

**STATEMENT OF JAMES D. CARNEY
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BEFORE

**THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE'S
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS,
AND EMERGENCY MANAGEMENT**

**Washington, DC
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RE: Hearing on, the Responsibility of the Department of Homeland Security and the Federal Protective Service to Ensure Contract Guards (Security Officers) Protect Federal Employees and their Workplaces.

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DEFINITIONS

Acquisition/ Contract/ Procurement	a Government Contract, Federal Security Contract through DHS (usually)
ALJ	Administrative Law Judge
Agreement	usually Collective Bargaining Agreement
CBA	Collective Bargaining Agreement
CCG	Consolidated Contracting Group (3 nation-wide)
CEO	Chief Executive Officer
CGIM	Contract Guard Information Manual
Committee	this Committee and its sub-Committee (U.S. House of Representatives)
CO	Contracting Officer
COR	Contracting Officer's Representative
COTR	Contracting Officer's Technical Representative
CSO	Court Security Officer
DOE	Department of Energy
DoEd	Department of Education
DHS	the Department of Homeland Security
DoL	Department of Labor (usually Wage and Hour Division)
FPO	Federal Police Officer, under FPS / ICE / DHS
FPS	The Federal Protective Service
GSA	The General Services Administration
ICE	Immigrations and Customs Enforcement, component of DHS
Inspectors	FPOs, LESOs, or Security Specialists who inspect a security contract
LESO	Law Enforcement Security Officer (a Govt. employee uniformed and not)
NLRB	National Labor Relations Board
NRC	Nuclear Regulatory Commission
RIFs	Reduction in Forces
UGSOA/ Employee's Representative/ Union	United Government Security Officers of America
S/O, SPO	Security Officer, Special Police Officer, or Security Police Officer

INTRODUCTION

Madam Chairwoman, Ranking Member Graves, My name is James Carney. I am the Senior Vice President of UGSOA and presently I am the Acting President for the Union. Our International President has cancer. I would like to tell you a little bit about our Union and about myself. This is the first time I have addressed Congress on any matter in person.

UGSOA was formed from in 1992 at the Rocky Flats Nuclear Weapon's plant, a Department of Energy site in Colorado, during the Cold War. We now represent over 12,000 security officers and security police officers throughout the United States, and its Territories, most of which are federal government contracts. I have been a Security Officer on a FPS federal security contract in Denver, Colorado, for 9 years, from 1994 to 2003. At many stages during my career I have been decorated for my professionalism and performance in the line of duty to the Federal Government and the security mission through its multiple contractors. I've worked for 5 different Contractors in that same period of time doing the same job. I was on duty in Denver, Colorado, coming off of a graveyard shift the morning of the Oklahoma City Bombing. I returned to my post and pulling extra work that day at our daycare in the Federal Building. For the many months and years that followed as the trial to convict McVeigh moved forward we worked additional and substantial overtime hours in our Federal Buildings. We were on the highest level of security while domestic terror groups cased our buildings daily. I know what it means to protect our Federal Government's infrastructure. On behalf of my members, they know the gravity of our mission too.

In addition to my security career, I have also found my calling to work in the Union and the rights of security professionals throughout the United States, both locally, and nationally, witnessing first hand, many of the things that I can testify about to you here today. All together, my union career and experience covers the past 10 years with UGSOA and a couple of years with the Teamsters at UPS, as a shop Steward.

I thank you for the invitation to be present and testify before this Committee. I also thank you for your scrutiny of this matter. It is indeed serious, and requires your immediate attention.

The Contractors we work for come and go and we always remain working on the contracts. It's an unusual environment for us in that respect, changing employers and uniforms every year, or every other year, in most cases. The security forces that you have out there right now on federal contracts are loyal to the mission. They are loyal to the contract. They are loyal to a fault. And the fault has never become more apparent than now. We have worked to protect federal buildings, in many cases, without being paid, and for extraordinary amounts of time. And here it happens too often on federal security contracts, let alone in the purely private sector. What could be more fundamental to an employee than being paid for time worked? You do not hear of this abuse among security guards protecting the malls you shop in, or the apartment complexes that you live in. Yet, right here on our federal contracts it is happening. The most recent example just happened a few weeks ago here in Washington, DC, at the

Department of Agriculture Headquarters, when StarTech, the federal security contractor, failed to meet its employees' payroll. They went belly up, without forewarning or notice to anyone. Special Police Officers, employed by StarTech were told, "the CEO, Weldon Waites, is no where to be found and the bank accounts are all empty." Then we looked closely, low and behold, he has a serious criminal history for fraud. How did he get ownership of the contract?! It has to be asked, and we cannot ignore it.

