

United States House of Representatives Committee on Oversight and Government Reform Majority Staff June 2007

MORE DOLLARS, LESS SENSE: WORSENING CONTRACTING TRENDS UNDER THE BUSH ADMINISTRATION

PREPARED FOR CHAIRMAN HENRY A. WAXMAN

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EXECUTIVE SUMMARY

Last year, Rep. Henry A. Waxman released the first comprehensive assessment of government contracting under the Bush Administration. The report, entitled *Dollars, Not Sense: Government Contracting Under the Bush Administration*, found that between 2000 and 2005, federal procurement spending rose by over 80%, no-bid and other contracts awarded without full and open competition increased by over 100%, and contract mismanagement led to rising waste, fraud, and abuse in federal procurement.

This new report is the first report to examine the 2006 federal procurement data. It finds that the worrisome trends identified last year have worsened significantly. For the first time, (1) annual federal procurement spending crossed the \$400 billion threshold, (2) more than half of this spending — over \$200 billion in new contracts — was awarded without full and open competition, and (3) the total value of wasteful federal contracts now exceeds \$1 trillion.

This year's report finds:

- Procurement Spending Continues to Grow Rapidly. Last year's report found that procurement spending had risen from \$203.1 billion in 2000 to \$377.5 in 2005. This year's report finds that procurement spending increased to \$412.1 billion in 2006, a new record. Contract spending has now more than doubled since President Bush took office. At the Department of Homeland Security, procurement spending increased by 51% last year alone. Since 2000, spending on federal contracts has grown more than twice as fast as other discretionary federal spending. For the first time, the federal government now spends over 40 cents of every discretionary dollar on contracts with private companies.
- The Award of Noncompetitive Contracts Is Accelerating Dangerously. Last year's report found that no-bid contracts and other forms of contracts awarded without full and open competition had risen from \$67.5 billion in 2000 to \$145.1 billion in 2005. This year's report finds that spending on these no-bid and limited-competition contracts surged over \$60 billion to \$206.9 billion in 2006, the largest single-year increase ever. The value of federal contracts awarded without full and open competition has more than tripled since 2000. For the first time on record, more than half of federal procurement spending was awarded through no-bid and limited-competition contracts in 2006.
- Waste, Fraud, and Abuse Continue to Soar. Last year's report identified 118 contracts valued at \$745.5 billion that had been found by government auditors to involve significant waste, fraud, abuse, or mismanagement. This year's report identifies 187 contracts valued at \$1.1 trillion that have been plagued by waste, fraud, abuse, or mismanagement. In the case of each of these 187 contracts, reports from the Government Accountability Office, the Defense Contract Audit Agency, agency inspectors general, or other independent federal oversight officials have documented significant overcharges, wasteful spending, or mismanagement over the last six years.

I. METHODOLOGY

For data on trends in contract spending, the report relies on the Eagle Eye Federal Prime Contracts (FPC) Database, a federal procurement database application published by Eagle Eye, Inc. The FPC database contains data from 1999 to 2006 that is compiled from the Federal Procurement Data System (FPDS), the federal contract tracking system established by the General Services Administration. Although there are problems with the completeness and accuracy of the FPDS, the Government Accountability Office has found that the FPDS is "currently the only system providing information on over \$300 billion in annual government spending"¹ and is the best available data set for assessing "the impact that governmentwide acquisition policies and processes are having with respect to specific geographic areas, markets, and socio-economic goals."²

In addition, the report draws on the findings of over 700 reports, audits, and investigations by government and independent bodies, such as the Government Accountability Office, the Defense Contract Audit Agency, and agency inspectors general. The report also relies on interviews with experts and the Committee's own extensive investigations.

Unless otherwise noted, the dates of years refer to federal fiscal years, which begin on October 1 of the prior year and end on September 30 of the named year.

