an enterprise solution to broader acquisition issues designed to address the several contracting and contract management recommendations proposed in the Report of the “Commission on Army Acquisition and Program Management in Expeditionary Operations” (i.e., the Gansler Report).

## Table of Contents

Executive Summary.....	2
Table of Contents.....	6
List of Appendices.....	7
Congressional Report Requirement.....	8
Organization of the Report.....	9
Introduction.....	10
Review of Major Program Components.....	13
A. Governance.....	13
B. Joint Contingency Contract Support Office.....	15
C. Joint Operational Contract Support Planners.....	17
D. Synchronized Predeployment and Operational Tracker.....	18
E. Training and Education Programs.....	22
F. Lessons Learned Program.....	24
Supporting Initiatives.....	26
Synchronization of Efforts.....	32
Conclusion.....	36
Appendix A.....	37
Appendix B.....	42
Appendix C.....	56

## **List of Appendices**

Appendix A. Section 854 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364 (October 17, 2006), Joint Policies on Requirements Definition, Contingency Program Management, and Contingency Contracting

Appendix B. Sections 841, 849, 861, and 862 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181

Appendix C. Acronym List



## Congressional Report Requirement

This report is submitted in response to section 854 of The John Warner National Defense Authorization Act for Fiscal Year 2007 (NDAA).<sup>1</sup> The NDAA mandates the development of joint policies for requirements definition, contingency program management, and contingency contracting during combat and post conflict operations. It also mandates the appointment of specific senior leadership at Department of Defense (DoD), Military Department, and execution levels. This report: describes a vision for the future of management of contractors accompanying the force; updates the status of the implementation of the initiatives described in the interim report submitted in response to section 854, dated October 2007; and reviews the actions taken since the submission of the interim report to improve the oversight, accountability, and management of contractors to include specific actions that support forces operating in the U.S. Central Command (USCENTCOM) area of responsibility (AOR).

### Requirement:

“FINAL REPORT – Not later than 18 months after the date of the enactment of the Act, the Secretary of Defense shall submit to the committees referred to in paragraph (1)(A) a final report on requirements definition, contingency contracting, and program management, containing a discussion of the implementation of joint policies developed under section 2333 of title 10, United States Code (as so added), including updated discussions of the matters covered in the interim report. In addition, the report should include a discussion of the actions taken to ensure that the joint policies will be adequately resourced at the time of execution.”<sup>2</sup>

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<sup>1</sup> Section 854 of The John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364 (October 17, 2006), covers Joint Policies on Requirements Definition, Contingency Program Management, and Contingency Contracting.

<sup>2</sup> Ibid. Paragraph (c)(2).

## **Organization of the Report**

### **I. Introduction**

The first section provides background on the increased use of contractor personnel to support deployed forces and a review of the comprehensive DoD policy and program framework established for planning, managing, and accounting for contractor services and contractor personnel during contingency operations described in the interim report submitted to Congress in October 2007.

### **II. Review of Major Program Components**

This section reviews progress made in implementing the six major components of the policy and program framework described in the interim report submitted to Congress in October 2007. This comprehensive framework is integrating effective planning, support, and management of deployed contractor services and contractor personnel with overall operational needs. Consistent with the provisions of section 854 of the NDAA for fiscal year (FY) 2007, the Assistant Deputy Under Secretary of Defense (Program Support) (ADUSD (PS)) and representatives of the Chairman of the Joint Chiefs of Staff have developed supporting joint policies. This section includes a discussion of the actions taken to ensure that these initiatives will be adequately resourced at the time of execution.

### **III. Supporting Initiatives**

This section provides a description of several additional initiatives, the requirements for which were determined after the submission of the interim report.

### **IV. Synchronization Efforts**

This section describes efforts to ensure that contract oversight and program management capabilities are synchronized among the Office of the Secretary of Defense (OSD), Military Departments, and defense agencies, and that they have input from other affected U.S. Government (USG) agencies. This section also describes the plan for developing and programming for future contingency contracting capabilities.

### **V. Conclusion**

## I. Introduction

Contractors supporting our military forces in contingency operations, both at home and deployed, are performing critical support functions that are integral to the success of military operations. The current Global War on Terrorism (GWOT) deployments of DoD military forces are the first major contingency operations to reflect the full impact of the shift to reliance on contractor personnel for a significant part of critical support functions. The scale and duration of GWOT operations have required a substantial increase in the commitment of contractors for DoD support, including a significant employment of contractor personnel in forward areas. At the end of the first quarter of FY 2008, December 31, 2007, the U.S. Central Command (USCENTCOM) reported over 223,000 contractor personnel working for the DoD in the USCENTCOM area of responsibility (AOR). This included 163,591 in Iraq and 36,520 in Afghanistan. A more detailed breakdown of those personnel is provided in Table 1.

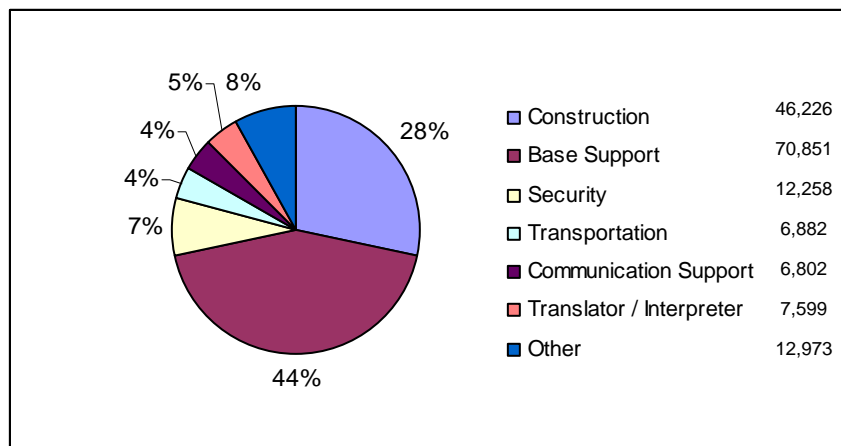
**Table 1**  
**DoD Contractor Personnel in the USCENTCOM AOR**  
**(as of December 31, 2007)**

	<b>Total Contractors</b>	<b>U.S. Citizens</b>	<b>Third Country Nationals</b>	<b>Local/Host Country Nationals</b>
Iraq Only	163,591	31,325	56,368	75,898
Afghanistan Only	36,520	5,153	3,815	27,552
Other USCENTCOM AORs	23,110	5,759	13,935	3,416
<b>TOTAL USCENTCOM AOR</b>	<b>223,221</b>	<b>42,237</b>	<b>74,118</b>	<b>106,866</b>

Data does not include other U.S. Government Agencies/Departments

These contractor personnel provide a broad range of capabilities. The main categories of contracts in Iraq and the percentages of contractors working on them are displayed in Figure 1 below.

**Figure 1**  
**Iraq DoD Contractor Personnel Breakdown**  
**by Type of Service Provided**  
**(as of December 31, 2007)**



Contractors have indeed become a significant part of our total force, and the DoD must manage them on an integrated basis with our military forces. Faced with the unprecedented scale of dependence on contractors, the DoD has confronted, head-on, major challenges associated with the visibility, integration, oversight, and management of a large contractor force working along side our deployed military personnel.

Based upon a host of lessons learned, independent studies, reports by the U.S. Government Accountability Office (GAO) and the Special Inspector General for Iraq Reconstruction (SIGIR), and at the direction of Congress, the DoD launched several major initiatives that are strengthening our management of contractors and contractor personnel accompanying our military forces. These initiatives are based upon four guiding principles:

- Support the Warfighter and war-fighting needs;
- Maintain the capability to scale rapidly to support changing war-fighting requirements – surging, downsizing, and retrograding, as needed;
- Manage the total force, military, civilian, and contractor, on an integrated basis; and
- Ensure that the initiatives to strengthen contractor management fit into a comprehensive, integrated framework of requirements planning, contracting,

contract administration, contractor personnel tracking and accountability, and expanded training of military personnel on the management of contractors.

To establish and oversee this program for managing contractor personnel in forward areas and to provide leadership in other areas to support more effective and efficient Geographic Combatant Commander (GCC) logistics and materiel readiness needs, the Deputy Under Secretary of Defense for Logistics and Materiel Readiness (DUSD (L&MR)) established the Office of the Assistant Deputy Under Secretary of Defense for Program Support (OADUSD (PS)) and appointed the ADUSD (PS). The ADUSD (PS), in consultation with the Chairman of the Joint Chiefs of Staff's designated representative and with designated senior representatives from the Military Departments, is making significant progress in implementing the elements of our strategy.<sup>3</sup>

The ADUSD (PS) and the Vice Director of the Directorate for Logistics, Joint Staff, J-4, have institutionalized the "Section 854 General Officer Steering Committee (GOSC)," consisting of Military Department representatives and defense agency senior procurement executives who meet regularly to oversee and synchronize the implementation of joint policies developed under section 2333 of title 10, United States Code 9.

We have made great strides over the past year, and we continue to improve our capability to leverage, synchronize, and administer robust contractor support to any contingency. The remainder of the report describes, in more detail, those accomplishments.

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<sup>3</sup> Section 2333 (a) and (d)(A), section 854, NDAA for FY 2008.

## II. Review of Major Program Components

Our interim report to Congress laid out a comprehensive DoD policy and program framework for planning, managing, and accounting for contractor services and contractor personnel during contingency operations. This framework consisted of six major program initiatives essential to achieving program objectives. The progress we have made in implementing these initiatives is described below.

### **Governance**

The DoD continues to refine its program to establish and maintain a policy and program management framework to govern management of contractor personnel in forward areas. A number of DoD and joint governing documents are being published, updated, and integrated. These Directives, Instructions, Regulations, and Publications define standards for support to contractor personnel, contractor performance, and contractor accountability across all theaters of operation.

A revised version of DoD Instruction (DoDI) 3020.41, "Integrating Operational Contract Support into Contingency Operations," formerly entitled "Contractor Personnel Authorized to Accompany the U.S. Armed Forces," is in coordination. This version contains significant changes to the existing instruction including:

- Incorporation of lessons learned from current operations;
- Requirements for the development of contractor oversight plans;
- Requirements for adequate military personnel necessary to execute contract oversight; and
- Standards of medical care for deployed contractors

The ADUSD (PS) continues to socialize the instruction among the Military Departments to achieve compliance. The OSD is also working closely with the Operational Contract Support (OCS) community of interest in order to be informed of the concerns of the Military Services as they relate to contractor support issues and accommodate them where possible.