I want to especially thank you, Madam Chairwoman (Congresswoman Norton), for your decisive and immediate action to intervene on the StarTech matter. I have not seen the kind of concern and prompt inquiry from any other member of Congress in the past ... and this *has* happened before, too many times¹. I would like to remind everyone that the alternative was to strike StarTech, and take up picket signs right out there in the street. How unfortunate that would have been.

BACKGROUND

DHS, ICE, and its sub-component, FPS, are all responsible for the contract security program that augments the traditional Police Protective Service of FPS.

The degrees of responsibility are layered.

- You have the procurement officials and teams that create, design, award, and administer the contracts. They deal with the owners and senior Managers for these Companies, the federal Contractors.
- Then, you have the specialists that provide to the procurement teams for the Government the specific mission sensitive advice and direction

¹ UGSOA can provide a list of contractor defaults going back to 1996 to the Committee, upon request.

on how that contract needs to perform so that the needs of the Government in that particular contract are met.

- Also, DHS must have the Government personnel that are necessary to inspect these contracts and ensure the details of the contract, after it has been written, designed, and awarded, are followed. Many times these are the Federal Police.
- Finally, you have the Contractor and the contract security workforce who carries those objectives. They too must work in concert with the other layers of the procurement to make the mission successful.

All layers must work together to make that contract mission happen. A breakdown at any layer will lead to a contract failure, large or small.

Many times I've asked our members rhetorically, who protects those who protect the US Government Infrastructure? Certainly, we do at UGSOA. Recently, I have never felt more inclined to be adversarial in our representation to these security Contractors as I do right now. UGSOA proudly represents those security officers who would be the first line of defense on a domestic Homeland attack, day in, and day out, We are a Patriotic Union, but unafraid to stand up for our rights, and that means a lot to the Employees who are our members. How can anyone fault us for taking action in the face of such events? Yet we've shown great restraint.

QUALIFICATIONS AND ROLE CONTRACT SECURITY ON DHS CONTRACTS

A lot of criticism is always ready to be applied to a, quote-unquote, “security guard.” I have followed closely what is being said to this committee. I read the testimony of Chuck Canterbury, President of the Fraternal Order of Police, which was submitted to the committee on April 18, 2007 (with respect to the downsizing of FPS). His pursuit to advocate a position for Federal police officers in opposition to the RIFs they are facing, pointed to a system of “contract guards” that are “unqualified.” Without solid examples the easiest thing to do is point to a, quote-unquote, “unqualified guard”; which is nothing more than a stereotype. I have worked these jobs, as a security officer, proud of what I did every day I put the gun belt and the uniform on. As a Union Representative, I have argued the complexity of our duties of the job in wage cases before Judges at substantial wage variance hearings² (under the Department of Labor’s regulations³). The result of those hearings, after showing the work that we really do and the qualifications we must maintain has re-classified our job as something more than a “guard.” We are not just guards, but Security Officers⁴, Security Police Officers, or Special Police Officers. The StarTech “guards” at the Department of Agriculture, were correctly classified to SPO’s, over a year ago by a Decision and Order of an Administrative Law Judge (ALJ).⁵ Moreover, much of the training of a contract security

² *In the matter of: Applicability of Wage Collectively Bargained by US Protect, Incorporated, and the United Government Security Officers of America, Local 52, Under a Contract for Security Services in San Diego, California*, Case No. 2006-CBV-0002, (Judge Paul A. Mapes, March 7, 2006). Based on the need for, and history of the contract security officers being required to arrest and detain they are more closely aligned to the police wage rate, and not a Guard II classification.

