

The Honorable Ashton B. Carter
Testimony before the Commission on Wartime Contracting
On Better Buying Power in Defense Spending
March 28, 2011

Chairman Thibault, Chairman Shays, thank you for inviting me to be here today to provide testimony on the Department of Defense's efforts to improve our acquisition and contracting practices, especially in the area of contingency contracting. As you know, I've followed the work of the Commission with great interest and I commend you on the work you've done to identify problems in wartime contracting and in recommending solutions to those problems. The Department, at my direction, has worked hard to have a strong cooperative relationship with the Commission and I think we have succeeded on both sides in building that relationship. I've reviewed both of your interim reports, and I would say generally that they are well thought-out and that you've identified many real and important problems in wartime contracting including in the work being done by the Department of Defense. In fact, several of your recommendations are ones with which I concur and on which the Department of Defense is already working. A few I have concerns about. I'll address this more fully later in my statement.

Better Buying Power

As you noted in your invitation for me to appear here today, many of the problems we face are not unique to contingency contracting, but are related to deeper underlying problems in defense acquisition generally. The Department of Defense, under the leadership of Secretary Gates, has committed to tackling these problems head on. Early in his tenure, Secretary Gates launched a major initiative to revitalize the acquisition workforce. This initiative has been key to improving outcomes in the defense acquisition system. Beginning in May of last year at his speech at the Eisenhower Library, Secretary Gates also launched a multi-pronged efficiency initiative to ensure the Department is managing the budget in a manner that is, as he put it, "respectful of the taxpayer at a time of economic and fiscal distress." As one of those prongs, he tasked me, the Acquisition Executive, to devise a plan for the \$400 billion out of the approximately \$700 billion base-plus-wartime budget that is contracted out.

Accordingly, Secretary Gates and I announced the Better Buying Power initiative on September 14, 2010. The Better Buying Power initiative is summarized in a chart that you should have before you and that I request to be entered into the record. Its twenty-three points were devised with input from the DOD acquisition workforce and from our partners in industry. We are now implementing each and every one of them. The twenty-three points in the chart cover ways the government can improve its own performance and incentivize better performance in our industry. I will highlight a few of these in my statement today.

Target Affordability and Control Cost Growth: On November 3, I issued guidance to the Service Secretaries and Directors of Defense Agencies mandating that affordability be treated as a requirement at all milestone decision points for DoD programs. This requirement pertains mostly to major weapon systems acquisition. As the Department begins new programs – such as the Ohio-class SSBN(X) replacement, the joint Family of Systems for long-range strike, the

Army's Ground Combat Vehicle (GCV), and even a new Presidential Helicopter – program managers must demonstrate affordability before being granted milestone authority to proceed with the program. Understanding and controlling future costs from a program's inception is critical to achieving affordability requirements. For example, by conducting engineering tradeoff analysis with the commencement of the Ohio-class replacement, the Navy has reduced the estimated average procurement cost by 16 percent with a goal of fully 27 percent.

For the many defense programs that are already underway, I also instructed the Department's acquisition professionals and suppliers to manage according to what programs Should Cost, not according to historical estimates of what they Will Cost. The Will Cost is typically the independent cost estimate provided to the Department as a necessary component of the budgeting and programming process. The Should Cost method is already being used to drive down costs in the Global Hawk program and the Joint Strike Fighter (JSF) program, the Department's largest, and the backbone of tactical air power for the U.S. and many other countries. Henceforth, all programs will present Should Cost estimates at each milestone. They will be used as a basis for contract negotiations and determining contract incentives.

Incentivize Productivity and Innovation in Industry: The Department is reviewing improvements in the weighted guidelines used to evaluate profit and cost relationships, and also cash flow policies. For example, the Department is already giving greater consideration to using Fixed-Price Incentive Firm (FPIF) contracts where appropriate, using a 50/50 share line and 120 percent ceiling as a point of departure. The Department is also reviewing technology investment policies to encourage greater collaboration with industry. Finally, the Department is also launching a DoD-wide Superior Supplier Incentive Program (SSIP) pilot to reward contractors who control their costs and demonstrate exemplary performance.

