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NOMINATION OF PAUL A. DENETT

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATION OF PAUL A. DENETT TO BE ADMINISTRATOR OF THE OFFICE OF FEDERAL PROCUREMENT POLICY, OFFICE OF MANAGEMENT AND BUDGET

JUNE 20, 2006

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NOMINATION OF PAUL A. DENETT

TUESDAY, JUNE 20, 2006

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

The Committee met, pursuant to notice, at 10 a.m., in room 342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Coburn, and Warner.

OPENING STATEMENT OF SENATOR COLLINS

Chairman COLLINS. The Committee will come to order. Good morning. Today the Committee will consider the nomination of Paul Denett to be the Administrator of the Office of Federal Procurement Policy. I am going to withhold on my opening statement in order to recognize our distinguished colleague, a Member of this Committee and the Chairman of the Armed Services Committee, Senator Warner.

Senator Warner is, of course, managing the Defense Authorization Bill on the Senate floor, and I know that they are waiting for him so that they can resume the debate. So, without further delay, Senator Warner, we would recognize you for the purpose of introducing the nominee.

TESTIMONY OF THE HON. JOHN WARNER, U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. Madam Chairman, I appreciate your courtesy as always, and the bill comes up momentarily, and I am anxious to get there. I wanted to be here because this is one of the most important posts in our overall Executive Branch, and I think the President has chosen very wisely. Mr. Denett is an absolutely outstanding individual.

So, I am pleased to introduce to you, and other Members of the Committee, Paul Denett, a fellow Virginian, nominated to serve as the Administrator of the Office of Federal Procurement Policy. He is joined today by his family, and I would ask that, at this time, he introduce his family.

Chairman COLLINS. Thank you. Mr. Denett.

Mr. DENETT. Thank you. With me today is my mother, Irene Denett, from Biddeford, Maine, which I like to tack on. My wife, Lucy Denett. My son, Michael Denett. And my brother-in-law, Howard Morton. And his wife, my sister, Lucille Morton.

Chairman COLLINS. We welcome all of your family members this morning.

Mr. DENETT. Thank you.

Senator WARNER. I thank the Chairman.

The job of the Administrator of the Office of Federal Procurement Policy is a critical one, tasked with the responsibility of overseeing the development and enforcement of sound policies and practices Federal agencies use to acquire goods and services. The Administrator is responsibility for ensuring that the Federal acquisition system provides the best possible value to the taxpayer.

As you know, as a member of the Armed Services Committee on which you and I serve, that Committee, next year, presumably under the Chairmanship of Senator McCain, will spend an extensive period of time on the review of procurement policy and working with you, Mr. Denett.

This nominee has extensive procurement experience in the Federal Government and the private industry. He reminded me this morning that his first job was with the Department of the Navy when I was Secretary. I asked him if I treated him well, and he said, fortunately, he never met me the whole time I was there.

[Laughter.]

Senator WARNER. He kept out of my way.

Subsequent to earning his Bachelor of Arts at Nasson College in 1968, the nominee dedicated 33 years to the Federal Procurement, serving in a variety of contracting positions at five cabinet-level agencies. One of the many highlights from his public service record is his work with the Department of the Interior. From 1993 to 2001, he served as Director of Administration and Senior Procurement Executive in the Office of the Secretary for the Department of the Interior. In these positions, he managed over 900 employees in the areas of acquisition, grants, and property management.

While a senior executive at the Interior, the nominee was the recipient of the Presidential Rank Award for his outstanding leadership and strong commitment to public service

In addition to Federal Government experience, he has considerable experience in the private sector. Since 2003, he has served as Vice President of Contracting Programs at ESI International in Arlington, Virginia. Having worked in the Federal Government and the private industry, the nominee has a solid understanding of all sides of the procurement issues.

We are very fortunate, Madam Chairman, to have this fine individual offer again his services as a public servant. I wish him well.

You are on your own. [Laughter.]

[The prepared statement of Senator Warner follows:

PREPARED STATEMENT OF SENATOR JOHN WARNER

Madam Chairman and my other distinguished colleagues on the Senate's Homeland Security and Governmental Affairs Committee, I thank you for holding this confirmation hearing today.

Today, I am pleased to introduce to you Paul Denett, a fellow Virginian, who has been nominated to serve as the Administrator of the Office of Federal Procurement Policy. He is joined today by his family, including his wife, Lucy, his son, Michael, his sister, Lucille, and his brother-in-law, Howard Morton.

The job of Administrator of the Office of Federal Procurement Policy is a critical one, tasked with the responsibility of overseeing the development and enforcement of sound policies and practices Federal agencies use to acquire goods and services.

Thus, the Administrator is responsible for ensuring that the Federal acquisition system provides the best possible value to the taxpayer.

The nominee has extensive procurement experience in the Federal Government and the private industry. Subsequent to earning his Bachelor of Arts at Nasson College in 1968, Mr. Denett has dedicated 33 years to the Federal Government, serving in a variety of contracting positions at five cabinet-level agencies, including senior procurement positions.

One of the many highlights from his public service record is his work at the Department of the Interior. From 1993 to 2001, Mr. Denett served as the Director of Administration and Senior Procurement Executive in the Office of the Secretary for the Department of the Interior. In these positions, he managed over 900 employees in the areas of acquisition, grants, and property management. While a senior executive at Interior, he was the recipient of the Presidential Rank Award for his outstanding leadership and strong commitment to public service.

In addition to Federal Government experience, he has considerable experience in the private sector with contracting. Since 2003, he has served as Vice President of Contracting Programs at ESI International in Arlington, Virginia. Having worked in the government and private industry, Mr. Denett has a solid understanding of all sides of the procurement issue.

Madam Chairman, obviously, Mr. Denett is highly qualified to serve as the Administrator of the Office of Federal Procurement Policy. I support his nomination and look forward to the Committee reporting out his nomination favorably.

Chairman COLLINS. Thank you, Senator. I look forward to joining you on the Senate floor, and I very much appreciate your taking the time to be here this morning.

We will now resume with the regular order of this hearing and I will resume my opening statement.

The Federal Government spends approximately $350 billion annually for a wide range of goods and services purchased from the private sector. The Office of Federal Procurement Policy, known as OFPP, plays a central role in shaping the policies and practices Federal agencies use to acquire goods and services. In doing so, the OFPP has an obligation to ensure that the Federal acquisition process promotes the economy, efficiency, and effectiveness that provide the best value to taxpayers.

Fulfilling that role and meeting that obligation present a challenge that grows ever more complex. It requires an administrator dedicated to the broad principles of sustaining a skilled acquisition workforce, making consistent and effective use of competition to harness market forces, developing contracts that reflect the government's buying power, and improving our data systems so that Federal managers have the information they need to evaluate results and to plan effectively.

There are specific issues that I want to highlight this morning. First, although progress has been made, we must continue to look for ways to make Federal contracting more accessible to smaller businesses. Right now many small business owners find it to be a daunting prospect to try to do business with the Federal Government. We must do this not merely for the sake of small business, although the continued growth of this sector is vital to our Nation's economy, we must do this because it is in the Federal Government's interest to ensure that a large pool of contractors exists for any given item or service to ensure robust competition.

If many small businesses are excluded from this process, then the government is losing out on potentially higher quality and lower cost goods and services. Greater competition leads to lower prices and higher quality for the American taxpayer. Simply choosing the same proven contractors over and over again may be a good

short-term strategy for a beleaguered contract officer, but failing to take into account the impact of such a practice on the pool of businesses willing and capable of doing business with the Federal Government can lead to a smaller contractor base undisciplined by market forces.

The second concern is maintaining a highly trained and motivated acquisition workforce. This is a challenge as the procurement workforce ages. Those who make the purchasing decisions for the Federal Government have considerable power and responsibility. They are on the front lines of guarding against waste, fraud, and abuse. As many of this Committee's and Senator Coburn's oversight Subcommittee's hearings have made clear, the taxpayer pays the price when front-line defense fails.

Our investigation into the misuse of government purchase cards also revealed weaknesses in the acquisition workforce. Whether outright fraud or merely failure to make purchases at the best previously negotiated price, the lack of effective financial controls squanders precious financial resources and damages the public confidence in government.

The Purchase Card Waste Elimination Act that I introduced and that the Senate passed 2 weeks ago mandates that the Office of Management and Budget create guidelines to assist agencies in improving their management in government-wide purchase cards for making micro-purchases. The OFPP will be the entity responsible for seeing that these internal controls are in place.

Third, I am concerned that the most recent update of the Government Accountability Office's high-risk list includes interagency contracting, largely because of unclear lines of responsibility between customer agencies and servicing agencies. If government agencies cannot do business with one another in a way that is effective and efficient, the prospects for doing business properly and efficiently with the private sector are hardly encouraging.

Fourth, the Committee's investigation into Hurricane Katrina exposed an urgent need to reform the emergency procurement process. What we found, and what Senator Coburn has found, as well, are numerous examples of layering of contracts where the prime contractors receive one price from the Federal Government and the person actually doing the work is receiving only a fraction of that price. That either means that we are paying way too much for the service or that the person that is ultimately doing the work is not getting a fair price. Either is not an acceptable outcome.

The lack of coordination during Hurricane Katrina both prolonged the suffering of the storm's victims and contributed to unacceptable and massive waste, and it continues to impede the recovery today. I am very interested in hearing the nominee's views on how OFPP can better coordinate efforts in this area and improve the effectiveness of procurement in times of emergency.

And finally, throughout government, there needs to be much more emphasis on full and open competition to procure goods and services. This is an issue that I have worked on for many years. When I was a young staffer for this Committee, decades ago, we wrote the Competition and Contracting Act. Senator Bill Cohen was the sponsor of that bill. I see that Act being circumvented or curtailed far too often.

Senator Warner has already gone through the nominee's significant private and public sector experience, so I am going to submit that final part of my statement for the record. I do want to emphasize that his mother, who is here today, is from Biddeford, Maine, so I want to commend Mr. Denett for his wise choice in mothers——

[Laughter.]

As well as welcome him to the Committee today.

[The prepared statement of Senator Collins follows:]

OPENING STATEMENT OF SENATOR SUSAN M. COLLINS

Today the Committee will consider the nomination of Paul Denett to be Administrator for Federal Procurement Policy.

The Federal Government spends approximately $350 billion annually for a wide range of goods and services purchased from the private sector. The Office of Federal Procurement Policy plays a central role in shaping the policies and practices Federal agencies use to acquire the goods and services they need to carry out their responsibilities. In doing so, the OFPP has an obligation to ensure that the Federal acquisition system promotes the economy, efficiency, and effectiveness that provide the best value to taxpayers.

Fulfilling that role and meeting that obligation present a challenge that grows ever more complex. It requires an administrator dedicated to the broad principles of sustaining a skilled acquisition workforce, making consistent and effective use of competition, developing contracts that reflect the government's buying power, and improving our data systems so that Federal managers have the information they need to evaluate results and to plan effectively.

There are specific issues that continue to concern me. First, although progress is being made, we must continue to look for ways to make Federal contracting more accessible to small businesses. We must do this not merely for the sake of small business, although the continued growth of this sector is vital to our Nation's economy. It is also in the Federal Government's best interest to ensure that a large pool of contractors exists for any given item or service to ensure robust competition.

Greater competition leads to lower prices and higher quality for the American taxpayer. Simply choosing the same proven contractors over and over may be a good short-term strategy for a beleaguered contract officer, but failing to take into account the impact of such a practice on the pool of businesses willing and capable of doing business with the Federal Government can lead to a smaller contractor base, undisciplined by market forces.

Second, maintaining a highly trained and motivated acquisition workforce remains a challenge as the procurement workforce ages. Those who make the purchasing decisions for the Federal Government have considerable power and responsibility. They are on the front lines of guarding against waste, fraud, and abuse. As many of the Committee's oversight hearings have made clear, the taxpayers pay the price when the front-line defense fails.

Our investigation into the misuse of government purchase cards also revealed weaknesses within the acquisition workforce. Whether outright fraud or merely failure to make purchases at the best, previously negotiated price, the lack of effective financial controls squanders precious financial resources and damages the public's confidence in government. The Purchase Card Waste Elimination Act that I introduced, and which the Senate passed two weeks ago, mandates that the Office of Management and Budget create guidelines to assist executive agencies in improving the management of government-wide commercial purchase cards for making micropurchases. The OFPP will be responsible for seeing that the necessary internal controls are in place to ensure that those guidelines are followed.

Third, I am concerned that the most recent update of the Government Accountability Office's high-risk list includes interagency contracting, largely because of unclear lines of responsibility between customer agencies and servicing agencies. If government agencies cannot do business with one another in a way that is effective and efficient, the prospects for doing business properly with the private sector are hardly encouraging.

Fourth, the Committee's investigation of Hurricane Katrina exposed an urgent need to reform the emergency procurement process. The lack of such coordination during Hurricane Katrina both prolonged the suffering of the storm's victims and contributed to massive and unacceptable waste. I am very interested in hearing Mr. Denett's views on how the OFPP can better coordinate efforts to develop interagency

contracting plans that reduce duplication of effort and improve the effectiveness of procurement in times of emergency.

And, finally, throughout government, there needs to be more emphasis on the use of full and open competition to procure goods and services.

Paul Denett brings significant private- and public-sector experience to this nomination. Since 2003, he has served as Vice President of Contracting Programs at ESI International, where he has focused on providing training to Federal employees and their private sector counterparts in contract and project management. Mr. Denett previously held several senior contract management positions at the Departments of Interior, Treasury, Agriculture, and Defense. He has also served as vice chairman of the government-wide Procurement Executives Council, a precursor to the Federal Acquisition Council. Mr. Denett received several awards during his government career, including a Presidential Rank Award in 1995.

Mr. Denett earned a Master of Science in Administration degree with an emphasis in procurement and contracts from The George Washington University. He holds a Bachelor of Arts degree from Nasson College in Maine. In addition, his mother is from Biddeford, Maine. I commend Mr. Denett for his wise choice in mothers and welcome him to the Committee.

Chairman COLLINS. Senator Coburn.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. Thank you, Madam Chairman.

This is an issue—and the responsibility Mr. Denett is going to have is tremendous. We are having our 38th hearing today in terms of looking at spending and waste. There are some things that I think the American people have no idea that are going on.

First of all, the Federal Government is not getting the best price. Most of the time we are not getting the best price, but we cannot really know that because we do not follow it to see if we got the best price. Nobody is checking to see if we got the best price. GSA does not know, the contracting agencies do not know.

Second, too often there are no specific performance requirements in the contracts. And if there are, they are not available and they are not measured.

Third, there is very poor contract oversight by us, as a body, as well as within the agencies, which ends up creating opportunities for mischief.

Fourth, performance bonuses. The above two problems that I talked about, lacking performance indicators and poor oversight, lead to the problem of non-performing contracts. We end up paying performance bonuses on contracts that did not meet the performance requirements because we cannot measure it or we do not measure it.

Also, as you alluded to, there are sole source contracts, both in terms of Iraq reconstruction and Hurricanes Katrina and Rita. And many of these are cost plus. The motivation behind those contracts are: The more money you spend, the more money you make. It is not about the objective of securing the end result.

Finally, there is minimal transparency in this country. We are going to have a hearing this afternoon, asking why the United Nations does not have transparency in their contracting, but we really have to ask those questions of the United Nations with one arm tied behind our back because we do not have transparency. Myself and Senator Obama and a large group of—a bipartisan bill is the Federal Funding Accountability and Transparency Act, where all these contracts go online to where the American people get oversight of them, as well as us. What are we buying, what are we pay-

ing for it, and who are we paying it to, and what are the requirements and performance on that?

I value the contracting officers and procurement officers we have in this country. I know they are stretched in a great many details. And, to a great extent, I think we have to give them the resources, one, but we also have to set up the systems that are necessary so that we can truly measure performance. We can know that we are getting the best price. We eliminate cost plus and no bid contracts. And we get down to preserving the moneys that we have.

We are running out of money. The budget crunch that we are going to be under—in 9 short years, 81 percent of the budget will be Medicare, Medicaid, Social Security, and interest. That means 19 percent of the budget is for everything else that we do. That is an untenable position, and we have to start now by making sure that we make wise choices.

First of all, let me congratulate you on your nomination. We had a good visit in my office, and I look forward to your testimony today.

Thank you, Madam Chairman.

Chairman COLLINS. Thank you, Senator.

I want to note for the record that Senator Allen has also submitted a statement in support of Mr. Denett, and I would ask it that be made part of the hearing record at this point.

[The prepared statement of Senator Allen follows:]

STATEMENT OF SENATOR GEORGE ALLEN

Madam Chairman and Members of the Committee, it gives me great pleasure to introduce Paul A. Denett, the President's nominee to serve as the Administrator for Federal Procurement Policy (OFPP) in the Office of Management and Budget. I think you will quickly discover that Paul's distinguished background in acquisition makes him a perfect choice to serve as Administrator.

