AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. Hrg. 109–520

NOMINATION OF DAVID L. NORQUIST

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATION OF DAVID L. NORQUIST TO BE CHIEF FINANCIAL OFFICER FOR THE U.S. DEPARTMENT OF HOMELAND SECURITY

MAY 8, 2006

Printed for the use of the
Committee on Homeland Security and Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE
28–243 PDF WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

SUSAN M. COLLINS, Maine, *Chairman*

TED STEVENS, Alaska
GEORGE V. VOINOVICH, Ohio
NORM COLEMAN, Minnesota
TOM COBURN, Oklahoma
LINCOLN D. CHAFEE, Rhode Island
ROBERT F. BENNETT, Utah
PETE V. DOMENICI, New Mexico
JOHN W. WARNER, Virginia

JOSEPH I. LIEBERMAN, Connecticut
CARL LEVIN, Michigan
DANIEL K. AKAKA, Hawaii
THOMAS R. CARPER, Delaware
MARK DAYTON, Minnesota
FRANK LAUTENBERG, New Jersey
MARK PRYOR, Arkansas

MICHAEL D. BOPP, *Staff Director and Chief Counsel*
JENNIFER A. HEMINGWAY, *Professional Staff Member*
MICHAEL L. ALEXANDER, *Minority Staff Director*
ADAM R. SEDGEWICK, *Minority Professional Staff Member*
TRINA DRIESSNACK TYRER, *Chief Clerk*

CONTENTS

Opening statements: Page
Senator Collins 1
Senator Lautenberg 2
Senator Warner 3
Senator Lieberman 8
Senator Levin 14
Senator Dayton 17
Prepared statement:
Senator Akaka 24

WITNESS

MONDAY, MAY 8, 2006

David L. Norquist to be Chief Financial Officer for the U.S. Department of Homeland Security:
Testimony 5
Prepared statement 27
Biographical and professional information 28
Letter from U.S. Office of Government Ethics 35
Responses to pre-hearing questions 36
Responses to post-hearing questions 76

APPENDIX

Exhibits A through R submitted for the record by Senator Lieberman 95
March 1, 2006, letter to Secretary Chertoff re: City of Roseau, from Senator Dayton 143

NOMINATION OF DAVID L. NORQUIST

MONDAY, MAY 8, 2006

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 3:31 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Warner, Lieberman, Levin, Akaka, Dayton, and Lautenberg.

Chairman COLLINS. The Committee will come to order.

Today the Committee will consider the nomination of David Norquist to be the Chief Financial Officer for the Department of Homeland Security, a department with a budget that exceeds $40 billion.

DHS is now in its third year of operations, yet it remains the only cabinet-level department without a CFO appointed by the President and confirmed by the Senate.

The DHS Financial Accountability Act, passed in October 2004, directed the President to name a CFO within 180 days. In October 2005, 6 months after the deadline passed, many of my Committee colleagues and I wrote to Secretary Chertoff urging him to bring DHS into compliance. The passage of time has only served to confirm the urgent need for this position. It was clear from the start of DHS that the effective melding of 22 agencies into one cohesive department would depend to a considerable extent on the effective management of its financial resources.

This Committee's investigation of the preparation for and response to Hurricane Katrina has revealed the consequences of not having an effective financial management system. From the fraud in the disaster relief payments to the wasteful ice shipments to the manufactured home debacle, it is clear that any attempts at the sound well-planned use of taxpayers' dollars were overwhelmed by a spending frenzy and a lack of adequate controls. Future disasters are, unfortunately, inevitable. The 2006 hurricane season is now less than a month away, and the need for financial accountability at DHS is as urgent as ever.

Our nominee brings 16 years of experience working on financial management issues to this challenge. Mr. Norquist currently serves as Deputy Under Secretary of Defense for Budget and Appropriations Affairs, and he has also held other key financial positions within the Pentagon.

Earlier in his career, Mr. Norquist served on the professional staff of the House Appropriations Committee, so he brings a welcome understanding of Congress to this process and position as well.

In its first 3 years, the Department of Homeland Security has made some progress in its vital mission to improve the security of our Nation, but that progress at times has been impeded by persistent difficulties in financial management. From the Department's very beginning, the Government Accountability Office has warned that DHS has faced some considerable financial management challenges, including the absence of effective internal controls and conflicting or redundant financial management systems in its legacy agencies.

These warnings from GAO, like the warnings that preceded Hurricane Katrina, have not been adequately addressed. Bringing accountability, efficiency, and good old fashioned thrift to this sprawling department is a tremendous challenge. It will require strong leadership by the CFO, and I look forward to hearing from our nominee this morning.

I would note that the nominee is very fortunate to be accompanied by one of our most distinguished colleagues, the Chairman of the Senate Armed Services Committee. Before I turn to Senator Warner for his introduction, in the absence of Senator Lieberman, I would like to give Senator Lautenberg an opportunity, if he would like to make some opening comments. Senator Lautenberg.

OPENING STATEMENT OF SENATOR LAUTENBERG

Senator LAUTENBERG. Thank you very much, Madam Chairman.

I am pleased that you have called this hearing today. This is a very important job. And one of the things I am struck by to begin with is that Mr. Norquist has his, apparently, budgeting team with him, sitting behind him. I hear them, and there is nothing I would rather hear than children's voices. That is a kind of thing with me, with 10 grandchildren up to the age of 12 and down to the age of 2.

So I know that when you do your work, Mr. Norquist, you are going to be keeping those beautiful faces in mind as part of your responsibility. And I am encouraged by that.

This is such a challenging assignment and one of the most important for our entire government. I am impressed with the fact that Mr. Norquist's experience is vast in financial management for the Federal Government.

There are a couple of things that I am concerned about that we will have a chance to review, and I am pleased to note that our very distinguished colleague and friend is presenting you. That mostly augers well for you, Mr. Norquist.

I want to discuss, which again we will do with questioning here, about Mr. Norquist's involvement in overseeing the Development Fund for Iraq. It dispersed at least $1.6 billion to Halliburton, much of it in questioned costs. Madam Chairman, you are aware that I had sent several letters asking for an opportunity to have Halliburton come in and examine their egregious overcharges, no bid contracts that cost taxpayers billions of dollars.

The fact that we have been unable to have a hearing on this raises a question. How do we expect Mr. Norquist to do his job if we do not get to ours? We have a responsibility, in terms of this review, as well. We know that Mr. Norquist had a role in overseeing these Halliburton contracts. And I want to ask some questions about the role in the Defense Department efforts to protect Halliburton by covering of its abuses.

That is why I was so anxious to get some hearings in this Committee because the question has been lingering. The questions are here but the answers are lingering. And while you are here, I think it also behooves us to use the firsthand knowledge that you have of these contracts to shed just a little bit of light on what Halliburton is spending, how it spends the taxpayers' money.

Finally, Madam Chairman, I think we ought to know under just what circumstances Mr. Norquist believes it is acceptable for the Executive Branch to hold back information from Congress and the public. I will pursue that line of questioning when my turn comes.

I thank you very much.

Chairman COLLINS. Senator Warner, we are very pleased to have you here to present the nominee to the Committee. Please proceed.

OPENING STATEMENT OF SENATOR WARNER

Senator WARNER. Thank you, Madam Chairman. And to my good friend, Senator Lautenberg, I rather enjoyed relaxing and listening to your opening statement, both of you. It was very moving. As a matter of fact, there is very little left for me to say. I will ask unanimous consent if I might put my prepared statement in the record.

Chairman COLLINS. Without objection.

[The prepared statement of Senator Warner follows:]

PREPARED STATEMENT OF SENATOR WARNER

Thank you, Madam Chairman for holding this hearing today. One of our greatest responsibilities as members of the U.S. Senate is to provide advice and consent regarding the President's nominees for Executive Branch positions. Today I have the pleasure to introduce an accomplished public servant, David Norquist, to be the Chief Financial Officer of the Department of Homeland Security.

David Norquist has spent his entire 16 year career in government service, starting as a program and budget analyst for the Department of the Army, later working on the House Appropriations Committee, and most recently serving as the Deputy Under Secretary of Defense for Budget and Appropriations.

His experience in the budget and appropriations process coupled with his financial management work have served Mr. Norquist well and prepared him for the challenges ahead at the fast growing Department of Homeland Security.

This Committee has worked very closely with the Department in its oversight role with specific reference to financial efficiency and accountability. Since the creation of DHS in 2003 we have seen great improvements in their overall financial accountability and the President's nomination of David will help to build on that incremental success. His clear understanding of the relationship between the Executive and Legislative branches, and their roles, will serve this Nation well.

In my pre-hearing meeting with Mr. Norquist he expressed his excitement with the opportunity ahead and shared with me the most important reasons why he is ready for the challenges before him—his family with him here today. At this point I would like to recognize them: Father—Warren Norquist. Wife—Stephanie, three children: Warren—5 years old; Elise—2 years old; and Vivian—6 months old.

I am impressed by his willingness to serve his country in the best way that he could stretching all the way back to his days as an undergraduate at the University of Michigan where he was in the ROTC.

The Armed Services Committee has, over the years, worked with David on the Department of Defense's $400 plus billion annual budgets and in the Administration's various supplemental appropriations requests.

He is ready, willing, and able to get to work. I applaud his willingness to serve this President, the Secretary of the Department of Homeland Security, and the American people and urge the Committee to quickly report his nomination to the full Senate.

Senator WARNER. I think it is most appropriate, to follow on from Senator Lautenberg's observation, that you introduce your family, sir.

Mr. NORQUIST. I would be honored to.

If I can introduce my family, I have with me my father, Warren Norquist, who is down from Massachusetts. Sitting next to him is my son, Warren Norquist as well. Sitting next to him is my wife Stephanie, and she is holding our baby, Vivian. Next to her, being held by a friend of ours, Michelle, is my middle one, Elise.

And they keep me very busy.

Chairman COLLINS. We are delighted that your family could be with you today.

Senator WARNER. Thank you, Madam Chairman.

Madam Chairman, I think the most important thing that I could say at this point in time, I have been discussing the nomination with the nominee, and that is that he has worked with the Armed Services Committee, of which you are a very distinguished and valued member, for over several years now on our budget of $400-plus billion. You have decided to drop down to a mere $40 billion; is that correct?

Mr. NORQUIST. $42.7 billion, yes, sir.

Senator WARNER. That is pretty good. You ought to take your little machine with you. I hope it will work on those numbers over there.

But anyway, this man is eminently qualified, Madam Chairman, and we are fortunate to get him at Homeland Security because I happen to think that the Department, over which this distinguished Committee provides helpful guidance and oversight, is in need of a person with his qualifications. And I respectfully say to the Chairman and the Members of the Committee, he has them and we are fortunate. I think it is a loss at the Department of Defense that does concern me though. That will be my problem now.

Good luck to you, young man. You are on your own.

Chairman COLLINS. Thank you, Senator.

Mr. Norquist has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and had his financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made part of the hearing record, with the exception of the financial data, which are on file and available for public inspection in the Committee's offices.[1]

Our Committee rules require that all witnesses at nomination hearings give their testimony under oath. Mr. Norquist, if you would please stand and raise your right hand so I can administer the oath.

Do you swear that the testimony you are about to give to the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. NORQUIST. I do.

[1] The letter from the Office of Government Ethics appears in the Appendix on page 35.

Chairman COLLINS. Please be seated, and I would ask that you would proceed with your statement at this time.

TESTIMONY OF DAVID L. NORQUIST,[1] NOMINEE TO BE CHIEF FINANCIAL OFFICER, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. NORQUIST. Thank you, Chairman Collins, Members of the Committee.

It is an honor to appear before you today as President Bush's nominee to be Chief Financial Officer of the Department of Homeland Security.

I am humbled by the confidence that the President and Secretary Chertoff have shown in recommending me, and I thank this Committee for its consideration of my nomination.

I would like to thank Senator Warner for his very kind introduction.

On a personal note, I would like to thank my parents, Warren and Carol Norquist, for their unwavering support, strong values, and thoughtful guidance.

I thank my wife, Stephanie, for her love, her dedication to our family, and her patience with the long hours and endless demands of my government service.

Finally, I would like to thank my children, Warren, Elise, and Vivian, whose presence reminds me every day about the importance of building a better future for America.

I began my career as a Federal civil servant, a GS–9 Program Budget Analyst working for the Department of the Army. Over the course of my 16 years of government service, I have worked financial management issues at virtually every level at which the Federal Government spends or oversees the expenditure of money, positions ranging from the professional staff of the House Appropriations Committee to Director of Resource Management at an Army field site overseas.

Currently, I am the Deputy Under Secretary of Defense for Budget and Appropriations Affairs in the Office of the Undersecretary of Defense (Comptroller).

The office for which I have been nominated has the dual mission of protecting this Nation's security and protecting the taxpayers' money. It is a profound responsibility, but these are things I believe in passionately. It is what I do for a living. It is why I enjoy my job.

If confirmed, strengthening the internal controls needed to meet these challenges would be among my highest priorities. As Chief Financial Officer, I would constantly be mindful that the security of the American homeland depends on wise decisions in both the Legislative and Executive Branches of the Federal Government and on the effort of our State and local partners.

Over the course of my career, I have also learned that on matters of national security, bipartisanship and cooperation are essential. I would look to bring that perspective and experience with me to the Department of Homeland Security.

---

[1] The prepared statement of Mr. Norquist appears in the Appendix on page 27.

In closing, I would like to thank the Committee for its consideration of my nomination, and I look forward to answering your questions.

Chairman COLLINS. Thank you very much.

We will start with an initial round of questions limited to 8 minutes each. But first, I will begin by asking you the three standard questions that we ask of all nominees.

First, is there anything that you are aware of in your background which might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. NORQUIST. Not to my knowledge.

Chairman COLLINS. Second, do you know of anything personal or otherwise that would in any way prevent you from fully and honorably discharging the responsibilities of the office?

Mr. NORQUIST. No.

Chairman COLLINS. And third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Mr. NORQUIST. Yes.

Chairman COLLINS. Thank you. You got those correct.

Mr. Norquist, you served, as Senator Lautenberg mentioned in his opening remarks, as an official observer to the International Advisory and Monitoring Board for the Development Fund for Iraq for some 7 months. During your service as an observer, the IAMB asked that the Department of Defense provide audits of the restore Iraqi oil contracts between the Army Corps of Engineers and Kellogg, Brown and Root without redaction.

Could you tell us, first, who was responsible for the decision on whether or not to release copies of the audits without redactions in response to the request from the Board?

Mr. NORQUIST. The Corps of Engineers, as the contracting office, has the authority to decide what, if anything, is releasable from a DCAA audit.

Chairman COLLINS. Did you play any role at all in that decision?

Mr. NORQUIST. The role I played was to ask a lot of questions. My concern was that the Corps of Engineers concluded that the audits could not be released unredacted without the consent of the contractor, and the contractor had not consented. They were concerned about violations of what I believe is called the Trade Secrets Act. And so the approach they took was to have the contractor do the redactions.

I was concerned about the need to provide as full an answer as possible to the IAMB. So I asked questions such as: Is there a way we can provide this unredacted without the contractor's consent? Do we have to accept the contractor's redactions? Or can you, as the Corps, do your own version of the redactions? I asked, if the IAMB members signed a nondisclosure agreement, could we, in fact, turn it over that way so they would have the unredacted audits?

And finally, one area we were actually able to get some positive ground on was: Could they provide it to a third party? And the answer was if they were under contract to the U.S. Government, like an independent auditing firm, or an IG, we could.

And so I proposed that we give the unredacted audits to them so that they could advise the IAMB, as a neutral party, as to the contents and the efficiency and effectiveness of a DCAA audit.

Chairman COLLINS. What was your personal opinion as to whether or not the Board should have had access to unredacted audits?

Mr. NORQUIST. I felt the Board should have as much information as the law would let us provide. The decision as to whether or not the law would permit redacted or unredacted audits I left to the General Counsel Office in the Corps of Engineers. They are the ones with the expertise in the law to make that determination.

Chairman COLLINS. While at the Department of Defense, were you responsible for informing the Board of the management and expenditures of monies from the Development Fund for Iraq?

Mr. NORQUIST. No, I was an observer. The Coalition Provisional Authority regularly briefed the Board on their management of the DFI. My function was to help provide transparency by observing the Board's proceedings.

Chairman COLLINS. As you may be aware, this Committee held extensive hearings into the response to Hurricane Katrina, including three hearings in which we examined how taxpayer dollars meant to help the victims recover from Hurricane Katrina were instead lost to egregious waste, fraud, and abuse, and poor management and decisionmaking.

The Inspector General and the GAO both reported to us that the Department, and FEMA in particular, lacked basic management controls that would have prevented wasteful spending when it came to providing individual assistance and, of course, the debacle with the purchase of some $750 million worth of manufactured housing, much of which still sits in a field in Hope, Arkansas.

What immediate steps do you believe should be taken in preparing for the 2006 hurricane season to better protect the taxpayer's dollars?

Mr. NORQUIST. I think at this stage, rather than focusing on doing an additional study, I would look at the reports that have been done to date. Inspector General Skinner did an examination of this issue. He looked both at the trailers as well as the Expedited Assistance Program and others. This Committee and others have looked into these issues, and there is an established series of recommendations from different organizations.

So what I would do, should I be confirmed, would be to get together with the CFO and the procurement officers at FEMA and say where do you stand in implementing these recommendations? What controls have you added? Have they been tested? Do you have the means in place to be more confident about the way you would handle the next hurricane season when it arrives?

Chairman COLLINS. I guess what is particularly troubling to me is that this Committee held hearings on FEMA's management of assistance in the wake of the Florida hurricanes and found exactly the same kinds of ineffective or absent controls that allowed similar waste, although on a far greater scale, to happen with the hurricanes that affected the Gulf region. I would urge you to make this a priority.

I think the American people are very generous, but they do not want to see their hard-earned money lost to waste and fraud and

abuse. That is exactly what happened in the wake of both hurricanes.

Mr. Norquist, the Department has had financial problems with several of its component agencies, most notably Immigration and Customs Enforcement. The component CFOs in those individual agencies do not have a direct reporting relationship to the Department CFO, something that I think needs to be rectified.

Without that direct relationship, how are you going to ensure sound financial management and reporting throughout the Department?

Mr. NORQUIST. I think there are a number of ways to approach it. First, there is a CFO Council, which provides a vehicle to meet regularly with the CFOs of the components. I would also look to strengthen the personal connection, meeting regularly with the individual CFOs.

In addition, there are some authorities and some opportunities that the CFO at Homeland Security has which we do not actually have at the Department of Defense. The CFO at Homeland Security has a role to play in the selection of a component CFO, has a role to play in determining their performance standards and evaluating their success against their performance standards and evaluating their bonuses. So these provide some additional tools.

So I think between the cooperation and the council that we should be able to be successful in building that relationship.

Chairman COLLINS. Thank you. Senator Lieberman.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Thanks very much, Madam Chairman.

Apologies to you, my colleagues, and Mr. Norquist. The plane landed at 2:45, but did not empty until 3:30 at National, coming from Hartford. So I apologize.

I am going to enter my opening statement in the record and just paraphrase.

Chairman COLLINS. Without objection.

[The prepared statement of Senator Lieberman follows:]

PREPARED STATEMENT OF SENATOR LIEBERMAN

Thank you, Madam Chairman, and welcome to this hearing, Mr. Norquist.

I can't stress enough how important this hearing is. The person stepping into the job of Chief Financial Officer of the Department of Homeland Security faces enormous challenges.

The CFO will have to steer the 22 different agencies that makes up DHS to financial stability so that DHS will finally get a clean audit.

Previous audits have detailed serious shortcomings and poor financial management that has resulted in agencies running out of money for critical missions or having to improve sudden hiring freezes.

We cannot have these types of disruptions to the Department charged with securing our homeland.

And the CFO must work closely with the Chief Procurement Officer of the Department to bring an end to the embarrassing waste we have seen in many large DHS contracts.

The CFO will also need to decide what to do with the financial modernization project called EMERGE2—or Electronically Managing Enterprise Resources for Government Effectiveness and Efficiency.

The system was originally designed as a total transformation of DHS' financial systems, but has been downscaled in the President's FY07 budget request.

Given the importance of this job, in 2004, Congress changed the law to make the position of Chief Financial Officer subject to Senate confirmation.

Serving as Chief Financial Officer will require a commitment not only to sound financial management, but also to openness and transparency.

If you are confirmed, Mr. Norquist, we would expect you to cooperate closely with the Inspector General and GAO, and to provide information promptly to Congress.

In that spirit, I intend to ask you about your involvement in a troubling incident that relates to these important principles.

While working at the Department of Defense, you led a team of government officials that decided not to disclose to a United Nations oversight board that KBR—a subsidiary of Halliburton—was suspected of overcharging Iraq millions on dollars.

In December 2003, the Defense Contract Audit Agency (DCAA) announced that its draft audit had found overcharges by KBR of as much as $61 million for importing Kuwaiti fuel into Iraq, DCAA also said that significant additional overcharges were likely in the months to come.

The contract was largely paid for from the Development Fund for Iraq, also known as DFI, which was established by UN Secretary Council Resolution 1483.

The money in this fund belongs to the Iraqi people. It came from Iraqi oil sales, assets that had been frozen in bank accounts outside the United States, and $8 billion in funds transferred from the UN Oil-for-Food program.

The UN gave control of the DFI to the Coalition Provisional Authority. The UN also established the International Advisory and Monitoring Board for Iraq to monitor our government's administration of DFI.

Resolution 1483 required that the Iraqi funds be "used in a transparent and equitable manner" and for the benefit of the Iraqi people.

Beginning in April 2004 and continuing through September, the UN oversight board made repeated requests for the DCAA audits of the KBR contracts.

During that period, you were the U.S. Department of Defense's observer and liaison to the Board.

Accordingly, as you've told the Committee's staff investigators, you headed up the process that considered whether the audits would be given to the UN Board.

In October 2004, you provided the oversight board redacted copies of the DCAA audits that struck every reference to every overcharge in every audit—463 redactions in all.

Had they not been redacted, the DCAA audits would have shown that more than $177 million in overcharges and more than $17 million in unsupported costs were funded with Iraqi money.

These redactions were made at KBR's request. The Department of Defense did not dispute a single one.

It would have been proper to redact information of a strictly proprietary nature.

But when KBR handed over the redacted audits to the Department of Defense, it stated that it had struck information other than propriety information.

KBR explained that it had also redacted statements that the company believed were incorrect or misleading and that could damage KBR's ability to win and negotiate new work.

It is also very troubling that a contractor implicated in an overcharging scandal would be given the final say on what information to provide to the UN oversight board. After all, the UN board was the legal entity responsible for oversight of misspent Iraqi funds.

Mr. Norquist, I would like to hear more about your role in this incident.

I think this episode is relevant to today's hearing because DHS needs a CFO who puts taxpayers first; who is committed to sound financial management and transparency, and who is willing to confront agencies that may be shirking their legal responsibilities.

In preparing for the hearing Committee staff reviewed many documents that had been produced by the Department of Defense, as well as others that are publicly available. I ask that a selection of the documents be entered into the hearing record so that I can ask the nominee about them.

I would also note that the Department of Defense refused to provide us with many hundreds of pages of responsive documents, but did let Committee staff review the documents at the Pentagon. In my questions I may refer to documents that our staff reviewed but we do not have.

Thank you, Madam Chairman.

Senator LIEBERMAN. First, welcome to you and your family, who I presume are the people behind you. And I would like to say that this position of Chief Financial Officer of DHS is one that faces very significant challenges.

The CFO is going to have to steer the 22 different agencies that make up DHS to the higher ground of financial stability so that DHS will get what it has not gotten yet, which is a clean audit.

As you know, previous audits have detailed serious shortcomings and poor financial management that has resulted in agencies running out of money for critical missions or having to impose sudden hiring freezes. Now that is something we cannot afford, those kinds of disruptions, in this Department, which is charged with securing our homeland.

The CFO must also work closely with the Chief Procurement Officer of the Department to bring an end to the embarrassing waste we have seen in some of the large DHS contracts. And you will also need to decide what to do with the financial modernization program called EMERGE2 or Electronically Managing Enterprises Resources for Government Effectiveness and Efficiency.

I want to go to this question that I know has been raised already by others, which is that during the time you worked at the Department of Defense, you led a team of government officials that ultimately decided not to disclose to a UN Oversight Board that KBR, a subsidiary of Halliburton, was suspected of overcharging Iraq millions of dollars. This was Iraqi money collected and funneled through the UN, which we were spending at the outset for the benefit of the Iraqi people.

As you know, the Defense Contract Audit Agency, in December 2003, in its draft audit, found overcharges by KBR of as much as $61 million for importing Kuwaiti fuel into Iraq. So they were overcharging for that. And additional significant overcharges that were likely to come in the months after.

I would just jump ahead to say that in October 2004 you provided the Oversight Board redacted copies of the DCAA audits that struck every reference to overcharge in every audit, 463 redactions in all, which is what KBR had asked. Had they not been redacted, the DCAA audits would have shown more than $177 million in overcharges and more than $17 million in unsupported costs were funded with Iraqi money.

Just continuing to pick out here, when KBR handed over the redacted audits to the Department of Defense, it stated that it had struck information other than proprietary information.

That is correct, to your knowledge, is it not?

Mr. NORQUIST. That is my understanding, yes.

Senator LIEBERMAN. KBR explained that it had also redacted statements that the company believed were incorrect and misleading and that could damage KBR's ability to win and negotiate new work.

I must say, to me it is really unacceptable that a contractor implicated in an overcharging scandal would be given the final say on what information to provide the UN Oversight Board. After all, that board was the legal entity responsible for oversight of misspent Iraqi funds.

I want to say what is probably obvious, but I want to say it for the record. Nobody says that you are involved in any of this wrongdoing yourself, at all.

I think the appropriate question for the Committee, as we consider you for this position, and you bring an impressive back-

ground, personal skills, and background in government agencies, is the way you handled this.

And let me pose it as directly as I can because I have heard at least one person looking over this record say to me that though you made some efforts to unredact, which I think was the right thing to do, ultimately you may have been caught between two bureaucracies and a private interest here and simply resolved it in what might be called the most manageable way.

In other words, I want to confront you with this question, which is: Should your handling of this very difficult but important situation lead us to conclude that you would not be as strong a decision maker—including making decisions that make people unhappy—as I think will be necessary in this Chief Financial Officer position?

Mr. NORQUIST. Sir, I made a number of recommendations that made people unhappy in the process, but it was out of a desire to provide as much information as possible. There was, for example, initially only going to be redacted executive summaries. And I made the point that if we are going to do this, you ought to deliver the full audit.

There was some concerns about how much would be missing from those. And I said fine, but we owe the IAMS as much information as we can give them. And if you feel, as the Corps, that it needs to be redacted, that is your jurisdiction and your authority.

But I was quite willing and stood very strongly in favor of pushing this everywhere I believed I could, except when I ran up against the advice of lawyers. When our General Counsel at OSD concurred with the advice of the Army's General Counsel that there was not a way to provide these audits unredacted, that was the point at which I was not in a position where I could take an alternative position.

So the Corps had to make the call. Their lawyers gave them advice that I bounced off our lawyers to ensure that there was not a different reading of the law, that we could not find a way around this.

And the answer was pretty consistent. The people with an expertise agreed you could not do it unredacted because of the way the Trade Secrets Act was written.

But nevertheless, I continued to push. Is there a way we can find another precedent or something that will let us go forward? Can the Corps do the redacting instead of the company? Can we do nondisclosure agreements? I consistently pushed to get people to think of alternative ways of solving this problem so that we did not default into the "this is the easiest way forward" approach.

Now in the end it was a hard way forward, and it was an awkward situation to be in. But I wanted to ensure that they had properly evaluated the alternatives and had not simply fallen in on the easiest answer.

Senator LIEBERMAN. I am sure my colleagues will have other questions about this. And I would just say finally, in preparing for the hearing, Committee staff reviewed many documents that had been produced by the Department of Defense, as well as others, that are publicly available.

Madam Chairman, I would like to ask that a selection of those documents be entered into the hearing record at this point.[1]

Chairman COLLINS. Without objection.

Senator LIEBERMAN. Thank you. Thanks, Mr. Norquist.

Chairman COLLINS. Senator Lautenberg.

Senator LAUTENBERG. Thanks very much, Madam Chairman.

It is obvious, Mr. Norquist, that all of us are concerned about the redaction and the redaction process.

In the beginning, did you express your view of what the Trade Secrets law might say? Because as we look at this first chart, and we have others which we will not bother the Committee with right now, but when you look at it, it is awfully hard to understand what the trade secrets are that were being redacted. When they say KBR proposed, and now it is common knowledge, $252 million rounded for unleaded gas, and other numbers, in the schedule.

I wonder how in the world can it be suggested that is a trade secret? I mean the taxpayers pay for it. It is not a practice that you find in very many places in our business world. And certainly in government, when we are much more obliged to operate with transparency.

The other things, to go on, the highlights there, "our audit found purchase orders and procurement files related to the Kuwait supplier did not contain data to support the reasonableness of the negotiated purchase orders."

Trade secret? And it goes on like that. It is very disappointing to see that government acted in response to what looks like a dictate by Halliburton or KBR to define these as trade secrets and have it hidden from the public view.

Does that strike you that way? And I am going to give you credit, Mr. Norquist, because as I read some of the history here, it was obvious that you disagreed or at least voiced an objection to this redaction. But then I think it took almost 6 months, am I correct, in order to provide the unredacted documents?

Mr. NORQUIST. Let me just clarify. Although they were requested in April, the audits were not actually completed until the last days of August to the middle part of October. So at the point the audits were available for review until they were delivered, there was only a matter of a few weeks of going both through the review and the redaction process and the back and forth with the Corps of Engineers. Up until that point, the DCAA audits were only in draft stage, and we were not in a position to move forward.