¹ Letter from Katherine Schinasi, Managing Director, Acquisition and Sourcing Management, U.S. Government Accountability Office, to Office of Management and Budget Director Joshua B. Bolten (Sept. 27, 2005) (online at www.gao.gov/new.items/d05960r.pdf).

² Letter from William T. Woods, Director, Acquisition and Sourcing Management, U.S. General Accounting Office, to Office of Management and Budget Director Joshua B. Bolten (Dec. 30, 2003) (online at www.gao.gov/new.items/d04295r.pdf).

II. THE GROWTH IN FEDERAL CONTRACTING

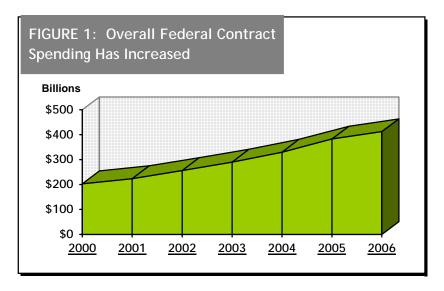
President Bush, in his own words, "ran on making sure we didn't grow the size of Government."³ He has said that "limiting the size and scope of government" is one of the "values I hold dear to my heart."⁴ Yet government has grown, not shrunk, under President Bush. Total federal expenditures in 2006 were \$2.7 trillion, compared to \$1.8 trillion in 2000.⁵ In total, federal spending has increased by 48% during the Bush Administration.

The part of the federal budget that the President has the most control over is the "discretionary" budget. Discretionary spending funds the operations of government departments and agencies and all federal programs, contracts, and grants other than "mandatory" spending programs, such as Social Security, Medicare, and Medicaid. Discretionary spending has grown from \$614.8 billion in 2000 to \$1 trillion in 2006.⁶

The fastest-growing part of the discretionary budget over the last six years has been spending on federal contracts. In fact, procurement spending has grown more than twice as fast as the rest of discretionary spending since 2000. Spending on federal contracts now consumes over 40 cents of every dollar of discretionary spending, a record level.

A. Overall Procurement Spending

Between 2000 and 2006, the federal government's annual procurement spending rose by \$209 billion, from \$203.1 billion in 2000 to \$412.1 billion in 2006. See Figure 1.



³ President Bush, *Remarks at Oak Park High School in Kansas City, Missouri* (June 17, 2002).

⁴ President Bush, *Remarks at a Fundraiser for Representative Tom Lantham in Des Moines, Iowa* (Mar. 4, 2002).

⁵ Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2008, Historical Tables* (Feb. 2007) (online at www.whitehouse.gov/omb/budget/fy2008/pdf/hist.pdf).

In percentage terms, procurement spending has increased by 103% between 2000 and 2006, an average annual increase of 12.6% per year. In contrast, inflation has increased by just 2.4% per year,⁷ the gross domestic product by just 5% per year,⁸ and the rest of the discretionary federal budget by 6.7% per year.⁹

Between 2000 and 2006, discretionary federal spending increased by \$401.9 billion.¹⁰ Over half of this increase — \$209 billion — is due to increased spending on private contractors. As a result of the rapid increase in procurement spending, the size of the "shadow government" represented by federal contractors is now at record levels. In 2000, 33 cents of every discretionary federal dollar was paid to private contractors. In 2006, 40.5 cents of every discretionary federal dollar was paid to private contractors.

B. <u>Procurement Spending by Department</u>

Procurement spending is growing at many federal departments. The department with the largest growth in contract spending in dollar terms is the Department of Defense. In 2000, the Defense Department spent \$133.5 billion on federal contracts. By 2006, this spending had leaped to \$297.7 billion, an increase of 123%. From 2005 to 2006, procurement spending at the Department of Defense increased by \$27.6 billion, an increase of 10%. In 2006, the Defense Department consumed over 72% of the total federal procurement budget.