Congress established OFPP in 1974 to ensure the policies and practices our Federal agencies use for buying goods and services to meet their varied missions are efficient and effective. This responsibility is of considerable consequence. Last year, the Federal Government spent more than $340 billion on goods and services, including major weapon systems to support the war on terrorism and basic humanitarian assistance to help our citizens recover from natural disasters. We must have a solid acquisition system to deliver the cost-effective, quality service taxpayers expect and deserve from our government.

I am confident that Paul will provide the type of leadership that is required to serve as head of OFPP. A longtime career procurement professional, Paul possesses the insight and determination to help our agencies meet the many acquisition challenges of the 21st Century. He is widely recognized as an expert in Federal contracting, having spent more than 35 years in the Federal acquisition community, including senior level positions at four cabinet agencies and the private sector. For many years, Paul served as the Director of Administration in the Office of the Secretary for the Department of the Interior (DOI), where he managed 900 employees in the areas of acquisition, grants, and property management. He also served as a Vice Chairman of the Procurement Executives Council, a high-level body of senior agency acquisition officials that was a predecessor to the Chief Acquisition Officers Council. Over the years, Paul has received many prestigious awards to recognize his accomplishments as an acquisition executive.

It is no surprise that Paul is highly regarded by the acquisition workforce. Throughout his career, he has taken a strong personal interest in making sure our contracting professionals have the skills and resources they need to perform at their best. He laid the foundation for the first government-wide acquisition intern program to attract talented young professionals to contracting. In addition, he established a nationwide university at DOI that more than doubled the amount of training provided to the Department's acquisition employees.

I am proud to call Paul Denett a fellow Virginian. The acquisition community and our taxpayers need the wisdom and leadership Paul would provide as Adminis-

trator. They will also be well served by his high levels of personal integrity and honesty—qualities that lie at the heart of our acquisition system. I urge you to act quickly and favorably on Paul's nomination.

Chairman COLLINS. Mr. Denett has filed responses to the biographical and financial questionnaire, answered pre-hearing questions submitted by this Committee, and had his financial statements reviewed by the Office of Government Ethics.

Without objection, this information will also 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 office.

Our Committee's rules require that all witnesses at nomination hearings give their testimony under oath. Mr. Denett, would you please stand and raise your right hand?

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

Mr. DENETT. I do.

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

TESTIMONY OF PAUL A. DENETT,[1] TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY, OFFICE OF MANAGEMENT AND BUDGET

Mr. DENETT. Thank you. I would like to thank John Warner for coming in and introducing me. I know his schedule is busy, and I really appreciate it and admire Senator Warner.

I also thank Senator Allen, for getting his remarks into the record.

Thank you, Madam Chairman. And thank you to Ranking Member Lieberman, who cannot be with us today, and Members of the Committee.

I am honored to appear before you today as the President's nominee to serve as Administrator for Federal Procurement Policy at the Office of Management and Budget. I am excited to be considered for this position and by the opportunity to help the Federal acquisition workforce deliver the best value and results for our taxpayers.

I also want to thank the Members of the Committee who met with me in advance of today's hearing. Our meetings allowed me to gain a better appreciation of their priorities and thoughts for improving the acquisition system.

Thank you to my mother, Irene Denett, from Biddeford, Maine, who provided me with some Maine common sense.

A special thank you to my wife, Lucy, an Italian-born New Jersey girl whose constant love and support enable me to make this commitment to public service if confirmed.

Over the years, I have developed a great appreciation for the broad and important statutory responsibility assigned to the Office of Federal Procurement Policy, the Executive Branch's office for government-wide acquisition policy. I have devoted my entire career, which spans more than 35 years, to Federal acquisition matters. Most of these years were spent in Federal service as a ca-

[1] The prepared statement of Mr. Denett appears in the Appendix on page 21.

reer official at four different cabinet agencies in both operations and policy positions.

After leaving Federal service several years ago, I spent time in the private sector to learn about the procurement process from a vendor's perspective. These first-hand experiences have helped me understand on many levels the importance of having effective acquisition policies and practices.

If confirmed, I welcome the opportunity to return to Federal service as OFPP Administrator, where I would leverage my experience to shape policies and practices that facilitate the efficient and effective delivery of goods and services on behalf of our taxpayers. Our acquisition workforce has faced unprecedented challenges over the last several years, due in large part to the ongoing War on Terror and recovery from the largest natural disaster in our Nation's history. These challenges provide important reminders of the close connection between an effective acquisition system and an agency's ability to deliver effective results.

If confirmed as Administrator, I would work with Congress and the agencies to ensure that the acquisition workforce is well equipped. Agencies must identify short and long-term skills requirements and hiring needs. Training must be tailored to the acquisition skills demanded in today's environment and supplemented with development programs, including mentoring and rotational assignments that help employees obtain the competencies required to meet the increasingly complex acquisition challenges.

We must promote programs, such as procurement professional interns, that attract and top talent, not just at the entry level, but at mid-level career positions, as well. Agencies must plan and operate more effectively in emergency situations. We must improve interagency communications and information available on pre-positioned contracts to reduce duplication of effort and improve the effectiveness of agency emergency preparedness.

Agencies need to be aware of existing emergency procurement flexibilities, situation-specific authorities, and best practices for mitigating risk throughout the acquisition process. Increased attention should be given to contract management. We must ensure contractors make good on their commitments and are held accountable for results. Contracts must have clear performance standards and agencies must dedicate sufficient resources to contract administration to evaluate if contract work is meeting agency needs.

We need greater clarity, transparency, and accountability throughout the contract management process, as well as a timely and accurate procurement data system. Competitive sourcing should be used in a reasonable and responsible manner. A public-private competition that is carefully planned and tailored to the needs of the agency can serve as a catalyst to implement better business processes and cost savings measures. Competition must be applied in a fair and transparent manner, and agencies must track implementation of completed competitions to evaluate results.

It has been a privilege to meet many of you and your staffs over the past several weeks. If confirmed as Administrator, I will look forward to working with you and other Members of Congress to build a world-class acquisition system that garners the confidence

of our taxpayers by consistently delivering effective, efficient, and ethical contracting service.

Thank you again for allowing me to appear before you today and for considering my nomination to serve as OFPP Administrator. This concludes my prepared remarks. I look forward to hearing your input, and I am pleased to answer any questions you may have.

Chairman COLLINS. Thank you, Mr. Denett. We will begin with three standard questions that we ask of all nominees for the record.

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. DENETT. No.

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 this office?

Mr. DENETT. 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. DENETT. Yes. I do.

Chairman COLLINS. Thank you. I am now going to begin our first round of questions, limited to 7 minutes each. We will do a second round, as well.

Mr. Denett, I mentioned in my opening remarks my concern about the Federal Government's excessive use of very large sole source contracts. We saw it in the wake of Hurricanes Katrina and Rita, and we have seen it in Iraq with the reconstruction funding. I want to focus particularly on the FEMA contracts.

In the aftermath of the hurricanes, FEMA awarded four large sole source contracts to provide temporary housing. Originally, these big four contracts were valued at $100 million each. Then, in the fall of 2005, FEMA raised the ceilings of each of these four contracts to $500 million. In testimony before this Committee, where I and several other Members expressed concern about it, the then-acting Director of FEMA, who has since been confirmed, promised to this Committee that FEMA would re-compete the requirements covered by these contracts, but unfortunately, that is not what happened.

Instead, some of the peripheral requirements covered by the contracts were stripped off and awarded competitively to small and locally owned businesses, while the main portion of the work continued to be done by those four large firms. Then, in February of this year, the value of two of these big four contracts was again raised. The largest is now valued at $1.2 billion.

So, a contract that was originally for $100 million and was awarded without competition now has a ceiling of $1.2 billion. I think we all ought to be able to agree that awarding nearly $3 billion in sole source contracts is not the right model for the Federal Government, even during a catastrophe.

I do not accept the concepts that either we get essential goods and services out quickly to those in dire need or we do competitive contracting. You can negotiate on the shelf contracts that you can

use in the event of an emergency. There are lots of other ways around this problem.

What are your comments on the use of sole source contracting, which is really a misnomer because these are not sole source? They really are noncompetitive contracts, when there were alternative sources available. What are your comments with regard to this specific case, and what will you do to promote the use of full and open competition, even in dealing with disasters?

Mr. DENETT. Well, for the disasters that you had mentioned, Senator Cohen, earlier, and when I was a practicing contracting person, we set very aggressive competitive goals and were required to submit annual reports on competition. And I always managed to exceed those goals. But competition is the bedrock of everything that contracting does.

As you have already eloquently stated, if we do not have competition, we get short changed. We do not get the right prices. We do not get more companies engaged in the market. That is a disservice to all of us.

I would work with FEMA to try to minimize that happening. I understand everybody is working now to get contingency contracts in place so that when a disaster happens in the future, we will be better prepared and will not have to do any emergency, last minute procurements for things that we know, with slight planning, that we are going to need. We are going to need food, water, housing, and those sorts of things.

In the unfortunate circumstances where those are not set up and we are compelled to do some noncompetitive contracting, we have to strongly commit to reverting them back to full and open competition at the earliest possible moment.

I do not know the particulars of why FEMA has not done that on these housing ones, but I would be pleased to work with them and the Committee to get to the bottom of it, if confirmed.

Chairman COLLINS. Thank you.

I would like to see OFPP take a far stronger leadership role in this area. It seems to me that when an agency relies excessively on unnecessary noncompetitive contracts, that OFPP ought to perhaps be doing audits of their procedures, providing them with recommendations. I think OFPP is often too passive in its role, and I would like to see a more aggressive approach, and I hope that you will undertake that.

The second issue that I want to turn to this morning before yielding to my colleagues is another issue that I raised in my opening statement, and that is the accessibility of the procurement process to smaller businesses. I know in my State that there are a number of small businesses that could provide high quality, affordable goods and services to the Federal Government, but they have no idea how to get started and they find it a daunting prospect. It just seems too difficult to even get your toe in the water. Now, one way that we have worked with small businesses is to put on Federal procurement conferences, and I have sponsored some of them myself. I am going to sponsor another one in October, but oftentimes I have found that smaller companies that attend these procurement conferences come away without any tangible results.

There is not much coordination among Federal agencies on marketing and outreach. I think if there were, these conferences could translate into real value for a small business.

What are your thoughts on making small businesses more aware of how to do business with the Federal Government and making the Federal procurement process more open to smaller companies?

Mr. DENETT. I agree with you that we need to do more outreach. In fact, when I was at the Department of the Treasury, we would sponsor conferences like the one that you described. My experience was that the first one that we did, the feedback from the small businesses that attended, they were very disappointed because they did not walk away with any actual business. They had to do a lot of follow-up work to get even a modicum of business to make it worth their effort.

So, we worked hard with the SBA and within the Treasury Department, and I would try to do this on a broader scale, working closely with the Small Business Administration to try to bring some actual business to these, where they have work that needs to be done, and in some instances, they can actually leave the conferences with purchase orders for actual business to get them started. Nothing breeds success like a little bit of success in the beginning. And some of these companies have grown to become major contributors to the Federal Government from getting that little start from that little order in the beginning. I would work with the SBA to try to duplicate that, if confirmed.

Chairman COLLINS. Thank you. Senator Coburn.

Senator COBURN. Thank you.

The task in front of you, Mr. Denett, is certainly amazingly complex. I wonder, what tools do you see out there now to measure, whatever you want to accomplish in your position, what are the tools you are going to use to measure whether you have accomplished it?

Mr. DENETT. Well, one would be the accuracy of our Federal procurement data system that you and I spoke of when we had our pre-chat. It is a major concern that we do not have, currently, an accurate count on the number of contracts and related information that we need to have. So, one measurement would be to have that next-generation one up and working with accurate data so that we can measure accurately how much is competed, how much goes to small business. We need information on how often we use incentive contracts, cost plus contracts, all of the ones that we know are more vulnerable to potential abuse and are awkward. We need to get a handle on what those numbers are. And I need to talk with the Chief Acquisition Officer Council to get feedback from them on how to attack these problems and how can we minimize their use and improve the system.

Senator COBURN. So do you have a plan that you want to institute so that there is a true metric to measure performance in contracting?

Mr. DENETT. I have worked with some throughout my career on trying to measure difficult things like that. I have used balanced scorecards that have been a combination of customer satisfaction, prudent spending, and a variety of other metrics.

I think we would have to explore those and whatever is currently being attempted to see what might work best, and I would look forward to working with the Committee to try to agree on what the best metrics would be.

Senator COBURN. Out of the $360 billion that we contracted for last year, how much of that do you think is wasteful?

Mr. DENETT. I think that we can do a better job of contracting. I think that if we increase competition, surely we would get better prices. I think if we did a better job of what is called strategic sourcing where we combine our buying power, we could certainly get significant discounts off of a lot of commonly used items that we buy.

In fact, we have an initiative now in strategic sourcing where we are trying to buy cell phones, copiers, and some other common office supplies, combining them all within departments. I expect we will get significant discounts and save money on what we are spending now.

Senator COBURN. OK. But I am going to bring you back to my question, how much do you think is wasted now?

Mr. DENETT. I do not have a handle on what an exact percentage is, but I am sure that we could save more money by better contracting and using some of these things that I described earlier, but I do not have an exact percentage.

Senator COBURN. Well, let me just review some things. Let us say that we spent $6 billion on contracts to contractors that did not meet performance requirements in the Defense Department last year. That is $6 billion. We had no competitive contract in the majority of the Hurricane Katrina stuff, which we know we have at least $6 to $8 billion. You know, there are just two areas. So, we have $14 billion—you would not care to think that we could use Wal-Mart-type thinking in our purchasing and say, we set a goal, we spent $360 billion, we are going to get the same thing for $325 billion this next year?

That is what I am looking for. I am looking to secure the future for this next generation by setting a metric out there and saying, here is what we have spent, here is what we are going to spend next year. We are going to spend it wiser.

And we are going to put into place a measurement to do that, and that is the kind of leadership we need in this position. The way we have been doing it does not work. It works for the people who are supplying to the Federal Government. You know, there are some real gravy trains out there. And there is the expectation that it is going to continue. And what I am looking for you to say is, yes, there is a lot of waste, first. Second, is that there are ways to attack that waste. And third, I am going to be in there and going after the waste.

Mr. DENETT. Well, contracting officers should be measured by what prices they get. And using competition and market research, they should be held accountable to get the best price possible. Those instances where they do not, they should be held accountable and we should pressure them to get better prices.

Senator COBURN. Is not the GSA supposed to set us up to get the best possible prices on phones and paper clips and everything else? Was that not the design of the GSA? I mean, was not the General

Services Administration, the goal behind it is to be the person that sets up the way where we get the best price?

Mr. DENETT. Historically, that was one of their set ups. Under the current schedule program, they allow a large number of people to get schedules to offer a variety of those types of items, and then through further negotiations, by the various departments, they usually get better discounts than what are usually awarded on the schedules.

Senator COBURN. Would you think that the American people should expect that if we are the largest purchaser of almost everything in this country that we ought to get the best price, every time, bar none?

Mr. DENETT. Yes.

Senator COBURN. Is that happening?

Mr. DENETT. No. It is not happening often enough. In many instances, I think that we are getting very good prices, but there is certainly vast room for improvement.

Senator COBURN. Would it be your goal that we get the best price every time?

Mr. DENETT. Absolutely.

Senator COBURN. All right. One of the problems that we see in Hurricane Katrina, and we see it with different agencies, is that we hire another government agency to be a supposed contracting manager, or project manager, who then hires a true project manager. And so, what we did was—I am not talking specifically about the Army Corps of Engineers—FEMA hired the Corps to do a lot of stuff, and they did not do it. They just hired somebody else, but yet they took a couple hundred million dollars off of the top for their agency.

Is there something that can be done, in terms of contracting, to bypass that? Or, say we are going to be the contracting agency in certain of these different agencies that are contracting these large amounts, rather than paying somebody else to be the contract manager?

Mr. DENETT. I think that is a workforce issue that we really do need to pay a lot of attention to. We have to figure out what the right mix is. How many contract people we need. What training they need. What competencies they need so that they can do as much of the contracting themselves as possible.

Certainly, the fewer middlemen there are, the more efficient the system is in general. But there are instances where government agencies have better skills at a particular thing where government agencies help one another. Now, in the case that you have cited, it looks like they just turned around and gave it off to someone else. I am not familiar with that particular case, but I would be glad to look into it.

Senator COBURN. Would you think, and this will be my last question, Madam Chairman, if you would allow me to——

Chairman COLLINS. Absolutely.

Senator COBURN. Do you think it would be beneficial for both the government, the contractors, and the people of this country to know where we spend our money, and who is getting it, and what the conditions are in those contracts, and what the performance is for those contracts?

Mr. DENETT. Yes. I do.

Senator COBURN. So, you would not have any opposition as OMB is working with us—by the way, very greatly. They are supportive of our effort to have all this online so that everybody can see it in America. You would not have any objection to that?

Mr. DENETT. No. I would not.

Senator COBURN. And would you think that would help you accomplish some of the goals that you have set out as head of this agency?

Mr. DENETT. Absolutely. I think that transparency and people seeing what we are doing would assure that we are honest brokers and that we would welcome any observations from people seeing what we are doing.