But to get to your first question that you asked me, about my reaction to seeing the redactions, I did, in fact, raise the very same types of concerns you did. I did not necessarily see this particular page. But I said, I am a layman, I do not have an expertise in this area, but I do not see why this would be—and I used the euphemism—"proprietary" data. I do not know if that is actually cited in the Trade Secrets Act as a criteria.

But it did not strike me as proprietary data. And that is why I encouraged the Corps to go back and take a look at this information and to make their own independent judgment as to what

[1] The Exhibits submitted by Senator Lieberman appear in the Appendix on page 95.

should or should not be redacted, as opposed to simply following what the company had sent forward.

Senator LAUTENBERG. Senator Lieberman discussed with you in detail something that relates to the question I am going to ask you. The fact that one department decided that the government, we were entitled to refunds of some $61 million in overcharges. And that was agreed upon.

But then there was a decision not to accept or not to demand these refunds. How did that come about?

Mr. NORQUIST. Sir, I cannot speak to how that came about. I think what you are talking about is the difference between what DCAA recommended and the actions the Corps of Engineers chose to take.

I was not part of the process of managing this contract. My involvement was as an observer with the request for the audits. And so I do not know the story behind how the Corps reacted to the recommendations from DCAA as to what——

Senator LAUTENBERG. Of the independent audit?

Mr. NORQUIST. I am referring to the DCAA audit. If there is a different one, then I am not familiar with it.

Senator LAUTENBERG. One is the first stage of an audit process. And then on, would you say it was on appeal that the refunds were ordered not to be collected?

Mr. NORQUIST. Let me walk through, to the extent I understand it, the mechanics of this. And I apologize that I am not an expert in this area.

But the Corps of Engineers negotiates and sets up the contract with the company. They ask the Defense Contract Audit Agency, particularly in a contract like this, to review the pricing and the procedures that the company followed to determine that they were only charging a fair and reasonable price.

The auditors then identify what I think they call questioned costs, meaning either they disagreed with it or they simply did not see enough documentation to support it. And it provides the basis for the contracting officer to negotiate, to either insist upon being provided that documentation or to make decisions as to whether or not to pay.

It is not a decision of the government. The audit is an advisory document given to the contracting officer. So again, how the contracting officer uses it, whether they were right to accept or reject those, I cannot speak for the contracting officer on that.

Senator LAUTENBERG. It borders on the outrageous that an audit agency, after its review, has its recommendation overturned by another department. An audit, as I see it, an audit is an audit. That is a check on what is going on. The tactics here are hard to understand.

The Defense Contract Audit Agencies have shown that Halliburton has billed more than $1.4 billion in unsupported or questioned costs. Has the Department of Defense paid Halliburton for these costs?

Mr. NORQUIST. Sir, I cannot speak to that. I think the number you said might have been the total contract, but I am not certain.

Senator LAUTENBERG. The total contract was larger.

Mr. NORQUIST. I am not familiar with the underlying contract or the dollar amounts involved there.

Senator LAUTENBERG. I would have thought that these had become somewhat under your purview, Mr. Norquist.

Mr. NORQUIST. No, the contracting involvement was the Corps of Engineers. I was involved in this because I was an observer at the IAMB, and specifically on the issue of the request for the copy of the DCAA audits, not the actual resolution of those comments.

Senator LAUTENBERG. Were you the senior financial person in the Department of Defense?

Mr. NORQUIST. No, I was one of the Deputy Under Secretaries, and contracting is an acquisition authority, not a financial management authority.

Senator LAUTENBERG. Madam Chairman, I am out of time here. I would like to talk further to Mr. Norquist.

Chairman COLLINS. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you very much, Madam Chairman.

Let me pursue this redaction because I am mystified, first of all, that we allow a company being audited to do the redacting. What is the precedent for that?

Mr. NORQUIST. I do not know. I asked if there was a way we could do it instead, but the advice was, from the Corps of Engineers lawyers, that to change the contractor's redactions—and again, let me cite their words because this is not an area where I have an expertise—they said, the Corps counsel noted that there were significant legal risks to include potential individual criminal violations associated with changing the redactions provided by KBR. So that was the advice of the Corps lawyers. That is what they said was the proper way forward. And since they are the ones who make the call on this one, I did not have much——

Senator LEVIN. Potential criminal liability to whom?

Mr. NORQUIST. To the individual who releases the document, to the actual individual who couriers it to the recipient is my understanding.

Senator LEVIN. That would be to you?

Mr. NORQUIST. Actually, I made sure the Corps of Engineers couriered the document.

Senator LEVIN. To the UN?

Mr. NORQUIST. To the UN.

Senator LEVIN. And the UN objected to this, did they not?

Mr. NORQUIST. No, they did not. When they received it, I provided a letter to the chairman to explain that the audits had just been completed, to walk through what was in it, to note that the contractor had done the redactions, and what the law was that created the obstacle. They were pleased to have received them. They understood that we were operating within limitations set by U.S. law.

But I also put forward at that time an alternative option of providing the unredacted audits to a third party because I wanted to show the good faith effort, that they would not have to take my word for it, or the Corps word for it. We could give it to a third

party. That third party could read it over and tell them DCAA audits are good, sound audits, or whatever the words——

Senator LEVIN. Where did that proposal go?

Mr. NORQUIST. They originally went—again——

Senator LEVIN. Who were you proposing that to?

Mr. NORQUIST. I proposed it to the IAMB, and I said would you like us to do this? We are prepared to do this if you chose to.

I stopped working with the IAMB on October 11. We handed over this responsibility to other offices. But let me give a summary of what I understand happened.

They first went to the option of seeking an outside auditing firm to look it over. That ran into some obstacles. So I think they provided it to the Special Inspector General for Iraq, who reviewed the documents. But here I am outside my expertise.

Senator LEVIN. The redacted documents?

Mr. NORQUIST. No, they were provided the unredacted in order to be able to provide an opinion or a view to the IAMB. I wanted somebody else to be able to see the full document and be able to give their advice to the IAMB.

Senator LEVIN. And a UN Council saw the unredacted documents?

Mr. NORQUIST. No, the requirement to avoid the Trade Secrets Act is they have to have a relationship with the U.S. Government.

Senator LEVIN. Who was it specifically that saw the unredacted document?

Mr. NORQUIST. It is my understanding, again I am not certain on this, that it was the Special Inspector General for Iraq.

But if you like, I will take that for record so I can be certain about who was the recipient and provided the report.

Senator LEVIN. If you would.

And that person was satisfied that it was properly redacted?

Mr. NORQUIST. I do not know how they set it up, what they were asked to do. They were asked to be available to support the IAMB by reviewing it. But the terms of the agreement, I am not familiar with.

That would have happened well after I had stopped working on this.

Senator LEVIN. If you could supply that for the record, it would be useful.

You say that the IAMB, the UN International Advisory and Monitoring Board for Iraq, was satisfied with the redaction, they did not object to it.

The press release that they issued on April 29 said the following, "that these reports indicate overcharges and questionable amounts billed under the sole source contracts of an amount in excess of $200 million. The IAMB notes with regret"—that does not sound like they were satisfied with it. It says they, "note with regret that these findings have been redacted in earlier DCAA reports submitted by the U.S. Government to the IAMB."

Mr. NORQUIST. At the time we provided it to them and gave them the information to show what the extent of the DCAA audit was, how thorough the DCAA audit was, what they covered, that went a long way toward addressing some of their issues.

The fact that they would have liked to have seen more, I would completely understand. And the fact that the redactions created a challenge and that was a regret of theirs, I would understand as well.

Senator LEVIN. It sounds a little different from saying that they were satisfied.

Mr. NORQUIST. They did not express any concern at the time we sent it to them. This is an issue that came up later on.

Senator LEVIN. When did you send it to them?

Mr. NORQUIST. We delivered it to the chairman, I think, before the full IAMB meeting and then provided copies to the rest of the members on October 11, 2004.

Senator LEVIN. You are familiar with that April 29, 2005, press release?

Mr. NORQUIST. I actually only became familiar with it afterwards when the questions started coming up and somebody raised it to my attention.

Senator LEVIN. If you thought that the redaction was improper, and you did, why did you not appeal that higher up above the lawyers?

Mr. NORQUIST. I raised it to the OSD lawyers. The Corps of Engineers lawyers had said it could not be released.

Senator LEVIN. Why did you not go above their head. Lawyers are not the final determiners.

Mr. NORQUIST. If I have a set of lawyers that advise that an action is illegal, and I confirm it with another, to then go up and say you should engage in an action that your lawyers will tell you is illegal, is not a very productive way forward. If I had had dissent, if I had found——

Senator LEVIN. You think the client should be consulted? The clients are not the lawyers. The lawyers do not have the final say. It is the client. And you yourself, in your own good conscience, and I think you were right, saw this as pure common sense, as Senator Lautenberg went over these. These comments are not trade secrets under any stretch of the imagination.

The Trade Secrets Act cannot possibly protect this kind of redaction. "The cost and pricing data and the information other than cost or pricing data submitted by the offerer are not adequate." That is not a trade secret.

"We consider KBR's estimating system to be inadequate." That is not a trade secret. That is not proprietary.

"In addition, KBR was unable to demonstrate their proposal was based on actual cost." This goes to the heart of overcharging. This is not trade secret stuff. This is fundamental.

KBR cannot demonstrate here the costs behind their charges. There is no trade secret. You were familiar with that. And just because the lawyers say that there is some reason that should be redacted is not the end of the matter. Clients are the ones who make decisions, unless you are the client. Are you the client?

Mr. NORQUIST. Sir, the Corps of Engineers was the one to make the decision, and their lawyers were the ones who gave them advice. I went above that to the OSD lawyers to see if there was any dissent, to see if there would be a disagreement by going up to the

lawyers for the Department. But the OSD lawyers had the same opinion as the Corps of Engineers lawyers.

Senator LEVIN. Did you ever think of going to the people to whom those lawyers are responsible, the client for those lawyers, and say, you know, your lawyers are saying this, but I have got to tell you there is no common sense way, there is no way you can read these and say there is a trade secret here.

I mean this is a cover-up of overcharging. Not by you. By the way, I think Senator Lieberman is absolutely right. We all ought to make that clear. This is not anything you did improperly in terms of any cover-up.

But this redaction was a cover-up, and it was tolerated by lawyers for reasons that we have trouble understanding. I have trouble understanding. Senator Lautenberg does, too. There may be others.

It seems to me that at a minimum your obligation would have been to go to the clients for those lawyers, the people to whom they are accountable, to say this is what your lawyers are telling me, but it does not make sense.

I am wondering whether that thought crossed your mind? And that is my last question.

Mr. NORQUIST. Sir, if there had been disagreement among the advisors—again, I have no expertise. I am told the Trade Secrets Act is very broadly written. I have no way of knowing and judging whether or not they were being reasonable or unreasonable in asserting that these things are protected by that.

But if I had gotten dissent, if I had one office of lawyers saying it was perfectly acceptable to release it and one saying not, then I would have had a very sound basis upon which to go and say the Corps of Engineers are holding this up but the OSD lawyers think they are wrong.

But there was not. There was not a dissent. Those people with an expertise in this area had a very similar opinion.

Senator LEVIN. Thank you. And if you could provide for the record then the names of the lawyers that you spoke with, it would be helpful so we can ask them. Because we have had an investigation into the UN, improper UN kickbacks. And here we have a situation where materials provided to the UN, which are redacted, do not allow them to do their job, and there is no action being taken here. It may not be your responsibility. You may be right. But someone is responsible here for covering up clearly charges which could not be justified.

Thank you. Thank you, Madam Chairman.

Chairman COLLINS. Senator Dayton.

OPENING STATEMENT OF SENATOR DAYTON

Senator DAYTON. Thank you, Madam Chairman.

Mr. Norquist, I am wondering if you discussed this job and its time demands with Warren, Elise, and Vivian?

Mr. NORQUIST. I have sir, and it is with some trepidation that we have signed up for the hours that this involves. This will be a tough job.

Senator DAYTON. As the parent of a 25-year-old and a 22-year-old, I encourage you to make sure they come first.

Mr. NORQUIST. Does it get easier?

Senator DAYTON. Yes, they will not want to have anything to do with you all too soon. I mean that facetiously and also seriously.

The Congress has appropriated $62 billion, most of it going through the Department of Homeland Security, for the Hurricane Katrina cleanup. And the Senate just last week, in its supplemental, appropriated another $27 billion. That is $89 billion then. I do not know what is a reasonable timeline, but I would like to ask you within say a month, if possible, 2 months at the outside, after you have been confirmed for this position, to provide this Committee with your best accounting on how that money has been spent, at least where it has been distributed. It may not be possible to get to the level of the contractors, subcontractors and the like. But at least so we have an accounting.

And I, at a Committee meeting last week, encouraged my colleague from Minnesota, Chairman of the Permanent Subcommittee on Investigations, to conduct a similar oversight.

Because I think it is imperative, particularly if, and I expect when, we will have another request for additional funds for Mississippi and Louisiana, that we understand at least as fully as possible to that current date how that money has been distributed.

Mr. NORQUIST. Should I be confirmed, I would be happy to do the best I can to do that.

Senator DAYTON. Thank you.

I hope this will be concluded before you are confirmed, but I have had the greatest difficulty, to my frustration, getting information from Secretary Chertoff from FEMA's handling in the aftermath of a flood that devastated Roseau, Minnesota, in June 2002. FEMA has been more of an obstructionist, I regret to say, than an ally in the effort to rebuild that city and some of its key projects to both repair what occurred and also to prevent future flooding.

The city began, in March 2003, that is over 3 years ago, a request for $617,000 that 2½ years later was denied by FEMA's Region V.

The incongruity of, on the one hand, $62 billion being passed through with almost no feedback on how it is being spent, and the 2½ year effort that a small city in Northwestern Minnesota that is struggling, that is trying to do its best to rebuild from a flood that wiped out its downtown just as completely as Hurricane Katrina's flooding wiped out parts of New Orleans. And yet here, 2½ years later, they are denied what is—from everything I can determine—a very responsible and certainly a very modest amount of money to engage in some rebuilding projects.

They have then appealed that decision and now, 5 months later, have not gotten a decision from FEMA as to the final disposition of that appeal.

I handed a letter when Secretary Chertoff was before this Committee on March 1 regarding this matter. Madam Chairman, I would ask unanimous consent that a copy of that letter be submitted for the record in this proceeding.

Chairman COLLINS. Without objection.[1]

Senator DAYTON. Thank you.

[1] The March 1, 2006, letter to Secretary Chertoff re: City of Roseau, from Senator Dayton appears in the Appendix on page 143.

I did not hear anything back from him, not even the acknowledgment of receipt of the letter, which I know he did receive because I handed it to him.

I happened to meet him just outside the Capitol 2½ weeks ago, and I brought this matter to his attention again. And one or two of his accompanying aides wrote down the details, Roseau, Minnesota, and the like. I still have not heard back anything from him or from anybody at FEMA. The city of Roseau has not heard back.

I am incredulous that, regardless of the disposition, and that is a determination for the proper FEMA officials to make, but that I, in my responsibilities as a U.S. Senator representing the city of Roseau, cannot get from the Secretary or from anybody underneath him a response to first a letter and then 2½ weeks ago a further direct inquiry about the status of the review and the project.

So again, you have nothing to do with this. You do not have any responsibility for it. But in your new position, when you assume it, I would ask for your assistance getting somebody in that vast bureaucracy to respond.

Mr. NORQUIST. I would be happy to assist you, Senator, should I be confirmed.

Senator DAYTON. All I can say is if that is indicative, and unfortunately from some of my constituents' other experiences with FEMA, and particularly it is Region V, if that is indicative of the lack of responsiveness to elected representatives of the people, and more importantly to the people themselves, I seriously wish you the very best in this undertaking because it badly needs people who are going to be responsible for the expenditures of dollars and the reporting of those dollars and feel some sense of responsibility to the people whose tax dollars are paying their salaries and providing the mission that they are supposed to honor and carry out.

So I wish you well. Thank you, Madam Chairman. This concludes my questions. Thank you.

Chairman COLLINS. Thank you. We will now have a second round of questions for those who wish to participate, limited to 4 minutes each.

Mr. Norquist, in 2003 the GAO designated the Department of Homeland Security on its High Risk list of government operations, and it has subsequently reaffirmed that designation. An area of specific concern identified by the GAO is the weak financial management of the Department.

In forming the Department, the Department had to combine some 19 financial management systems. I think that now there are eight.

What are your plans for specifically identifying the financial weaknesses that the GAO has pointed out as the justification for putting DHS on the High Risk list?

Mr. NORQUIST. Senator, there have been a number of reviews of the Department of Homeland Security's financial practices. You have the GAO reviews, you have the independent audit of the financial statements that identified, I believe it was, 10 material weaknesses. There have been some other reviews, as well.

I think the important task before us, and the task I would take on should I be confirmed, is to get to the root cause of those weaknesses, identify the corrective action, who is going to take the ac-

tion and by when, and begin the somewhat difficult task of advancing the corrections across the board. You have got corrective action you have to take in a number of areas.

So I think the important thing is to identify them, lay out the corrective action process, and then the challenge is maintaining the discipline to stay on top of that issue while other crises are happening that are distracting the organization, to keep that focus on fixing the basic underlying financial process.

Chairman COLLINS. In your response to the Committee's written questionnaire, you indicated that you had experience, including involvement in or direct oversight of financial management transformation. I assume this is at the Department of Defense; is that correct? Or were you referring to other efforts?

Mr. NORQUIST. Actually, my experience with financial management transformation began when I was with the House Appropriations Committee. One of the accounts I had oversight of included the Department's Financial Management Modernization Program.

Chairman COLLINS. The Department of Defense?

Mr. NORQUIST. The Department of Defense's. And so there were a number of challenges they had, one of which, for example, was their CFO had difficulty enforcing compliance with the intended architecture. And so we worked with the committee, and the Congress adopted language to strengthen their hand in forcing systems under development to comply with the architecture.

We also were concerned about systems that were built and were what in the Defense Department they called joint systems, that were supposed to bring the services together. But somewhere around year two of the program a service backs out, then another service backs out, and eventually you have a software solution that only works for one.

So we worked very closely with them on trying to help prevent these types of challenges.

I was originally hired by the Department of Defense to address those issues as my original position. But in the course of a reorganization, my duties shifted, but I continued to work alongside people who had that initiative.

Chairman COLLINS. One final question.

I mentioned earlier what I think is an anomaly of having the CFOs of the component agencies of DHS not report to the overall Department CFO. Is that a change that you think we should make in the law?

Mr. NORQUIST. I am not shy. If I were confirmed and found that was an insurmountable obstacle, I would certainly come back and alert you to that challenge.

But in the Department of Defense, the Assistant Secretary of the Army for Financial Management reports to the Secretary of the Army. So it is similar to the structure I am used to working in. Whether it proves to be sufficient and effective in this environment, I would just have to get there, should I be confirmed, and see how it goes.

Chairman COLLINS. Thank you. Senator Lieberman.

Senator LIEBERMAN. Thanks, Madam Chairman.

I think you know, Mr. Norquist, because you are here, that in 2004, Congress expressed its concern about the importance of this

job by making the position of CFO subject to Senate confirmation. I think there is a message there, and it goes back to the questions raised about the redacted materials, which is how important this position is to the public.

To me that means a commitment, if you take this position and are confirmed, to openness and transparency, that we would expect you to cooperate closely with the Inspector General and GAO and to provide information promptly to Congress when requested.

Are you comfortable saying that you would do so, if confirmed?

Mr. NORQUIST. Absolutely.

Senator LIEBERMAN. Let me ask you a question about a different part of that enactment of 2004.

The DHS Financial Accountability Act imposes a requirement that the Department conduct audit opinions of the internal financial controls starting in fiscal year 2006, the one we are in now. These audits will be an important tool in putting DHS on the path to financial stability because they will help DHS uncover inherent weaknesses that we have referred to in one way or another here this morning in its business practices.

As you may know, the former DHS CFO testified before a House Subcommittee that the fiscal year 2006 audit of internal controls—and here I quote from the former CFO—"Will be taxing on a thin financial management cadre that is still coping with the challenging organizational structure of DHS and fixing the weaknesses already identified in the financial audit."

I am of the opinion, though, that despite the difficulties that the audit poses, it is really important that the Department proceed with this audit of internal controls. I wanted to ask you where you come down on that question?

Mr. NORQUIST. My first inclination is always to comply with the guidance that the Congress has provided. If the Congress would like this done in 2006, then we need to work to provide it in 2006.

If there is some overwhelming compelling reason why that is not practical, then we owe it to the Congress to get back to you and explain to you what the trade-offs are, what the challenges are. But my going-in position would be to go with the direction you have provided in the Congress.

Senator LIEBERMAN. I think you have got the right priorities. And I urge you, if you are confirmed for this position, to focus on that early on in your tenure. If you feel you cannot comply with the law, I would ask you to let this Committee know as quickly as possible.

Let me ask this question about your credentials for the job. As I mentioned earlier, you have had a series of impressive positions throughout your career. In these you have handled a broad range of budget appropriations and financial matters. I think those experiences will serve you well should you be confirmed for the CFO position.

You have had less experience in accounting and management responsibilities, the kind that will face you as CFO if you are confirmed. I wonder what steps you will take to better prepare yourself for these central tasks of the position of CFO?

Mr. NORQUIST. In financial management, people come up through different paths. And as you pointed out, I came up as a

program budget analyst. But during my time in financial management I have, for example, when I was Director of Resource Management at a field site in England, over seen the finance and accounting office. They reported to me.

When I served as Acting Principal Deputy, the Deputy Chief Financial Officer in the accounting office reported to me. So I am familiar with the work they do, the important things they do. I have worked very closely with them.

So I would look to draw on the strength of the people in the field who are CPAs. But I am also familiar with what we should expect them to be able to do in terms of providing guidance and proper internal controls for organizations.

Senator LIEBERMAN. OK, my time is up.

There is not time today, but I am going to submit for the record a number of detailed questions about the KBR material redacted and ask you to answer them for the record.

From what I know now, I would draw two conclusions that I hope you have drawn from this experience that you had in this matter. The first is that your personal instinct on this was the right one, and therefore I hope you follow that kind of personal instinct.

The second is lawyers are not always right. It is not so bad sometimes to say thanks, Mr. Attorney, but that does not seem right to me.

Thank you.

Chairman COLLINS. Senator Lieberman, I think that Senator Lautenberg and I would agree that lawyers are not always right.

Senator LIEBERMAN. It was a declaration against my own interests.

Senator LAUTENBERG. I would be inclined to review the Chairman's educational background.

Chairman COLLINS. Senator Lautenberg.

Senator LAUTENBERG. I come from the business side of the ledger. I ran a fairly sizable company before I came to the Senate. The audit was kind of the Bible in terms of how the company did in its past year when it reported its financial statements.

You sounded, very frankly, more obedient to the rule than I think you might have to be, to the rules and the structure, than you might have to be as the chief financial officer now of DHS. Not unlike the Defense Department, this critical agency to the manner in which we conduct ourselves, would it have been appropriate, could it have been appropriate for you to go to the IG and say look, this is not right, to defend your view more aggressively?

I hear what you said, and I know you are apparently very careful to stand by the rules. But is there a point in time when you say the rule is not correct? I mean, the notion that the company could tell you what to redact, what to take out of the public notice, I think is outrageous. I ran a public company.

Would the IG have been an appropriate party to go to in terms of doubt?

Mr. NORQUIST. I do not know that the IG would have issued a legal opinion. I would go to the IG if I thought there was improper activity by someone, but I had no reason to suspect that. I want to be very clear about this, however much I was unhappy with the

answers I was getting from the Corps of Engineers, I had no reason to believe they were doing other than their professional jobs as lawyers of the Department or as contracting officers.

So if I had felt that there was an improper activity, I would have indeed gone to an IG. But they were doing their job, they were making their opinions. I just did not like the answer.

Senator LAUTENBERG. But in terms of making certain that—you had a very lofty position in terms of the Department of Defense. Would it not have been appropriate for you to say this does not seem right? You expressed your reservations about it. But at some point, I hope that when you are confirmed for this job that you will be aggressive in terms of asking the questions that go beyond—the numbers tell you something about the policy, it tells you a lot about it.

I think you are going to have to be fairly forceful if you are going to manage a department like that.

The Chairman raised a question I thought was really important, that is do the separate auditors, separate financial executives in the different branches report in to a central agency? Some place there is going to have to be an audit. An audit is the confirmation of what is correct.

I think it might do you well to look at the structure, as well as just being sure that the money is coming in and the money is going out, etc.

I want to ask you one last question. You were in charge of looking for grants to help with the reconstruction in Iraq to go to a donor body; is that correct?

Mr. NORQUIST. Correct.

Senator LAUTENBERG. Who made up the donor body?

Mr. NORQUIST. We had an outreach effort to raise international donations for Iraq reconstruction. The U.S. Government team consisted of under secretaries from State, Treasury, and Defense. The international community effort was led by the IMF, the World Bank, and the UN. And so the international donations that were made were made to trust funds managed by those international agencies.

Senator LAUTENBERG. Am I correct in noting that you were searching for $50 billion and the commitments we got were only $13 billion? Is that accurate?

Mr. NORQUIST. I believe it was the World Bank and the UN, if I have that correctly, that went into Iraq and did a needs assessment to determine what it would take to reconstruct Iraq. I believe their initial assessment was that over many years it would take about $50 billion. And that would include funds from the Iraqis, what they were going to spend on their own reconstruction, international donations, and, of course, the U.S. Congress made a very sizable appropriation to support that reconstruction effort.

Senator LAUTENBERG. We would be defined as a donor?

Mr. NORQUIST. We were a donor country under the system.

Senator LAUTENBERG. So were we——

Mr. NORQUIST. We are by far the largest. The Japanese, I believe their pledge was on the order of about $5 billion. They were another large donor.

Senator LAUTENBERG. But the total raised, the total committed was $5 billion, as I understand it?

Mr. NORQUIST. The total raised from all the parties against the $50 billion dollar multiyear target——

Senator LAUTENBERG. It was $13 billion.

Mr. NORQUIST. It was $13 billion from the international community in addition to about $18 billion or so from the United States.

But again, let me point out, that is significantly larger than a normal donor conference. I believe it is actually, according to the State Department, I was told it was the single largest donor conference result.

But for many countries it was a one-year pledge, for some countries a multi-year.

So it was not everything that Iraq would need to get reconstructed, but it was a very significant first step. I would frankly say, given the situation, being able to bring the international community together to be part of an effort to rebuild Iraq was a very important political step forward for the world. And I greatly appreciate all the countries that participated in that.

Senator LAUTENBERG. Have those bills been paid? Do you know? Have those pledges been paid?

Mr. NORQUIST. I do not know all of them. I know that they have been coming in. When I was there, we were working with the Japanese who were delivering things. So I am familiar with some of them, but not the overall.

Senator LAUTENBERG. Thanks, very much, Madam Chairman.

Thank you, Mr. Norquist.

Chairman COLLINS. Thank you, Mr. Norquist. I want to thank you for appearing before the Committee today.

I want to second my colleagues in saying that I am impressed, with three such young children, that you are willing to take on a job that is going to involve a tremendous commitment on your part. I think that speaks very well as far as your commitment to public service. And you obviously have a very supportive family for them to allow you to do that.

Without objection, the record will be kept open until 6 p.m. on Tuesday, May 9, for the submission of any additional written questions or statements for the record.

I do want to point out that Senator Akaka, who has been very active in the area of financial management, does have questions that he will be submitting for the record. Mr. Norquist, I encourage you to complete your responses to those questions as soon as possible. Senator Akaka also has a prepared statement he submitted for the record.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF SENATOR AKAKA

Thank you very much Madam Chairman. I, too, welcome Mr. Norquist as we consider his nomination to be the Chief Financial Officer (CFO) for the Department of Homeland Security (DHS).

As one of the three sponsors of legislation that brought DHS under the Chief Financial Officers Act, thus making the DHS Chief Financial Officer a Senate-confirmed position, I understand the tremendous challenges facing the CFO at this time. For a relatively new Federal agency, which has very high expectations from Congress, a primary challenge is integrating all financial management activities in the Department.

Moreover, as the Ranking Member of the Armed Services Readiness Subcommittee, I have worked with my colleagues to ensure that the Department of Defense develops a financial management architecture to integrate its systems and business processes. Unfortunately, we were forced to mandate—by statute—timetables for implementation at DOD. Hopefully we won't have to take the same action for DHS.

I look toward Mr. Norquist, if confirmed, to be a steadfast leader who will work to overcome the internal stovepipes and barriers to integrating Department operations. It is my expectation that he will promote efficiency and transparency of the Department's financial management efforts.

As CFO, Mr. Norquist will also be expected to take the necessary actions to investigate and eliminate any waste and abuse of taxpayer money, even in the face of political pressure. He must be accountable to the taxpayers. I trust that should he be confirmed, he will be steadfast and persistent in fulfilling the duties of this office.

Thank you.

Senator COLLINS. Thank you for being here today. This hearing is now adjourned.

[Whereupon, at 4:43 p.m., the Committee was adjourned.]

APPENDIX

Statement of David Norquist
Nominee for Chief Financial Officer, Department of Homeland Security
Senate Committee on Homeland Security and Governmental Affairs
May 8, 2006

Chairman Collins, Senator Lieberman, members of the Committee, it is an honor to appear before you today as President Bush's nominee to be Chief Financial Officer of the Department of Homeland Security. I am humbled by the confidence that the President and Secretary Chertoff have shown in recommending me, and I thank this Committee for its consideration of my nomination.

I would like to thank Senator Warner for his very kind introduction.

