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Testimony

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CONTINGENCY CONTRACTING

DOD, State, and USAID Are Taking Actions to Track Contracts and Contractor Personnel in Iraq and Afghanistan

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Why GAO Did This Study

The Departments of Defense (DOD) and State (State) and the U.S. Agency for International Development (USAID) have relied extensively on contractors to support troops and civilian personnel and carry out reconstruction efforts in Iraq and Afghanistan. While recognizing the benefits of using contactors, GAO and others have noted the risks and challenges associated with relying on contractors.

To help increase contractor oversight, the National Defense Authorization Act for Fiscal Year 2008 directed DOD, State, and USAID to sign a memorandum of understanding (MOU) on contracting in Iraq and Afghanistan that identified a database to track information on contractor personnel and contracts performed in the two countries. In their July 2008 MOU, the agencies designated the Synchronized Pre-Deployment and Operational Tracker database (SPOT) as their system for tracking the required information.

GAO's testimony addresses how contractor personnel and contract information can aid agencies in managing contracts and the status of SPOT's implementation. It is drawn from GAO's ongoing and prior contingency contracting work. This work involved meeting with agency officials, including those in Iraq, and reviewing agency documents. GAO obtained agency views on previously unreported information, which the agencies generally agreed with.

What GAO Found

GAO has reported extensively on the management and oversight challenges related to using contractors in contingency operations and the need for decision makers to have contract and contractor personnel information as a starting point to address these challenges. The lack of such information limits agency planning efforts, increases costs, and introduces unnecessary risk. For example, GAO previously determined that by not considering contractor resources when developing an assistance strategy for Afghanistan, USAID's ability to make informed resource allocation decisions was impaired. Similarly, it was estimated in 2006 that DOD's lack of visibility on what government support contractors were entitled to cost an extra $43 million in Iraq as the government provided them free meals and a food allowance. Many of GAO's past recommendations focused on improving agency officials' ability to obtain contract and contractor personnel information. While actions have been taken to address GAO's recommendations, agency officials have noted that their ability to access information on contracts and contractor personnel still needs improvement and SPOT has the potential to bring information together so it can be used to better manage and oversee contractors.

Although SPOT is capable of tracking contractor personnel and contracts as agreed to in the MOU, not all of the required information is being entered and the agencies continue to rely on other systems to obtain information on contractor personnel and contracts in Iraq and Afghanistan. DOD, State, and USAID now require their contractors in Iraq to enter personnel data into SPOT, but only DOD and State require their contractors to do so in Afghanistan. A critical factor in prompting the use of SPOT was DOD's requirement that contractor personnel have SPOT-generated letters of authorization (LOA) to, among other things, enter Iraq or Afghanistan. However, not all personnel need SPOT-generated LOAs and are being entered into SPOT. USAID officials said that the lack of an LOA requirement for its contractors in Afghanistan is one reason they do not have to be entered into SPOT. Officials from the three agencies also acknowledged that data on Iraqi and Afghan nationals in SPOT are incomplete, which is in part because they typically do not need LOAs and are more difficult to track. Despite the agencies' progress in implementing SPOT, they continue to rely on other systems to obtain information on contractor personnel and contracts in Iraq and Afghanistan. For example, DOD relies on a quarterly census of contractor personnel because it is regarded as more complete than SPOT whereas USAID relies entirely on ad hoc queries of its contractors. As the agencies consider how to use SPOT data to inform planning and management decisions, they have raised questions about what information needs to be in the system. For example, USAID officials have questioned the need to track information on contracts for which personnel do not need LOAs.