Promote Real Competition: Consistent with the President's March 2009 Memorandum on Government Contracting, the Department will promote "real competition" whenever possible, for it is the single most powerful tool the Department has to drive productivity. We must stop deluding ourselves with the idea that "directed buys" from two designated suppliers represents real competition. The Navy is already cutting down on directed buys with the Littoral Combat Ship (LCS), where it has set in place real competition that will save more than \$1 billion in the next five years alone, with additional savings expected over the life of the LCS program. The Department will renew its commitment to small business by increasing our goals and investments, placing greater emphasis on new technology. Competition is not always available, but the evidence is clear that the government is not availing itself of all possible competitive situations. All programs are now required to prepare a competition strategy describing their approach to harnessing the force of competition even if in a sole source situation (via dissimilar competition, self-competition, competition for profit, and other alternatives to classic head-to-head competition).

Improve Tradecraft in Services Acquisition: I've directed the Department to more aggressively manage the more than \$200 billion it spends annually on services (such as information technology services, weapons-systems maintenance, and transportation) – more than 50 percent of the Department's contract spend. I have required the military departments and defense components to establish a senior manager for the acquisition of services at the General Officer, Flag, or SES level. These senior managers will be responsible for governance in

planning and execution of service contracts. Furthermore, the Department has established for the first time a common taxonomy of types of services to organize procurement of services into six portfolio categories to make fact-based decisions, facilitate the sharing of best practices and lessons learned, and institutionalize strategic sourcing. Additionally, the Department is focused on ensuring that the appropriate contract type is utilized for the acquisition of services. This focus will ensure an appropriate balance of risk and return between the Department and private industry.

Reduce Non-Productive Processes and Bureaucracy: The Department's leadership is taking steps to reduce the number and level of reviews to those necessary to support major investment decisions or to uncover and respond to significant program execution issues, while streamlining required planning documents to the essential information needed to manage acquisition programs. Recommendations have been made to reduce the number and size of reports, including elimination of 45 internal reports and 90 recurring reports to Congress.

Contingency Contracting

I will turn now to how the Department is working specifically to improve its acquisition and contracting processes for contingency contracting. Any discussion of contingency contracting has to begin with its most salient element: contingency contracting is all about providing support to the warfighter. This has been a singular focus of mine since I took on this job almost two years ago, and it must remain one of our highest priorities at the Department of Defense. A discussion of improvements in contingency contracting must include a discussion of how the Department is making the acquisition system more responsive to the warfighter. The Department is doing this while also constantly working to strike the right balance between supporting urgent warfighter needs and getting the best business deal possible while maintaining our oversight.

Support to the Warfighter: From the beginning of the current conflicts, the Department has struggled with, but slowly improved, its ability to field capability in response to several hundred Joint Urgent Operational Needs (JUONs), as well as many hundreds of Service Urgent Operational Needs. Under my direction, the Department has improved the fulfillment of these urgent needs by placing increased emphasis on expedited execution by program managers and contracting officers, improving oversight, realigning the Joint Rapid Acquisition Cell under my direct supervision, increasing dialog with the combatant commanders, and taking timely action to obtain or reprogram funds for these urgent needs.

The fielding of a tethered aerostat based ISR capability, first in response to Army Urgent Operational Need (Army Operational Needs Statement –ONS) and later in response to a JUON and its multiple modifications, is an example of improvements to the processes for the fulfillment of urgent operational needs. The warfighter requested the ability for a persistent surveillance and situational awareness capability, enabling



commanders at Forward Operating Bases and their quick reaction forces to find, fix, track, target and engage enemy IED, direct and indirect fire threats. Large (74,000 cubic foot) tethered aerostat systems with full motion video cameras, acoustic sensors and laser illuminators were developed and deployed, principally to Iraq and in small numbers to Afghanistan. In 2009, the demand for this Persistent Threat Detection System (PTDS) capability increased as our operations in Afghanistan intensified. The cost of each individual system as well as the manufacturing time for significant numbers of PTDS systems were challenges that could delay the delivery of this urgently needed capability to the warfighter. To mitigate these challenges the Science and Technology community was asked to explore alternatives, in coordination with the warfighter.