On a personal note, I would like to thank my parents, Warren and Carol Norquist, for their unwavering support, strong values and thoughtful guidance. I thank my wife Stephanie for her love, her dedication to our family, and her patience with the long hours and endless demands of my government service. Finally, I would like to thank my children -- Warren, Elise and Vivian -- whose presence reminds me every day about the importance of building a better future for America.

I began my career as a federal civil servant, a GS-9 program/budget analyst working for the Department of the Army. Over the course of my 16 years of government service, I have worked financial management issues at virtually every level at which the federal government spends or oversees money, positions ranging from the professional staff of the House Appropriations Committee to being Director of Resource Management at an Army field site overseas. Currently I am the Deputy Under Secretary of Defense for Budget and Appropriations Affairs in the Office of the Under Secretary of Defense (Comptroller).

The office for which I have been nominated has the dual missions of protecting this nation's security and protecting the taxpayers' money. It is a profound responsibility. But these are things I believe in passionately. It is what I do for a living. It is why I enjoy my job. If confirmed, strengthening the internal controls needed to meet these challenges would be among my highest priorities.

As Chief Financial Officer, I would constantly be mindful that the security of the American homeland depends on wise decisions in both the legislative and executive branches of the federal government and on the efforts of our state and local partners. Over the course of my career, I also have learned that on matters of national security, bipartisanship and cooperation are essential. I would look to bring that perspective and experience with me to the Department of Homeland Security.

In closing, I would like to thank the Committee for its consideration of my nomination and I look forward to answering your questions.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.) David Lutz Norquist

2. **Position to which nominated:** Chief Financial Officer of the Department of Homeland Security

3. **Date of nomination:** January 18th, 2005

4. **Address:** (List current place of residence and office addresses.)

   (W) 1100 Defense Pentagon Room 3D646 Washington, DC 20301

5. **Date and place of birth:** November 24, 1966 / Concord, MA

6. **Marital status:** (Include maiden name of wife or husband's name.) Married to Stephanie Rae Norquist (formerly Kristich)

7. **Names and ages of children:**

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

The University of Michigan	09/84 – 04/89	B.A. in Political Science	April 1989
The University of Michigan	09/87 – 04/89	Master of Public Policy	April 1989
Georgetown University	09/91 – 2/95	Master of Arts	Feb 1995

9. **Employment record:** List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

   Deputy Under Secretary of Defense
   Office of the Under Secretary of Defense (Comptroller)
   The Pentagon, Washington, DC 20301

DUSD (Budget and Appropriations Affairs)*	12/04 – Present
DUSD (Financial Management)	12/02 – 12/04

Twice during that time I also served as Acting Principal Deputy.
Acting Principal Deputy 04/04-07/04 and 09/05-11/05

*Title and dates based on when I performed this job not when paperwork was submitted.

Professional Staff
House Appropriations Committee, Subcommittee on Defense
The Capitol, Washington DC 20515
1/97-12/02

Director, Resource Management
U.S. Army Intelligence and Security Command
Menwith Hill Station, Harrogate, United Kingdom
12/95 – 1/97

CCP Program/Budget Analyst
Position realigned from U.S. Army, Deputy Chief of Staff for Intelligence
to U.S. Army Intelligence and Security Command
National Security Agency, 9800 Savage Road Ft. Meade MD 20755
?/93 – 12/95

Program/Budget Analyst
U.S. Army, Deputy Chief of Staff for Intelligence
The Pentagon, Washington, D.C. 20310
8/89 - ?/93

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

None.

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

None.

12. **Memberships:** List all memberships and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.

Current
Vice President, American Society of Military Comptrollers (Note: ASMC is the non-profit educational and professional organization for persons, military and civilian, involved in the overall field of military comptrollership.)
Member of the National Presbyterian Church (Have previously served as a Deacon)
Member of the Republican Party
Member of the University of Michigan Club of Washington
Member of the Association of the US Army
Member of Friends of the National Zoo
Member of the National Rifle Association

Former
Member of English Heritage (cares for Castles and other ancient buildings and sites in England)
Member of National Trust (administers "stately homes" and other historic buildings and gardens in England, Wales and N. Ireland)
Member of National Defense Industrial Association
Member of the United Methodist Church
University of Michigan College Republicans
President, West Quad, Barbour, Newberry Student Council

13. **Political affiliations and activities:**

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

I am a member of the Republican Party. I have made contributions to the Republican Party and Republican candidates and I have engaged in some get out the vote efforts around election time. I have not been a member of an election committee or held an office in a political party.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 5 years.

Mark Kirk	$50
George Nethercutt	$250
George W. Bush	$500

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Office of the Secretary of Defense Medal for Exceptional Public Service, 2004
Department of State Superior Honor Award (Group), 2003 and 2004
Joint Meritorious Unit Award to the Office of the Secretary of Defense, 2003
Army Commander's Award for Civilian Service Medal, 1996
Military Intelligence Officer Basic Course - Distinguished Academic Graduate,1990
Presidential Management Intern (now called fellow), 1989-1991
Scabbard and Blade – ROTC military honor society
I had one or two small scholarships for college based on achievements in high school

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

I had an article published in Joint Forces Quarterly, Summer 2002 (No. 31) "The Defense Budget: Is it Transformational?"

16. **Speeches:** Provide the Committee with four copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None.

17. **Selection:**

(a) Do you know why you were chosen for this nomination by the President?

I am honored that the President nominated me to be Chief Financial Officer. While I cannot speak for the President, perhaps he recognized that I have spent my career in the Federal government in the field of financial management and values the experience I have dealing with financial issues from a number of different perspectives.

I served as a Director of Resource Management at a military station overseas. I have worked financial issues for a Major Command, for the Headquarters of the Department of the Army, and in the Office of the Secretary of Defense, Comptroller. In addition, I have served the legislative branch as part of the professional staff of the House Appropriations Committee. Finally, I have experience working with the Government Accountability Office, the Office of Management and Budget, senior administration officials, and numerous Congressional committees.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I have spent 16 years working financial management issues, the same issues a Chief Financial Officer would deal with every day. As Deputy Under Secretary of Defense, I have helped the Under Secretary manage the office of the Comptroller which has a staff of 188 and oversees a department budget of over 400 billion dollars. This has included involvement in or direct oversight of the Department's budget, finance and accounting and financial management transformation. Before that, I served as part of the professional staff of the House Appropriations Committee, Subcommittee on Defense and reviewed over 30 billion dollars of the defense budget including funding chemical and biological warfare defense, information technology and financial management modernization. As the Director of Resources Management at Menwith Hill Station I managed a budget of over 20 million dollars and a diverse staff of 28 US and UK personnel. There I was responsible for planning, programming, budgeting, accounting, disbursing, military and civilian pay, manpower documentation and internal management controls.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

   My current employer is the federal government and I have no existing connection with any business firm, association or organization. I will resign from my position as a Vice President of the American Society of Military Comptrollers.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

   No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

   No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

   No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

   Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

   None to my knowledge.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

   I have voted regularly and I have encouraged others to vote. I have never been a lobbyist and I do not recall taking any active steps to influence legislation outside of my official capacity.

3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

   Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

   No.

2. To your knowledge, have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

   No.

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

   No.

4. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

   I am not aware of any additional information which should be considered.

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

AFFIDAVIT

David Lutz Norquist being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

David Lutz Norquist

Subscribed and sworn before me this 25th day of January, 20 06

Notary Public

Michelle D. Parrish
Notary Public, District of Columbia
My Commission Expires 11-14-2007

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

February 1, 2006

The Honorable Susan M. Collins
Chair
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Madam Chair:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by David L. Norquist, who has been nominated by President Bush for the position of Chief Financial Officer, Department of Homeland Security.

We have reviewed the report and have also obtained advice from the Department of Homeland Security concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that Mr. Norquist is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Jane S. Ley
Deputy Director
Government Relations and
Special Projects

Enclosure

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the
Nomination of David Norquist to be
Chief Financial Officer, Department of Homeland Security

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Chief Financial Officer (CFO) for the Department of Homeland Security (DHS)?

I am honored that the President nominated me to be Chief Financial Officer. While I cannot speak for the President, perhaps he recognized that I have spent my career in the Federal government in the field of financial management and values the experience I have dealing with financial issues from a number of different perspectives.

I served as a Director of Resource Management at a military station overseas. I have worked financial issues for a Major Command, for the Headquarters of the Department of the Army, and in the Office of the Secretary of Defense, Comptroller. In addition, I have served the legislative branch as part of the Professional Staff of the House Appropriations Committee. Finally, I have experience working with the Government Accountability Office, the Office of Management and Budget, senior administration officials, and numerous congressional committees.

2. Were any conditions, expressed or implied, attached to your nomination?

No.

3. What specific background and experience affirmatively qualifies you to be CFO for DHS?

I have spent 16 years working financial management issues, the same issues a Chief Financial Officer would deal with every day. As Deputy Under Secretary of Defense, I have helped the Under Secretary manage the Office of the Comptroller which has a staff of 188 and oversees a department budget of over 400 billion dollars. This has included involvement in or direct oversight of the Department's budget, finance and accounting and financial management transformation. Before that, I served as part of the professional staff of the House Appropriations Committee, Subcommittee on Defense and reviewed over 30 billion dollars of the defense budget including funding chemical and biological warfare defense, information technology and financial management modernization. As the Director of Resources Management at Menwith Hill Station I managed a budget of over 20 million dollars and a diverse staff of 28 US and UK personnel. There I was responsible for planning, programming, budgeting, accounting,

disbursing, military and civilian pay, manpower documentation and internal management controls.

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as CFO? If so, what are they and to whom have the commitments been made?

I have made no commitments.

5. If confirmed, are there any issues or matters from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please describe them and explain what procedures you will use to carry out such a recusal or disqualification.

Not to my knowledge. However, should a conflict arise, I will consult with the Department's Designated Agency Ethics Official to seek advice and guidance.

6. You currently serve as Deputy Under Secretary of Defense for Budget and Appropriations Affairs within the Office of the Comptroller for the Department of Defense. What are your specific responsibilities in this position?

I am responsible for working with congressional committees and their staffs, as well as with senior leaders within the Department of Defense, on matters that affect the Department's budget as well as its budgetary and fiscal authorities. In addition to supporting the Under Secretary of Defense in her management of the Comptroller office as a whole, I directly manage a staff of about 14 military and civilian personnel. This team is the Department's link to the appropriations committees. It prepares the Secretary of Defense for budget hearings; answers congressional questions; monitors the status of appropriations legislation and other legislation that affects the Department's budgetary or fiscal authorities; and prepares and coordinates the Department's appeals. This position involves close collaboration with Congress, the Office of Management and Budget (OMB), and the Under Secretaries and Service staffs within DoD.

7. According to the biographical information you provided to the committee, you also served as Deputy Under Secretary of Defense for Financial Management between December 2002 and December 2004. What were your specific responsibilities in this position?

I was originally brought in to manage the Defense Department's Financial Management Modernization Program and, as a side duty, to address the financial aspects of various

international issues. However, with the additional activity due to Operation Iraqi Freedom, we realigned the workload and I was given responsibility for creating and managing an office to address new issues related to the war. This included new authorities such as lifting and sustaining coalition partners, training and equipping Iraqi and Afghan Security forces and supporting the Commander's Emergency Response Program. Another major undertaking was leading an interagency working group which supported Under Secretaries of Defense, State and Treasury in an effort that raised 13 billion dollars in international contributions for Iraq reconstruction. In addition, I oversaw the Executive Staff of the Defense Business Board.

8. While at the Defense Department, you served twice as Acting Principal Deputy, first between April and July 2004, then between September and November of last year. What additional responsibilities did you have during each of these periods?

I was the primary advisor to the Comptroller. I had management responsibility over the entire organization and I would act on behalf of the Comptroller on a regular basis. This would include responsibility for the budget, finance and accounting and financial management transformation offices.

9. Your resume indicates that while serving as Acting Principal Deputy Undersecretary of Defense, you managed a staff of 188. What other experience do you have managing staff?

I have four years of management experience. When I served as Director of Resource Management, I managed a staff of 28 people including a mix of US military, US civilians and British civilians each with its own personnel system and rules. As Deputy Under Secretary of Defense (Financial Management) I directly managed about a dozen people including an international team, which I assembled from scratch, and the Executive Staff of the Defense Business Board. As described above, I currently serve as Deputy Under Secretary of Defense (Budget and Appropriations Affairs) and directly manage about 14 people. As a manager, I have recruited staff, promoted training opportunities, conducted midyear performance reviews, held counseling sessions, written personnel evaluations, given awards, fostered team unity, established performance metrics and strengthened continuity of operation plans.

10. You worked for several years on the Defense Subcommittee of the House Appropriations Committee. Do you believe this experience will enhance your ability to act as the DHS CFO? If so, how?

Yes it will. As part of the committee staff, I learned first-hand about the committee structure (appropriations, authorization, budget, rules etc.) and the relationship between the committees. I analyzed agency budgets, drafted bill and report language, organized

hearings and addressed issues of concern to members. Understanding the Congress, its processes, concerns, and prerogatives helps you to be more effective in working with Congress, and working closely with Congress is an essential part of being a successful CFO.

11. Have you had direct experience in integrating the financial management systems of merged entities?

When I worked for the House Appropriations Committee, I reviewed the Defense accounts and activities responsible for improving the Department's financial management systems to include efforts to merge financial systems. The two challenges were ensuring the systems were consistent with the Department's Financial Management Modernization Program and also ensuring that the "integrated" solution was really integrated. For example, systems would be established as "joint" programs under the management of one military service. Over time, the other services would eventually withdraw from the program (or the major applications) and the DoD would be left with a single service solution. I worked with the Department and our Committee inserted language strengthening the hand of the Department's CIO and Comptroller to ensure compliance with the Financial Management Modernization Program.

12. In a GAO report entitled, "DOD Business Systems Modernization: Billions Continue to Be Invested with Inadequate Management Oversight and Accountability" (GAO-04-615), GAO writes, "As we have reported for years, DOD does not have the ability to produce accurate, reliable, and timely information to make sound decisions and to accurately report on its billions of dollars of inventory and other assets."

a. Do you agree with GAO's findings?

I agree that the systems DoD has are inadequate, which is why the Department embarked on the Financial Management Modernization Program and later the Business Management Modernization Program.

b. During your time at DoD, have you suggested or enacted reforms to help address these serious problems?

Even before I worked at DoD, I worked with GAO to help the Department address these challenges. At DoD, I have supported the Department's efforts to establish a strong governance structure, create a sound architecture and to establish the Business Transformation Agency.

13. The National Defense Authorization Act for Fiscal Year 2003 (P.L.107-314) included a provision to require the Comptroller's office to review all financial system improvements with obligations that would exceed more than $1 million dollars. Despite this provision, GAO found that, "Based upon limited information reported by the military services for fiscal years 2003 and 2004, the military services did not submit for the DOD Comptroller's review the majority of the system improvements with total obligations exceeding $1 million."(GAO-04-615) A more recent report, found that around $243 million worth of obligations were not referred to the Comptroller for review in FY 2004. (GAO-06-219)

a. Do you agree with GAO's findings?

This sounds accurate. When DoD began its transformation efforts, it did not have an inventory of all the relevant financial systems and our committee included language requiring the creation of that inventory. Nevertheless, it took several years before the Department was able to establish its current inventory of over 4,000 systems.

b. If so, what actions have you taken to implement the GAO recommendations?

It is my understanding that the Department has taken steps to address the 29 recommendations. For example, the Department established the Defense Business Systems Management Committee and every month it meets under the personal direction of the Deputy Secretary of Defense. As of February 2006 the Defense Business Systems Management Committee (DBSMC) has approved 226 systems with approximately $3.6 billion in modernization investment funding.

c. Does DoD still lack the means to require all relevant projects be referred to the Comptroller's office?

It is my understanding that if systems are not submitted for review, then their funds are withheld. This is an effective lever for enforcing compliance.

d. If confirmed, how will you ensure that, as CFO, you review all obligations that you are legally mandated to review?

Although I would start with persuasion, the most basic leverage a CFO has to enforce compliance is his ability to withhold funding to the extent this is required or permitted by law.

14. The National Defense Authorization Act for Fiscal Year 2005 (P.L. 108-375) created new

procedures for controlling business system investments. This included making the DoD Comptrollers office "responsible and accountable for any defense business system the primary purpose of which is to support financial management activities or strategic planning and budgeting activities of the Department of Defense."

a. How did your office enact this new provision?

The Under Secretary of Defense (Comptroller) is the signing authority for the DBSMC for all business systems modernization investments.

b. DHS has had significant difficulties with their own financial management systems. What lessons have you learned from your experience at DoD, and how would you apply these at DHS, if confirmed?

Although I recognize that not all experiences translate directly from one agency to another, there are a number of lessons that I would take from my experience with DoD's efforts. For example, to be effective requires a critical mass of talented manpower and senior leadership support. In addition, I have seen that common standards are more important and more achievable than common systems. This allows a Department to establish tiered accountability and to achieve measurable progress more quickly. If confirmed, I would work to identify the right individual and the right staff with the expertise and the commitment to be dedicated full-time to this effort. I would seek to enlist the support of the senior department leadership, the relevant congressional committees and the various audit organizations to support and sustain that effort. As a start, I would encourage them to focus on establishing common standards and to achieve and demonstrate a track record of measurable progress

15. While Acting Principal Deputy in the DoD's Comptroller's office, you wrote a response to the GAO Draft report entitled, "Global War on Terrorism: DOD Should Consider All Funds Requested for the War When Determining Needs and Covering Expenses." (GAO-05-767) In this report, GAO recommended that DoD adjust their future supplemental appropriations request to "reflect the additional funds DOD requested and received in its annual appropriations to support GWOT and provide the Congress with an explanation of these adjustments." GAO also recommended that "in addressing any future GWOT funding needs the Secretary consider the additional GWOT funds provided through the department's annual appropriation when assessing how to cover expenses for the war and document its decisions." In your response, you stated that DoD disagreed with both recommendations.

a. Do you think that DoD had sufficient mechanisms in place to track appropriated funds?

I believe that the Department has the appropriate mechanisms in place, but I am always

interested in making them better. This is why I appreciate the hard work of the Government Accountability Office and why, in most cases, we accept GAO's recommendations and incorporate them to improve our processes.

Let me be clear about why the Department did not concur with the recommendations in this specific GAO report. What was being discussed by GAO was OMB's increase in DoD's topline after 9/11 and a preliminary document (called a PBD) used in preparing the President's budget. Congress does not act on a PBD, it acts on the President's budget and enacts authorization and appropriation bills. It is to these acts of Congress that DoD tracks appropriated funds, not to internal working documents.

b. How important do you believe it is for a Department to monitor how appropriated funds are being spent?

This is very important, it is a central part of a sound financial management process.

c. Do you believe a Department has an obligation to keep Congress informed of adjustments in appropriated funds?

Yes, and the Defense Department has an established set of rules that it follows regarding reprogramming funds or making other financial adjustments that result in variations from the President's Budget request as enacted by Congress.

16. In this same report (GAO-05-767), GAO reported that, "although the Office of the Under Secretary of Defense (Comptroller) sought to adjust the department's supplemental appropriations request for fiscal year 2005 to reflect the additional funds DOD received in its annual appropriations that DOD identified as supporting GWOT, none of the military services provided the information requested."

a. Why was the Comptroller's office unable to get the military services to provide the requested information?

To prepare the FY 2005 Supplemental, the Department needed the Services to identify the incremental costs of Operation Iraqi Freedom and Operation Enduring Freedom. Whether it was in response to this request or another request, it is my understanding that the Department received the information it needed.

b. In confirmed, how will you ensure that DHS offices provide you the information your office requests?

I intend to develop a cooperative relationship with each of the DHS offices. In addition,

every office would need to understand that if they chose not to provide the necessary supporting information then their project may not get funded.

17. Your career has been spent working for the federal government. Do you believe there are private sector methods for improving financial management practices that can be applied to the federal government? If so, given that your career has been spent working for the federal government, how would you learn and implement these methods at DHS, if confirmed?

Yes, I believe there are useful lessons to be learned from the private sector's experience in improving financial management and it is important to seek out that advice. If confirmed, I would expect to take advantage of employees with extensive private sector experience, independent outside reviews, such as the audit of financial statements by an independent auditing firm as well as participation by individuals with private sector experience on audit advisory boards. I also understand that the government's CFO council has dialogs with private sector experts, which would provide another way to learn lessons from the private sector.

Responsibilities related to Iraq expenditures

18. While at the Defense Department what were your responsibilities with respect to managing or overseeing the expenditure of U.S. government funds related to the war in Iraq?

The Office of the Under Secretary of Defense (Comptroller) establishes financial policies and guidelines for funds appropriated to the Department and for other US government funds sent to the Department for execution. The actual expenditure of funds is managed by the individual services. Although oversight of those funds was not my direct responsibility, I participated in many of the reviews of existing procedures or the development of new policies and procedures.

19. While at the Defense Department what were your responsibilities with respect to managing or overseeing the expenditure of Iraqi funds by the Coalition Provisional Authority?

It depends on the type of funds. For example, the Under Secretary of Defense (Comptroller) issued detailed guidance for accounting and reporting for seized and vested assets. The Department used the same internal controls for those assets as for other DoD appropriated funds. However, consistent with UN Security Council Resolution 1483, funds in the Development Fund for Iraq were disbursed at the direction of the Administrator of the Coalitional Provisional Authority. Although oversight of seized and

vested funds was not my direct responsibility, I participated in many of the reviews of existing procedures or the development of new policies and procedures.

20. While working in the DoD Comptroller's office, you were the DoD liaison or observer to the International Advisory and Monitoring Board for Iraq (IAMB). The IAMB was established by UN Security Council Resolution 1483 and monitors the Development Fund for Iraq (DFI), which holds proceeds from petroleum sales from Iraq. Resolution 1483 required the United States to use DFI funds "in a transparent manner to meet the humanitarian needs of the Iraqi people . . . and for other purposes benefitting the people of Iraq." In your capacity as DoD liaison or observer you attended official meetings of the IAMB.

a. During what time period were you the liaison or observer to IAMB?

I served as an observer from April until October 2004.

b. Was this an official position? What was your title?

Yes. The International Advisory and Monitoring Board's (IAMB's) Terms of Reference provide for the appointment of up to 5 observers to the IAMB, subject to the unanimous approval of all four members of the IAMB. The Under Secretary of Defense (Comptroller) was one of the observers duly appointed to the IAMB. I attended certain meetings of the IAMB as his representative.

c. Was this position created by UN resolution?

No. The position of observer was created under the Terms of Reference adopted by the IAMB.

d. Who appointed you to the position?

The USD(C) was appointed as one of the IAMB observers. The USD(C) authorized me to attend certain IAMB meetings as his representative.

e. What were your specific responsibilities with regards to the IAMB?

The IAMB's Terms of Reference provide that the IAMB, in its discretion, may invite the observers to attend IAMB meetings. They participate in IAMB activities as directed by

the IAMB's members, but are not authorized to vote. The presence of observers at IAMB meetings is designed to ensure the transparency of these proceedings.

f. How often did you communicate with members of IAMB?

I attended three of the meetings (a senior executive who worked for me attended the other three), I had one additional meeting with the Chairman of the IAMB and there were a few email exchanges.

g. How often in the course of your official responsibilities at the Department of Defense did you work on issues related to IAMB?

At first it was only around the time of the IAMB meetings, but by September 2004 I was working on IAMB issues almost daily.

h. What were your responsibilities for ensuring that DFI funds were well-managed, well-spent, spent for the benefit of the Iraqi people, and spent in a transparent manner?

Under the relevant U.N. Security Council Resolutions and international law, the Administrator of the Coalition Provisional Authority was responsible for ensuring that DFI funds were properly and transparently managed and expended. After the CPA was disbanded I took steps to ensure that former CPA staff would remain available to support the IAMB in its efforts to provide transparency and oversight of CPA's management of the DFI.

i. What were your responsibilities for keeping IAMB fully informed of the management and expenditure of DFI funds?

As the official designated to represent the USD(C) in his capacity as an observer appointed to the IAMB, I was not responsible for informing the IAMB of the management and expenditure of DFI funds. The Administrator of the CPA exercised that responsibility.

21. On July 12, 2004, the Inspector General for Coalition Provisional Authority issued to CPA and DoD a draft report entitled "Oversight of Funds Provided to Iraqi Ministries through the National Budget Process." The IG found that the CPA had provided inadequate controls for $8.8 billion of DFI funds provided to Iraqi ministries. Disbursements were made without budget-spending plans, supporting documentation, and

required disbursement vouchers. The IG concluded that the CPA should have established controls and provided oversight of DFI funds because there was no functioning Iraqi government, no experience within the Iraqi Ministry of Finance in managing the national budget, no budget or personnel records, and the payroll systems were corrupted by cronyism. CPA relied on lists of Iraqi employees that could not be validated, and the IG concluded there was no assurance that DFI funds were not provided for ghost employees. Consequently, the IG concluded, the funds were not spent in a transparent manner, as required by Resolution 1483, and there was no assurance the funds were used to meet the humanitarian needs of the Iraqi people, as the Resolution also required. The findings of the draft audit were described by the media in August 2004, and the final report was issued on January 30, 2005.

a. Before the IG issued his July 12 draft report, were you aware of any of the conditions described in the report? If so, what actions did you take to address these problems? What actions did you take to inform the IAMB of these conditions?

The IAMB and I were aware of some of these conditions, in part because the CPA and the independent auditors (KPMG) had given regular updates to the IAMB on the CPA's management of these funds. When the IG issued the final audit in January 2005 the IAMB noted that, "the findings contained in the report were along the same lines as those identified in the DFI audits carried out by KPMG for the IAMB."

It was my understanding that the CPA had been taking steps to address these weaknesses in the Iraqi ministry including establishing an independent judiciary, creating an office of Inspector General in each Ministry, strengthening the Iraqi Board of Supreme Audit and contracting for a Financial Management Information System.

b. When did you first become aware of the IG's draft report? What actions did you take to address the problems reported by the IG?

I don't recall, but probably not long after the draft report was issued. By that point the CPA had been disestablished. However, the IAMB still maintained its oversight responsibilities for the DFI so it would be able to continue to monitor Iraq's efforts to address these challenges.

c. When did the members of the IAMB become aware of the IG's draft report? Did you provide to IAMB the draft report, or communicate to IAMB the report's findings? If so, when. If not, why not?

There was some press coverage prior to the report's official publication, so they may have heard about it before it was formally published. I did not provide the IAMB a draft

report. It is my understanding that, consistent with IG policy, it is inappropriate to release draft reports.

d. What role did you play in helping to formulate a DoD response to Congress, the press, and public concerning these findings?

Ambassador Bremer and the Defense Support Office had the lead for drafting the official response and the public affairs talking points. I reviewed drafts of the official DoD comments.

22. Other audits and reports described poor financial management of Iraqi funds that occurred during the periods you served as Deputy Under Secretary of Defense for Financial Management and liaison to IAMB. In a report issued on July 28, 2004, the CPA IG found that CPA had not established effective controls and accountability over DFI funds held as cash. The Federal Reserve Bank of New York later disclosed that between May 2003 and June 2004, nearly $12 billion in cash, drawn from Iraqi funds, were shipped to Iraq for use by the CPA. CPA's requests for cash increased markedly in the months before the transfer of sovereignty to the Iraqi government and the CPA's termination. More than $4 billion was shipped to CPA in the week before transfer alone. In recent reports the Special Inspector General for Iraq Reconstruction and the auditor for the IAMB have more extensively documented serious deficiencies in accounting for DFI funds sent to Iraq, especially funds sent in the form of U.S. currency.

a. When did you first become aware of the poor controls and accountability for the large amounts of DFI funds being shipped to Iraq in the form of US currency?

I do not believe there were any control problems associated with the shipping of funds to Iraq. To the best of my knowledge no funds were lost in transit. My recollection is that the IG's primary concern was when the CPA transferred these funds to the Iraqi ministries.

b. What actions did you take to address these problems?

As I have described above, the CPA administrator was responsible for the management of the DFI and it was my understanding that the CPA had been taking steps to address these weaknesses in the Iraqi ministries. Likewise, the 28 July 2004 CPA IG audit described above also noted that management was taking corrective action to strengthen controls.

c. What actions did you take to inform the IAMB of these conditions?

The IAMB was briefed by KPMG and the CPA on the CPA's management of the DFI.

d. What was your understanding of the reasons for the large transfers of funds to CPA in the months and weeks before its termination?

It was my understanding that these funds were needed to address a number of urgent requirements to include training and equipping the Iraqi security forces and supporting reconstruction efforts.

e. Were you concerned by the increased rate of the transfer in funds in the months and weeks before the transfer of sovereignty? If so, what did you to address the issue?

Because it was not my decision, I was not in a position to have all the facts surrounding this issue. However, given the uncertainty surrounding the transfer of sovereignty, it does not seem unreasonable that additional funds would be required.

f. What role did you play in helping to formulate a DoD response for Congress, the press, and public to reports that CPA was spending money quickly in the months before its termination?

I do not recall formulating answers to these issues, but I may have reviewed the talking points.

23. During the periods you served as Deputy Under Secretary of Defense for Financial Management and liaison to IAMB, a number of other concerns were raised by auditors, Congress, or the media related to the management, oversight, and expenditure of funds in Iraq. Describe your awareness of any problems in each of these areas, actions you took to address those problems, actions you took to inform IAMB on these issues, and any role you played in helping to formulate a DoD response for Congress, the press and public to reports:

a. DFI funds were vulnerable to fraud and corruption;

I was aware that the CPA IG had concerns about the funds once they were transferred to the Iraqi ministries and that as described above the CPA was taking steps to strengthen these controls. I know of one case where the CPA Comptroller reported his concerns to the IG who began an audit that lead to a criminal investigation. This incident was noted in the KPMG audit and I informed the IAMB that it was under investigation.

b. Sole-source contracts paid for with DFI funds were used inappropriately;

I was aware of one significant DFI funded sole source contract and I understood that the Defense Contract Audit Agency was auditing this contract. The IAMB was aware of the DCAA audits, and when they were completed, the Corps of Engineers provided copies to the IAMB. (The audits were redacted due to concerns about violating the Trade Secrets Act.)

c. Inexperienced staff at CPA were responsible for managing DFI funds.