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me here today to discuss ongoing efforts by the Department of Defense (DOD), the Department of State (State), and the U.S. Agency for International Development (USAID) to implement their memorandum of understanding (MOU) regarding contracting in Iraq and Afghanistan. As you know, DOD, State, and USAID have relied extensively on contractors to support troops and civilian personnel and to oversee and carry out reconstruction efforts. Contractor personnel in the two countries have provided a range of services for the three agencies, such as interpretation, security, weapon systems maintenance, intelligence analysis, facility operations support, advice to Iraqi and Afghan ministries, and road and infrastructure construction. The use of contractors in contingency operations is not new, but the number of contractors and the work they are performing in Iraq and Afghanistan represent an increased reliance on contractors to carry out agency missions. While recognizing the benefits of using contractors, such as increased flexibility, we and others have noted the risks associated with the increased reliance on contractors and the challenges that federal agencies have in managing and overseeing their growing numbers. To help increase contractor oversight, the National Defense Authorization Act for Fiscal Year 2008 (NDAA FY2008) established a requirement for DOD, State, and USAID to sign a MOU regarding matters related to contracting in Iraq and Afghanistan, including the use of common databases that will provide the three agencies and Congress with information on contractor personnel and contracts in Iraq or Afghanistan.[1] The NDAA FY2008 also directed that we annually report on DOD, State, and USAID contractor personnel and contracts in Iraq and Afghanistan each year through 2010.[2]

My statement today will focus on how information on contracts and contractor personnel can assist agencies in managing and overseeing their use of contractors and the status of DOD, State, and USAID's implementation of the database that collects statutorily required information on contractor personnel and contracts in Iraq and Afghanistan. This statement is drawn from our ongoing and prior work

[1] Pub. L. No. 110-181, § 861, as amended.

[2] For our first report issued under this mandate (Pub. L. No. 110-181, § 863) see GAO, *Contingency Contracting: DOD, State, and USAID Contracts and Contractor Personnel in Iraq and Afghanistan*, GAO-09-19 (Washington, D.C.: Oct. 1, 2008). Work on our second report under the mandate is currently ongoing.

related to contracting in contingency operations, including Iraq and Afghanistan. As part of our ongoing work, we met with DOD, State, and USAID headquarters officials, as well as those in Iraq, regarding their current and planned use of the database and reviewed pertinent agency documents. For work not previously reported, we obtained views from DOD, State, and USAID on our findings, which the agencies generally agreed with, and incorporated technical comments where appropriate. Both our ongoing and prior performance audits were conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audits to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Section 861 of the NDAA FY2008 directed the Secretary of Defense, the Secretary of State and the USAID Administrator to sign an MOU related to contracting in Iraq or Afghanistan. The law specified a number of matters to be covered in the MOU, including the identification of each agency's roles and responsibilities for matters relating to contracting in Iraq or Afghanistan, responsibility for establishing procedures for the movement of contractor personnel in Iraq or Afghanistan, responsibility for collecting and referring information related to violations of the Uniform Code of Military Justice (UCMJ) or the Military Extraterritorial Jurisdiction Act (MEJA), and identifying common databases that will serve as repositories of information on contract and contractor personnel in Iraq or Afghanistan. The NDAA FY2008 requires the databases to track, at a minimum,

- for each contract:[3]
  - a brief description,
  - its total value, and

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[3] Section 864 of the NDAA FY2008 defines a "contract in Iraq or Afghanistan" as "a contract with the Department of Defense, the Department of State, or the United States Agency for International Development, a subcontract at any tier issued under such a contract, or a task order or delivery order at any tier issued under such a contract (including a contract, subcontract, or task order or delivery order issued by another Government agency for the Department of Defense, the Department of State, or the United States Agency for International Development) if the contract, subcontract, or task order or delivery order involves work performed in Iraq or Afghanistan for a period longer than 14 days."

- whether it was awarded competitively, and
- for contractor personnel[4] working under contracts in Iraq or Afghanistan,
  - total number employed,
  - total number of personnel performing security functions,[5] and
  - total number of personnel who have been killed or wounded.

DOD, State, and USAID signed the MOU in July 2008.[6] Under the MOU, the three agencies agreed that DOD's Synchronized Pre-Deployment and Operational Tracker database (SPOT) will be the system of record for required contract and contractor personnel information. SPOT is a Web-based system that was initially designed by DOD. The MOU specified that SPOT will include information on DOD, State, and USAID contracts with more than 14 days of performance in Iraq or Afghanistan or valued at more than $100,000 as well as information on the personnel working under those contracts. The NDAA FY2008, however, did not specify a minimum dollar value threshold regarding which contracts should appear in the database.

