

Statement of William J. Desmond
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and
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House Oversight and Government Reform Committee
Subcommittee for Government Management, Organization and Procurement

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Mr. Chairman, Ranking Member Bilbray, and Members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss your concerns with the perceived poor performance by Department of Energy security contractors.

I am the Associate Administrator for Defense Nuclear Security (DNS) and am responsible for the overall direction and management of security programs at the National Nuclear Security Administration (NNSA) facilities. I am the Cognizant Security Authority for NNSA. My office provides engineering, technical, operational and administrative security support and oversight to both line management and field elements. The support and oversight is provided in order to assure effective security at NNSA facilities, to include the physical, personnel, materials control and accounting, classified and sensitive information protection, and technical security programs. My office also acts as a liaison, and provides advice and assistance to DOE Office of Health, Safety and Security (HSS) in the development of Departmental security policy. I have also been designated as the Chief, Defense Nuclear Security, pursuant to section 3232 of the National Nuclear Security Administration Act (Title 32, Public Law No. 106-65), with the following responsibilities:

- Implement the security policies directed by the Secretary and Administrator.

- Develop and implement security programs for the Administration, including the protection, control and accounting of materials, and for the physical and cyber security for all facilities of the Administration.

With respect to my relationship to the recent selection of Wackenhut Services, Inc. (WSI) as the protective forces contractor at the Oak Ridge Reservation, which includes the Oak Ridge National Laboratory, the Y-12 National Security Complex, and the East Tennessee Technology Park, I served as the Source Selection Official and made the final decision to award WSI the contract, after reviewing the proposals and the evaluation report prepared by the Source Evaluation Board (SEB). The SEB consisted of the contracting officer and several senior security personnel from the Y-12 and Energy Department's Oak Ridge facility familiar with the requirements of both locations. I found the SEB report to be thorough in all respects and I made a best value judgment in selecting the winning proposal.

This procurement was a joint effort involving the Department of Energy (DOE) Office of Science and the National Nuclear Security Administration (NNSA), under the lead of the DOE Office of Science. The acquisition strategy was to issue a single solicitation for Protective Force Services required by both organizations. A single contractor was selected in accordance with procedures in the Federal Acquisition Regulations (FAR) and the evaluation criteria included in the Request for Proposals (RFP). Two contracts were awarded to the selected contractor; one to provide support to the DOE Oak Ridge Office (ORO) and the other to the Y-12 Site Office (YSO). The source selection for these services was conducted using a full-and-open, competitive process. The solicitation was crafted by a warranted NNSA contracting officer following standard procedures. NNSA is a separately organized agency within the Department of Energy with its own procurement authority, however, procurement policy and procedures followed are those of the Department of Energy. This particular solicitation utilized FAR and Department of Energy Acquisition Regulation (DEAR) procedures and included standard clauses. In all respects, it was a standard government acquisition process using full and open competition. I will address specific source selection factors shortly; however, I would

like to assure you that past performance was a selection factor for this best-value selection as is required by the FAR and DEAR. NNSA utilizes past performance in all procurement evaluations. The evaluation board and I were extremely cognizant of this and attempted to gather all known information for all offerors.

The RFP identified two separate contracts with distinct statements of work to be awarded to a single contractor. One contract was for the Y-12 scope of work and the second contract for the balance of the ORO scope of work.

The SEB received timely offers and other written proposal information from four offerors. After completing initial evaluations, the Contracting Officer, with my concurrence, determined that discussions were necessary and in the best interest of the Government. A competitive range of the most highly rated offerors was established. After establishment of the competitive range, the RFP was further amended to incorporate changes in the Federal Acquisition Regulations and DOE directives. Discussions were held with the companies in the competitive range. These companies were provided a list of identified weaknesses, significant weaknesses, and deficiencies, if any. The Contracting Officer met with the offerors to respond to questions and conduct technical and cost discussions.