Although there were many young volunteers, it was my understanding that the key resource management positions in the CPA were staffed by US and Coalition senior executive personnel with the requisite qualifications, including highly experience representatives from the Treasury Department, the Defense Department and the Office of Management and Budget.

24. What other problems or concerns did you encounter with respect to the management, oversight, and expenditure of US and Iraqi funds during the period you served in the Comptroller's office? How did you address those problems, and what actions did you take to inform IAMB of these problems?

My primary concern was ensuring the warfighter had the funding and the authority to effectively prosecute the war, including the ability to save taxpayer dollars by taking advantage of more efficient ways of operating. For example, many countries were willing to provide forces but lacked the funding or the logistics capability to support troops deployed overseas. By selectively offering to cover these incremental costs, which we would have had to pay for a US unit anyway, it saved the US taxpayer the significant cost of the salaries, combat related entitlements and other expenses associated with mobilizing a Guard unit. I worked with Congress to build support for this authority and to ensure the Department used it in a judicious manner. These activities involved the use of US funds and were not relevant to the proceedings of the IAMB.

25. While working in the Comptroller's office, what role did you have in keeping your superiors informed regarding the management and expenditure of US and Iraqi funds? What problems did you describe and what concerns did you convey to your superiors?

I or my staff attended various policy or interagency meetings on Iraq and Afghanistan and would keep my superiors informed about upcoming issues with financial implications. We also kept them informed on the status of the donor contribution efforts, the balance in the DFI and the steps the interagency was taking to address any related problems.

26. While working in the Comptroller's office, what was your role in developing and

conveying information about the US government's stewardship of DFI funds to members of Congress, the media, and the public?

Starting in about June 2004 until October 2004, I worked closely with the Defense Support Office – Iraq and former CPA employees to ensure our Public Affairs office and others (including myself) were able to address press and other questions coming out of KPMG's audit of the CPA's management of Iraqi funds. In the Comptrollers' office I would have been involved in answering public affairs questions directed to our office, but those would normally only involve US funds.

II. Role of the Chief Financial Officer, Department of Homeland Security

27. What is your view of the role of the CFO?

The CFO serves as the primary advisor to the Secretary, Deputy Secretary, and his senior leadership on financial matters and provides financial leadership, direction, and guidance to the Department's components. This includes managing a decision making process that frames the strategic choices and produces a budget that supports the Secretary's vision. The CFO works with the Congress to ensure the mission is appropriately funded and, for the funds ultimately provided by Congress, to ensure they are expended and accounted for in accordance with the law. This includes ensuring that DHS has a system of internal controls that help protect DHS' resources against waste, fraud and abuse. The CFO of Homeland Security must also act as the champion for DHS financial management improvement, integration, and consolidation efforts.

28. In your view, what are the major internal and external challenges facing DHS and the Office of the Chief Financial Officer (OCFO)? If confirmed, what would you do, specifically, to address these challenges?

The central challenge is that Homeland Security is a new Department that is not yet fully integrated, but it has a mission that requires continual vigilance and the ability to respond quickly to a crisis. As a result, the major internal challenges include: ensuring they have adequate staffing that is well trained; improving fiscal controls and performance metrics; as well as implementing corrective action aimed at achieving an unqualified audit opinion on its financial statements. At the same time, the CFO must be prepared for a future crisis to include ensuring that appropriate internal controls and continuity of operation plans exist. To address these challenges, if confirmed, I would review the existing fiscal controls, performance metrics, internal controls and contingency plans and revise or update them as appropriate, with particular regard to incorporating the results and recommendations of IG reports and GAO audits.

29. Last year, in testimony before the House Subcommittee on Government Management, Finance, and Accountability, DHS CFO Andrew Maner said that the FY06 audit of internal controls "will be taxing on a thin financial management cadre that is still coping with the challenging organizational structure of DHS and fixing the weaknesses already identified in the financial audit." Do you believe that OCFO needs additional financial management personnel?

Yes and it is my understanding that the OCFO has requested additional financial management personnel in the FY 2007 budget. Whether it needs additional people beyond that remains to be seen. If confirmed, my near term goal would be to finish building up the existing organization to its authorized strength. I would then be in a better position to determine what if any additional personnel is needed.

30. The President's FY07 budget request includes an additional $6.807 million for OCFO to provide additional staff in the Budget, Program, Analysis and Evaluation, and Financial Management and Policy Divisions and to fund continued implementation of the DHS Financial Accountability Act. Do you think this amount is adequate to enable OCFO to carry out its duties?

Determining the adequacy of resource levels in the CFO's office will be among my first priorities if confirmed as CFO. In addition to the personnel requirements I just discussed, I am told that the FY 2007 President's Request for the DHS OCFO and also the components' CFO's includes a significant increase to help overcome weaknesses that have been cited in past audits and to help implement and test internal controls over financial reporting. This funding will provide DHS with outside audit expertise, and help DHS have sufficient resources to meet the requirements of the DHS Financial Accountability Act. I expect this level of funding was selected because the Department believed it to be adequate. Should I be confirmed and conclude that additional resources were required I would recommend an adjustment in the next budget or by proposing a reprogramming of funds if required sooner.

31. If confirmed, what would you do to solicit input from OCFO staff on the activities and policies of the office?

There are a number of ways I would solicit their input. Some are formal – such as regular staff meetings, all-hands meetings and performance evaluation sessions. Some are less formal – such as maintaining an open- door policy as well as frequent walks through the offices. Perhaps the most important is an empowering management style, especially asking for and listening to their thoughts, concerns and recommendations regarding a challenge. The OCFO staff has a broad range of backgrounds and technical skills. They also have a valuable understanding of the history behind the successes and problems of

DHS and the lessons learned. I find that soliciting employees' input produces both better solutions and greater engagement by the staff.

32. If confirmed, what would be your approach to managing OCFO staff?

As discussed above, I prefer to empower the staff, to give them worthwhile challenges to solve, the tools to do it, and then to give them credit for their success. Each employee or office should have clear performance goals that are regularly reviewed so they can guide their efforts and mark their progress. The CFO also needs to invest in the team for the future, this could include formalized training programs specific to DHS financial management as well as structured rotational opportunities for professional development at headquarters and throughout the component agencies.

33. The CFO reports to the Undersecretary for Management, yet the component CFOs report to their respective directorates.

a. What challenges will this pose to you in leading the Department's financial management efforts?

All reform efforts that cross organizational lines require careful coordination to avoid disrupting other missions and activities. Because the Chief Information Officer and the Chief Procurement Officer also report to the Undersecretary for Management, concerns or objections to a financial management plan would be raised early. Likewise, the components CFOs support a specific mission and they need to ensure that proposed reforms do not unduly disrupt their mission. This can be a challenge, but also an important warning flag when implementing changes. This arrangement allows these concerns to be raised early and therefore addressed promptly.

b. Without direct authority over component CFOs, how will you exercise leadership in financial management for the Department?

The CFO has a solid-line reporting relationship to the Secretary of Homeland Security and a dotted-line reporting relationship over the component CFOs. Nevertheless, when the CFO issues financial guidance to the Department on behalf of the Secretary, it is binding on all activities.

I understand, however, that DHS also has a Management Directive in place that provides the CFO with various additional authorities with respect to hiring, evaluating, compensating and rewarding the component CFOs throughout DHS. This provides the CFO with a strong array of tools with which to exercise leadership across the DHS financial management community.

34. If confirmed as CFO, you will report to the Undersecretary for Management, as well as the Secretary of DHS. What challenges will this dual reporting requirement pose for you?

While there may be some administrative challenges, I expect it to be manageable. Unlike some dual reporting relationships, both the CFO and the Under Secretary for Management report to the Secretary and Deputy Secretary so it is still, in effect, a single chain of command. In addition, both parts of the reporting requirement are valuable. The Chief Financial Officers Act requires the CFO to "report directly to the head of the agency regarding financial management matters". The Under Secretary for Management coordinates and manages the activities of the Chief Information Officer, the Chief Human Capital Officer, the Chief Procurement Officer, the Chief Administration Officer and the Chief Financial Officer to ensure their activities are integrated. It is my expectation that having direct access to the Agency's leadership and being part of an integrated management team would outweigh any administrative challenges.

35. Some believe that improving the financial management practices of a department requires culture changes as well as systems changes. Do you agree with this philosophy? Please explain. If yes, how does one approach changing cultures in an organization?

I agree. Normally, the challenge comes from cultures that view financial management, and particularly accounting, as a support function that is not essential to the mission. Under these circumstances, changes or improvements to financial management are delayed or disrupted because they are viewed as a low priority. The way to change the culture is to consistently draw a link between sound financial management and the organization's mission. One of the keys to improving financial management practices is to help managers and staffs understand the disruptive consequences of inadequate financial management systems or practices so that they learn to view sound financial management as a prerequisite to success.

36. As CFO, you will represent DHS on the Chief Financial Officers Council (CFOC). What is the importance of interacting with other federal CFOs? If confirmed, would you expect to take a leadership position with the CFOC?

The CFO Council plays a valuable role in advising and coordinating the activities of the member agencies on matters such as improved quality of financial information, financial data and information standards, consolidation and modernization of financial systems, internal controls, legislation affecting financial operations and numerous financial management matters. If confirmed, I would certainly give serious consideration to any invitation to take on a leadership position on the council, although I think the government would be better served if I started by focusing on improving financial management in the Department of Homeland Security.

37. What is the CFO's relationship with the Office of Federal Financial Management (OFFM) and Controller Linda Combs? If confirmed, what specific steps would you take to ensure a productive working relationship with OFFM and Controller Combs?

I think very highly of Linda Combs and, should I be confirmed, I have no doubt that it would be a productive working relationship. I understand that the Office of Federal Financial Management has provided a great deal of support to DHS in establishing a solid foundation for financial management in the Department. OFFM has assisted DHS in the past, and I would expect to continue working with them on developing and implementing plans for addressing material weaknesses, improving internal controls, improving financial systems, and making progress on annual financial statements. If confirmed, I will continue to work closely with Dr. Combs and her office to maintain this productive working relationship.

38. In your experience, how important is it for departmental Chief Information Officers (CIO) and CFOs to work together? What steps will you take to develop a strong working relationship with the DHS CIO?

My experience is that this cooperation is essential. I think one advantage to the CFO having a dual reporting relationship with the Secretary and the Under Secretary for Management is being part of a management team that includes the CIO. I would expect to meet regularly with the CIO, both formally and informally to ensure a strong and close working relationship.

III. Policy Questions

39. What do you see as the primary financial management challenges facing DHS? What are the top three problems that you intend to address first?

Given the large number of inspections and audits conducted recently, a top financial management challenge facing DHS today is addressing the issues cited in these reports and making the appropriate improvements. In particular, this includes issues raised about FEMA's internal controls as well as DHS' financial statements. If confirmed as the Department's CFO, I would take a lead role in ensuring that progress is made in developing and implementing effective corrective action plans.

Another major challenge facing DHS today is access to accurate, relevant and timely financial management information for decision makers. This is both a near term challenge – what can we use today – and a long term challenge – how can we improve our processes and systems to get better information in the future. Improved financial

systems are a critical step to achieving an unqualified audit opinion on the financial statements.

I am told that a third challenge facing DHS is recruiting and retaining a sufficient number of qualified, financial managers and staff to perform its full range of responsibilities. While the Department has made significant progress here, I understand that more remains to be done. I would work to make sure the department's CFO office – as well as component CFO offices - have the right personnel with the experience and skills to effectively address DHS's accounting, budgeting, planning, reporting and internal control needs.

40. DHS faces unique financial management challenges that must be addressed as it continues to integrate its 22 entities into a single department. Many of the larger agencies that were consolidated into DHS have a history of inadequate financial management. As a result of the serious and long-standing deficiencies in the internal controls and financial management of the 22 distinct entities that now comprise DHS, financial auditors issued a disclaimer of opinion on DHS financial statements for fiscal years 2004 and 2005. What do you believe is a realistic timeframe for DHS to achieve an unqualified financial audit opinion and what steps are necessary to achieve this? Specifically, what will you do to correct the following material weaknesses, which are among the 10 material weaknesses identified by DHS auditors?:

    a. Financial Management Oversight;

    b. Financial Reporting;

    c. Financial Systems Security.

    I understand DHS set a goal of receiving an unqualified opinion on their FY 2007 consolidated financial statements. It is difficult to pass judgment on this until I can see the Department's efforts in action over a period of time. The first step is ensuring there is an effective corrective action plan in place for each deficiency. The second step is a sustained effort to execute the corrective action plan - that in a clear and measurable way systematically eliminates material weaknesses and directly addresses needed improvements to processes as well as systems. The third step is the audits that validate the progress, first with a qualified and then with an unqualified opinion.

    If confirmed, I will assess the efforts and progress of DHS'components in achieving their FY 2006 goals and then I'll be in a better position to gauge a realistic timeframe for full compliance with the CFO Act financial statement audit requirements.

    As far as correcting the specific material weaknesses mentioned:

a. The key to improving *Financial Management Oversight* at DHS will be to strengthen the Department-wide control environment and to ensure the Department has an effective corrective action process. To strengthen the control environment, I will build upon my predecessor's efforts through developing and implementing a strategic plan to address material weaknesses in internal controls. In strengthening a corrective action process, I will work directly with the Office of the Secretary and DHS Component Leadership to ensure senior leadership support and to establish accountability for improving financial management throughout the Department.

b. Strengthening the *Financial Reporting Process* at the Department is closely linked with *Financial Management Oversight* challenges. First, the Office of the CFO will need to establish comprehensive policies and procedures to govern the financial reporting process throughout the Department. Second, DHS Components would need to be monitored and held accountable for producing quality financial data to enable the Department to prepare complete and auditable financial statements.

c. Establishing *Financial Systems Security* is a significant challenge and will require a strong partnership with the Department's Chief Information Officer and Chief Information Security Officer. I understand that a strong bond already exists with these business lines and, if confirmed, I would continue that partnership to promote a Department-wide Security Program and coordinate efforts to improve information security by establishing effective internal controls over financial reporting and access to financial reporting systems.

41. Please describe your views on the importance of financial management, in general, and what your role would be in addressing these challenges in order to provide accurate, relevant, and timely financial management information to decision makers.

Sound financial management is central to any organization. It is why I chose this profession and why I enjoy my job. Decision-makers must have access to accurate, relevant and timely financial management information if they are to accomplish the agency's mission. This is particularly important when that mission is protecting the security of the United States. I also believe that we need to be good stewards of the taxpayer's money. This can only be ensured through effective and responsible financial management. The CFO should be a champion for sound financial management. This includes ensuring that it continues to be a priority of the leadership, tracking progress and holding organizations accountable for demonstrating improvement.

42. Supplemental appropriations for Hurricane Katrina have greatly increased the amount of money DHS is responsible for administering. What will be your strategy for ensuring accountability over the billions of funds that FEMA is spending for disaster relief? What type of internal controls and risk assessments will you implement for Katrina recovery

activities in order to reduce waste, fraud and abuse? What reforms will you enact for future disaster spending that will reduce the types of wasteful spending that have occurred with Katrina relief and recovery funds?

If confirmed, I would begin by asking the basic questions – what controls are in place; are they being implemented effectively and what areas need improvement. It is my understanding that a number of reviews of FEMA's financial practices have been conducted or are underway. I would first consider the results of those reviews before initiating any additional assessments. Based on those reviews, I would determine what performance gaps exist and work with the FEMA CFO and Director of FEMA to develop and implement corrective actions. In addition to internal controls designed to prevent improper payments before they occur I would examine what steps can or are being taken to review previous or ongoing payments. This is particularly important in disaster relief efforts when extensive preemptive controls could create an unacceptable delay in the delivery of assistance. Detective controls, such as automated methods of looking for payment anomalies, can provide an effective means to reinforce and strengthen existing controls. Finally, another area of potential improvement is to improve the Department's ability to model the expected cost of responding to a disaster to strengthen the Department's management of the response.

43. The independent audit of the DHS FY05 Financial Statements found that financial management at Immigrations and Customs Enforcement (ICE) was ineffective and used unreliable processes and procedures for accounting and financial reporting.

a. If confirmed, what would be your strategy for addressing the significant financial management challenges faced by ICE?

My understanding is that Immigration and Customs Enforcement had a series of financial challenges that required supplemental funding and reprogrammings to prevent a major disruption to its operations. It appears that some of these problems were a result of dividing and merging activities, an increased workload for ICE and a significant loss of key financial management personnel. Although some of these problems have been addressed, if confirmed I would focus on three areas – ensuring they hire and train a strong financial management staff; closely tracking their progress on corrective actions and continued monitoring and evaluation of their obligation rates to provide early warning of a new problem. I would work closely with the IG and auditors to ensure the corrective actions addressed their findings and recommendations. Where appropriate I would support this process with regular meetings, performance metrics and visits to the key organizations.

b. The auditors also found that ICE continues to execute responsibilities for certain administrative and accounting functions for other DHS components without

proper reimbursable agreements to cover these costs. Do you believe that ICE should perform these functions for other DHS components in light of its own significant internal management challenges?

Centralizing and/or sharing support services can be a very cost-effective means of providing essential support services within a Department – particularly for organizations that have no pre-existing capability to carry out that function. I understand that when DHS was established there were a number of new organizations that were in immediate need of a financial service provider and a very limited selection of willing service providers within DHS – ICE being one of them. While ICE might be better able to address its financial management challenges if they were not providing financial services to other organizations, moving customers from ICE to another provider would probably be more disruptive at this time and could very well delay ICE's progress in improving their financial management practices.

Regarding the matter of ICE providing services without proper reimbursable agreements in place, I am not familiar with this matter, but believe that service providers should certainly be reimbursed for the full cost of the service they provide, in accordance with the Economy Act. If confirmed, I would look into this matter and ensure that ICE is properly documenting its costs and that ICE's customers are being properly billed and paying ICE for these charges.

44. The independent audit of the DHS FY05 Financial Statements found significant deficiencies in the Coast Guard's financial management organization and found that the Coast Guard has not established management oversight functions to ensure that accounting principles are correctly applied. What steps would you take to ensure that the Coast Guard implements appropriate corrective actions?

I understand that the DHS CFO's office is actively working with the Coast Guard to develop a detailed and thorough Corrective Action Plan to address these and other weaknesses in Coast Guard's financial management organization and processes. If confirmed, I would look forward to working with the DHS Inspector General and the Coast Guard Commandant to ensure such a plan is completed; that it includes appropriate actions with specific milestones; and that it is carried out.

45. Essential to effective financial management are sound financial management systems. Few of the systems inherited by DHS are integrated, several are outdated, and many have limited functionality. To address this problem, the Department had undertaken an initiative called eMerge2, however, this program will reportedly be substantially modified. The Department's FY2007 Budget requests $18 million for the eMerge2 program.

a. Do you believe it is preferable to have DHS operate with a single unified financial management system? If so, do you believe it is possible to achieve this?

It is preferable but not essential. What is essential is that the systems support an auditable financial statement and that they be able to report data in a timely and consistent way. It is my understanding that DHS originally sought to establish a single unified financial management system. This approach had the potential to establish uniform processes throughout the Department. I understand that DHS has taken its eMerge2 program in a new direction that focuses on a portfolio of application suites with a consolidated view at the enterprise level. This new approach leverages existing investments and has the potential for more achievable, albeit more incremental, improvements. In the long run, consolidation and standardization may still lead to a single unified solution but the focus would be on consistent steps in the right direction, not one quick leap.

b. The eMerge 2 system was originally projected to cost over $200 million. Do you believe that the $18 million requested by the President will be sufficient to integrate the DHS financial systems?

I cannot yet speak to the estimated total costs for this new approach to eMerge2, but it is my understanding that the $18 million requested in the President's FY 2007 budget is not intended to represent the entire cost of integrating DHS' financial systems. Rather, it is my understanding that the new eMerge2 strategy is to transition selected organizations to new service providers over the course of several years. This would seem to result in smaller annual expenditures spread out over a longer period of time than the original eMerge2 approach of designing a new, central solution. I cannot imagine it would be possible – nor do I believe it is DHS' assertion – that they can complete the integration of DHS' financial systems with $18 million.

c. How would you anticipate complying with OMB's Financial Management Line of Business initiative?

I support OMB's efforts to standardize financial management processes through the establishment of the Financial Management Line of Business. I think that DHS sees the value in this kind of approach, because their strategy is similar. I understand that DHS is looking at how the service providers that OMB has endorsed can be part of DHS' solution.

I think OMB can be of great assistance in driving the federal government toward a certain degree of standardization in financial management and systems. If confirmed I would look for other opportunities to implement reforms consistent with OMB's direction that standardize our financial management processes and systems.

d. Recognizing that you were not involved in the development of eMerge2 and thus cannot comment on it directly, how will you ensure that the Department does not waste future dollars on system development failures?

The Clinger-Cohen Act identifies a number of steps that can be taken to improve, but not guarantee, success in systems development. These steps include doing a cost-benefit analysis, conducting an analysis of alternatives, establishing performance measures, using modular contracting and experimenting with pilot programs. Working with the Chief Information Officer and the Chief Procurement Officer, I would want to see that we were taking the appropriate steps when developing a financial management system. With regard to eMerge2, one of the biggest challenges for any agency is terminating software programs that are not meeting performance goals. I understand that the previous CFO identified problems with the original eMerge2 program and system implementation early on in the process and took action to limit the cost. Although you would prefer the system to work as planned, the willingness of an agency to adjust their strategy is reassuring.

46. In fiscal year 2005, the Department initiated the CFO's Three Year Vision for the Department of Homeland Security Financial Reporting. As part of that initiative, the former CFO established an Internal Control Committee to coordinate actions and plan for compliance with the internal control provisions of the Department's Financial Accountability Act, which include obtaining an audit of internal control over financial reporting for fiscal year 2006.

a. What are your views on the importance of internal control in DHS's ability to effectively meet its mission, goals, and objectives?

I believe effective internal controls are essential to DHS's ability to meet its mission and to maintain public confidence in its stewardship of taxpayer dollars. To maintain their effectiveness internal controls should be periodically checked and updated as needed.

b. What would be your strategy for addressing the decentralized reporting structure and culture within the agency as it relates to the implementation of A-123 and internal control over financial reporting in order to comply with the Act?

Under the Federal Manager's Financial Integrity Act, each manager is responsible for ensuring they have in place effective internal controls for their organization. The Department, however, needs to have assurances that these controls are effective across the Department. I think the Internal Control Committee established by DHS provides an effective framework for addressing the decentralized structure and if confirmed, I would expect to take advantage of this process to ensure compliance with the Act. My understanding is that DHS' implementation strategy for OMB A-123 will initially focus

on remediation of pervasive material weaknesses and the development of a strategic plan for improving financial reporting. If confirmed, I look forward to working with the Congress, OMB, GAO, and the DHS OIG to demonstrate our commitment to the DHS Financial Accountability Act in a way that sets an example for other agencies to follow.

c. How do you view the role of the Internal Control Committee in improving the internal controls of the OCFO?

The Internal Control Committee (ICC) is a critical component in establishing internal controls at the Department. The Senior Management Council component of the ICC will help ensure prompt implementation of corrective actions to address material weaknesses throughout the Department and all lines of business. I will build upon my predecessor's efforts with the ICC by appointing corrective action accountability officials within the Senior Management Council to ensure corrective actions are the top priority of the ICC. With the Senior Assessment Team component of the ICC, I will lead the Department's efforts in establishing and assessing internal control over financial reporting. And most importantly, I will ensure that the ICC's efforts are directed to establishing internal controls that support the Department's mission.

47. How transparent should the financial expenditures of the Department be, and what will you do to work toward more transparency?

I believe that the Department's financial expenditures should be transparent. The most important step in transparency is ensuring that expenditure data is collected and reported in a manner that is timely, accurate and relevant. Should I be confirmed, improving DHS's financial systems to accomplish this would be a high priority.

48. On the most recent Executive Branch Management Scorecard (January 30, 2006), on the Improving Financial Performance initiative of the PMA, DHS's current status score is red across the board. If confirmed, what specific steps will you take to "get to green"?

I understand that the current status score is based on two issues, the existence of material weaknesses in internal control over financial reporting and the lack of a corrective action plan. If confirmed, I will continue the process of developing a corrective action plan to include identifying and correcting the root causes for material weaknesses so that the auditors will be able to eventually provide a favorable opinion on DHS' financial statements. I expect to meet regularly with the Department leadership, with OMB and with the Inspector General to achieve these goals and "get to green."

49. The DHS IG has cited weaknesses in contract management and grants management

activities at DHS. What role does the CFO have in helping to improve contract and grants management? If confirmed, what steps will you take to work with the DHS IG to address these challenges?

My understanding is that managing contracts and grants is primarily the responsibility of the Chief Procurement Officer. However, I would expect that this is one of those cross-cutting areas where working through the ICC, the CPO, the CFO and the CIO would work together to ensure any weaknesses identified by the DHS IG are addressed across functional areas.

50. The Department's FY2007 Budget Request states to further the consolidation of segments of financial management requires a deeper understanding of and involvement in financial operations of various DHS components than the OCFO has developed since the Department's inception. If confirmed, what specific steps would you take to ensure a deeper understanding of the component's financial operations?

If I am confirmed, there are a number of steps I would want to take to develop a solid understanding of each component's financial operations. I would want to meet with each CFO to receive briefings on their financial operations and, to the extent time permits, tour their financial operations centers. I would promote developmental assignments to provide opportunities for staff from the OCFO and from the components financial shops to develop experience and understanding of each others operations. Equally importantly, I would want to review the Independent Auditors' Report, various IG and GAO studies and internal control reviews of their financial operations.

VI. Relations with Congress

51. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Yes.

52. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

Yes.

VII. Assistance

53. Are these answers your own? Have you consulted with the DHS or any interested parties? If so, please indicate which entities.

Many of the questions posed in this questionnaire go to a level of specific detail about DHS programs or other efforts about which I have relatively little in the way of firsthand knowledge. Nevertheless, I have endeavored to identify as much information as possible so as to be as responsive as possible to the Committee. This has entailed normal pre-confirmation and departmental orientation consultations with the White House personnel office and related staff, the Office of Government Ethics, and DHS staff. I have also consulted with DoD staff where appropriate. That said, these answers are my own, and are based upon my understanding of the information provided to me.

AFFIDAVIT

I, David L. Norquist, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

David L Norquist

Subscribed and sworn before me this 21st day of March, 2006.

Notary Public My Commission Expires December 31, 2007

Additional Pre-Hearing Questions
From Senator Joseph I. Lieberman
For the Nomination of David Norquist to be
Chief Financial Officer, Department of Homeland Security

Under its Restore Iraqi Oil (RIO) contract with U.S. Army Corps of Engineers, Halliburton subsidiary Kellogg, Brown and Root (KBR) charged approximately $2.5 billion to import fuel, prepare war damage assessments, and repair oil facilities in Iraq. The Department of Defense (DoD) paid KBR with a mix of Iraqi and U.S. funds. Of the $2.5 billion Halliburton received, over $1.6 billion came from Iraqi oil proceeds deposited into the U.S. controlled Development Fund for Iraq (DFI). The DFI expenditures were governed by U.N. Security Council Resolution 1483, which required the United States to use DFI funds "in a transparent manner to meet the humanitarian needs of the Iraqi people . . . and for other purposes benefitting the people of Iraq." The United States agreed to manage and spend the DFI funds in compliance with Resolution 1483. Pursuant to Resolution 1483, the International Advisory and Monitoring Board for Iraq (IAMB) was empowered to monitor and audit the U.S. government's expenditures of DFI funds.

On December 11, 2003, the Defense Contract Audit Agency announced that its draft audit had found that KBR had overcharged the U.S. government by as much as $61 million to import Kuwaiti fuel into Iraq as of September 30, with significant additional overcharges likely in ensuing months. On December 19, the U.S. Army Corps waived the legal requirement that KBR provide any cost and price data from its Kuwaiti subcontractor, and declared in the waiver that it considered KBR's prices to be "fair and reasonable."

Beginning on April 5, 2004, the IAMB made repeated requests for the DCAA audits of the RIO contracts. On June 22, 2004 and September 8, 2004, the IAMB issued statements expressing concern about the delays in receiving the audits. The Administration provided the IAMB with redacted copies in October of 2004. Every reference to every overcharge in every audit submitted to the IAMB was redacted. In total, references to overcharges and other questioned costs were redacted at least 463 times.

The redactions were made at Halliburton's request. On September 28, 2004, Halliburton wrote to DoD regarding its redactions of the DCAA audits. Mike Morrow, an executive at Halliburton, wrote that the KBR had "redacted the information it considered to be a disclosure of its proprietary policies, procedures, and accounting information." Morrow's letter continued: "In addition we have redacted the statements of DCAA that we believe are factually incorrect or misleading and could be used by a competitor to damage KBR's ability to win and negotiate new work." During a June 15, 2005, briefing of staff of the House Committee on Government Reform, Subcommittee on National Security, Emerging Threats, and International Relations, DoD officials explained that the Department had decided that Halliburton had ultimate authority to determine what information could be considered proprietary business information and withheld from the IAMB. The DoD officials said at the briefing that the Department had decided it could not second-guess KBR's redactions, and that disclosure of DCAA's findings of

overcharges would reflect unfavorably on Halliburton and cause it competitive harm.