Senator COBURN. As a matter of fact, if in fact I am going to contract with the Federal Government, I know it is going to be online, it is going to change some of my expectations, is it not? It is going to change the expectations of some of the Federal contractors.

Mr. DENETT. It easily could. Yes, sir.

Senator COBURN. Thank you, Madam Chairman.

Chairman COLLINS. Nice job, Senator Coburn, getting the witness on record in favor of your proposal. Artfully done. I am sure that swept away the last remaining vestiges of opposition within OMB and the Administration.

Mr. Denett, I want to return to the issue of contingency contracting. The GAO recently released a report on this issue and found that without effective acquisition planning, management, and communication processes and sufficient numbers of capable people, poor acquisition outcomes often result. I do not think that is an earth-shattering finding, not really a very surprising one. But what is surprising is that the Federal Acquisition Regulation (FAR) does not now contain a single easy to use compendium of provisions related to contingency contracting that could be used in emergency situations to ensure legal compliance.

That seems to me to be a simple, common sense step that is long overdue. I understand that work is under way to complete a revision to the FAR, and as I said, I am shocked that it is not there already. We are in the midst of the hurricane season. Can you give us a good estimate on when the revision to the FAR will be completed?

Mr. DENETT. Yes. As you have stated, they are combining all of their contingency contracting rules that are sprinkled throughout the Federal acquisition regulations into one section. My understanding is that it is going to be complete and published within the next few weeks. That is what I was told very recently. So, they are very close. They have done all the work. They are now getting all of the necessary signoffs and administrative things, but that should be issued shortly.

Chairman COLLINS. I hope that you will keep the Committee informed on that issue.

Mr. DENETT. We will.

Chairman COLLINS. GAO also found that a lack of adequately trained personnel contributed to the waste of government resources in the contracting area in the aftermath of Hurricane Katrina. I mentioned in my opening statement that I am also concerned, and

I know Senator Voinovich shares this concern, that we have an aging procurement workforce. Many of our contracting officers, including our most experienced contracting officers, qualify for retirement, and we are expected to see an exodus in the coming years.

What role do you believe OFPP should play in preparing the acquisition workforce, both in terms of helping to ensure that we have qualified, trained, experienced contracting officers, but also making sure that they have the training necessary to respond to emergency contracting?

Mr. DENETT. I believe OFPP and myself, if confirmed, should play a very active role. I have always been a very strong proponent of recruiting and retraining talented contracting people.

I had the privilege of setting up a contract intern program at the Department of Treasury. I set one up also at the Department of the Interior and then actually expanded that to be a government-wide intern program. The people that we have recruited in that have grown to be real stars in the acquisition community and now hold senior positions sprinkled throughout the Federal Government.

We just have to do a better job of selling to people that it is a good career opportunity. Where else can you get a job that you are exposed to virtually everything that the Federal Government does? Whether it is assisting the Coast Guard, going out on cutters, helping the Interior and Forest Service fight forest fires, just a wide variety of programs.

So, it is really exciting, and if you invest the time to let young people, college graduates, know about it and spend some time, we will get our share of them. But it does not happen without a lot of effort. And we have the Federal Acquisition Institute, which, fortunately, there has been a lot of cooperation on the Hill to get some funding for that, and that is in the point position of giving adequate training and reliance on private sectors.

One of the companies I came from and many others provide outstanding training. We just have to make sure that our people get it on time, that we recruit enough people, and that we make it exciting for them, where they do not get too bogged down on regulations and are allowed to blossom as business managers.

Chairman COLLINS. As far as specific training on how you handle contracting in the aftermath of the disaster, is that an area that you see OFPP taking a leadership role on?

Mr. DENETT. Yes. I think that we have to make sure that FAI and Defense Acquisition University have available all the appropriate agencies, FEMA, the Corps, the Coast Guard, to make sure that we have actual classes available that will assist them in doing a good job.

Chairman COLLINS. Thank you. In April 2006, just 2 months ago, OMB released its report on competitive sourcing results for fiscal year 2005. The report found that Federal employees who had formed what is referred to as the most efficient organizations have won approximately 80 percent of the competitions during the last 3 years. I appreciated your statement in the pre-hearing questions against the use of arbitrary quotas or targets in competitive sourcing decisions.

In light of your statement, what would be your general approach to ensuring that future competitions are conducted in a fair and

transparent manner and that Federal employees have access to the information and the training necessary to win these competitions?

Mr. DENETT. Yes. We have to make sure that they have some good people assigned to put together their most efficient organization, make available to them training so that their presentation is every bit as professional as the companies that they will be competing against, and making sure that we do not get into areas that are not commercial areas, that can clearly be done by either the private sector or government employees.

Chairman COLLINS. Thank you. Mr. Denett, we have covered a lot of issues here this morning, and there are many more that will come before you. I do have a few more questions that I will submit for the record.

I want to end this hearing by emphasizing how important I think the OFPP Administrator's job is. You have a real opportunity to put in place the reforms, the training, the policies, and practices necessary to save taxpayers literally hundreds of millions if not billions of dollars. The waste, fraud, and abuse in contracting that this Committee has been able to document is absolutely inexcusable.

In Hurricane Katrina alone, we were able to document more than a billion dollars of wasteful and fraudulent spending. I am very concerned that no one seems to be taking charge to ensure that these same mistakes do not happen again, that we do not purchase $750 million worth of manufactured housing that cannot be installed in a flood plain that is unsuitable for other reasons and is sitting now in a farmer's field in Hope, Arkansas. That kind of waste is just inexcusable.

The American taxpayers just are not going to stand for it. I think the taxpayers are compassionate. They want to help the people who need help, but they want to be assured that their money is not frittered away on wasteful spending, unnecessary supplies, sloppy contracts, high prices, and uncompetitive contracts.

You are in a pivotal position to really make a difference in that area. I think OFPP has been too passive in the past as far as exerting the kind of leadership that is necessary. I hope your vast experience in both the public and private sector, as well as that Maine common sense that you inherited from your mother, will lead to a real change, a sea change. I look forward to working very closely with you.

I do not want you to think that the absence of Members this morning indicates a lack of interest in this issue by this Committee. Instead, it reflects confidence in you and your background, which is to your credit. It also reflects very busy schedules and a Defense Authorization bill that is on the floor. But, believe me, this Committee will be watching you closely and working with you closely. We need, and expect, leadership.

I would invite you to make any final comments, and then I will go through the procedure for adjourning the hearing.

Mr. DENETT. Well, I agree with everything you say, and I hope I am given the opportunity and really do look forward to working with you and other Committee Members to provide the leadership that is needed by our country.

Chairman COLLINS. Thank you. Without objection, the hearing record will be kept open until 5 p.m. tomorrow for the submission of any written questions, any statements from the Committee, and any additional information.

It is my hope that we can proceed quickly to report you favorably to the full Senate. This is a vital position at a critical time, and I am very pleased that the President has nominated such a well-qualified nominee. I look forward to supporting and advancing your nomination to the full Senate.

This hearing is now adjourned.

[Whereupon, at 10:52 a.m., the hearing was adjourned.]

APPENDIX

STATEMENT OF SENATOR JOSEPH I. LIEBERMAN

Mr. Denett, we welcome you before the Committee as the President's nominee for a position that is extremely important to the U.S. taxpayer, the Administrator of the Office of Federal Procurement Policy (OFPP) at the Office of Management and Budget. Federal agencies spend approximately $375 billion each year on the purchase of goods and services, ranging from simple products such as office furniture to complicated systems such as secure information technology that supports our military and homeland security operations. When agencies fail to practice sound procurement policies, waste, fraud, and abuse ensues at an enormous cost to taxpayers.

Mr. Denett, your nomination comes at a time when discipline on Federal contracting seems to have broken down. Our Committee's investigation of the response to Hurricane Katrina found that the Federal Emergency Management Agency (FEMA) failed to put in place contingency contracts before hurricane season that would have allowed FEMA to move disaster supplies into the Gulf region quickly and efficiently. Instead, FEMA's chaotic scramble to respond led to no-bid contracts worth hundreds of millions of dollars, the purchase of over $800 million of mobile homes, many of which are still sitting unused in Arkansas, and frequent instances of subcontractors being paid only a fraction of what the prime contractor received.

Wasteful contracting practices appear far too often across Federal agencies. For example, poor planning and oversight of contracts at the Transportation Security Administration have led to cost overruns in the hundreds of millions of dollars. The award of Federal contracts without full competition—a practice that undoubtedly drives up costs to U.S. taxpayers—has skyrocketed under the Bush Administration, rising from $67.5 billion in 2000 to $145 billion in 2005, an increase of 115 percent. I am particularly disturbed by the reports issued by the Special Inspector General for Iraq Reconstruction that have identified instance after instance of waste, fraud, and corruption related to Iraqi reconstruction projects. In many cases, reconstruction projects have been halted or downscaled as a result of inadequate contract planning and oversight, and in some instances the failure of contractors to fulfill their obligations has jeopardized the health and safety of our troops.

We need an Administrator of the OFPP who will establish clear policies for Federal agencies that will ensure that the negotiation, award, and oversight of contracts are conducted with the utmost efficiency and integrity. We also need an Administrator who will address the shortage of experienced procurement personnel in the Federal Government. Without a strong procurement workforce, agencies are simply unable to conduct the oversight of contractor performance necessary to prevent wasteful spending. I am pleased to hear, Mr. Denett, that you have an expertise and a strong interest in helping agencies attract and retain skilled personnel.

The Administrator of OFPP also plays a central role in forming Administration policy on competitive sourcing. Contractors provide valuable services for the Federal Government in many areas, and public-private competitions, when conducted fairly, can be an important tool in helping agencies reduce costs and become more efficient. These so-called "A-76" competitions, though, are time consuming and expensive to administer, and the rules of competition do not always allow Federal employees to compete fairly for their jobs. The appeals procedure is fundamentally unfair because Federal employees or their union representatives cannot appeal the results of competitions to GAO or the courts, although contractors have those appeal rights.

Unfortunately, the Administration's competitive sourcing appears to be driven not by budget savings or improvement of management, but by an ideological pursuit of privatizing government jobs at any cost. In fact, recent statements from OFPP personnel suggest the Administration is considering allowing the "direct conversion" of work involving less than 10 Federal employees to contractors. This policy would be inherently unfair to Federal employees and would create the potential for wide-

spread abuse at the expense of U.S. taxpayers. Instead of pursuing privatization at all costs, the Administration must turn its focus to improving agency performance through internal re-engineerings, strengthened financial oversight, and other alternatives that do not carry the wasteful costs of the A-76 process. Mr. Denett, should you be confirmed, I urge you to ensure that the rules for competitive sourcing are fair to Federal employees and are not biased in favor of privatization.

In closing, I want to emphasize how important sound procurement practices are to the successful performance of any government agency. The next Administrator of OFPP faces major challenges in improving acquisition practices and contract oversight throughout the government. Mr. Denett, should you be confirmed, I look forward to working with you to meet those challenges.

STATEMENT OF PAUL A. DENETT
NOMINATED FOR THE POSITION OF
ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY
BEFORE THE SENATE HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS COMMITTEE

JUNE 20, 2006

Thank you, Madame Chairman, Ranking Member Lieberman, and Members of the Committee. I am honored to appear before you today as the President's nominee to serve as the Administrator for Federal Procurement Policy at the Office of Management and Budget. I am excited to be considered for this position and by the opportunity to help the federal acquisition workforce deliver the best value and results for our taxpayers. I also want to thank the Members of the Committee who met with me in advance of today's hearing. Our meetings allowed me to gain a better appreciation of your priorities and thoughts for improving the acquisition system.

Thank you to my mother, Irene Denett from Biddeford, Maine, who provided me with some Maine common sense. A special thank you to my wife, Lucy, an Italian born Jersey girl whose constant love and support enable me to make this commitment to public service if confirmed.

Over the years, I have developed a great appreciation for the broad and important statutory responsibilities assigned to the Office of Federal Procurement Policy (OFPP) -- the Executive Branch's office for governmentwide acquisition policy. I have devoted my entire career, which spans more than 35 years, to federal acquisition matters. Most of these years were spent in federal service as a career official at four different cabinet agencies in both operations and policy positions. After leaving federal service several years ago, I spent time in the private sector to learn about the procurement process from the vendor's perspective. These first-hand experiences have helped me understand, on many levels, the importance of having effective acquisition policies and practices. If confirmed, I welcome the opportunity to return to federal service as OFPP Administrator, where I could leverage my experiences to shape policies and practices that facilitate the efficient and effective delivery of goods and services on behalf of our taxpayers.

Our acquisition workforce has faced unprecedented challenges over the last several years, due, in large part, to the ongoing war on terror and recovery from the largest natural disaster in our Nation's history. These challenges provide important reminders of the close connection between an effective acquisition system and an agency's ability to deliver effective results. If confirmed as Administrator, I would work with Congress and the agencies to ensure that:

- *The acquisition workforce is well equipped.* Agencies must identify short and long-term skills requirements and hiring needs. Training must be tailored to the acquisition skills demanded in today's environment and supplemented with developmental programs, including mentoring and rotational assignments, that help employees obtain the competencies required to meet the increasingly complex acquisition challenges. We must promote

programs, such as procurement professional internships, that attract and retain top talent – not just at the entry level, but at mid-level career positions as well.

- *Agencies plan and operate more effectively in emergency situations.* We must improve interagency communication and the information available on pre-positioned contracts to reduce duplication of effort and improve the effectiveness of agency emergency preparedness. Agencies need to be aware of existing emergency procurement flexibilities, situation-specific authorities, and best practices for mitigating risk throughout the acquisition process.

- *Increased attention is given to contract management.* We must ensure contractors make good on their commitments and are held accountable for results. Contracts must have clear performance standards and agencies must dedicate sufficient resources to contract administration to evaluate if contract work is meeting agency needs. We need greater clarity, transparency, and accountability throughout the contract management process, as well as a timely and accurate procurement data system.

- *Competitive sourcing is used in a reasoned and responsible manner.* A public-private competition that is carefully planned and tailored to the needs of the agency can serve as a catalyst to implement better business processes and cost savings measures. Competition must be applied in a fair and transparent manner and agencies must track implementation of completed competitions to evaluate results.

It has been a privilege to meet many of you and your staffs over the past several weeks. If confirmed as Administrator, I will look forward to working with you and other members of Congress to build a world class acquisition system that garners the confidence of our taxpayers by consistently delivering efficient, effective, and ethical contracting service.

Thank you again for allowing me to appear before you today and for considering my nomination to serve as OFPP Administrator. This concludes my prepared remarks. I look forward to your input and am pleased to answer any questions you may have.

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
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WASHINGTON, D.C. 20510-6250

SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.) **Paul A. Denett**

2. **Position to which nominated: OMB's Administrator Office of Federal Procurement Policy**

3. **Date of nomination: April 24, 2006**

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

   Office: ESI International
   901 North Glebe Road
   Suite 200
   Arlington, VA 22203

5. **Date and place of birth: May 16, 1946 Washington, DC**

6. **Marital status:** (Include maiden name of wife or husband's name.) **Married – Lucy Querques**

7. **Names and ages of children: Scott Denett 36 and Michael Denett 30**

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted. **Nasson College, Springvale, Maine BA 1968**
   George Washington University, Washington, DC MSA 1975

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.) **See attachment #1**

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. **National Contract Management Association (NCMA), Mclean, VA – Professional Association, Member/Fellow & Board of Advisors and Procurement Round Table (PRT), Nonprofit Advisory, One of Vice Chairs**

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. **None**

    (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. **None**

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. **Presidential Rank Award while senior executive at Interior; Secretary of the Interior Gold and Silver Medal for outstanding service; Fellow of National Contract Management Association; Army medal for serving during Vietnam era**

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written. **None that I can recall or locate.**

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 – although I have given brief speeches while presenting contract awards and have been on panels on recruiting/retaining/training acquisition personnel.**

17. **Selection:**

    (a) Do you know why you were chosen for this nomination by the President? **I believe because he felt that I was the best qualified for this position with my extensive federal contracting and industry experience.**

    (b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? **I was a contracting person at 5 separate cabinet agencies (Navy, Army, Agriculture, Treasury and Interior). Over that 30 plus years before I retired from federal service I held senior procurement positions that included acquisition operations and policy. I built outstanding procurement shops that were recognized for ethical, prompt and efficient contracting service. I started contract intern programs that located, hired, and retained outstanding acquisition personnel. My last five years with the private sector have been all focused on contracting and resulting in my direct appreciation of what vendors have to deal with in competing for contracts and performing well in providing government contracting service and products. I was also a successful champion of providing contracting opportunities for people with severe disabilities and exceeded small business and other special program goals. I hope to be confirmed and to be able to serve the American taxpayer again.**

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? **Yes**

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**

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. **None**

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. **Arrested for DWI in July 1977. DWI dropped and pleaded guilty to reckless driving. No incidents before or since.**

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. **None**

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

_____Paul A. Denett_____ 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.

Paul A. Denett

Subscribed and sworn before me this _____5th_____day of_____May_____, 20___06____

Notary Public

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
ROOM SD-340
(202) 224-4751

WASHINGTON, D.C. 20510-6250

SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE

Attachment #1

Nominee: Paul A. Denett
Position: Administrator Office of Federal Procurement Policy

9. Employment Record:

Vice President of Contracting Programs
ESI International
Arlington, VA
2003 to present

Senior Vice President Program Development & Government Affairs
Star Mountain Inc. (Now FPMI Solutions, Huntsville, AL)
Alexandria, VA
2002-2003

Program Director Acquisition and Grants Management
Logistics Management Institute
Mclean, VA
2001-2002

Director of Administration/Senior Procurement Executive
Department of the Interior
Washington, DC
1998-2001

Director Office of Acquisition and Property Management
Department of the Interior
Washington, DC
1993-1998

Director Office of Procurement/Senior Procurement Executive
Department of Treasury
Washington, DC
1989-1993

Attachment #1 continued

Chief Procurement Officer
U.S. Geological Survey
Department of the Interior
Reston, VA
1980-1989

Chief Procurement Policy
U.S. Geological Survey
Department of the Interior
Reston, VA
1978-1980

Assistant Director Facilities and Property
U.S. Department of Agriculture
Washington, DC
1976-1978

Deputy Assistant Director Central Services
(Contracting, Space, Property, Printing, and IT)
U.S. Department of Agriculture
Washington, DC
1975-1976

Contract Negotiator, Supply and Property Management Specialist, Procurement Analyst, Contracting Officer, and Realty Specialist
Departments of Agriculture, Treasury, Interior, Navy and Army (active duty)
Washington, DC and Bethesda, MD
1968-1975

••••••••••••••••••••••U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the Nomination of
Paul Denett to be Administrator, Office of Federal Procurement Policy

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Administrator for the Office of Federal Procurement Policy (OFPP)?

