

Senate Democratic Policy Committee

Oversight Hearing on Iraq Contracting Practices

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Good morning, Chairman Dorgan and members of the committee. Thank you for inviting me to testify before you today. I am Steve Ellis, Vice President of Programs at Taxpayers for Common Sense (TCS), a national, non-partisan budget watchdog group.

Throughout the history of our great country, threats to our national security have required America to commit significant amounts of government resources to defend our nation. While estimates vary, it is likely that more than \$166 billion has been spent in support of the war on terror in Iraq and Afghanistan to date.ⁱ But to successfully prosecute any war, or peace for that matter, the public has to have faith that the money is being spent wisely and appropriately. Just as importantly, American men and women in uniform have to trust that the government is helping them win the peace they are fighting for.

Along with the war on terror and its associated military operations has come a rapid proliferation of government responsibility for overseeing all the gears and cogs of the commercial machinery that has been brought to bear in the war effort. With so many moving parts, oversight is stretched thinly across different agencies and committees, dramatically increasing the risk of waste in the contracting process. Some former military officials have gone so far as to describe the contracting process as a “patronage system.”ⁱⁱ All too often, the line between the public and the private interest gets blurred and taxpayers pay the price.

Government waste is always a serious matter, and in times of war it is even more so. To allow shoddy management and poor oversight of taxpayer dollars to dominate the process is unconscionable. More needs to be done to bring accountability to this process and rein in waste. That is why today we are calling for a war profiteering committee or commission to coordinate efforts to root out waste, fraud, and abuse in the war on terrorism in Afghanistan and Iraq.

Because of the continued historic levels of secrecy coupled with the high risk of waste, an elevated degree of congressional oversight is required. A bipartisan commission based on the Truman Committee model should be created with the goal of rooting out waste and malfeasance, thereby preserving the trust of our men and women in uniform and sustaining the people’s confidence in the prosecution of the war on terror.

One doesn’t need to look farther than the accounting errors and service failures that have already cast clouds over the rebuilding process in Iraq to see the necessity of restoring

and maintaining trust and confidence. Recently, Halliburton, who has received twice as much money to date as all other contractors combined, was found to have overcharged the Pentagon for a contract to provide meals to soldiers serving in Iraq.ⁱⁱⁱ This news followed on the heels of revelations that Halliburton employees took kickbacks in return for awarding a Kuwaiti company with a contract to supply US troops. As the largest contractor thus far, Halliburton has drawn much of the heat, but it should not be assumed that these problems are isolated to a single contractor or a single contract. The confusion over Halliburton's culpability in these matters and the very existence of possible mistakes are enough to demonstrate that we have failed to use taxpayer dollars in the best way possible. We believe this may only be the proverbial tip of the waste iceberg.

The concerns over Halliburton's performance also cast doubt on the initial contracts awarded to them, worth a total of \$6 billion.^{iv} While the exigencies of war sometimes require us to sacrifice efficiency for speed, the after effects of doing so should prompt us to investigate so as to confirm that taxpayer funds are being spent wisely.

But, whether or not wrongdoing was involved in recent contracting, the very discovery should send a signal to lawmakers that there is a fundamental problem with the processes that govern both the award and the oversight of private contracts. Because of the sheer size of the appropriations for the war thus far, because the money for Iraq and Afghanistan has been spent outside the normal appropriations process, and because that money is not centrally processed but instead is divvied up between U.S. Army Corps of Engineers (USACE), U.S. AID, Pentagon, Coalition Provisional Authority and others, transparency and accountability have been lost.

Increasing Oversight of the Contracting Process

To solve the problems posed by the fragmented control of wartime expenditures and the unusual emergency appropriations process, there is a growing need for a central entity that can provide oversight for every step of the process and use what it learns to directly influence legislation. The existence of a special oversight committee will send a message to all private contractors that someone is watching them. A bipartisan committee of congressional lawmakers with the power to subpoena the appropriate parties and conduct far-ranging investigations into the nature of the contracting process will perform an important public service to American taxpayers in this time of huge government outlays.

I don't think there is anyone in this room that doesn't agree that our troops should have the financial resources they need to fight the wars in Afghanistan and Iraq. It is clear that we will be there for the long haul and men and women in uniform need our support until the war on terror is won and the last soldier flies home from Baghdad International Airport. That is why it is critical that each dollar spent prosecuting the war on terror gets at least a dollar's worth of results in return. We need a commission to provide the oversight that will expose waste and free up funds to support the work of our troops on the ground.