According to information provided at the briefing of House staff, Halliburton's redactions were discussed extensively at multiple meetings at which you were a participant, as well as officials from the Office of General Counsel, staff from the Office of Deputy Secretary of Defense Paul Wolfowitz, Deputy Director Joseph Benkert of the Defense Reconstruction Support Office, and officials from the Army Corps of Engineers.

1. Please describe all communications or interactions you had with any of your superiors at the Department of Defense in relation to the IAMB request for DCAA audits of the RIO contract, the consideration whether to provide the audits, and the final decision to provide the audits with redactions. What was your role, if any, in keeping these officials apprised of developments on these issues?

   From April through July 2004, it is likely I gave updates to the then Acting Comptroller prior to or just after attending an IAMB meeting. Starting in late August or early September, I did have multiple conversations with the new Under Secretary of Defense (Comptroller) to keep her apprised of the Department's progress in completing and providing the requested audits to the IAMB. When the new Principal Deputy was sworn in he may have been included in these updates and he was copied on some of the emails.

   In addition, on 27 September 2004 the Under Secretary of Defense (Comptroller) sent a memo that I drafted to the Secretary of Defense and the Deputy Secretary of Defense which informed them of the upcoming IAMB meeting and noted "the Board has requested U.S. audit reports of sole-sourced contracts that used DFI. It is illegal to release proprietary contractor information. Therefore, the Army Corps of Engineers is working to redact the key audit reports for release to the IAMB before the October 11th meeting."

   A follow-up memo to the Secretary and the Deputy dated 8 October 2004 noted that "The US audit reports mentioned in the last bullet of the attached memo have already been provided to the Chairman of the IAMB."

   [Note: Copies of documents related to this issue have been provided to the House Committee on Government Reform.]

2. Did you receive any advice, input, directions or instructions from any of your superiors at the Department of Defense in relation to the IAMB request for DCAA audits of the RIO contract, the consideration whether to provide the audits, and the final decision to provide the audits with redactions? If so, please describe the advice, input, directions or instructions. Please specifically identify the individuals involved by name and title, state the content and medium of your communications with them and provide the dates of any such communications.

Tina Jonas, the incoming Under Secretary of Defense (Comptroller), concurred with my intent to see that the IAMB received as full an answer as possible, but reinforced the point that the decision as to what information could be provided belonged to the Army Corps of Engineers. This was verbal guidance that occurred in late August or early September.

When it appeared that the Army Corps of Engineers would not be able to provide the IAMB unredacted audits, I explored alternate solutions, including the option of providing unredacted audits to a third party, such as an independent auditing firm under contract to the U.S. government, who could then provide independent advice to the IAMB. I sought confirmation from Mr. Patterson, the Special Assistant to the Deputy Secretary of Defense, that the Department would be willing to formally commit to this proposal should the IAMB welcome it. I believed I received this confirmation from him verbally in September 2004, but I confirmed it again by phone on 11 October 2004. Although Mr. Patterson was not my superior, it was my expectation that, in this case, he was speaking on behalf of the Deputy Secretary of Defense.

3. Did you receive any advice, input, directions or instructions from any employee or official of the Executive Office of the President or of the Office of the Vice President in relation to the IAMB request for DCAA audits of the RIO contract, the consideration whether to provide the audits, and the final decision to provide the audits with redactions? If so, please describe the advice, input, directions or instructions. Please specifically identify the individuals involved by name and title, state the content and medium of your communications with them and provide the dates of any such communications.

No, I did not receive any directions or instructions. It was my intent to see that the IAMB received as full an answer as possible and I don't recall anyone in the Office of the Secretary of Defense, the Executive Office of the President or the Office of the Vice President providing any guidance to the contrary. (I would note that the DoD Office of the General Counsel did raise concerns about the Trade Secrets Act.)

4. Beginning on April 5, 2004, the IAMB made repeated requests for the DCAA audits of the RIO contracts. On June 22, 2004 and September 8, 2004, the IAMB issued statements expressing concern about the delays in receiving the audits. When were you first aware of the IAMB requests? How did you respond to IAMB's concerns about the delays?

I became aware of the IAMB's request to the CPA about the time of the first IAMB meeting which my staff attended in April of 2004. The IAMB was advised in April and again in May that the audits they requested were not complete. Until the requested audits were complete, I encouraged the CPA and DCAA to identify some completed DCAA audits, even though they did not cover the contract in question. This would have given

the IAMB an opportunity to see the scope and type of work DCAA did. But DCAA audits contain proprietary information and the Army Corps of Engineers raised concerns about releasing unredacted audits. I then participated in and hosted meetings with the Army, DCAA and others to find a way to provide the IAMB with the requested audits as fully and as quickly as possible.

5. When did you first learn that KBR objected to DoD's disclosure of DCAA's audits to IAMB?

I learned in June 2004 that the Army Corps of Engineers objected to releasing unredacted audits, but I do not know if the Corps had spoken to KBR. On 13 July 2004, I was formally notified by the Army Corps of Engineers that, in principle, KBR would agree to release executive summaries from DCAA audits if they were redacted.

6. Who at DoD participated in discussions regarding whether to release DCAA's audits to IAMB? Which federal government officials outside of DoD participated in those discussions? Which employees of Halliburton participated in those discussions?

I attended a series of meetings to address the issue of the audits and other items related to the upcoming October 11th IAMB meeting. These were usually attended by representatives from the Army, to include the Army Corps of Engineers, from the Defense Contract Audit Agency and from the Office of the Secretary of Defense, to include the offices of the Comptroller, General Counsel, AT&L, Legislative Affairs and Public Affairs. One federal government official outside of DoD, who might have attended some of those meetings, was Daniel Peters from the State Department, because he would be attending the October 11th meeting, but I don't believe he contributed to the discussion about the audits. No employee of Halliburton participated in any meeting to which I was a party. Discussions with Halliburton would have been handled by the Army Corps of Engineers. To be clear, I don't believe there was much discussion over whether to release the audits; the issue was how legally to provide as much information as possible when the audits were available for release.

7. What was your role in the discussions regarding whether to release DCAA's audits to IAMB? To what extent were you responsible for managing the discussions and making decisions?

I hosted some meetings and my role was to push the participants to find a way to provide as complete an answer as possible to the IAMB. I asked the Army Corps of Engineers and the Office of the General Counsel if the audits could be released unredacted. I asked the Corps to review the contractor's redactions and to unredact items that should not be redacted. Furthermore, I inquired if the Corps could give unredacted audits to a third party, such as an outside auditing firm or a US government inspector general so that they could advise the IAMB. Finally, I requested that the Corps provide the IAMB the Statement of Work and the Sole Source Justification for the contract to give the IAMB a

better understanding of the issue. In the end, however, the responsibility and legal liability for deciding what could be provided rested with the Army Corps of Engineers.

8. Describe with specificity your role in the Department's arriving at the conclusion that KBR could prevent DoD's release of DCAA audits absent redactions? When was that conclusion first made? Did that decision represent the consensus view of the DoD officials consulted? If not, which DoD officials disagreed with the conclusion? As far as you know, what laws did you and other DoD officials believe were relevant in reviewing whether the audits could be disclosed to IAMB?

It was up to the Army Corps of Engineers to determine the conditions for releasing DCAA audits. I do not know when they first reached that conclusion. I asked questions to see if there was a way to release more information and I regularly checked the Army Corps of Engineers' responses with the views of the DoD Office of the General Counsel. I do not know all the laws the lawyers considered in evaluating this issue, but the answer from those with an expertise in this area was consistent.

9. What was your role in conveying to members of the IAMB the initial decision to withhold from the Board the DCAA audits?

There was no decision to withhold the audits from the IAMB. Mr. Leuthy, who worked for me, did inform the Board that the audits were not yet complete.

10. What was your role in DoD officials coming to the decision to offer KBR the opportunity to redact information from the DCAA audits? Did you believe that decision to be appropriate? Please explain your answer, including the basis for your belief.

The Army Corps of Engineers said that this was the appropriate way forward. Although I sought alternative solutions, I have no expertise in this area and no basis to second guess their decision.

11. During the relevant period, did you believe that all of the redactions made by KBR and accepted by the Department of Defense constituted proprietary business information? Did you believe the redactions were appropriate for any other reason? Please explain your answers, including the basis for your beliefs.

I do not have the legal expertise to determine what constituted proprietary business information, but I recall saying that as a layman it appeared the contractor may have redacted more than proprietary information and I asked the Army Corps of Engineers to review and revise the redactions as appropriate.

12. Describe with specificity your role in reviewing the redactions that KBR had requested. Did you participate in discussions concerning the appropriateness of the redactions? If so, what was your role in those discussions? Did you participate in a review of the

redactions requested by KBR? If so, what was your role in the review?

I looked at the redacted audits presented by the Army Corps of Engineers. As mentioned above, while I have no expertise to determine what constituted proprietary business information, I recall saying that as a layman it appeared the contractor may have redacted more than proprietary information and I asked the Army Corps of Engineers to review and revise the redactions as appropriate. I did not participate in the Army Corps of Engineers' review of the redactions.

13. Did you believe that the decision by DoD officials to allow KBR to redact the DCAA audits, and to accept all of the redactions, was appropriate? Please explain your answer, including the basis for your belief.

I questioned the Army Corps of Engineers' position that the audits had to be redacted and I was skeptical of the need to accept all of the contractor's redactions, but the advice from the DoD General Counsel was consistent with the Army Corps of Engineers' position.

14. Describe with specificity your role in the final decision to accept all of the redactions that KBR had requested. When was that final decision made? Did that decision represent the consensus view of the DoD officials consulted?

The discussion continued into late September 2004. The Army Corps of Engineers decision represented the consensus view of those with the relevant expertise to evaluate this issue. To the best of my knowledge, the rest of us accepted their professional judgment.

15. During the relevant period, were you aware that DoD officials had concluded that KBR had authority to redact information in the audits regardless of whether that information was proprietary? Did you believe that interpretation was correct? How did you respond to this assertion?

I don't believe that the Army Corps of Engineers concluded this. I was aware that the Army Corps of Engineers concluded that there were significant legal risks, to include potential individual criminal violations, associated with changing the redactions provided by KBR. As stated earlier, I raised concerns about what the company redacted and asked the Army Corps of Engineers to review it.

16. During the relevant period, were you aware that a reason KBR had asserted for redacting information about overcharges was that the release of the information could damage KBR's ability to compete with other contractors? Did you believe that was an appropriate reason to redact information? What actions, if any, did you take in response to that information?

My concerns about the contractor's redactions were not based on anything said by KBR,

but based on my layman's review. I conveyed to the Army Corps of Engineers my concern that KBR may have redacted more than proprietary information and asked them to review and revise the redactions as appropriate. However, as the Army Corps of Engineers stated in their testimony to Congress, "there were significant legal risks, to include potential individual criminal violations, associated with changing the redactions provided by KBRS."

17. On September 28, 2004, Michael Morrow, an executive at Halliburton, wrote to Gordon Sumner, an official of the US Army Corps of Engineers, regarding its redactions of a DCAA audit. Morrow wrote that the KBR had "redacted the information it considered to be a disclosure of its proprietary policies, procedures, and accounting information." Morrow's letter continued: "In addition we have redacted the statements of DCAA that we believe are factually incorrect or misleading and could be used by a competitor to damage KBR's ability to win and negotiate new work." At the time you provided the redacted audits to IAMB, were you aware that KBR was redacting information that it did not consider to be proprietary, on the basis that it disagreed with DCAA's findings and that the findings could damage KBR?

I don't recall focusing on the contractor's explanation for the redactions. As stated earlier, I expressed my concern that it appeared the contractor may have redacted more than proprietary information and I asked the Army Corps of Engineers to review and revise it.

18. Did the assertions made by Mr. Morrow in his letter of September 28, or any similar assertions made earlier by KBR or DoD officials, cause you to question whether all of KBR's redactions were made because KBR believed they contained proprietary information? If not, why not? If so, what efforts did you take to ensure only proprietary information was redacted?

My concerns about the contractor's redactions were not based on anything said by KBR or its officials, but based on my layman's review. I conveyed to the Army Corps of Engineers my concern that KBR may have redacted more than proprietary information and asked them to review and revise the redactions. However, as the Army Corps of Engineers stated in their testimony to Congress, "there were significant legal risks, to include potential individual criminal violations, associated with changing the redactions provided by KBRS."

19. At the time you provided the redacted audits to IAMB, had officials in DoD concluded that the US government could and should refuse to disclose to IAMB information about overcharges that KBR considered not proprietary but rather false, misleading, and damaging to KBR's ability to win contracts? If so, what was the basis for the conclusion of DoD officials? Did you share that conclusion? If so, what was the basis for your conclusion? If you did not share that conclusion, why did you provide IAMB with audit documents containing the KBR redactions?

I don't believe DoD reached that conclusion. I do know that the Army Corps of Engineers had noted that there were significant legal risks, to include potential individual criminal violations, associated with changing the redactions provided by KBR. I do not know the basis for their conclusion, but since they had the expertise and since individuals from the Army Corps of Engineers would have to bear the legal liability it was their call.

20. According to the IAMB's minutes, you provided the redacted versions of the DCAA audits to the IAMB on October 12, 2004. When you provided the redacted DCAA audits to IAMB, how did you explain to the Board the redactions to the documents? What did you claim was the basis for the redactions? How did you describe to the Board the usefulness and relevance of the redacted audits to the Board's oversight responsibilities? How did the members of the Board respond?

I have attached a document that I provided to the Chairman of the IAMB on 9 October 2004 to summarize this issue. In the meeting I believe I pointed out to the Board that this was an ongoing process, that the government contracting officer would use this audit in his negotiations and that I hoped that the audits provided would help convey the breadth and the scope of DCAA's efforts. I also noted that we could legally provide unredacted audits to a third party, such as a U.S. inspector general or a private auditing firm under contract to the U.S. government, and that the IG or firm could then advise the IAMB on the audits. The IAMB responded favorably to the audits provided and accepted the offer to provide the audits to a third party.

21. During the relevant period, what role did you have in keeping your superiors informed regarding the Department's reasons for withholding the release of the audits to IAMB, its reasons for making redactions to the audits before releasing them to the IAMB, and the nature of the deliberations by DoD officials on these matters?

The Army Corps of Engineers did not withhold the requested audits; the redacted audits were released soon after they were completed. As described in question 1, I gave general updates on the status of the Department's efforts to provide the audits to the IAMB.

22. How did you describe to your superiors the reasons for initially withholding the DCAA audits from the IAMB?

The Army Corps of Engineers did not withhold the requested audits. The first of the six audits was completed on 30 August 2004 and the last was completed in October 2004. They were provided to the IAMB soon after they were finished.

23. How did you describe to your superiors the reasons for the redactions made to the DCAA audits before they were released to the IAMB?

On 27 September 2004 the Under Secretary of Defense (Comptroller) sent a memo that I

drafted to the Secretary of Defense and the Deputy Secretary of Defense which informed them of the upcoming IAMB meeting and noted, "The Board has requested U.S. audit reports of sole-sourced contracts that used DFI. It is illegal to release proprietary contractor information. Therefore, the Army Corps of Engineers is working to redact the key audit reports for release to the IAMB before the October 11th meeting."

24. During the relevant period, what was your role in formulating an explanation, and conveying that explanation, to members of the IAMB, Congress, the media, and the public, regarding the Department's reasons for withholding the release of the audits to IAMB and its reasons for making redactions to the audits before releasing them to the IAMB?

With regard to the IAMB, I provided a written explanation to the Chairman, I escorted representatives from the Army Corps of Engineers to explain the issue to the Chairman and I explained the issue at the 11 October IAMB meeting. I also reviewed talking points that were developed to answer questions on this issue and if asked by the press or others I would have used them.

25. During the relevant period, what was your understanding of the Trade Secrets Act? What was your understanding of what constitutes proprietary information under the Trade Secrets Act?

I have a general understanding that the Trade Secrets Act applies to proprietary information but I deferred to the experts on what constituted proprietary information.

26. What was your understand of the applicability of the Trade Secrets Act to the question of whether the DCAA's findings of cost overcharges could be disclosed to the IAMB? Please explain your answer.

I left legal questions like this to the Army Corps of Engineers and the Department's lawyers.

27. During the relevant period, what was your understanding of UN Resolution 1483, including the transparency requirement in UN Resolution 1483? Did you believe UN Resolution 1483 was binding on the U.S. government with respect to the U.S. government's control and expenditure of Iraqi funds?

It was my intent to provide the IAMB as full an answer as possible, but specific questions about legal obligations and requirements I left to the Department's lawyers.

28. During the relevant period, what was your understand of the applicability of UN Resolution 1483 to the question whether the DCAA's findings of cost overcharges should be disclosed to the IAMB? Please explain your answer.

I left legal questions like this to the Army Corps of Engineers and the Department's lawyers.

29. During the relevant period, what was your understanding of the Freedom of Information Act?

I am familiar with the Freedom of Information Act, but I do not know how it interacts with the Trade Secrets Act.

30. During the relevant period, what was your understand of the applicability of the Freedom of Information Act to the question whether the DCAA's findings of cost overcharges should be disclosed to the IAMB? Please explain your answer.

I left legal questions like this to the Army Corps of Engineers and the Department's lawyers.

31. During the relevant period, did you believe that information about the amount that a company overcharged the government, as determined by auditors, constitutes proprietary business information? If so, what was the basis of that belief? What efforts did you take to learn more about that issue?

It was not clear to me that DCAA questioned costs would constitute proprietary information, so I raised this issue with the Army Corps of Engineers and the Department's lawyers.

32. During the relevant period, were you aware of any instances in which the government had withheld as proprietary business information the amount that a company overcharged the government? Were you aware that in the past the Department of Defense had treated overcharge amounts as public information?

In general, I was not aware of the Department's past practices or the case law related to what is or is not proprietary information.

AFFIDAVIT

I, David L Norquist, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

David L Norquist

Subscribed and sworn before me this 21st day of March, 2006.

Barbara M. Turner
Notary Public My Commission Expires December 31, 2007

My Commission Expires December 31, 2007

(Question #20 continued)

The IAMB requested copies of audit reports conducted of sole source contracts funded from the Development Fund for Iraq (DFI). The Defense Contract Audit Agency (DCAA) has undertaken six audits that are responsive to this request and they relate to the six DFI funded task orders on the Restore Iraqi Oil contract ($1.5 billion); as mentioned in the IAMB's letter to Amb. Bremer.

These are proposal audits, in which DCAA reviews the contractor's cost representations to ensure that the estimates for the proposed effort are accurate and complete. These audits, and follow-on DCAA audits, provide a sound financial basis for Government Contracting Officers to negotiate, administer, and settle Department of Defense contracts and subcontracts. As it relates to DFI funded contracts, these audits are used to ensure that the Iraqi people are paying a fair price for the services received.

Five of these proposal audit reports were completed over the course of the last six weeks and the sixth report was being completed Friday.

Contractors who are audited by DCAA provide access to their records, including proprietary information. Because these audit reports contain proprietary information, under US law they must be redacted before the reports can be released. On September 28th, the contractor notified the Government that it had redacted the five audit reports issued to date and in follow on correspondence formally agreed to their release to the IAMB and its immediate staff. These reports will be provided at the meeting on Monday.

Our audit agencies have informed us that they currently have no other audits relevant to the IAMB's request.

Post-Hearing Questions Submitted by
Senator Susan M. Collins
For the Nomination of David L. Norquist to be
Chief Financial Officer, Department of Homeland Security
May 8, 2006

1. GAO recently testified before Congress on the Department's financial management systems. In their testimony, GAO suggested that four concepts will be integral to the Department's success in migrating to a system of shared service providers for financial management. One of those concepts involves developing a strategy for implementing the shared services approach across the department. If confirmed, how will you go about developing a strategy for the migration to shared service providers and building support for this strategy?

I agree with GAO that the shared services approach takes careful planning and execution and while I think the approach offers several advantages over the earlier attempts at building a new system, it still involves considerable change. Specifically, it moves organizations away from their current service providers and systems and requires a new way of doing business with other providers.

The Department of Homeland Security (DHS) must use sound criteria to identify those components with the strongest financial management systems which can serve as shared service providers. I would want to be certain that DHS has a full understanding of the limitations of the financial systems that it selects. The next step would be to identify components with weaker systems that would realize a significant improvement by migrating to a different service provider. Building support for this strategy will depend on being able to demonstrate the potential for improved performance and savings as a result of this transition.

2. DHS initially planned to migrate to a single, unified financial management system and engaged Bearing Point to build this system. But late last year, DHS ended that contract and has since indicated that they will adopt a shared service providers approach. What do you believe to be the pros and cons of a shared service provider approach versus a unified system approach?

A unified system approach provides the greatest opportunity for improvement but is also the most technically challenging to implement and will take a considerable amount of time to implement fully. A shared service provider approach would allow DHS to consolidate to fewer systems, perhaps eventually to one system, but in a more gradual and methodical way. By standardizing business rules and practices across DHS as part of a shared service approach, DHS could realize some of the same benefits that a unified systems approach would deliver.

3. This Committee and GAO have repeatedly expressed concern about human capital challenges facing the federal government as a whole, and in the committee's written questionnaire you mentioned the need to have sufficient trained personnel to carry out the department's financial management functions. If confirmed, how will you go about ensuring that DHS has the trained financial management personnel it needs?

First, I would assess how we could fill the vacant positions more efficiently, and how we can attract the best candidates possible to these positions. It is time consuming to find the right talent for the jobs available, but in the long run this investment of time can produce enormous dividends. For example, it will help to reduce one of the obstacles to training the existing staff. When an organization is properly staffed, managers are more willing to allow existing personnel to go to training. If confirmed, I would look to each manager to identify and report on the training needs of his or her staff and I would then work with the Chief Human Capital Officer to ensure that financial management personnel have access to the right training opportunities. I would also encourage rotational assignments between the financial management offices of the components and the headquarters.

Post-Hearing Questions Submitted by
Senator Joseph I. Lieberman
For the Nomination of David L. Norquist to be
Chief Financial Officer, Department of Homeland Security
May 8, 2006

Future of the "eMerge2" Financial Management System

1. One of the key challenges facing DHS is the modernization and integration of the management systems of 22 agencies that were folded into DHS. To address this challenge, DHS created an initiative called "eMerge2" - the "electronically Managing enterprise resources for government effectiveness and efficiency" initiative. The eMerge2 program was originally envisioned as a Department-wide consolidation of budget, accounting and reporting, cost management, asset management, and acquisition and grants functions. The project has been plagued by a series of delays, and DHS has now scaled back its plans for eMerge2. In fact, in December 2005, DHS chose not to exercise the next option year on Bearing Point's contract to acquire and implement the eMerge2 solution.

   The Acting DHS CFO recently testified before two House subcommittees and laid out a new strategy of identifying existing systems to which DHS systems might migrate, either in DHS or in other agencies.

   a. Based on your knowledge of the eMerge2 initiative, do you think this is a viable alternative to the original eMerge2 initiative?

      I believe it is a viable alternative. Its success depends upon the quality of the existing systems to migrate the components. OMB has adopted this kind of model for its "Financial Management Lines-of-Business." Departments and agencies are no longer expected to develop their own new systems, where there are existing systems that can meet their need. This proposed strategy seems to reflect this same line of thinking.

   b. What role do you expect to play in deciding the direction of eMerge2?

      If I am confirmed before a decision on eMerge2 is made, I would expect to play a leadership role in developing a preferred way forward. Once a decision has been made, I would continue to evaluate the program's progress and make changes where appropriate.

Questions on KBR Redactions

Several of the questions below refer to documents entered into the hearing record as exhibits.

2. During the hearing, your staff interview, and in your pre-hearing questions, you stated that the Army Corps of Engineers made the final decision on the redactions of the DCAA audits, but you also told the Committee that you headed up the process that considered the redactions. You agreed during the staff interview that you were the highest-level government official involved on a day-to-day basis in the decision-making process, and that none of the officials you dealt with at the Army Corps of Engineers were political appointees or high-ranking officials. You could not identify who at the Army Corps made the final decision to accept all of KBR's redactions. Finally, as the redaction issue came to a head in late September, two weeks before the audits were turned over; officials at both the Army Corps and at DCAA indicated in their e-mails that they perceived you as the final decision-maker.

   - For example, on September 21 a Division Counsel at the Army Corps, Morris Tanner, wrote to several colleagues (including Rupert Jennings): "I personally don't think KBR will provide any rationale for their redactions. Nor do I think it wise for the government to second guess what KBR says is proprietary information. However, we will do that if so directed by headquarters."

   - In response, an Army Corps officer, Emmet Dubose wrote: "I sure hope Mr. Norquist understands that he cannot make decisions or take actions based on "pressure," but must make decisions based on facts, law, policy and ethical professional-practice standards and principles."

   - Tanner responded: "I can only presume that OSD [Office of the Secretary of Defense] counsel will provide adequate advice on the matter."

   This exchange occurred three days before the office of Army Corps Counsel forwarded to you its legal opinion by Rupert Jennings, and three weeks before the redacted audits were given to the UN. The exchange indicates that the Army Corps lawyers and officers themselves thought the final decision did not belong to their agency, but to you. The exchange also suggests the Army Corps would have overridden KBR's objections if directed do to so.

   Similarly in Exhibit H, in particular the e-mail sent from Michael Mele on September 21 at 3:57 pm to his colleagues at the Army Corps of Engineers, including Rupert Jennings, Mele wrote, "Mr. Norquist is under pressure to release the entire, non-redacted financial audits."

   In Exhibit C, in particular the e-mail sent from William Reed of DCAA on September 8 to your assistant Rachel Hiller, Reed wrote that you had "been the lead on this issue over several months."

Finally, in Exhibit I, in particular the e-mail sent from Mike Thibault, the Deputy Director of DCAA, at 7:33 pm on September 22, Mr. Thibault portrays you as pushing back against the Army Corps on the KBR redactions. When the Army Corps of Engineers officials stated that they had agreed to only furnish the redacted executive summary sections, you "told the Corps they weren't empowered to make that agreement." The last sentence of the e-mail refers to the fact that DoD lawyers from three agencies are working on the matter, but "have not come up with an answer acceptable to DoD focal points." It identifies the focal points on this issue as being you and Dave Patterson, Special Assistant to Deputy Secretary Wolfowitz.

a. Are the quoted e-mails factually accurate? If not, describe all factual inaccuracies.

These email excerpts reflect the perspectives of the individuals writing them and as such are fine. For example, in Exhibit H, while I would disagree with their word choice, I certainly did want the entire unredacted audit released. Likewise, with regard to the email from Bill Reed, both he and Rachel Hiller report to the Under Secretary of Defense (Comptroller) and within that office I was the lead. However, this issue had been worked extensively by the Coalition Provisional Authority and within the Corps of Engineers as well.

My concern is with the accuracy of some of the narrative surrounding the email excerpts and the conclusions draw from the email.

b. Don't these documents demonstrate that you, and not the Army Corps of Engineers, had the final say on whether to challenge KBR's redactions? Please explain your answer.

No. The Contracting Officer, who in this case is part of the Corps of Engineers, has the responsibility to decide what information can be released. This was well understood by the Corps and DCAA and that point was made in numerous emails from DCAA that explained the process. For example, in Exhibit L Mike Thibault reiterates, "that is the Army/Corps call (it is not DCAA's call what are reasonable redactions)." Likewise in Exhibit C the Director of DCAA notes, "DCAA has no objection to the release if the contracting officer and the audited company do not object."

This also explains the Corps' reaction you cited above, when I sought advice from the OSD Office of the General Counsel on the possibility of releasing unredacted audits without the contractor's consent. The Army Corp of Engineer's officer expressed his concern that this approach would be inconsistent with, "facts, law, policy and ethical professional-practice standards and principles". As you also note, the Corps correctly believed that the OSD lawyers would not endorse such an action.

Regarding Mr. Tanner's comment, "if so directed by headquarters", this is a

reference to the Corps of Engineers' headquarters, not OSD. (Mr. Tanner is from Division Counsel. Mr. Jennings and others worked at the Corps' headquarters, hence the "HQ" after their names in the email.) Later in the email exchange when Mr. Tanner intends to reference the Office of the Secretary of Defense, he calls it OSD.

On the issue of providing only the executive summary versus the entire audit, this was not an issue of what should be redacted – the Corps still made that call – but whether the IAMB's request should be viewed as only referring to the executive summary. When I requested the Corps provide the entire audit, they still managed the redaction process.

c. Why did officials of the Army Corps of Engineers and the DCAA believe you were making the final decision, if that was not the case? Can you explain the statements by officials of the Army Corps of Engineers, in particular, indicating that the final decision was yours?

As pointed out above, the Army Corps of Engineers and DCAA understood that it is the contracting officer who must make the determination about what can be released.

d. If you were not the final decision maker, then who was? Please identify the individual at the Army Corps of Engineers or elsewhere who made the final decision not to question any of KBR's redactions but instead to turn over to the IAMB the DCAA audits as redacted by KBR. Did you ever speak to that individual about the decision. What was the nature of those communications? Did you convey your own views to that indivual, and if so what did you communicate?

My understanding is that the Corps position was a consensus view based on the advice of their counsel. It was conveyed to me through Ken Littlefield, who through emails, face-to-face meetings and phone conversations fully understood my concerns about the redactions. The Corps treated this issue seriously. The military personnel dealing with this issue were senior field grade officers and the civilians working this issue within the Corps were experienced career professionals.