As agreed to in the MOU, DOD is responsible for all maintenance and upgrades to SPOT.[7] The agencies further agreed to negotiate funding arrangements for any agency-unique requirements that only benefit one agency and for specialized training requirements. Each agency is

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[4] The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (NDAA FY2009) (Pub. L. No. 110-417, §854) amended section 864 of the NDAA FY2008 to add a definition of "contractor personnel" as "any person performing work under contract for the Department of Defense, the Department of State, or the United States Agency for International Development, in Iraq or Afghanistan, including individuals and subcontractors at any tier."

[5] Section 864 of the NDAA FY2008 defines private security functions as the "guarding of personnel, facilities or property of a Federal agency, the contractor or subcontractor, or a third party" and "any other activity for which personnel are required to carry weapons in the performance of their duties" under a U.S. government contract in an area of combat operations.

[6] The NDAA FY2009 amended section 861 of the NDAA FY2008 by specifying additional matters to be included in the MOU regarding UCMJ and MEJA offenses and requiring the agencies to modify their MOU to address these additional matters by February 11, 2009. However, according to officials with the three agencies, the required modifications to the MOU are still pending final approval

[7] DOD, as the system owner, currently pays all development and maintenance costs for SPOT. However, DOD officials we spoke with said that they are exploring options for having the agencies that use SPOT pay for some of the maintenance costs.

responsible for ensuring that data elements related to contractor personnel, such as the number of personnel employed on contracts in Iraq or Afghanistan, are entered into SPOT and for requiring its contractors to input that information accurately. Other data elements related to the contract, such as its value and whether it was awarded competitively, are to be imported into SPOT from the Federal Procurement Data System – Next Generation (FPDS-NG), which is the federal government's current system for tracking information on contracting actions.

Information on Contracts and Contractor Personnel Can Help Address Contract Management and Oversight Challenges

Given DOD, State, and USAID's extensive reliance on contractors to support and carry out their missions in Iraq and Afghanistan, the need for accurate and complete information on contracts and contractor personnel to inform decisions and oversee contractors is critical. We have reported extensively on the management and oversight challenges related to the use of contractors in support of contingency operations and the need for decision makers to have accurate, complete, and timely information as a starting point for addressing those challenges. Although much of our prior work has focused on DOD, the lessons learned can be applied to other agencies relying on contractors to help carry out their missions. The agencies' lack of complete and accurate information on contractors supporting contingency operations inhibits officials and commanders from developing a complete picture of the extent to which they rely on contractors, the tasks contractors are performing, and the government's spending on contractors. These limitations may inhibit planning, increase costs, and introduce unnecessary risk, as illustrated in the following examples:

- Limited visibility over contractors obscures the extent to which agencies rely on contractors to support operations and help carry out missions. In our 2006 review of DOD contractors supporting deployed forces, we reported that a battalion commander in Iraq was unable to determine the number of contractor-provided interpreters available to support his unit.[8] Such a lack of visibility can create challenges for planning and carrying out missions. Further, knowledge of who is on their installation, including contractor personnel, helps commanders make informed decisions regarding force protection and account for all individuals in the event of hostile action.

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[8] GAO, *Military Operations: High-Level DOD Action Needed to Address Long-standing Problems with Management and Oversight of Contractors Supporting Deployed Forces*, GAO-07-145 (Washington, D.C.: Dec. 18, 2006).