   Answer: I believe the President nominated me to serve as Administrator because he felt I was the best qualified person for this position with my extensive federal contracting and industry experience.

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

   Answer: No.

3. What specific background and experience affirmatively qualifies you to be Administrator?

   Answer: I was a contracting person at five separate cabinet agencies (Navy, Army, Agriculture, Treasury and Interior). Over that 30 plus year time span before I retired from federal service, I held senior procurement positions that included responsibilities for acquisition operations and policy. I built successful procurement shops that were recognized for ethical, prompt and efficient contracting service. I started contract intern programs that located, hired, and retained outstanding acquisition personnel. My last five years with the private sector have been all focused on contracting and resulted in my direct appreciation of what vendors have to deal with in obtaining and performing well in providing government contracting services and products. I was also a successful champion of providing contracting opportunities for people with severe disabilities and exceeded small business and other special program goals.

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

   Answer: Yes. I have committed to OMB's Deputy Director for Management to help implement the President's priorities with respect to improving procurement policy within the Executive Branch.

5. If confirmed, are there any issues 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 explain what procedures you will use to carry out such a recusal or disqualification.

Answer: No.

6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis?

Answer: No.

7. For the positions that you have listed in the biographical information that you provided to the Committee, please provide the months as well as the years you held each position.

Answer: I provided the years at each job from 1968 to the present. I do not have records of the exact months for each position dating back to 1968.

II. Role of the Administrator, Office of Federal Procurement Policy

8. What is your view of the role of the Administrator of OFPP?

Answer: I consider the OFPP Administrator to be the Executive Branch's point person for providing overall direction for government-wide acquisition policies and ensuring that these policies promote the efficient and effective delivery of goods and services on behalf of our taxpayers. If confirmed as Administrator, I would seek to (1) carry out OFPP's statutory responsibilities, (2) fulfill the Administration's acquisition priorities, and (3) provide leadership and vision to the acquisition community.

9. In your view, what are the major internal and external challenges facing the OFPP and the federal acquisition community as a whole and how would you, as Administrator, address these challenges?

Answer: The integrated nature of acquisition makes it imperative that OFPP work in close collaboration with OMB's Office of Federal Financial Management and the Office of E-Government and Information Technology, under the guidance of OMB's Deputy Director for Management, to craft balanced policies that promote sound management practices and reflect the needs of all stakeholders.

Outside of OMB, it is critical that the Administrator work closely with agency Chief Acquisition Officers to ensure that acquisition priorities are receiving the attention they deserve within the agencies. As a general matter, I have been impressed by the leadership

displayed by the CAOs and the CAO Council, in promoting effective business practices, including the skills and disciplines promoted by the President's Management Agenda and the Administration's acquisition-related initiatives.

10. If confirmed, how would you communicate with OFPP staff to receive their input on the activities and policies of the office and to accomplish your priorities?

Answer: If confirmed, I intend to promote an ongoing, healthy dialogue with the OFPP staff through an open-door policy and close collaboration. I will encourage innovative thinking and reward those who achieve results.

11. During your tenure as the head of OFPP, what key performance goals do you want to accomplish, and how will this committee know whether you have accomplished them?

Answer: If confirmed, I intend to strengthen the capabilities of the acquisition workforce to meet the many challenges of a post 9/11 environment and improve contract management practices. I also intend to make sure that agencies are documenting cost savings from public-private competitions to ensure that promises are realized. I am reluctant to identify specific goals before having had an opportunity to confer with the agency CAOs, but welcome the opportunity to work with Congress during my tenure as Administrator to discuss progress on established goals.

III. Policy Questions

12. As you know, the Government Accountability Office (GAO) designated management of interagency contracting a government-wide high-risk issue in January 2005. GAO stated that this approach, when used properly, provides government personnel with a simplified means to acquire goods and services. However, it noted that among the factors leading to its high risk designation was the:

- Rapid growth in the use of these contracts in terms of amount spent;
- lack of transparency and reliable data regarding the extent and details of use of interagency contracting;
- increased demands on the acquisition workforce, coupled with insufficient training and guidance;
- use of fee-for-service arrangements in interagency contracting, which may have led to an inordinate focus on meeting customer demands at the expense of proper use and good value;
- lack of a meaningful "fair opportunity" process when selecting contractors for individual task orders; and
- lack of clearly established lines of accountability between agencies that award umbrella contracts and agencies that issue individual orders under those umbrella contracts.

Could you please describe what role OFPP is, or should be, taking to address the issues with interagency contracting, and, more generally, with improving procurement processes that cross organizational boundaries?

Answer: Interagency contract vehicles offer important benefits, including the efficient delivery of services, the opportunity to leverage the government's resources, and the ability to take effective advantage of competition. Our acquisition officials must pay closer attention to the manner in which these vehicles are used, so we can achieve the greatest value possible and avoid the types of problems cited by GAO that create unnecessary risk.

I am pleased that OFPP has established an interagency working group so agencies can share experiences regarding their use of interagency contracts as well as with assisted acquisitions, where customers seek the help of other agencies to conduct transactions. This working group can provide a useful forum for identifying and emulating best practices, such as making sure that agencies are clear on their respective roles and responsibilities whenever a procurement crosses organizational boundaries. We must also engage the Federal Acquisition Institute (FAI) and Defense Acquisition University (DAU) to make sure that training courses give adequate attention to the considerations that go into conducting a procurement through another agency.

13. GAO has designated contract management as a high-risk issue in three agencies – the Department of Defense, the Department of Energy, and the National Aeronautics and Space Administration – and has identified problems in individual acquisitions at numerous other agencies.

    a. In your view, in what ways does federal contracting represent a government-wide challenge?

       Answer: Acquisition is a critical component of a results-based government. Agencies need an effective and efficient acquisition system to meet the everyday challenges facing our government. This means using competition consistently, establishing contracts with clear performance standards that tie payment to results, and managing contracts to ensure contractors are meeting their commitments. I agree that contract management practices, in particular, have been uneven and require closer attention by agency acquisition officials.

    b. What steps will you take as OFPP Administrator to address those challenges?

       Answer: If confirmed, I will work with the agency Chief Acquisition Officers (CAOs) to ensure competition is the norm, that our workforce is adequately trained on the use of results-oriented contracting practices, such as performance

based contracting, and that agencies devote greater attention to contract management issues.

c. What steps will you take to ensure that individual agencies are effectively performing their contract management responsibilities?

Answer: I will work to ensure our acquisition workforce receives additional training on contract management functions. I will also ensure that training emphasizes the importance of clear performance standards so our contract administrators can effectively evaluate if contract work is meeting agency needs.

14. How important is the issue of transparency in inter-agency contracting –for example, what contracts exist, how they are being used by federal agencies, what fees are paid, what costs are incurred, and what savings are achieved?

Answer: Transparency is a critical component of sound interagency contracting. Access to accurate and timely information will allow our workforce to exercise sound business discretion and make informed decisions. I am pleased that OFPP is working with agency CAOs to collect data on interagency vehicles to better understand how they are currently being used and where we may be missing opportunities to leverage resources.

15. Since July 2003, FAR 5.6 has required an electronic directory of inter-agency contracts, but the provision was immediately suspended by OFPP, and the suspension remains in effect. After you review the one-time listing of inter-agency contracts submitted to OFPP in response to the February 2006 data call to federal agencies, would you consider lifting the suspension of that FAR requirement?

Answer: I strongly support the concept of having data on interagency contracting that our buyers can use to make informed decisions. My understanding is that the suspension of requirements in FAR Subpart 5.6 for agencies to collect interagency contract data is temporary while the General Services Administration (GSA) develops requirements to improve the interagency contract directory search capability and fully integrate it with the Federal Procurement Data System (FPDS). If confirmed, I will work with GSA and the agencies to ensure this functionality becomes operational as expeditiously as is feasible.

Acquisition workforce

16. The adequacy of the government's acquisition workforce, both in size and skill mix, has frequently been cited as a serious problem in government procurement, including interagency contracting.

a. What are your views on the adequacy of the federal acquisition workforce?

Answer: Assessing the adequacy of the workforce involves evaluating both the size of the workforce and the collective competencies needed to meet increasingly complex acquisition needs. Through recent policy changes, OFPP has developed a more structured approach to identifying skills gaps and obtaining needed competencies, which will improve the skills of the current workforce. If confirmed, I will work with agencies to identify short- and long-term skills requirements and hiring needs to ensure that the federal workforce has the size and strength to meet agencies' mission goals now and in the future.

b. How do you define the size and scope of the federal acquisition workforce?

Answer: Acquisition has generally been defined as the traditional contracting function, but the needs of the government are now more complex and involve a wider variety of functions – program management, financial management, etc. I support workforce policies that emphasize the collaborative nature of the acquisition process and focus on identifying and developing employees appropriately.

c. As Administrator, what steps would you take to ensure that the federal acquisition workforce is capable of meeting the government's future acquisition needs and challenges?

Answer: Agencies must conduct short- and long-term human capital planning for the acquisition workforce to determine how many new members are needed, what skills they will need to meet current and future mission goals, and how they plan to retain the best people. CAOs have a unique responsibility to assess fully their workforce needs to ensure they have an adequate and competent workforce, and I will support them in their efforts to include acquisition-specific human capital needs in their agency's overall human capital strategic plan.

17. How would you characterize the current state of the number, capability, and training opportunities for the federal acquisition workforce?

Answer: FAI, which is directed by OFPP, can now provide improved training opportunities to the acquisition workforce thanks to the new Acquisition Workforce Training Fund. This fund provides, for the first time, a central training fund that can be used to supplement agency acquisition workforce training budgets. This fund and the new OFPP workforce policies will increase the number of courses available, improve development opportunities, and otherwise improve the collective competencies of the workforce. However, agencies must continue to make development opportunities available to their workforce and must make training a top priority within the agency.

18. In assessing the functions of OFPP, what priority would you assign to improving the size and skills of the federal acquisition workforce?

Answer: In addition to supporting competitive sourcing and the other President's Management Agenda initiatives, I will make improving the size and skills of the acquisition workforce a top priority.

19. What steps can be taken to attract and retain skilled people to the acquisition workforce?

Answer: To the extent that agencies have unfilled vacancies, these vacancies should be filled immediately. Additionally, the acquisition community must focus on creating intern programs to attract top talent. Internships can be designed for entry and mid-level career positions to help us bridge competency gaps at various levels of seniority. If confirmed, I will also explore the feasibility of establishing performance metrics for agencies to report to OFPP regarding recruitment and retention of their acquisition workforce.

20. What plans do you have to compensate for the impending retirement wave of significant numbers of the acquisition workforce?

Answer: If confirmed, I believe OFPP needs to focus on recruitment issues immediately – not just at the entry level, but at mid-level career positions as well. The government can offer tremendous career opportunities in various disciplines within the acquisition career field, and I will work with FAI and OPM to establish a recruitment program focused on these positions.

21. You have particular expertise in the area of acquisition training. How would you assess the current capabilities of the Federal government – including the Federal Acquisition Institute, the Defense Acquisition University, and other agency-specific efforts – to meet the training needs of the current and future acquisition workforce?

Answer: FAI, through its new role as a training provider and through its partnership with DAU, has increased greatly its capacity for training and communicating with the more than 8,600 civilian acquisition workforce members. However, this is not enough. While training is critical, job experience, job enrichment, and other developmental programs are critical to ensuring the workforce obtains the necessary competencies. Agencies must establish developmental programs – including mentoring and rotational assignments – to ensure their workforce can meet the increasingly complex acquisition challenges.

Procurement regulations

22. Over the past decade, Congress and the Administration have made a concerted effort to simplify procurement regulations and encourage agency officials to use more business judgment. However, some in the procurement community question whether the government has gone too far and has reduced accountability and transparency in federal contracting, while others believe even more flexibility is needed.

a. In your view, where do we stand on that continuum?

Answer: Generally speaking, the Federal Acquisition Regulation (FAR), the government-wide procurement regulation, provides balanced guidance that gives acquisition professionals reasonable flexibility to use sound business judgment in planning, awarding, and managing contracts and holds them accountable for obtaining the best value for the taxpayer's dollars. Over the past decade, we have seen the addition of flexibilities, such as expanded use of simplified acquisition procedures and commercial-style competitions, that make procurement processes more efficient and responsive. During this same period, we have also seen new regulatory provisions that increase accountability for results, such as through the establishment of a preference for performance-based contracting that ties payment to achievement of performance goals. Taken together, these requirements form a good foundation for a results-oriented procurement system.

b. What direction do we need to move toward?

Answer: We need to recognize that the replacement of prescriptive rules with results-oriented rules places an increased responsibility on our workforce to exercise sound business judgment and, in many cases, to have skills that were not emphasized in years past, such as the ability to write clear and effective performance-based statements of work. We must make sure that our training curriculum provides the support the workforce needs to generate maximum value for the taxpayer through the strategic use of these acquisition tools.

c. What role would OFPP take in this regard if you are confirmed?

Answer: If confirmed, I will work to increase communications between our regulatory councils, the CAO Council, FAI, and DAU, to ensure the acquisition workforce is well equipped to effectively apply the many tools that have been made available to them in addressing the pressing needs of a post- 9/11 environment. I intend to seek out and highlight success stories that too often go unnoticed but can offer powerful illustrations of how best to apply the principles and practices of the FAR. I will encourage nominations for existing contract award programs **that recognize acquisition excellence.** I also intend to work closely with the regulatory councils to ensure that new rules are clear and well understood. In this regard, I applaud the regulatory councils for increasing transparency in the rulemaking process, such as by posting public comments as they are received in response to proposed FAR changes.

Commercial items

23. In your opinion, is the Federal government making maximum use of the tools and techniques available under law and regulations to bring commercial items into the federal market?

Answer: I have heard different schools of thought expressed regarding the extent to which our workforce is relying on the commercial marketplace. Irrespective of who you believe, we must make sure our workforce is fully trained to use all available tools as effectively as possible so we can maximize the benefit of the marketplace whenever it can meet our needs. For example, we must perform sound market research to fully understand the marketplace, define needs with sufficient specificity so that commercial vendors may conduct due diligence, and consider commercially available online procurement services to meet agency procurement goals and budget objectives. Most of the major studies of our procurement system over the past three decades have concluded that reliance on the marketplace will get us more for our contract dollar than if we buy items made specially for the government, so sound use of our acquisition tools to reach the marketplace is generally going to be the key to success.

24. What other policies and regulations would be helpful to fulfill the congressional mandate to facilitate the use of commercial items?

Answer: Over the past 10-12 years, we have seen a number of trends that have facilitated easier access to the commercial marketplace: reductions in government-unique specifications, standards, and reporting requirements, expanded use of streamlined competitions, increased emphasis on use of contract clauses that are consistent with customary commercial practice, and greater reliance on e-procurement, to name a few. A workforce that is well trained on the effective application of these tools and techniques will help ensure that we take full advantage of the commercial marketplace.

25. It has been more than ten years since the FAR Council has taken action on the Commercial Off-the-Shelf (COTS) rule [FAR case 2000-305] required by Section 4203 of the FY96 National Defense Authorization Act that requires the FAR to include a list of provisions inapplicable to contracts for the procurements of COTS. Will you review that case to determine what steps should be taken to finalize an appropriate rule?

Answer: If confirmed as Administrator, I will review the COTS FAR case, in consultation with the FAR Council members, to determine what steps must be taken to finalize an appropriate rule.