3. Exhibit M is a September 28 letter from Michael Morrow, an executive of KBR, to the Army Corps of Engineers, which accompanied one of the audits KBR had redacted and was turning over to the Department of Defense. In the letter, Morrow explained the contractor's redactions. He wrote, "KBR has redacted the information that KBR considers to be a disclosure of its proprietary policies, procedures, and accounting information." The letter continues, "In addition we have redacted the statements of DCAA that we believe are factually incorrect or misleading and could be used by a competitor to damage KBR's ability to win and negotiate new work."

a. Do you recall having seen this letter in 2004? Do you recall having seen similar letters or communications in which KBR asserted that it had redacted non-proprietary information?

I don't recall focusing on the contractor's explanation for the redactions. However, I did express my concern that it appeared the contractor may have redacted more than proprietary information.

b. If you did see the letter, or similar communications, how did it influence your assessment of KBR's redactions?

My concerns about the contractor's redactions were not based on anything said by KBR or its officials, but based on my layman's review. I conveyed to the Army Corps of Engineers my concern that KBR may have redacted more than proprietary information and asked them to review and revise the redactions. However, as the Army Corps of Engineers stated in their testimony to Congress, "there were significant legal risks, to include potential individual criminal violations, associated with changing the redactions provided by KBRS."

c. Isn't KBR making clear in this letter that it was redacting negative findings simply because the company didn't agree with them and because the findings would be damaging?

It would appear from the letter that they were redacting more than proprietary information, but whether that additional information would be protected by the law is a legal question I would have left to the Army Corps of Engineers and the Department's lawyers.

d. Does this letter suggest to you that KBR was given absolute discretion to redact whatever it wanted to? In fact, isn't that what happened?

I don't believe that was the Corps' position. I do know that the Army Corps of Engineers had noted that there were significant legal risks, to include potential individual criminal violations, associated with changing the redactions provided by KBR.

4. The documents we've seen demonstrate that through late September of 2004 you disagreed with the position being taken by the Army Corps and KBR. For example, in Exhibit G, specifically the e-mail sent by Kenneth Littlefield, an Army Corps official, at 1:18 pm on September 21, Littlefield described how earlier that day you had told him that "only what is legally redactable should be redacted and that KBR redacted more than proprietary information." In Exhibit I, in the e-mail sent from Mike Thibault, the Deputy Director of DCAA, at 7:33 pm on September 22, he described you as objecting when the Army Corps had said it did not want to override KBR's redactions. According to the e-mail, you told the Army Corps officials that without the data contained in the audits there

is no basis for analysis by the UN, and that "Les Brownlee does not want to say that he did not give the audit reports to the IAMB because Halliburton wouldn't let them."

a. Do these e-mails accurately describe your position at the time?

While the email should not be viewed as exact quotations, they do reflect my concern that it appeared the contractor may have redacted more than proprietary information.

(Note: To be clear, my reference to the Honorable Secretary Brownlee was not because he himself had said this, but rather to convey to the Army Corps that no one in a leadership position would be pleased with being put in this position and so they needed to ensure they had done due diligence in examining all the alternatives. I simply used the Honorable Secretary Brownlee as an example because he was serving as the Acting Secretary of the Army at that time.)

b. What was the basis for your conclusion that KBR's redactions went beyond proprietary information?

While I do not have the legal expertise to determine what constituted proprietary business information, I believe my concern was that the contractor had redacted a conclusion reached by an auditor and I did not understand why that would be proprietary information.

5. On September 24, 2004, you received a legal opinion from Rupert Jennings, Assistant Chief Counsel at the Army Corps of Engineers, advising that the "safest course of action" was to provide the IAMB with the audits as redacted by KBR. In Exhibit N, in an e-mail dated September 29, Kenneth Littlefield from the Army Corps reported that you concurred with the recommendation from the Army Corps and that "there would not be time to coordinate with the contractors on releasing additional data over and above their current agreement."

a. It appears that you changed your position on the KBR redactions in the course of one week. Is that accurate?

The discussions with the Corps and with OSD counsel extended over a far longer period than just one week. While I remained skeptical, this was a legal issue and I had consulted with the OSD General Counsel's office and they agreed with the Corps of Engineers lawyers.

b. Why did you decide to accept the KBR redactions after your initial skepticism? Was it the Army Corps legal opinion alone that changed your mind?

I accepted the Corps approach based on the advice of the OSD General

Counsel. At some point, I also learned from the lawyers that the Trade Secrets Act was broadly written and protects broad categories of business information.

6. The legal opinion provided to you on October 4 by the Department of Defense Office of General Counsel does not analyze whether KBR's redactions were appropriate. Instead, it discusses the process by which audited contractors can identify information they believe to be proprietary. The opinion states that "if there is a disagreement whether certain information is protected, there are generally further discussions between the government and the contractor. If the government decides that the information is not protected, the contractor can bring an action in court to prevent release of the information."

   a. How did the opinion you received from the Office of General Counsel help you decide not to challenge KBR's redactions?

   It made clear that if the Corps unilaterally changed the redactions, the contractor could bring action in court that would likely prevent any information from being provided to the IAMB until the case was resolved.

   b. The October 4 opinion did not include an individualized review of KBR's redactions, did not confirm that the analysis of the redactions made by Rupert Jennings of the Army Corp of Engineers was sound, and did not explicitly concur with the recommendations made by Army Corps of Engineers Office of Chief Counsel. Do you agree with this assessment of the DoD Office of General Counsel opinion? In what sense did the DoD Office of General Counsel confirm the opinion of the Army Corps of Engineers, as you testified before the Committee? Please explain your answers.

   It was my understanding from the OSD Office of the General Counsel that if we wanted to provide as full an answer as possible consistent with the law that the Corps' approach was correct. They also agreed with the Corps' conclusion that there were significant legal risks, to include potential individual criminal violations, associated with changing the redactions provided by KBRS.

   c. According to Exhibit O, an e-mail sent from Kenneth Littlefield at 2:20 pm on September 29, the Army Corps legal opinion was not sent to the DoD Office of General Counsel until the afternoon of September 29th. But Exhibit N indicates that earlier that morning you had already called Littlefield and let him know you agreed with the Army Corps recommendation. Had you made up your mind before the DoD Office of General Counsel received the Army Corps legal opinion? Had you made up your mind before you received a legal opinion from the DoD Office of General Counsel? What did you tell Kenneth Littlefield on the morning of September 29th? Please explain your answers.

   I had been talking with the OSD lawyers and the Corps lawyers (and they

with each other) over an extended period of time, so I expect that the actual emailing of the Army Corps' position was simply documenting views they had already expressed.

I expect I told Ken Littlefield that my lawyers agreed with his lawyers.

7. The legal opinion you received from Rupert Jennings of the Army Corps Chief Counsel's Office on September 24 expressly indicates a complete lack of experience in this area. The opinion begins "we do not have any experience in reviewing contractor redactions of confidential information in this context, and DoD-OGC [Office of General Counsel] did not provide any guidance with respect to the standards they thought we should use in our review."

   On the other hand, the Deputy Director of DCAA told you on several occasions that DCAA thought the redactions were overbroad. Exhibit L indicates that on September 27 you received an e-mail in which Mike Thibault reminded you and others "we have previously outlined that some of the redacted material does not seem to be proprietary (e.g. total costs questioned)."

   a. The Army Corps Chief Counsel's office indicated in its opinion a complete lack of experience in this area. They advocated an opinion you had earlier stated was incorrect. At the same time, you were being told by DCAA, the DoD agency that specialized in audits, that the redactions were overbroad. Why did you accept the recommendations of the Army Corps lawyers so quickly given the contrary advice you were receiving? Please explain your answer.

      The Defense Contract Audit Agency had been clear from the beginning that the Army was responsible for making this decision. For example, in the same email you reference, Mike Thibault clearly states, "that is the Army/Corps call (it is not DCAA's call what are reasonable redactions)".

   b. The September 24 legal opinion from the Army Corps of Engineers explained that some of the information redacted by KBR might not be proprietary, and that it could be unredacted without KBR's consent, although it "advise[d] against unredacting the information without first offering the contractor the opportunity to justify the basis for redacting the information." Similarly, the legal opinion you received from the DoD Office of General Counsel made clear that the government did not have to accept a contractor's claims as to which information should be considered proprietary. After receiving the legal opinions did you explore the option, described in the opinions, of challenging KBR's redactions of information that might not be considered proprietary? If not, why not? If so, what exactly did you do to explore that option and was the result of this inquiry?

      Even before seeing that advice I asked the Army Corps of Engineers to review and revise the redactions as appropriate. However, as the Army Corps of

Engineers stated in their testimony to Congress, "there were significant legal risks, to include potential individual criminal violations, associated with changing the redactions provided by KBRS."

c. On June 8, 2004, Mike Thibault sent you an e-mail speculating about the reasons the Army Corps of Engineers was objecting to the release of the DCAA audits: "I don't know the background of their concern or of COE management concern other than that they have in the past been criticized on the fuels pricing so they may understandably be sensitive." You knew that for months the Army Corps had been criticized for its oversight of the KBR contracts. Did you consider the possibility that Army Corps officials were defensive about their contracts with KBR, and that this might affect their analysis? Did this possibility affect your assessment of the advice you received from the Army Corps officials? Please explain your answers.

I have no reason to believe that the Army Corps' officials acted improperly. Nevertheless, I sought and received advice from OSD lawyers. That advice was consistent with the Corps' position.

8. You have told the Committee that you helped formulate a satisfactory alternative to providing the DCAA with unredacted audits: having DoD contract with an accounting firm to review the audits, and report to IAMB on its conclusions.

a. Exhibit N indicates that on September 29 you told Ken Littlefield that "there would not be time to coordinate with the contractors on releasing additional data over and above their current agreement." Numerous e-mails reviewed by the Committee indicate that there was a rush to get the DCAA audits to the IAMB in time for the October 11 meeting. Why didn't you recommend negotiating with KBR about its redactions so that additional information could be provided to the IAMB after the October 11 meeting?

We did recommend that. My discussion with Ken Littlefield simply indicated my understanding that there would not be time to negotiate the release of additional information before our meeting with the IAMB. My direct involvement with the IAMB and this issue ended with the October 11th meeting.

However, at that October 11th meeting the IAMB concurred with the option of having unredacted audits provided to a third party. It is my understanding that for those who were still working this issue that approach became the focus of the way forward. It was also a more effective way to provide transparency to the IAMB than trying to convince KBR to unredact bits and pieces of the audit.

b. Isn't it true that the accounting firm would not be able to disclose information that the contractor asserted was proprietary, if the government acquiesced in that

determination? In other words the firm could review the DCAA findings that KBR had redacted, but they couldn't disclose them to the IAMB. How would the audit by the accounting firm result in any additional disclosure of the DCAA findings?

An inspector general or an independent auditing firm would be able to reach conclusions about, for example, whether adequate documentation existed that a non-competitive contract was justified or whether the goods and services received and paid for under the contract were the goods and services required under the contract. The IG or auditing firm might need to have access to proprietary information to do this, but would not need to disclose the proprietary information in stating its conclusion.

c. The Department of Defense did not pick an accounting firm to review the DCAA audits until April of 2005. Wouldn't it have been quicker for DoD to review and challenge KBR's redactions? Did you consider which alternative would be more efficient and would result in greater disclosure to the IAMB?

I cannot speak to the time it took to select an accounting firm, but I do believe that providing an unredacted report to a third party provides more transparency than providing the IAMB a second, somewhat less redacted audit report.

d. Exhibit K is a memo you prepared on September 27, 2004 for your boss Tina Jonas, the DoD Comptroller, to send to Secretary Rumsfeld and Deputy Secretary Wolfowitz. In the memo you wrote "the Army Corps of Engineers is working to redact the key audit reports for release to the IAMB before the October 11th meeting." In fact, three days earlier you had received a legal memo from the Army Corps arguing that the agency should not challenge any of KBR's redactions, even those that might not be proprietary. You agreed with this conclusion. Was it accurate for you to state on September 27 that the Army Corps of Engineers was "working to redact the key audit reports"? Why did you make this claim in the memo? What information did you have at that time that led you to believe the Army Corps was making its own redactions?

It was my understanding that the Corps was still reviewing the redactions, and it was unclear to me at the time whether we would use the contractor's redactions or the Corps' redactions. In either case, the Corps of Engineers was working the issue. As you pointed out earlier, the conversation I had with Ken Littlefield did not occur until September 29th.

e. Why didn't you explain in the memo that the redactions had been made by KBR, as opposed to the Army Corps of Engineers?

At the time, the Corps' review of the contractor's redactions was still ongoing. I did not know the final outcome, but I did know that the Corps was working this issue.

f. Why didn't you describe the doubts raised by DoD officials and your own skepticism about the redactions?

If there had been disagreement between the Corps of Engineers approach and the advice of the OSD lawyers I probably would have. However, the OSD lawyers' view of the legal issue here was consistent with the Corps.

9. Exhibit Q consists of the official minutes from the October 11 meeting of the IAMB, at which you turned over the redacted DCAA audits. On the second page, item #9, the minutes state: "The Observer informed the Board that the edits had been undertaken by the DCAA to safeguard proprietary information of the concerned parties."

a. Did you tell the IAMB that the edits had been made by the DCAA? If so, why did you make that statement? Was it accurate?

I appreciate you asking the question so we can clarify the record. I did not tell the IAMB that the edits had been made by DCAA.

In fact, in a document I sent to the IAMB Chairman a few days prior to the IAMB meeting, I stated in writing "On September 28th, the contractor notified the Government that it had redacted the five audit reports issued to date and in follow on correspondence formally agreed to their release to the IAMB and its immediate staff." It is my understanding that the IAMB Chairman provided that document to the other members of the board during their executive session.

b. Did DCAA play any role in either undertaking the redactions or reviewing them?

I do not believe so.

c. Did you tell the IAMB that the redactions had been made by a US government agency? How did you characterize the redactions, the legal basis for the redactions, and who had made and reviewed the redactions?

No, I notified them in writing that the contractor had made the redactions. The document I sent to the IAMB Chairman was included as part of my answers to the pre-hearing questions.

d. Did you tell the IAMB that the redactions had been requested by KBR? If not, why not?

I notified them that the contractor had redacted the audits.

e. Did you tell the IAMB that none of the redactions requested by KBR had been challenged by the US government? If not, why not?

I made no claim that the US government had changed the contractor's redactions.

f. The September 24 legal opinion from Rupert Jennings of the Army Corps of Engineers explained that some of the information might not be proprietary, but that it could be difficult or time consuming to release information over KBR's objections. Did you explain this to the IAMB? If not, why not?

I do not believe this came up during the meeting on October 11th, but the Corps may have discussed the risk of being tied up in court and unable to release any audit when they briefed the IAMB Chairman.

10. UN Security Council 1483 required that funds from the Development Fund for Iraq be "used in a transparent and equitable manner" and for the benefit of the Iraqi people. The US government accepted its legal obligation to the UN when it was given control of the Iraqi funds. On June 8 the Deputy Director of the DCAA, Mike Thibault, warned you that a refusal to provide the audits to the UN oversight board "will likely cause ripples throughout the IAMB." In an official statement on April 29, 2005, the IAMB described the substantial KBR overcharges and "note[d] with regret that these findings had been redacted in earlier DCAA reports submitted by the US Government to the IAMB." The IAMB also stated that "[u]se of DFI resources that is not for the benefit of the Iraqi people is in conflict with UN Security Council Resoultion 1483."

a. You were the DoD liaison to the IAMB. Were you concerned that failing to provide information about KBR's overcharges to the IAMB would place the US government in violation of Resolution 1483? How did you weigh the US obligation to the UN under Resolution 1483 against the concerns expressed by KBR?

Consistent with UN Security Council Resolution (UNSCR) 1483, it was my intent to see that the US government provided as full an answer as possible, consistent with the law. The OSD lawyers examined the issue of whether or not the language of UNSCR 1483 would constitute an exception to the Trade Secrets Act. They rejected this approach as legally unsound.

b. Neither of the legal opinions you received in late September and early October balanced our obligations under Resolution 1483 against the concerns expressed by KBR. Did you press DoD lawyers on this point? If not, why not?

As stated above, the question of whether the UN Security Council Resolution would constitute an exception to the Trade Secrets Act had already been considered and rejected.

11. Looking back, what is your assessment of how the Department of Defense handled the IAMB's request for DCAA audits?

Although I wish we had found a way to provide the audits unredacted, the Department made a good faith effort to provide the IAMB as full an answer as possible consistent with the law.

12. In hindsight, do you think KBR's redactions were appropriate? Do you think the decision to accept all of KBR's redactions was correct?

In hindsight, I think KBR should have agreed to release the audits to the Board members unredacted. I don't have the expertise in the Trade Secrets Act necessary to second guess the Corps' decision.

13. Can you assure us that as CFO of the Department of Homeland Security you would stand up to agencies and demand accountability when they shirk their legal responsibilities or when their actions are detrimental to the interests of taxpayers or the government?

Yes.

[Note: The Committee should coordinate with the Office of the Secretary of Defense, Office of the General Counsel (Legal Counsel) before including references to, or copies of, emails or other documents in the record. In addition, my reference in these answers to documents for which copies were not provided to the Committee does not modify or waive the conditions under which access to those documents was provided by DoD.]

Post-Hearing Questions Submitted by
Senator Carl Levin
For the Nomination of David L. Norquist to be
Chief Financial Officer, Department of Homeland Security
May 8, 2006

DCAA Audit of KBR

1. During your nomination hearing you stated that you relied on the advice of Department of Defense lawyers, including lawyers from the Army Corps of Engineers, in determining that it was appropriate to provide to the IAMB a DCAA audit critical of KBR, that had been redacted by KBR.

   a. Please provide the name, office, and phone number of each lawyer you consulted about providing the redacted DCAA audit of KBR to the IAMB.

   b. Do you currently believe that KBR redacted only proprietary trade information from the DCAA audit provided to the IAMB?

   To be clear, it was the Corps of Engineers who determined what was appropriate to release and in doing so they relied on the advice of their lawyers, particularly Rupert Jennings from their Office of Chief Counsel, Headquarters US Army Corps of Engineers. I compared that advice with the advice of OSD lawyers, in particular Bob Gorman and Scott Castle from the OSD Office of the General Counsel. I will provide the phone numbers to the Committee separately.

   It appears to me that the contractor may have redacted more than proprietary information. However, I do not have the legal expertise to determine what constitutes proprietary trade information or whether that is all that is covered by the Trade Secrets Act.

2. During your nomination hearing you stated that you were in contact with the office of the Special Inspector General for Iraq Reconstruction (SIGIR) regarding the redacted DCAA audit of KBR.

   a. Please provide the name, office, and phone number of each person in the SIGIR's office that you were in communication with regarding the redacted DCAA audit of KBR.

   b. Please describe your communications with the SIGIR's office regarding the redacted DCAA audit of KBR.

   c. Did the SIGIR's office affirm the redactions in the DCAA audit of KBR?

   What I said at the hearing was that the IAMB-related work of the Special Inspector General for Iraq Reconstruction (SIGIR) occurred after my involvement with the IAMB, so I was not involved in establishing the IAMB approved procedures that the SIGIR followed.

   However, the results of the SIGIR's work and the names of the individuals involved in that effort are available on the SIGIR website 'www.sigir.mil' (Report # SIGIR-05-019).

Post-Hearing Questions Submitted by
Senator Daniel K. Akaka
For the Nomination of David L. Norquist to be
Chief Financial Officer, Department of Homeland Security
May 8, 2006

1. In response to a question I asked of David Walker, the Comptroller General, at a recent Oversight of Government Management Subcommittee hearing, he said that federal agencies should be using threat assessments to determine agency needs when developing budget and resource plans. Do you know if the Department of Homeland Security (DHS) currently uses threat-based resource allocation to develop its budget requests, and if not, will you establish such a process?

   I believe the Department of Homeland Security has considered risk and threat assessments in various ways as part of its management process and in developing its budget request. If confirmed, as CFO, I would look to better understand how this important concept is related to the budget request process, and how we could strengthen it.

2. As the Ranking Member of the Armed Services Readiness Subcommittee, I am closely involved with the weapon systems acquisition problems at the Department of Defense (DoD). The Government Accountability Office has found, and I agree, that poor cost estimation at the start of an acquisition program is a leading cause for these problems. Do you believe the cost estimation tools and processes for acquisition programs at DHS are adequate?

   I do not know if they are adequate, but I agree with your concern that having an effective process for estimating the cost of acquisition programs is important. In DHS, the CFO's office staffs the Department's investment review process, so I would expect that if confirmed, I would have the opportunity to make sure sound cost estimation is built into the acquisition program.

3. Many times we in Congress compare the management challenges at DHS with those facing DoD. However, I know that such comparisons must take into account the youthfulness of DHS. Nevertheless, given your experience at DoD, particularly in the areas of financial management and acquisition, do you believe that DHS has sufficient congressional reporting requirements, and how should Congress focus its oversight efforts with respect to these two critical areas?

   I do not know all the Congressional reporting requirements DHS has, but I understand that it must produce annually several hundred reports for Congress. In my experience, it is more important to increase the frequency and quality of day to day communications with Congress than it is to increase the number of formal reporting requirements. With respect to areas such as financial management and acquisition, an important oversight role is for Congress to understand the processes that DHS uses, and to help DHS strengthen these.

4. One area of interest to me is the acquisition and procurement operations at DHS. As the Chief Financial Officer (CFO), you will be expected to work closely with the Chief Procurement Officer to ensure that the Department's financial resources are spent efficiently and effectively. Please explain the relationship and interaction that you will have with the Chief Procurement Officer, and in terms of acquisition operations, what do you identify as the Chief Financial Officer's responsibilities?

The Chief Procurement Officer (CPO) and the Chief Financial Officer (CFO) need to have a close working relationship and, if I am confirmed, I would make that effort a priority. Both positions are part of the Management Directorate, and so I would have the opportunity to work with the CPO on many management issues. The primary, formal acquisition roles the CFO has are 1) developing the Department budget and overseeing its spending plans; and 2) supporting the Investment Review Board.

5. One of the responsibilities of the CFO is to serve on the Department's Investment Review Board (IRB). As you know, this executive board reviews an agency's investments to ensure proper management, oversight, accountability, and alignment of a department's strategic functions. How do you envision your role on the IRB at the Department?

I would look to take an active part in the IRB. The CFO's office staffs this effort, so my responsibility as owner of the process would be to make sure it works well and meets its important objective. Two particular interests of mine in this process would be 1) to ensure consistency between the investment being considered and the budget, and 2) to make sure projects are adhering to their cost and performance schedules, and that deviations from these schedules get resolved.

6. You know the problems that DoD has encountered in modernizing its business systems and processes, especially transforming DoD's financial management systems. Unfortunately, Congress has had to legislate time frames to ensure DoD compliance. Having worked on these congressional mandates to force DoD to execute its business transformation plans, it is my hope that DHS will incorporate the lessons learned from DoD so that taxpayer money doesn't have to be spent unnecessarily on similar DHS efforts. As CFO, what actions will you take to better unify and strengthen the business operations and financial management systems at DHS?

I would first make sure that DHS has an overarching plan for where it is headed with financial management. Such a plan would have to identify many pieces that need to tie together. One option I would look at is consolidating the number of systems using a shared service provider approach. I would also look at how establishing a standard financial information structure can improve consistency between the systems and improve how financial data is sent and received, so that DHS can have more timely and accurate financial information. Finally, I would look at how DHS is going about fixing the material weaknesses that have been cited in past audits. Most of these audit problems seem to stem from weak practices and processes, not just systems, and these challenges need to be addressed as well.

7. Throughout your nomination hearing, questions were raised regarding your role as an observer to the International Advisory (IAMB) and Monitoring Board for Iraq in 2004. During your time as an observer to the IAMB, did you receive any information indicating that Halliburton or its subsidiaries were engaged in illicit or illegal practices?

I understood that there might have been an investigation, but I do not recall receiving any first hand information that Halliburton or its subsidiaries was engaged in an illegal practice.

8. There have been allegations that Kellogg, Brown & Root (KBR) provided unsanitary water to some of our troops in Iraq. KBR investigated this matter and published an internal report, which the company now disputes. Obviously such allegations are serious. As an observer to the IAMB for Iraq, were you aware of these allegations relating to dirty water for the troops, and if so, what were the results of any investigation into this incident?

During the time I was an observer I do not recall being aware of these allegations

Lieberman Exhibits

Exhibit A

Benkert, Joseph, CIV, WSO-DRSO

From: Norquist, David OSD-COMPT

Sent: Monday, June 28, 2004 9:29 AM

To: Pitkin, Douglas Mr. CPA; Hutchings, Dayna CPA; Benkert, Joseph CPA; Norquist, David OSD-COMPT

Cc: Leuthy, Cameron OSD-COMPT

Subject: RE: IAMB and US DOD sole source contract audits

To Clarify. DCAA is fine with releasing them. THe Army Corps of Engineers, who has the contracting officers, asked the companies and apparently the companies have objected. Without the companies consent, it is illegal for the US gov't to release. I have asked Don Davis for the names of the company POC's so we can talk with them, but I haven't seen them yet.

David

-----Original Message-----
From: Pitkin, Douglas Mr. CPA [mailto:[redacted]
Sent: Friday, June 25, 2004 7:46 PM
To: Hutchings, Dayna CPA; Benkert, Joseph CPA; Norquist, David OSD-COMPT
Subject: RE: IAMB and US DOD sole source contract audits

Dayna, as you may recall DCAA has refused to release these audits on the grounds that they contain contractually sensitive information that cannot be released outside the USG without violating the terms of the audit contracts. I'm not sure whether DCAA has been looking at whether they can deliver a 'sanitized' version.

Doug Pitkin
Coalition Provisional Authority - Washington
Phone:[redacted]

-----Original Message-----
From: Hutchings, Dayna CPA
Sent: Friday, June 25, 2004 1:23 PM
To: Benkert, Joseph CPA; Norquist, David OSD-COMPT
Cc: Pitkin, Douglas Mr. CPA
Subject: FW: IAMB and US DOD sole source contract audits

FYI
-----Original Message-----
From: Stuart, Alison M. [mailto:[redacted]]
Sent: Friday, June 25, 2004 1:05 PM
To: Hutchings, Dayna CPA
Cc: Jo.Adamson@fco.gov.uk
Subject: IAMB and US DOD sole source contract audits

Dayna

I work for the UK delegation in the IMF and the World Bank and I work closely with Jo Adamson at the British Embassy on economic issues regarding Iraq. I have been reporting back to the UK on the IMF's view of the KPMG interim report on the

external audit of the Development Fund for Iraq and I wanted to check what the latest position is of DOD on some of this issues. You have also seen from an e-mail from Jo that British MPs are beginning to ask a number of Parliamentary Questions on this issue.

I am particularly interested to discover whether DOD has yet agreed to provide information to the IAMB on its own audits of sole sourced contracts financed from the DFI (I know that this is something that the IAMB has been asking for).

I don't have your telephone no - but I wondered if it would be possible to have a quick discussion with you this afternoon? Or if it isnt your area, it would be great if you could direct me to the relevant person in the Comptrollers office.

Many thanks in anticipation for your help

Alison Stuart
UK delegation IMF and World Bank [redacted])

Exhibit B

00000079-IAMB

From: Leuthy, Cameron, OSD-COMPT </O=ORGANIZATION/OU=OSD/CN=OSD-OUSDC
RECIPIENTS/CN=[redacted]>
To: Norquist, David, OSD-COMPT </O=ORGANIZATION/OU=OSD/CN=OSD-OUSDC
Recipients/cn=[redacted]>
'Hutchings, Dayna CPA' <[redacted]>
CC: Benkert, Joseph CPA
</O=ORGANIZATION/OU=PENTAGON/cn=Non-Auth/cn=smtp/cn=Army/cn=HQDA/cn=[redacted]>
Pitkin, Douglas Mr. CPA
</O=ORGANIZATION/OU=PENTAGON/cn=Non-Auth/cn=smtp/cn=Army/cn=HQDA/cn=[redacted]>
Date: 07/01/2004
Subject: RE: Response to British on sole sourced contracts
Body: Perfect.

-----Original Message-----
From: Norquist, David, OSD-COMPT
Sent: Thursday, July 01, 2004 12:24 PM
To: 'Hutchings, Dayna CPA'; Norquist, David, OSD-COMPT
Cc: Benkert, Joseph CPA; Leuthy, Cameron, OSD-COMPT; Pitkin, Douglas Mr. CPA
Subject: RE: Response to British on sole sourced contracts

I am ok with this. Cameron -does this match your understanding of the GC guidance? I would also email it to Don Davis.

David

-----Original Message-----
From: Hutchings, Dayna CPA [mailto:[redacted]]
Sent: Thursday, July 01, 2004 12:07 PM
To: Norquist, David OSD-COMPT
Cc: Benkert, Joseph CPA; Leuthy, Cameron OSD-COMPT; Pitkin, Douglas Mr. CPA
Subject: Response to British on sole sourced contracts

I borrowed liberally from Cameron's response on this. Would it be OK to release this to the British? I'll run it by State first.

The Defense Contract Audit Agency has conducted audits of four firms where some portion of the contract was funded from DFI: Halliburton - KBR; Perini; WGI; and Fluor. The Department of Defense (DoD) is prohibited by law, 18 U.S.C. § 1905, from releasing the audits to third parties without the permission of the contractor, in order to protect proprietary information, including pricing. To date, the contractors in question have not provided that permission to the Army Corps of Engineers (ACE), the organization that solicited and awarded the contracts. We are working with all parties to develop a satisfactory solution to this problem.

Exhibit C

00000949-IAMB

From: Reed, William, Mr, DCAA-D <[redacted]>
To: Hiller, Rachel, OSD-COMPT <[redacted]>
Date: 09/08/2004
Subject: RE: Text of Today's IAMB Press Release
Body: Rachel,
You really need to talk to Dave Norquist on this. He has been the lead on this issue over several months and just today worked with the Army on preparing Q&As for PA. DCAA has no objection to the release if the contracting officer and the audited company do not object. Dave will explain that the contractor is objecting to the release asserting the reports contain company proprietary information which is protected by U.S. Law from release. This is not a DCAA issue.