The revised DoDI 3020.41 has been staffed in parallel with Joint Publication (JP) 4-10, "Operational Contract Support in Joint Operations," to ensure full synchronization. The JP 4-10 is in final coordination with an expected publication date of July 2008. This doctrinal publication contains detailed content on contracting and contractor management in joint operations. It defines key personnel involved in the contracting process, including the Administrative Contracting Officer, Contracting Officer, Contracting Officer Representative (COR), Field Ordering Officer, and Senior Contracting Official, and discusses their roles in the contracting process. Further, it includes both a Contracting Support Plan (CSP) Checklist and a Contractor Integration Plan (CIP) Checklist. The CSP checklist covers the key requirements associated with orchestrating and managing contracting efforts in a Joint Operations Area (JOA), including a requirement to ensure that there are adequately trained CORs and Contracting Officer Technical Representatives (COTRs) to assist in managing contract performance. The CIP checklist covers the key requirements associated with managing contractor personnel in a JOA and providing Government-furnished support, when such support is required.

To provide a consolidated source of information for our contingency contracting officers conducting contingency contracting operations in a Joint environment, the Department has issued the Joint Contingency Contracting Handbook, formerly known as the Joint Contingency Contracting Pocket Guide. The handbook provides the essential information, tools, and training to meet the challenges that contracting officers will face, regardless of mission or environment. In February 2008, the Defense Acquisition University (DAU) completed the first course that incorporates the handbook into formal training. Student feedback was very positive.

Additionally, we have developed a draft Expeditionary Contracting Policy, which served as the foundation for the Joint handbook. The policy has been vetted through the Emergency Procurement Committee and has been sent to the Military Departments and other appropriate coordinating agencies for comment.

Since the submission of the interim report, the DoD, the General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA) have published a final rule amending the Federal Acquisition Regulation (FAR) in order

to address government-wide the issues of contractor personnel that are providing support to the mission of the U.S. Government (USG) in a designated operational area or supporting a diplomatic or consular mission outside the United States, but are not authorized to accompany the U.S. Armed Forces. FAR 52.225-19, Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States, became effective on March 31, 2008. In addition, Defense Federal Acquisition Regulation Supplement (DFARS) 252.225-7040 imposes the same requirements on contractor personnel that are authorized to accompany the U.S. Armed Forces deployed outside the United States in designated operational areas. This became effective on March 31, 2008, as well.

*Resourcing:* No resources are required or allocated.

### **Joint Contingency Contract Support Office**

For future contingency operations, the DoD is improving the ability of Military Departments and acquisition support agencies to respond to Combatant Commanders' requirements for contingency contract support, including the availability of an expeditious deployable program management, planning, and acquisition capability.

Section 854 of the NDAA for FY 2007 requires: 1) a preplanned organizational approach to program management during combat operations, post-conflict operations, and contingency operations that is designed to ensure that the DoD is prepared to conduct such program management; and 2) the identification of a deployable cadre of experts, with the appropriate tools and authority, led by a senior commissioned officer or member of the Senior Executive Service.<sup>4</sup> To comply with this mandate, the OSD is establishing an organization, now referred to as the Joint Contingency Contract Support Office (JCCSO), which will lead the integration and synchronization of contract support in Operational Plans (OPLANS) and Contingency Plans (CONPLANS) across Combatant Commands (COCOMS) and USG agencies and consolidate and incorporate lessons learned. During contingency and stability operations, the JCCSO will deploy contingency program management, planning, and acquisition experts to support Combatant Commanders with the management of contractor support. The law also

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<sup>4</sup> Sections 2333 (c)(2) and (c)(3), NDAA for FY 2008.

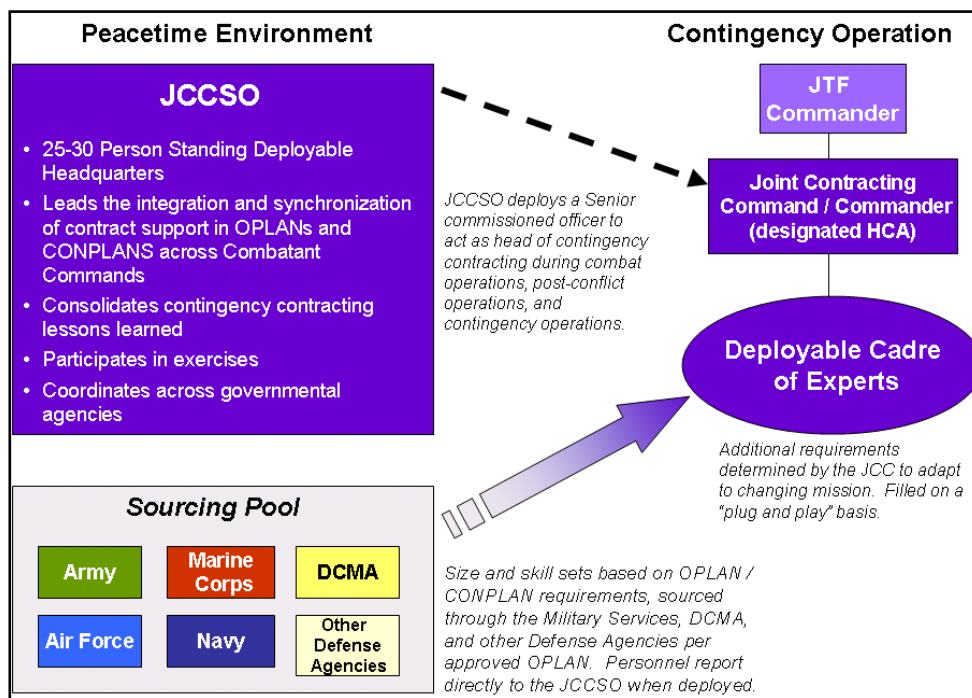


requires the assignment of a senior commissioned officer to act as head of contingency contracting during combat operations, post-conflict operations, and contingency operations.<sup>5</sup> The JCCSO will deploy a Joint Contracting Command Commander who will serve this function and be designated as the Head of the Contracting Activity (HCA), if warranted.

The U.S. Joint Forces Command (USJFCOM) is developing the concept for this standing organization, based, in large part, upon lessons learned from the Joint Contracting Command-Iraq/Afghanistan (JCC-I/A). This framework will contain the full range of doctrine, organization, training, materiel, leadership and education, personnel, and facilities (DOTMLP-F) recommendations, including proposals for personnel requirements and headquarters location for the standing JCCSO organization. The concept developed by USJFCOM will also identify the size and skill sets required stand up the organization. Figure 2 illustrates the initial JCCSO concept.

**Figure 2**

**Joint Contingency Contract Support Office Initial Concept of Operations**



<sup>5</sup> Section 2333 (d)(B), NDAA for FY 2008.

The USJFCOM will conduct a pilot implementation of the concept during a major exercise in the U.S. European Command (USEUCOM) this spring. The OSD expects that approved personnel requirements for the standing organization will begin being filled by the end of FY 2008 and that the JCCSO will begin initial standup by the end of the first quarter FY 2009.

*Resourcing:* The OSD has fully funded the concept development effort. The Program Objective Memorandum (POM) includes guidance to fund and staff the JCCSO organization permanently.

### **Joint Operational Contract Support Planners**

Section 854 of the NDAA for FY 2007 required that the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, develop joint policies for identifying contingency contract support requirements for combat operations, post-conflict operations, and contingency operations and integrating them into Geographic Combatant Command (GCC) OPLANS and CONPLANS. The deployment of Joint Operational Contract Support Planners (JOCSPs) to the Combatant Commands, as described below, supports the program management approach to ensure jointness and cross-service coordination in the area of contingency contracting. These planners supplement the staffs of the Combatant Commands and give them the ability to include specific, appropriate plans within their OPLANS and CONPLANS on the use and roles of contractor support to deployed forces and ensure that considerations associated with the role of contractors are adequately factored into plans.

To help incorporate contractors as part of the total force, the OSD has allocated 14 JOCSPs among USCENTCOM, USJFCOM, U.S. Africa Command (USAFRICOM), USEUCOM, U.S. Northern Command (USNORTHCOM), U.S. Pacific Command (USPACOM), U.S. Special Operations Command (USSOCOM), and U.S. Southern Command (USSOUTHCOM). These planners will assist the Combatant Commander in identifying gaps where contractor support capability may be required. They will then help to integrate required contractor support into plans and synchronize requirements with subordinate commands, the Military Departments, defense agencies, other U.S. Government Agencies, and coalition partners. In conjunction with the Joint Staff, the

planners conduct deliberate and adaptive planning to assist Commands in developing Contract Support Plans, standardizing contract management business practices, ensuring that contract support requirements and capabilities are synchronized, and creating contract support unity of effort, while simultaneously avoiding contract support duplication and competition for limited resources. The ultimate goal is to ensure that the majority of contract support requirements for any given operation are in place prior to a deployment.

Additionally, the planners facilitate the incorporation of contractor and contract support-related scenarios into joint exercises and mission rehearsal exercises. Wherever it makes sense and is possible, contractors are being invited to participate in such exercises. Example scenarios include managing specific contractors-on-the-battlefield issues, dealing with PSC incidents, and exercising boards, centers, and the JCCSO.

*Resourcing:* The POM guidance includes the permanent resourcing of the planners with the goal of these positions being filled by military personnel as soon as possible. As an interim solution, these 14 positions are currently contracted, funded, and administered by the ADUSD (PS).

### **Synchronized Predeployment and Operational Tracker (SPOT)**

In January 2007, the OSD designated SPOT as the joint data base for contractor tracking and administrative accountability for the vast number of contractors who accompany the U.S. Armed Forces. SPOT provides a web-based automated system to: (1) track contractor personnel movements anywhere in the world – particularly within Iraq, Afghanistan, and the USCENTCOM AOR; (2) validate individual contractor personnel association with specific contracts; (3) verify their authority and their authorization for access to specific DoD facilities; and (4) establish their individual eligibility for specific DoD support services. By providing information on contractor location, training, and capabilities, SPOT improves the ability of the current civilian and military acquisition workforce to conduct program management activities relative to combat support, reconstruction, or other aspects of contingency operations.