- Without incorporating information on contractors into planning efforts, agencies risk making uninformed programmatic decisions. As we noted in our 2004 and 2005 reviews of Afghanistan reconstruction efforts, when developing its interim development assistance strategy, USAID did not incorporate information on the contractor resources required to implement the strategy and the means to measure program progress.[9] Such information was contained in numerous project and contract documents rather than in a comprehensive strategy. We determined that the lack of a comprehensive strategy or adequate financial data impaired USAID's ability to make informed decisions on resource allocations as it developed the interim strategy.
- A lack of accurate financial information on contracts impedes agencies' ability to create realistic budgets. As we reported in July 2005,[10] despite the significant role played by private security providers in enabling Iraqi reconstruction efforts, neither State, DOD, nor USAID had complete data on the costs associated with using private security providers. As a result, agency officials acknowledged that security costs had diverted planned reconstruction resources and led to a reduction in scope or cancellation of certain reconstruction projects, including a USAID power generation-related contract in which the agency cut $15 million from two projects to cover security costs at another.
- Lack of insight into the contract services being performed increases the risk of paying for duplicative services. In the Balkans, where billions of dollars were spent for contractor support, we found in 2002[11] that DOD did not have an overview of all contracts awarded in support operations. Until an overview of all contractor activity was obtained, no one in DOD knew what the contractors had been contracted to do and whether there was duplication of effort among the contracts that had been awarded.
- Costs can increase due to a lack of visibility over where contractors are deployed and what government support they are entitled to. In our December 2006 review of DOD's use of contractors in Iraq, an Army official estimated that about $43 million was lost each year to free meals provided to contractor employees at deployed locations who also received

[9] GAO, *Afghanistan Reconstruction: Deteriorating Security and Limited Resources Have Impeded Progress; Improvements in U.S. Strategy Needed,* GAO-04-403 (Washington, D.C.: June 2, 2004) and *Afghanistan Reconstruction: Despite Some Progress, Deteriorating Security and Other Obstacles Continue to Threaten Achievement of U.S. Goals,* GAO-05-742 (Washington, D.C.: July 28, 2005).

[10] GAO, *Rebuilding Iraq: Actions Needed to Improve Use of Private Security Providers,* GAO-05-737 (Washington, D.C.: July 28, 2005).

[11] GAO, *Defense Budget: Need to Strengthen Guidance and Oversight of Contingency Operations Costs,* GAO-02-450 (Washington, D.C.: May 21, 2002).

a per diem food allowance.[12] Similarly, when senior military leaders began to develop a base consolidation plan, they were unable to determine how many contractors were deployed and ran the risk of over- or underbuilding the consolidated bases.

Many of the recommendations from our prior work on contractors supporting contingency operations focused on increasing agencies' ability to track contracts and contractor personnel so that decision makers—whether out in the field or at headquarters—can have a clearer understanding of the extent to which they rely on contractors, improve planning, and better account for costs. While actions have been taken to address our recommendations, DOD, State, and USAID officials have noted in their recent meetings with us that their ability to access information on contracts and contractor personnel to inform decisions still needs improvement. Specifically, information related to contracts and the personnel working on them in Iraq and Afghanistan may reside solely with the contractors, be stored in a variety of data systems, or may exist only in paper form in scattered geographical regions. These officials indicated that the implementation of the MOU and specifically the use of SPOT have the potential to bring some of this dispersed information together so that it can be used to better manage and oversee contractors.

Agencies Have Made Progress in Implementing their Database to Track Contractor Personnel and Contracts

DOD, State, and USAID have made progress in implementing SPOT as agreed upon in the MOU, but not all contractor personnel and contracts are being entered into the system. The three agencies now require their contractors to enter personnel data into SPOT, although the requirements are not applied uniformly across the agencies or in both Iraq and Afghanistan. Similarly, SPOT has the capability to track contract information, but there are differing views as to which contracts should be tracked. As a result, the agencies continue to rely on alternative sources for this information and have not yet begun to incorporate SPOT data into their decision making.