The “Evaluation Factors for Award” incorporated in the RFP detailed the evaluation factors, the relative importance of the evaluation factors, and provided the basis for contract award. The Evaluation Criteria were: Technical Approach (Protective Force Operations, Training, Key Personnel, and Technical Surveillance Countermeasures); Business Management Approach (Management, Communications, Human Resources, and Transition); and Relevant Experience & Past Performance (Relevant Experience and Past Performance). The pool of bidding contractors for this particular solicitation was evaluated equally against these selection factors.

In evaluating past performance, offerors were required to send past performance questionnaires to their referenced customers. The questionnaires asked customers to rate

the Offerors' performance in various areas as Excellent, Good, Fair, Poor, or Unsatisfactory and to provide comments about their performance. The SEB reviewed all questionnaires received from previous customers, the individual responses, ratings, and any additional comments that were provided in response. If questionnaires were not received, the SEB contacted the references identified by each Offeror and requested they complete and return the questionnaire. The SEB also contacted the references provided by the Offerors (e.g., contracting officer representative, contracting officer, or contract specialist) by telephone to determine if there were any contract performance, Environment, Safety and Health, or security issues that were not identified in the evaluation questionnaires. The Contracting Officer and the Source Evaluation Board utilized the Federal Past Performance Information Retrieval System database, commonly called PPIRS, to obtain past performance information on all offerors. PPIRS was designed as a single source, web-enabled, government-wide application to provide timely and pertinent contractor past performance information for use in making source selection decisions. The SEB did not rely solely upon the PPIRS and offeror furnished information. Copies of government award fee reports were requested where relevant and other information was sought to include audits and other reports. In particular, WSI's past performance at locations other than Oak Ridge was considered, particularly at the Department's National Training Center (NTC) in Albuquerque, NM and the Nevada Test Site. The SEB evaluated this information and discussed all relevant information in the evaluation report.

Since 2004, The Office of the Inspector General (IG) issued four reports on WSI-Oak Ridge security and contract performance. In January 2004, the IG issued its report, "Protective Force Performance Test Improprieties" (DOE/IG-0636). This review was conducted in response to the DOE Site Office Manager's concerns that the details of a major force-on-force performance exercise had been compromised, resulting in a flawed validation of the Y-12 security plan. The IG's review identified that trusted information regarding the scenario was inappropriately shared with protective force members prior to the test during VA training of protective force supervisors. While the DOE/NNSA agreed that procedures were insufficient, it should be noted that the performance test was

conducted for training, not protection validation purposes. Therefore, the loss of exercise integrity had minimal impact. The Y-12 Site Office took coordinated action with BWXT Y-12 and WSI management to improve the planning, coordination, and execution of performance tests to ensure the integrity of the results. There has been no recurrence of this problem.

Following an investigation in response to an allegation that a security police officer had been given credit for training he had not received, The IG issued “Protective Force Training at the Department of Energy’s Oak Ridge Reservation” (DOE/IG-0694), dated June 24, 2005. After reviewing the report, NNSA did not agree with the IG that there was a basis for the allegation, however, NNSA formally concurred with the findings and recommendations as means to improve the quality and administration of the Y-12 protective force program. The report’s major issues concerned WSI’s reporting of training hours and amount of overtime routinely scheduled, since much of the training is scheduled as overtime. WSI tracked individual training activities based on the number of hours scheduled, rather than the number of hours actually expended for training. Under this process, an individual exhibiting the necessary competence level and meeting qualification requirements could complete the training activity even if the scheduled training time has not yet expired. WSI only charged the government for time actually spent training. DOE/NNSA agreed with WSI’s practice of training to a performance standard rather than to a standard number of training hours, which saves the government money without compromising competence or performance. Based on the IG’s recommendation, training records now reflect hours expended instead of hours planned, however either method is effective at tracking completed training. As for the overtime issue, DOE/NNSA concurred with the IG’s recommendation to review the number of overtime hours and, based upon that review, made no changes to overtime practices.