In September 2009, a technical capability demonstration called “Persistent Ground Surveillance System” (PGSS), a smaller (28,000 cubic foot) tethered aerostat, was initiated in less than 60 days and demonstrated in theater in January 2010. Using a reprogramming action approved by Congress and in coordination with the warfighter a mixture of PTDS and PGSS systems, were funded, developed, and deployed to Afghanistan. The multiple source approach allowed us to reduce the overall time for delivery, tailor the specific system for the needs of individual FOBs (some FOBs required the larger aerostats), insert



updated technology, and distribute program management and contracting between Army and Navy organizations. The JRAC, managing the fulfillment of the JUON, and other groups provided the level of oversight I needed to ensure that the capability was meeting the warfighters expectations. We recently obtained additional funding through a reprogramming action to acquire even more of these Persistent Surveillance Systems and my staff and the JRAC are providing intensive oversight to ensure the acquisition and fielding of these new systems in 2011 will meet the warfighters needs. Navy and Army Program Managers and Contracting Offices have been engaged by the JRAC and my staff to ensure timely action to meet the warfighter’s need.

Each of these systems required infrastructure in Afghanistan to enable their initial operation and continued sustainment. Contingency contracting actions to build the concrete pads were executed to align with the delivery schedule of the capability to Afghanistan. Sustainment, especially through the provisioning of helium supplies in theater, continues. These theater contingency contracting actions remain a key component in satisfying the warfighters’ urgent needs. Even as we focus on warfighter needs, however, we remain focused on contracting management and contracting oversight.

Contract Management: Contract management continues to be one of the Department’s top priorities, both at home and in a contingency environment. Having the properly positioned senior leaders is a fundamental key to success, and the Department has made great strides in filling newly created military leadership billets in contracting. Another key is having the right quantity and quality of people under them. Resourcing has been—and continues to be—a

challenge for the Department. But this is a challenge that we are actively tackling, with demonstrable improvements.

Military Leadership: In 2007, the Commission on Army Acquisition and Program Management in Expeditionary Operations concluded that general or flag officers must be accountable for post-award contract management. The Commission was specifically concerned that a general or flag officer was not leading the Defense Contract Management Agency (DCMA), given the importance of contract management. We took this recommendation to heart, worked with Congress to increase the number of billets, and worked with the Defense Components to fill these positions. Today, Rear Admiral Robert Gilbeau leads DCMA International, a key organization in managing contracts in Iraq and Afghanistan. With military leaders like Admiral Gilbeau at the helm, we send a clear leadership message on the critical nature of contract management.

We have acknowledged the importance of the contracting function with other recent general officer assignments. The Army has recently promoted five colonels to the general officer ranks, serving in key contracting positions. Brigadier General (BG) Camille Nichols has just returned home after serving in Iraq and Afghanistan as the Commander of the CENTCOM Contracting Command and Head of the Contracting Activity. At the Army Contracting Command, there are two generals: BG Stephen Leisenring, Commander, Mission and Installation Command; and BG Joseph Bass, Commander, Expeditionary Contracting Command. BG Ted Harrison is Deputy Director, National Contracting Organization, US Army Corps of Engineers. Finally, soon-to-be BG Kirk Vollmecke is at the office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).

