

Testimony of
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STATEMENT OF BARRY M. SABIN DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION DEPARTMENT OF JUSTICE
BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE
CONCERNING COMBATING WAR PROFITEERING: ARE WE DOING ENOUGH TO
INVESTIGATE AND PROSECUTE CONTRACTING FRAUD AND ABUSE IN IRAQ?
PRESENTED ON MARCH 20, 2007

Thank you for the opportunity to be here today to discuss the efforts of the Department of Justice to combat fraud relating to increased government spending on national security, and particularly procurement fraud relating to spending on the wars and rebuilding efforts in Iraq and Afghanistan.

I would like to reiterate the Department's commitment to a strong and vigorous enforcement effort in this important area and address three primary points. First, the Department of Justice has made the investigation and prosecution of procurement fraud, including procurement fraud related to the wars in Iraq and Afghanistan, and the rebuilding of those countries, a priority and has devoted significant prosecutorial and investigative resources to that effort. Second, the Department is working through the International Contract Corruption Task Force ("ICCTF"), including the Army Criminal Investigation Division ("Army CID"), the Defense Criminal Investigative Service ("DCIS"), the Federal Bureau of Investigation ("FBI"), the Special Inspector General for Iraq Reconstruction (SIGIR"), as well as the Internal Revenue Service Criminal Investigation Division and other Inspectors General, and traditional law enforcement partners, to investigate and prosecute such procurement fraud and has already developed a track-record of success in this area. Third, in order to leverage law enforcement resources and more effectively investigate and prosecute procurement fraud, the Department formed the National Procurement Fraud Task Force (the "Task Force") last year. The Task Force is off to a successful start, has formed key working committees, and is already working to identify and remove barriers to preventing, detecting and prosecuting procurement fraud. The Task Force is also in the process of considering potential regulatory and legislative changes like those proposed in the War Profiteering Act, which will, if effectuated, enhance our prosecutive efforts to protect the government against those who would cheat or mislead it in the procurement of products or services, but has not yet made any formal recommendations. I would also like to take this opportunity to recognize the work of the many Department of Justice employees and contractors who are actively involved in the important work of stabilization and reconstruction in Iraq. Numerous Department employees have voluntarily agreed to place themselves in harm's way alongside their military and other U.S. Government counterparts to help the Iraqi people rebuild the country's legal structure. Some are working as part of the Criminal Division's International Criminal Investigative Training Assistance Program to support both the Department of Defense's police training program and the Iraqi Ministry of Justice's program to mentor the Iraqi

Corrections Service. A team of ICITAP trainers/mentors is also helping develop capacity for the Iraqi Commission on Public Integrity to conduct complex anti-corruption investigations. Other DOJ personnel are assigned with the Criminal Division's Office of Overseas Prosecutorial Development, Assistance and Training to assist the Iraqi Higher Juridical Council, Iraqi prosecutors, and the Central Criminal Court of Iraq with the development and implementation of justice sector programs. Others are working in the Regime Crime Liaison's Office to support the Iraqi Higher Tribunal in its investigation and prosecution of Saddam Hussein and other senior-level former regime officials for war crimes and other offenses. In addition, law enforcement agents from the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Drug Enforcement Administration and the U.S. Marshals Service work daily in support of both the law enforcement and justice sectors to help improve Iraq's capacity to address the security challenges it faces. The Department appreciates and recognizes the fine work of these brave individuals.

I. The Department Has Made the Prosecution of Procurement Fraud, Including Fraud Related to the Wars in Iraq and Afghanistan, and the Rebuilding of those Countries, a Priority

Since the events of September 11, 2001, the United States government has increased spending to address homeland security concerns and to fight terrorism abroad, including the ongoing wars in Iraq and Afghanistan, as well as rebuilding efforts in those countries. As spending increases, more tax dollars are put at risk of fraud. As a result of the increased spending, the Department of Justice recognizes that the need also has increased to detect, investigate, and prosecute procurement fraud and related public corruption offenses also has increased.

The Department of Justice has taken an aggressive, proactive leadership position to help ensure that dollars from the public fisc are used for the purpose to which they have been appropriated and not to line the pockets of corrupt individuals or companies. We take that responsibility seriously. At this time, when our national security is a paramount concern, criminals who cheat the government must be identified, stopped and punished. Working with the inter-agency community, the Department has demonstrated this commitment at the investigative and prosecution stages for both civil and criminal matters.

