

Senate Democratic Policy Committee Hearing

“An Oversight Hearing on Waste, Fraud and Abuse in U.S. Government Contracting in Iraq”

Franklin Willis
Former CPA Official

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It is a pleasure to appear before the committee this morning to explore the subject of waste and inefficiency in activities of the Coalition Provisional Authority (CPA) in Iraq. The CPA was established by resolution of the United Nations to govern Iraq in the immediate post-war period before sovereignty was returned to the Iraqi people. The CPA governed Iraq for a little over a year, terminating its activities on June 30th last year. Although established by international act, the CPA was largely the creation of and run by the United States.

My name is Franklin Willis. I am the Executive Vice President and Chief Operating Officer of the Lynn Health Science Institute, which is located in Oklahoma City and Colorado Springs and conducts clinical trials for the pharmaceutical industry. I have been employed there for almost eight years. From 1985 to 1997 I worked for a hazardous waste incineration company, Rollins Environmental Services, where I held a number of senior level positions. From 1969 until 1981 I worked at the Legal Advisor's office in the Department of State. Among the areas I worked in were transportation, anti-terrorism, negotiation of boundary and fisheries agreements with Cuba, Panama Canal negotiations, shipping and aviation agreements with China and Middle East Peace talks. I helped write and signed for the United States the most widely supported treaty against terrorist attacks on civil aviation, The Convention for the Suppression of Unlawful Acts Against Civil Aviation, to which most countries of the world are now party.

I finished my government career as Deputy Assistant Secretary of Transportation For Policy and International Affairs in the Department of Transportation from 1981 to 1983, and then as Deputy Assistant Secretary of State for Transportation and Telecommunications in the Department of State from 1983 to 1985.

In June of 2003 I was asked if I could take a leave of absence from the Lynn Institute to serve in the CPA as Deputy Senior Advisor for Iraq's Ministry of Transportation and Communications, and as Senior Aviation Official. I arrived in Iraq in the middle of July, 2003 and remained until December 10, 2003. I continued to serve in a consulting role to our transportation team from the United States in the first half of 2004.

Having many years of senior level business and government experience, as well as a senior position in the CPA, I believe I have reasonable perspective and judgment about the performance of the United States as the sovereign government (through the CPA) of Iraq. It is important to note at the outset of course that the environment was unique: we were “advisors” for ministries but we held the purse strings. The ministries had been stripped of their entire top and many mid-

level officials because of the de-Baathification decision (all Baathists were removed from their positions). During the summer of 2003 in large part low-level officials were suddenly thrust into significant positions of responsibility with no experience whatsoever. And for some 25 years of Saddam's reign, decision-making had been avoided in any event, all such things being passed upward. So there was a generation of people who had been trained to avoid responsibility now occupying mid- and high-level administrative positions. Even when ministers were appointed by Iraq's Governing Council in late September, with greater experience, their support staff reflected these features.

A second element of this unique situation was lack of security. It was worrisome initially when I was in Iraq, and clearly worsened for CPA civilians over time. As a consequence of our decision to disband the Iraqi army, security was simply a black hole — filled, in part, by private security forces at scandalous cost, or by our armed forces. But there were no Iraqi security forces to figure out what the Iraqis were doing. Lack of security, restricted meetings, difficulty of communication, made every task longer and slower — in short, severely inhibited our ability to do our job. The difficulty was compounded by the fact that we had to meet face-to-face with our counterparts to accomplish anything because the telecommunications system was for all practical purposes inoperable. A small number of Iraqi officials obtained phones from the MCI system that CPA officials used, but this was limited to the Baghdad area and it was minimal in any event. To call anyone, Iraqi or American, for example in the Port of Um Qsr from Baghdad was impossible.

A third feature — truly unique — was that there was no banking system, but a surprising amount of Iraqi dinars or American dollars in circulation. The American dollars, often crisp, new \$100 bills, were found throughout Iraq in large amounts by our armed forces as we completed sweeps across the country following the war. This money was stashed in the basement of CPA headquarters and released from time to time to pay contractors for services performed and to pay Iraqi salaries. It was considered Development Fund for Iraq (DFI) money, and pursuant to UN resolution was to be devoted to Iraqi restoration. While I do not have personal knowledge, I have been advised that upwards of \$3 billion in cash was in the vault.

In sum: inexperienced officials, fear of decision-making, lack of communications, minimal security, no banks, and lots of money to spread around. This chaos I have referred to as a “Wild West.” I urge the Committee to take account of the environment in which we functioned in its analysis of what went wrong and what can be done in the future. I have never in my life experienced the demands put upon us—15 or more hours working virtually every day — and the roadblocks to achieve even minor goals.

Nonetheless, was waste of taxpayer's and Iraqi DFI dollars what it had to be? Were inefficiencies at a high level inevitably mandated by the circumstances? I would give a firm “No” to both questions, and would like to provide the Committee with a case history, the CusterBattles case, which, while anecdotal, reflects a general pattern of waste and inefficiencies that could have been avoided.