The Truman Committee and Others

Special commissions have long been employed to monitor the massive outlays of public money that inevitably accompany the run up to and the aftermath of a war. Most famously, the Truman Committee held hundreds of hearings and conducted exhaustive investigative missions that laid bare the machinations of America's military industrial complex and saved taxpayers billions of dollars. The savings generated are staggering compared to the cost of setting up and running the committee: the Truman Committee was launched with just \$15,000, but may have saved in excess of \$15 billion.^v

The legal precedent for such a committee was affirmed in the 1942 Supreme Court opinion on *United States v. Bethlehem Steel Corporation*. Their decision upheld the power of Congress to pass legislation to address excess profits accrued by contractors. The opinion stated this principle clearly: "... if the Executive is in need of additional laws by which to protect the nation against war profiteering, the Constitution has given to Congress... the power to make them."^{vi}

In fact, similar committees have been created during nearly every major American war or weapons buildup, including the Civil War, both World Wars, the Korean War and the Vietnam War. The upshot of most of these committees has been a leaner, more efficient partnership between the military and their private contracting partners. However, there are other important lessons to be learned from earlier committees. For instance, the committee established during the Civil War was very partisan and overly aggressive. And because the commission focused on second-guessing military tactics rather than helping to root out waste, the committee often hindered the prosecution of the war rather than helped it. This led General Robert E. Lee to comment, "the Committee was worth about two divisions of Confederate troops."^{vii}

In contrast, the Truman Committee has been characterized as the most successful investigative effort in the history of the United States. It played an important public education role during World War Two. Its responsible, common sense approach to investigation set a standard not often seen these days.

The committee proved crucial to the war effort. According to many estimates, the committee saved \$15 billion and perhaps saved the lives of hundreds of soldiers by finding and ferreting out cases of defective weapons.

In May of 1940, as Germany rolled across Europe, congressional opposition to rearmament faded and the floodgates opened for extensive defense expenditures. Altogether, over a four-month period, almost \$10.5 billion in defense related contracts were awarded. No single agency in the Roosevelt administration had complete control over defense projects. At this time, a committee was set up to investigate war profiteering. As the historian Donald H. Riddle noted, the goal of the Senate Special Committee to Investigate the National Defense Program was, "the purpose of informing itself, controlling the executive branch, or informing the public."^{viii}

Like many Senators today, Truman had become concerned and outraged by the waste, fraud and lack of oversight in the defense program. After hearing of waste in the defense buildup he traveled more than 10,000 miles looking at bases to get a complete view of exactly what was happening. Senator Truman's proposal was to set up a committee to investigate how defense dollars were being spent and allocated. Because he felt a responsibility to spend taxpayer dollars wisely and efficiently, Truman wanted "every safeguard possible to prevent their being misused or mishandled."^x It was his belief then, and ours today, that this type of committee is essential to maintaining public trust in the war efforts. The committee was searching for the truth without regard for political considerations. As Senator Truman explained, "I am merely stating what I believe to be conditions that deserve investigation. If nothing is wrong, there will be no harm done. If something is wrong, it should be brought to light."^x

While it wasn't an easy task, the Truman Committee did yeoman's work, holding 432 hearings and producing more than 27,000 pages of non-classified testimony. A key tool for success of the Truman Committee was the right to subpoena witnesses, a power critical in the future establishment of such a committee.

The Truman Committee acted as a deterrent to private companies motivated only by profit. Truman himself observed, "I have never yet found a contractor who, if not watched, would not leave the government holding the bag. We are doing him a favor if we do not watch him."^{xi}

The Nye Committee, operating in the period between the World Wars, offers another example of a successful attempt to police defense spending. The Nye Committee produced 14,000 pages of hearings and hundreds more pages of reports. The Nye Committee found evidence suggesting that an interdependence had developed between private ship builders and the Department of Defense - an early version of the military-industrial complex. The Nye Committee concluded that Naval procurement was too often conducted with the best interests of the ship builders in mind, instead of the best interests of American taxpayers. The discovery forced Naval officials to reconsider the ways they did business with private ship builders.^{xii}

Both these committees led to the more efficient use of taxpayer dollars and both aided the war effort by freeing up funds for more crucial procurement and uncovering defective systems. In fact, some of the lessons learned from these two committee's efforts are still applicable today. One of the major concerns raised by the Truman Committee was the government's use of cost-plus contracts. Similar problems exist today because there are few incentives for companies who receive these contracts to control costs. Six decades ago these types of contracts were flagged as problematic and problems still exist today.