The Department of Justice has established a unified and coordinated approach to combat procurement fraud, including fraud relating to the wars in Iraq and Afghanistan and reconstruction efforts in those countries. The Department has devoted a panoply of resources and expertise to this important mission. The Fraud Section, the Public Integrity Section, the Asset Forfeiture and Money Laundering Section, and the Office of International Affairs of the Criminal Division are each involved in the fight against procurement fraud and each contributes its resources and unique expertise. The Fraud Section, which has well-established relationships with many Inspectors General, particularly the Department of Defense Inspector General, and has prosecuted numerous procurement fraud cases in the past, leads the effort to combat fraud.

The Public Integrity Section also has long-standing relationships with the Inspector General community and participates in investigations that involve corruption by government or military officials, as many procurement fraud cases do. The Asset Forfeiture and Money Laundering Section leads the effort to recover taxpayer dollars stolen through procurement fraud by assisting in the swift and comprehensive use of seizure warrants and forfeiture remedies. These attorneys

from the Criminal Division work closely at Main Justice with their colleagues in the Antitrust Division, who also prosecute cases that involve bid-rigging or other anti-competitive behavior in the awarding of contracts. The close physical proximity of the Criminal Division sections and the Antitrust Division in Washington, D.C., allows effective coordination, staffing, and tracking of investigations relating to Iraq and Afghanistan. Subject to applicable limitations on parallel proceedings, attorneys within the Criminal Division also review qui tam and other cases litigated by the Civil Division to determine whether they are appropriate for criminal prosecution.

The criminal prosecutors at Main Justice are not alone. Department of Justice attorneys in the Commercial Litigation Branch of the Civil Division enforce the False Claims Act, other federal statutes, and common law remedies to address all types of procurement fraud, including overcharging, defective pricing, quality deficiencies and product substitution, and bribery and corruption statutes. These actions often result in the recovery of significant funds. For example: ? On June 30, 2006, Boeing agreed to pay a civil settlement of \$565 million to settle claims relating to its improper procurement and use of competitors' proprietary information in connection with Air Force and NASA rocket launch contracts, and also relating to a conflict of interest involving a high level former Air Force procurement official.

? In October 2006, the Civil Division settled a case involving allegations that PeopleSoft made pricing disclosures to GSA that were not current, accurate and complete concerning the sale of software licenses and related maintenance services. Oracle agreed to pay the United States \$98.5 million as part of the settlement.

In addition, U.S. Attorney's offices throughout the country are devoting resources to this effort and have brought numerous criminal and civil procurement fraud cases. Many United States Attorney's offices have a wealth of procurement fraud expertise. They are bringing it to bear on many high-profile and sophisticated procurement fraud cases, such as the cases handled by the LOGCAP Working Group in the Central District of Illinois, discussed more fully below.

II. The International Contract Corruption Task Force Was Established to Coordinate a Comprehensive Approach to International Corruption and Procurement Fraud Cases

The Department -- both prosecutors and the FBI -- has been and is working closely with and through the ICCTF, other Inspectors General, and other traditional law enforcement partners to investigate and prosecute procurement fraud relating to the wars in Iraq and Afghanistan and the rebuilding of those countries. The ICCTF was established in October, 2006 as an operational task force consisting of the following charter agencies: FBI, Army CID Major Procurement Fraud Unit, Department of Defense, Inspector General, DCIS, Department of State, Office of Inspector General (DOS-OIG), United States Agency for International Development, Office of Inspector General (USAID-OIG) and the Special Inspector General for Iraq Reconstruction (SIGIR). The mission of the ICCTF is that of a joint agency task force that deploys criminal investigative and intelligence assets world wide to detect and investigate corruption and contract fraud resulting primarily from the Global War on Terror (GWOT). This task force is led by a Board of Governors derived from senior agency representatives who operate all major GWOT cases to defend the interests of the United States overseas. Procurement fraud cases, especially those involving the wars in Iraq and Afghanistan, are usually very complex and resource intensive. The

cases often involve extraterritorial conduct as well as domestic conduct, requiring coordination between appropriate law enforcement agencies.