The Department of Homeland Security has also seen enormous increases in its procurement budget. In 2003, the first year after its creation, the Department of Homeland Security spent \$3.5 billion on federal contracts. By 2006, this spending had grown to \$15.1 billion, an increase of 337%. In 2006 alone, procurement spending at the Department of Homeland Security increased by \$5.1 billion, a 51% increase.

The Department of State had the second largest percentage increase in procurement spending of any major federal agency over the last six years. In 2000, State Department spent \$1.2 billion on federal contracts. By 2006, this spending had grown to \$4.7 billion, an increase of 280%.

Overall, 18 federal agencies now have contracting budgets in excess of \$1 billion. See Figure 2.

⁷ U.S. Department of Labor, Bureau of Labor Statistics, *Inflation Calculator* (online at http://data.bls.gov/cgi-bin/cpicalc.pl) (accessed June 4, 2007).

⁸ U.S. Department of Commerce, Bureau of Economic Analysis, *National Income and Product Accounts Tables* (online at www.bea.gov) (accessed May 8, 2006).

 ⁹ Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2007, Historical Tables* (Feb. 2006) (online at www.whitehouse.gov/omb/budget/fy2007/pdf/hist.pdf).
 ¹⁰ Id.

FIGURE 2: Agencies with Contracting Budgets over \$1 Billion					
AGENCY	2000 Spending	2006 Spending	% Increase		
DOD	\$133,478,257,000	\$297,662,249,742	123%		
DOE	\$17,007,176,000	\$22,016,565,961	29%		
DHS	\$3,459,440,443*	\$15,105,238,092	337%		
NASA	\$10,913,981,000	\$12,844,948,585	18%		
GSA	\$11,304,606,921	\$11,452,420,837	1%		
HHS	\$4,058,009,000	\$11,387,972,475	181%		
DVA	\$3,879,842,000	\$9,621,465,806	148%		
STATE	\$1,235,624,600	\$4,690,068,203	280%		
DOI	\$1,872,241,000	\$4,603,643,839	146%		
USDA	\$3,674,554,912	\$3,887,972,399	6%		
TREAS	\$2,776,720,000	\$3,678,997,680	32%		
DOJ	\$3,112,283,795	\$3,328,943,104	7%		
DOC	\$1,792,846,000	\$1,942,283,666	8%		
DOL	\$1,294,760,000	\$1,741,028,176	50%		
EPA	\$986,854,643	\$1,577,476,032	60%		
DOT	\$1,855,043,000	\$1,437,526,882	-23%		
DED	\$896,765,120	\$1,413,325,440	58%		
HUD	\$1,126,888,644	\$1,072,651,097	-5%		

*DHS's spending is for 2003.

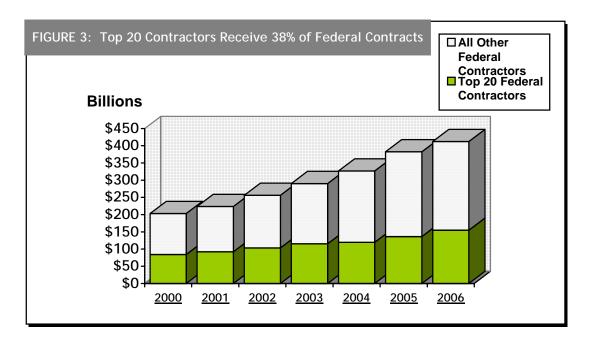
Although official data on the budgets of the CIA, NSA, and other intelligence agencies is classified, it appears that procurement spending by intelligence agencies has also risen rapidly. Press reports estimate that the total intelligence budget could be as high as \$60 billion.¹¹ The Office of the Director of National Intelligence recently disclosed that approximately 70% of the intelligence community's budget is spent on contracts.¹² This means that intelligence agencies may be spending over \$40 billion on contracts every year. If these accounts are accurate, contracting by intelligence agencies would be second only to the Department of Defense in terms of overall contract spending.

