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# Congress of the United States

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### SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, ORGANIZATION, AND PROCUREMENT

## OPENING STATEMENT OF CHAIRMAN EDOLPHUS TOWNS

### HEARING ON FEDERAL CONTRACTING: DO POOR PERFORMERS KEEP WINNING?

July 18, 2007, 2:00 p.m., 2154 Rayburn

We are here today to consider an important question – is there any penalty for poor performance as a federal contractor?

This committee's investigations have gathered evidence of serious, well-documented performance problems with large federal contracts. But these problems never seem to prevent the companies involved from getting new work.

I remember the old saying, "Fool me once, shame on you. Fool me twice, shame on me." Well, in my view the taxpayers are being fooled time and time again.

I hear from my constituents, and from small and minority-owned businesses nationwide, that they can't get contracts with the government, only subcontracts from these enormous firms that get all the prime contracts. I am very concerned that when the government does not expect existing contractors to meet high standards, the innovative new companies are effectively frozen out.

We could really shake up federal contracting if we could cut out the middleman and give some new people a shot. And it would be an incentive for everyone to step up their performance, if they knew that doing a lousy job would mean the next contract went to someone new.

For this hearing, we've put together some case studies to look at how the system for measuring past performance works, or doesn't work, as the case may be. I want to focus on the policy behind managing for performance. How is contractor performance measured? How is it weighed in the selection process? Do our contracting officers have the tools they need? Does it matter when contractors don't pay their taxes, violate labor laws, or face court judgments for fraud or discrimination? These are the types of questions we should consider today.

Our first case study is Wackenhut. Wackenhut provides security for the Department of Energy at the Oak Ridge nuclear site. Since 2004, the Department of Energy Inspector General reported that Wackenhut tipped off guards to a security drill, making the drill useless; required personnel to work overtime in excess of safety guidelines; and falsified records of security guard training. The IG found that Oak Ridge security costs nearly doubled during Wackenhut's five year term, and that the company may have unduly profited. But Energy officials are pleased with Wackenhut's performance. They've awarded ratings of 98 and 99 percent, granted millions in award fees, and renewed the Wackenhut contract.

Wackenhut also provided security at DHS headquarters. We have a former Wackenhut guard who will tell us about security breaches and mismanagement in that contract. In fact, DHS decided not to employ Wackenhut at DHS headquarters anymore. But just a few months after that decision, the Border Patrol within DHS hired Wackenhut for a five year, \$250 million contract to transport immigration detainees in the Southwest.

Our second study is Bechtel, one of the largest contractors in the world. At the Department of Energy, Bechtel holds a massive construction contract for nuclear waste storage at the Hanford site in Washington. Under Bechtel's management, the project's estimated cost has increased more than 150 percent to about \$11 billion and the completion date has been extended from 2011 to 2017. GAO attributed most of these cost increases and delays to Bechtel's poor performance.

The Department of Energy also experienced problems with security and management at the Los Alamos National Laboratory, which was managed by the University of California. The problems got so bad that Energy decided to rebid the contract and look for new management. They found new management – a joint venture between Bechtel and the University of California.

Bechtel also has work at DHS. After Katrina, Bechtel got an emergency, no-bid contract to install and maintain trailers. The costs on that contract spiraled out of control, and auditors found more than \$55 million of incorrect charges. More than six months after the emergency, DHS finally put the contracts out for competitive bids. After competition, Bechtel received a new contract to continue its trailer work.

I'd like to point out that we're not focusing on these companies because they're necessarily the worst of the worst. In fact, examples like this are far too common.

Let me say that I am a realist. The federal government spends so much money on contracting that we will always see examples of contracts that go wrong. But the government can do a better job of giving new companies a chance to prove themselves, instead of just sticking with the same few companies, again and again.

Let me also say that I am not against contracting, or contractors. I am against weak management and shoddy work. I know responsible contractors share that view. The flaws in the system are just as frustrating for companies who do high-quality work as they are for Congress and the taxpayers.

From a policy view, one problem seems to be that contracting officers often don't have a clear view of company track records when making procurement decisions. There's no easy access to relevant information like audit reports, IG reports, or court decisions reviewing previous work. My colleague Mrs. Maloney has introduced a bill to require a database for this type of information, and we should discuss that approach today.

Another problem is that the suspension and debarment process that should be weeding out the worst contractors is hardly being used at all. I hope we can discuss how to fix that problem as well.

I'd like to thank all the witnesses who are here today. I think it's important to hear from all sides, so we've invited government officials and contractors to give their take on these cases.

I will note for the record that we invited Bechtel to appear here today, and they declined the invitation. It's unfortunate that we won't hear from them, but everybody makes their own decisions. Bechtel has offered to answer questions submitted for the record, so if there are specific issues, that option is available.

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