In order to improve coordination and information sharing, the ICCTF has established a Joint Operations Center based in Washington D.C. The Joint Operations Center currently serves as the nerve center for the collection and sharing of intelligence regarding corruption and fraud relating to funding for the Global War on Terror. The Joint Operations Center will coordinate intelligence-gathering, deconflict case work and deployments, disseminate intelligence, and provide analytic and logistical support for the ICCTF agencies. The Joint Operations Center forms the vital link into the entire intelligence community and provides a repository from which to disseminate intelligence indicative of criminal activity.

Moreover, investigating the international component often proves difficult due to the need to cooperate with foreign law enforcement officials and due to the burden of providing adequate security to prosecutors and investigators working abroad. Indeed, the difficulty of locating and collecting evidence and interviewing witnesses in an active combat zone cannot be overstated.

Despite these challenges, the Department of Justice will continue to investigate and prosecute procurement cases relating to the wars and reconstruction in Iraq and Afghanistan and will pursue these cases wherever the evidence leads. The Department already has seen several instances where wrongdoing by one group of individuals has led to a far-reaching investigation that netted other culprits and resulted in additional criminal charges. As of March 15, 2007, the Department has charged 25 individuals criminally for public corruption and government fraud relating to the Global War on Terror, which includes matters involving Iraq, Kuwait, and Afghanistan. Sixteen of these individuals have been convicted (seven are awaiting sentencing). The other nine individuals have charges pending either through indictments or criminal complaints.

For example, on February 1, 2007, U.S. Army Colonel Curtis G. Whiteford, U.S. Army Lt. Colonels Debra M. Harrison and Michael B. Wheeler, and civilians Michael Morris and William Driver were indicted for various crimes related to a scheme to defraud the Coalition Provisional Authority - South Central Region (CPA-SC) in al-Hillah, Iraq. Whiteford was once the second-most senior official at CPA-SC. Wheeler was an advisor for CPA projects for the reconstruction of Iraq.

Previously, on August 25, 2006, Bruce D. Hopfengardner, a Lieutenant Colonel in the United States Army Reserves, pleaded guilty to conspiracy to commit wire fraud and money laundering in connection with a scheme to defraud the CPA-SC in Al-Hillah, Iraq. In his guilty plea, Hopfengardner admitted that, while serving as a special advisor to the CPA-SC, he used his official position to steer contracts to a U.S. citizen in return for various things of value, including \$144,500 in cash, more than \$70,000 worth of vehicles, a \$2,000 computer and a \$6,000 watch. Hopfengardner and his co-conspirators laundered over \$300,000 through various bank accounts in Iraq, Kuwait, Switzerland, and the United States. Finally, Hopfengardner admitted that he stole \$120,000 from the CPA-SC that had been designated for use in the reconstruction of Iraq and smuggled the stolen currency into the United States aboard commercial and military aircraft. Hopfengardner's sentencing is pending.

The charges against the above individuals stem from an investigation into illegal conduct by Robert Stein, CPA-SC's Comptroller and Funding Officer, and Philip Bloom, a U.S. citizen who resided in Romania and Iraq. Both have pleaded guilty to conspiracy, bribery, and money laundering in connection with a scheme to defraud the CPA, and Stein also pleaded guilty to possession of machine guns and being a felon in possession of a firearm in connection with the scheme to defraud the CPA. Bloom admitted that from December 2003 through December 2005, he along with Robert Stein and numerous public officials, including several high-ranking U.S. Army officers, conspired to rig the bids on federally-funded contracts being awarded by the CPA-SC so that all of the contracts were awarded to Bloom. The total value of the contracts awarded to Bloom exceeded \$8.6 million. Bloom admitted paying Stein and other public officials more than \$2 million in proceeds from the fraudulently awarded bids and at least \$2 million in stolen money from the CPA in order to conceal the source and origin of the funds. On January 29, 2007, Stein was sentenced to nine years in prison and three years of supervised release, and ordered to pay \$3.6 million in restitution and forfeit \$3.6 million in assets. On February 16, 2007, Bloom was sentenced to 48 months in prison and two years of supervised release, and ordered to pay \$3.6 million in restitution and forfeit \$3.6 million in assets. The Department worked closely with SIGIR and other law enforcement agencies to investigate and prosecute these cases. The agents have done excellent work under very trying circumstances and the Department appreciates and thanks them for their effort.