Steps to Create a Successful Oversight Committee

Successful profiteering committees of the past have been based on strong bipartisan cooperation, with a noted lack of political overtones. The Truman and Nye Committees

were successful because they did not seek to score political points with their findings and were instead dedicated to unbiased oversight of the process.

As we envision it, the new committee would conduct an ongoing, in-depth appraisal of all the expenditures in Iraq, Afghanistan, the overseas war on terror, and the manner in which they are executed. The end result will be a series of recommendations on how to address the findings of the committee. The committee would need a lifespan of several years to yield results and areas of concentration and interest should include:

- (1) types or terms of contracts awarded by the government;
- (2) methods by which such contracts are awarded, including, but not limited to, the bidding, contracting, and auditing standards in the issuance of government contracts;
- (3) oversight procedures of awarded and pending contracts;
- (4) forms of payment and safeguards against money laundering;
- (5) accountability of contractors and government officials involved in procurement;
- (6) penalties for violations of law and abuses in the awarding and carrying out of government contracts;
- (7) contracting practices that inappropriately increase costs of the contract; and
- (8) any other matters deemed appropriate.

On an ongoing basis, the select committee should hold investigative hearings, and from time to time report to the Senate the results of its study and investigation, with any proposed legislative fixes.

Conclusion

At a time of a half trillion-dollar deficit, it is incumbent upon us to make sure our investment in prosecuting this war on terror is well spent. We are confident that a Truman-like commission would help us do this. The current budget realities are stark: present deficit projections of \$521 billion in FY2004 do not include any emergency spending. In fact, the administration's FY2005 budget assumes no emergency spending for the next five years, despite the fact that this is the way we have paid for our war related military activities. Just this Tuesday, the heads of the Army, Marine Corps and Air Force all raised questions about how the administration plans to pay for operations in Iraq and Afghanistan.^{xiii} Furthermore, the Comptroller General of the General Accounting Office commented on last year's \$87 billion supplemental, saying, "It's fairly clear there are going to be costs beyond that. It's too early to tell ultimately how much it's going to cost. But it's going to cost well more than we have been told so far."^{xiv}

Already the rebuilding process in Iraq has been plagued by accusations of war profiteering and poor management. Halliburton has fallen under intense public and media scrutiny for its own misconduct, but little criticism has been leveled at the Pentagon for its secretive awarding of several contracts and its failure to detect the irregularities sooner.

Where there's smoke, there's usually fire. We can't afford to bury our heads in the sand now that we know the questionable ways in which contracts have been awarded and carried out in Iraq. A bipartisan commission devoted to investigating these processes, reporting on them, and recommending improvements will produce a substantial return to taxpayers in the long run.

Thank you again for inviting me to testify. I would be happy to answer any questions you might have.

ⁱ Estimates vary between \$100-200 billion for the costs of operations in Iraq and Afghanistan. The \$166 billion number is the total cost of the last two supplemental bills.

ⁱⁱ Jane Mayer. "Contract Sport." *The New Yorker*. February 16 and 23, 2004.

ⁱⁱⁱ Neil King Jr. "Halliburton Tells Pentagon Workers Took Kickbacks to Award Projects In Iraq." *Wall Street Journal*. January 23, 2004.

^{iv} *Ibid.* Halliburton has received two major Iraq contracts: a no-bid oil contract to rebuild the Iraqi oil industry, for which they have been paid \$2.26 billion, and a global logistics contract, which is currently worth more than \$3.7 billion. These contract values are as of January 2004.

^v Riddle, Donald H. "The Truman Committee" New Brunswick, N.J.: Rutgers University Press 1964.

^{vi} *United States v. Bethlehem Steel Corporation.*, 315 U.S. 289, (1942).

^{vii} Wilson, Theodore. "The Truman Committee: 1941." *Congress Investigates: A Documented History 1792-1974*, pp 3115-3135.

^{viii} *Ibid.* Mr. Riddle is the author of *The Truman Committee: A Study in Congressional Responsibility*. Rutgers University Press. 1964.

^{ix} *Ibid.*

^x *Ibid.*

^{xi} *Ibid.*

^{xii} Koistinen, Paul A.C. "Planning War, Pursuing Peace. The political economy of American warfare, 1920-1939." *University Press of Kansas*. pp 257-260.

^{xiii} Eric Schmitt. "Service Chiefs Challenge White House on the Budget." *New York Times*. February 11, 2004. Despite the assertions from the service chiefs, the next day the Pentagon defended the White House decision to delay until next January seeking up to an additional \$50 billion from Congress.

^{xiv} Transcript of David Walker. Walker, Comptroller General of the United States at the National Press Club Ballroom. Washington, DC. September 17, 2003.