Contract personnel

26. The downsizing of the federal acquisition workforce over the past decade and new or expanded agency missions have contributed to increasing the government's reliance on contractors to perform functions that were traditionally performed by the federal government. In doing so, however, concerns have been raised about blurring the lines between those functions that are inherently governmental and those that can be performed by the private sector. Further, the increased reliance on contractor-provided support raises questions about the potential for or appearance of organizational conflicts of interests.

    a. Are there, in your opinion, contract management activities that should be performed solely by the government? If so, what functions are they?

    Answer: Yes, certain contract management activities are inherently governmental in nature and should only be performed by government personnel. These include activities that bind the government to a particular course of action, such as signing contracts, accepting or rejecting goods or services delivered under the contract, issuing modifications to the contract, deciding if contract costs are reasonable, allocable, and allowable, and determining whether a contract should be terminated for convenience or default.

    b. What steps would you take as Administrator to assure that agencies clearly establish roles and responsibilities for support contractors as well as provide effective oversight of support contractors?

    Answer: If confirmed as Administrator, I intend to devote greater attention to contract management issues. Unfortunately, contract management practices have been uneven, especially on interagency contracts. Federal agencies need to maintain a core in-house capability to handle these activities. We must ensure these federal personnel receive adequate training on contract administration and are assigned to contracts in a timely manner. In addition, contracts must have clear performance standards so our contract administrators can effectively evaluate if work performed under the contract meets our needs.

27. Over the past several years, a number of concerns have arisen pertaining to the adequacy of competition for government contracts, whether it is to rebuild Iraq or in the response to Hurricanes Katrina and Rita, the ability of small businesses to compete for contracts, or agencies finding that they have only one or two sources for key services.

    a. In your view, do we have enough robust competition in federal contracting?

    Answer: There is clearly room for improvement in our use of competition, the government's most effective tool for lowering costs and improving performance.

For example, agencies are oftentimes not always taking effective advantage of competition on multiple award contracts.

b. If not, what steps would you take as Administrator to improve the level and effectiveness of competition?

Answer: If confirmed, I will work to minimize barriers to entry and use competition more consistently. Competition can be enhanced with clear performance based statements of work that foster the creativity of the private sector and encourage contractors to come forward with their best innovative solutions.

Strategic Sourcing

28. The President's 2007 budget proposes to reduce non-security discretionary spending below the previous year's level, and proposes savings and reforms to mandatory spending programs. Severe fiscal pressures to finance national security and homeland security priorities are going to force government agencies to identify areas for cost savings. As evidenced in the private sector, acquisition stands out as a key opportunity that agencies can exploit to reduce cost structures by leveraging the government's enormous buying power through strategic sourcing of commonly acquired commodities. The private sector reports saving tens of billions of dollars through strategic supply management and volume discounts ranging from 10 percent to 40 percent when they aggregate buying power. Last year, OMB directed federal agencies to begin implementing strategic sourcing.

a. What role would you envision for OFPP in helping agencies identify potential areas for employing strategic sourcing approaches?

Answer: OFPP, through its leadership of the CAO Council, can shape the development of a government-wide strategic sourcing governance structure that will improve strategic sourcing. If confirmed, I will work with the GSA and other agency partners to identify smart sourcing strategies that will leverage the government's spending power and retain or improve small business participation

b. How would you assess whether agencies are effectively using this approach?

Answer: While reductions in price will clearly be measured, if confirmed, I will also review other metrics, such as reduced operating costs, improved performance, and increased socio-economic participation, to determine the effectiveness of agency programs.

Contingency contracts

29. GAO has reported that in contingency contracting situations, such as in Iraq and in the Federal response to Hurricanes Katrina and Rita, that without effective acquisition planning, management and communication processes, and sufficient numbers of capable people, poor acquisition outcomes resulted. Having these capabilities requires preparation across agencies in advance of the disaster or other contingency. Such preparation requires agencies having in place sound acquisition plans, processes to make and communicate good business decisions, and a capable acquisition workforce to monitor contract performance so that the government receives good value for the money spent. Nevertheless, the federal government's National Response Plan does not provide agencies guidance on emergency procurements, while the Federal Acquisition Regulation (FAR) provides only limited guidance on emergency procurements.

    a. What role should OFPP have in working with agencies in making preparations for events such as Hurricane Katrina?

    Answer: Through its leadership of the CAO Council, OFPP should coordinate efforts to develop interagency emergency contracting plans that properly identify risks and risk mitigation efforts throughout the acquisition process. OFPP can reduce duplication of effort and improve the effectiveness of agency emergency preparedness by improving interagency communication.

    b. Do you believe that OFPP should provide more guidance to agencies on emergency procurements?

    Answer: OFPP can play a key role in communicating to agencies existing emergency procurement flexibilities, situation-specific authorities, best practices, and lessons learned. I understand that OFPP is updating its emergency flexibilities guide and, if confirmed, I will ensure that this information stays current and accessible on the OFPP Web site for remote access in the event of an emergency.

30. Does there exist a single compendium of FAR provisions relating to contingency contracting that can be used in emergency situations to insure legal compliance with all applicable regulations?

    Answer: The current FAR does not include a summary of regulatory provisions related to contingency contracting. However, I understand the FAR is being revised to include a new Part that compiles all contingency contracting authorities in one place for a convenient reference.

31. Some of the lessons learned from the Federal government's performance in Iraq and Hurricane Katrina point to a lack of acquisition personnel trained in emergency or

contingency contracting. As a result, there was significant waste of government resources and instances of mismanagement and outright fraud. What role should OFPP play in preparing the Federal government for future contingency and emergency contracting situations?

Answer: In addition to coordinating interagency planning and maintaining emergency flexibilities guidance, OFPP, through its leadership of FAI, can provide training and performance support tools that can be used in the field to assist the contracting community in emergency situations.

32. Would you support the creation of an emergency contracting corps of specially trained federal employees that could be activated and deployed to meet urgent needs?

Answer: Yes. If confirmed, I will explore the feasibility of developing such a corps and identifying the competencies and training needed to ensure this group is properly trained for emergency contracting.

Competitive sourcing

33. OMB has touted billions of dollars in savings achieved under the competitive sourcing initiative, yet federal workers and the private sector complain about the fairness of the process. What are your views about this initiative?

Answer:. When used correctly, competitive sourcing is a powerful management tool for lowering costs and improving performance for taxpayers. I was pleased to learn that OMB has been working with agencies to develop competition plans that identify where competition will be most beneficial to the agency in light of its unique mission and workforce mix. A competition that is carefully planned and tailored to the needs of the agency can serve as a catalyst to implement better business processes and cost saving measures, such as facilities consolidation or increased use of technology. Of course, competitive sourcing is not a one-size-fits-all tool. It should only be considered for activities that are commercial and potentially suitable for private sector performance.

34. The Administration anticipates realizing cost savings and improvements in the performance of commercial functions by competing these functions between public and private entities. Should public-private competitions be the primary tool agencies use to determine which sector should perform commercial functions? Given the inherent differences between the public and private sectors, what can be done to ensure that these competitions are fair to both sectors? In your view, how should the government decide which services should be provided by government employees and which would be appropriate to be potentially provided by contractors?

Answer: Data collected by agencies under the competitive sourcing initiative suggests that public-private competition can be a highly effective tool for determining whether

taxpayers are better off having work performed by agencies or the private sector by allowing federal managers to compare costs and overall value in performance between the two sectors.

Competitions must be applied in a fair and transparent manner. Agencies must ensure their in-house providers have access to resources to develop competitive offers that reflect their capability to serve the taxpayer and take appropriate steps to provide soft landings for affected employees. Similarly, agencies must give contractors a reasonable chance to understand the government's needs and offer the best solutions. These steps will provide an environment that is conducive to competition and allow the agency to get the best results from competitions.

Private sector performance should be considered only for commercial activities that can be provided by contractors more cost-effectively than by Federal employees. Other activities should be performed by Federal employees. This includes all activities that are inherently governmental in nature – i.e., any activity that is so intimately related to the public interest as to mandate performance by government personnel.

35. In the case of an A-76 competition won by federal employees, the A-76 circular requires a recompetition of the work at the expiration of the period specified in the performance agreement, except under narrowly defined circumstances allowing an extension of three years. The A-76 does not, though, require a new public-private competition on work won by a private contractor at the expiration of the contract.

    a. Should work performed by federal employees who have won an A-76 competition automatically be re-bid at the end of the performance agreement, or should such a decision be made on a case-by-case basis after reviewing factors such as whether the federal employees have consistently achieved the requirements of the solicitation?

       Answer: Competition can be a powerful tool for ensuring that incumbent providers make good on their promises, whether the provider is a federal organization or a private sector contractor. If confirmed, I would work with agencies to review this issue, including the adequacy of current exceptions in the Circular and the merits of providing additional exceptions.

    b. If you do believe that work performed by federal employees who have won an A-76 competition should be automatically re-bid at the end of the performance agreement, do you support a similar requirement for work performed by contractors?

       Answer: Under current laws and regulations, private sector contractors must recompete when their contracts expire unless the agency can justify a sole source award.

36. Congress has expressed opposition to establishment of arbitrary goals, targets, and quotas for contracting out government work. Will you commit to rejecting arbitrary goals, targets, and quotas under the President's competitive sourcing initiative?

Answer: If confirmed, I would not support any arbitrary goals, targets, or quotas for contracting out government work. I do not view – nor would I approach – the President's competitive sourcing initiative as an effort to privatize work. Rather, competitive sourcing is a tool for federal managers to use in determining if taxpayers are better off having commercial work performed by the agency or instead by the private sector.

37. What steps will you take to reach out to federal employees and ensure that they are treated fairly under the A-76 process?

Answer: As discussed in the response to question no. 34, agencies must ensure their in-house providers have access to resources to develop competitive offers that reflect their capability to serve the taxpayer and take appropriate steps to provide soft landings for affected employees. If confirmed, I will work with OMB's Resource Management Offices (RMOs) and agencies to ensure these steps are taken.

38. In response to questions from the House Subcommittee on Government Management, Finance and Accountability following the Subcommittee's March 15, 2006 hearing, "OMB's Financial Line of Business Initiative: Are We Ready?", OMB has stated that it will "provide a general deviation [to the A-76 process] for public-private competitions involving the potential migration of 10 or fewer positions." (Emphasis by OMB.) This policy appears to be a direct contradiction of the May, 2003 revisions to the A-76 circular, that eliminated direct conversions and established streamlined procedures for competitions involving fewer than 65 employees.

a. Do you think that work performed by federal employees should be contracted to private companies without competition, and if so, under what circumstances?

Answer: As a general matter, considering alternative solutions from both sectors through competition would seem to be the best way to ensure agencies maximize value.

b. Do you believe direct conversions are consistent with the goal of providing the taxpayers the best value at the lowest cost?

Answer: As a general matter, competition between qualified public and private sector providers should yield the best results.

c. If OMB allows direct conversions for workloads performed by as many as ten employees, what procedures should OMB implement to ensure that agencies do

not abuse the policy by breaking up tasks into groups of people fewer than ten and outsourcing the work without competition?

Answer: I understand that OMB's policy will encourage public-private competition, not direct conversions.

39. Do you believe that there is new work or work currently performed by contractors that should be subject to public-private competition for possible insourcing? If public-private competitions result in the greatest efficiency for work traditionally performed by government workers, should OMB give federal employees the opportunity to win through competition work that they can perform more efficiently than contractors?

Answer: If confirmed, I would work with OMB's RMOs and the agencies as they develop competition plans to consider if there are opportunities for applying competition to new work or activities currently performed by contractors. My understanding is that OMB Circular A-76 allows agencies to consider insourcing if competition shows that in-house performance is more beneficial to our taxpayers than performance by the private sector. The Circular also allows public-private competitions for new work.

40. Current A-76 rules do not allow federal employees who have made a "Most Efficient Offer" (MEO) to protest an agency's decision in an A-76 competition to the Government Accountability Office (GAO) but do allow an "agency tender official" to protest on their behalf. Private sector contractors have standing to protest A-76 decisions before GAO. Do you support granting protest rights not only to the agency tender official but also to a representative chosen by the federal employees? Please explain.

Answer: If confirmed, I would want to review the matter more closely and consider if a change to GAO's jurisdiction to hear protests arising from public-private competition (which is governed by statute, not by Circular A-76) is appropriate and fair.

41. In its FY2006 budget submission, the Department of Veterans Affairs (VA) reported that its alternative to the A-76 circular, known as Business Process Reengineering, "would initially reduce and eventually eliminate the need for a separate competitive sourcing program within VA." To what extent would you support the use of this type of in-house reengineering in selected instances as an alternative to A-76?

Answer: I am not familiar with VA's business process reengineering program. However, I appreciate that competitive sourcing is not a one-size-fits all tool and, if confirmed, will work with agencies to consider when deviations to pursue alternatives to public-private competition may be appropriate and justified.

42. Last November, the General Accounting Office (GAO) found that the Department of Veterans Affairs (VA) did not track its in-house time and expenses associated with performing cost comparison studies to determine whether increased savings can be

obtained from outsourcing certain segments of its operations. GAO stated that "VA was unable to provide us with any estimate, no matter how rough, of the time its VA employees spent on activities in connection with the cost comparison studies . . . [T]his amount is likely to be substantial." ("Subject: Purpose Statute Violation: Veterans Affairs Improperly Funded Certain Cost Comparison Studies with VHA Appropriations" (November 30, 2005), GAO-06-124R.) What steps will you take to ensure that agencies keep track of time and expenses related to conducting cost comparisons in-house? What steps will you take to ensure that such costs are taken into account in projecting savings from the A-76 process?

Answer: If confirmed, I would work with agencies to ensure they are tracking incremental costs of competition so that savings reflect the return on taxpayer investment. I was pleased to hear that OMB is developing a tracking system so that ongoing competitions and subsequent implementation efforts can be followed and evaluated on an ongoing basis.

Oversight of contract management

43. Oversight activities -- ranging from the Inspectors General to the various audit agencies to the contract management entities -- play an important role in ensuring the overall integrity and effectiveness of the federal acquisition process. What role should the oversight agencies play in formulating acquisition policies?

Answer: As a general matter, acquisition policy officials are ultimately responsible for the shape and effectiveness of acquisition policies. However, to make acquisition policies as effective as possible, these officials – and OFPP – need to carefully consider the views of oversight agencies when formulating policies, including reviews that have evaluated agency successes and shortcomings in applying these policies.

44. Do you believe that action is required to increase small business participation in federal contracting? If so, would you please describe what actions you believe are needed.

Answer: If confirmed, I will work closely with the Small Business Administration and the procuring agencies to evaluate the effectiveness of current initiatives to provide maximum practicable contracting opportunities for small businesses and explore where opportunities may exist to improve small business participation as agencies work to carry out their missions.

45. The Buy American Act gives United States manufacturers, in some instances, a competitive advantage. Other laws, such as the "Berry Amendment," restrict the purchases of some goods to only United States manufacturers.

    a. To what extent should we encourage the procurement of U.S.-produced goods by giving U.S. manufacturers an advantage in government contracting?

Answer: If confirmed, I will need to review these matters more closely. My past experiences suggest that agencies have strived to achieve an effective implementation of the Buy American Act and related sourcing requirements in an increasingly integrated global marketplace.

b. Should the "Berry Amendment" be extended to agencies other than the Department of Defense that purchase items critical to national security?

Answer: If confirmed, I would work with the United States Trade Representative and other officials to review the impact of any proposed changes to determine what is in the best overall interest of the government.

Purchase Cards

46. Use of government purchase cards for procurement purposes has increased dramatically over the last several years. GAO audits of purchase card controls have identified ineffective management oversight and weak internal controls over purchase cards, leaving agencies vulnerable to fraudulent, improper, and abusive purchase card activity. In August, 2005, OMB issued Annex B to OMB Circular A-123 to require agencies to maintain internal controls that reduce the risk of fraud, waste, and error in the government charge card programs. Do you believe there are additional measures that the OFPP should take to prevent the misuse of purchase cards?

Answer: I understand that the Office of Federal Financial Management (OFFM) oversees the purchase card program, in consultation with OFPP, to ensure that purchase cards are used responsibly to meet the needs of the acquisition community. The purchase card is a critical tool for program managers and acquisition officials because it facilitates the buying process for items under $2,500 and allows contracting officers to focus on higher-dollar, more complex acquisitions. In addition to supporting OFFM, OFPP should continue to stress the importance of strong internal controls, such as required reviews, and issue appropriate and timely acquisition guidance when purchase card policies or regulations change.

Performance based contracting

47. One of the key initiatives being pursued by the Administration is the increased the use of performance-based contracting.

a. Do you believe agency personnel have a firm understanding of how a good performance-based contract should be structured and administered?

Answer: My general feeling is that agency experience and skill with performance based acquisitions (PBAs) varies widely. I am pleased that the Acquisition

Advisory Panel established under the Services Acquisition Reform Act (SARA) is examining this area more closely, and I look forward to reviewing their recommendations.

b. What steps do you intend to take to increase the use of performance-based contracting?