The implementation of SPOT in the USCENTCOM AOR is well underway. As of April 1, 2008, approximately 67,500 DoD contractors working in the USCENTCOM AOR and 830 companies were registered in SPOT.

The USCENTCOM continues to monitor the progress of contractor registration in accordance with the guidance and a time-phased implementation plan for input of contractor data into SPOT.<sup>6</sup> With great effort and emphasis by DoD on implementing this program, we have achieved close to 100% registration and accountability of DoD PSCs. The DoD's implementation plan includes all DoD contractors working in Iraq and Afghanistan, with the highest priority on PSC personnel, translators, and interpreters (see Table 2). By the end of April 2008, we expect to complete registration of the majority of other DoD contractors working in Iraq and Afghanistan, with the ultimate goal of near 100% web-based accountability of DoD contractors in the USCENTCOM AOR by the fall of 2008.

**Table 2**  
**SPOT Implementation Timeline<sup>7</sup>**

TASK	DATE
All contractor personnel employed on DoD security and translator/linguist service contracts being performed in Kuwait registered in SPOT	January 15, 2008
All contractor personnel employed on DoD-funded construction and external system support contracts being performed in Iraq, Afghanistan, and Kuwait registered in SPOT	March 15, 2008
All remaining contractor personnel employed on any DoD-funded contracts being performed in Iraq, Afghanistan, and Kuwait registered in SPOT	May 1, 2008
All contractors employed on DoD-funded contracts being performed in the USCENTCOM AOR registered in SPOT	August 1, 2008
All contractors employed on DoD-funded contracts being performed in support of contingency operations anywhere in the world registered in SPOT	September 30, 2008

<sup>6</sup> Defense Procurement and Acquisition Policy memorandum, "Implementation Guidance for the Synchronized Predeployment and Operational Tracker (SPOT) to Account for Contractor Personnel Performing in the United States Central Command Area of Responsibility (AOR)," signed January 28, 2008.

<sup>7</sup> Ibid.

The ADUSD (PS), Joint Staff, and SPOT Program Manager (PM) (part of the U.S. Army Materiel Command) have been working closely with the USCENTCOM and JCC-I/A to address issues that have arisen during the first stages of implementation in theater. The SPOT PM has deployed a liaison to the theater to assist with data upload, training, and requirements collection, and has revised training tools to accommodate language and internet accessibility problems. The SPOT PM has also streamlined registration by establishing a direct sign-on through the SPOT program management office, is completing review and approval from the USCENTCOM Chief Information Officer (CIO) for SPOT use in theater, and is participating in efforts to improve service like a Defense Information Systems Agency (DISA) project to develop virtual server capability in theater.

An updated version of SPOT (SPOT 6.1) has been released. This version of the software:

- Includes a SPOT-generated access management process for third country nationals (TCNs) and local nationals (LNs), eliminating the need to go through Army Knowledge Online; and provides a unique user identification (USERID) and password through the SPOT PM's Office.
- Integrates with the Federal Procurement Data System - Next Generation (FPDS-NG) and Defense Biometric Identification Data System (DBIDS).
- Creates a standard web-interface for direct information feeds from companies and databases improving Letter of Authorization (LOA) functionality for Contracting Officers (including bulk approvals, common deployment, multiple user roles per sign-on, etc.).
- Acceptance of the Department of State (DoS) and U.S. Agency for International Development (USAID) Common Access Card (CAC) version for registering and approving LOAs for their contractor work force.

The Joint Asset Management and Movement System (JAMMS) scanners, which are supporting equipment for the SPOT system, continue to be fielded at selected medical facilities, transportation nodes, and dining facilities in theater. This scanning equipment captures movements of contractors through key life support and movement nodes using their identification cards. If a contractor is not yet registered in the SPOT

program, the scanning captures the contractor's unique identifier and is able to pull information from authoritative sources and create a mini-record within the system.

The DoD is also working to standardize identification documents being used by contractors accompanying the force. The Department has certified industry's use of CAC credentials, which can now be verified through the Defense Cross Credentialing Identification System infrastructure and accepted for physical access authentication. We still have more work to do to standardize the identification cards that TCNs and LNs who are working for the DoD use to access facilities. The use of a standardized identification protocol will allow SPOT to access required personal information and reduce the burden of contractors to provide employee data multiple times.

Paragraph (b)(4) of section 861 of the NDAA for FY 2008 requires the identification of common databases among the DoD, DoS, and USAID to serve as repositories of information on contracts and contractor personnel in Iraq and Afghanistan. In a draft Memorandum of Understanding (MOU), the agencies have agreed that SPOT will serve as the interagency database for information on contractor personnel.<sup>8</sup> In preparation for the implementation of the MOU and the move to a shared database, the DoS already has been participating in a SPOT test case to begin tracking its contractors in Afghanistan, and the USAID is evaluating how best to implement the system. Both the DoS and the USAID have conducted training on SPOT. The DoD is working with the DoS to enter into SPOT its prime PSCs, employed under the Worldwide Personal Protective Services contracts (in Iraq and Afghanistan).

In spite of expanded capability to provide information on contractors, the SPOT system is limited in its ability to provide the detailed information on the contracts themselves required by paragraphs (b)(4)(a)(i-iii) and (b)(i-iii) of section 861 of the NDAA for FY 2008. For these requirements, we foresee integrating the FPDS-NG, which provides the ability to look at detailed contract data across Federal Departments and Agencies.

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<sup>8</sup> Draft Memorandum of Understanding between the Department of State, the Department of Defense, U.S. AID Regarding Matters Relating to Contracting for Contracts in Iraq or Afghanistan (March 25, 2008 version), Paragraph Va.

*Resourcing:* In FY 2007, SPOT funding was \$11 million, with \$1.6 million funded for JAMMs equipment, for a total of \$12.6 million. Funding for FY 2008 is dependent on the GWOT supplemental bill. The OSD has directed the Army to include funding for SPOT in the POM.

### **Training and Education Programs**

As we noted in the interim report, the DoD has recognized the significant requirement to train and sustain both a deployable contingency acquisition workforce and the senior leaders required to manage them. Current deployments have stressed the military and civilian acquisition workforce and have necessitated the deployment of acquisition personnel who have limited experience in the execution of contracts in a contingency environment. Similarly, senior planners, program managers, and operational leaders deployed to the AOR have limited experience in managing the large number of contractors accompanying the force.

The DoD is proceeding with making necessary improvements to our deployable contract management forces. We have developed a competency model for contracting officers and have set standards for six categories of contracting, one being contracting in an expeditionary environment. All contracting officers, including those in Iraq and Afghanistan, will complete an assessment this spring utilizing the model. The results will enable us to improve training for expeditionary contracting personnel and to shape career and leadership development plans and programs for all expeditionary contracting personnel.

In addition, the DoD is developing a broad program of instruction (POI) for operational military leaders, both officer and enlisted, across all grades, on management of contractors deploying with forces. We are developing POIs on contingency acquisition for our Military Departments' Staff Colleges and Senior Military Service and Joint Staff Schools to train, more formally, our senior planners and leaders on roles and responsibilities of planning and managing contracts and contractor personnel in forward areas. This training will focus all leaders on determining requirements, translating those requirements into Statements of Work, and then overseeing the work. As part of this effort, the ADUSD (PS) has a team that is documenting requirements for this training.

The team is determining how well existing courses offered to senior leaders meet the requirements of section 854 of the NDAA for FY 2007 and section 849 of the NDAA for FY 2008, and helping update and/or create new courses that better meet the needs of the Department.

As part of this effort, the ADUSD (PS) has:

- Reviewed key documents from the DoD, the GAO, the Military Departments, and others to understand the different perspectives on the problem;
- Interviewed a cross-section of DoD senior leaders to document their experiences, concerns, and recommendations with regard to the management of contingency contractors and contracting services in forward areas; and
- Reviewed current programs and training material at the Military Service and Defense schools to determine the nature and degree of the instructional gap.

The team will complete the POI this spring. Once finalized, this training will be included in professional military education programs such as the War Colleges, Service Staff Colleges, and basic non commissioned officer courses.

In a parallel effort, the Army has instituted junior officer training in the proper use of contractors who accompany the force in support of Army contingency operations. This training covers the role of contractors in support of Army contingency operations, describes how contractors are integrated into Army operations, and explains user responsibilities for requesting and overseeing contract support. Contracting Officer Representative (COR) and Contracting Officer Technical Representative (COTR) training for logistics warrant officers also has been implemented.

*Resourcing:* The ADUSD (PS) has resourced the POI development for senior leader training.



## **Lessons Learned Program**

The DoD understands that it is imperative to leverage experience and lessons learned in order to cultivate innovative solutions and improve performance. In light of this, the OSD has directed that significant findings from after action reports and lessons learned, as well as significant findings related to contingency contracting from Staff Assistance Visits or internal self-inspection programs, be posted in a common repository.<sup>9</sup> This repository, located on the DAU website, is being used extensively by the DAU and the wider contingency contracting community.

One of the best ways to get the most out of lessons learned is to incorporate them into school curricula on an iterative basis. The DAU is doing just that. It is reviewing recent contingency contracting lessons learned submitted from the field and integrating best practices into existing and new course material, including its Contractor Officer Representative (COR) training. Another important initiative is the DAU's work with a contingency contracting officer in Iraq to develop a case highlighting lessons learned and real life situations in a contingency environment. A video is also being prepared in partnership with the Army Criminal Investigation Division (CID) Command that will provide students examples of risks that CORs face in execution of their duties.

Furthermore, the DAU and the Office of Defense Procurement, Acquisition Policy, and Strategic Sourcing (DPAP) in the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics (OUSD (AT&L)) are creating a standardized Lessons Learned and After Action Report template for mandatory use prior to re-deploying back to home station. This will be an out-processing mandatory checklist item.

In addition to the repository of lessons learned for acquisition specialists, the DoD has begun consolidating lessons learned related to operational military leaders responsible for managing contractors in contingency operations. In the future, we expect that the JCCSO will lead the effort to consolidate all contingency contracting lessons learned and incorporate them into plans and training.

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<sup>9</sup> Defense Procurement and Acquisition Policy memorandum, "Points of Contact for After Action Reports and Lessons Learned—Contingency Contracting," signed June 12, 2007.