C. Procurement Spending by Company

Federal procurement spending has been concentrated among a few large private contractors. The 20 largest federal contractors received 38% of the contract dollars awarded in 2006. This is an increase from 2005, when the 20 largest federal contractors received 36% of the contract dollars awarded. See Figure 3.

¹¹ Slate, *Spy Central Slip-Up* (June 8, 2007) (online at http://www.slate.com/id/2168032/entry/ 2168033/).

¹² Id.



The top six recipients of federal contracts are Lockheed Martin, Boeing, Northrop Grumman, Raytheon, General Dynamics, and Halliburton. Collectively, they received \$99.9 billion in 2006, 24% of all federal procurement spending.

The single largest federal contractor is Lockheed Martin. In 2006, Lockheed Martin had 14,016 contracts with the federal government and received \$31.5 billion in federal tax dollars. Federal spending on this one company in 2006 exceeded the gross domestic product of 109 countries, including Iceland, Jordan, and Guatemala.¹³ The amount of taxpayer dollars received by Lockheed Martin was also larger than the combined budgets of the Department of Commerce, the Department of the Interior, the Department of State, the Small Business Administration, and the General Services Administration.¹⁴

The fastest-growing major federal contractor during the Bush Administration has been Halliburton, the company formerly headed by Vice President Cheney. In 2000, Halliburton was the 28th largest contractor, receiving \$763 million in federal dollars. By 2006, the company had leaped to the sixth largest federal contractor, receiving over \$6 billion in federal dollars. This is an increase of 700% over the six year period.

 ¹³ International Monetary Fund, *World Economic Outlook Database, April 2006* (online at www.imf.org/external/pubs/ft/weo/2006/01/data/dbginim.cfm) (accessed June 4, 2007).
 ¹⁴ Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2007, Historical Tables* (Feb. 2006) (online at www.whitehouse.gov/omb/budget/fy2007/pdf/hist.pdf).

III. AWARD OF NO-BID AND LIMITED COMPETITON CONTRACTS

Competition in federal contracting protects the interests of taxpayers by ensuring that the government gets the best value for the goods and services it buys. Competition also discourages favoritism by leveling the playing field for contractors while preventing waste, fraud, and abuse.

Since passage of the Competition in Contracting Act in 1984, "full and open competition" has been the gold standard in federal contracting. Under full and open competition, the government publishes a notice that it intends to award a contract. All responsible contractors are permitted to compete for the contract. The government then makes a selection based on a determination of which bid will provide the government with the best value.¹⁵

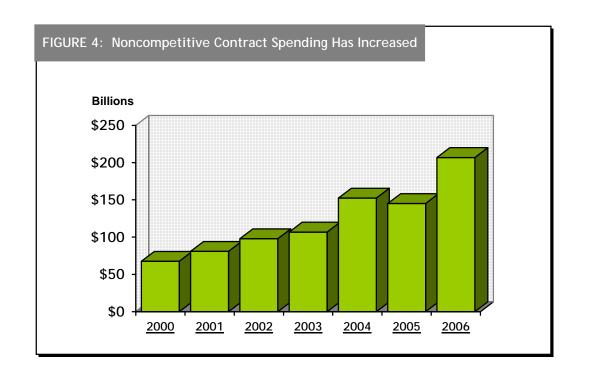
Federal law recognizes that there are occasions when full and open competition is not feasible. Under the Competition in Contracting Act, agencies can award contracts without full and open competition in cases in which only one source can provide the needed goods or services or when emergency circumstances require immediate contract awards.¹⁶ But these and the other permissible exceptions are intended to be limited. The Federal Acquisition Regulation provides that "contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts."¹⁷ Contracting officers using one of the exceptions must submit a written justification and, for noncompetitive procurements over \$500,000, gain the approval of a more senior official.¹⁸

Despite the advantages to the taxpayer of full and open competition, contracts awarded without full and open competition have grown rapidly under the Bush Administration. In 2000, the federal government spent \$67.5 billion on contracts awarded without full and open competition. By 2006, federal spending on these no-bid and limited-competition contracts had grown to \$206.9 billion, an increase of 206%. In total, the dollar value of contracts awarded without full and open competition more than tripled between 2000 and 2006. See Figure 4.