³ Title 29 CFR, Part 4.10, and Part 6

⁴ *In the matter of: The Applicability of Wage Rates Collectively Bargained by American Guard Services, Inc., and the United Government Security Officers of America, Local No. 46, District of Alaska*, 2001-CBV-01, Chief Administrative Law Judge, John M. Vittone, found the Security Officers most comparable class to be Court Security Officers, and granted them a Decision affirming the substantial wage increases.

⁵ *In the matter of: Applicability of Wage Collectively Bargained by Systems Training and Resource*

officer mirrors the levels of an FPS Police Officer. For example, the use of deadly force is within the training and prerogatives of the Contract Security Officer provided by the Government to work on these contracts.⁶ Also, we must pass the same police pistol course as a Federal Police Officer (FPO),⁷ and we must fill out the same reports for criminal incidents as an FPO.⁸

Please take me very literal here; we are not saying we are FPOs. However, **when properly trained and certified, we are the professional security force that augments the FPS mission and we work effectively with the Federal Police Officers, many of which are our friends and colleagues.**

Admittedly, we are finding huge deficiencies between the training and qualifications that we are supposed to be provided by the Contractor, and what we are actually getting. But you have to dig a little deeper than the surface. You have to ask the questions about why they are not as well qualified. None of that is the Security Officer's fault. I have been to every major city in the United States in my union representation of these security officers. I have been to the smaller cities as well. The contract security officers take their jobs seriously. They are wanting, and wishing to receive the best training and meeting the higher standards the Government expects. I refer the Committee back to the Inspector General's report for last October (2006), wherein he discusses the

Technologies, Incorporated (StarTech), and the United Government Security Officers of America, Local 34, For Security Services in Washington, D.C., Case No. 2005-CBV-02, (Judge Stephen L. Purcell, July 18, 2005). Based on the need for special police officers at this contract, and the designation required in the procurement, the security staff was re-classified, from Guard II to SPOs and Ordered to a Police wage rate.

⁶ See: GSA (now DHS) Contract Guard Information Manual (CGIM), Appendix 4

⁷ This is not uniform in all Regions of FPS. Some Regions are employing a new pistol course for Security Officers that is more stringent than other Regions. These changes are coming without explanation.

⁸ This too is not uniform in all Regions. Some require the contract security officers' completion of a Form 3155, Offense Incident Report, and a case control number from a Regional Government dispatch center. Other Regions do not, and a third subset of Regions curtails the use of 3155 reporting by the contract S/Os.

problems within the agency as it relates exactly to the oversight of these contracts. But in many cases the doors to this training are not open to us.

Even worse... the training required by the Government's DHS contracts is still not provided or followed in many locations. In most of these cases we report it regionally, but security officers are usually at a loss of finding the system and contacts for reporting, and that knowledge is not readily available to the security workforces on these contracts. We run the risk of usurping our chain of command by going to the contracting officials locally and getting disciplined or terminated for doing so. Maybe an awareness plan on how-to report these deficiencies would be in order. Audits in various Regions of the ICE/FPS system show the contractors failing to provide this training, or failing to keep the training current. From our evaluation we have learned something very interesting however; where we have solid and longstanding labor relationships with our employers, the federal contractors, the incidents of failed training and other security contract failures are decisively less. That speaks volumes to the labor stability and its direct correlation to improved security and performance on these contracts.

OVERVIEW OF LABOR ABUSES AND ITS EFFECT ON SECURITY

If you look at the correlation, you will see that it works the other way as well. There is a contractor in Colorado brought before the 10th Circuit Court of Appeals on habitual Labor Relations violations of the National Labor Relations Act. Likewise also find a contractor who had to pull all of its security officers out of Federal Buildings in April after the Contractor, AmGard, let their credentials and certifications expire. This just happened in the DHS security procurement for Southern Colorado. Based on an FPS

review, it was discovered that AmGard (sic), Incorporated's security officers did not have their weapon's qualifications and certification up-to-date. They had to pull every one of the Security Officers in Southern Colorado off the contract. This is the same contractor with a case law record of violation at the NLRB. It's no secret that AmGard has a longstanding history of labor abuses chronicled in case law at the National Labor Relations Board in Denver. Two times they have been brought before the 10th Circuit Court of Appeals on Enforcement. AmGard still owns and operates that contract. I am reminded of the initiatives that Vice President Al Gore had worked on throughout his term concerning rules and regulations that would have prevented a Federal Contractor from having contracts with a history of labor law violations. But those regulations were never implemented under the current administration.