The OSD also is working with the USJFCOM to incorporate contractor scenarios into training exercises across the Geographic Combatant Commands. The USPACOM recently exercised contingency contracting integration, management, and oversight during Exercise Terminal Fury 08. This was the first time that contingency contracting was included in a USPACOM Tier 1 (National Level) exercise supporting the National Exercise Program. The exercise included the representation of the Logistics Civil Augmentation Program (LOGCAP), the application of a Contingency Contracting Board review and decision making process, and the use of SPOT. Participation in exercises at this level helps to develop Master Scenario Events Lists (MSELs) and lessons learned that can be incorporated into future plans, exercises, and operations.

It is important to note that the DoD is not only incorporating these lessons learned at the tactical and operational levels, but we also have used them to continuously improve our strategic framework for the management, administration, and oversight of contractors supporting contingency operations.

*Resourcing:* No resources are required or allocated.

### III. Supporting Initiatives

In September 2007, the Secretary of Defense directed that an assessment be undertaken to identify improvements needed to strengthen the management of current DoD contractor management operations in Iraq. To this end, the DUSD (L&MR) led an OSD team to Iraq, where they consulted with military and civilian leaders in Iraq and recommended five initiatives. These recommendations were endorsed by the Commander, Multinational Forces-Iraq (MNF– I), and approved for implementation by the Secretary of Defense. These initiatives, already underway, are:

**1. Accelerate the implementation of UCMJ authority over DoD contractors.** The OSD is aggressively moving to resolve the serious questions about legal accountability of non-DoD contractors deployed outside the United States, where immunity from local prosecution has been established. This is a particular problem in Iraq, where U.S. Government (USG) contractors are working under the immunity established by Coalition Provisional Authority (CPA) 17. CPA 17 is set to expire in December 2008 with the termination of the United Nations Charter.

DoD contractors in Iraq currently operate under three levels of legal authority: (1) the international order of the laws and usages of war and resolutions of the United Nations Security Council; (2) U.S. law; and (3) Iraqi law, including orders of the CPA that have not been superseded (e.g., CPA 17). Iraqi courts presently do not have jurisdiction to prosecute non-Iraqi civilians under contract (at any tier) with the USG for conduct related to their contractual responsibilities without the permission of the United States.

With respect to law enforcement, the DoD's regulations require cooperation with the Department of Justice (DoJ) regarding DoD contractors, including subcontractors at any tier (excluding host country nationals) and their employees who commit felony offenses outside the U.S. that are subject to prosecution in Federal District Court under the Military Extraterritorial Jurisdiction Act (MEJA). The MEJA also provides Federal jurisdiction over contractors (at any tier) and their employees of any Federal agency or provisional authority who commit felony offenses outside the U.S. to the extent that such employment relates to supporting the DoD mission. Congress has extended the UCMJ

to civilians accompanying the Armed Forces of the U.S. during declared contingency operations, and the DoD is in the process of implementation.

The initiative to accelerate the implementation of UCMJ authority over DoD contractors is required to strengthen the legal accountability of contractor personnel and to proactively seek to eliminate misconduct of contractor personnel, and to minimize incidents affecting innocent civilians in Iraq. In late September 2007, the Deputy Secretary of Defense signed out a memo to GCC commanders emphasizing the importance of accelerating the implementation of UCMJ authority over DoD contractors, as authorized under section 552 of the NDAA for FY 2007.<sup>10</sup>

On March 10, 2008, the Secretary of Defense signed a memorandum that addresses concurrent authority and defines the authorities and policies for the implementation of UCMJ authority to DoD civilians and DoD contractors.<sup>11</sup>

It should be noted that non-DoD contractors accompanying and supporting other USG Departments and Agencies outside the U.S. are not covered by this legislation. The DoS and the DoJ believe that action is needed to strengthen legal accountability of non-DoD contractors deploying with other USG Departments and Agencies.

**2. Memorandum of Agreement (MOA) with the DoS to coordinate PSC operations in Iraq.** Operations in Iraq require PSCs to fulfill a variety of important security functions for the DoD, DoS, and other entities operating in the Iraq Theater of Operations. This includes the protection of fixed facilities, mobile convoys, assets, and personnel. As of the 1<sup>st</sup> quarter, FY 2008, the USCENTCOM reported that there were approximately 9,950 DoD-funded PSCs in Iraq and approximately 3,000 DoD-funded PSCs in Afghanistan. Table 3, below, illustrates the distribution by nationality and delineates armed versus unarmed PSCs in Iraq and Afghanistan.

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<sup>10</sup> Deputy Secretary of Defense memorandum, "Management of DoD Contractors and Contractor Personnel Accompanying U.S. Armed Forces in Contingency Operations Outside the United States," signed September 25, 2007.

<sup>11</sup> Secretary of Defense memorandum, "UCMJ Jurisdiction Over DoD Civilian Employees, DoD Contractor Personnel, and Other Persons Serving With or Accompanying the Armed Forces Overseas During Declared War and in Contingency Operations," signed March 10, 2008.

Table 3

**DoD Private Security Contractors in Iraq and Afghanistan  
(as of December 31, 2007)**

	<b>Total</b>	<b>U.S. Citizens</b>	<b>Third Country Nationals</b>	<b>Local/Host Country Nationals</b>
Total DoD PSCs in Iraq	9,952	830	7,590	1,532
Armed PSCs in Iraq	6,467	429	5,318	720
Total DoD PSCs in Afghanistan	2,998	19	30	2,949
Armed PSCs in Afghanistan	2,745	16	30	2,699

Both the DoD and the DoS have recognized the need to achieve more effective coordination of PSC operations in Iraq to minimize the possibility of additional incidents involving innocent persons. On December 5, 2007, the DoD and the DoS signed a MOA defining a framework for improving accountability and strengthening operations of USG PSCs in Iraq.<sup>12</sup> This MOA covers a broad range of management policies and procedures to achieve more effective management coordination of PSC operations in Iraq that will:

- Establish core standards for vetting, training, and certifying all PSC contractor personnel;
- Require full compliance with contractor licensing and other rules and regulations of the Government of Iraq (GOI), Embassy of Baghdad, and / or the MNF-I;
- Require that all USG PSCs use only authorized weapons and ammunition;
- Adopt common standards for Rules on the Use of Force (RUF) and escalation procedures;
- Improve the effectiveness of incident management, response, and follow-up investigations;
- Assure transparent, timely reporting and investigations of incidents between the U.S. Embassy Baghdad and the MNF-I, with timely reporting of same to the GOI;

<sup>12</sup> “Memorandum of Agreement (MOA) between the Department of Defense and the Department of State on USG Private Security Contractors,” signed December 5, 2007.

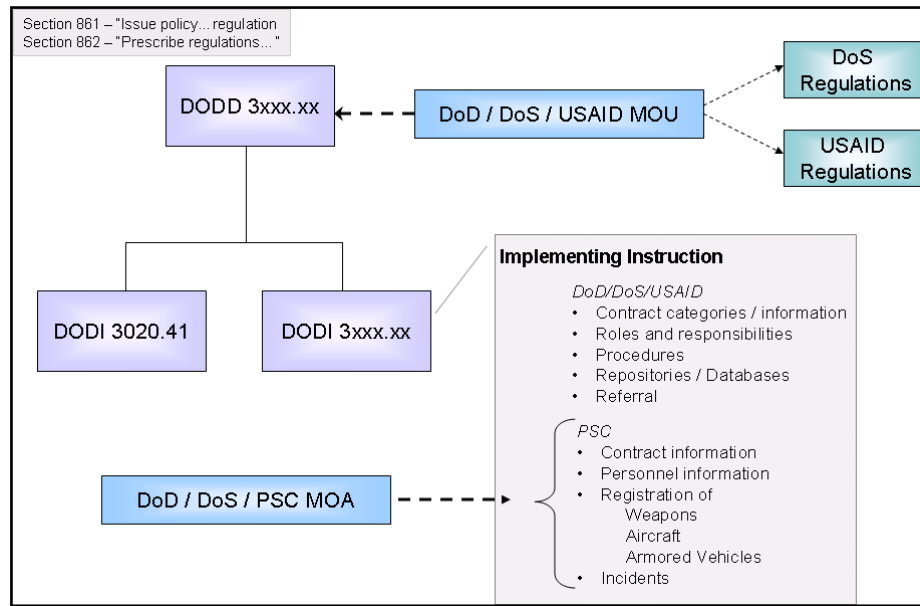
- Enforce compliance with Coalition checkpoint operations and requirements; and
- Establish policies for timely, consistent, and appropriate condolence payments to be made for casualties or property damage among innocent persons.

Many aspects of the MOA already have been implemented. Interim procedures have been adopted where permanent solutions require additional work. Others are in stages of standardization and final design. The OSD is closely monitoring the implementation status of the major elements of the MOA, and initial reports are that the execution of the MOA has had a disciplining effect on PSC operations in Iraq. GEN Petraeus, Commanding General of the MNF-I, recently reported to the Secretary of Defense that, "There has been a 67% reduction in graduated force incidents involving contractors, and both the Government of Iraq and the Iraqi people have taken notice of the changes made in the operating procedures and attitudes of PSCs."

The MOA serves as a precursor to and informs the draft DoD Directive (DoDD), "Private Security Contractors Performing Security Functions in Contingency Operations," which establishes the roles and responsibilities for prescribing regulations on the integration of contractors operating under a covered contract in an area of combat operations. This directive and companion DoD Instructions, providing the specific instructions for devising the regulations, are required by sections 861 and 862 of the NDAA for FY 2008.

As discussed earlier, the DoD and the DoS are also jointly developing a Memorandum of Understanding (MOU) and planning implementation of policies and operational requirements covering matters relating to all DoD, DoS, and USAID contracts and contractor personnel management in Iraq and Afghanistan as required by section 861 of the NDAA for FY 2008. The draft MOU addressing these requirements is being staffed. Once signed, the MOU will be implemented through DoD, DoS, and USAID policies and regulations (see Figure 3).

**Figure 3**  
**Harmonizing Inter-Agency Contingency Contracting Policy Development**



**3. Establish battle space commander control over contractor movements and convoy operations in the battle space.** Battle space commanders are in the best position to determine if a threat exists along a planned route of a contractor movement, and they need to be aware of the location of contractor convoy movements in their AORs to enable them to provide timely incident response and medical evacuation support. This oversight authority has already been established, giving commanders the authority to pre-approve, redirect, and/or terminate convoy movements, depending on conditions in their AOR.