The biggest rise in spending on contracts awarded without full and open competition occurred in 2006. Over the last year alone, spending on no-bid and limited-competition contracts increased 43%, from \$145.1 billion in 2005 to \$206.9 billion in 2006. In dollar terms, this is the largest single-year increase on record for contracts awarded without full and open competition.

¹⁵ 41 U.S.C. § 253(a)(1)(A); Federal Acquisition Regulation (hereinafter "FAR") § 6.1; FAR § 15.3.
¹⁶ See Congressional Research Service, *Iraq Reconstruction: Frequently Asked Questions Concerning the Application of Federal Procurement Statutes* (June 23, 2003); 10 U.S.C. § 2304(c); 40 U.S.C. § 253(c); 48 C.F.R. § 6.302.
¹⁷ 48 C.F.R. § 6.101.

¹⁸ 48 C.F.R. § 6.303-6.304.



The rapid growth in no-bid and limited-competition contracts has made full and open competition the exception, not the rule. For the first time on record, a majority of federal procurement spending is now awarded without full and open competition. In 2006, 50.2% of federal procurement spending — \$206.9 billion out of \$412.1 billion — was awarded without full and open competition.

There are several different categories of contracts awarded without full and open competition. Of the \$206.9 billion in contracts awarded without full and open competition in 2006, \$103 billion was awarded in no-bid contracts without any competition at all. This is an increase of \$56.4 billion from 2000, when \$46.6 billion in federal contracts were awarded with no competition. Over the last six years, the dollar value of no-bid contracts has increased by 121%.

In other cases, contracts were awarded under "limited competition." Agencies may choose to permit only a small number of pre-selected contractors to bid on the contract. Agencies also may engage in limited competition under simplified acquisition rules for contracts of lesser value. In addition, agencies may make procurement awards through "delivery orders" that are limited to pre-selected contractors who already hold indefinite-delivery contracts.

These limited-competition contracts represent a growing exception to full and open competition. In 2006, over \$62.6 billion was awarded through limited-competition contracts. This is an increase of 82% from 2004, the first year for which data is available. Over 30% of contract dollars awarded without full and open competition in 2006 were awarded through these types of limited-competition contracts.

In some cases of limited competition, there is actually no competition at all. In 2006, nearly \$10 billion of the contracts awarded under limited-competition contracts had only one bidder. The value of limited-competition contracts in which only one bid was

received increased over 117% from 2004 to 2006, significantly faster than the growth in limited-competition contracts overall.

Even in full and open competitions, there may be no real competition. The number of supposedly "competitive" contracts for which only one bid was received has increased significantly over the last six years. In 2000, \$11.7 billion was awarded through "competed" actions where only one offer was received. In 2006, the value of contracts awarded through "full and open competition" in which only one offer was received was \$47.7 billion, an increase of 308%.

IV. WASTE, FRAUD, ABUSE, AND CONTRACT MISMANAGEMENT

The costs to the taxpayer of contract mismanagement are often hidden from view. The federal government maintains no database that systematically tracks the extent of waste, fraud, and abuse in federal contracts. Moreover, the Administration frequently refuses to release publicly the audits and investigations documenting overcharges.

In preparing this report, the staff reviewed over 700 reports from government auditors and investigators examining individual contracts. These reports include:

- 331 reports prepared by the Government Accountability Office, the independent, nonpartisan auditors and investigators working for Congress;
- 124 reports prepared by the Defense Contract Audit Agency, the agency responsible for performing contract audits for the Department of Defense and other government agencies; and
- 206 reports prepared by agency inspectors general, who are charged by law with oversight of agency management and administration.