Recent and Major Labor Abuses / Events. That brings us to the last two years, where it has happened twice that Federal Security Contractors just stop paying their Security Officers in Tampa and Miami, Florida on DHS federal contracts. Superior Protection, Inc., a Houston Texas Corporation, head up by CEO Jack Heard.

I have reported to GSA (who previously managed these contracts) and DHS, for years about Superior Protection, Incorporated, having an extensive history of labor abuses. These abuses were chronicled in various forums:

- Arbitration cases of union contract violations; at two Regions of the NLRB,
- two Districts of the DOL, including the National Office of DOL,

- the US District Court in Tampa, Miami,
- the 5th Circuit Court of Appeals, and
- Even the US Supreme Court in one case.
- This does not include pending litigation and
- An indictment of a Federal Protective Service COR for accepting bribes from the contractor (Superior) in return for favorable performance ratings.

Madam Chairwoman, I know the Committee knows about Superior and the bribed COR. I just want to reiterate this violating and abusive history from Superior Protection, which took place from 2001 thru 2005, and we had reported it all along. Even during all of this, Superior Protection, Inc., owned and operated several federal security contracts.

The part of these stories that has not been told to the Committee is what happened to the contract security officers in Tampa and Miami. It was no surprise to me that Superior's paychecks began reporting insufficient funds from my membership in May and June 2006, this time last year.

Here is what did surprise me. The character, integrity, and the heart and soul of the DHS contract security officers in Tampa, **who remained working for 8 weeks without a paycheck from Superior**. They showed up every day to protect federal buildings in Tampa, and they trusted that DHS procurement officials would utilize the DOL and deal a heavy hand to Superior and Jack

Heard. UGSOA had reported that Superior had failed to meet payroll 4 times previously in the prior 3 years, either on-time, or not at all (separate incidents). It was reported to GSA, DHS, and the DOL.

Six (6) weeks into this fiasco last year, after I had tried the system, calling DHS, the DOL, and everyone we could think of who might care. We decided with our Local members that enough was enough and prepared to strike. I notified DHS procurement in Atlanta because we understood that the procurement officials were the people who had the power to end this. We also notified Washington DC that we had worked for FREE long enough. I flew to Tampa on July 7th of 2006 with the intent to stand with my fellow Security Officers and take them out on strike versus Superior Protection, Inc. I warned everyone involved of what we were prepared to do well in advance.

I was passed to Ms. Nina Ferrero, a DHS procurement official here in DC. In the days before we were to strike in Tampa I developed a dialogue with her. It was better than anyone at DHS, but it was still shallow enough that after 6 weeks of NO PAY, when I first began my dialogue with her, she couldn't even guarantee a new contractor. That's the kind of culture of distrust we have here with unionized labor in the Department of Homeland Security. When I landed in Tampa I had a voice message from Ms. Ferraro, which was just short of that guarantee of a new contractor, but she did state, *"That we shouldn't strike because the security guards would be happy with the outcome by the next day."* I waited that extra

day. We didn't have to and many of my fellow security officers were upset with me at the time for waiting an additional day. In the meantime I went to all of the officers I could find and assured them of ... "one more day" based on that call from Ms. Ferraro. Can you imagine, 6 weeks without a paycheck and your International Union official, not the Company, or the Government official, having to tell you to wait "one more day?"

The Tampa Security Officers should have been commended and decorated for staying in there, working without pay. I mentioned this to the FPS commander in Tampa while I was there. They have not been commended formally. They did get paid their paychecks, however, **a full year later.**

UGSOA should have your attention, if not, it gets worse:

Weldon Waites, the CEO of StarTech, who bought out the Company in the last year and a half, recently did the same thing as Superior. This time, here in DC, for the Department of Agriculture Headquarters building, the Department of Education building, and 14 major public buildings in the District of Columbia for security contracts to the Federal Government.