The movement of PSCs was specifically addressed in the MOA between the DoD and the DoS. The MOA includes procedures to synchronize PSC operations outside secure bases to establish real-time battle space commander and Regional Security Officer (RSO) oversight, visibility, and coordination of PSC convoy movements and all DoD contractor convoy movements in the battle space. When the battle space commander determines that there is a need for the DoS PSCs or other convoy operations to alter routes or abort missions, DoS PSCs will comply with the recommendations of the battle space commander. Final authority to override battle space commander decisions affecting U.S. Embassy moves rests with the Chief of Mission, but he will generally honor the battle space commander's decisions. The

purposes of this agreement are to: (1) avoid situations with a high risk of incidents occurring; and (2) integrate incident management follow-ups with the Iraqi Ministry of Interior and Tactical Operations Center and with any persons affected by the incident.

Finally, work is underway to enhance the direct communications between contractor convoys and the battle space commanders, the key to full implementation of this recommendation. The MNF-I has defined and submitted its requirements, and the Joint Staff, J6, has the lead for providing a technical solution.

**4. Establish the authority of the Joint Contracting Command for Iraq and Afghanistan (JCC-I/A) to pre-clear all contracts and task orders to be implemented in Iraq and Afghanistan.**

On October 19, 2007, the JCC-I/A Commander was given authority to pre-approve statements of work and terms and conditions that relate to the delivery of supplies and services in or to Iraq or Afghanistan. This requirement ensures that contracts contain the appropriate terms and conditions for work to be accomplished in Iraq and Afghanistan and will ensure that the planned work is in consonance with in-country commanders' plans. Implementing guidance has been issued by the Director of DPAP within the OUSD (AT&L), and the JCC-I/A is in process of reviewing all contracts with performance in Iraq or Afghanistan. To administer the increased workload, JCC-I/A has requested an additional 39 personnel, which are currently being resourced by the Military Departments, in order to maintain a 96-hour turn-time on contracts submitted by executing departments and agencies. Through this expanded authority, the JCC-I/A now has visibility of all in-theater support contracts as well as the system support and external support contracts let in support of Iraq and Afghanistan.

**5. Strengthen the Defense Contract Management Agency (DCMA) post-award contract administration and oversight support for contracting in Iraq and Afghanistan.**

In the summer and fall of 2007, the JCC-I/A and the DCMA conducted an analysis of the contract administration mission in the Iraq AOR to evaluate the effectiveness of the operation as currently configured. Based on their assessment of the contract administration workload and determination of the total assets required to effectively manage contract oversight in the AOR, the DCMA agreed to expand its presence in theater and take responsibility for the administration of the more complex



contracts that require specialized and critical oversight functions. The additional contracts include but are not limited to:

- Armed security, translator, and interpreter contracts;
- Foreign Military Sales (FMS) and Iraqi Security Forces (ISF) contracts for arms and equipment;
- High-risk cost type contracts, un-liquidated obligations, and process reviews;
- High-risk contracts requiring Government Property Administration (GPA) support;
- Contracts requiring commodity-specific Quality Assurance (QA) support;
- High-risk contracts requiring traditional material surveillance and receipt inspection (i.e., ammunition and weapons);
- Hazardous materials (HAZMAT) contracts;
- Complex services and commodity contracts;
- Contracts requiring a security clearance; and
- Theater-wide contracts of a complex nature.

To support the expanded requirement, the DCMA completed the deployment of an initial surge of 96 personnel into the USCENTCOM AOR on December 31, 2007. A Joint Manning Document (JMD) has been submitted for six-month rotational deployments of a total of 348 personnel. Pending JMD fills, the DCMA projects that it will have all of the 348 personnel in theater by the end of 2008, providing critical contract oversight and administration functions. This force structure will continue to be evaluated and will be adjusted to adapt to changing mission requirements.

#### **IV. Synchronization of Efforts**

As described above, the DoD has instituted a series of initiatives to improve the management of contingency contracting activities both in the immediate and long-term. The OSD, working closely with the joint community, is managing these efforts to ensure that we are progressing toward a common view of the future of operational contract support and that efforts to strengthen contract oversight and program management capabilities are synchronized among the OSD, Military Services, and DoD agencies, and have input from other affected USG agencies.

At the Department level, the DoD is continuing to implement a portfolio approach to management to facilitate strategic choices and improve the ability to determine joint requirements and make capability tradeoffs across the joint community. The DUSD (L&MR) has been designated as the Joint Logistics Portfolio Manager, one of the four Department-wide approved portfolios. This portfolio contains the Operational Contract Support (OCS) Capability Area, responsible, in part, for improving the effective management of contracts and contractors through the development of joint policies on requirements definition, contingency program management, and contingency contracting.<sup>13</sup> A strategic plan, governance structure, and charter have been developed. The ADUSD (PS) has been designated as the OCS Capability Area Manager (CAM) and, as such, is responsible in part for:

- Reviewing appropriate operational contracting metrics and assessing actual performance;
- Identifying shortfalls/gaps and recommending solutions;
- Reviewing, assessing, and recommending concept development and emerging technologies with applicability to operational contracting; and
- Leading DoD coordination with other USG Departments, Multinationals, and/or Interagency for policy relating to operational contract support matters within a Joint Operations Area.

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<sup>13</sup> Operational Contract Support is defined as the ability to orchestrate and synchronize the provision of integrated contract support and management of contractor personnel providing that support to the joint force in a designated operational area. This definition was approved by the Deputies Advisory Working Group (DAWG) on January 16, 2008.

As the CAM, the ADUSD (PS) has directed the development of a management tool for execution of the contractor management and oversight initiatives. This “roadmap” will be an easily understood, time-phased plan for the implementation and synchronization of all of the ongoing initiatives

The ADUSD (PS), in partnership with the Director for Logistics, Joint Staff, J-4, is sponsoring the development of an Operational Contract Support Concept of Operations (CONOPS) that will illustrate how operational contract support will take place during future military operations from 2009 - 2016. The DoD is evolving its capability to leverage, integrate, and administer robust contracted support in any contingency. This type of future contractor capability must operate as a fully integrated sourcing system, provide end-to-end visibility of contractors and contracts within a Joint Operations Area, and inculcate the practice of early integration of operational contract support into planning and execution of Combatant Commander missions.

This CONOPS will guide and coordinate on-going capability developments, bring about unity of effort, establish Joint accountability and priorities, and codify gaps and follow-on actions. The CONOPS also will synchronize many of the existing and emerging efforts generated by congressional mandates (e.g., section 854 of the NDAA for FY 2007), Gansler Commission Report findings<sup>14</sup>, lessons learned in OPERATION ENDURING FREEDOM/OPERATION IRAQI FREEDOM (OEF/OIF), natural and man-made disaster relief operations both at home and abroad, and similar assessments that describe shortcomings and desired capabilities.

Expeditionary Contracting Task Force. The OSD, in collaboration with all the Military Departments and applicable Defense Agencies, currently is developing recommendations for an enterprise solution to broader acquisition issues designed to address contracting and contract management recommendations in the Gansler Report. This task force, comprised of focused teams, is examining multiple elements of the contingency acquisition management process from contract planning and requirements determination, to contract support execution in a contingency operation. Specifically, these teams will evaluate whether and how to implement the highest-level Gansler

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<sup>14</sup> Report of the Commission on Army Acquisition and Program Management in Expeditionary Operations, *Urgent Reform Required: Army Expeditionary Contracting*, 2007.

report recommendations with regards to doctrine, training, and policy. The outcome of this effort will immediately respond to emergent warfighter needs with tangible, proposed near and long-term changes to the way DoD performs contracting and contract management in expeditionary operations.

The Army has agreed to increase military and civilian contracting personnel authorizations and is now evaluating the actual increase required. The Army provisionally established a two-star Army Contracting Command (ACC) on March 13, 2008. The ACC includes two subordinate one-star commands: the Installation Contracting Command and the Expeditionary Contracting Command. The other Military Services are reviewing their acquisition capabilities as well, to ensure that they are adequately staffed, trained, and structured to meet the needs of future contingency operations.

A report with the conclusions of the evaluation and a description of plans for implementing the Commission's recommendations will be submitted to Congress next month.

## **V. Conclusion**

Taken together, the initiatives described in this report provide a robust strategic policy and program framework for management of contractors accompanying deployed military forces, substantially strengthen the DoD's capabilities and performance in managing our current relationship with our contractors and contractor personnel, and achieve an unprecedented level of coordination among the DoD, the DoS, and USAID. Particularly through the full integration of contractor support into OPLANS and CONPLANS and the establishment of a deployable joint contracting command (with HCA designation), reporting directly to the combatant commander, we have ensured holistic and consistent oversight and management of the acquisition process throughout all different periods of a deployment.

Ultimately, the success of our warfighters is linked directly to the success of the management of our contracting workforce. We are working diligently to ensure that policies and procedures are in place for all joint, expeditionary contracting operations in Iraq, Afghanistan, and Kuwait or anywhere else we deploy. Our objective is to better prepare the DoD for acquisition and logistical support of combat operations in the future.

## Appendix A

### SECTION 854, THE JOHN WARNER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007, PUBLIC LAW 109-364 (OCTOBER 17, 2006): JOINT POLICIES ON REQUIREMENTS DEFINITION, CONTINGENCY PROGRAM MANAGEMENT, AND CONTINGENCY CONTRACTING

(a) In General-

(1) JOINT POLICY REQUIREMENT- Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

#### **Sec. 2333. Joint policies on requirements definition, contingency program management, and contingency contracting**

(a) Joint Policy Requirement- The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop joint policies for requirements definition, contingency program management, and contingency contracting during combat operations and post-conflict operations.

(b) Requirements Definition Matters Covered- The joint policy for requirements definition required by subsection (a) shall, at a minimum, provide for the following:

(1) The assignment of a senior commissioned officer or civilian member of the senior executive service, with appropriate experience and qualifications related to the definition of requirements to be satisfied through acquisition contracts (such as for delivery of products or services, performance of work, or accomplishment of a project), to act as head of requirements definition and coordination during combat operations, post-conflict operations, and contingency operations, if required, including leading a requirements review board involving all organizations concerned.