Based on the review of these audits and investigations, this report identifies 187 contracts that have been found by government auditors and investigators to involve significant waste, fraud, abuse, or mismanagement. The total value of these 187 contracts is \$1.1 trillion. In the case of each of the problem contracts, the reports by independent government auditors and investigators have documented substantial wasteful spending or poor contract management that occurred during the last six years.

The full list of the 187 problem contracts is available in a searchable database at http://oversight.house.gov. Each entry in the database identifies the problem contract, provides a short summary of the waste, fraud, abuse, or mismanagement found by government auditors or investigators, and contains a link or citation to the federal report that documents the problems affecting the contract.

Last year's report identified 118 contracts worth \$745.5 billion that government auditors and investigators had found to contain significant waste, fraud, or abuse or to have been poorly managed. The 187 contracts worth \$1.1 trillion identified in this report represent a significant increase in the number and dollar value of these wasteful federal contracts.

There are multiple causes of the growing waste, fraud, abuse, and mismanagement in federal procurement over the last six years. Recurring problems afflict nearly every aspect of federal contract planning, award, and oversight. These include the growth in contracts awarded without full and open competition, excessive reliance on cost-plus and other abuse-prone contract types; the abuse of contract flexibilities, such as "commercial item" authority, Alaska Native preferences, and purchase and travel cards; and corruption.¹⁹

One cross-cutting problem is inadequate contract management and oversight. According to GAO, interagency contract management and contract management at the Department of Defense, the Department of Energy, and NASA are "high risk" areas due primarily to the lack of oversight.²⁰ In 2005, the Inspector General at the Department of Homeland Security found that a lack of oversight has left DHS vulnerable to procurement waste, fraud, and abuse.²¹ Although DHS recently implemented an acquisition oversight plan, GAO found this year that the DHS Chief Procurement Officer lacks the resources and authority to achieve "effective" contract oversight.²²

Insufficient contract and acquisition personnel consistently hamper oversight. While federal spending on contracts has surged during the Bush Administration, the acquisition workforce has remained stagnant. According to a database maintained by the Office of Personnel Management, there were 57,835 officials in five job classifications related to contracting in the federal government in 2000.²³ Six years later, the number was just 58,723.²⁴ Every category except GS-1102, Contracting Series, showed declines. See Figure 5.

¹⁹ Committee on Government Reform, Special Investigations Division, U.S. House of Representatives, *Dollars, Not Sense: Government Contracting Under the Bush Administration* (June 2006) (online at http://oversight.house.gov/Documents/20060711103910-86046.pdf).

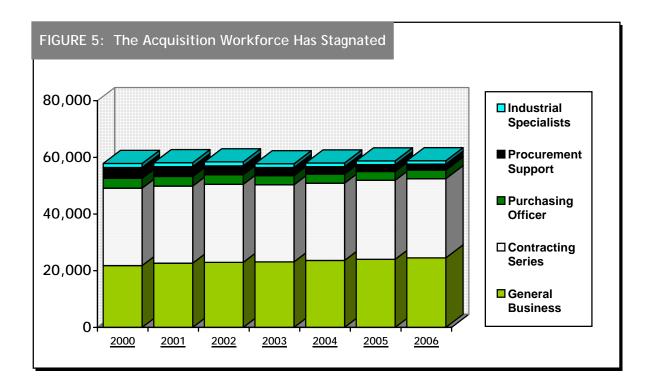
²⁰ U.S. Government Accountability Office, *High-Risk Series: An Update* (Jan. 2007) (GAO-07-310).

²¹ Department of Homeland Security Inspector General, *Department of Homeland Security's Procurement and Program Management Operations* (Sept. 2005) (OIG-0-53).

²² U.S. Government Accountability Office, *Department of Homeland Security: Progress and Challenges in Implementing the Department's Acquisition Oversight Plan* (June 2007) (GAO-07-900).