The Navy has three flag officers serving in contracting joint billets: Rear Admiral (Lower Half) Ron MacLaren as the director of the Joint Contingency Acquisition Support Office (JCASO); Rear Admiral (Lower Half) Nicholas Kalathas, in the Office of the Deputy Under Secretary of Defense (Program Support), who recently has taken over the reins from BG Nichols as the Commander, CENTCOM Contracting Command; and, as previously mentioned, Rear Admiral (Lower Half) Robert Gilbeau as the Commander of DCMA International.

For the Air Force, Brigadier General Casey Blake will become the Senior Contracting Official-Afghanistan in the CENTCOM Contracting Command in April. Thus, with Brigadier General Blake and Rear Admiral Kalathas, for the first time the Department has two general or flag officers in key contracting positions in Iraq and Afghanistan.

Contracting Officer's Representatives: Management and oversight of contractors performing in deployed locations requires a cadre of military members and government civilians to perform contracting officer's representative (COR) duties. CORs are the eyes and ears of the government to monitor contractor performance. The Department has recognized that inadequate surveillance of contracts has left us vulnerable to the potential that we are paying full price for less than full value. Therefore, over the past year, we have developed COR certification and training standards to legitimize this vital function and instill rigor in the management and oversight process. On March 29, 2010, I issued a memorandum to formalize standards for certification and training for our CORs. In addition, we are developing a draft DoD Instruction to institutionalize these requirements for CORs. This DoDI is significant, not only because it will standardize COR functions, but also because it will require the Defense Components to plan

and budget for COR requirements. Within the next 60 days, we expect to deploy a web-based tool that will enable Military Departments and Defense Agencies to manage nomination, training, and tracking of their respective cadres of CORs as well as contracts assigned to each COR. These actions, coupled with the COR courses developed over the past year by Defense Acquisition University (DAU) will improve the capability of the Department to provide effective surveillance of contracts.

The Department is proactively working to ensure we have the right number of trained and qualified people to award, manage, oversee, and closeout contracts in contingency operations.

Contract Oversight in Iraq and Afghanistan: One of the major challenges we have been successfully addressing is the inadequate number of trained CORs that we have assigned to contractor oversight in Iraq and Afghanistan, which was highlighted in DoD's *Analysis of the Interim Report of the Commission on Wartime Contracting in Iraq and Afghanistan* (November 2009). The Department has come a long way since that finding. We are currently manned at 92 percent for CORs in Afghanistan and 99 percent for CORs in Iraq. Although we have improved considerably, we will continue to monitor these resources closely.

We have also worked to increase the numbers of Contingency Contracting Officers (CCOs), contract administrators, and subject matter experts through the Resource Management Directive to institutionalize needed resources throughout the Five Year Defense Plan. The Secretary of Defense directed AT&L to work with the Services to resource needed civilian personnel via the Defense Acquisition Workforce Development fund. We are currently working with DoD's Human Capital Initiative to get the needed personnel hired. To augment our deployed numbers, on 02 February 2011, I issued a memorandum calling for civilian personnel volunteers to serve as CCOs.

Organizational Structure: The Better Buying Power initiative targets greater efficiency and productivity, and one of its five major areas is reducing non-productive processes and bureaucracy. In the joint contingency environment, streamlined processes and structures take on added importance. With so many different Military Departments and Defense Agencies working together and personnel rotating in and out, it is essential that we have the necessary policy and organizational structures in place to achieve contracting efficiencies. We are sharpening organizational approaches to ensure success in a joint environment, as the following examples illustrate.

Joint Approaches: In 2006, the Deputy Secretary of Defense designated the Army as the Executive Agent for Contracting for Operation Iraqi Freedom/Operation Enduring Freedom (OIF/OEF). Having an Executive Agent for contracting improves synchronization of contracting and provides a basis for the Commander's to gain situational awareness of and a level of control over all contracting efforts in a Joint Operations Area.