(2) An organizational approach to requirements definition and coordination during combat operations, post-conflict operations, and contingency operations that is designed to ensure that requirements are defined in a way that effectively implements United States Government and Department of Defense objectives, policies, and decisions regarding the allocation of resources, coordination of interagency efforts in the theater of operations, and alignment of requirements with the proper use of funds.

(c) Contingency Program Management Matters Covered- The joint policy for contingency program management required by subsection (a) shall, at a minimum, provide for the following:

(1) The assignment of a senior commissioned officer or civilian member of the senior executive service, with appropriate program management experience and qualifications, to act as head of program management

during combat operations, post-conflict operations, and contingency operations, including stabilization and reconstruction operations involving multiple United States Government agencies and international organizations, if required.

(2) A preplanned organizational approach to program management during combat operations, post-conflict operations, and contingency operations that is designed to ensure that the Department of Defense is prepared to conduct such program management.

(3) Identification of a deployable cadre of experts, with the appropriate tools and authority, and trained in processes under paragraph (6).

(4) Utilization of the hiring and appointment authorities necessary for the rapid deployment of personnel to ensure the availability of key personnel for sufficient lengths of time to provide for continuing program and project management.

(5) A requirement to provide training (including training under a program to be created by the Defense Acquisition University) to program management personnel in--

(A) the use of laws, regulations, policies, and directives related to program management in combat or contingency environments;

(B) the integration of cost, schedule, and performance objectives into practical acquisition strategies aligned with available resources and subject to effective oversight; and

(C) procedures of the Department of Defense related to funding mechanisms and contingency contract management.

(6) Appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation.

(7) Such steps as may be needed to ensure jointness and cross-service coordination in the area of program management during contingency operations.

(d) Contingency Contracting Matters Covered- (1) The joint policy for contingency contracting required by subsection (a) shall, at a minimum, provide for the following:

(A) The designation of a senior commissioned officer or civilian member of the senior executive service in each military department with the responsibility for administering the policy.

(B) The assignment of a senior commissioned officer with appropriate acquisition experience and qualifications to act as head of contingency contracting during combat operations, post-conflict operations, and contingency operations, who shall report directly to the commander of the combatant command in whose area of responsibility the operations occur.

(C) A sourcing approach to contingency contracting that is designed to ensure that each military department is prepared to conduct contingency

contracting during combat operations, post-conflict operations, and contingency operations, including stabilization and reconstruction operations involving interagency organizations, if required.

(D) A requirement to provide training (including training under a program to be created by the Defense Acquisition University) to contingency contracting personnel in—

(i) the use of law, regulations, policies, and directives related to contingency contracting operations;

(ii) the appropriate use of rapid acquisition methods, including the use of exceptions to competition requirements under section 2304 of this title, sealed bidding, letter contracts, indefinite delivery indefinite quantity task orders, set asides under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), undefinitized contract actions, and other tools available to expedite the delivery of goods and services during combat operations or post-conflict operations;

(iii) the appropriate use of rapid acquisition authority, commanders' emergency response program funds, and other tools unique to contingency contracting; and

(iv) instruction on the necessity for the prompt transition from the use of rapid acquisition authority to the use of full and open competition and other methods of contracting that maximize transparency in the acquisition process.

(E) Appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation.

(F) Such steps as may be needed to ensure jointness and cross-service coordination in the area of contingency contracting.

(2) To the extent practicable, the joint policy for contingency contracting required by subsection (a) should be taken into account in the development of interagency plans for stabilization and reconstruction operations, consistent with the report submitted by the President under section 1035 of this Act on interagency operating procedures for the planning and conduct of stabilization and reconstruction operations.

(e) Definitions- In this section:

(1) CONTINGENCY CONTRACTING PERSONNEL- The term "contingency contracting personnel" means members of the armed forces and civilian employees of the Department of Defense who are members of the defense acquisition workforce and, as part of their duties, are assigned to provide support to contingency operations (whether deployed or not).



(2) CONTINGENCY CONTRACTING- The term “contingency contracting” means all stages of the process of acquiring property or services by the Department of Defense during a contingency operation.

(3) CONTINGENCY OPERATION- The term ‘contingency operation’ has the meaning provided in section 101(13) of this title.

(4) ACQUISITION SUPPORT AGENCIES- The term “acquisition support agencies” means Defense Agencies and Department of Defense Field Activities that carry out and provide support for acquisition-related activities.

(5) CONTINGENCY PROGRAM MANAGEMENT- The term “contingency program management” means the process of planning, organizing, staffing, controlling, and leading the combined efforts of participating civilian and military personnel and organizations for the management of a specific defense acquisition program or programs during combat operations, post-conflict operations, and contingency operations.

(6) REQUIREMENTS DEFINITION- The term “requirements definition” means the process of translating policy objectives and mission needs into specific requirements, the description of which will be the basis for awarding acquisition contracts for projects to be accomplished, work to be performed, or products to be delivered.

(2) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by adding at the end the following new item: 2333. Joint policies on requirements definition, contingency contracting, and program management.

(b) Deadline for Development of Joint Policies- The Secretary of Defense shall develop the joint policies required under section 2333 of title 10, United States Code, as added by subsection (a), not later than 18 months after the date of enactment of this Act.

(c) Reports-

(1) INTERIM REPORT-

(A) REQUIREMENT- Not later than 365 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report on requirements definition, contingency contracting, and program management.

(B) MATTERS COVERED- The report shall include discussions of the following:

(i) Progress in the development of the joint policies under section 2333 of title 10, United States Code.

(ii) The ability of the Armed Forces to support requirements definition, contingency contracting, and program management.

(iii) The ability of commanders of combatant commands to request requirements definition, contingency contracting, or program management support, and the ability of the military departments and the acquisition support agencies to respond to such requests and provide such support, including the availability of rapid acquisition personnel for such support.

(iv) The ability of the current civilian and military acquisition workforce to deploy to combat theaters of operations and to conduct requirements definition, contingency contracting, or program management activities during combat and during post-conflict, reconstruction, or other contingency operations.

(v) The effect of different periods of deployment on continuity in the acquisition process.

(2) FINAL REPORT- Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the committees referred to in paragraph (1)(A) a final report on requirements definition, contingency contracting, and program management, containing a discussion of the implementation of the joint policies developed under section 2333 of title 10, United States Code (as so added), including updated discussions of the matters covered in the interim report. In addition, the report should include a discussion of the actions taken to ensure that the joint policies will be adequately resourced at the time of execution.

## **Appendix B**

### **SEC. 841, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008, PUBLIC LAW 110-181 (DECEMBER 5, 2007): COMMISSION ON WARTIME CONTRACTING IN IRAQ AND AFGHANISTAN**

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the “Commission on Wartime Contracting” (in this section referred to as the “Commission”).

(b) MEMBERSHIP MATTERS.—

(1) MEMBERSHIP.—The Commission shall be composed of 8 members, as follows:

(A) 2 members shall be appointed by the majority leader of the Senate, in consultation with the Chairmen of the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations of the Senate.

(B) 2 members shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairmen of the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Foreign Affairs of the House of Representatives.

(C) 1 member shall be appointed by the minority leader of the Senate, in consultation with the Ranking Minority Members of the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Foreign Relations of the Senate.

(D) 1 member shall be appointed by the minority leader of the House of Representatives, in consultation with the Ranking Minority Member of the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Foreign Affairs of the House of Representatives.

(E) 2 members shall be appointed by the President, in consultation with the Secretary of Defense and the Secretary of State.

(2) DEADLINE FOR APPOINTMENTS.—All appointments to the Commission shall be made not later than 120 days after the date of the enactment of this Act.

(3) CO-CHAIRMEN.—The Commission shall have two co-chairmen, including—

(A) a co-chairman who shall be a member of the Commission jointly designated by the Speaker of the House of Representatives and the majority leader of the Senate; and

(B) a co-chairman who shall be a member of the Commission jointly designated by the minority leader of the House of Representatives and the minority leader of the Senate.

(4) VACANCY.—In the event of a vacancy in a seat on the Commission, the individual appointed to fill the vacant seat shall be—

(A) appointed by the same officer (or the officer's successor) who made the appointment to the seat when the Commission was first established; and

(B) if the officer in subparagraph (A) is of a party other than the party of the officer who made the appointment to the seat when the Commission was first established, chosen in consultation with the senior officers in the Senate and the House of Representatives of the party which is the party of the officer who made the appointment to the seat when the Commission was first established.

(c) DUTIES.—

(1) GENERAL DUTIES.—The Commission shall study the following matters:

(A) Federal agency contracting for the reconstruction of Iraq and Afghanistan.

(B) Federal agency contracting for the logistical support of coalition forces operating in Iraq and Afghanistan.

(C) Federal agency contracting for the performance of security functions in Iraq and Afghanistan.

(2) SCOPE OF CONTRACTING COVERED.—The Federal agency contracting covered by this subsection includes contracts entered into both in the United States and abroad for the performance of activities described in paragraph (1).

(3) PARTICULAR DUTIES.—In carrying out the study under this subsection, the Commission shall assess—

(A) the extent of the reliance of the Federal Government on contractors to perform functions (including security functions) in Iraq and Afghanistan and the impact of this reliance on the achievement of the objectives of the United States;

(B) the performance exhibited by Federal contractors for the contracts under review pursuant to paragraph (1), and the mechanisms used to evaluate contractor performance;

(C) the extent of waste, fraud, and abuse under such contracts;

(D) the extent to which those responsible for such waste, fraud, and abuse have been held financially or legally accountable;

(E) the appropriateness of the organizational structure, policies, practices, and resources of the Department of Defense and the Department of State for handling program management and contracting for the programs and contracts under review pursuant to paragraph (1);

(F) the extent to which contractors under such contracts have engaged in the misuse of force or have used force in a manner inconsistent with the objectives of the operational field commander; and

(G) the extent of potential violations of the laws of war, Federal law, or other applicable legal standards by contractors under such contracts.

(d) REPORTS.—

(1) INTERIM REPORT.—On March 1, 2009, the Commission shall submit to Congress an interim report on the study carried out under subsection (c), including the results and findings of the study as of that date.

(2) OTHER REPORTS.—The Commission may from time to time submit to Congress such other reports on the study carried out under subsection (c) as the Commission considers appropriate.