Answer: If confirmed, I will work with the CAO Council to review current challenges and skills gaps, taking into consideration the recommendations of the SARA Panel. I was pleased to learn that OFPP has established a government-wide community of PBA experts to facilitate the sharing of best practices and lessons learned and intend to build on this and other efforts to ensure our workforce is effectively trained in planning, executing and managing PBAs.

48. The Federal government has committed $88 billion to the Hurricane Katrina response, recovery and rebuilding efforts as of March 8, 2006. Given the need to award the initial round of contracts as quickly as possible, federal agencies often made awards using sole-source or limited competition procedures.

a. What lessons should we learn from the procurement and contract administration approaches initially employed after Hurricane Katrina?

Answer: The acquisition community needs to have a unified and coordinated approach to emergency contracting. Contracts for basic supplies and services need to be pre-positioned, personnel with the necessary skills need to be deployed, and agencies must have sufficient internal controls in place to oversee the added risk in emergency acquisitions.

b. How should these lessons be incorporated into federal procurement policy to avoid repeating the mistakes of the past?

Answer: My understanding is that the Federal Acquisition Regulation has sufficient flexibilities. However, agency risk management practices should be improved to respond to a variety of emergency situations, and agencies must coordinate their policies and procedures to improve interagency contracting and communication in emergency situations.

c. Do these lessons indicate a need for additional training or guidance to program or procurement personnel?

Answer: Yes. The contracting and program management communities must work collaboratively to improve the process. Joint training, case studies, and practical exercises should be provided to ensure these communities work together in an emergency. OFPP, through its leadership of the Chief Acquisition Officers

Council and the Federal Acquisition Institute, is in a key position to determine needs for additional training and guidance and, if confirmed, this will be one of my top priorities.

Transparency

49. Reliable information is critical to informed decision-making and to oversight of the procurement system. The Federal Procurement Data System (FPDS) has been the Federal government's central database of information on federal procurement action since 1978 and is used by the Congress and executive agencies to assess the impact of government-wide acquisition policies and processes. The GAO has raised questions about continuing reliability problems with the data in FPDS and recommended steps OMB should take to ensure that these problems would not continue with its successor system, FPDS-Next Generation.

    a. What is the status of this process?

    Answer: I am not familiar with the status of the implementation effort but I am very concerned about the reliability of the data and, if confirmed, would need to confer with GSA.

    b. What actions do you believe are needed to improve the reliability of the data in FPDS and FPDS-Next Generation?

    Answer: If confirmed, I will work with GSA's Program Management Office and the procuring agencies to ensure the FPDS-Next Generation takes full advantage of current technological capabilities to collect data in real time and with minimal reentry. I understand a FAR case has been initiated to identify what information is mandatory, who is responsible for reporting, and the timing for reporting. This type of clarification should help to improve accountability for required reporting.

IV. Relations with Congress

50. 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?

    Answer: Yes.

51. 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?

    Answer: Yes.

V. Assistance

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

Answer: I have consulted with OFPP staff to craft answers to the Committee's questions. The answers are my own.

AFFIDAVIT

I, __**Paul A. Denett**_____, 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.

Paul A. Denett

Subscribed and sworn before me this __25___day of _____May_____, 2006.

Notary Public

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

May 19, 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 Paul A. Denett, who has been nominated by President Bush for the position of Administrator of the Office of Federal Procurement Policy, Office of Management and Budget.

We have reviewed the report and have also obtained advice from the Office of Management and Budget concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated May 1, 2006, from Mr. Denett to the agency's ethics official, outlining the steps which he will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with the actions he agreed to take in his ethics agreement.

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

Sincerely,

Marilyn L. Glynn
Acting Director

Enclosures

Post-Hearing Question Submitted by
Senator Susan M. Collins
For the Nomination of Paul A. Denett
to be Administrator for Federal Procurement Policy
June 20, 2006

1. In response to questions from the House Subcommittee on Government Management, Finance and Accountability following the Subcommittee's March 15, 2006 hearing, "OMB's Financial Line of Business Initiative: Are We Ready?", OMB stated that it will "Provide a general deviation [to the A-76 process] for public-private competitions involving the potential migration of 10 or fewer positions." (Emphasis by OMB.) This policy would seem to be a direct contradiction of the May, 2003 revisions to the A-76 circular, which eliminated direct conversions and established streamlined procedures for competitions involving fewer than 65 employees. If OMB allows direct conversions for workloads performed by as many as ten employees, what procedures should OMB implement to ensure that agencies do not abuse the policy by breaking up tasks into groups of people fewer than ten and outsourcing the work without competition?

   Answer: I understand that OMB's policy on lines of business migrations is intended to encourage public-private competition, not direct conversions to private sector performance. For example, I read OMB's May 22, 2006 guidance as creating a clear preference for public-private competition, both for financial management activities performed by more than 10 full-time equivalent employees (FTEs) as well as those performed by 10 or fewer FTEs. If, theoretically, OMB changed its policy to allow direct conversions for activities performed by up to 10 FTEs, I would work with OMB's Offices of Federal Financial Management and E-Government and Information Technology to ensure that agencies could not artificially split workloads to outsource work. As far as I know, however, OMB is not considering direct conversions as a general policy.

Post-Hearing Questions
From Senator Joseph I. Lieberman
For Paul Denett, Nominee to be
Administrator, Office of Federal Procurement Policy
June 20, 2006

1. Draft guidance provided by OMB on May 22, 2006 regarding Migration Planning Guidance for the Financial Management Line of Business (FMLOB) refers to the use of a controversial competition process known as "best value." Section 842 of the FY06 Transportation-Treasury-HUD Appropriations Bill prevents agencies from using this process for all functions with more than ten employees, as does Section 8014 of the FY06 Defense Appropriations Bill. In guidance provided to agencies on April 24, 2006, Deputy Director for Management Clay Johnson wrote, "OMB plans to seek repeal of Section 842(a)...Agencies planning competitions to be announced in FY2007 that may benefit from the use of cost technical tradeoff source selections are encouraged to continue with such planning efforts and to consult with OMB." The House, though, recently passed the FY07 Transportation-Treasury-HUD Appropriations Bill with no change to Section 842(a). Should this provision remain in place, and if confirmed as OFPP Administrator, will you ensure that OMB and other agencies follow the law (as it is written in Section 842 of the FY06 Transportation-Treasury Appropriations Bill and Section 8014 of the FY06 Defense Appropriations Bill), as regards the use of best value for functions performed by more than ten employees, particularly with respect to the FMLOB initiative?

   Answer: If confirmed as Administrator, I will work with OMB's Office of Federal Financial Management (OFFM) and Office of E-Government and Information Technology (E-Govt) to ensure that competition policies for the migration of financial management systems and services are consistent with the law. Where the law does not allow the use of best value, we will make it clear that affected agencies will not be allowed to use it.

2. When OMB rewrote the A-76 circular in May 2003, it included significant constraints on how the best value procurement process can be used. The A-76 circular, as revised, states that an agency shall not use a tradeoff source selection process for activities currently performed by government personnel, unless several specific procedural safeguards are used. Most importantly, the A-76 circular requires that "(t)he specific weight given to cost or price shall be at least equal to all other evaluation factors combined..." In other words, when a best value procurement occurs under the A-76 circular, an objective factor—cost or price—must be the most significant evaluation factor. However the FMLOB initiative draft guidance issued on May 22, 2006 allows agencies to use FAR Part 15 procedures, which explicitly encourage the use of subjective factors "to consider award to other than the lowest price offeror." Why did OMB disregard its own A-76 competition rules for the FMLOB initiative with respect to the use of best value procurements? Why should the safeguards that OMB thought were appropriate in the

context of public-private competitions generally somehow be inappropriate for public-private competitions conducted pursuant to the FMLOB initiative?

Answer: I have not been privy to OMB's policy discussions, but it is my understanding that OMB's migration guidance does not abandon the Circular. In particular, its May 22, 2006 guidance states that Circular A-76 applies to migrations involving the potential transition of activities currently performed by more than 10 full-time equivalent employees (FTEs).

3. In the draft guidance for the FMLOB initiative, agencies are encouraged to seek deviations from the A-76 circular. In other words, agencies, with OMB's permission, will be able to make up their own rules for FMLOB competitions through these deviations. If confirmed as OFPP Administrator, please tell us what sort of deviations you would encourage and what sort of deviations you would approve. Please tell us why such deviations should be necessary. Please tell us what criteria you would use in reviewing agencies' requests for deviations.

   Answer: I am not sufficiently familiar with the details of the FMLOB initiative to speak to this question. However, if confirmed as Administrator, I intend to work closely with OFFM, the Office of E-Govt, and customer agencies both to understand the basis for any requested deviation and to ensure that any approved deviations are both consistent with the requirements of law and general principles of fairness.

4. Under the FMLOB initiative, several agencies will be designated shared service centers and vie against contractors to take over financial management functions from other agencies. It is my understanding that shared service centers sometimes already contract out this work. If confirmed as Administrator, will you ensure that if that shared service center will ultimately have that work performed by a contractor, any function performed by more than ten employees will be subject to an A-76 public-private competition before that work is moved to a shared service center?

   Answer: If confirmed as Administrator, I will carefully review this issue. Based on my reading of the May 22, 2006 guidance, I believe OMB's policy creates a strong preference for public-private competition as a precursor to migration to a shared services center -- i.e., non-competitive migrations to shared services centers are not encouraged.

5. Many agencies already contract out at least parts of their financial management function. How will already contracted out financial management work be included in the FMLOB initiative? Does OMB's guidance ensure that federal employees will have opportunities to compete through the A-76 circular to bring that financial management function back in-house if they can do it more efficiently? If not, would you support issuing new guidance to ensure that it includes competitions for financial management work that is already contracted out?

Answer: If confirmed as Administrator, I will carefully review the matter with OFFM and the Office of E-Govt, which also share jurisdiction over the issue. I understand that agencies who have been designated as shared services centers have expertise, an ability to leverage technology, and other resources to achieve best value for the taxpayer. These attributes should make the shared services centers and their employees a strong competitor for performance when work currently performed by the private sector is recompeted.

Post-Hearing Questions for the Record
Submitted to Paul A. Denett
From Senator Mark Dayton

"Paul A. Denett to be Administrator for the Office of Federal Procurement Policy"

June 20, 2006

1. OMB rewrote the OMB Circular A-76 to prohibit direct conversions without special permission from OMB because, according to the Bush Administration's first OFPP Administrator, agencies had abused the process and made decisions that were not in the interest of taxpayers. She also said that agencies had in the past broken up and directly converted larger functions in order to take advantage of this loophole. Pursuant to its Financial Management Lines of Business (FMLOB) initiative, OMB has decided in its guidance to allow agencies to convert functions performed by up to ten employees to contractor performance without any public-private competition. What do you think of that decision? What do you think of OMB's decision to sanction all direct conversions in those situations, instead of asking agencies to justify such direct conversions on a case-by-case basis? The Administration calls its general approach to contracting out "competitive sourcing". What is competitive about giving work performed by federal employees to contractors without benefit of public-private competition?

   Answer: I have not been privy to OMB's policy discussions, but I understand that OMB's policy is intended to encourage public-private competition, not direct conversions. For example, I read OMB's May 22, 2006 guidance as creating a clear preference for public-private competition, both for financial management activities performed by more than 10 full-time equivalent employees (FTEs) as well as those performed by 10 or fewer FTEs. If confirmed, I will review this matter with the Office of Federal Financial Management (OFFM) and the Office of E-Government.

2. Under what circumstances is it appropriate for the federal government to rely on no-bid contracting procedures?

   Answer: Our acquisition laws enumerate a limited number of circumstances where agencies may make award without soliciting offers, the most prominent being unusual and compelling urgency (emergency situations). I think the exceptions currently recognized in law are appropriate, but we must make sure that their use is justified and approved by accountable officials, so that no-bid contracting is the rare exception and not the norm. We also should strongly consider recompeting emergency awards.

3. Should there be a limit on the size of task orders issued on a no-bid basis pursuant to a blanket purchase agreement (also known as an "indefinite delivery, indefinite quantity" contract)?

   Answer: I am hesitant to endorse a hard limit on the size of "no bid" task orders, since there may be circumstances where sole source task orders, even in a larger size, may be justified. A sole source task order award may be justified under a multiple award contract, for example, where orders are so integrally related that only one contractor can reasonably perform the work. If confirmed, I plan to confer with the Chief Acquisition Officers (CAO) Council and the Federal Acquisition Regulatory Council (FAR Council) to discuss the types of improvements that might be made to current policies for task order contracts to ensure competition is used more consistently. If confirmed, I will also carefully consider the recommendations submitted to Congress and OFPP by Acquisition Advisory Panel on this issue.

4. Will you commit to ensuring that full and open competition is and remains a priority for all contracting and procurement staff across the federal government?

   Answer: Yes, if confirmed, I will ensure government-wide acquisition policies continue to reflect the statutory requirements for full and open competition. I will also work to ensure the effective use of authorities that Congress has provided agencies with over the years to facilitate more efficient use of marketplace competition, such as multiple award contracting.

5. Over the last six years, controversial defense and intelligence contracts have been awarded through an interagency contracting office at the Department of the Interior, resulting in reduced oversight and a greater potential for contract abuse. Under what circumstances should contracts be issued on an interagency basis?

   Answer: I believe it is appropriate for a customer agency (i.e., the agency with the requirement) to consider the use of another agency's contract when doing so will help the requiring agency achieve better value than it expects to receive by contracting for the need directly. However, whenever a procurement crosses organizational boundaries, the customer agency and the servicing agency (i.e., the agency whose contract is being used) must each have a clear understanding of their respective roles and responsibilities. For example, the parties must understand who will be responsible for ensuring a pending order is within the scope of the underlying contract and who will be responsible for administering the order once it is awarded. I believe this clarity will help to minimize undue risk so that agencies can achieve maximum benefit from interagency contracting.

6. Will you commit to ensuring transparency in interagency contracting?

   Answer: Yes. I believe agencies need improved access to accurate and timely information so that they can exercise sound business discretion and make informed

decisions about when interagency contracting makes sense. If confirmed, I intend to work with the General Services Administration and the agency Chief Acquisition Officers to improve information about interagency vehicles. I am pleased OFPP has already begun to collect data on interagency vehicles, as this will help the acquisition community to better understand how they are currently being used.

7. Will you commit to ensuring that all federal procurement and acquisition offices have the necessary staff to complete their mission?

Answer: If confirmed, ensuring the professionalism and adequacy of the federal acquisition workforce will be one of my top priorities. I will work closely with agencies to ensure that their acquisition offices are properly staffed to meet mission needs. Through my leadership of the Federal Acquisition Institute, partnership with the Defense Acquisition University, and with the support of the Acquisition Workforce Training Fund, I am committed to providing the acquisition workforce with training and development opportunities that will enable agencies to meet their mission goals efficiently and effectively. If confirmed as Administrator, I will ask agencies to develop short- and long-term human capital plans that focus exclusively on the acquisition workforce so that our training curriculum provides the type of support the next generation of acquisition professionals will need to generate maximum value for the taxpayer.

8. Will you commit to ensuring that all federal procurement and acquisition offices can operate free from undue political interference, seeking the best value for the taxpayer dollar?

Answer: Yes. I strongly agree that contracting officers must obtain the best value for American taxpayers without undue political interference.

Post-Hearing Questions
From Senator Daniel K. Akaka
For Paul Denett, Nominee to be
Administrator, Office of Federal Procurement Policy
June 20, 2006

1. In the pre-hearing questions [#38] you were asked whether work performed by federal employees should be contracted to private companies without competition, and if so, under what circumstances? You responded that in general, "considering alternative solutions from both sectors through competition would seem to be the best way to ensure agencies maximize value." Would you please provide us with a more detailed response to that question, specifically, do you or do you not believe that work done by federal employees can be contracted out without giving the employees the opportunity to compete for the work?

   Answer: I support the general principle of public-private competition and giving employees the opportunity to compete for work, as opposed to having work directly converted to private sector performance without any consideration of federal sector performance. In the case of the financial management lines of business (the context of the initial question), I believe federal shared services centers will enable federal employees to demonstrate their capabilities to perform for the taxpayer.

2. Without adequate training and resources, federal employees who form Most Efficient Organizations to compete for jobs are disadvantaged. What steps will you take to provide training and resources to federal employees who enter into public-private competitions?

   Answer: If confirmed, my staff and I will work individually with agencies and their resource management offices in OMB to understand if there are any special resource needs in light of the complexity and pace of competitions planned by the agency and its demonstrated ability to conduct competitions. I understand that OFPP has been working with the Federal Acquisition Institute (FAI) on training videos and other educational materials on competitive sourcing and I intend to ensure that these efforts continue. Based on data indicating that federal employees win more than 80 percent of the work competed, it appears that federal employees are being given the resources and support they need to compete effectively for the opportunity to serve our taxpayers.