Contractor Personnel

Since signing the MOU, DOD, State, and USAID have taken actions to have contractor personnel information entered into SPOT. Specifically, all three agencies now require their contractors in Iraq to enter personnel data into SPOT, but only DOD and State require their contractors to do so in Afghanistan. While the MOU established the requirement for the agencies

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[12] GAO-07-145.

to track their contractor personnel in SPOT, officials from all three agencies explained that a separate DOD order issued in August 2008 was a critical factor in prompting the agencies and their contractors to begin entering personnel information into SPOT, particularly for Iraq. This order requires DOD contractor personnel to have letters of authorization (LOA)[13] generated in SPOT so that they can, among other things, enter Iraq or Afghanistan, receive military identification cards, travel on U.S. military aircraft, or, for security contractors, receive approval to carry weapons. Though DOD's order does not apply directly to non-DOD contractors, State and USAID also began taking steps to have their contractor personnel entered into SPOT and to issue them SPOT-generated LOAs to facilitate their entry into the country and access to U.S. installations. As a result of the LOA requirement, officials with all three agencies have expressed confidence that most, if not almost all, contractor personnel needing LOAs have been entered into SPOT.

The agencies acknowledge that despite their progress not all contractor personnel are being tracked in SPOT. This is particularly true for contractor personnel who do not need LOAs and for Iraqi and Afghan local nationals working under U.S. government contracts. USAID officials stated that one reason they do not yet require contractors in Afghanistan to use SPOT is that they do not need LOAs since they generally do not take U.S. military transport or access U.S. facilities. One USAID official, citing the burden of fulfilling such a requirement for the agency, questioned the value of requiring USAID contractors in Afghanistan to use SPOT absent the need for a SPOT-generated LOA. In addition, Iraqi and Afghan contractor personnel typically do not need LOAs. As a result, there is little incentive for the agencies or contractor firms to ensure that information on local nationals is entered into SPOT. For example, a State contracting officer informed us that Iraqis working on his contracts are not in SPOT because they do not need LOAs. DOD officials further explained that information on local nationals in SPOT is incomplete, in part, because the number of Afghan and Iraqi nationals working under contracts tends to fluctuate and local firms do not always keep precise track of the individuals working on their projects. Also, USAID has held off entering Iraqi nationals into SPOT because of concerns that doing so could pose a threat to their safety should the database be compromised. DOD officials

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[13] An LOA is a document issued by a government contracting officer or designee that authorizes contractor personnel to travel to, from, and within a designated area; and to identify any additional authorizations, privileges, or government support the contractor is entitled to under the contract.

informed us that they are currently developing a classified version of SPOT, which could help address this concern.

SPOT was upgraded in January to fulfill the NDAA FY2008 requirement to track contractor personnel who have been killed or wounded. Using a field in SPOT, contractors are able to indicate whether an individual has been killed, is wounded, or is missing. According to DOD officials, depending on the extent to which contractors record casualty information in SPOT, all three agencies may be able to centrally and systematically obtain such information, something they previously were unable to do.

Contracts

With respect to the three agencies' contracts performed in Iraq and Afghanistan, DOD upgraded SPOT in January 2009 so that it can now record information on each contact's value, the extent of competition, and descriptions of the services provided. While the MOU specifies that the information is to be imported from FPDS-NG, the competition and description fields are not currently linked to FPDS-NG and that information must be entered manually.[14] While information on contracts is now being entered into SPOT, there are differing views as to which contracts need to be entered into the database. The agencies agreed in the MOU to track contracts in Iraq or Afghanistan that have a period of performance of more than 14 days or a total value of $100,000 or more. According to DOD officials, they would now like to increase this value to $250,000. However, DOD currently requires contracts with more than 30 days of performance or a total value over $25,000 to be entered into SPOT. Yet in practice, DOD contracting officers have said that contracts for which personnel need LOAs are entered into the database even if they do not meet the thresholds. Similarly, the USAID point of contact for SPOT's implementation said that the agency does not believe it needs to enter those contracts for which personnel do not need LOAs, even if the contracts meet the thresholds identified in the MOU. These varying interpretations stem, in part, from differing views on the agencies' need to collect and use data on certain contracts. However, DOD officials informed us that when the agencies established the MOU requirements, they did not conduct any analyses of what an appropriate threshold should

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[14] According to DOD officials, data on contract obligations can be uploaded into SPOT based on reports provided from FPDS-NG. There are plans to have a direct link between SPOT and FPDS-NG in 2011.

be given the potential costs and benefits of obtaining and using such information.