(3) FINAL REPORT.—Not later than two years after the date of the appointment of all of the members of the Commission under subsection (b), the Commission shall submit to Congress a final report on the study carried out under subsection (c). The report shall—

(A) include the findings of the Commission;

(B) identify lessons learned relating to contingency program management and contingency contracting covered by the study; and

(C) include specific recommendations for improvements to be made in—

(i) the process for defining requirements and developing statements of work for contracts in contingency contracting;

(ii) the process for awarding contracts and task or delivery orders in contingency contracting;

(iii) the process for contingency program management;

(iv) the process for identifying, addressing, and providing accountability for waste, fraud, and abuse in contingency contracting;

(v) the process for determining which functions are inherently governmental and which functions are appropriate for performance by contractors in a contingency operation (including during combat operations), especially whether providing security in an area of combat operations is inherently governmental;

(vi) the organizational structure, resources, policies, and practices of the Department of Defense and the Department of State for performing contingency program management; and

(vii) the process by which roles and responsibilities with respect to management and oversight of contracts in contingency contracting are distributed among the various departments and agencies of the Federal Government, and interagency coordination and communication mechanisms associated with contingency contracting.

(e) OTHER POWERS AND AUTHORITIES.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any portion thereof, may, for the purpose of carrying out this section—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths (provided that the quorum for a hearing shall be three members of the Commission); and

(B) provide for the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents; as the Commission, or such portion thereof, may determine advisable.

(2) INABILITY TO OBTAIN DOCUMENTS OR TESTIMONY.—In the event the Commission is unable to obtain testimony or documents needed to conduct its work, the Commission shall notify the committees of Congress of jurisdiction and appropriate investigative authorities.

(3) ACCESS TO INFORMATION.—The Commission may secure directly from the Department of Defense and any other department or agency of the Federal Government any information or assistance that the Commission considers necessary to enable the Commission to carry out the requirements of this section. Upon request of the Commission, the head of such department or agency shall furnish such information expeditiously to the Commission. Whenever information or assistance requested by the

Commission is unreasonably refused or not provided, the Commission shall report the circumstances to Congress without delay.

(4) PERSONNEL.—The Commission shall have the authorities provided in section 3161 of title 5, United States Code, and shall be subject to the conditions set forth in such section, except to the extent that such conditions would be inconsistent with the requirements of this section.

(5) DETAILEES.—Any employee of the Federal Government may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(6) SECURITY CLEARANCES.—The appropriate departments or agencies of the Federal Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(7) VIOLATIONS OF LAW.—

(A) REFERRAL TO ATTORNEY GENERAL.—The Commission may refer to the Attorney General any violation or potential violation of law identified by the Commission in carrying out its duties under this section.

(B) REPORTS ON RESULTS OF REFERRAL.—The Attorney General shall submit to Congress a report on each prosecution, conviction, resolution, or other disposition that results from a referral made under this subparagraph.

(f) TERMINATION.—The Commission shall terminate on the date that is 60 days after the date of the submittal of its final report under subsection (d)(3).

(g) DEFINITIONS.—In this section:

(1) CONTINGENCY CONTRACTING.—The term “contingency contracting” means all stages of the process of acquiring property or services during a contingency operation.

(2) CONTINGENCY OPERATION.—The term “contingency operation” has the meaning given that term in section 101 of title 10, United States Code.

(3) CONTINGENCY PROGRAM MANAGEMENT.— The term “contingency program management” means the process of planning, organizing, staffing, controlling, and leading the combined efforts of participating personnel for the management of a specific acquisition program or programs during contingency operations.

**SEC. 849,  
THE NATIONAL DEFENSE AUTHORIZATION ACT  
FOR FISCAL YEAR 2008,  
PUBLIC LAW 110-181 (DECEMBER 5, 2007):  
CONTINGENCY CONTRACTING TRAINING FOR PERSONNEL OUTSIDE THE  
ACQUISITION WORKFORCE AND EVALUATIONS OF ARMY  
COMMISSION RECOMMENDATIONS**

(a) TRAINING REQUIREMENT.—Section 2333 of title 10, United States Code is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

“(e) TRAINING FOR PERSONNEL OUTSIDE ACQUISITION WORKFORCE.—  
(1) The joint policy for requirements definition, contingency program management, and contingency contracting required by subsection (a) shall provide for training of military personnel outside the acquisition workforce (including operational field commanders and officers performing key staff functions for operational field commanders) who are expected to have acquisition responsibility, including oversight duties associated with contracts or contractors, during combat operations, post-conflict operations, and contingency operations.

“(2) Training under paragraph (1) shall be sufficient to ensure that the military personnel referred to in that paragraph understand the scope and scale of contractor support they will experience in contingency operations and are prepared for their roles and responsibilities with regard to requirements definition, program management (including contractor oversight), and contingency contracting.

“(3) The joint policy shall also provide for the incorporation of contractors and contract operations in mission readiness exercises for operations that will include contracting and contractor support.”

(b) ORGANIZATIONAL REQUIREMENTS.—

(1) EVALUATION BY THE SECRETARY OF DEFENSE.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall evaluate the recommendations included in the report of the Commission on Army Acquisition and Program Management in Expeditionary Operations and shall determine the extent to which such recommendations are applicable to the other Armed Forces. Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit a report to the congressional defense committees with the conclusions of this evaluation and a description of the Secretary’s plans for implementing the Commission’s recommendations for Armed Forces other than the Army.

(2) EVALUATION BY THE SECRETARY OF THE ARMY.—The Secretary of the Army, in consultation with the Chief of Staff of the Army, shall evaluate the recommendations included in the report of the Commission on Army



Acquisition and Program Management in Expeditionary Operations. Not later than 120 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report detailing the Secretary's plans for implementation of the recommendations of the Commission. The report shall include the following:

(A) For each recommendation that has been implemented, or that the Secretary plans to implement—

(i) a summary of all actions that have been taken to implement such recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of such recommendation.

(B) For each recommendation that the Secretary has not implemented and does not plan to implement—

(i) the reasons for the decision not to implement such recommendation; and

(ii) a summary of any alternative actions the Secretary plans to take to address the purposes underlying such recommendation.

(C) For each recommendation that would require legislation to implement, the Secretary's recommendations regarding such legislation.

(c) COMPROLLER GENERAL REPORT.—Section 854(c) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2346) is amended by adding at the end the following new paragraph:

“(3) COMPROLLER GENERAL REPORT.—Not later than 180 days after the date on which the Secretary of Defense submits the final report required by paragraph (2), the Comptroller General of the United States shall—

“(A) review the joint policies developed by the Secretary, including the implementation of such policies; and

“(B) submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the extent to which such policies, and the implementation of such policies, comply with the requirements of section 2333 of title 10, United States Code (as so amended).”

**SEC. 861,  
THE NATIONAL DEFENSE AUTHORIZATION ACT  
FOR FISCAL YEAR 2008,  
PUBLIC LAW 110-181 (DECEMBER 5, 2007):  
MEMORANDUM OF UNDERSTANDING ON MATTERS RELATING TO  
CONTRACTING**

(a) MEMORANDUM OF UNDERSTANDING REQUIRED.—The Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall, not later than July 1, 2008, enter into a memorandum of understanding regarding matters relating to contracting for contracts in Iraq or Afghanistan.

(b) MATTERS COVERED.—The memorandum of understanding required by subsection (a) shall address, at a minimum, the following:

(1) Identification of the major categories of contracts in Iraq or Afghanistan being awarded by the Department of Defense, the Department of State, or the United States Agency for International Development.

(2) Identification of the roles and responsibilities of each department or agency for matters relating to contracting for contracts in Iraq or Afghanistan.

(3) Responsibility for establishing procedures for, and the coordination of, movement of contractor personnel in Iraq or Afghanistan.

(4) Identification of common databases that will serve as repositories of information on contracts in Iraq or Afghanistan and contractor personnel in Iraq or Afghanistan, including agreement on the elements to be included in the databases, including, at a minimum—

(A) with respect to each contract—

(i) a brief description of the contract (to the extent consistent with security considerations);

(ii) the total value of the contract; and

(iii) whether the contract was awarded competitively; and

(B) with respect to contractor personnel—

(i) the total number of personnel employed on contracts in Iraq or Afghanistan;

(ii) the total number of personnel performing security functions under contracts in Iraq or Afghanistan; and

(iii) the total number of personnel working under contracts in Iraq or Afghanistan who have been killed or wounded.

(5) Responsibility for maintaining and updating information in the common databases identified under paragraph (4).

(6) Responsibility for the collection and referral to the appropriate Government agency of any information relating to offenses under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) or chapter 212 of title 18, United States Code (commonly referred to as the Military Extraterritorial Jurisdiction Act), including a clarification of responsibilities under section 802(a)(10) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), as amended by section 552 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364).

(c) IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING.—Not later than 120 days after the memorandum of understanding required by subsection (a) is signed, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall issue such policies or guidance and prescribe such regulations as are necessary to implement the memorandum of understanding for the relevant matters pertaining to their respective agencies.

(d) COPIES PROVIDED TO CONGRESS.—

(1) MEMORANDUM OF UNDERSTANDING.—Copies of the memorandum of understanding required by subsection (a) shall be provided to the relevant committees of Congress within 30 days after the memorandum is signed.

(2) REPORT ON IMPLEMENTATION.—Not later than 180 days after the memorandum of understanding required by subsection (a) is signed, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall each provide a report to the relevant committees of Congress on the implementation of the memorandum of understanding.

(3) DATABASES.—The Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development shall provide access to the common databases identified under subsection (b)(4) to the relevant committees of Congress.

(4) CONTRACTS.—Effective on the date of the enactment of this Act, copies of any contracts in Iraq or Afghanistan awarded after December 1, 2007, shall be provided to any of the relevant committees of Congress within 15 days after the submission of a request for such contract or contracts from such committee to the department or agency managing the contract.

**SEC. 862,  
THE NATIONAL DEFENSE AUTHORIZATION ACT  
FOR FISCAL YEAR 2008,  
PUBLIC LAW 110-181 (DECEMBER 5, 2007):  
CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS IN AREAS OF  
COMBAT OPERATIONS**

**(a) REGULATIONS ON CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS.—**

(1) **IN GENERAL.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State, shall prescribe regulations on the selection, training, equipping, and conduct of personnel performing private security functions under a covered contract in an area of combat operations.