Questions from Senator Olympia J. Snowe
or the Nomination of Paul A. Denett
to be Administrator for Federal Procurement Policy
June 20, 2006

1. Mr. Denett, in a March 24, 2006 article in *Federal Computer Week,* former Clinton-era Administrator for Federal Procurement Policy Steven Kelman described you as his "conscience," and suggested that you would continue his unfinished policy agenda from the 1990s if confirmed to the position of the Administrator for Federal Procurement Policy. Mr. Kelman claimed to base his endorsement of your candidacy on his personal and professional knowledge of you. Over the years, Mr. Kelman made numerous statements to the press advocating reductions in oversight of government contracts, reductions in contracting based on full and open competition, opposition to the Congressional and Presidential initiatives against contract bundling, and arguing that small business contractors are able to do business with the government mostly because they prey on procurement inefficiencies. I would like to give you the opportunity to establish that you will exercise the duties of your office with independence from outside parties and with fidelity to the President's Small Business Agenda. Please provide:

   A. A particularized description of any incidents and subjects of advice or recommendations on Federal acquisition policy or personnel matters which you have either sought or received from Mr. Kelman publicly or privately since the time you commenced the application process for this nomination until now.

      I received a very, brief congratulatory phone call from Dr. Kelman when I was nominated. I have not sought any advice or recommendations on Federal acquisition policy or personnel matters from Dr. Kelman since I left the government over five years ago. I have attended a few sessions of the Partnership for Public Service/Private Sector Council's Acquisition Innovation Forum comprised of twenty-plus business and government acquisition leaders to explore ways to better administer contracts. Dr. Kelman attended those meetings and led some of the group discussions.

   B. A description of your vision of a sound acquisition system, and how it is different or similar to, Mr. Kelman's philosophy on contract bundling and small business contracting, contract oversight, competition in contracting, and other matters.

      I will let Dr. Kelman speak for himself on what his position is on these issues. I strongly support an acquisition system that is results-oriented, fair, efficient, and transparent. I am also a strong supporter of small business and an advocate for increased competition in our acquisition system. We need to strengthen contract administration to ensure we get what we are paying for in a timely manner.

2. Mr. Denett, an October 15, 2004 article in the *Government Executive* magazine indicates that, as procurement chief at the Interior Department, you were personally and substantially involved in development and oversight of the Interior Department's contracting practices which contributed to the abuse of prisoners at the Abu Ghraib prison in Iraq by a private contractor. Specifically, the article states that you were instrumental in creating the Interior Department's National Business Center (NBC) and that you oversaw the transfer of certain contracts from the Army Intelligence to the NBC as part of the Clinton-era acquisition-reform initiatives. The article also states that you were responsible for oversight of GovWorks, another procurement organization of the Interior Department which operates on a fee-for-service basis. I would like to give you the opportunity to clarify this matter for the record.

   A. In the article, you admit that there was "too much looseness" in the NBC's administration and oversight of military contractors, but contend that the problem was an isolated incident. However, reviews by the Inspector General of the Interior Department and the Government Accountability Office concluded that the problems at the NBC included systemic problems with the inherent conflicts of interest in fee-based procurement organizations. NBC and GovWorks are both currently placed on the GAO's high-risk list. What are vies on these conclusions of the GAO and the Interior Inspector General?

   I continue to believe that interagency contracting and assisted acquisitions offer important benefits, including the efficient delivery of services -- a point acknowledged by the GAO itself. I appreciate, however, that we are missing opportunities for savings because of unclear lines of responsibility between customer agencies and servicing agencies, weak performance measures and sloppy contracting. If confirmed, I will ensure that our acquisition officials give greater attention to this area of acquisition so that interagency acquisitions and fee-for-service operations offering acquisition assistance achieve the full potential of their value.

   B. In report No. 06-399, the GAO found that GovWorks has also abused small business contracting laws by awarding a sole-source contract to a company which was later determined by the SBA to be large. Do you believe there are any systemic steps that should be taken to prevent these kinds of abuses in the future?

   I understand that SBA is undertaking a comprehensive review of its policies related to size standards, including rules governing how frequently contractors must recertify to their size status as small businesses. If confirmed, I look forward to working with SBA and reviewing its revised policy to ensure that programs designed to facilitate opportunities for small businesses are, in fact, helping small businesses.

3. Mr. Denett, you currently serve as Vice Chairman of the Procurement Roundtable. On March 13, 2006, the Procurement Roundtable submitted to the White House Acquisition

Advisory Panel in the Office of Federal Procurement Policy a policy statement which recommends sweeping changes to performance-based contracting rules. These changes would create a new "relational" contracting model that permits Federal officials to reduce competition and permits Federal contractors to substantially take over management of government programs when the government officials are unable to adequately define their programs' future needs and missions. If implemented, some fear that these changes would create a legal foundation for symbiotic relationships between large government programs and large government contractors with little accountability.

A. What are your views on the position of the Procurement Roundtable?

I resigned from the Procurement Roundtable several months ago. At the time of my resignation, I was serving as one of several Vice-Chairs. My primary focus was devoted to identifying and rewarding contracting officers who achieved great results through an award program. I do not recall the specifics of the position paper on performance-based contracting that was submitted to the Acquisition Advisory Panel by the Procurement Roundtable. However, I understand the Procurement Roundtable is revisiting its recommendations on performance-based contracting.

B. Reviews of contracting practices at the Interior Department by the Army and the GAO blamed the Abu Ghraib procurement scandal in part on the ability of a private contractor to write the terms of the contract. What is your view on delegation of such inherently governmental responsibilities to private contractors?

I am not familiar with the details surrounding the negotiation of this particular contract, including the specific responsibilities that were assigned to the contractor. I would strongly agree, however, that only contracting officers should be vested with the authority to make binding decisions regarding the terms of a contract.

4. Mr. Denett, the Small Business Working Group of the White House Acquisition Advisory Panel in the Office of Federal Procurement Policy issued a set of policy recommendations for Congress and the Executive Branch. What are your views on these recommendations?

I understand the Acquisition Advisory Panel has made preliminary recommendations, but has not completed its work on these issues. I believe it would be inappropriate for me to comment on the draft recommendations at this time. If confirmed as Administrator, I will carefully review the final Panel recommendations when they are submitted to OFPP.

5. Mr. Denett, if confirmed as the Administrator for Federal Procurement Policy, you would be responsible for ruling on disputes between Federal agencies and the Small Business

Administration concerning small business prime contracting and subcontracting goals established under the Small Business Act. Please describe in detail the legal and policy principles which will bind your decisions on what prime contracting goals and what subcontracting goals are appropriate, and on whether these goals should ever be commingled.

I am not familiar with the specific legal authorities that govern the Administrator's decisions on resolving such disputes. I will learn and apply them, if confirmed. However, I am committed to the overarching principle of providing maximum practicable opportunities for small businesses.

6. Mr. Denett, less than a month before your nomination was officially announced, your employer ESI International received a contract from the GSA's Federal Acquisition Institute (FAI) to provide training for the acquisition workforce. The Office of Federal Procurement Policy has substantial responsibilities for management of the FAI. Some have suggested that the award of this contract presents a conflict of interest. I would like to give you the opportunity to respond. Please describe your past and your intended future involvement with that contract.

ESI was one of three companies that received a competitive award for contract training from GSA. ESI does contract training for nearly every government agency and many private companies. If confirmed, I will recuse myself from any decision or activity on the GSA/FAI contract with ESI.

Post-Hearing Questions Submitted by
Senator Robert F. Bennett
For the Nomination of Paul A. Denett
to be Administrator for Federal Procurement Policy
June 20, 2006

1. Mr. Denett, Section 1423 of the Services Acquisition Reform Act created an Acquisition Advisory Panel in the Office of Federal Procurement Policy. The Panel's working groups have been working hard to prepare reports with recommendations on critical areas of acquisition policy, such as interagency contracting, small business, commercial practices, federal acquisition workforce, and performance-based services acquisitions. Please list the recommendations from each of these working groups that you believe Congress should consider as top priority for enacting.

   I understand the Acquisition Advisory Panel has made preliminary recommendations on several subjects, including performance-based acquisition, small business, and interagency contracting. The Defense Authorization Act of 2006 extended the deadline for the Panel to submit its recommendations to Congress and OFPP until this summer. Therefore, I believe it would be premature for me to comment on the draft recommendations or prioritize them at this time. If confirmed as Administrator, I will carefully review the final Panel recommendations when they are submitted to Congress and OFPP.

2. Mr. Denett, as you know, increasing competition by reducing contract bundling is one of President Bush's top priorities. Speaking in March 2002, President Bush stated that contract bundling occurs whenever agencies "only let huge contracts with massive requirements, and they tend to go to the same group of large corporate bidders." However, the GAO, the Inspector General of the Small Business Administration, and the White House Acquisition Advisory Panel have all recognized that agencies are applying inconsistent, unduly technical, and varying definitions of contract bundling in order to avoid anti-bundling restrictions. For example, many agencies claim that "new work" is not subject to anti-bundling restrictions. Would you support strengthening the legislative definition of contract bundling in line with the definition articulated by the President in order to correct these problems?

   I strongly support efforts to increase opportunities for small businesses and was pleased to recently read that the government is contracting with small businesses in record numbers. I think an effective bundling policy is an important component for ensuring strong small business participation. If confirmed, I will review the effectiveness of current bundling policies to determine if changes are needed and, if so, whether legislation is an appropriate option. I will also see that OFPP continues to work closely with SBA and the procuring agencies to identify the best strategies available for increasing small business access to federal procurement.

Post-Hearing Questions Submitted by Senator Lieberman on behalf of Senator Kerry, Ranking Member Senate Committee on Small Business and Entrepreneurship For the Nomination of Paul A. Denett to be Administrator for Federal Procurement Policy June 20, 2006

1. The President has stated his intention to end the practice of contract bundling. Since the time of his announcement, this practice has actually increased. What is your plan for reversing this trend? In your opinion, how do bundled contracts uniquely affect small business?

   I would like to see small businesses compete for as many federal contracts as possible. I believe our goal should be to guard against unjustified contract bundling, which can reduce contracting opportunities for small businesses. SBA recently announced that, for the first time in history, small businesses received a record-breaking $79.6 billion in federal prime contracts, $10 billion more than the previous year. If confirmed, I will ensure that OFPP continues to work closely with the Small Business Administration (SBA) and the procuring agencies to build upon this success.

2. Concerns remain that the Federal Procurement Data System is still not equipped to accurately assess federal procurement statistics as they apply to small business contracting. What is your plan to ensure that data collected by the Federal Procurement Data System is accurate and appropriately reflects the federal contracting marketplace with regards to meeting the 23 percent small-business contracting goal?

   The Federal Procurement Data System (FPDS) is the primary source for critical acquisition data, and as Administrator, if confirmed, I will ensure that OFPP continues to focus on the accuracy and completeness of FPDS. My understanding is that the Small Business Goaling Report recently published by SBA accurately reflects agency small business achievements as reported to FPDS. We will work closely with GSA and the agencies to ensure that FPDS is timely and accurate.

3. In 2005 the Inspector General of the Small Business Administration released a series of reports which detailed the extent to which large businesses were fraudulently receiving small business contracts. How do you plan to prevent large companies from winning small business contracts, and from being counted toward the 23 percent small-business goal?

   My understanding is that SBA is developing a final regulation to address these concerns. If confirmed, I will work closely with SBA to develop and publish the regulation as soon as possible. I think it is totally unacceptable for companies to misrepresent themselves. SBA must aggressively address this fraudulent behavior.

4. Currently, contracts performed overseas are not included in the calculation to determine the percentage of small business contract dollars. Do you support the inclusion of federal contracts carried out overseas in the determination of whether or not an agency has met its goal.

   Historically, we have used overseas procurement to promote development of viable economies and infrastructure in foreign countries that are important to our national interests and defense. I believe applying numerical goals to overseas procurements may restrict our ability to promote such development. However, if confirmed, I will work with the State Department to re-examine the further use of small business overseas.

5. Small businesses are all-too-often relegated to a subcontractor role. Do you have any plans to ensure the timely payment of small business subcontractors? Additionally, would you support any initiative to place more weight on a prime contractor's evaluation by, and treatment of their subcontractors? Do you have any reforms that will ensure more small businesses are considered for prime-contracts and not only subcontracts?

   SBA recently announced that small businesses received a record-breaking $79.6 billion in federal prime contracts. I am very pleased to see that small businesses are receiving more prime contracts. With regard to subcontracts, timely subcontractor payment should be part of a contractor's subcontracting plan and subject to SBA and contracting officer oversight. My understanding is that the Federal Acquisition Regulation (FAR) was amended to include small business subcontracting in the evaluation of a prime contractor's performance. If confirmed, I will work with SBA and the procuring agencies to ensure that small businesses continue to receive a growing number of prime contracts.

6. It's becoming a common practice to seek out contractors that will help an agency meet a number of goals, i.e.: small business, woman-owned, minority company. Do you support limiting the number of government-set goals one small business can be counted toward? If so, how would you limit that?

   I think small businesses compete more successfully in the federal marketplace when they are allowed to qualify for several small business programs. I do not see a practical and fair way to limit the number of government goals for which a small business can qualify. If confirmed, I am willing to work with Congress and SBA to examine this issue.

7. Agencies that currently do not meet the 23 percent goal for small business contracting do not face consequences that deter this behavior. What enforcement or penalty do you envision for agencies that fail to meet the 23 percent small-business goal? How active do

you envision your office will be in enforcing procurement policies with non-compliant agencies?

If confirmed, I plan to use the Chief Acquisition Officers Council and the SBA Procurement Advisory Council to strengthen support for SBA efforts to make the government-wide small business goaling process more effective. I believe agencies must be held accountable for meeting the statutory small business goals.

8. Steven Preston has recently been nominated and stands waiting for confirmation to be Administrator of the Small Business Administration. One of the great failings of Mr. Preston's predecessor was his failure to address the Administration's inability or unwillingness to meet small business contracting goals. How do you plan to work cooperatively with SBA in ensuring a fair, accessible federal marketplace for small businesses? What actions will you take to ensure that the Administration's commitment to awarding 23 percent of all federal contracts to small businesses is met?

   The Administration recently announced that small businesses received a record-breaking $79.6 billion in federal prime contracts. I believe we can build upon this success by promoting greater cooperation between agency procurement and small business offices. If confirmed, I will work closely with the Chief Acquisition Officers Council and SBA's Procurement Advisory Council to ensure greater cooperation.

9. Establishing goals for small business contracting is important but goals mean nothing without a commitment to meeting them. Please list your top five goals for improving the federal contracting marketplace for small businesses and your plan for meeting these goals.

   Providing maximum opportunity for small businesses is good public policy. Throughout the years, I have been a strong supporter of small business, and if confirmed, I plan to continue that support. As a senior procurement executive at several large agencies, I successfully met or exceeded my small business goals. If confirmed, I plan to meet regularly with key SBA officials, raising the visibility of small business programs and finding more effective ways to ensure that small businesses have access to the federal marketplace.

Post-Hearing Questions Submitted by
Senator Norm Coleman
For the Nomination of Paul A. Denett
to be Administrator for Federal Procurement Policy
June 20, 2006

1. As you know, Congress enacted the Brooks Act, Public Law 92-582, in 1972 to require the use of qualification based procedures when acquiring the services of architects and engineers.

a. Will you work to ensure that the Brooks Act requirements are followed at each of the federal departments and agencies?

If confirmed, I will remind agencies of their responsibilities under the Act, and I will ensure that policy issued by OFPP is consistent with the Brooks Act requirements.

b. What do you perceive to be as the current benefits of the Brooks Act?

The Brooks Act was passed to give the government a formal process for identifying contractors that had a good record of performance. The purpose of the Brooks Act Qualification Based Selection (QBS) procedures is to ensure that the Government can streamline the negotiation process and more quickly award a contract if the price is determined to be fair and reasonable.

c. What can be done to strengthen the implementation of the requirements of the Brooks Act?

I am unfamiliar with any specific issues related to the implementation of the Brooks Act. But, if confirmed, I would be glad to work with Congress and the agencies to ensure that Brooks Act requirements are followed.

d. How will you deal with those agencies that seek to avoid the requirements of the Brooks Act?

Again, if confirmed, I will remind agencies of their responsibilities under the Act and ensure that policy issued by OFPP is consistent with these requirements.

Post-Hearing Questions Submitted by
Senator Lincoln D. Chafee
For the Nomination of Paul A. Denett
to be Administrator for Federal Procurement Policy
June 20, 2006

1) If confirmed as the Administrator for Federal Procurement Policy, you would be responsible for providing effective government contracting policies for all business, including small businesses.

   Please name and describe in detail the top three policy initiatives related to small business contracting programs on which you intend to exercise leadership, if confirmed.

   Providing maximum opportunities for small businesses to compete for government contracts is good policy, and if confirmed, I will ensure that agencies make this part of their mission goals. If confirmed, I will promote small business interests through the exercise of my statutory responsibilities, the development of acquisition workforce skills (i.e., helping agencies meet their small business goals), and my support of the Administration's acquisition priorities (i.e., reducing contract bundling).

2) I am advised that Dr. Steven Kelman, who previously occupied the office to which you are now nominated, gave interviews to trade press and published an endorsement in *Federal Computer Week* in support of your confirmation. In these interviews, Dr. Kelman's expressed confidence that you will "help the contracting community fight back against the current atmosphere" of increased oversight.

   a. Do you agree with Dr. Kelman that you should help contracting officials "fight back" against the atmosphere of increased oversight once confirmed? If so, what specific steps do you plan to undertake?