From this baseline, we continue to refine. During 2010, the Department established the Joint Theater Support Contracting Command (JTSCC), successor organization to the Joint Contracting Command (Iraq/Afghanistan) (JCC-I/A). In November, the Deputy Secretary of Defense issued a memorandum that reflected the standup of the JTSCC and expanded duties for the Army serving as Executive Agent for contracting, in order to improve synchronization of

contracting efforts supporting Operation New Dawn (OND) (successor to Operation Iraqi Freedom) and OEF in Iraq, Afghanistan, Kuwait, and Pakistan.

Contracting Command: In standing up the JTSCC, we improved lines of authority by revising the JTSCC reporting structure. For the current operations, the synchronization and oversight of contracting efforts supporting OND/OEF is the responsibility of the Commander of USCENTCOM's Joint Theater Support Contracting Command, who is a direct report to USCENTCOM. The predecessor organization, JCC-I/A, was under the operational control of the Joint Force Commander for Iraq and provided direct support to the Joint Force Commander for Afghanistan. The revised reporting structure better enables USCENTCOM to manage and oversee theater-wide contracting efforts affecting OND/OEF.

Another example of DoD contracting command efficiencies is how the JTSCC is maximizing "reach-back" contracting and support. This includes leveraging the Army Contracting Command's Rock Island Contracting Center for those contracts that are complex, resource intensive, and require a detailed source selection process, and utilizing a forward office in San Antonio to support contract closeout. The Army initiated reach-back efforts in September 2007 to reduce fraud and improve contract quality. The current focus is reducing contract costs and forward workload in Kuwait, Iraq, and Afghanistan and improving contract quality. These reach-back efforts allow the on-ground CCOs to pay attention to more tactical, day-to-day issues.

Policy: In addition to doctrine and management infrastructure, we also provide policy guidance to assist with oversight. A primary example is our Theater Business Clearance (TBC) policy – worldwide, all contracts entering the Iraq and Afghanistan theater of operations must comply with relevant CENTCOM Contracting Command Acquisition Instruction provisions for unity of effort and rapid support to the warfighter.

We instituted this process several years ago. On October 17, 2007, we issued a memorandum with procedures for contracting, contract concurrence, and contract oversight for Iraq and Afghanistan. This memorandum and subsequent policy, procedures, and guidance, instructs contracting officers on how to request the JTSCC (formerly JCC-I/A) clearance of all solicitations and contracts requiring performance or delivery in Iraq or Afghanistan, prior to solicitation and award. This requirement recently has been expanded to include key solicitations and contracts in Kuwait and Pakistan.

TBC serves as a critical enabler designed to provide the Joint Force Commander visibility over all contracts and contractors performing work in his area of responsibility. Because of the importance of TBC, we are working closely with JTSCC to be able to measure and improve compliance through webinars.

We are in the process of building a new chapter in the Defense Acquisition Guidebook (DAG) to address managing acquisitions in a contingency environment. The DAG is an interactive, web-based capability designed to provide the acquisition workforce and industry partners with an on-line reference to policy for major acquisitions (especially DoD Directive 5000.1 and DoD Instruction 5000.2), applicable laws and regulations, and lessons learned. We anticipate that a chapter in the DAG will be dedicated to contingency contracting issues, including topics such as Theater Business Clearance and contract administration delegation.

Tools: As the Director of Defense Procurement and Acquisition Policy (DPAP) has previously testified, the Department has developed several tools to help our acquisition community do its job better and more efficiently. These tools are part of DPAP's Contingency Business Environment Concept of Operations, which is an end-to-end concept of operations for providing business support in the deployed environment, and include the DoD Contingency Contracting Handbook, the Defense Contingency Contracting Officer's Representative Handbook and COR Tracking Tool, the 3in1 Handheld Device, and the Contingency Acquisition Support Module.

As evidenced by the previous initiatives, a unified approach is extremely important in a joint theater command like Iraq and Afghanistan. The Defense CCO Handbook demonstrates a contracting joint solution. The Defense Contingency COR Handbook evidences a COR joint solution. Equally important, the requirements community on the front end of the acquisition process needs a joint solution: they need an efficient way to get complete and accurate acquisition packages to contracting.