In late June 2003, a decision was made to open Baghdad International Airport to limited scheduled civilian aircraft service beginning July 15. A USAID contract had been awarded

earlier to a company named Skylink to manage the airport. It is unclear to me why Skylink, the airport manager, was not made responsible, under the AID contract, for providing, by itself or through subcontracting, security for civilians using the new service. Nonetheless, a decision was taken to issue an immediate Request for Proposal (RFP) allowing respondents some three or four days to submit their proposal, and the RFP mandated that respondents would be required to have their security team in place by July 15. Several respondents requested more information as to scope, one established service said it could be ready within six weeks but that July 15 was an impossible deadline, and CusterBattles said it could be ready by July 15.

It is not clear to me whether CusterBattles existed prior to this RFP, or had any experience providing security services anywhere, but since they said they would be ready by July 15, they were picked. They were paid \$2 million at the end of June and \$2 million more at the end of July out of DFI funds from the vault in the basement under the \$16 million contract (originally \$13 million) they were awarded. I arrived in mid-July and by that time the decision to open Baghdad International had been rescinded for security reasons. There was a small amount of charter traffic, but Baghdad International was never opened for scheduled civilian traffic in the life of the CPA.

Thus the reason for the CusterBattles contract had disappeared, and their presence required searching for a new scope. The contract had not been definitized and consisted solely of their proposal.

I was asked originally to complete the contract work with CusterBattles, among other duties, but was quickly yanked to Amman, Jordan, and began working on the selection process for cellular phone service in Iraq, an arduous process with a mid-September deadline. I was also sent to Tampa for a major conference to evaluate our infrastructure policies in Iraq. On my return in late August I was again to turn to completing the contract with CusterBattles but discovered the work had already been done — by stapling their proposal to the standard one-page signature sheet usually attached to a definitized contract!

Being simply a proposal with vague terms and loose offerings, CusterBattles interpreted their obligations solely by themselves and continued collecting on the \$16 million. They refused to coordinate with Skylink, the airport manager, and became an entity unto themselves at the airport. Having control of civilian entry to the airport by operating the security checkpoint, CusterBattles could facilitate entry to the airport, and used their power to leverage other business interests. On an inspection in early November, I discovered they had beds for more than 150 Filipinos crammed into a few offices in the airport's Terminal D, which I thought was largely empty. I believe the Filipinos were for a CusterBattles catering service. On the same inspection we discovered an area where dog kennels had been built for another of their businesses. And while they claimed their requirements were for 55 guards under the Baghdad Airport security contract, their "village" out on the airport grounds (which had been authorized to fulfill the contract) had a capacity for more than 150 people.

On learning in late August that the CusterBattles contract had been "completed," we assigned a lawyer in the transportation group to definitize the contract post facto, Bill Triplett, who arrived

in late September. Triplett narrowly escaped death in the late October attack on the Al Rasheed Hotel, and he returned to the United States, so contract definitization was once again postponed.

In early November another member of our group, Ed McVaney, was assigned to definitize the contract and determine what we were getting for our \$16 million. By that time I think CusterBattles concluded they could outlast any civilian CPA employee who sought to supervise them. They basically stiffed every request McVaney made to concretize their obligations under the contract.

McVaney and I concluded the contract should be terminated and started that process with the Contracts Office. McVaney then took a new position with the Interior Ministry and I departed from Iraq in mid-December. I don't believe the contract was ever definitized.

One other point of detail and then I wish to draw some general conclusions from this vignette. In early September I realized that our civilian CPA members were being pulled and tugged in all directions and no one had time to supervise a "small" \$16 million contract. I knew a very fine graduate of the Air Force Academy with international experience who was a civil engineer supervising contracts at Shaw Air Force Base, Lt. Peter Cusack. I made a named request for him for the sole purpose of supervising the CusterBattles contract. The Air Force was totally supportive, but, after six weeks of my trying, the CPA front office killed the request. I absolutely believe that had Lt. Cusack been in Baghdad assigned solely to supervise the contract, we would have saved \$4 million or more, and CusterBattles' compliance with ours and Skylink's requests would have been obtained. CusterBattles would have known Lt. Cusack wasn't going away.

What lessons do we draw? First, the CusterBattles case is reflective of the fact that we simply didn't have enough people to do our job. Long hours and crises-to-crises management simply wore us down. I remember working with a very bright attorney from the Legal Advisor's office at 11:00pm one night, and the analysis got to the edge of incoherent. I said, "Eric you've got to take a vacation on the Red Sea and look at pretty colored fish."

So decisions were made that shouldn't have been, contracts were made that were mistakes, and were poorly, if at all, supervised, money was spent that could have been saved, if we simply had the right numbers of people. I believe the 500 or so at CPA headquarters should have been 5,000, and more effective decision-making and more efficient use of DFI and US taxpayer's money would have accrued. Some will say there was no space for such numbers, but CusterBattles put 300 in the airport and was still building when I left. Some creativity and substantial use of the airport grounds could have given us the housing.

Second, the clearance process to get people in theater needed wholesale revision. Even for the small numbers who had authorized slots in the CPA, delays in getting them to the job were substantial. For example, we had about 50 slots authorized for the Ministry of Transportation, but never had anywhere near that number while I was in Iraq. Typically, and we never understood why, delays of months would occur and we ran at 50-60 percent of authorized strength.