The LOGCAP Working Group, which operates out of the U.S. Attorney's Office in the Central District of Illinois, has also filed criminal charges against eight individuals for bribery and kickbacks associated with Iraq reconstruction efforts and military operations in Kuwait. Logcap III is a ten-year competitively awarded contract to Kellog, Brown, and Root (KBR) in December 2001, and incorporates task orders issued by the U.S. Army to support Operation Iraqi Freedom. The cases relating to the Logcap contract involve bribery in the issuance of task orders and include, but are not limited to, the following:

- o Peleti Peleti Jr., formerly serving as the Army's Theatre Food Service Advisor for Kuwait, Iraq, and Afghanistan, pleaded guilty on February 9, 2007, to bribery.
- o Stephen Seamans, formerly a subcontracts manager for KBR, pleaded guilty to an Information charging him with one count of major fraud against the United States and one count of conspiracy to commit money laundering. He was sentenced on December 1, 2006, to 12 months and one day in prison and ordered to pay \$380,130 in restitution.
- o Glenn Powell, formerly a subcontracts manager for KBR, pleaded guilty to an information charging him with one count of major fraud against the United States and one count of violation of the Anti-Kickback Act. He was sentenced on November 18, 2005, to 15 months in prison and ordered to pay \$90,973.99 in restitution.
- o Shabbir Khan, formerly Director of Operations, Kuwait and Iraq, for KBR subcontractor Tamimi Global Co., Ltd., was indicted on multiple counts of wire fraud, witness tampering, conspiracy to commit witness tampering, conspiracy to commit money laundering, and making false statements. He pleaded guilty and was sentenced on December 1, 2006, to 51 months in prison and ordered to pay a \$10,000 fine and \$133,860 in restitution.
- o Christopher Cahill, formerly the Middle East and India Vice President for Eagle Global Logistics, Inc. ("EGL"), pleaded guilty to an Information charging him with major fraud against the United States. He was sentenced on August 30, 2006, to 30 months in prison and ordered to

pay a \$10,000 fine. A civil settlement with EGL arising from the same facts resulted in a settlement of \$4 million on August 6, 2006.

As mentioned above, the cases prosecuted to date indicate that procurement fraud cases are often far-reaching and complicated. They may involve numerous actors and wrongdoers and span a long period of time. In addition, the cases include an international component that may slow the investigation. As a result, the cases are usually resource intensive and take time to investigate. However, the Department is committed to devoting the resources necessary to build and prosecute these cases, whether against individuals or the companies for which they work. The Department, through the ICCTF, will continue to aggressively investigate and prosecute fraud related to the war and rebuilding efforts in Iraq and Afghanistan.

III. The Department of Justice Formed the Procurement Fraud Task Force in Order to Investigate and Prosecute Procurement Fraud More Effectively

In order to better identify, investigate, and prosecute fraud against the government, including procurement fraud related to the wars in Iraq and Afghanistan and the rebuilding efforts in those countries, the Department formed the Task Force in October 2006. The Task Force's mission is to combat procurement fraud, including procurement fraud associated with government spending on the wars and rebuilding efforts in Iraq and Afghanistan. The Task Force is led by the Deputy Attorney General and the Assistant Attorney General for the Criminal Division. Steve A. Linick, who spearheaded a procurement fraud task force in the Eastern District of Virginia, is now a Deputy Chief in the Fraud Section and has been named as the Director of the Task Force. Brian Miller, the Inspector General of the General Services Administration, is the Vice-Chair of the Task Force.

The Task Force is designed to leverage the resources of the federal law enforcement community by utilizing the Inspectors General, including SIGIR, in addition to traditional law enforcement partners. The Task Force includes the Inspectors General from the following agencies: the Department of Justice, Department of Defense, the General Services Administration, the Department of Homeland Security, the Department of the Treasury, the Small Business Administration, National Aeronautics and Space Administration, the Central Intelligence Agency, the National Reconnaissance Office, the Department of State, the Department of the Interior, the Department of Energy, the National Science Foundation, the Department of Veterans Affairs, the Social Security Administration, the U.S. Postal Inspection Service, the Office of the Director of National Intelligence, and the Department of Agriculture, among others.