The third report, titled “Protective Force Contracts at the Oak Ridge Reservation” (DOE/IG-0719), dated February 2, 2006, criticized the WSI contract because it did not provide necessary incentives to reduce or minimize costs. Specifically, as the security posture dramatically changed due to the increased security requirements resulting from

the September 11th attacks, WSI may have realized an unanticipated gain due to the increase in the overtime. At no time did WSI violate the terms of the contract awarded by the government. The originally established labor rates continued to apply. The Oak Ridge Operations Office and Y-12 Site Office management generally non-concurred with the findings and recommendations in the inspection report; however, management did realize that in the future the contract structure could be modified to the government's benefit. The new contract was re-structured to minimize contractor gains if a similar situation occurs again by establishing alternate labor rates once overtime thresholds have been reached.

The most recent report, "Concerns With Security Barriers at the Y-12 National Security Complex," (DOE/IG-0741) was issued in October 2006 in response to allegations that weapon port openings in newly constructed concrete barriers were designed without the space required to accommodate the sight system of protective force weapons. The IG's recommendations were directed toward perceived deficiencies in both BWXT's and WSI's performance. NNSA disagreed with the IG because the specifications for the weapon ports were developed prior to the decision to purchase a new weapon sight system. NNSA determined the costs of the barriers, including the necessary modifications to the weapon ports, were reasonable.

During the source selection process, I asked the SEB if WSI's performance at the NTC (also known as the Nonproliferation and National Security Institute - NNSI) was considered in evaluating WSI's past performance. The SEB solicited and reviewed the past performance information on the NTC/NNSI contracts, which included two Defense Contract Audit Agency (DCAA) audit reports. As a result of the information received, the SEB learned that WSI had significant cost accounting issues at NTC.

In an April 20, 2004 audit report, DCAA found that WSI-NNSI had an inadequate accounting system. Cost accounting problems primarily were in the segregation, allocation and allowability of indirect costs. DCAA reviewed WSI-NNSI's corrective actions taken as a result of the 2004 audit and found the corrective actions had resolved

the prior conditions. DCAA conducted a follow-on audit November 22, 2005, and determined that WSI-NNSI's accounting system was adequate.

As a result of the DCAA audit findings, DOE and WSI mutually agreed to reduce the cost plus award fee contract term by approximately 18 months and awarded a new time and materials contract to WSI-National Training Center (WSI-NTC), which is consistent with the ORO and YSO contracts. WSI's performance ratings significantly and immediately improved from those under the cost plus award fee contract.

After considering the information on WSI's past performance at NTC/NNSI, the SEB concluded that this additional information did not lower WSI's overall past performance rating. First, the accounting system inadequacies were limited to the WSI-NTC/NNSI office and were resolved quickly pursuant to DCAA recommendations. WSI corporate management was very prompt and pro-active in correcting the problems, and its success is confirmed by both the DCAA follow-up audit and the recent award fee ratings. Second, of the six DOE sites where WSI has relevant contracts that the SEB received past performance information from, only NTC/NNSI reported accounting system issues. Third, the SEB asked the DCAA about its audits of the Oak Ridge WSI site office. DCAA stated that over the past five years, they performed 13 audits of Materials, Cost Accounting Systems and labor floor checks. DCAA has not encountered any accounting system problems at WSI-ORO. Fourth, the accounting system issues identified with respect to the WSI-NTC cost plus award fee contract, are not as critical to a competitively awarded time and materials (T&M) contract since the rates the Government pays are fixed at the time of contract award. The accounting problems discovered on the NNSI contract were resolved quickly to the satisfaction of DCAA and have not occurred on other WSI contracts.

As you can see, all information with respect to WSI's performance was considered by the SEB and by me. This evaluation process was thorough, fair, and honest. I hope that this serves to explain the general approach to the selection of WSI as the preferred security contractor at the Oak Ridge Reservation. It should also serve to justify the selection

decision. I am confident, as are the other members of the SEB and the senior management of DOE and NNSA, that the selection of WSI was fair and appropriate and that our East Tennessee facilities are secure.

I would be pleased to answer any questions you may have at this time.