Our joint solution is the Contingency Acquisition Support Module, or cASM, which is an easy-to-use tool that helps users get their requirements on contract more quickly. The tool assists with translating a combatant commander's requirement into a procurement package that includes the required documents and approvals, a responsive contract statement of work, and any ancillary information for acquisition approval and contract action. cASM is like Turbo Tax – automated, easy to use, and yielding accurate outputs. Instead of regenerating work statements on an ad hoc basis, cASM templates can yield standardized, complete requirements documents.

COWC Recommendations

Let me close by going into a little detail on a few of the recommendations in the Commission's latest interim report. As I indicated earlier, the Department supports several of the Commission's recommendations. I'd like to highlight your first two recommendations in particular. Your first recommendation is that the Department of Defense, and our sister agencies, grow our organic capacity by undertaking a comprehensive, risk-based contingency manpower assessment to determine the organic resources need to preserve a core level of capability for contingency contracting. Your second recommendation is that the Department of Defense, and our sister agencies, establish a trained, experienced, and deployable cadre for acquisition-support functions including ensuring surge capacity for large-scale or long-term contingency operations.

I support these recommendations and the Department is taking steps to implement them. The Department is currently working to devote 1,498 additional civilian FTEs to contract management and operational contract support planning. We will code these civilian billets as emergency essential (EE), so they are deployable. My office is working with the Military Services and Defense Agencies to provide for these billets within the Defense Acquisition Workforce Initiative already underway to support these enduring requirements for contingency operations. As already mentioned, the 2007 Gansler Commission recommended that 5 Army and 5 Joint General/Field Officer billets be established, and Congress subsequently authorized these billets. The Department has filled 9 of these 10 billets. Today, for the first time, we have two general/flag officers in CENTCOM within the Contingency Contracting Command. Among the Military Services, the Army deserves particular commendation for increasing its capacity for

contract management and planning for operational contract support and for making these capabilities much more deployable for current and future contingency operations.

I also support your recommendation 18, which relates to increasing competition. You recommend that the Department quantify the instances of one-offer competitions, mitigate their consequences, and establish procedures designed to reduce their occurrence. This recommendation is very much in line with my November 24 2010 memo on, "Improving Competition in Defense Procurements." I note that in my guidance when there are instances where meeting specific warfighter needs may come into conflict with this requirement, the head of the contracting activity may waive re-advertising.

In a couple areas, I'd like to caution you. You recommend that the Department of Defense increase its use of suspensions and debarments, mandate automatic suspensions of indicted contractors, and prevent contractors from avoiding suspension and debarment. The Department has consistently advocated the policy that Debarring and Suspension Officials need to treat each case on its own facts and circumstances. There is a potential unintended consequence of turning suspensions and debarments from tools to protect the government's interest into tools that automatically punish contractors. Such an approach may have a chilling effect on contractor cooperation in identifying and fixing real problems including those that affect the health and safety of our personnel. While suspension and debarment may often be the correct choice, it is the debarring official's responsibility to determine whether suspension or debarment is in the Government's interest. We need to preserve the discretion of our officials to determine on a case-by-case basis what makes the best sense.

Lastly, you recommend that the Department of Defense permit broader government access to contractor records. The Department agrees that we need access to more foreign contractor and subcontractor financial records in order to effectively implement our strategy in Afghanistan and properly oversee our contracts there. We are currently working to increase our access to data for foreign contractors and subcontractors. At the same time, however, we must be careful not to inappropriately disclose proprietary and personal information available in U.S. government databases. I do not support broader access to these records than is necessary to support our operations. As an example, we collect some kinds of contractor personal identification data that absolutely should not be broadly accessible.

Mr. Chairmen, before closing, I want to reiterate my appreciation for this commission's work. The problems in wartime contracting, on which you have appropriately focused, are real, significant, and at times they have even impeded the success of our mission. We can and will do better. This concludes my statement and I look forward to your questions.