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**Federal Contracting to Receive  
Enhanced Government Scrutiny in 2009:  
Commission on Wartime Contracting, Senate Subcommittee  
on Contracting Oversight, and Pentagon All Focused  
on Contractor Performance**

*Senator Claire McCaskill (D-MO): "This has been a massive failure ... the Commission should hold many hearings on contracting abuse ... hundreds of billions of dollars disappeared. Everything has been stolen from money to heavy equipment to guns ... ."*

Government efforts to significantly increase scrutiny of federal contracts and contractors are now officially underway on several fronts. Recently, the Commission on Wartime Contracting held its first public hearing on alleged contracting abuses in Iraq and Afghanistan. The Commission heard bipartisan testimony from three Senators responsible in large part for its creation: **Senator Susan Collins (R-ME)**, **Senator Claire McCaskill (D-MO)** and **Senator James Webb (D-VA)**. Senator McCaskill's testimony preceded the announcement that she will chair a newly created Ad Hoc Subcommittee on Contracting Oversight that will also investigate waste, fraud, and abuse in federal contracting. In addition, **Secretary of Defense Robert Gates** recently confirmed that defense procurement oversight and reform will be a priority for the Obama administration. Given all these government oversight efforts, companies engaged in federal contracting should anticipate heightened scrutiny of their activities in the coming months.

**Bipartisan Commission on Wartime Contracting Convenes its  
First Hearing; Senators Urge an Aggressive Probe of Alleged  
Wartime Contracting Abuse**

On February 3, 2009, the independent, bipartisan legislative Commission on Wartime Contracting held its first public hearing, "Lessons from the Inspectors General: Improving Wartime Contracting". Created by Congress in the Fiscal Year 2008 National Defense Authorization Act, the Commission is mandated to study federal agency contracting for the reconstruction, support of coalition

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forces, and performance of security functions in Iraq and Afghanistan. The Commission has responsibility for investigating waste, fraud, abuse and mismanagement in wartime contracting.

The hearing opened with three prominent U.S. senators advocating an aggressive inquiry by the Commission. In anticipation of the Commission's final report to Congress, due in August 2010, **Senator Claire McCaskill (D-MO)** warned that the report will not be sufficient to describe the shortcomings of wartime contracting. Senator McCaskill, a sponsor of the bill creating the Commission, candidly stated that the Commission "will need a two-by-four" to adequately address failures within wartime contracting. **Senator James Webb (D-VA)**, another sponsor of the bill creating the Commission, promised support for Commission access to information, including, if necessary, legislative consideration of subpoena authority, in order to aid the Commission in its efforts. **Senator Susan Collins (R-ME)**, the Ranking Member of the Senate Committee on Homeland Security and Governmental Affairs, echoed the need for a thorough inquiry and greater accountability within wartime contracting.

The Commission also heard testimony from **Inspector General Stuart Bowen, Jr.**, Office of the Special Inspector General for Iraq Reconstruction (SIGIR); **Thomas Gimble**, Principal Deputy Inspector General, U.S. Department of Defense; **Harold Geisel**, Acting Inspector General, U.S. Department of State; and **Donald Gambatesa**, Inspector General, U.S. Agency for International Development.

A principle focus of the hearing was the release of the 358-page SIGIR report, "Hard Lessons: The Iraq Reconstruction Experience", which specified numerous problems and failures in the Iraq reconstruction process. Inspector General Bowen's testimony identified: the need for uninterrupted oversight; the need to limit the outsourcing of management; the lack of resources for the joint auditor/investigator; the lack of a strategic plan for reconstruction; and contractor waste estimated at \$3-\$5 billion.

While this initial hearing focused on policy and process issues raised by the IGs, several Commissioners confirmed that the Commission will now turn to examining contracts and the performance of individual contractors in future hearings. **Commissioner Charles Tiefer** noted that future hearings will examine the Army's Logistics Civil Augmentation Program (LOGCAP) and the activities of individual contractors, such as Halliburton/KBR. In addition, Tiefer specifically asked DoD Deputy Inspector General Gimble, who is a member of the KBR Task Force, to brief the Commission on the Task Force's closed cases.

### **Chairman Joseph Lieberman Announces Formation of Ad Hoc Subcommittee on Contracting Oversight**

On January 29, 2009, **Senator Joseph Lieberman (ID-CT)**, Chairman of the Senate Committee on Homeland Security and Governmental Affairs, announced the creation of the Ad Hoc Subcommittee on Contracting Oversight. In contrast to the Commission's focus on Iraq and Afghanistan-related contracts, the new Subcommittee will have jurisdiction over all types of federal contracting.

The Subcommittee will be chaired by former prosecutor and former state auditor **Senator Claire McCaskill (D-MO)**, a vocal advocate of more aggressive contracting oversight. The membership of the Subcommittee



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includes **Senator Carl Levin (D-MI)**, **Senator Thomas Carper (D-DE)**, **Senator Mark Pryor (D-AR)**, **Senator Jon Tester (D-MT)**, **Senator Susan Collins (R-ME)**, **Senator Tom Coburn (R-OK)**, and **Senator John McCain (R-AZ)**. Upon announcing formation of the Subcommittee, Chairman Lieberman noted that annual spending on federal contracts has now reached \$532 billion, with the Government Accountability Office (GAO) designating government contracting as being “at high risk of waste, fraud, abuse, mismanagement, or in need of comprehensive reform.” He predicted that the new Subcommittee will use its investigative authority to “improve the value of taxpayer dollars devoted to federal contracting.” Echoing those expectations, Subcommittee Chair McCaskill added “... contracting abuses occur in every facet of government. I can’t wait to get to work saving huge money for taxpayers. They deserve it.”

### **Secretary of Defense Robert Gates Names Acquisition Reform Among the Pentagon’s Top Priorities**

In testimony before the Senate Armed Services Committee on January 27, 2009, **Defense Secretary Robert Gates** confirmed that procurement reform is one of the most pressing issues faced by the Department of Defense. According to Secretary Gates, “a risk-averse culture, an unwieldy and litigious acquisition process, excessive and morphing requirements, and budget instability” have created extensive problems, making procurement issues “chief among the institutional challenges” facing the Pentagon. Noting that the Defense Department has operated with vacancies in key acquisition positions for the past eight years, the Secretary told the Committee that Pentagon components will hire over 3,000 additional acquisition staff in the next 18 months. Secretary Gates committed to significantly improve acquisition programs by increasing competition, freezing requirements on programs upon award, and writing contracts that provide incentives for proper behavior.

Secretary Gates assured the Committee that on the issue of the use of contractors in Iraq and Afghanistan, the military is applying lessons from the Iraq reconstruction experience in developing its Afghanistan approach. Significantly, he conceded that there is a need for more oversight of contracting than has been previously performed during Iraq reconstruction.

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