   While I do not know the context of the quote, I fail to see a need for contracting officials to "fight back" against appropriate contract oversight. Our country faces many challenges in the aftermath of September 11, recent hurricanes, and the war to fight terrorism. Taxpayers are paying special attention to the government's response to these events, and agencies are placing increased demands upon their acquisition personnel. I plan to focus on improving the skills of the acquisition workforce, specifically in contract administration, through increased training and development efforts. This will improve the quality of the acquisition process and reduce the need for increased oversight.

   b. Prior to your nomination, the Bush Administration undertook several initiatives to promote competition and fight cronyism in government contracting, including the

creation of the Procurement Fraud Working Group, the initiative against the award of bundled contracts, and initiatives to improve accountability in multiple-award contracting. Will you continue these initiatives?

If confirmed, I will ensure that OFPP continues to promote competition, transparency, and accountability through policies that protect the integrity of the acquisition process. I support the initiatives undertaken by the Procurement Fraud Working Group, which was established by the United States Attorney for the Eastern District of Virginia. Additionally, I will continue the Administration's emphasis on maximizing contracting opportunities for small businesses, and if confirmed, I will ensure that small business interests are protected from unjustified contract bundling. Finally, I understand that OFPP established an interagency working group to improve the management and use of interagency contracting, including various types of multiple-award contracts. That group is tasked with developing guidance to address the roles and responsibilities of interagency contract managers and their customers. If confirmed, I will see that OFPP continues these and other important initiatives that improve the acquisition process.

3) I am advised that in his published endorsement of your nomination in *Federal Computer Week*, Dr. Kelman called you a champion of field contracting offices and a "strong advocate" of "streamlining."

However, some critics have noted that many of the acquisition reforms from the 1990's that have worked to streamline the acquisition process have resulted in decreased competition, exclusion of small businesses, increased cronyism, waste of taxpayer funds, loss of transparency, "Balkanization" of procurement practices among field contracting activities, and other problems ailing the Federal procurement system.

a. What is your view of such criticisms of the 1990s policies of acquisition reform?

I believe that early acquisition reform efforts were necessary to improve the acquisition process and ensure that the government delivers value for taxpayers. I believe that the federal acquisition system is dynamic and should be continuously examined and improved to reflect current business practices and promote competition, transparency, efficiency, integrity, and small business success.

b. You previously served as the Vice Chair of the Procurement Executives Council in the 1990s, during the time of major acquisition reforms. Please advise the Committee what specific acquisition reforms you have advanced while in that position.

The primary focus of the Procurement Executives Council (PEC) was to leverage reform initiatives to improve the efficiency of agency procurement operations. The PEC often took the lead in developing and promoting the use of best practices. As

Vice Chair of the PEC, I established a strategic plan to:

- **Create an acquisition workforce of mission-focused business leaders;**
- **Optimize technology as a key business enabler;**
- **Lead collaboration to achieve desired business results;**
- **Integrate socio-economic programs in the federal procurement system; and**
- **Transform the acquisition system for better business results to include the use of performance measurement and incentive contracting.**

4) In March 2002, President Bush announced his Initiative Against Contract Bundling. The President's official Small Business Agenda states that reduction in contract bundling saves taxpayer dollars by promoting competition. However, I understand that the President's Initiative Against Contract Bundling has been criticized by former Administrator for Federal Procurement Policy Steven Kelman.

   a. Please describe in detail your views on contract bundling.

I understand that this Administration has taken affirmative steps to ensure that small businesses have maximum opportunities to compete for federal contracts. I also understand that agencies have a special responsibility to justify the use of bundled contracts. If confirmed, I will ensure that small business interests are protected from unjustified contract bundling.

   b. What specific actions would you undertake to ensure that efforts to obtain discounts through strategic sourcing do not result in contract bundling?

I understand that agencies include small business representatives in their strategic sourcing governance structures to ensure small business interests are represented as agency buying strategies are developed. I understand that OFPP will review agency performance each year through the annual strategic sourcing progress reports. If confirmed, I will ask agencies to baseline small business spending for each commodity or service considered for strategic sourcing and to report against that baseline each year.

   c. Reports by the Government Accountability Office and the Inspector General of the Small Business Administration indicate that the progress of this Initiative is inadequate. What specific policy and personnel actions would you undertake to improve the Initiative Against Contract Bundling?

Some procuring agencies are doing a better job than others in their efforts to increase small business access to federal procurement opportunities. More agencies need to identify best practices and SBA needs to promote these practices. If confirmed, I will ensure that OFPP supports this through its active involvement with SBA's Procurement Advisory Council and its leadership of the Chief

Acquisition Officers Council.

d. Would you commit to working to place the Initiative Against Contract Bundling on the President's Management Agenda?

The Administration needs to focus on the initiatives that are currently on the President's Management Agenda. However, I understand that SBA plans to place greater emphasis and visibility on the Government-wide small business goaling process. This could effectively accomplish objectives that are similar to the contract bundling initiative, e.g., increasing access and procurement opportunities for small business. If confirmed, I will support SBA in these efforts.

e. If confirmed, would you commit to appointing, in consultation with Congress, an Associate Administrator in your office to oversee the Initiative Against Contract Bundling?

I understand that the OFPP staff has considerable expertise in small business issues. In addition, OFPP developed the Administration's contract bundling strategy and chaired the interagency working group that developed the regulations to implement the strategy. If confirmed, I will ensure that OFPP continues to take a leadership role in implementing the Administration's strategy.

5) Writing in *Federal Computer Week*, the former procurement chief Steven Kelman stated that your tenure as the Administrator would be very different from the tenures of two of previous Administrators.

a. Please compare the differences and similarities between the Federal procurement policies of the George W. Bush and the Clinton Administrations.

b. Please advise what specific Clinton Administration initiatives you intend to continue pursuing, if confirmed.

c. Please advise what specific George W. Bush Administration initiatives you intend to continue pursuing, if confirmed.

The acquisition improvement efforts of various administrations have institutionalized the need to examine continuously the acquisition system to ensure that it promotes good business practices. For example, the Bush Administration's Small Business Agenda promotes increased small business access to procurement opportunities by creating an environment where small businesses can flourish. If confirmed, I plan to continue to focus on increasing small business opportunities. Additionally, I will pursue OFPP initiatives in competitive sourcing, strategic sourcing, emergency contracting, interagency contracting, and acquisition workforce development.

6) On May 15, 2002, the *Government Executive Magazine* described former procurement chief Steven Kelman's view on small business participation in government contracting as follows:

> Some small businesses are having trouble getting a foot in the government door because the federal procurement process has improved, Kelman said. "The problem is that too many small businesses selling to the federal government basically developed a market niche by exploiting the dysfunctional procurement process," according to Kelman. The faster and less burdensome the process became, the more problems cropped up for small businesses, he said.

a. Do you agree with Dr. Kelman's position that many small businesses can succeed in the Federal marketplace primarily by exploiting the dysfunctional procurement process?

b. Do you agree with Dr. Kelman's position that better procurement process will naturally create obstacles for small business?

I do not wish to speak for Dr. Kelman on these issues. However, I understand that the federal government is contracting with small businesses in record numbers, and I strongly support these and additional efforts to increase opportunities. SBA recently released figures that indicate that, for the first time in history, small businesses received a record-breaking $79.6 billion in federal prime contracts, $10 billion more than the year before. Improving the federal acquisition system improves the process for all contractors, regardless of size. It was my responsibility as a senior procurement executive and will be my responsibility as Administrator, if confirmed, to ensure that agencies remain strong stewards of public funds while maximizing small business opportunities.

Post-Hearing Question

Submitted by Senator Carl Levin

For Paul Denett, Nominee to be

Administrator, Office of Federal Procurement Policy

Post-Hearing Question from Senator Levin for Paul Denett

Mr. Denett: In your interview with our staff last week, you noted that at the time the Ft. Huachuca contracting center was brought into the Department of Interior, almost all of its contracting work was performed on behalf of Department of Defense entities. You stated: "I don't know that the ground rules require that some of the business has to be with the Department [that is doing the contracting, *i.e.*, with the Department of Interior], but that is certainly worth examining."

In 1994, I helped enact section 1074 of the Federal Acquisition Streamlining Act, which states that inter-agency purchases may be made under the Economy Act –

"*only if* –

"(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into before the purchase order, *in order to meet the requirements of such agency for the same or similar goods or services;*

"(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the ordering agency; or

"(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies."

This requirement is now reflected in section 17.503(b) of the Federal Acquisition Regulation, which governs interagency acquisitions under the Economy Act.

- In view of this legal requirement, do you now believe that it was appropriate for the Department of Interior to have a contracting entity that provided contracting services exclusively or almost exclusively to DOD customers and did no business at all for the Department of Interior?

- If confirmed as Administrator, will you ensure that section 17.503(b) of the Federal Acquisition Regulation is fully enforced?

Answer: Your questions raise good points, and I share your desire to ensure that interagency contracting is conducted effectively and consistent with applicable laws and regulations. The high risk associated with interagency contracting that was identified by the Government Accountability Office last year underscores the need for all agency Chief Acquisition Officers and senior procurement executives to give increased management attention to this area. If confirmed as Administrator, I will ensure that agencies comply with the requirements of section 1074 of the Federal Acquisition Streamlining Act, as implemented in FAR 17.503(b), when conducting interagency acquisitions under the Economy Act. In other words, if confirmed, I will be particularly sensitive to interagency contracting. In this regard, I am pleased that OFPP established a multi-agency working group to improve interagency contracting. As part of this effort, I understand that the working group is developing guidance on the proper roles and responsibilities of customer agencies that seek to have requirements met through another agency's contract and servicing agencies that open their contracts, or create contracts, for interagency use.

Additional Post-Hearing Questions
From Senator Joseph I. Lieberman
For Paul Denett, Nominee to be
Administrator, Office of Federal Procurement Policy
July 13, 2006

1. In response to post-hearing questions submitted on June 20, 2006, you said, "I understand that OMB's policy on lines of business migrations is intended to encourage public-private competition, not direct conversions to private sector performance. For example, I read OMB's May 22, 2006 guidance as creating a clear preference for public-private competition, both for financial management activities performed by more than 10 full-time equivalent employees (FTEs) as well as those performed by 10 or fewer FTEs....As far as I know...OMB is not considering direct conversions as a general policy." The guidance provided by OMB in May for the Financial Management Line of Business (FMLOB) states that "[a]n agency may, but is not required to, follow Circular A-76 – i.e., this memorandum constitutes a deviation from Circular A-76 for migrations involving the transition of activities involving 10 or fewer FTEs."

    a. Do you agree that OMB's guidance allows a blanket authorization for direct conversions involving 10 or fewer FTE's? If not, please explain how the OMB guidance does not provide such a blanket authorization.

    Answer: I think OMB's FMLOB guidance on competitions involving 10 or fewer employees could be clearer. I understand that OMB has received comments in this area. If confirmed, I will work closely with OMB's Controller and the Administrator for E-Government and Information Technology (IT) to make sure our direction is made clearer. As I read the guidance in its current form, agencies are expected to conduct public-private competitions for activities involving 10 or fewer FTEs inviting both private sector providers and public shared service centers to submit offers. Agencies do not have to use the procedures of Circular A-76. However, the guidance establishes principles to ensure these public-private competitions are conducted in a fair and transparent manner. Principles include issuance of a notice in FedBizOpps, issuance of a single solicitation to both sectors, and impartial evaluations on a level playing field.

    b. If the OMB guidance is not a blanket authorization, is the guidance consistent with the A-76 Circular, under which agencies must secure OMB's approval for direct conversions for functions performed by 10 or fewer FTEs? Would you support a clarification to the guidance to make clear that it does not authorize a blanket authorization for the direct conversion of 10 or fewer FTEs, and that the regular A-76 process, requiring OMB approval of such direct conversions on a case-by case basis, applies?

Answer: The guidance states that agencies must prepare a justification and confer with OMB prior to proceeding with a migration through other than a public-private competition. I cannot speak authoritatively to the mechanics of how an agency is expected to engage with OMB, as I did not participate in the development of the guidance. However, if confirmed, I would work with OMB's Controller and Administrator for E-Government and IT to review this process and consider if the guidance needs to be clarified to ensure OMB concurs with any migration effort that involves something other than a public-private competition. I understand many comments have been received in response to the guidance that OMB has issued and would seek to ensure that these comments are carefully considered.

c. Without further clarification of the proposed guidance issued by OMB, what incentives will agencies have to hold public-private competitions for functions involving 10 or fewer FTEs, instead of engaging in direct conversions?

Answer: The current guidance requires that agencies wishing to conduct a migration through other than a public-private competition must – in addition to consulting with OMB – prepare a justification that is approved by the agency's Chief Financial Officer, Chief Information Officer, and Chief Acquisition Officer. I was not involved in the development of the guidance, but assume this type of high level review and approval was designed to ensure that any consideration of migration through other than public-private competition is very carefully scrutinized. However, if confirmed, I would work with the Controller and Administrator for E-Government and IT to review this process, including public comments that have been received in response to OMB's guidance, and consider if the guidance needs to be clarified.

2. In post-hearing questions, I asked you whether, if confirmed as Administrator, you will ensure that in the case of a shared service center that will ultimately have work performed by a contractor, any function performed by more than 10 FTEs will be subject to an A-76 competition before the work is moved to the shared service center. You replied that you will carefully review the issue and noted that you "believe OMB's policy creates a strong preference for public-private competition as a precursor to migration to a shared service center -- i.e., non-competitive migrations to shared service centers are not encouraged." What specifically in OMB's policy leads you to conclude that there is such a "preference"? Do you believe that OMB should have a clear policy instead of a "preference"? What specific steps would you take to ensure that any function performed by more than 10 FTEs will be subject to an A-76 competition before the work is moved to the shared service center?

Answer: I was not involved in the development of the policy and cannot speak authoritatively to its content. However, based on the wording of the May 22, 2006 guidance, I concluded that OMB intended for there to be a clear preference for public-private competition and an express role for Circular A-76. OMB's "general policy" (at section 2.a. of the "guiding principles") expressly states that "OMB strongly favors migration through public-private competition." For activities performed by more than 10 FTEs, it further requires (at section 2.b.i.) that agencies use Circular A-76 except as provided in deviations granted by OMB. Finally, as explained in the responses to question "1.", the guidance requires justification, high level approval, and consultation with OMB before pursuing a migration through other than public-private competition. If confirmed, I will work with the Controller and Administrator for E-Government and IT to determine if clarification is needed to improve understanding and application of OMB's policy. I understand many comments have been received in response to the guidance that OMB has issued and would seek to ensure that these comments are carefully considered.

3. In response to a post-hearing question on the concept of "best value," you stated that you do not believe that OMB's FMLOB guidance abandons the A-76 Circular. Please explain your views more fully. Specifically, do you believe the "best value" process described in the FMLOB guidance for functions performed by 10 or fewer FTEs is the same "best value" process authorized under the A-76 Circular? If not, how are the processes different? Under the "best value" process in the FMLOB guidance, is cost or price (an objective factor) at least equal to all other factors combined?

   Answer: I was not involved in the development of the guidance and cannot speak authoritatively on its details. As a general matter, it appears the guidance would not require use of the specific requirements of Circular A-76 for efforts involving 10 or fewer FTEs. At the same time, the guidance states that the source selection process is to be transparent and ensure federal service providers and private sector offers are considered on a level playing field. Presumably, the relative weight of cost and quality would be determined on a case-by-case basis. If confirmed, I will work with the Controller and Administrator for E-Government and IT to review this issue and consider the public comments that speak to this matter.

4. In response to your post-hearing questions, you indicated that you were not familiar enough with the details of the FMLOB initiative to speak to the question of what circumstances might justify a deviation from the A-76 Circular. If confirmed, once you have become more familiar with the FMLOB initiative, will you commit to discussing proposed deviations with this Committee and other relevant Congressional committees, and also commit to discussing such proposed deviations with affected employees and their exclusive representatives?

   Answer: If confirmed, I would be pleased to meet with this Committee and other members of Congress to discuss general policy considerations related to deviations. With respect to individual agency deviation requests, I would want to review with OMB officials how deviations from the Circular are handled as a general matter.

Additional Post-Hearing Question
From Senator Joseph I. Lieberman
For Paul Denett, Nominee to be
Administrator, Office of Federal Procurement Policy
July 17, 2006

1. I believe that government officials responsible for developing and implementing policies that affect the rights of federal employees have an obligation of maintaining open lines of communication with those employees. Will you commit to meeting with federal employees and their union representatives to discuss policies relating to competitive sourcing, and in particular to discuss the development of policies relating to deviations from the A-76 Circular in OMB's Financial Management Line of Business?

Answer: Yes. If confirmed, I will make myself available to discuss policies relating to competitive sourcing, including the development of policies relating to deviations from Circular A-76 in connection with OMB's Financial Management Lines of Business initiative.

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