Bill

-----Original Message-----
From: Hiller, Rachel, OSD-COMPT [mailto:[redacted]
Sent: Wednesday, September 08, 2004 2:19 PM
To: Reed, William, Mr, DCAA-D; Thibault, Mike, Mr, DCAA
Subject: FW: Text of Today's IAMB Press Release

Bill and Mike

John Evans, our Director for Ops and Pers in the DoD Comptroller asked that I immediately engage DCAA in leading us on this issue. Please see the press release below -- the IAMB continues to be displeased about the DoD's lack of ability to share DCAA audits with the IAMB on the sole source contracts in Iraq.

We are turning to DCAA to find out:

What is the status of the DCAA audits of the sole source contracts in Iraq (KBR, Perrini, Fluor, and Washington International Group) are the four major contracts and I am unclear on what the total universe of your audits are. Would you please give me your most recent information -- a listing of your audits and a time line for completing each.

Also -- we are looking to DCAA to help us to satisfy the IAMB request for
copies of these audits when they are completed. Please consult with anyone you determine necessary to give us and others in the Department an answer on what can be provided to the IAMB and an estimate of when -- whether the full audits, redacted versions, full audits with confidentiality agreements signed, executive summaries.... whatever you determine that we can legally provide and when you think we can start making these materials available.

Please let us know how you can help us to sort out this issue and satisfy the IAMB request.

Thank you

Rachel Hiller
[redacted]

-----Original Message-----
From: Engle, Thomas S [mailto:[redacted]@state.gov]
Sent: Wednesday, September 08, 2004 12:29 PM
To: Wayne, E Anthony; Garber, Judith G; Milton, Brook E; Silverman, Robert J; Van Maerssen, Otto H(Paris); Wadelton, Joan S; Rachel Hiller (E-mail); John Simon (E-mail); Kissel, Mark E; Nelson, David D
Cc: Peters, Daniel W

00000949-IAMB

Subject: FW: Text of Today's IAMB Press Release

FYI. As expected, this is a pretty strong statement of the IAMB's frustration re USG non-delivery of info on sole-sourced contracts.

Otto: pls pass a copy to Larry and Russ. thanks.

John: possible agenda item for Econ Cell?

tom

-----Original Message-----
From: Werberg, Samuel
Sent: Wednesday, September 08, 2004 12:25 PM
To: Peters, Daniel W(Main State)
Cc: Engle, Thomas S(Main State); Heffernan, Patrick M; Sweet, Catherine E; Asgard, Ramin X (NEA/NGA)(NEA/NGA)
Subject: Text of Today's IAMB Press Release

The text of today's press release is below. Enjoy.
-Sam

Press Release
September 8, 2004
Statement by the International Advisory and Monitoring Board on Iraq The International Advisory and Monitoring Board (IAMB) on Iraq met on September 7-8, 2004, and issued the following statement:

"In connection with its work related to UN Security Council resolution 1483
(2003) the IAMB received a briefing from KPMG on the status of the second stage of the external audit work, i.e., the export sales of Iraqi oil, petroleum products and natural gas, and the DFI operations for the period January 1 through June 28, 2004. The audit work is largely complete and KPMG expects to issue the final audit reports in early October 2004. Similar to the process for the first stage audit reports (for the period May 22, 2003 through December 31, 2003), the IAMB will ensure that the audit reports are made public (see http://www.iamb.info/dfiaudit.htm)

"The special audit requested by the IAMB to determine the extent of sole-sourced contracts funded by the DFI has yet to be commissioned. Also, the IAMB has not received reports on audits undertaken by various US agencies on sole-sourced contracts, despite repeated requests. The IAMB expressed its strong concern with these delays that hamper fulfillment of its mandate.

"In connection with its work related to UN Security Council resolution 1546
(2004) the IAMB discussed the revised terms of reference and rules of procedures for its work, which it expects to finalize shortly. The IAMB reviewed the scope of work for the external auditors to be appointed by the Government of Iraq to audit the oil export sales and DFI operations since June 28, 2004 in accordance with resolution 1546. The IAMB, in particular the Iraqi member, will work with the Government of Iraq to ensure the expeditious approval and appointment of duly qualified external auditors.

"The next meetings of the IAMB are tentatively scheduled for October 11-12 and December 6-7."

From http://www.iamb.info/pr/pr090804.htm

Exhibit D

From: Hiller, Rachel, OSD-COMPT </O=ORGANIZATION/OU=OSD/CN=OSD-OUSDC
RECIPIENTS/CN=[redacted]>
To: Leuthy, Cameron, OSD-COMPT </O=ORGANIZATION/OU=OSD/CN=OSD-OUSDC
Recipients/cn=[redacted]>
Norquist, David, OSD-COMPT </O=ORGANIZATION/OU=OSD/CN=OSD-OUSDC
Recipients/cn=[redacted]>
Benkert, Joseph PCO </O=ORGANIZATION/OU=PENTAGON/cn=Non-
Auth/cn=smtp/cn=Army/cn=HQDA/cn=[redacted]>
Evans, John, OSD-COMPT </O=ORGANIZATION/OU=OSD/CN=OSD-OUSDC
Recipients/cn=[redacted]
CC: Silva, Michael COL PCO </O=ORGANIZATION/OU=PENTAGON/cn=Non-
Auth/cn=smtp/cn=Army/cn=HQDA/cn=[redacted]>
Lovinger, Adam S Mr PCO </O=ORGANIZATION/OU=PENTAGON/cn=Non-
Auth/cn=smtp/cn=Army/cn=HQDA/cn=[redacted]>
Date: 09/14/2004
Subject: IAMB Status on Contract Redaction -- Contact Numbers for Ken Littlefield, etc.
Body: ALL

Just got a call from Ken Littlefield -- the Corps of Engineers POC who attended the Dave Patterson meeting on IAMB last week (the one that Wes, David, Joe Benkert and other SES-level folks attended).

Ken reported that the contractors are on track redacting the audit reports and plan to be finished by COB Thursday as Dave Patterson requested. He plans to transmit through Wes Miller's office (who is on leave), but Army is seen by USACE as the appropriate conduit to satisfy the Dave Patterson request.

On a related note -- the contractors were asked if they were willing to release unredacted versions of the audits with the recipient officials of IAMB/KPMG signing confidentiality statements -- the answer is a firm NO.

If anyone would like to get in touch with Ken to invite him to a meeting or to listen in on a phone meeting (he is downtown), his number is 202-761-1260 or 0278. He is willing to travel to the Pentagon for a meeting if needed (he mentioned that Dave Patterson indicated that he might have another meeting late this week.)

Finally, John Evans -- I was unable to schedule the meeting you requested with Wes Miller until next Monday since Wes is out of town and you were on leave earlier this week. But -- the Monday meeting is on your calendar and I invited Cameron, Joe and David N, too.

David Norquist -- I continue to work on Cameron's trip report refinements in between Tin Cup exercises. Not quite there yet.

Rachel Hiller
[redacted]

Exhibit E

From: Littlefield, Kenneth A HQ02
Sent: Thursday, September 16, 2004 2:49 PM
To: Griffin, Robert H MG HQ02
Cc: Coakley, Stephen HQ02; Tyler, J Joseph HQ02; Cheatham, James A MG HQ02; Beranek, Dwight A HQ02; Snodgrass, David B COL HQ02; Mele, Michael R. HQ02; Bertini, Albert J HQ02; McMahon, John R COL HQ02; Jennings, Rupert J HQ02; Ripp, Donald J HQ02; Greenhouse, Bunnatine H HQ02; Doyle, Norbert S COL HQ02; DeAngelis, James J HQ02; Sanders, Carol A HQ02; Rawal, Parag HQ02
Subject: OSD Meeting 16 September - DCAA Audits of DFI Funded Contracts

Sir,

Mr. Coakley and I attended a meeting this morning called and chaired by Mr. David Patterson, Special Assistant to Assistant Secretary of Defense Wolfiwitz, concerning release of DCAA audit reports of DFI funded contracts to IAMB. This meeting was a follow-on meeting to last Friday's meeting. Others attending included:

Mr. David Norquist, OSD (C)
Ms. Dee Lee, OSD Procurement
Mr. Scott Castle, OSD General Counsel
Mr. Joe Benkert, PCO
COL Mike Silva, ASA-FM
LTC Roseann Lynch, OSD PA

We provided Mr. Patterson with the redacted executive summaries of the DCAA audit reports of Task Orders 8, 9, and 10 of the KBR contract. KBR had redacted all dollar amounts questioned by DCAA along with certain related verbiage. OSD questioned why this would be considered proprietary information. Scott Castle made a statement that DoD could direct that unredacted DCAA audit reports be released to IAMB because the international agreement between the US Government and United Nations overrides other DoD provisions. We also received and had available the executive summaries of DCAA management audits of Washington Group International. TAC was still negotiating with Perini and Fluor for release of their executive summaries of DCAA management audits even though both firms previously had verbally committed to their release. All four firms have told TAC and SWD that they will not agree to release unredacted DCAA audit reports to senior IAMB members even if they sign non-disclosure statements.

In summary Mr. Norquist (filling in for Mr.Patterson who was called out) listed four main points requiring action. The first was is this redacting

legitimate and he asked that DCAA and USACE lawyers investigate. He asked OSD Counsel for a legal opinion on sending IAMB unredacted audit reports without contractors' approval. He also asked PCO to identify all audits of DFI funded contracts and list those completed and those pending and explain why we were providing IAMB with only the RIO and RIE audits. The final action was for ASA-FM to provide info from AMC regarding the LOGCAP contract audit issues. The major upcoming event is on 11 October when KPMG issues their audit report of DFI funding to the IAMB. There will also be a press conference on this date and DoD wants to avoid any references to non-cooperation by USG on releasing audit reports requested by IAMB. Mr. Norquist also asked us to provide he and Mr. Joe Benkert with a list and status of all DCAA audits concerning DFI funded contracts.

Very Respectively,
Kenneth A. Littlefield
HQ USACE, CEMP-IG
[redacted]
FAX [redacted]

Exhibit F

From: Sumner, Gordon A SWD
Sent: Tuesday, September 21, 2004 12:47 PM
To: Mele, Michael R. HQ02; Tyler, J Joseph HQ02; Littlefield, Kenneth A HQ02; Adams, Michael J HQ02; Jennings, Rupert J HQ02; Bertini, Albert J HQ02; Stickley, Howard P HQ02; Ripp, Donald J HQ02
Cc: Ryals, William C TAC; Thomas, Roger L TAC; Tanner, Morris A SWD
Subject: RE: DCAA-IAMB MEETING, 20 SEP 04

Mike Mele,

Per your request, I have spoken with KBRS's Mike Morrow, they will send redacted copies of executive summaries for 0006 & 0007 on Thursday. As far as redacted copies of the full audits, KBRS feels that the redacted copies will be mostly blacked out and nothing could be gained by reading the few words that would be left in them. KBRS simply does not trust anyone outside of the US Government.

As far as order 0005 goes, on Monday DCAA told me that it would not be completed before the end of the month due to auditor turnover.

gs

-----Original Message-----
From: Mele, Michael R. HQ02
Sent: Tuesday, September 21, 2004 12:21 PM
To: Tyler, J Joseph HQ02; Littlefield, Kenneth A HQ02; Adams, Michael J HQ02; Jennings, Rupert J HQ02; Bertini, Albert J HQ02; Stickley, Howard P HQ02; Ripp, Donald J HQ02
Cc: Ryals, William C TAC; Thomas, Roger L TAC; Sumner, Gordon A SWD; Tanner, Morris A SWD
Subject: DCAA-IAMB MEETING, 20 SEP 04

Mike Adams and I represented HQUSACE at the subject meeting in the Pentagon chaired by Joe Benkert and attended by Col Mike Silva (both of PCO). Salient issues follow:

- we have provided them all that we can, at present (redacted financial audits of KBR TOs 8,9 and 10 and Wash Intl and Flour contracts)
- TAC is still in negotiations with Perini for the release of a redacted version of the DCAA financial audit of Perini
- OSD is pressing DCAA for the release of the financial audits of KBR TOs 5,6 and 7.
- OSD is responsible for working with the firms directly on release of management audits, since these are audits of the operations of the firm and not related to specific contracts.
- OSD Counsel is deliberating on the release of the non-redacted audits contingent on the signing of non-disclosure agreements by the IAMB. (I cautioned against this course of action based on my NATO experience where US Mission NATO would never agree to such a release to our NATO Allies since the proprietary information was sure to find its way to the U.S. firms foreign competitors)
- OSD would be meeting with IAMB in NY on 11, 12 Oct - a preliminary meeting might be held with IAMB.

Mele

Exhibit G

FW DFI Tiger Team due-outs2
From: Littlefield, Kenneth A HQ02
Sent: Tuesday, September 21, 2004 1:18 PM
To: Mele, Michael R. HQ02
Cc: Tyler, J Joseph HQ02; Coakley, Stephen HQ02; DeAngelis, James J HQ02; Jennings, Rupert J HQ02; Adams, Michael J HQ02; Bertini, Albert J HQ02; Sumner, Gordon A SWD; Ripp, Donald J HQ02
Subject: FW: DFI Tiger Team due-outs

Attachments: SD one pager-Iraqi seized assets.doc

Mike,

I spoke with Mr. David Norquist, OSD(C) earlier this afternoon and he wants USACE participation at today's 1500 meeting in his office. The first item on the Tiger Team due outs for today's meeting is for USACE to review the contractor's redactions of the DCAA audits and revise redactions as appropriate. Mr. Norquist said that only what is legally redactable should be redacted and that KBR redacted more than propriatory information. OSD is looking for all of the financial and management audits involving KBR that involve Task Orders 5 -10.

Spoke with Gordon Sumner and was advised that if KBR redacts the entire audit reports (as OSD is requesting) that entire blacked out pages will be provided. Mr. Sumner also said we should have the redacted executive summaries of Task orders 6 and 7 by this Friday.

Kenneth A. Littlefield
HQ USACE, CEMP-IG
[redacted]
FAX [redacted]

-----Original Message-----
From: Hiller, Rachel, OSD-COMPT [mailto:[redacted]]
Sent: Tuesday, September 21, 2004 1:27 PM
To: 'Littlefield, Kenneth A HQ02'
Subject: FW: DFI Tiger Team due-outs

> -----Original Message-----
> From: Miller, Wesley C Mr ASA-FM
> [mailto:[redacted]]
> Sent: Tuesday, September 21, 2004 12:09 PM
> To: Hiller, Rachel OSD-COMPT
> Subject: FW: DFI Tiger Team due-outs
>
>
>
> -----Original Message-----
> From: Godwin, Ashley OSD-COMPT
> Sent: Friday, September 17, 2004 11:43 AM
> To: Marino, Donna CIV OSD; Benkert, Joseph PCO; Miller, Wesley C Mr
> ASA-FM; Bagley, Dianne Ms OSD-ATL; Lee, Deidre CPA; Norquist, David
> OSD-COMPT; Castle, Scott Mr DoD OGC; Lynch, Roseann LtCol OASD-PA;
> Coakley, Stephen COE; [redacted]; DeFrank, James Col SAF/PA
> Cc: Bagley, Dianne Ms OSD-ATL; Chandler, Eileen Ms ASA-I&E; Zimmerman,
> Barbara B Ms ASA-FM; [redacted]; Patterson, Jack D CIV OSD;
> Lieb, Jeffrey LTC OSD; Idziak, Susan E. Capt OASD-PA; Hines-Laboy, Sue
> A. MGySgt OSD-LA; Chafin, Claude CIV OSD-LA
> Subject: DFI Tiger Team due-outs
>

FW DFI Tiger Team due-outs2

> Pursuant to yesterday's way-ahead meeting, the following taskings
> should be completed by the responsible parties prior to meeting next Tuesday:
>
> 1. USA-COE will review contractor redactions of audit documents
> and revise redactions as appropriate.
> 2. OSD-OGC will issue a legal opinion on DoD authority to
> release audits directly to the IAMB and any audit firm in their employ.
> 3. PCO (Mike Silva) will prepare an explanation of why these
> particular contracts/audits are the right set of audits.
> 4. OSD-LA will determine past protocol for the sharing of
> audits with Congress.
> 5. All team members will draft Q&A's (format attached) for key
> issues.
>
> ***Next meeting on Tuesday, 21 September at 1500, Room 3E833 (D.
> Norquist's office).
>
> <<SD one pager-Iraqi seized assets.doc>>
>

Exhibit H

From: Mele, Michael R. HQ02
Sent: Tuesday, September 21, 2004 3:57 PM
To: Tyler, J Joseph HQ02; Littlefield, Kenneth A HQ02; Jennings, Rupert J HQ02; Bertini, Albert J HQ02; Stickley, Howard P HQ02; Ripp, Donald J HQ02; Sumner, Gordon A SWD; Tanner, Morris A SWD; Ryals, William C TAC; Thomas, Roger L TAC
Cc: Scully, Whitney HQ02; Adams, Michael J HQ02; Beranek, Dwight A HQ02; Coakley, Stephen HQ02
Subject: RE: DCAA-IAMB MEETING, 20 SEP 04

Importance: High

A follow-up meeting was held today, 21 Sep, at the Pentagon with Mr. Norquist. Rupert Jennings and I attended. Salient points were as follows:

- I informed Mr. Norquist of the status of the USACE actions.
  - we are still missing the DCAA audit for KBR TO 5
  - the redacted audit from Perini is still under negotiation between Perini and TAC.
- It was agreed that the systems (management) audits were a DCMA (not USACE) responsibility.
- Mr. Norquist is under pressure to release the entire, non-redacted, financial audits - OSD Counsel is reviewing the ramifications.

- USACE is expected to provide the redacted audits of KBR TOs 6&7 to OSD by Thursday (Gordon Sumner informs that KBR is currently working these and expects to have them on Thursday). ACTION: SWD
- USACE is expected to provide U.S. Government reviews of all redacted executive summaries in our purview, to supercede the industry redacted versions by Thursday. (Rupert is reviewing the legal ramifications of this action with OSD Counsel) ACTION: SWD and TAC after consultation with HQUSACE Counsel (Rupert)
- USACE is expected to provide industry redacted versions of the complete audits for all the audits in our purview (we informed Mr. Norquist that
  - 1) this is not what was agreed between USACE and OSD, that the firms only agreed to provide redacted versions of the executive summaries, and
  - 2) KBR has indicated that the redacted copies would be largely blacked out and nothing would be gained). ACTION:SWD and TAC to request this from the firms and report the reaction by Thursday.
- It was suggested in the margins of the meeting that explanations (1 page or so) from each firm as to why the information in the audits is proprietary, and its release detrimental to the firm, should be attached to the redacted executive summaries to help make the case of the firms. (ACTION: SWD and TAC to request the firms to provide the explanations)

Michael R. Mele, P.E.
Gulf Region PM

-----Original Message-----
From: Mele, Michael R. HQ02
Sent: Tuesday, September 21, 2004 1:21 PM
To: Tyler, J Joseph HQ02; Littlefield, Kenneth A HQ02; Adams, Michael J HQ02; Jennings, Rupert J HQ02; Bertini, Albert J HQ02; Stickley, Howard P HQ02; Ripp, Donald J HQ02
Cc: Ryals, William C TAC; Thomas, Roger L TAC; Sumner, Gordon A SWD; Tanner, Morris A SWD
Subject: DCAA-IAMB MEETING, 20 SEP 04

Mike Adams and I represented HQUSACE at the subject meeting in the Pentagon chaired by Joe Benkert and attended by Col Mike Silva (both of PCO). Salient issues follow:

- we have provided them all that we can, at present (redacted financial audits of KBR TOs

8,9 and 10 and Wash Intl and Flour contracts)

- TAC is still in negotiations with Perini for the release of a redacted version of the DCAA financial audit of Perini
- OSD is pressing DCAA for the release of the financial audits of KBR TOs 5,6 and 7.
- OSD is responsible for working with the firms directly on release of management audits, since these are audits of the operations of the firm and not related to specific contracts.
- OSD Counsel is deliberating on the release of the non-redacted audits contingent on the signing of non-disclosure agreements by the IAMB. (I cautioned against this course of action based on my NATO experience where US Mission NATO would never agree to such a release to our NATO Allies since the proprietary information was sure to find its way to the U.S. firms foreign competitors)
- OSD would be meeting with IAMB in NY on 11, 12 Oct - a preliminary meeting might be held with IAMB.

Mele

Exhibit I

Garcia, Joe, Mr, DCAA

From: Thibault, Mike, Mr, DCAA
Sent: Thursday, September 23, 2004 8:22 AM
To: Reed, William, Mr, DCAA-D
Cc: Newman, Earl, Mr, DCAA-O; Garcia, Joe, Mr, DCAA; Hornsleth, Cris, Mr, DCAA
Subject: FW: DCMA Cognizance on IAMB Requested Reports

Info - Mike

-----Original Message-----
From: Flavin, Sallie (DCMA DEP. DIR) [mailto[redacted]
Sent: Thursday, September 23, 2004 8:20 AM
To: Thibault, Mike, Mr, DCAA
Subject: RE: DCMA Cognizance on IAMB Requested Reports

Goodness, Mike - a very tangled web - thanks for the info - I'm going to get some people here looking at the KBR and WGI parts.

Sallie Flavin
Deputy Director
[redacted]

From: Thibault, Mike, Mr, DCAA [mailto:[redacted]
Sent: Wednesday, September 22, 2004 7:37 PM
To: Flavin, Sallie (DCMA DEP. DIR)
Subject: RE: DCMA Cognizance on IAMB Requested Reports

Sorry Sallie,

I botched a couple of the spell-checks below but it should be clear. I think that I fixed them.

Mike

-----Original Message-----
From: Thibault, Mike, Mr, DCAA
Sent: Wednesday, September 22, 2004 7:33 PM
To: 'Flavin, Sallie (DCMA DEP. DIR)'
Subject: RE: DCMA Cognizance on IAMB Requested Reports

Sallie,

Sorry so slow in getting back to you. Last spring, the CPA and DoD agreed to give the IAMB copies of all audit related information where DFI funds are being used and where there are American companies involved. The IAMB hired KPMG to do the audit of the DFI funds and financial controls by the CPA. Bremer had signed in 2003 an agreement that he would furnish all available data to the IAMB auditors. DFI funds were used (I don't know the background) to

supplement fuels purchases on the RIO contract ($750 million), and to supplement the Restore Iraqi Electricity program ($500 million.) There have been several IAMB press releases that have hit the media that DoD has not done this, and that promises to do so have not been met. After the last episode (about three weeks ago) apparently Rumsfeld and Wolfowitz got involved and directed that the reports be issued to the IAMB auditors. Dave Patterson is pushing it for them and directed Norquist to generate the listing and the reports. We did this actually two times (once about two months ago, and again updated the listing last week.) To the best of everyone's knowledge only RIO and RIE contracts are involved with DFI funds, and that's the assertion that DoD gave the IAMB. Obviously, if there are more, there will be a big play on that also, but I am unaware of any other American contractors that DCAA audits with DFI funds being part of the funding. I had heard there were some security companies, but have no confirmation, so have no basis to furnish any of that speculation. I hope there aren't.

Anyway, at a meeting two weeks ago, Bill Reed asked Patterson directly if the Department wanted to give these reports to the IAMB and he said absolutely and that Rumsfeld wants no more criticism of DoD for delaying the process. The next IAMB meeting is in early October, and David Norquist is meeting bi-weekly to get it all together. So far -so good.

The Corps of Engineers asked the four contractors if they objected and all said they did because there was proprietary info in the DCAA reports. So - the Corps asked the companies to redact the reports and agreed to only furnish the Executive Summary section. Norquist told the Corps they weren't empowered to make that agreement and the Corps' legal is involved and very sensitive. The other issue is that the companies redacted a lot of data that has never been considered proprietary before (e.g. the summary questioned costs.) Norquist's point is that without this data, there is no basis for KPMG analysis and he is right. DCAA is not involved because we do not authorize report release (only the report recipient - the PICO or ACE.)

It only became apparent on Tuesday that some these reports are systems reports (e.g. billing and estimating) that overarch onto all contracts including the DFI funded contracts. That's where CAM comes into play because your COs were the recipient for these reports for KBR and WGI , and they have to authorize the release. The Corps does the ACE work at Perini and DOE does the work at Fluor .

We generated the audit reports and we go to these meetings and we give David Norquist copies of the reports, but we are not involved in the release decision. The challenge (from a Corps perspective) is that they state they do not want to override KBR's redactions. Norquist then said that Les Brownlee does not want to say that he did not give the audit reports to the IAMB because Halliburton wouldn't let them. That's the dilemma. And this is being driven hard by the next scheduled meeting with the IAMB and the DepSec's and the SecDef's desire to not get another October press release from the IAMB that DoD will not give the Halliburton audits to the IAMB auditors. The other three companies are kind of peripheral in all of the discussions. I do know the DoD, Army, and Corps general counsel are working this, but so far have not come up with an answer acceptable to DoD focal points (Patterson and Norquist.)

Hope this helps. DCAA is not part of the decision making process on all this.

Mike

-----Original Message-----
From: Flavin, Sallie (DCMA DEP. DIR) [mailto[redacted]
Sent: Wednesday, September 22, 2004 5:33 PM
To: Thibault, Mike, Mr, DCAA
Subject: RE: DCMA Cognizance on IAMB Requested Reports

Mike - What is driving this question from Dave?

Sallie Flavin
Deputy Director
[redacted]

Exhibit J

Benkert, Joseph, CIV, WSO-DRSO

From: Hiller, Rachel OSD-COMPT
Sent: Monday, September 27, 2004 4:40 PM
To: Norquist, David OSD-COMPT
Cc: Benkert, Joseph PCO; Leuthy, Cameron OSD-COMPT
Subject: Follow-up on Timeline for IAMB

Dave

Per your instruction that I follow up on issues in the IAMB timeline document that I put together for you -- I tried to contact everyone by phone (I put most numbers in this message, because hard to locate all of them and you might like to have) --

I left a phone message for Mike Silva ([redacted])asking him for the **most recent one pager on the universe of contracts** -- said you and I needed if he could email. (HE DID)

I talked to Claude Chafin at LA who said the **protocol for sharing audits with Congress** was -- anything that is shared with IAMB can and should go to the Hill. His number is[redacted] if you need to discuss a different angle.

I left a phone message for the lawyer from the USACE who was at the meeting -- **Mike Mele -- reminded him that he had promised the copies of justifications for sole sourcing the contract task orders and also the Statements of Work.** Asked him to forward to you and me. His phone number is[redacted] by the way.

Talked to Mike Silva who got the disc that has favorable opinion from Terry Heide -- the one that had **favorable GAO opinion of the sole sourcing of the KBR task orders. (Apparently, this is not a DoD IG opinion, but a GAO opinion per Ken Littlefield.)** Mike Silva has not reviewed the disc, but he will burn a copy for us, but also thought that you or Cameron were handed a disc too -- regardless, we should get copy from him.

Joe Benkert's office is convening a meeting tomorrow at 4 to discuss comments to the Special Audit **statement of work.** DoD IG and DCAA and Bob Gorman are invited, as are you. Main issue is the **feasibility of the current draft, and if it is not feasible, exploring the potential alternatives**. So -- this is the item on the timeline with OGC tasker that you were thinking of (page 2 last item under Monday the 27).

A final note -- talked to Ken Littlefield at the USACE and he said that **it was unlikely that the USACE lawyers' review of the contractor-proposed redactions would reverse any significant redactions** -- just maybe a sentence or two is how Ken described it.

Rachel

Exhibit K

UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON DC 20301-1100

COMPTROLLER

INFO MEMO

September 27, 2004, 5:00 PM

TO: SECRETARY OF DEFENSE
DEPUTY SECRETARY OF DEFENSE

FROM: Tina W. Jonas

SUBJECT: International Advisory & Monitoring Board (IAMB)

- On October 11th, the IAMB's auditor, KPMG, will issue its second audit report covering the Coalition Provisional Authority's (CPA) management of the Development Fund for Iraq (DFI) from January through June, 2004. As with the first audit, we expect this event to receive modest press coverage.

- This audit is different from the CPA Inspector General audit of DFI funds, but both audits have found uneven compliance with internal controls and inadequate recordkeeping by the Iraqi ministries.

- We expect the KPMG auditor's report to include three additional issues:
  - A qualified opinion of the DFI financial statement. It will be qualified because not all oil export revenues can be accounted for due to smuggling;
  - Inconsistent compliance with controls established for the Commander's Emergency Response Program (CERP);
  - Inadequate controls for the Rapid Regional Response Program (R3P), the CPA's civilian equivalent of CERP, and individual cases of potential improprieties.

- The following corrective action has already been taken:
  - LTG Sanchez was informed, and re-iterated to his commanders the importance of complying with written guidelines for the CERP program;
  - At the CPA Comptroller's request, the CPA Inspector General initiated an audit of R3P that could lead to individual investigations.

- In addition to this audit, the Board has requested U.S. audit reports of sole-sourced contracts that used DFI. It is illegal to release proprietary contractor information. Therefore, the Army Corps of Engineers is working to redact the key audit reports for release to the IAMB before the October 11th meeting.