²³ Office of Personnel Management, *Central Personnel Data File: Status File* (Sept. 2000). There is no clear definition for the acquisition workforce that is recognized by all agencies. This report defines the acquisition workforce as the following occupations: General Business (GS-1101); Contracting Series (GS-1102); Purchasing Officer (GS-1105); Procurement Clerical Support (GS-1106); and Industrial Specialist (GS-1150).

²⁴ Federal Acquisition Institute, *Annual Report on the Federal Acquisition Workforce Fiscal Year 2006* (May 2007).



As a result of the stagnant workforce, the burden on each acquisition official has shown a steep increase. In 2000, the average amount of contract dollars per member of the acquisition workforce was \$3.5 million. By 2006, that number had doubled, increasing 100% to over \$7 million per person. In addition, contracting tasks have become more complex. According to the Acquisition Advisory Panel, a group of procurement experts chartered by Congress to study acquisition policy and recommend reforms, the shift from the acquisition of goods to the acquisition of services, combined with heavy reliance on interagency contracting, has resulted in "markedly greater demands on the Acquisition Workforce for capability, training, time, and sophistication."²⁵

In some cases, federal agencies have responded to the "oversight gap" by transferring management responsibilities to contractors. But this approach has often made problems worse. In the case of the Coast Guard's Deepwater contract to modernize the Coast Guard fleet, DHS Inspector General Richard Skinner found:

The Deepwater contract essentially empowered the contractor with authority for decision-making. Therefore, the Coast Guard was reluctant to exercise a sufficient degree of authority to influence the design and production of its own assets. ... As a result, key Deepwater assets, such as the National Security Cutter, have moved into the production phase with significant design and performance concerns intact.²⁶

²⁵ Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress (Dec. 2006).

²⁶ Testimony of Richard L. Skinner, DHS Inspector General, House Committee on Oversight and Government Reform, *Hearings on Management of Large Homeland Security Contracts: Deepwater and SBInet* (Feb. 8, 2007).

In other cases, federal agencies have hired contractors to oversee other contractors. The Department of Homeland Security estimates it will need 270 personnel to oversee the massive boarder protection contract known as SBInet. Of these, it anticipates that nearly 60% — 157 people — will be contractors.²⁷ Compounding the risks to the taxpayer of privatizing oversight, some of the contractors hired to perform oversight functions come from companies with long-standing business ties to the prime contractor.²⁸

The use of private contractors to oversee other contractors was a cornerstone of the Administration's approach to the reconstruction effort in Iraq. When the Special Inspector General for Iraq Reconstruction, Stuart Bowen, examined this program in 2006, he found that it resulted in inefficient management and oversight, concluding that "the large-scale reconstruction and stability operations in Iraq could not be solved by contracting out these duties."²⁹

V. CONCLUSION

This report is the first comprehensive analysis of federal procurement data from 2006. It finds that problematic practices in federal contracting identified in last year's report have worsened. Both procurement spending and the use of contracts awarded without full and open competition reached record levels in 2006. Contracts with a cumulative value of \$1.1 trillion have been found by government auditors and investigators to be marked by significant waste, fraud, abuse, or mismanagement.

²⁹ Special Inspector General for Iraq Reconstruction, *Iraq Reconstruction: Lessons Learned in Human Capital Management* (Jan. 2006). *See also* Committee on Government Reform, Special Investigations Division, U.S. House of Representatives, *Contractors Overseeing Contractors: Conflicts of Interest Undermine Accountability in Iraq* (May 18, 2004) (online at http://oversight.house.gov/documents/ 20040623123249-86281.pdf).

²⁷ Id.

²⁸ The prime contractor on SBInet is Boeing. One of the firms providing oversight contractors is Booz Allen Hamilton, which promotes its "extensive" relationship with Boeing on its website. *See* House Committee on Oversight and Government Reform, *Hearings on Management of Large Contracts: SBI*net and Deepwater (Feb. 8, 2007); *Case Studies: Boeing Commercial Airplane Group — Staying Above the Competition* (online at www.boozallen.com/capabilities/Industries/industries_ article/658246).