They all received NO PAY, (witnesses are here who lived it). Weldon Waites, has a criminal record for fraud. We're not talking petty cash fraud either. We're talking about bank fraud and money laundering in the amounts of \$2 .7 million, buying a Corvette for his daughter, a condominium, and Rolex watches, all with

fraudulent money and that list goes on. It's in the Court Record.⁹

The StarTech Security Police Officers are now working for a new Contractor, and Superior Protection Security Officers are now working for a new Contractor as well. They should all be commended for working without pay to protect our Government. The StarTech SPOs still have not been paid.

Can I convince DHS and Congress to formally commend these guys?

We have more examples of how excessive overtime fails security. Right now in Washington DC, at the ICE Headquarters, you have a DHS Federal Security Contractor, MVM, sitting at the bargaining table telling me that they cannot hire more staff to adequately staff the contract. The Contractor blames the inability of DHS to clear the new hires' for contract suitability. While they blame, I've obtained information through the Labor Board¹⁰ showing that the Company has attempted to hire and train even fewer Security Officer Candidates in 2006 than they did in 2005. They tried to hide that information from me. While they play the blame game, the current security officers are double-shifting each day at the rate of 10 officers per day, and they have been doing so for years. A double-shift means they work 16 hours in a 24 hour period. Moreover, the Company admitted that they only pay the security officer 15 and ½ hours for the same tour, and invoice DHS for 16 hours.

⁹ US Court of Appeals for the 4th Circuit, *US v. Weldon D. Waites*, No. 91-5403, July 31, 1992

¹⁰ See NLRB Case No. 5-CA-33390, Formal settlement requiring MVM to provide information to UGSOA.

I have read many Government security contracts. Most recognize and require a person carrying a firearm for more than 12 hours with 8 hours off-duty before returning to work. Shifts are limited to a maximum of 12 hours in many other contracts. For some reason this one does not. We have discovered that the Company, MVM, through an elaborate and fancy scheme of payroll calculations, is only paying the security officers 15 and ½ hours for each double shift, pocketing the ½ hour for each double-shifter. Again, this is right at the DHS Headquarters building at 425 I Street. How much improved would our security procurement be if we could report and get attention this matter? I did just that, I called DHS's procurement team for this MVM contract. They don't call back. How many federal dollars are being pocketed through an abusive system of double shifting? We could kill two birds here and keep the Governments money from being riffled and the double-shifter from falling over from fatigue? Seems pretty straight forward, if we were to communicate and work together.

Government Security contracts OUGHT NOT TO BE RUN THIS WAY! Its wrong in the private sector, and its doubly wrong in the most important infrastructure to our National Government; Federal Buildings.

I wrote to the House of Representatives' Government Reform Committee in August last year about the Superior Protection matter that transpired in Tampa. We heard nothing. My Union President wrote a follow-up letter, without reply. Unbeknownst to me, at that time, it appears that the Inspector General was doing his own Audit of the pay systems. It was ordered from the Reform Committee, but I suppose I'll never know if

that was driven by our reporting, the incident in Tampa, or only in part. I would like to think our reporting did not fall on deaf ears from the Republican controlled Reform Committee last year.

What I've reported would be a tragedy in the private sector, but on Government contracts IT SHOULD NOT HAPPEN, EVER. Government Security contracts OUGHT NOT TO BE RUN THIS WAY! It's wrong in the private sector, and it's doubly wrong in the most important infrastructure to our National Government, Federal Buildings.

It's like we are having our own set of Enron's and Tyco's right here in Federal Contracting. And the question bears repeating, how did Waites get control of a Government Security Contract with that record? Security Officers are removed from these contracts for minor problems with their credentials (i.e., CPR First Aid cards expiring), much more, a problem with their 10-year background checks and suitability. Yet, we aren't even afforded an opportunity for an appeal. Under the GSA administration and control of these security contracts we had an appeal process. Weldon Waites will be afforded due process on his egregious acts, and he'll get an appeal. DHS will not write an appeal into the contracts. Security Officers are unjustly terminated from the contract without any due process. The result is that you lose good workers, and you open the Government to a due process claim in the Courts. UGSOA is advancing one right now. That one hasn't come cheap and it's wasting federal dollars. We don't have to waste the Department's time and money in the Courts and we don't have to waste ours. Every major procurement structure that requires clearances and suitability have due process for removal actions by the Government, with appeals. GSA had it, DOE has one,

NRC has one, NASA has one, and DOD has one. Its time for DHS to get on board with it.