The Task Force capitalizes on two recent changes that have empowered and energized the Inspector General community. First, the USA Patriot Act conferred additional law enforcement powers on the offices of the Inspectors General ("OIGs"). Second, the Attorney General implemented the Attorney General's Guidelines for OIGs with Statutory Law Enforcement Authority. As a result, OIG special agents now have statutory law enforcement authority to carry out their law enforcement functions in the same manner as other special agents within the law enforcement community, including the authority to serve subpoenas, seek and execute arrest warrants, make arrests and carry firearms.

The Task Force has been and will continue to focus on the following objectives relating to procurement fraud:

- (1) Increase coordination and strengthen partnerships among all Inspectors General, law enforcement, and the Department of Justice to more effectively fight procurement fraud;
- (2) Assess existing government-wide efforts to combat procurement fraud;
- (3) Increase and accelerate civil and criminal prosecutions, and administrative actions, to recover ill-gotten gains resulting from procurement fraud;
- (4) Educate and inform the public about procurement fraud;
- (5) Identify and remove barriers to preventing, detecting, and prosecuting procurement fraud;
- (6) Encourage greater private sector participation in the detection and prevention of procurement fraud; and
- (7) Evaluate and measure the performance of the Task Force to ensure accountability.

To accomplish these objectives, the Task Force has created working committees to address particular issues relating procurement fraud. Each committee is chaired by a high-level member of the Inspector General community or the FBI. These working committees focus on the following areas relevant to improving law enforcement effectiveness in areas relating to procurement fraud:

- ? Training, chaired by David Williams, the Inspector General of the U.S. Postal Service;
- ? Legislation, co-chaired by Richard Skinner, the Inspector General of the Department of Homeland Security , and Brian Miller, the Inspector General of GSA;
- ? Information-Sharing, also chaired by Brian Miller;
- ? Intelligence, co-chaired by Ned Maguire, the Inspector General of the Office of the Director of National Intelligence, and Peter Usowski, Inspector General of the National Geospatial-Intelligence Agency;
- ? Grant Fraud, chaired by Glenn Fine, Inspector General for the Department of Justice;
- ? Private-Sector Outreach, co-chaired by Harold Damelin, Inspector General of the Department of Treasury, and Eric Feldman, Inspector General of the National Reconnaissance Office; and
- ? International Procurement Fraud issues, including the wars in Iraq and Afghanistan, chaired by FBI Assistant Director CID Chip Burrus.

The Legislation Committee will consider regulations and legislation, like the War Profiteering Act, that may assist in the investigation of procurement fraud. The Legislation Committee has already met but has not yet made any formal recommendations to the Task Force regarding the War Profiteering Act or any other proposed legislation.

The Task Force has also formed numerous regional working groups to ensure that the Task Force encourages the investigation and prosecution of procurement fraud nationwide. The regional working groups are centered in areas of significant procurement activity. To date, regional working groups have been formed in 14 districts or regions across the country, including in the Eastern District of Pennsylvania, the Central District of California, the Southern District of Florida, and the Eastern District of New York. The Director of the Task Force coordinates the efforts of these regional working groups.

Since its inception, the Task Force has been enthusiastically embraced by the entire federal law enforcement community, including the IRS, FBI, the Inspectors General and the defense-related agencies. The Task Force has already held two full meetings and more than 125 people representing more than 30 federal agencies attended each of those meetings. In addition, all of the working committees have met and are in the process of drafting mission statements and strategic plans to accomplish their respective missions. We are currently aware of more than 60 civil or criminal procurement fraud cases that have been resolved or indicted since the Task Force was created. Although the Task Force cannot claim credit for all of these cases, we believe that the creation of the Task Force has invigorated procurement fraud prosecutions. The procurement fraud cases are summarized on the Task Force's website at <http://www.usdoj.gov/criminal/npftf/>.

IV. Conclusion

The Department of Justice recognizes that it is imperative that we deter, investigate and prosecute procurement fraud by unscrupulous companies and individuals whose theft of critically-needed resources threatens our safety and defense. The Department has already taken significant steps to improve the effectiveness of federal law enforcement in this area and will continue to maintain the investigation and prosecution of procurement fraud as a priority.