Prepared By: David Norquist, [redacted]

Exhibit L

Benkert, Joseph, CIV, WSO-DRSO

From: Thibault, Mike, Mr, DCAA [redacted]

Sent: Monday, September 27, 2004 6:50 PM

To: Lovinger, Adam S Mr PCO; Gorman, Robert Mr DoD OGC; Garcia, Joe, Mr, DCAA; Norquist, David OSD-COMPT; Hiller, Rachel OSD-COMPT; Brannin, Patricia A. OIG DoD; Baker, Joe A. OIG DoD

Cc: Benkert, Joseph PCO

Subject: RE: Sole source contracts using DFI

Adam,

We would suggest that the Army send the original KBR redacted reports, and explain that Halliburton has raised the proprietary nature of this data, and that it will take the Army an extended effort to evaluate KBR's redactions and until then the Army is going with KBR's assertions of proprietary information. Having DCAA develop a summary report and letting KBR redact that report or assessment or letter; gives the appearance that DoD does not have an independent audit process and that the company dictates the events. Also, it would leave the appearance that DCAA supports the KBR position, and that is the Army/Corps call (it is not DCAA's call what are reasonable redactions.)

Bottom line - if the COE and Army legal staff believe that the redactions are appropriate; or that there is insufficient time to review all the legal ramifications; we recommend that the redacted (By KBR) RIO and any other DFI funded reports be provided to the IAMB with the position (fully accurate) that the DoD cannot at this time take a position different than that offered by KBR. No one (GAO; DoDIG; Congress; or the media) would accept a second DCAA report where DCAA agreed to KBR redactions. We have previously outlined that some of the redacted material does not seem to be proprietary (e.g total costs questioned); but we agree that for the Army counsel to make an instant assessment of KBR's redactions is not fair to the Army or KBR, and runs the risk that such a quick decision could be wrong. So - the IAMB and their auditors should understand this, and do what they can with the redacted proposals. Since I have not seen any of the redacted audits, I do not know if the redactions are so extreme as to bring criticism onto the Army or DoD counsel for taking the position this is the best we can do.

My thoughts. I can attend the meeting tomorrow at 4:00.

Mike Thibault
DCAA Deputy Director
[redacted]

Go Redskins!!!

-----Original Message-----
From: Lovinger, Adam S Mr PCO [mailto:[redacted]
Sent: Monday, September 27, 2004 3:29 PM
To: Lovinger, Adam S Mr PCO; Gorman, Robert Mr DoD OGC; Garcia, Joe, Mr, DCAA; Thibault, Mike, Mr, DCAA; Norquist, David OSD-COMPT; Hiller, Rachel OSD-COMPT; Brannin, Patricia A. OIG DoD; Baker, Joe A. OIG DoD
Cc: Benkert, Joseph PCO
Subject: RE: Sole source contracts using DFI

Please note below the key issues we would like to discuss:

-This statement of work (SOW) is being commissioned by the Interim Iraqi Government. That being the case, it appears that any private auditor hired to conduct the audit envisaged by the SOW will receive, at most, heavily redacted contracts of little utility.

-Please note that IAMB is currently committed to keeping Section 3 (Project Scope) "as is" i.e. requesting potentially confidential/proprietary information.

-If a USG auditor consents to conduct the audits of the sole source contracts using DFI in question (the "Contracts"), what are the benefits and pitfalls of such USG auditor hiring a private auditing firm to conduct the relevant audit?

On a tangentially related question, we would like to discuss the following: As you know, DCAA has audited a host of sole source KBR contracts. Can unredacted versions of such contracts be reviewed and summarized in a single report by DCAA for presentation to the IAMB as long as KBR has the opportunity to review such report and redact any confidential/proprietary info?

Thanks,

Adam

-----Original Message-----
From: Lovinger, Adam S Mr PCO
Sent: Monday, September 27, 2004 2:00 PM
To: Lovinger, Adam S Mr PCO; Gorman, Robert Mr DoD OGC; [redacted]; [redacted]; Norquist, David OSD-COMPT; Hiller, Rachel OSD-COMPT; Brannin, Patricia A. OIG DoD; Baker, Joe A. OIG DoD

Cc: Benkert, Joseph PCO
Subject: RE: Sole source contracts using DFI

A conflict has already arisen. Please let me know if 4:00 PM tomorrow does NOT work. Thanks, Adam.

-----Original Message-----
From: Lovinger, Adam S Mr PCO
Sent: Monday, September 27, 2004 1:54 PM
To: Gorman, Robert Mr DoD OGC; [redacted]; [redacted]; Norquist, David OSD-COMPT; Hiller, Rachel OSD-COMPT; Brannin, Patricia A. OIG DoD; Baker, Joe A. OIG DoD

Cc: Benkert, Joseph PCO
Subject: Sole source contracts using DFI
Importance: High

Dear all,

Joe Benkert has requested a meeting to discuss the attached statement of work of sole source contracts using DFI. The main issue is the feasibility of the current draft, and if it is not feasible (which seems to be the case), exploring the potential alternatives. Please respond only if you or your designee can NOT make a meeting tomorrow at 2:30 PM. The meeting will be held in Pentagon room 2E760.

Thank you very much,

Adam

Adam Lovinger

Legal Counsel
Iraq Support Group
Department of Defense
[redacted]

-----Original Message-----
From: Lovinger, Adam S Mr PCO
Sent: Wednesday, September 22, 2004 3:49 PM
To: Benkert, Joseph PCO
Subject: FW: Sole sourced contracts-SOW1

Joe -- Please see footnote No. 1 of the attached. This is my stab at introducing the issue we talked about.

Adam

Exhibit M

KBR | KELLOGG BROWN & ROOT SERVICES, INC
GOVERNMENT OPERATIONS - RIO
4100 CLINTON DR. HOUSTON, TX 77020

Mr. Gordon A. Sumner
Contracting Officer
USACE Southwestern Division CESWD-CT
1100 Commerce Street Room 824
Dallas, Texas 75242

28 September 2004
RIO-04-0037

SUBJECT: DACA63-03-D-0005 Proprietary Information, Task Order 0009

Dear Mr. Sumner:

As we have discussed in the past, Kellogg Brown & Root Services, Inc. (KBR) is adamant about maintaining its right to protect KBR proprietary information from disclosure to competitors and to the general public. Protections against such disclosure are written into the Freedom of Information Act and into implementing subparts of the Federal Acquisition Regulations.

To facilitate your continued request for release of the DCAA audit report for Task Order 0009, KBR has redacted the information that KBR considers to be a disclosure of its proprietary policies, procedures, and accounting information. In addition we have redacted the statements of DCAA that we believe are factually incorrect or misleading and could be used by a competitor to damage KBR's ability to win and negotiate new work.

KBR provides information under the subject contract for use by the U.S. Government and its agencies in managing the work under this contract and fulfilling agency objectives and for whatever other uses may be granted to the U. S. Government by law.

Should you require additional information, please contact me at 713-753-2506.

Sincerely,

Michael K. Morrow
Contracts Manager

CC: John H. Rodgers

NOTE: This document contains information which may be withheld from the public because disclosure would cause a foreseeable harm to an interest protected by one or more Exemptions of the Freedom of Information Act, 5 USC Section 552. Furthermore, it is requested that any Government entity receiving this information act in accordance with DoD 5400.7-R, and consider this information as being for official use only (FOUO), and mark, handle and store this information so as to prevent unauthorized access.

Exhibit N

From: Littlefield, Kenneth A HQ02
Sent: Wednesday, September 29, 2004 8:30 AM
To: Tyler, J Joseph HQ02
Cc: Stickley, Howard P HQ02; Mele, Michael R. HQ02; Scully, Whitney HQ02
Subject: Request for Information on KBR Contract from Mr. David Norquist, OSD (C)

Importance: High

Joe,

I received a phone call this morning from Mr. David Norquist requesting additional information on the KBR RIO contract. Mr. Norquist said he needs the scope of work for Task Orders 5 -10 and also the sole source justification (J&A) used in awarding the contract. He said he needs these today.

Mr. Norquist also said he concurs with the recommendation from USACE Counsel on release of redacted audits to IAMB and went on to say that there would not be time to coordinate with the contractors on releasing additional data over and above their current agreement. He also said that he plans to meet with the UN prior to the 11 October IAMB meeting and would want a USACE rep to accompany him that is knowedgable in addressing negotions with KBR on the DCAA audit report findings.

VR,
Ken Littlefield
HQ USACE, CEMP-IG
[redacted]
FAX [redacted]

Exhibit O

From: Littlefield, Kenneth A HQ02
Sent: Wednesday, September 29, 2004 2:20 PM
To: 'Hiller, Rachel, OSD-COMPT'
Cc: Norquist, David, OSD-COMPT; Leuthy, Cameron, OSD-COMPT; Tyler, J Joseph HQ02; Stickley, Howard P HQ02; Scully, Whitney HQ02; Jennings, Rupert J HQ02
Subject: RE: One Pager on Release of Redacted Audits?
Rachel,

David Norquist called me on this to provide some additional specifics on what he needed. Subsequently I discussed the requirement with Rupert Jennings of our General Counsel. Rupert Jennings contacted Mr. Bob Gorman of OSD General Cousel by voicemail and then spoke with Scott Castle of OSD General Counsel. USACE and OSD Counsel concluded that OSD Counsel should provide the two summary papers that Mr. Norquist requires for the IAMB meeting and that RupertJennings would provide OSD General Counsel with the e-mail containing his recommendations that I previously provided to you.

Ken Littlefield
HQ USACE, CEMP-IG
[redacted]
FAX [redacted]

-----Original Message-----
From: Hiller, Rachel, OSD-COMPT [mailto:[redacted]]
Sent: Wednesday, September 29, 2004 1:55 PM
To: 'Littlefield, Kenneth A HQ02'
Cc: Norquist, David, OSD-COMPT; Leuthy, Cameron, OSD-COMPT
Subject: One Pager on Release of Redacted Audits?

Ken

David asked me to check with you on a one pager from the Contractor, through USACE saying that we could release the redacted audits to the IAMB? Would be nice to also say we could give them the SOW and Sole Source Justifications for the Rio Contracts. Let me know if we already have somewhere.

David -- jump in here if this is NOT described correctly.

Rachel

-----Original Message-----
From: Littlefield, Kenneth A HQ02 [mailto:[redacted]]
Sent: Wednesday, September 29, 2004 10:33 AM
To: 'Hiller, Rachel, OSD-COMPT'
Cc: Scully, Whitney HQ02
Subject: RE:

Rachel,

Unfortunately it's not. Mr. Norquist needs the Scope of Work (SOW) and

the sole source justification (J&A) for the KBR RIO contract. David called me ealier this morning and said he needs these today. I spoke with Mr. Joe Tyler, the SES that I work for, and he assigned this action to Mr. Whit Scully. According to Mr. Tyler we have this information here at HQUSACE and we expect to have this information to you soon.

Ken Littlefield
HQ USACE, CEMP-IG
[redacted]
FAX [redacted]

-----Original Message-----
From: Hiller, Rachel, OSD-COMPT [mailto[redacted]
Sent: Wednesday, September 29, 2004 8:40 AM
To: 'Littlefield, Kenneth A HQ02'
Subject: RE:

Ken-- Is this the SOW and Sole Source justification that I just asked for? Whoops....

Rachel

-----Original Message-----
From: Littlefield, Kenneth A HQ02
[mailto:[redacted]]
Sent: Wednesday, September 29, 2004 7:40 AM
To: [redacted]@kpmg.com'
Cc: 'heetlands[redacted]; Silva, Michael COL PCO; Tyler, J Joseph HQ02; Mele, Michael R. HQ02; Bertini, Albert J HQ02; Scully, Whitney HQ02; Doyle, Norbert S LTC HQ02; Booker, Donn L SR TAC; Thomas, Roger L TAC; Ryals, William C TAC; Thibault, Neal R LTC TAC; 'Rachel.Hiller[redacted]
Subject:
Importance: High

Mr. Picard,

Enclosed is the scope of work for the three contracts for the Corps of Engineers Restore Iraqi Electricity (RIE) program as well as the acquisition plan used in the selection process. Sorry that we could not provide these to you on 25 September as requested.

<<RE: DFI audit - USACE follow-up>> <<RE: DFI audit - USACE follow-up>>

Kenneth A. Littlefield
HQ USACE, CEMP-IG
[redacted]

Exhibit P

Benkert, Joseph, CIV, WSO-DRSO

From: Hiller, Rachel OSD-COMPT
Sent: Wednesday, October 06, 2004 5:25 PM
To: Norquist, David OSD-COMPT; Benkert, Joseph PCO
Subject: FW: Letter to SecDef

FYI -- email from Rose Ann to LA below

-----Original Message-----
From: Lynch, Roseann LtCol, OASD-PA
Sent: Wednesday, October 06, 2004 1:47 PM
To: Chafin, Claude, CIV, OSD-LA
Subject: RE: Letter to SecDef

Hi Claude,

Mr. Norquist is not giving them the reports today. Nothing is due to the IAMB until 11 OCT, and as I mentioned below, Mr Norquist did say that the redacted audits will go to Congress prior to going to the IAMB.

I don't think there will be a problem. Mr. Norquist is very careful not to rock boats.

R-A

LtCol Rose-Ann L. Lynch, USMC
Office of the Assistant Secretary of Defense for Public Affairs
Phone: [redacted]
Fax: [redacted]

-----Original Message-----
From: Chafin, Claude, CIV, OSD-LA
Sent: Wednesday, October 06, 2004 1:03 PM
To: Lynch, Roseann LtCol, OASD-PA; Whitman, Bryan, SES, OASD-PA; Esperne, Jeanine, CIV, OSD-LA; Holthaus, Noreen, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Moffitt, Stephen, CIV, OSD-LA
Cc: Merritt, Roxie T. CAPT, OASD-PA; Stanley, Daniel, CIV, OSD-LA; Moore, Powell, CIV, OSD-LA
Subject: RE: Letter to SecDef
Importance: High

As I have discussed with Norquist - we are obligated to give the Hill whatever we give the IAMB. I was under the impression that we had an arrangement with IAMB that would stop short of giving them the redacted or unredacted audits.

That said, the Waxman Shays letter does not constitute a letter from the full committee. In order to keep our relationship with the hill as bi-partisan as possible, we require these requests come from the full committee.

That said, whatever goes to the IAMB MUST go to the hill.

-----Original Message-----
From: Lynch, Roseann LtCol, OASD-PA
Sent: Wednesday, October 06, 2004 12:55 PM
To: Whitman, Bryan, SES, OASD-PA
Cc: Merritt, Roxie T. CAPT, OASD-PA; Chafin, Claude, CIV, OSD-LA
Subject: RE: Letter to SecDef

Good Morning Sir,

This is the situation Mr. Norquist came by to talk to you about last week. He is at a meeting today with the International Advisory and Monitoring Board (IAMB) in New York.

The audits were requested by IAMB, but have not yet been provided. Some were not complete at the time of

request. All the audits contain proprietary information which legally needs to be redacted by Halliburton. That redaction effort should be complete (or near completion) at this time, but Mr. Norquist noted there is a lot of black. The meeting today is to show the IAMB what they will be receiving officially on 11 OCT, and to explain the redaction process.

I am sure that the concern about turning unredacted reports over to Congress is that they might end up on someone's website...it has happened before.

Although the redacted reports are not going to IAMB for public release, they are then out of our hands and may end up in the media's possession. If I remember, Mr Norquist did say that the redacted audits will go to Congress prior to going to the IAMB.

I hope this helps, Sir.

v/r

LtCol Rose-Ann L. Lynch, USMC
Office of the Assistant Secretary of Defense for Public Affairs
Phone: [redacted]
Fax: [redacted]

-----Original Message-----
From: Whitman, Bryan, SES, OASD-PA
Sent: Wednesday, October 06, 2004 12:38 PM
To: Lynch, Roseann LtCol, OASD-PA
Cc: Moore, Powell, CIV, OSD-LA; Stanley, Daniel, CIV, OSD-LA; Chafin, Claude, CIV, OSD-LA
Subject: RE: Letter to SecDef

Remind me again why we wouldn't want to provide these audits to Congress?

-----Original Message-----
From: Lynch, Roseann LtCol, OASD-PA
Sent: Wednesday, October 06, 2004 11:59 AM
To: Merritt, Roxie T. CAPT, OASD-PA; Whitman, Bryan, SES, OASD-PA
Subject: FW: Letter to SecDef
Importance: High

Good Morning Sir and Ma'am,

FYI

R-A

LtCol Rose-Ann L. Lynch, USMC
Office of the Assistant Secretary of Defense for Public Affairs
Phone: [redacted]
Fax: [redacted]

-----Original Message-----
From: Godwin, Ashley, OSD-COMPT
Sent: Wednesday, October 06, 2004 10:30 AM
To: Henke, Robert, Mr, OSD-COMPT; Norquist, David, OSD-COMPT; McKay, Teresa, OSD-COMPT; Benkert, Joseph PCO; Miller, Wesley C Mr ASA-FM; Tompkey, Mary, OSD-COMPT; Shue, Robert, OSD-COMPT; Schmidt, Rebecca, OSD-COMPT; Castle, Scott, Mr, DoD OGC; Lynch, Roseann LtCol, OASD-PA; Patterson, Jack D, CIV, OSD
Cc: Bowman, Keith, CAPT, OSD-COMPT
Subject: Letter to SecDef
Importance: High

Please see attached Waxman/Shays letter to SecDef requesting DFI documents under threat of subpoena.

<< File: Waxman-Shays_letter.pdf >>

-----Original Message-----
From: Godwin, Ashley, OSD-COMPT
Sent: Wednesday, October 06, 2004 9:38 AM
To: Henke, Robert, Mr, OSD-COMPT; Norquist, David, OSD-COMPT; McKay, Teresa, OSD-COMPT; Benkert, Joseph PCO; Miller, Wesley C Mr ASA-FM; Tompkey, Mary, OSD-COMPT
Cc: Bowman, Keith, CAPT, OSD-COMPT
Subject: Please see attached - possible audit subpoena
Importance: High

IRAQ: POSTWAR ADMINISTRATION & RECONSTRUCTION: OIL REVENUES

Rep. Henry Waxman: [A House subcommittee investigating Iraq's oil-for-food program expanded its probe to the Bush administration Tuesday, agreeing to subpoena documents on the U.S. postwar management of oil revenues and, **if necessary, audits on contracts for reconstruction projects, including one given to Halliburton Co. Democrats on the House Government Reform subcommittee on national security said there should be a full investigation into the Bush administration's refusal to release audits of Halliburton's $1.5 billion, noncompetitive contract to repair oil production facilities.** The Houston-based oil services company was formerly headed by Vice President Dick Cheney. Failure to release the information, said Rep. Henry Waxman, D-Calif., would appear hypocritical and arrogant, and] "reinforce the image that our primary goal (in Iraq) was to seize control of the oil." [Congress, said Democrats, needs to know what happened to oil revenues when the United States took over their management between May 2003 and June 2004. Since then, management has switched to the interim Iraqi government.]-*October 5, 2004; Associated Press newswires*

Rep. Christopher Shays: [Bowing to pressure, panel chairman Rep. Christopher Shays, R-Conn., agreed to issue a subpoena to the Federal Reserve Bank of New York for information on management of oil revenues, and to send a letter to Defense Secretary Donald Rumsfeld seeking audits on noncompetitive contracts.] "While I don't agree with the argument on why the information is needed, I think there is merit in getting this information," [said Shays.] **"My expectation is that the secretary will provide the documents. If he doesn't, we will follow up with a subpoena." [The letter and subpoena are expected to go out this week.** The agreement came as the committee continued to investigate allegations of corruption in Iraq's oil-for-food program, and whether companies monitoring the program were hamstrung by allied-endorsed sanctions that gave Saddam Hussein too much control. The oil-for-food program was created to help the Iraqi people cope with U.N. sanctions imposed after Saddam Hussein's 1990 invasion of Kuwait. The program, which ran from 1996 to 2003, allowed the Iraqi government to sell oil primarily to buy humanitarian good. But on Tuesday companies hired to monitor the oil sales and the products entering Iraq said they were threatened by Iraqi officials-on one occasion by 20 armed guards, and stymied by Hussein's ability to manipulate records and trade. U.N. Ambassador Patrick Kennedy said the program successfully provided critical food and medicine to the Iraqi people.] "It was about as leaky as it could get," [said Shays.] "Almost every transaction may have been a rip-off" that compromised the United Nations and allowed Hussein to make money. [The Government Accounting Office has estimated that the Iraqi government skimmed $4.4 billion through kickbacks and another $5.7 billion through oil smuggling.]-*October 5, 2004; Associated Press Newswires*

Exhibit Q



Home
Meetings
Press Releases
Press Briefings
Audit Reports
IAMB Reports
Documentation NEW!
Arabic Documentation
Links
Contact

Use the free to view the PDF files

International Advisory and Monitoring Board

Minutes of the meeting held at the United Nations Headquarters, New York on 11 and 12 October 2004.

The following members of the IAMB were present:

Arab Fund for Economic and Social Development: Mr. Khalifa Ali Dau, Senior Financial Advisor
International Monetary Fund: Mr. Bert E. Keuppens, Senior Advisor
Interim Government of Iraq: Advisor, Ministry of Finance
United Nations: Mr. Jean-Pierre Halbwachs, Assistant Secretary-General, Controller
World Bank: Mr. Charles McDonough, Director Accounting Department

Observer: Mr. David Norquist, Deputy Under Secretary, US Department of Defense

Also in attendance were the following:

International Monetary Fund:

Mr. Chris Hemus, Deputy Division Chief, Finance Department
Mr. Ramanand Mundkur, Counsel, Legal Department
Ms. Mary Hoare, Accountant, Finance Department

United Nations:

Mr. Jayantilal Karia, Director, Accounting Division
Mr. Moses Bamuwamye, Finance Officer

World Bank:

Ms. Caroline Harper, Lead Operations Officer

Interim Government of Iraq:

Alternate Member, Chartered Accountant/Auditor

The meeting was opened by the Chair.

1. The agenda for the meeting was unanimously adopted.
2. The adoption of the revised rules of procedure and the amended Terms of Reference of the IAMB were confirmed. These documents have been posted on the IAMB website.

External Audit of the DFI

3. KPMG presented the final audit reports of the Development Fund for Iraq (DFI) for the period 1 January to 28 June 2004.
4. The reports are available on the IAMB website at http://www.iamb.info/dfiaudit.htm
5. KPMG informed the IAMB that the Arabic version of the audit report would be provided in due course. The Arabic version of the earlier KPMG audit reports (i.e., through

December 31, 2003) has been posted on the IAMB website.

6. The IAMB decided to prepare a report on its oversight responsibilities under United Nations Security Council Resolution 1483, i.e., through June 28, 2004, which will include a summary of KPMG's findings and conclusions.
7. The Board completed the review of the Statement of Work (SOW) for the audit of the DFI covering the period 1 July - 31 December 2004. The Statement of Work will be submitted to tender by the Government of Iraq.
8. The deadline for receipt, from the Government of Iraq, of recommendations for award of this audit was set for 29 November 2004. Prior to providing the recommendations, the member from the Interim Government of Iraq also indicated that the Government would provide the IAMB with the evaluation criteria that would be applied to the proposals received.

Defense Contracts Audit Agency (DCAA) Reports.

9. The Board received DCAA audit reports on sole sourced contracts which it had previously sought. The reports covered the audit of 5 Task Orders and were redacted. The Observer informed the Board that the edits had been undertaken by the DCAA to safeguard proprietary information of the concerned parties.

Special Audit of sole-sourced contracts

10. The IAMB discussed the special audit of the sole source contracts. Due to the fact that the audit would cover the period when the CPA was in charge of the DFI, the Observer informed the IAMB that it would be logistically difficult for the Iraqi Government to handle the audit and obtain access to all necessary documents, either because the documents were located outside Iraq or because the documents were proprietary. The IAMB therefore agreed in principle to a proposal conveyed by the Observer that the US Government would commission a special audit of sole-sourced contracts in accordance with terms of reference agreed with the IAMB. This special audit will (i) determine the extent of sole-sourced contracts using DFI resources; (ii) summarize the findings of audits that have already been conducted by various US government audit agencies; and (iii) determine whether any such contracts have not been the subject of audits. The results of the audit will also be made public. It was also agreed that the US Government would provide the IAMB with written confirmation of this understanding.

Update on SOMO Audits

11. The IAMB reiterated its request to receive access to audit reports on the review of controls in the State Oil Marketing Organization (SOMO) by KPMG, which was commissioned by the CPA in February 2004.
12. The Board was informed that the SOMO audit reports would also be redacted to remove proprietary information. The US Observer promised to get back to the Board on this matter.

Press Release

13. The IAMB agreed to issue a press release and to post it on the IAMB website.

Other Business

14. The next meeting of the IAMB has been scheduled for 6-7 December 2004.
15. The meeting was adjourned on Tuesday 12 October 2004.

Exhibit R

IAMB المجلس الدولي للمشورة والرقابة – العراق
International Advisory and Monitoring Board for Iraq

Home
Meetings
Press Releases
Press Briefings
Audit Reports
IAMB Reports
Documentation NEW!
Arabic Documentation
Links
Contact

Use the free to view the PDF files

International Advisory and Monitoring Board on the Development Fund for Iraq

Press Release
April 29, 2005

Statement by the International Advisory and Monitoring Board on the Development Fund for Iraq

The International Advisory and Monitoring Board (IAMB) on the Development Fund for Iraq (DFI) met in Paris, France on April 17-18, 2005 and issued the following statement:

"The IAMB received an interim briefing by KPMG covering the period after the dissolution of the Coalition Provisional Authority (CPA) from June 29, 2004 to December 31, 2004. The IAMB at its meeting reviewed findings to date, received draft reports and expects that these will be completed shortly. These reports, which supplement earlier reports covering the periods from May 23, 2003 to June 28, 2004, will be made available on the IAMB website when received.

"The IAMB welcomed a briefing by the Iraqi representative on steps taken by the interim Government of Iraq to address a number of issues identified in earlier audits.

"The IAMB took note of the report of the Special Inspector General for Iraq Reconstruction regarding oversight of funds provided to Iraqi ministries through the national budget process. This report contained findings similar to those identified by KPMG.

"In accordance with UNSCR 1483, all member states of the United Nations are obligated to freeze funds and other financial assets of the former Iraqi regime and transfer such assets to the DFI. The IAMB is concerned that not all frozen assets of the former Iraqi regime have been transferred to the DFI and recommends a systematic follow-up.

"The IAMB noted that the unredacted Defense Contract Audit Agency (DCAA) audit reports covering the sole sourced contracts have been made public. These reports indicate overcharges and questionable amounts billed under the sole sourced contracts of an amount in excess of $200 million. The IAMB notes with regret that these findings had been redacted in earlier DCAA reports submitted by the US Government to the IAMB. Use of DFI resources that is not for the benefit of the Iraqi people is in conflict with UN Security Council Resolution 1483.

"The IAMB requested a special audit to review the use of DFI resources for sole sourced contracts during the period up to the dissolution of the CPA in June 2004. On April 15, 2005, the U.S. Government informed the IAMB that negotiations with an internationally recognized auditing firm had been completed and the contract has been awarded to KPMG LLP. The U.S. Government informed the IAMB that the audit report is scheduled to be provided to the IAMB by end August 2005. The special audit of sole sourced contracts calls for:
(i) identifying all non-competitively CPA awarded contracts valued at over $5 million that used DFI funds; (ii) providing a summary of the findings of audits of such contracts that have already been conducted by various U.S. Government audit agencies; and (iii) conducting additional audit procedures on non-competitively awarded contracts that have not been the subject of audit, including whether such contracts were in accordance with the purposes outlined in UN Security Council Resolution 1483.

"According to UN Security Council Resolution 1546, the IAMB will cease operation no later than December 31, 2005 or such earlier time as decided by the Government of Iraq. In view of this, arrangements to plan for a smooth transition to an Iraqi oversight authority were discussed.

"The date of the next meeting will be announced on the IAMB website (www.iamb.info)."



United States Senate
WASHINGTON, D. C.

MARK DAYTON
MINNESOTA

March 1, 2006

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Secretary:

I am writing to express my deep concern with the delays that the City of Roseau Minnesota has experienced in the decision making process at FEMA with regard to the city's Stafford Disaster Relief funding. I respectfully urge the Department to give this matter its immediate attention.

On June 12, 2002, Roseau, Minnesota, a small northwestern community with a population of 2789, was devastated by the flooding of the Roseau River. Four years later they are still struggling to recover from the devastation of the flood and attempting to wade through the myriad of red tape and delay associated with FEMA's Public Assistance program.

The city of Roseau first applied for Hazard Mitigation Grant Funds on April 29, 2003. After waiting nearly three years, and after several months of inquiries from my office to FEMA Region V, FEMA announced that Roseau was awarded $1,927,500 on January 31, 2006.

In a separate process, the city began conversations with FEMA Region V regarding another project in March of 2003. That request, for a grant of $619,000, was denied by FEMA Region V on December 6, 2005, nearly three years after the initial application process began. The city appealed that decision on January 27, 2006.

It is my understanding that FEMA's Region V Director must render his decision within 90 days from the date of the receipt of the appeal, or request additional information from the city. The city would then have an additional 60 days to respond, followed by an additional 90 days for a follow-up response from the Director. Despite the confusion of this process, it is defined more clearly than the majority of FEMA's policies and interpretation of those policies by FEMA staff.

FEMA's Public Assistance program under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and Title 44 of the Code of Federal Regulations was designed by Congress to provide aid to communities to help them recover from a major disaster ***as quickly as possible***. Ideally, the Public Assistance program should provide applicants with a simple and consistently administered grant program. Unfortunately, that is simply not the case.

It should not take three years after a flood for a city in such desperate need to get approval for a $619,000 project that has been pending in a regional office for years. I call on you to look into this matter and provide an explanation as to why the process has been so drawn out and what, if any, steps can be taken to expedite this process in the future, not only for Roseau, but other communities in similar situations such as those in the Gulf Coast.

Sincerely,

Mark Dayton
United States Senator

○