LABOR RELATIONS and its IMPACT ON SECURITY, and COMMUNICATION

Collective Bargaining works, and to the betterment of not only employees, but the overall security network in the United States. In Region 6 of Dept of Homeland Security, the Heartland Region, UGSOA has developed a long-standing collective bargaining relationship with a contractor there. That history pre-dates DHS, when the procurement was managed by GSA. Annually, and as a direct result of the labor relationship, that Region of DHS consistently, year in, year out, scores the some of the highest and best returns in Audits of its security program. It is important to note that the contractor reports zero (0) overtime of the workforce and has managed to reduce their labor costs. Since labor costs can be a cost plus pass through to the Agency that translates to a cost savings to DHS as well. So, now it's not just a win-win for the contractor and their employees, it's a trifecta win for the Agency, the Employer, and the workforce.

Why is this important? Because, quite simply, **fatigue in a security workforce translates to security breaches and security mistakes**. We cannot afford that kind of mistake in a post-9/11 environment. We have proofs that enhanced security is not limited to DHS in collective bargaining. In the Nuclear Regulatory Commission's (NRC) arena UGSOA International Union negotiated a recent Agreement for the Security Officers who protect Three Mile Island nuclear plant. Overtime was rampant by The Wackenhut Corporation, and it had exceeded the newly imposed Regulatory levels. The NRC's new regulations were designed to stop excessive overtime worked at Nuclear sites by the

security staff. The new regulation changes still didn't stop the excessive overtime.

The new Agreement between UGSOA Local #18 and Wackenhut did something the Regulations could not do. It imposed mandatory staffing adjustments in the CBA. People of Harrisburg, PA can rest easier on that knowing that fatigue is less likely to be an issue while our Collective Bargaining Agreement is in place. UGSOA fully enforces its CBAs at Arbitration and in Federal Court. Finally the overtime is coming down and fatigue is not an issue.

This is the kind of positive impact that Labor can have on these contracts. We have to move away from this mind-set that Labor is another knot to untie in acquisitions, because we are not going to go away. Labor's findings truly expose contracting errors in concert with other oversight mechanisms. We can work together.

There is a common denominator between the labor issues and labor violations in all of the federal security contractors to DHS who I can report about (and there are a lot more than this): Each reportable contractor has the background of labor violations at the National Labor Relations Board, and at the Dept of Labor Wage and Hour Division, along with their record for security contract deficiencies. MVM, the contractor I just mentioned, has a rather large settlement with the NLRB regarding is Unfair Labor Practices to our Local #80 in the Nation's Capitol.

When FPS and ICE completed its "Tiger Team" review of critical payment problems to Contractors, UGSOA knew nothing about it. The resulting realignment of the Regional based procurement system to a consolidated 3 contract groups was never

communicated to UGSOA. I discovered this information, first, from a contractor that we negotiate and deal with, and then later when reviewing the testimony of Mr. Michael Jackson, Deputy Secretary for DHS, in his statement to the Committee in April. UGSOA should not have to hunt to discover this information or wonder if anything is being done or has been done. The reasons for communications extend beyond the contractor, to the Employee's Representatives as prescribed in the Service Contract Act Regulations¹¹, and the Federal Acquisition Regulations. Those regulations clearly and unequivocally require the procurement officials to keep the Unions of contract employees informed of the procurement process. Currently, we are not informed.

How does that translate to better security, and why should communication with a union representing employees on a government contract be an important part of the mission? Because we also have systems and laws for blowing the whistle that is recognized in the United States to inform Congress of the wrong activity that leads to poor performance. The contract employee's representatives are usually the first to filter and see a StarTech or Superior Protection unfolding before they happen; And isn't that what we are trying to end in this great effort to ensure that we protect our Homeland's critical Government infrastructure, both in a labor perspective, and a security perspective? Are we not trying to rid ourselves of the poorest performers? That comes through good communications and through an inclusive process not an exclusive process.