(2) **ELEMENTS.**—The regulations prescribed under subsection (a) shall, at a minimum, establish—

(A) a process for registering, processing, accounting for, and keeping appropriate records of personnel performing private security functions in an area of combat operations;

(B) a process for authorizing and accounting for weapons to be carried by, or available to be used by, personnel performing private security functions in an area of combat operations;

(C) a process for the registration and identification of armored vehicles, helicopters, and other military vehicles operated by contractors performing private security functions in an area of combat operations;

(D) a process under which contractors are required to report all incidents, and persons other than contractors are permitted to report incidents, in which—

(i) a weapon is discharged by personnel performing private security functions in an area of combat operations;

(ii) personnel performing private security functions in an area of combat operations are killed or injured; or

(iii) persons are killed or injured, or property is destroyed, as a result of conduct by contractor personnel;

(E) a process for the independent review and, if practicable, investigation of—

(i) incidents reported pursuant to subparagraph (D); and

(ii) incidents of alleged misconduct by personnel performing private security functions in an area of combat operations;

(F) requirements for qualification, training, screening (including, if practicable, through background checks), and security for performing private security functions in an area of combat operations;

(G) guidance to the commanders of the combatant commands on the issuance of—

(i) orders, directives, and instructions to contractors performing private security functions relating to equipment, force protection, security, health, safety, or relations and interaction with locals;

(ii) predeployment training requirements for personnel performing private security functions in an area of combat operations, addressing the requirements of this section, resources and assistance available to contractor personnel, country information and cultural training, and guidance on working with host country nationals and military; and (iii) rules on the use of force for personnel performing private security functions in an area of combat operations;

(H) a process by which a commander of a combatant command may request an action described in subsection (b)(3); and

(I) a process by which the training requirements referred to in subparagraph (G)(ii) shall be implemented.

**(3) AVAILABILITY OF ORDERS, DIRECTIVES, AND INSTRUCTIONS.—**

The regulations prescribed under subsection (a) shall include mechanisms to ensure the provision and availability of the orders, directives, and instructions referred to in paragraph (2)(G)(i) to contractors referred to in that paragraph, including through the maintenance of a single location (including an Internet website, to the extent consistent with security considerations) at or through which such contractors may access such orders, directives, and instructions.

**(b) CONTRACT CLAUSE ON CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS.—**

(1) REQUIREMENT UNDER FAR.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation issued in accordance with section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) shall be revised to require the insertion into each covered contract (or, in the case of a task order, the contract under which the task order is issued) of a contract clause addressing the selection, training, equipping, and conduct of personnel performing private security functions under such contract.

(2) **CLAUSE REQUIREMENT.**—The contract clause required by paragraph (1) shall require, at a minimum, that the contractor concerned shall—

(A) comply with regulations prescribed under subsection (a), including any revisions or updates to such regulations, and follow the procedures established in such regulations for—

(i) registering, processing, accounting for, and keeping appropriate records of personnel performing private security functions in an area of combat operations;

(ii) authorizing and accounting of weapons to be carried by, or available to be used by, personnel performing private security functions in an area of combat operations;

(iii) registration and identification of armored vehicles, helicopters, and other military vehicles operated by contractors and subcontractors performing private security functions in an area of combat operations; and

(iv) the reporting of incidents in which—

(I) a weapon is discharged by personnel performing private security functions in an area of combat operations;

(II) personnel performing private security functions in an area of combat operations are killed or injured; or

(III) persons are killed or injured, or property is destroyed, as a result of conduct by contractor personnel;

(B) ensure that all personnel performing private security functions under such contract are briefed on and understand their obligation to comply with—

(i) qualification, training, screening (including, if practicable, through background checks), and security requirements established by the Secretary of Defense for personnel performing private security functions in an area of combat operations;

(ii) applicable laws and regulations of the United States and the host country, and applicable treaties and international agreements, regarding the performance of the functions of the contractor;

(iii) orders, directives, and instructions issued by the applicable commander of a combatant command relating to equipment, force protection, security, health, safety, or relations and interaction with locals; and

(iv) rules on the use of force issued by the applicable commander of a combatant command for personnel performing private security functions in an area of combat operations; and (C) cooperate with any investigation conducted by the Department of Defense pursuant to subsection (a)(2)(E) by providing access to employees of the contractor and relevant information in the possession of the contractor regarding the incident concerned.

(3) NONCOMPLIANCE OF PERSONNEL WITH CLAUSE.—

The contracting officer for a covered contract may direct the contractor, at its own expense, to remove or replace any personnel performing private security functions in an area of combat operations who violate or fail to comply with applicable requirements of the clause required by this subsection. If the violation or failure to comply is a gross violation or failure or is repeated, the contract may be terminated for default.

(4) APPLICABILITY.—The contract clause required by this subsection shall be included in all covered contracts awarded on or after the date that is 180 days after the date of the enactment of this Act. Federal agencies shall make best efforts to provide for the inclusion of the contract clause required by this subsection in covered contracts awarded before such date.

(5) INSPECTOR GENERAL REPORT ON PILOT PROGRAM ON IMPOSITION OF FINES FOR NONCOMPLIANCE OF PERSONNEL WITH CLAUSE.—

Not later than March 30, 2008, the Inspector General of the Department of Defense shall submit to Congress a report assessing the feasibility and advisability of carrying out a pilot program for the imposition of fines on contractors for personnel who violate or fail to comply with applicable requirements of the clause required by this section as a mechanism for enhancing the compliance of such personnel with the clause. The report shall include—

(A) an assessment of the feasibility and advisability of carrying out the pilot program; and

(B) if the Inspector General determines that carrying out the pilot program is feasible and advisable—

(i) recommendations on the range of contracts and subcontracts to which the pilot program should apply; and (ii) a schedule of fines to be imposed under the pilot program for various types of personnel actions or failures.

(c) AREAS OF COMBAT OPERATIONS.—

(1) DESIGNATION.—The Secretary of Defense shall designate the areas constituting an area of combat operations for purposes of this section by not later than 120 days after the date of the enactment of this Act.

(2) PARTICULAR AREAS.—Iraq and Afghanistan shall be included in the areas designated as an area of combat operations under paragraph (1).

(3) ADDITIONAL AREAS.—The Secretary may designate any additional area as an area constituting an area of combat operations for purposes of this section if the Secretary determines that the presence or potential of combat operations in such area warrants designation of such area as an area of combat operations for purposes of this section.

(4) MODIFICATION OR ELIMINATION OF DESIGNATION.—The Secretary may modify or cease the designation of an area under this subsection as an area of combat operations if the Secretary determines that combat operations are no longer ongoing in such area.

(d) EXCEPTION.—The requirements of this section shall not apply to contracts entered into by elements of the intelligence community in support of intelligence activities.



## Appendix C ACRONYM LISTING

<b>Acronym</b>	<b>Definitions</b>
ACC	Army Contracting Command
ADUSD	Assistant Deputy Under Secretary of Defense
AOR	Area of Responsibility
AT&L	Acquisition, Technology and Logistics
CAC	Common Access Card
CAM	Capability Area Manager
CID	Criminal Investigation Division
CIO	Chief Information Officer
CIP	Contractor Integration Plan
COTR	Contracting Officer Technical Representative
CPA	Coalition Provisional Authority
CSP	Contract Support Plan
COCOM	Combatant Command
CONOPS	Concept of Operations
CONPLANS	Contingency Plans
COR	Contracting Officer Representative
DAU	Defense Acquisition University
DBIDS	Defense Biometric Identification Data System
DCMA	Defense Contract Management Agency
DFAR	Defense Federal Acquisition Regulations
DFARS	Defense Federal Acquisition Regulation Supplement
DISA	Defense Information Systems Agency
D J-4	Director of Joint Logistics
DoD	Department of Defense
DoDD	Department of Defense Directive
DoDI	Department of Defense Instruction
DoDR	Department of Defense Regulation
DoJ	Department of Justice
DoS	Department of State
DOTMLP-F	doctrine, organization, training, materiel, leadership and education, personnel, and facilities
DPAP	Defense Procurement and Acquisition Policy
DUSD	Deputy Under Secretary of Defense
FAR	Federal Acquisition Regulations
FPDS-NG	Federal Procurement Data System - Next Generation
FRAGO	Fragmentary Order
FY	Fiscal Year
GAO	Government Accountability Office
GCC	Geographic Combatant Command (or Commander)
GOI	Government of Iraq
GOSC	General Officer Steering Committee
GPA	Government Property Administration
GSA	General Services Administration
GWOT	Global War on Terrorism

HAZMAT	Hazardous Materials
HCA	Head of Contracting Agency
HSPD	Homeland Security Presidential Directive
JAMMS	Joint Asset Management and Movement System
JCC-I/A	Joint Contracting Command - Iraq/Afghanistan
JCS	Joint Chiefs of Staff
JCCSO	Joint Contingency Contract Support Office
JOA	Joint Operational Area
JOCSP	Joint Operational Contract Support Planners
JMD	Joint Manning Document
JP	Joint Publication
JTF	Joint Task Force
L&MR	Logistics and Materiel Readiness
LN	Local National
LOA	Letter of Authorization
LOGCAP	Logistics Civil Augmentation Program
MEJA	Military Extraterritorial Judicial Act
MNF-I	Multi-National Force - Iraq
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MSELs	Master Scenario Events Lists
NASA	National Aeronautics and Space Administration
NDAA	National Defense Authorization Act
OADUSD	Office of the Assistant Deputy Under Secretary of Defense
OCS	Operational Contract Support
OEF	Operation Enduring Freedom
OIF	Operation Iraqi Freedom
OPLANS	Operations Plans
OSD	Office of the Secretary of Defense
OUSD	Office of the Under Secretary of Defense
PM	Program Manager
POI	Program of Instruction
POM	Program Objective Memorandum
PS	Program Support
PSC	Private Security Contractor
QA	quality assurance
RSO	Regional Security Officer
RUF	Rules for the Use of Force
SIGIR	Special Inspector General for Iraq Reconstruction
SPOT	Synchronized Predeployment and Operational Tracker
TCN	third country national
UCMJ	Uniform Code of Military Justice
USG	United States Government
USAID	United States Agency for International Development
USC	United States Code
USAFRICOM	United States Africa Command
USCENTCOM	United States Central Command
USEUCOM	United States European Command
USJFCOM	United States Joint Forces Command
USNORTHCOM	United States Northern Command

USPACOM	United States Pacific Command
USSOCOM	United States Special Operations Command
USSOUTHCOM	United States Southern Command
USD	Under Secretary of Defense