Each team attached to a Ministry should have had the authority to screen and build its team on an expedited basis. Precious time in the CPA's one-year existence was lost to bureaucracy. A very fine member of the British team assigned to the CPA, speaking of the CPA, remarked to me in September, "It usually takes three to four years for a bureaucracy to become constipated, you've managed it in three months!"

Three, there was micromanaging in the Front Office of the CPA that slowed everybody down and made all work less efficient. Without appearing to pat myself on the back, I think many others and I brought substantial experience in our areas and should have been given responsibility to implement many decisions that instead got mired in the Front Office paperwork. This cost us time and money, and restricted the number of problem areas we could cover. We also should have made much better use of the British at the CPA. (After all, they are more experienced than we in this kind of stuff!) Jeremy Greenstock and Andy Bearpark are two of the finest civil servants I have encountered, but they and the other British were not brought into full participation by the American side.

Fourth, I think the de-Baathification decision was too sweeping, and deprived us of good Iraqis whose experience and administrative expertise would have been useful.

Fifth, I think the decision to disband the Iraqi army was a mistake, and complicated our reconstruction efforts by leaving a vacuum of security. I believe many in the army would have been loyal to the new order, but were not given a chance.

Sixth, we simply didn't do our homework when the CPA was established, and valuable time and opportunity was lost. There is a way to be successful with these things, as our post- World War II experience indicates. I wonder if we spent any time with those still in our midst who implemented the post-Japan or post-German reconstruction? I visited with Professor Emeritus Eric Stein of the University of Michigan Law School (my former professor of international law), who had a similar position to mine with the CPA, except it was as advisor to the Italian Justice Ministry, as the Fascist government crumbled in 1944. I asked how you can tell the good guys from the bad, and he said, "It was impossible for us as Americans. Only the Italians could sort out the evil Fascists from the others." I was disappointed that his wisdom and that of others who experienced that period had not been tapped at the time that we embarked on this extraordinary mission in Iraq.

Finally, I would like to turn to the present situation, because I think inefficiencies and waste of taxpayers' money abound. Part way through my time in Iraq, we were instructed to prepare problem areas we faced for evaluation by a company called Bearing Point, operating I think under a USAID contract. Their presence was utterly mystifying to us, and we thought how wonderful it would be if the monies dedicated to bringing Bearing Point consultants to Baghdad had simply been devoted to giving us desperately needed personnel. We went through a process of educating the Bearing Point consultants (since no one can really know the Iraqi situation without having lived in it) so they could give us recommendations. Their suggestions in my experience largely related to what we were already doing, or involved proposals so futuristic as to be impracticable. We wondered by what process and with what intent had Bearing Point been

selected, and what costs for US taxpayers were involved. I think this would be an interesting area for the Committee to explore.

Along the same lines, I would urge the Committee to examine the contracts being let under the \$18 billion Supplemental Authorization approved by the Congress 14 months ago. While a few big infrastructure projects are required, many, many small projects are essential. They can be done by Iraqi companies, they are visible to the populace and the money gets into Iraqi hands and into the Iraqi economy. I fear that contract award dollars and the dollars that actually make it to the Iraqi economy after middleman expenses are taken out are far different. The Committee can examine contract types, and I think it will become self-evident what kind of contracts most efficiently get dollars to their intended use.

For example, Washington Group International has received a \$40 million contract to clean, repair and upgrade a portion of the Sadr City wastewater system. Their administrative, management, and security costs I am advised have eaten up \$25 million, with minimum salaries for their personnel in place in Baghdad at \$250,000 per year. \$15 million makes it to the ground for labor and materials. That's 63 percent overhead. Our armed forces are already on the ground, and the Army Corps of Engineers and other Army civil engineers have been supervising contracts adding up to millions of dollars for more than a year. The Army overhead in place is 0 percent; the Army Corps of Engineers 6.5 percent. I was impressed with the civil service outreach of our soldiers while I was in Iraq. They are well-trained, they are gutsy, believe it or not they have superb relations with many of the locals, they are right in place to supervise contracts, and they meet deadlines. One of the untold success stories of Iraq is the Army's role in reconstruction involving many of the smaller infrastructure projects, and I urge the Committee to examine it. By contrast, companies like Bechtel, Parsons, Washington Group International, Black and Veatch, etc. have ID/IQ (indefinite delivery/indefinite quantity) open-ended contracts for millions and millions of dollars. How much is eaten up in overhead, what reaches Iraq on the ground?

The Committee is examining waste and inefficiencies during the CPA period. I have described it elsewhere (in the most favorable terms possible) as "leakage." For the reasons cited those problems were real, but must be understood in the context of the unique Iraq post-war environment. A much greater expenditure of U.S. taxpayer money than in the entire CPA period is presented in the contracting of the \$18 billion Supplemental Authorization. I hope the Committee will be able to conclude that waste and inefficiency in this program has been minimized.

That concludes my prepared statement and I am ready to answer any questions of the Committee. Thank you.