I talked previously about MVM's questionable labor record and current invoicing practices for double shifters. This is just one active example of the kind of whistle-blowing UGSOA can provide in the greater federal procurement security systems, but we

¹¹ Title 29 CFR 4.1b(b)(3), and FARs Part 33 (Title 48)

cannot do it without a open, and reciprocal, line of communication, and **an inclusive process.**

In late 2004 I wrote and fought to get a meeting with DHS about these matters. When I came to DC to meet with DHS about an inclusive role for UGSOA in the design and set-up of its procurement systems, I was told, and I quote, “we’ll take your issues to the Secretary, but the message will likely be, ‘go pound sand’.” That’s not the way to do business under the long-standing labor relations policy of the United States. Laws, case Law, and practice under those laws points us all to a good faith in dealing practice, and for labor inclusion. Now that was in 2004, three (3) years ago, and we can turn that around now that we’ve seen what a system that bucks the labor perspective achieves.

Do we blame FPS directly for the issues I’ve described? No. Do I blame DHS policy and its Acquisitions branch on how FPS is managing its physical security system overall? Yes. But playing the blame game is not enough and I don’t like to tarry to long pointing fingers in the blame cycle. UGSOA does, however, get excited about fixing the problems, and that is where we are motivated today, to assist the DHS Acquisition system and the Inspector General, to identify what is wrong and why. The FPS inspects our contracts and reports back to the procurement teams of Contracting Officers and Contracting Representatives. Those reports are supposed to contain various mistakes, deficiencies, and issues that weaken security protocols on these contracts. They are critical component to the success of the federal security contract notwithstanding their

primary mission and functions of police response and patrol. When they cannot even complete their own mission because of the present staffing, how can we expect the contractors to have the necessary accountability from their inspections and reports? Moreover, we need to be increasing their staff oversight of contracts, and not talking about cutbacks. I suggest strongly to the Committee, that we should be talking about strengthening the budget for FPS and its contracting, or the system that creates the budget. Increases should be in order. I fail to see how accountability can be accomplished through cut-backs of staff who oversee the Contractor. I have worked these contracts when FPS was understaffed in Denver. When FPOs couldn't complete their patrols, we didn't get inspected. In many cases our credentials would expire and the contractor would slide. Then you would have security officers working with credentials out of date and qualifications expired and we are in scramble and clean-up mode after it digresses that far.

PRIOR REVIEW and CURRENT GOVERNMENT REVIEW AND OVERSIGHT

I've been tracking the various issues before this Committee. Some of the recent highlights are:

- the funding for FPS and how it is generated (tenant agency price per square foot),
- providing a prospective and autonomous budget of its own,
- the Department's problems of payments to contractors for security contracts, and
- The recent recommendations of the Department to cut back the Federal

Protective Service police staff.

In the face of these many problems FPS has already barley enough, actually not enough, of the very people who we need right now to inspect the StarTechs, AmGard's, ELA's, MVM's, Sooner Process and Investigations, and Superior Protections who are making a mockery of the federal procurement system. This is corroborated by the last Inspector General report in October 2007.

The question of this hearing is what is "DHS's responsibility to ensure..." DHS must ensure, absolutely. The responsibility is shared with the Contractor, but the authority in the process is exclusively the Department's. And it is painfully obvious to me that the oversight is lacking because of the resources, in funding or budgeting (whichever direction this Congress decides for the program), and in staffing at all layers of the contract (meaning: Procurement officials, contract technical specialists, and contract Inspectors). Each of these, from the Government's side of the contract administration, is needed to do make the contract security program get a passing grade.