Continued Reliance on Other Systems

Although their use of SPOT has increased, the database is not yet the agencies' primary means of obtaining data on contractor personnel or contracts in Iraq and Afghanistan. DOD continues to rely on its quarterly census[15] of contractor personnel to obtain information on the number of U.S., third country, and local nationals working in Iraq and Afghanistan and the contractor personnel performing security functions. According to DOD officials in Iraq, the census provides more complete information. They stated that this is particularly the case for local nationals working on DOD contracts, which is of special interest to commanders in Iraq for tracking the progress of economic development efforts. Although State reported that most of its contractor personnel are entered into SPOT, it continues to conduct ad hoc inquiries of contractors to obtain a more complete view of contractor personnel in the two countries. USAID officials informed us that they rely entirely on ad hoc inquiries of its contractors to determine how many personnel are working under each contract in Iraq and Afghanistan. In responding to our recent requests for contract data, the three agencies continue to rely on a combination of FPDS-NG, agency-specific databases, and manually compiled lists as opposed to using SPOT.

As they rely on other sources of information, the agencies have not used SPOT data to inform planning or management decisions with limited exceptions. Officials from both State and USAID told us that they were uncertain of the extent of their access to SPOT to obtain data and generate reports that could inform decisions. State officials were able to provide us with a list of contractor personnel entered into SPOT, but they said that any special data requests beyond that would need to be submitted to the SPOT Help Desk and approved by DOD. Similarly, the USAID official responsible for SPOT told us the agency has a great deal to learn about using the system, and only after receiving assistance from the SPOT Help Desk could he figure out how to obtain a SPOT-generated report of USAID's contractor personnel. Further USAID officials indicated that they

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[15] DOD's Central Command (CENTCOM), which is responsible for overseeing U.S. military operations in Iraq and Afghanistan, initiated its quarterly census of contractor personnel in June 2007 as an interim measure until SPOT is fully implemented. The census relies on contractor firms to self-report their personnel data to DOD components, which then aggregate the data and report them to CENTCOM at the end of each quarter.

have not yet determined how they can use data from SPOT to inform various planning and management efforts. In contrast, DOD is currently using SPOT to monitor contractor personnel movements into and within Iraq and Afghanistan. Despite limited use thus far, DOD and State have expressed plans to expand the use of SPOT for a number of planning and management purposes. For example, DOD would like to use SPOT to identify contractor personnel who eat at or receive medical services from U.S. military facilities so that they can be billed for any unauthorized use of these services. In addition, DOD officials stated that other agencies, including the Departments of Energy and the Treasury, have expressed an interest in using SPOT to track their contractor personnel, while State has indicated a desire to expand SPOT's use to countries other than Iraq and Afghanistan.

Concluding Observations

The use of contractors in contingency operations is not new, but the number of contractors and the work they are performing in Iraq and Afghanistan represent an increased reliance on contractors to carry out agency missions. By designating SPOT as their database to track information on contracts and contractor personnel, DOD, State, and USAID are not only addressing a statutory requirement, but when fully implemented, they also have an opportunity to use this information to help address some longstanding contract management challenges. Using such information can provide decision makers with a clearer understanding of the extent they rely on contractors, improve planning, and better account for costs. However, at this time, agencies have varying views on the level of detail and types of information to be captured by the database and the usefulness of such data to better plan for and oversee the use of contractors. It is important that DOD, State, and USAID continue to work together to develop and implement a database that is flexible enough to be applicable across agencies while still providing detailed information to better manage and oversee contractors.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions you or other members of the subcommittee may have at this time.

GAO Contacts and acknowledgement

For further information about this statement, please contact John P. Hutton (202) 512-4841 or huttonj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this

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