I read the Inspector General's (Mr. Skinner) most recent Annual Performance Plan (Revised April 2007). On page 14 he describes one of the objectives he has identified in the Acquisitions of DHS, titled: "Training and Qualifications of the Acquisitions Workforce." And the objective being, "To determine to what extent the acquisition's workforce meets the education, experience, training, and certification requirements; and the adequacy of the measures used to oversee compliance with acquisition workforce training and qualification requirements." I would like to see that

criteria used and held to the Contractors who own and operate these contracts, including their Executive Officers. One thing is for certain, we cannot afford to have another event like Superior Protection, with Jack Heard, or StarTech, with Weldon Waites. The performance plan has priorities marking each element throughout. This particular marker did not have any priority. I would offer that it is critical. Can the Inspector General ensure that the same criteria are applied to the Contractor as it happens in conjunction with your next audit of the review systems?

CONCLUSION

Finally, what doesn't translate to me, in the broader security perspective, is that we are doing a surge of troops overseas and cutting back our Homeland Troops in the United States. Shouldn't we talk about a build-up of our troops here on the Homeland; who are protecting the United States and its Government's critical government infrastructure. In light of that, my opinion is that if we can afford to do it overseas, then we can afford to keep from cutting back FPS and its oversight here. To do a cut-back now would appear to be a huge mistake.

CLOSING and RECOMMENDATIONS FROM UGSOA

Madam Chairwoman, I would not make these seemingly critical observations without an extension of UGSOA's promised assistance in this process to the Committee's investigations and also to Mr. Skinner and Ashley Lewis Director of the DHS Acquisitions policy. Whatever we can do to assist in these evaluations of the acquisition audits, either by providing your agents access to our Local leaders or members who have

seen the violations, please take advantage of that. It would be a huge resource to your audit teams. Unions on these contracts can act as a tool for management and oversight, but we included, invited, and asked about what we are observing.

In closing, this statement does not come without recommendations. I have a bullet sheet attached with those listed.

I know there are questions about Small vs. large Contractors performance on these security contracts, I'd be glad to answer any of your questions about our experience on questions related to that issue. (Generally, failure rates are higher for the smaller contractor... but there are exceptions and successes with many smaller contractors that are out there. We see them, and we know who there are. Large contractors better understand the continuity that must be maintained in the security workforce of these contracts. They have, many times, a true Labor Relations and Human resource Division that is dedicated to the transitions.)

Thank you for your time and I would be glad to answer any questions you might have.

Appendix A

1. Provide an Acquisition Labor Relations liaison to Employee Representatives of Security Contracts where support to DHS's procurement is required to advise on the various aspects of labor issues on these procurements in conjunction with the National Labor Relations Act, the Service Contract Act, and various other Whistleblower Protections.
2. A procurement layer that regularly calls for input from contractors and contractor employee representatives; coordinating conferences and committee meetings to keep the lines of communication open and receptive to the very real labor issues that have potential to translate into security issues.
3. We should be talking about better guidelines and increased visibility of the mechanisms that point security officers to the avenues where they can blow the whistle safely. Improvements to the system that protects the whistleblowers, strengthens whistleblower laws, and better informs current acquisition workforces how to / and who to, report waste fraud and abuse at the worksites.
4. An appeal structure for DHS procurements that provide pre, and post due-process, when carrying out an unsuitability / removal of contract security employees.
5. Holding regular annual forums, and invitations to meetings for DHS security Acquisitions Groups, Contractors, and Contractor Employee Representatives for guidance on Department Acquisition directional changes, and Q&A.¹² In concert with item 2 above.
6. Re-Orientation and Training for DHS Contracting Officers about their obligations under the Service Contract Act, Notice to Employees' Representatives/Unions and Labor Cost Modifications¹³.

(Many Contracting Officers do not understand these rules or how they work)

¹² For Example: There are pilot programs throughout the United States that DHS is implementing: 1) moving from revolvers to semi-auto .40 calibers, 2) New targets and range testing requirements, 3) Federal Contract Court Security Officers covering FPS / FPO duties (Chicago), 4) soft look vs. hard look uniforms. All of these have effects on the terms and conditions of our employment and CBAs. Better information flow to the Unions and the Contractors eliminates assumptions and allows the contractor and the union to work on the issues in effects bargaining. Notwithstanding, better communication improves morale.

¹³ Title 29 CFR 4.1b (b) (3), parallel cite in the FARs, under Part 33, and 29 CFR 4.53 and 4.163 (operation of 4(c) of the Service Contract Act for cost adjustments.